

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: D/B-607-01/BJC – Design-Build Services for the S.R. 434 Trail Overpass Cross Seminole Trail Project

DEPARTMENT: Fiscal Services **DIVISION:** Purchasing and Contracts Division

AUTHORIZED BY: Cindy Hall *[Signature]* **CONTACT:** Ray Hooper *[Signature]* **EXT.** 7111

Agenda Date <u>11/12/02</u> Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/> Public Hearing – 1:30 <input type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>
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MOTION/RECOMMENDATION:

Select and approve design/build and funding options for D/B-607-01/BJC – Design-Build Services for the S.R. 434 Trail Overpass Cross Seminole Trail Project, and authorize the Chairman to execute an Agreement with Jones Bros., Inc., Lake Mary.



DETAIL:

D/B-607-01 will provide for a new trail overpass on the Cross Seminole Trail over State Road 434 (S.R. 434) in Winter Springs. The overpass structure will cross SR 434 approximately ¼ mile east of Tuskawilla Road within the Cross Seminole Trail Corridor.

Reviewed by:
Co Atty: _____
DFS: _____
Other: _____
DCM: <i>[Signature]</i>
CM: <i>[Signature]</i>
File No. <u>RFSP01</u>

On June 11, 2002, the Board of County Commissioners authorized staff to negotiate with the number one selected Design/Build Team, Jones Bros, Inc., Lake Mary, with a cost of not-to-exceed \$2,980,000.00. Due to project funding needs reflected by the proposals, the Board of County Commissioners requested staff to present to them funding options for future approval. Option 1 will have the equestrian facilities on the overpass structure. Option 2 will have the equestrian crossing at grade at the Tuskawilla Road / SR 434 signalized intersection or a future intersection proposed for the Winter Springs Town Center, which will be closer to the overpass. Subsequent to the June Board meeting, the Design/Build team has requested a price increase due to the eagle's nest restrictions, which have now been determined to apply. Current negotiated contract cost is as follows:

Option 1:

With on-structure equestrian facilities, the cost will be \$3,039,000.00. This amount includes an additional cost of \$59,000.00 from the previous cost of \$2,980,000.00

Option 2:

Without on-structure equestrian facilities, the cost will be \$2,672,500.00. This amount includes an additional cost of \$27,500.00 from the previous cost of \$2,645,000.00

This is a Federal Highway Administration (FHWA) funded project administered by the Florida Department of Transportation (FDOT) through their Local Agency Program (LAP). The executed LAP agreement is programmed for \$1,678,000.00. The available funding balance for this project is \$1,654,973.00. Funding already spent or encumbered include \$3,027.00 for preliminary geotechnical services and \$20,000.00 in stipends for the two unsuccessful Proposers (\$10,000.00 each).

As previously stated, the current cost of the recommended overpass contract option incorporating on-structure equestrian facilities is \$3,039,000.00. The cost without on-structure equestrian facilities is \$2,672,500.00. FHWA will not fund the cost of equestrian facilities which are \$366,500.00. FDOT has committed supplemental funding of approximately \$322,333.00 equal to 1/3 of the current difference between the programmed amount of \$1,678,000.00 and the originally proposed \$2,645,000.00 cost of the preferred firm's non-equestrian overpass facility.

The City of Winter Springs, partner in the selection process, has approved supplemental funding in the amount of \$241,687.00, which represents the price differential between the original number one ranked proposal and number two ranked proposal. The City's funding is from Winter Springs' project allocations under the 1991 Sales Tax.

Overpass Price	FDOT Funding Including Supplement of \$322,333.00	City of Winter Springs Supplement	Unfunded Needs*
1) With On-structure Equestrian Facility \$3,039,000.00	\$2,000,333.00	\$241,687.00	\$796,980.00
2) Without On-structure Equestrian Facility \$2,672,500.00	\$2,000,333.00	\$241,687.00	\$430,480.00

*Amount needed from the trails bond fund.

In summary, supplemental funding to cover the contract will be needed in the amount of \$796,980.00 for recommended Option 1 or \$430,480.00 for Option 2. Under both options, an additional increase to compensate for the \$23,027.00 in costs incurred is also required. As reflected in the corresponding Budget Change Request, presented under the Fiscal/Budget Consent agenda, Trails Bond funding is available to cover selection of either option by the Board of County Commissioners.

**DESIGN/BUILD CONTRACT (D/B-607-01/BJC)
S.R. 434 TRAIL OVERPASS**

THIS CONTRACT, is made and entered into this ___ day of _____, 20____, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "OWNER," and **JONES BROS., INC.**, whose address is 725 Primera Boulevard, Suite 140, Lake Mary, Florida 32746, hereinafter referred to as "DESIGN/BUILDER".

W I T N E S S E T H:

WHEREAS, the OWNER desires to retain the services of a competent and qualified DESIGN/BUILDER to provide professional engineering and perform construction services for the S.R. 434 Trail Overpass Design/Build Project; and

WHEREAS, DESIGN/BUILDER has certified that it is competent and qualified and desires to undertake the work according to the terms and conditions stated herein,

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth herein, the OWNER and DESIGN/BUILDER agree as follows:

SECTION 1. SCOPE OF WORK. DESIGN/BUILDER shall complete all Work as specified or indicated in the Contract Documents and in the Jones Bros., Inc. proposals, attached hereto as "Attachment 1 Qualifications", August 6, 2001, "Attachment 2, Proposal Part A, Technical Proposal, Volume 1, April 3, 2002", "Attachment 3, Proposal Part A, Technical Proposal, Volume 2, April 3, 2002", "Attachment 4, Proposal Parts B and C, Price Proposal and Required Forms, April 3, 2002", "Attachment 5, Amendments to Attachments 2, 3, and 4, October, 2002", and "Attachment 6 Schedule, October 2002".

SECTION 2. COMMENCEMENT AND COMPLETION OF WORK.

(a) Time is of the essence with respect to all time limits stated in the Schedule attached hereto and incorporated herein as "Attachment 6". The DESIGN/BUILDER shall expedite the Work and achieve completion within the time permitted by the Contract.

(b) The DESIGN/BUILDER shall commence work upon the date specified in the Notice to Proceed. The time frame for completion of the Work commences counting down on the date specified in the Notice to Proceed.

(c) The DESIGN/BUILDER shall prosecute the Work with faithfulness and diligence and shall complete the Work in accordance with the Schedule, attached hereto and incorporated herein as "Attachment 6".

SECTION 3. THE CONTRACT SUM.

(a) The OWNER agrees to pay the DESIGN/BUILDER a fee not to exceed the sum of THREE MILLION THIRTY-NINE THOUSAND AND NO/100 DOLLARS (\$3,039,000.00) for Option 1, or TWO MILLION SIX HUNDRED SEVENTY-TWO THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$2,672,500.00) for Option 2, for all Work provided hereunder by the DESIGN/BUILDER. The above Contract Sum may only be increased or decreased by properly authorized Change Orders as provided in the Contract Documents.

(b) DESIGN/BUILDER agrees to accept the Contract Price as full compensation for doing all professional Work and construction Work, furnishing all Materials, and performing all Work embraced in the Contract Documents; for all loss or damage arising out of performance of the Work and from the action of the elements or from any unforeseen or unknown difficulties or obstructions which may arise or be encountered in the prosecution of the Work until the Final Acceptance; and for all risks of every description connected with the Work.

(c) The DESIGN/BUILDER acknowledges that DESIGN/BUILDER studied, considered, and included in DESIGN/BUILDER's Total Bid (original Contract Price) all costs of any nature relating to: (1) performance of the Work under Central Florida weather conditions; (2) applicable law, licensing, and permitting requirements; (3) the Project site conditions, including but not limited to, subsurface site conditions; and (4) the terms and conditions of the Contract Documents, including, but not limited to, the indemnification and no damage for delay provisions of the Contract Documents.

(d) The DESIGN/BUILDER acknowledges that DESIGN/BUILDER's Total Bid (original Contract Price) considered and included all of DESIGN/BUILDER's costs relating to DESIGN/BUILDER's responsibilities to coordinate and sequence the Work of the DESIGN/BUILDER with the work of the COUNTY with its own forces, the work of other utility DESIGN/BUILDER and the work of others at the Project site.

SECTION 4. FIXED FEE COMPENSATION AND PAYMENT. Payments shall be made to the DESIGN/BUILDER when requested as work progresses for services furnished, but not more than once monthly. DESIGN/BUILDER may invoice amount due based on percentage of total required services actually performed and completed. Upon review and approval of DESIGN/BUILDER's invoice, the OWNER shall, within thirty (30) days of receipt of the invoice, pay DESIGN/BUILDER ninety percent (90%) of the approved amount and retain the remaining ten percent (10%) until the on-schedule completion of eighty-five percent (85%) of all remaining work required by the Scope of Services. At that time, the amount retained will be reduced to two and one-half percent (2.5%) of all work required by the Scope of Services. The reduction in the amount retained is a result of the increased project schedule caused by the proximity to a bald eagle's nest and associated working restrictions during the nesting

seasons, or if OWNER's Project Manager determines that all work is substantially complete or that work by subcontractors is substantially complete and the amount retained is considered to be in excess, the OWNER's Project Manager may, at his/her discretion, release the retainage or portions of the retainage for all work or the specific retainage of individual subcontractors.

SECTION 5. BILLING AND PAYMENT.

(a) DESIGN/BUILDER shall render to the OWNER, at the close of each calendar month, an itemized invoice, properly dated including, but not limited to, the following information:

(1) The name and address of the DESIGN/BUILDER;

(2) Contract Number;

(3) A complete and accurate time record of services performed by the DESIGN/BUILDER for all services performed by the DESIGN/BUILDER during that month and for which the OWNER is billed;

(4) A description of the services rendered in (3) above, corresponding to the 1/10 time increments, with sufficient detail to identify the exact nature of the work performed. As an example of the specificity here required, it would not be appropriate to simply list the service performed as "research"; rather, it is required that the specific matter being researched be specified in such detail as would permit a determination being made as to the necessity for the research and whether the time attributable to it is reasonable; and

(5) Such other information as may be required by this Contract or requested by the OWNER from time to time.

The original invoice shall be sent to:

Director of County Finance
Seminole County Board of County Commissioners
Post Office Box 8080
Sanford, Florida 32772-8080

A duplicate copy of the invoice shall be sent to:

Public Works/Engineering Division
520 West Lake Mary Boulevard, Suite 200
Sanford, Florida 32773

(b) Payment shall be made after review and approval by OWNER within thirty (30) days of receipt of a proper invoice from the DESIGN/BUILDER.

(c) It is further mutually agreed between the parties hereto that if, at any time after the execution of this Contract and the Surety Bonds hereto attached for its faithful performance and payment of labor and materials, the OWNER shall deem the Surety or Sureties upon such bonds to be unsatisfactory, or if, for any reason, such bonds cease to be adequate to cover the performance and payments of the Work, the DESIGN/BUILDER shall, at its expense, and within seven (7) days after the receipt of Notice from the OWNER to do so, furnish additional bonds, in such form and amounts, and with such Sureties as shall be satisfactory to the OWNER. In such event, no further payment to the DESIGN/BUILDER shall be deemed due under this Contract until such new or additional security for the faithful performance and for payment of labor and materials of the Work shall be furnished in manner and form satisfactory to the OWNER. The DESIGN/BUILDER must keep the Performance Bonds active until acceptance of the Project by OWNER.

SECTION 6. FINAL PAYMENT. Final payment shall be made to the DESIGN/BUILDER after submission by the DESIGN/BUILDER of evidence satisfactory to the OWNER that all payrolls, subcontractor's material bills and other costs incurred by the DESIGN/BUILDER in connection with the Work have been paid in full and after all warranties and guarantees that may be required by the Contract Documents have been furnished and are found acceptable by the OWNER. Final Payment on this Contract shall be made within sixty (60) days after the above stated requirements have

been met and upon completion of all Work by DESIGN/BUILDER, certification and approval of Final Payment by the Project Engineer, and acceptance of such work by the OWNER.

SECTION 7. RESPONSIBILITIES OF DESIGN/BUILDER.

(a) DESIGN/BUILDER shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy and the coordination of all the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by the DESIGN/BUILDER under this Contract. DESIGN/BUILDER shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature.

(b) Neither the OWNER'S review, approval or acceptance of, nor payment for, any of the services required shall be construed to operate as a waiver of any rights under this Contract nor of any cause of action arising out of the performance of this Contract and the DESIGN/BUILDER shall be and always remain liable to the OWNER in accordance with applicable law for any and all damages to the OWNER caused by the DESIGN/BUILDER's negligent or wrongful performance of any of the services furnished under this Contract.

SECTION 8. CONTRACT DOCUMENTS. The Contract Documents which comprise the entire Contract between OWNER and DESIGN/BUILDER are attached to this Contract, or are incorporated herein as if fully set forth, and consist of the following:

- (a) Contract, including all Attachments thereto
- (b) Jones Bros., Inc. Qualifications submitted on August 6, 2001 and Proposal submitted on April 3, 002 (per Attachments),

(c) Modification(s), amendment(s) or addenda(s) including change orders duly executed subsequent to the execution of this Contract,

(d) Exhibits,

(e) Special Conditions,

(f) Technical Specifications, and

(g) General Conditions.

SECTION 9. ORDER OF PRECEDENCE.

(a) The Contract Documents are to be considered as one and any one of the Contract Documents calls for shall be as binding as if called for by all. In the event of inconsistencies or ambiguities, the Contract Documents shall be controlling in the following order of precedence:

(1) Contract and Attachments,

(2) RFP Submittal with revisions,

(3) Modifications, Amendments, Addenda, Change Orders,

(4) Special Conditions,

(5) General Conditions,

(6) Payment and Performance Bonds,

(7) DESIGN/BUILDER's Bid Proposal to the extent that it has been referenced and incorporated into the Contract Documents, and

(8) Technical Specifications

(b) The OWNER shall resolve any inconsistency or ambiguity in the Contract Documents after consultation with the Engineer of record based on the above order of precedence and the OWNER's decision shall be final and binding upon all parties.

SECTION 10. TERMINATION.

(a) The OWNER may, by written notice to the DESIGN/BUILDER, terminate this Contract, in whole or in part, at any time, either for the OWNER's convenience or because of the failure of the

DESIGN/BUILDER to fulfill DESIGN/BUILDER Contract obligations. Upon receipt of such notice, the DESIGN/BUILDER shall:

(1) immediately discontinue all services affected unless the notice directs otherwise, and

(2) deliver to the OWNER all plans, studies, reports, estimates, summaries, and such other information and materials as may have been accumulated by the DESIGN/BUILDER in performing this Contract, whether completed or in process.

(b) If the termination is for the convenience of the OWNER, the DESIGN/BUILDER shall be paid compensation for its services performed to the date of termination based on the percentage of work completed. The OWNER shall not be obligated to pay for any work performed by DESIGN/BUILDER after notice of termination has been given.

(c) If the termination is due to the failure of the DESIGN/BUILDER to fulfill its Contract obligations, the OWNER may take over the work and prosecute same to completion by Contract or otherwise. In such case, the DESIGN/BUILDER shall be liable to the OWNER for reasonable additional costs occasioned to the OWNER thereby. The DESIGN/BUILDER shall not be liable for such additional costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the DESIGN/BUILDER. Such causes may include, but are not limited to, acts of God or of the public enemy, acts of the OWNER in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather,; but, in every case, the failure to perform must be beyond the control and without the fault or negligence of the DESIGN/BUILDER.

(d) If, after notice of termination for failure to fulfill Contract obligations, it is determined that the DESIGN/BUILDER had not

so failed, the termination shall be deemed to have been effected for the convenience of the OWNER. In such event, adjustment in the Contract price shall be made as provided in subsection (b) of this Section.

(e) The rights and remedies of the OWNER provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.

SECTION 11. NO CONTINGENT FEES. DESIGN/BUILDER warrants that it has not employed or retained any company or persons, other than a bona fide employee working solely for the DESIGN/BUILDER, to solicit or secure this Contract and that DESIGN/BUILDER has not paid or agreed to pay any persons, company, corporation, individual or firm, other than a bonafide employee working solely for DESIGN/BUILDER, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract. For the breach or violation of this provision, OWNER shall have the right to terminate the Contract at its discretion, without liability and to deduct from the Contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

SECTION 12. INDEMNIFICATION. The DESIGN/BUILDER agrees to hold harmless and indemnify the OWNER, its commissioners, officers, employees, and agents against any and all claims, losses, damages, or lawsuits for damages, arising in any way whatsoever from, allegedly arising from, or related to the provision of work hereunder by the DESIGN/BUILDER, its officers, agents, servants or employees. To the extent required by law, if specific consideration for the indemnification provided herein is required to be given by the OWNER to the DESIGN/BUILDER, then TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) of the compensation set forth in this Contract shall be deemed to be such specific consideration. The DESIGN/BUILDER acknowledges the adequacy

and sufficiency of said specific consideration.

SECTION 13. REPRESENTATIVES OF THE OWNER AND THE DESIGN/BUILDER.

(a) It is recognized that questions in the day-to-day conduct of performance pursuant to this Contract will arise. The OWNER, upon request by DESIGN/BUILDER, shall designate in writing and shall advise DESIGN/BUILDER in writing of one (1) or more of its employees to whom all communications pertaining to the day-to-day conduct of this Contract shall be addressed. The designated representative shall have the authority to transmit instructions, receive information and interpret and define the OWNER's policy and decisions pertinent to the work covered by this Contract.

(b) DESIGN/BUILDER shall, at all times during the normal work week, designate or appoint one or more representatives of DESIGN/BUILDER authorized to act on behalf of and bind the DESIGN/BUILDER regarding all matters involving the conduct of performance pursuant to this Contract and shall keep OWNER continually and effectively advised of such designation.

SECTION 14. ASSIGNMENTS. Neither party to this Contract shall assign this Contract, nor any interest arising herein, without the written consent of the other.

SECTION 15. SUBCONTRACTORS.

(a) In the event DESIGN/BUILDER, during the term of this Contract, requires the services of any subcontractors in connection with services specified in this Contract, DESIGN/BUILDER must secure the prior written approval of the OWNER.

(b) The DESIGN/BUILDER agrees to insert the clauses hereof entitled "Subcontractors" and "Equal Employment Opportunity" in all subcontracts.

(c) Within five (5) calendar days after the award of any subcontractor either by himself or a subcontractor, the DESIGN/BUILDER shall deliver to the OWNER a statement setting forth the name and address of the subcontractor and a summary description of the work subcontracted. The DESIGN/BUILDER shall at the same time furnish a statement signed by the subcontractor acknowledging the inclusion in his subcontract of the clauses of this Contract entitled "Equal Employment Opportunity" and "Subcontractors". Nothing contained in this Contract shall create any contractual relation between the subcontractor and the OWNER.

SECTION 16. INDEPENDENT DESIGN/BUILDER. It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of copartners between the parties, or as constituting the DESIGN/BUILDER including its officers, employees, and agents, the agent, representative, or employee of the OWNER for any purpose, or in any manner, whatsoever. The DESIGN/BUILDER is to be and shall remain an independent DESIGN/BUILDER with respect to all services performed under this Contract.

SECTION 17. EMPLOYEE STATUS. Persons employed by the DESIGN/BUILDER in the performance of services and functions pursuant to this Contract shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the OWNER's officers and employees either by operation of law or by the OWNER.

SECTION 18. WORK NOT PROVIDED FOR. No claim for work furnished by the DESIGN/BUILDER not specifically provided for herein shall be honored by the OWNER.

SECTION 19. NOTICES. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by

certified United States mail, with return receipt requested, addressed to the party for whom it is intended at the place last specified and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice to wit:

For OWNER:

Public Works/Engineering Division
520 West Lake Mary Boulevard, Suite 200
Sanford, Florida 32773

For DESIGN/BUILDER:

Jones Bros., Inc.
725 Primera Boulevard, Suite 140
Lake Mary, Florida 32746

Either of the parties may change, by written notice as provided herein, the addresses or persons for receipt of notices.

SECTION 20. AMENDMENTS. OWNER or DESIGN/BUILDER may request amendments that would increase, decrease, change or clarify any of the provisions of this Contract. Such changes must be authorized by OWNER in writing and duly signed by the parties.

SECTION 21. EQUAL OPPORTUNITY EMPLOYMENT. DESIGN/BUILDER agrees that it will not discriminate against any employee or applicant for employment for work under this Contract because of race, color, religion, sex, age or national origin and will take affirmative steps to insure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age or national origin. This provision shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

SECTION 22. RECORDS AND AUDITS.

(a) DESIGN/BUILDER shall maintain in his place of business all books, documents, papers, and other evidences pertaining to work performed under this Contract. DESIGN/BUILDER shall maintain detailed time records of all per hour work performed under the terms of this Contract. Time records shall clearly set forth in an organized and legible manner sufficient of post-audit and pre-audit by date, and the type of work performed with specificity.

(b) Such records shall be available at DESIGN/BUILDER's place of business at all reasonable times during the terms of this Contract and for five (5) years from the date of final payment under this Contract for audit or inspection by the OWNER or other duly authorized representatives.

SECTION 23. PUBLIC ENTITY CRIMES. The DESIGN/BUILDER warrants that it has not violated any Federal or State law with respect to the transaction of business with any public entity. The DESIGN/BUILDER shall, prior to execution of this Contract, file a sworn statement with the OWNER of whether the DESIGN/BUILDER, or any affiliate of the DESIGN/BUILDER, has been convicted of a public entity crime. If the DESIGN/BUILDER requests approval of subcontractors, the DESIGN/BUILDER shall, prior to approval of the subcontractor by the OWNER, require the subcontractor to file with the OWNER a sworn statement of whether the subcontractor or an affiliate of the subcontractor has been convicted of a public entity crime. For the violation or breach of this provision, the OWNER shall have the right to terminate this Contract at its sole discretion, without further liability to DESIGN/BUILDER.

SECTION 24. TRENCH SAFETY. In the event that excavation work is required by these specifications, the DESIGN/BUILDER warrants that it will comply with the Trench Safety Act (*Chapter 90-96, Laws of Florida*)

and provisions of the *Occupational Safety and Health Administrations Excavation Safety Standards (29 C.F.R. Part 1926.650 Subpart P)*. The DESIGN/BUILDER shall bid excavation work as a separate item identifying cost of compliance in applicable Federal and State law.

SECTION 25. GOVERNING LAW. This Contract shall be governed by the laws of the State of Florida.

SECTION 26. CONFLICT OF INTEREST.

(a) The DESIGN/BUILDER agrees that it will not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Contract with the OWNER or which would violate or cause others to violate the provisions of *Part III, Chapter 112, Florida Statutes*, relating to ethics in government.

(b) The DESIGN/BUILDER hereby certifies that no officer, agent or employee of the OWNER has any material interest (as defined in *Section 112.312(15), Florida Statutes*, as over 5%) either directly or indirectly, in the business of the DESIGN/BUILDER to be conducted here, and that no such person shall have any such interest at any time during the term of this Contract.

(c) Pursuant to *Section 216.347, Florida Statutes*, the DESIGN/BUILDER hereby agrees that monies received from the OWNER pursuant to this Contract will not be used for the purpose of lobbying the Legislature or any other Federal or State Agency.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day and date first above written in one (1) counterpart, each of which shall, without proof or accounting for the other counterparts, be deemed an original contract.

ATTEST:

JONES BROS., INC.

, Secretary

By: _____
M.E. HUBBARD, Vice-President

(Corporate Seal)

Date: _____

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
COUNTY Commissioners of
Seminole County, Florida.

By: _____
DARYL G. MCLAIN, Chairman

Date: _____

For the use and reliance
of Seminole County only.
Approved as to form and
legal sufficiency.

As authorized for execution by
the Board of County Commissioners
at their _____, 20____
regular meeting.

County Attorney
AC/lpk
4/26/02 10/15/02 10/18/02
db607

Attachments:

- Attachment 1 - Qualifications
- Attachment 2 - Proposal Part A, Technical Proposal, Volume 1
- Attachment 3 - Proposal Part A, Technical Proposal, Volume 2
- Attachment 4 - Proposal Parts B & C, Price Proposal and Required Forms
- Attachment 5 - Amendments
- Attachment 6 - Schedule

EXHIBIT "F"
PERFORMANCE BOND
(100% of Contract Price)
Seminole County Contract No. DB-607-01/BJC-

KNOW ALL MEN BY THESE PRESENTS: that

(Name of CONTRACTOR)

(Address of CONTRACTOR)

Contractor's Telephone Number: _____

a _____, hereinafter
(Corporation, Partnership or Individual)

called Principal, and _____
(Name of Surety)

(Address of Surety)

Surety's Telephone Number: _____

hereinafter called Surety, are held and firmly bound unto SEMINOLE COUNTY, 1101 East First Street, Sanford, Florida 32771, hereinafter called COUNTY, in the sum of _____ DOLLARS, (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents. The sum shall not be less than one hundred percent (100%) of the Contract Price.

Seminole County's Telephone Number: (407) 665-7116

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain Agreement with the COUNTY, dated the _____ day of _____, 20____, a copy of which is hereto attached and made a part hereof for the construction of: DB-607-01/BJC

Legal description of the property: SR 434 Trail Overpass Design-Build project in Winter Springs, Seminole County.

General description of the Work: Design Build of a multi-use trail overpass on the Cross Seminole Trail over State Road 434 (SR 434) in Winter Springs, Seminole County. The overpass will accommodate multi-users such as, pedestrians, bicyclists, in-line skaters and hikers.

This Bond is being entered into to satisfy the requirements of Section 255.05, Florida Statutes and the Agreement referenced above, as the same may be amended.

NOW, THEREFORE, the condition of this obligation is such that if Principal:

1. Promptly and faithfully performs its duties, all the covenants, terms, conditions, and agreements of said Agreement including, but not limited to the insurance provisions, guaranty period and the warranty provisions, in the time and manner prescribed in the Agreement, and
2. Pays COUNTY all liquidated damages, losses, damages, delay damages, expenses, costs and attorneys' fees, including costs and attorney's fees on appeal that COUNTY sustains resulting directly or indirectly from any breach or default by Principal under the Agreement, and
3. Satisfies all claims and demands incurred under the Agreement, and fully indemnifies and holds harmless the COUNTY from all costs and damages which it may suffer by reason or failure to do so, then this bond is void; otherwise it shall remain in full force and effect.

The coverage of this Performance Bond is co-equal with each and every obligation of the Principal under the above referenced Agreement and the Contract Documents of which the Agreement is a part.

In the event that the Principal shall fail to perform any of the terms, covenants and conditions of the Agreement and the Contract Documents of which the Agreement is a part during the period in which this Performance Bond is in effect, the Surety shall remain liable to the COUNTY for all such loss or damage (including reasonable attorneys' fees and costs and attorneys' fees and costs on appeal) resulting from any failure to perform.

In the event that the Surety fails to fulfill its obligations under this Performance Bond, then the Surety shall also indemnify and hold the COUNTY harmless from any and all loss, damage, cost and expense, including reasonable attorneys' fees and costs for all trial and appellate proceedings, resulting from the Surety's failure to fulfill its obligations hereunder. This subsection shall survive the termination or cancellation of this Performance Bond.

The Surety stipulates and agrees that its obligation is to perform the Principal's Work under the Agreement under the Bond. The following preventative options by the Surety are encouraged; however, preventative options shall not be considered performance under the Bond: (i) Surety's financing of the Principal to keep Principal from defaulting under the Contract Documents, and (ii) Surety's offers to COUNTY to buy back the Bond. The Surety agrees that its obligation under the bond is to: (i) take over performance of the Principal's Work and be the completing Surety even if performance of the Principal's Work exceeds the Principal's Contract Price or (ii) re-bid and re-let the Principal's Work to a completing contractor with Surety remaining liable for the completing contractor's performance of the Principal's Work and furnishing adequate funds to complete the Work. The Surety acknowledges that its cost of completion upon default by the Principal may exceed the Contract Price. In any event, the Principal's Contract Time is of the essence and applicable delay damages are not waived by COUNTY.

The Surety, for value received, hereby stipulates and agrees that its obligations hereunder shall be direct and immediate and not conditional or contingent upon COUNTY's pursuit of its remedies against Principal, shall remain in full force and effect notwithstanding (i) amendments or modifications to the Agreement entered into by COUNTY and Principal without the Surety's knowledge or consent (ii) the discharge of Principal as a result of any proceeding initiated under the Bankruptcy Code of 1978, as the same may be amended, or any similar state or federal law, or any limitation of the liability or

Principal or its estate as a result of any such proceeding. The filing of bankruptcy by the principal shall be an automatic default under the Agreement.

Any changes in or under the Agreement and Contract Documents and compliance or noncompliance with any formalities connected with the Agreement or the changes therein shall not affect Surety's obligations under this Bond and Surety hereby waives notice of any such changes. Further, Principal and Surety acknowledge that the Sum of this Bond shall increase or decrease in accordance with Change Orders (unilateral or directive change orders and bilateral change orders) or other modifications to the Agreement and Contract Documents.

The Performance Bond and the Payment Bond and the covered amounts of each are separate and distinct from each other.

This Performance Bond is intended to comply with the requirements of Section 255.05, Florida Statutes, as amended, and additionally, to provide contract rights more expansive than as required by statute.

IN WITNESS WHEREOF, this instrument is executed this the _____ day of _____, 20____.

ATTEST:

Principal (Contractor)

By _____
(Principal) Secretary

By _____

Name _____
(Type)

(Corporate Seal)

Name _____
(Type)

Title _____

Address _____

City/State/Zip _____

Witness to Principal

Name _____
(Type)

Witness to Principal
Name _____
(Type)

ATTEST:

By _____
(Surety) Secretary

Surety

Name _____
(Type)

Phone No. _____

Fax No. _____

(Corporate Seal)

Witness as to Surety

By _____
Attorney-in-fact

Name _____
(Type)

Name _____
(Type)

Witness as to Surety

Name _____
(Type)

Address _____

City/State/Zip _____

Phone No. _____

Fax No. _____

NOTE: Date of the Bond must not be prior to date of Agreement. If CONTRACTOR is a joint venture, all venturers shall execute the Bond. If CONTRACTOR is Partnership, all partners shall execute the Bond.

IMPORTANT: Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida, unless otherwise specifically approved in writing by COUNTY.

ATTACH a certified copy of Power-of-Attorney appointing individual Attorney-in-Fact for execution of Performance Bond on behalf of Surety.

EXHIBIT "G"
PAYMENT BOND

(100% of Contract Price)

Seminole County Contract Number: DB-607-01/BJC-

KNOW ALL MEN BY THESE PRESENTS: that

(Name of CONTRACTOR)

(Address of CONTRACTOR)

Contractor's Telephone Number: _____

a _____, hereinafter after called (Corporation,
Partnership, or Individual)

Principal, and _____
(Name of Surety)

(Address of Surety)

Surety's Telephone Number: _____

herein called Surety, are held and firmly bound unto _____
SEMINOLE COUNTY, 1101 East First Street, Sanford, Florida 32771, hereinafter called "COUNTY",
in the sum of _____ DOLLARS,
(\$ _____) in lawful money of the United States, for the payment of which sum well and truly to
be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

Seminole County's Telephone Number: _____ (407) 665-7116

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain
Agreement with the COUNTY, dated the _____ day of _____, 20____, and made a part hereof
the construction of: DB-607-01/BJC

Legal description of the property: SR 434 Trail Overpass Design-Build project in Winter Springs,
Seminole County.

General description of the Work: Design Build of a multi-use trail overpass on the Cross Seminole Trail
over State Road 434 (SR 434) in Winter Springs, Seminole County. The overpass will accommodate
multi-users such as. pedestrians, bicyclists, in-line skaters and hikers.

NOW, THEREFORE, the condition of this obligation is such that if Principal shall promptly make payments to all claimants as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, Materials, or supplies, used directly or indirectly by Principal in the prosecution of the Work provided for in the Agreement, then this obligation shall be void; otherwise, it shall remain in full force and effect subject, however, to the following conditions:

1. This Bond is furnished for the purpose of complying with the requirements of Section 255.05, Florida Statutes, as the same may be amended.

2. It is a specific condition of this Bond that a claimant's right of action on the Bond is limited to the provisions of Section 255.05, Florida Statutes, including, but not limited to, the one-year time limitation within which suits may be brought.

3. This Bond is conditioned that the CONTRACTOR shall promptly make payments to all persons defined in Section 713.01, Florida Statutes, whose claims derive directly or indirectly from the prosecution of the Work provided for in the Agreement.

Therefore, a claimant, except a laborer, who is not in privity with the CONTRACTOR and who has not received payment for his labor, Materials or supplies shall, within forty-five (45) days after beginning to furnish labor, Materials or supplies for the prosecution of the Work, furnish the CONTRACTOR with a notice that he intends to look to the Bond for protection. A claimant who is not in privity with the CONTRACTOR and who has not received payment for his labor, Materials or supplies shall within ninety (90) days after performance of the labor or completion of delivery of the Materials or supplies, or, with respect to rental equipment, within 90 days after the date that the rental equipment was last on the job site available for use, deliver to the CONTRACTOR and to the Surety written notice of the performance of the labor or delivery of the Materials or supplies and of the nonpayment. No action for the labor, Materials or supplies may be instituted against the CONTRACTOR or the Surety on the bond after one (1) year from the performance of the labor or completion of the delivery of the Materials or supplies.

4. Any changes in or under the Agreement or Contract Documents and compliance or noncompliance with any formalities connected with the Agreement or the changes therein shall not affect Surety's obligations under this Bond and Surety hereby waives notice of any such changes. Further, Principal and Surety acknowledge that the Sum of this Bond shall increase or decrease in accordance with the Change Orders (unilateral or directive change orders and bilateral change orders) or other modifications to the Agreement or Contract Documents.

5. The Performance Bond and the Payment Bond and the covered amounts of each are separate and distinct from each other. This Payment Bond shall be construed as a statutory Payment Bond under Section 255.05, Florida Statutes and not as a common law bond.

IN WITNESS WHEREOF, this instrument is executed this _____ day _____ of _____, 20_____.

ATTEST:

Principal

By _____
(Principal) Secretary

By _____

Name _____
(Type)
(Corporate Seal)

Name _____
(Type)

Title _____

Address _____

City/State/Zip _____

Witness to Principal

Name _____
(Type)

Witness to Principal

Name _____
(Type)

ATTEST:

By _____
(Surety) Secretary

Surety

Name _____
(Type)

Phone No. _____

Fax No. _____

(Corporate Seal)

By _____
Attorney-in-fact

Witness as to Surety

Name _____
(Type)

Witness as to Surety

Name _____
(Type)

Name _____
(Type)

Address _____

City/State/Zip _____

Phone No. _____

Fax No. _____

NOTE: Date of the Bond must not be prior to date of Agreement. If CONTRACTOR is a joint venture, all venturers shall execute the Bond. If CONTRACTOR is Partnership, all partners shall execute Bond.

IMPORTANT: Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida, unless otherwise specifically approved in writing by COUNTY.

ATTACH a certified copy of Power-of-Attorney appointing individual Attorney-in-Fact for execution of Payment Bond on behalf of Surety.

Part 8
TERMS AND CONDITIONS

SECTION 1 - BASIC DEFINITIONS

1.1 Definitions.

Whenever used in the Contract Documents, the following terms shall have the meanings indicated, which shall be applicable to both the singular and plural thereof.

ADDENDA - Written or graphic instruments issued prior to the date for opening proposals which modify or interpret the Proposal Documents by additions, deletions, clarifications or corrections.

ACCEPTANCE, FINAL ACCEPTANCE - The formal action by COUNTY accepting the WORK as being complete.

AGREEMENT - The written Agreement between COUNTY and DESIGN/BUILDER covering the Work to be performed; other Contract Documents are incorporated in or referenced in the Agreement and made a part thereof as provided therein.

BOARD - The Board of County Commissioners of Seminole County, Florida, its successors and assigns.

BONDS – Instruments of surety furnished by DESIGN/BUILDER and his Surety in accordance with the Contract Documents.

CHANGE ORDER - A written order initiated by the properly authorized representative of the County directing the Design/Builder to perform changes, additions and/or deletions to the work. A change order shall be executed in the same manner as a contract or agreement documents, meaning that the same person(s) shall affix proper signatures, seals, etc. All Change Orders shall be effective only when signed by the COUNTY and DESIGN/BUILDER.

CONTRACT - "Contract" shall mean the Contract Documents as defined and listed herein, advertisement, Request for Qualifications, instructions to Proposers, Price Proposal, bid bond, contract agreement, payment and performance bonds, general and special conditions, plans, and specifications, together with all addenda and supplemental agreements. A single contract with a design/build firm for the design and construction of a public construction project.

CONTRACT SUM - The total compensation, subject to authorized adjustments, payable by COUNTY to DESIGN/BUILDER for satisfactory completion of all Work under the Contract Documents as stated in the Agreement.

CONTRACT TIME – The period of time allotted in the Contract Documents, subject to authorized adjustments, for Substantial Completion and Final Completion of the Work, or other interim completion dates identified in the Contract Documents.

CORRIDOR - The land which the COUNTY has title to, or right of use, for the trail and its structures and appurtenances, and for Material pits furnished or to be furnished by the COUNTY.

COUNTY OR COUNTY - Seminole County, Florida, the public body, agency or instrumentally which is a party hereto and for which this Contract is to be performed. In all respects hereunder, COUNTY's performance is pursuant to COUNTY's position as the COUNTY of a construction project. In the event COUNTY exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, laws and

ordinances shall be deemed to have occurred pursuant to COUNTY's authority as a governmental body and shall not be attributable in any manner to COUNTY as a party to this Contract.

COUNTY'S REPRESENTATIVE – The authorized representative of COUNTY acting directly or through duly authorized representatives or Consultants who may serve as the COUNTY's engineers of construction, engineering and inspection; such representatives or Consultants acting within the scope of the duties and authority assigned to them.

DATE OF COMMENCEMENT OF THE CONTRACT TIME - The date given by the Notice to proceed when the Contract Time commences to run.

DAY - A calendar day of 24 hours lasting from midnight one day to midnight the next day.

DEFECTIVE WORK – Work that does not meet specifications specified in the Contract Documents

DESIGN/BUILD - "The requirement for which a single contract with a Design/Build firm is entered into for the design and construction of a Capital Improvement construction project." Further, providing one single administrative entity responsible for design and construction under one contract where services are performed by a registered Engineer or Professional Engineer and where construction services are performed by a certified or registered general contractor.

DESIGN/BUILDER - The person, firm, or corporation with whom Seminole County has contracted and who is primarily liable for the acceptable performance of the Work and for the payment of all legal debts pertaining to the Work. All references in the Contract Documents to third parties under contract or control of DESIGN/BUILDER shall be deemed to be a reference to DESIGN/BUILDER. A partnership, joint venture, corporation, association or other legal entity which is certified under Section 489.119 Florida Statutes to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as a qualifying agent, and is certified under Section 471.023 Florida Statutes to practice or to offer to practice COUNTY's Representative, or is certified under Section 481.219 to practice or offer to practice as an Architectural firm; or has among the principal parties to the legal entity a principal party which is certified under Section 489.119 to engage in contracting through a certified or registered contractor or a certified or registered building contractor as a qualifying agent; and among the parties to the legal entity a principal party which is certified under Section 471.023 Florida Statutes to practice or to offer to practice COUNTY's Representative, or is certified under Section 481.219 to practice or to offer to practice Engineerure.

FINAL COMPLETION - That date when the Work is complete in accordance with the Contract Documents.

NOTICE TO PROCEED - A written notice issued by COUNTY to DESIGN/BUILDER authorizing it to proceed with the Work and establishing the Date of Commencement of the Contract Time.

PAYMENT BOND - The security furnished by DESIGN/BUILDER and its Surety as a guarantee that DESIGN/BUILDER will pay in full all bills and accounts, from claimants as defined in Chapter 713, Florida Statutes, or as amended, for Material, labor, services and supplies used directly or indirectly in the prosecution of the Work. The covered amount of the Payment Bond is separate and distinct from the covered amount of the Performance Bond.

PERFORMANCE BOND - The security furnished by DESIGN/BUILDER and its Surety as a guarantee that DESIGN/BUILDER will perform all of its contractual obligations in accordance with the terms of the Contract Documents. The covered amount of the performance Bond is separate and distinct from the covered amount of the Payment Bond.

PRICE PROPOSAL - The written offer of Proposer to perform the work as specified at specified price. Oral, telegraphic or faxed proposals will not be considered.

PROJECT - The total construction of which the Work to be provided under the Contract Documents is a part as indicated elsewhere in the Contract Documents.

SHOP DRAWINGS - All Drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for DESIGN/BUILDER to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by DESIGN/BUILDER to illustrate Material or Equipment for some portion of the Work, specifically indicating how DESIGN/BUILDER will comply with the Contract Documents.

SPECIFICATIONS - The directions and provisions contained herein, together with all stipulations contained in the Contract Documents, setting out or relating to the quality of the Work or conditions under which Work shall be performed, or to the quantities and qualities of Materials and labor to be furnished under the Contract Documents.

STANDARD SPECIFICATIONS – The covenants, directions, provisions and requirements set forth in Part 7 - Design/Build Criteria set forth in this document, and are incorporated by reference to Florida Department of Transportation's, Standard Specifications For Road and Bridge Construction, 2000.

SUBCONTRACTOR - An individual, partnership, corporation, joint-venture, or other combination thereof having a Subagreement with DESIGN/BUILDER for (a) the performance of labor in connection with part of the Work at the site; or (b) for both performing labor in connection with part of the Work at the site and furnishing items of Materials or Equipment for incorporation into the Work. Subcontractor also means an individual, partnership, corporation, joint venture, or other combination thereof who has a Subagreement with another Subcontractor to perform any other Work at the site.

SUBSTANTIAL COMPLETION - That date when (a) the Work is complete in accordance with the Contract Documents, and (b) the Work can be utilized for the purposes for which it is intended, as may be evidenced by successful completion of all specified pre-operational start-up and demonstration tests. The terms "substantially complete" and "substantially completed" as applied to any Work refer to Substantial Completion thereof.

SURETY - The corporate body which is bound by the Bonds required by the Contract Documents with and for the DESIGN/BUILDER and which agrees to be responsible for performance of the Work for which the Agreement has been made and for payment of all costs pertaining thereto.

WARRANTY PERIOD – The period of time within which DESIGN/BUILDER shall promptly, without cost to COUNTY and in accordance with the COUNTY's written instructions, either correct Defective Work or, if it has been rejected by the COUNTY, remove it from the site and replace it with non-Defective Work. The Warranty Period does not limit the DESIGN/BUILDER's warranty that the Work has been completed in accordance with the Contract Documents.

WORK - All labor, Materials and incidentals required for the construction of the improvement by the Contract Documents, including superintendence, use of equipment and tools, and all services and responsibilities prescribed or implied, which are necessary for the complete performance by the DESIGN/BUILDER of his obligations under the Contract Documents. Unless otherwise specified herein or in the Contract Documents, all costs of liability and of performing the Work shall be at the DESIGN/BUILDER's expense.

SECTION 2 - EXECUTION, CORRELATION AND INTENT

2.1 Execution, Correlation and Intent

2.1.1 It is the intent of the COUNTY and Design/Builder that the Contracts Documents include all items necessary for proper execution and completion of the Work. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by Design/Builder shall be required only to the extent consistent with and reasonably inferable from the Contract Documents as being necessary to produce the intended results. Words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

2.1.2 If the Design/Builder believes or is advised by the Engineer or by another design professional retained to provide services on the Project that implementation of any instruction received from the COUNTY would cause a violation of any applicable law, the Design/Builder shall notify the COUNTY in writing within 24 hours. Neither the Design/Builder nor the Engineer shall be obligated to perform any act which believes will violate any applicable law.

2.1.3 Nothing contained in the Contract Documents shall create a contractual relationship between the COUNTY and any person or entity other than the Design/Builder; however, it is understood and agreed that the COUNTY is an intended third-party beneficiary of all contracts for design or engineering services, all subcontracts, purchase orders, and other agreements between the Design/Builder and third parties. The Design/Builder shall incorporate the obligations of this Contract into its respective subcontracts, supply agreements and purchase orders.

2.1.4 Execution of the Contract by Design/Builder is a representation that Design/Builder has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents. Familiarity with local conditions shall include, without limitation, (1) the condition and layout of the Project site and surrounding locale, (2) available labor supply and costs, (3) available subcontractors and suppliers, (4) the prevailing climate, including the impact of rain, (5) available material and equipment and costs, and (6) other similar issues. Design/Builder shall make no claim for additional time or money arising from its failure to comply with this Paragraph.

2.1.5 The Design/Builder accepts the relationship of trust and confidence established between it and the COUNTY by this Contract. The Design/Builder agrees to furnish the architectural, engineering and construction services set forth herein and agrees to furnish efficient business administration and superintendence, and to use its best efforts to complete the Project in the best and soundest way and in the most expeditious and economical manner consistent with the interest of the COUNTY.

SECTION 3 - OWNERSHIP AND USE OF DOCUMENTS

3.1 Drawings, specifications, and other documents and electronic data furnished by the Design/Builder are instruments of service. The COUNTY shall be permitted to retain copies, including reproducible copies, of the drawings, specifications, and other documents and electronic data furnished by the Design/Builder for information and reference.

3.2 Design/Builder agrees that specifications and other documents and electronic data furnished by the Design/Builder may be used by the COUNTY or others on other projects, for additions to this Project or for completion of this Project by others.

3.3 If the Design/Builder defaults in the Design/Builder's obligations to the COUNTY, the Engineer shall grant a license to the COUNTY to use the drawings, specifications, and other documents and electronic data furnished by the Engineer to the Design/Builder for the completion of the Project, conditioned upon the COUNTY's execution of an agreement to cure the Design/Builder's default in payment to the Engineer for services previously performed and to indemnify the Engineer with regard to claims arising from such reuse without the Engineer's professional involvement

3.4 Submission or distribution of the Design/Builder's documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the rights reserved in Subparagraph 3.1.

3.5 Ownership and Use of Documents and Electronic Data.

3.5.1 Drawings, specifications and other documents and electronic data furnished by the Design/Builder are instruments of service. The COUNTY shall be permitted to retain copies, including reproducible copies, of the drawings, specifications and other documents and electronic data furnished by the Design/Builder for information and reference.

SECTION 4 - DESIGN/BUILDER'S RESPONSIBILITIES

4.1 Unless otherwise provided in the Contract documents, the Design/Builder shall provide all materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

4.2 The Design/Builder shall be responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work. Design/Builder shall assume full responsibility for accuracy of measurements obtained at the site. Design/Builder shall supervise and direct the Work, using the Design/Builder's best skill and attention and in accordance with all local and Florida licensing requirements.

4.3 Design services required by this Project shall be performed by qualified Engineers and other design professionals properly licensed in Florida. The contractual obligations of such professional persons or entities are undertaken and performed in the interest of the Design/Builder. The professional obligations of the Design/Builder and all professionals, consultants, and agents engaged or retained by Design/Builder shall be undertaken and performed in the interest of the COUNTY and the Design/Builder. Construction services shall only be performed by qualified, Florida licensed construction contractors and suppliers, selected and paid by the Design/Builder and acting in the interest of the COUNTY and Design/Builder.

4.4 Key Personnel: Within ten (10) days of the execution of this Agreement, the Design/Builder shall submit to COUNTY's Representative for approval a list of all management and supervisory personnel assigned to the Project. The final list of personnel to be assigned to the Project shall be negotiated and approved by the COUNTY's representative at the time of execution of this Agreement. This list shall then become an exhibit to this Contract. No changes shall be made to this list without the COUNTY's representative's prior written approval.

4.5 The Design/Builder shall not contract with a proposed person or entity to whom the COUNTY has made a reasonable and timely objection.

4.6 The Design/Builder shall disclose the existence and extent of any financial interest, whether direct or indirect, he has in Subcontractors or material suppliers which he may proposed for this Project.

4.7 The agreements between the Design/Builder and the persons or entities identified in the Contract Documents, and any subsequent modifications, shall be in writing. These agreements, including financial arrangements with respect to this Project, shall be promptly and fully disclosed to the COUNTY upon request.

4.8 The Design/Builder shall be responsible to the COUNTY for acts and omissions of the Design/Builder's employees, subcontractors and their agents and employees, and other persons, including the Engineer and other design professionals, performing any portion of the Design/Builder's obligations under the Contract Documents.

4.9 The Design/Builder shall keep the COUNTY informed of the progress and quality of the Work.

4.10 The Design/Builder shall be responsible for correcting Work which does not conform to the Contract Documents.

4.11 The Design/Builder warrants to the COUNTY that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the construction will be free from faults and defects, and that the construction will

conform with the requirements of the Contract Documents. Design/Builder warrants to COUNTY that all design, engineering, and construction services shall be produced, performed and completed consistent with the professional industry standards. Work not conforming to these requirements, including substitutions not properly approved by the COUNTY shall be corrected in accordance with the Contract Documents.

4.12 The Design/Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under this Agreement. At the completion of the Work, the Design/Builder shall remove from the site waste materials, rubbish, the Design/Builder's tools, construction equipment, machinery, and surplus materials.

4.13 The COUNTY, upon request of the Design/Builder, shall notify the Design/Builder when the Work or an agreed portion thereof is substantially completed by issuing a Certificate of Substantial Completion. The Certificate of Substantial Completion shall state the responsibility of each party for security, maintenance, heat, utilities, damage to the Work, and insurance, shall include a list of items to be completed or corrected and shall fix a time within which the Design/Builder shall complete items listed therein. Failure to include an item on such list does not alter the responsibility of the Design/Builder to complete all Work in accordance with the Contract Documents. Disputes between the COUNTY and Design/Builder regarding the Certificate of Substantial Completion may, at the COUNTY's election, be resolved by mediation in accordance to the Contract Documents.

4.14 The Design/Builder shall maintain at the site for the COUNTY one record copy of the drawings, specifications, product data, samples, shop drawings, Change Orders and other modifications, in good order and regularly updated to record the completed construction. These shall be delivered to the COUNTY upon completion of construction and prior to final payment.

4.15 The Design/Builder is responsible of making revisions in drawings, specifications, and other documents or electronic data when such revisions are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents or electronic data.

4.16 The Design/Builder shall provide consultation concerning replacement of Work damaged by fire or other cause during construction, excluding replacement of Work required by causes within the control of Design/Builder or causes which could have been reasonable anticipated by Design/Builder at the time bids for the Work were received, and furnishing services required in connection with the replacement of such Work.

4.17 The Design/Builder shall provide services in connection with a public hearing or legal proceeding, except where the Design/Builder is a party thereto.

SECTION 5 - PERMITS, LAWS AND REGULATIONS

5.1 Permits.

The Design/Builder will include an allowance for all permits and fees as part of the Price Proposal. The COUNTY will reimburse the Design/Builder that direct cost for all such permits and fees. Design/Builder will be responsible for the proper execution and completion of the Work, including fees associated with permanent and temporary electrical services. Subsequent permit fees required because of failed inspections or rejected plans shall be paid for by the Design/Builder.

5.3 Laws and Regulations.

5.3.1 DESIGN/BUILDER shall give all notices and comply with all Laws and Regulations applicable to the Work. All applicable building code requirements must be followed. It is the DESIGN/BUILDER's responsibility to familiarize with such codes; including compliance with all Federal, State and local code requirements.

5.3.2 DESIGN/BUILDER shall pay all sales, consumer, use and other taxes required to be paid by it in accordance with the Laws and Regulations of the place of the Project.

5.4 Use of Premises

DESIGN/BUILDER shall confine construction Equipment, the storage of Materials and Equipment and the operations of workers to areas permitted by Laws and Regulations, rights-of-way, easements, or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with construction Equipment or other Materials or Equipment. DESIGN/BUILDER shall assume full responsibility for any damage to any such property, or to the COUNTY or occupant thereof or of any other property, caused or alleged to have been caused by or incident to the execution of this Work. DESIGN/BUILDER shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim.

SECTION 6 - SAFETY AND PROTECTION

6.1 Safety and Protection.

6.1.1 DESIGN/BUILDER shall be solely and completely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. DESIGN/BUILDER shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees on the Work and other persons (including but not limited to the general public) who may be affected thereby; all the Work and all Materials or Equipment to be incorporated therein, whether in storage on or off the site; and other property at the site, adjacent thereto, or utilized by DESIGN/BUILDER including but not limited to trees, shrubs, lawns, walks, pavements, roadways, structures, Underground Facilities and utilities not designated for removal, relocation or replacement in the course of construction regardless of whether such other property is indicated in the Contract Documents. DESIGN/BUILDER's duties and responsibilities for the safety and protection of the Work shall continue until such time that the Work is acceptable to the COUNTY.

6.1.2 All damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by DESIGN/BUILDER, any Subcontractor, Supplier or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by DESIGN/BUILDER at his sole cost. The Design/Builder shall promptly remedy damage and loss to property at the site caused in whole or in part by the Design/Builder or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.

6.2 Emergencies.

In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, DESIGN/BUILDER, without special instruction or authorization from COUNTY, is obligated to act to prevent threatened damage, injury or loss. DESIGN/BUILDER shall give COUNTY prompt written notice if DESIGN/BUILDER believes that any significant changes in the Work have resulted because of the action taken in response to an emergency. If COUNTY determines that changes are required, COUNTY shall authorize the changes by Change Order. If the emergency was not due to the fault or negligence of DESIGN/BUILDER, or any Subcontractor or Supplier or anyone for whose acts any of them may be liable and the changes cause an increase or decrease in DESIGN/BUILDER's cost or the time required to perform any part of the Work, COUNTY shall make an adjustment in Contract Price or Contract Time.

6.3 Indemnity.

6.3.1 The Design/Builder shall indemnify and hold harmless the COUNTY, COUNTY's consultants, and agents and employees of any of them from and against any and all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work, including but not limited to any such claim, damage, loss or expense which is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, other than Work itself, including loss of use resulting therefrom, but only to the extent caused by acts or omissions of the Design/Builder or anyone for whose acts the Design/Builder may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section.

6.3.2 In claims against any person or entity indemnified under this section by an employee of the Design/Builder, anyone directly or indirectly employed by the Design/Builder or anyone for whose acts the Design/Builder may be liable, the indemnification obligation under this section shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Design/Builder under worker's compensation acts, disability benefit acts or other employee benefit acts.

6.4 Hazardous Materials

If during construction of the Project any known hazardous material, or friable asbestos is suspected or encountered, work in that area shall be suspended and the COUNTY's representative shall be notified immediately. In the event the Design/Builder encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, the Design/Builder shall immediately stop Work in the area affected and report the condition to the COUNTY's representative in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the COUNTY and Design/Builder if in fact the material is asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written agreement of the COUNTY and the Design/Builder.

6.5 Interference with Traffic.

The DESIGN/BUILDER shall at all times conduct the Work in such manner and in such sequence as to insure the least practicable interference with traffic. The DESIGN/BUILDER's vehicles and other Equipment shall be operated in such manner that they will not be a hazard or hindrance to the traveling public.

6.6 Maintenance of Traffic.

The Maintenance of Traffic requirements of the Contract Documents are essential life safety requirements designed to protect the safety of the traveling public.

6.7 Pollution, Vibration and Noise Controls.

The DESIGN/BUILDER shall minimize noise, vibration, and air pollution caused by construction activities. The DESIGN/BUILDER shall control the generation and disposal of solid and hazardous wastes.

SECTION 7 - TIME

7.1 Unless otherwise indicated, the COUNTY and the Design/Builder shall perform their respective obligations consistent with reasonable skill and care and the orderly progress of the Project.

7.2 Time limits stated in the Contract Documents are of the essence. The Work to be performed under this Agreement shall commence upon receipt of a notice to proceed unless otherwise agreed and, subject to authorized Modifications, Substantial Completion shall be achieved on or before the date established in Contract Documents.

7.3 Design Phase

7.3.1 Upon the request of the COUNTY, the Design/Builder shall prepare a schedule for the performance of the design services which shall not exceed the time limits contained in the Contract Documents and shall include allowances for periods of time required for the COUNTY's review and for approval of submissions by authorities having jurisdiction over the Project.

7.3.2 If the Design/Builder is delayed in the performance of services under this section through no fault of the Design/Builder, any applicable schedule may be appropriately extended. Extension of time shall be the Design/Builder's sole exclusive remedy for any such delay.

7.3.3 If the Design/Builder is delayed at any time in the commencement or progress of the Work under this section, by an act or neglect of the COUNTY, or of an employee of COUNTY, or of a separate contractor employed by the COUNTY, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design/Builder's control, or by delay authorized by the Owner pending mediation, or by other causes which the COUNTY determines may justify delay, then the contract time may be extended by Change Order for such reasonable time as the COUNTY may determine. Adjustment to Contract Sum may be made for such costs directly attributable to delays caused by an act or neglect of the COUNTY. Design/Builder costs shall be job site labor and materials only and shall not include any main office costs, overhead or loss of profit. Additionally, the Design/Builder shall take all possible steps to mitigate such costs for the COUNTY.

7.3.4 Design/Builder shall not be entitled to any time extension unless Design/Builder (1) notifies COUNTY in writing of the cause of such delay, obstruction, hindrance, or interference within forty-eight (48) hours of the commencement thereof and (2) demonstrates that Design/Builder could not have anticipated or avoided such delay, obstruction, hindrance or interference and has used all available means to minimize the consequences thereof.

7.3.5 In the event Design/Builder accelerates its work for any reason whatsoever, COUNTY shall pay no overtime inefficiencies to Design/Builder for such acceleration.

7.4 Construction Phase

7.4.1 Not more than twenty-one (21) days after the execution of this Agreement, the Design/Builder shall submit a progress schedule indicating each major category or unit of general work to be performed at site, properly sequenced and intermeshed and showing completion of the Work consistent with the time period established in the Contract Documents. The Design/Builder shall provide the COUNTY with monthly updates of the progress schedules indicating completed activities and any changes in sequencing or activity duration.

7.4.2 If the Design/Builder submits a schedule indicating an intention to achieve completion of the Work prior to contractually required dates, including milestones, no liability of the COUNTY to Design/Builder for any failure of the Design/Builder to so complete shall be created, whether or not COUNTY approved such schedule. The COUNTY owns all float in the schedule.

7.4.3 At COUNTY's option and subject to COUNTY's approval, Design/Builder shall provide a schedule utilizing critical path techniques to measure the progress of the work.

7.4.4 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and location, could not have been reasonable anticipated and had an adverse effect on the scheduled construction's critical path. Such substantiated adverse weather shall be basis for an adjustment to the Contract Time only, with no adjustment to the Contract Sum.

7.4.5 If the Design/Builder is delayed at any time in the commencement or progress of the Work under this section, by an act or neglect of the COUNTY, or of an employee of COUNTY, or of a separate contractor employed by the COUNTY, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design/Builder's control, or by delay authorized by the Owner pending mediation, or by other causes which the COUNTY determines may justify delay, then the contract time may be extended by Change Order for such reasonable time as the COUNTY may determine. Adjustment to Contract Sum may be made for such costs directly attributable to delays caused by an act or neglect of the COUNTY. Design/Builder costs shall be job site labor and materials only and shall not include any main office costs, overhead or loss of profit. Additionally, the Design/Builder shall take all possible steps to mitigate such costs for the COUNTY.

7.4.6 Design/Builder shall not be entitled to any time extension unless Design/Builder (1) notifies COUNTY in writing of the cause of such delay, obstruction, hindrance, or interference within forty-eight (48) hours of the commencement thereof and (2) demonstrates that Design/Builder could not have anticipated or avoided such delay, obstruction, hindrance or interference and has used all available means to minimize the consequences thereof.

7.4.7 In the event Design/Builder accelerates its work for any reason whatsoever, COUNTY shall pay no overtime inefficiencies to Design/Builder for such acceleration.

SECTION 8 - PERFORMANCE BONDS AND PAYMENT BONDS

8.1 The Design/Builder shall furnish bonds covering faithful performance of the Contract and the payment of obligations arising thereunder, Bonds may be obtained through the Design/Builder's usual source and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum. The Bonds shall be in the forms provided and approved by the COUNTY.

SECTION 9 - CORRECTION OF WORK

9.1 COUNTY will have authority to disapprove or reject Work at any time during the construction of the Work, which COUNTY believes to be Defective. COUNTY will also have authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed. When DESIGN/BUILDER has been notified by COUNTY of disapproval or rejection of Defective Work, DESIGN/BUILDER shall take immediate action to correct or replace same.

9.2 The Design/Builder shall promptly correct Work rejected by the COUNTY or known by the Design/Builder to be defective or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Design/Builder shall bear costs of correcting such rejected Work, including additional testing and inspections.

9.3 If, within one (1) year after the date of Substantial Completion of the Work or, after the date for commencement of warranties established in a written agreement between the COUNTY and the Design/Builder, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Design/Builder shall correct it promptly after receipt of a written notice from the COUNTY to do so unless the COUNTY has previously given the Design/Builder a written acceptance of such condition.

9.4 Nothing contained in this Section shall be construed to establish a period of limitation with respect to other obligations which the Design/Builder might have under the Contract Documents. Establishment of the time period of one (1) year as described in Subparagraph 9.3 relates only to the specific obligation of the Design/Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design/Builder's liability with respect to the Design/Builder's obligations other than specifically to correct the Work.

9.5 If the Design/Builder fails to correct nonconforming Work as required or fails to carry out Work in accordance with the Contract Documents, the COUNTY representative may order the Design/Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the COUNTY's right to stop the Work shall not give rise to a duty on the part of the COUNTY to exercise the right for benefit of the Design/Builder or other persons or entities.

9.6 If the Design/Builder defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within three (3) days after receipt of written notice from the COUNTY to commence and continue correction of such default or neglect with diligence and promptness, the COUNTY may without prejudice to other remedies the COUNTY may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design/Builder, the costs of correcting such deficiencies. If the payments then or thereafter due the Design/Builder are not sufficient to cover the amount of the deduction, the Design/Builder shall pay the difference to the COUNTY. Such action by the COUNTY shall be subject to dispute resolution procedures as provided in the Contract Documents.

SECTION 10 -CHANGES IN THE WORK

10.1 Change Orders

A Change Order is a written instrument prepared by the Design/Builder and signed by the COUNTY and the Design/Builder, stating their agreement upon all of the following: (1) a change in the Work, (2) the amount of the adjustment, if any, in the Contract Sum, and (3) the extent of the adjustment, if any, in the Contract Time.

10.2 Construction Change Orders

10.2.1 A Construction Change Order is a written order prepared and signed by the COUNTY, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both.

10.2.2 Except as otherwise agreed by the COUNTY and the Design/Builder, the adjustment to the Contract Sum shall be determined on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including the expenditures for design services and revisions to the Contract Documents. In case of an increase in the Contract Sum, the cost shall include a reasonable allowance for overhead and profit not to exceed a combined 15% for the Design/Builder and Subcontractor. In such case, the Design/Builder shall keep and present an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, costs for these purposes shall be limited to the following:

1. costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
2. costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
3. rental costs of machinery and equipment exclusive of hand tools, whether rented from the Design/Builder or others;
4. costs of premiums for all bonds and insurance permit fees, and sales, use or similar taxes;
5. additional costs or supervision and field office personnel directly attributable to the change; and fees paid to the Engineer, engineers and other professionals.

10.2.3 Pending final determination of cost to the COUNTY, amounts not in dispute may be included in Applications for Payment. The amount of credit to be allowed by the Design/Builder to the COUNTY for deletion or change which results in a net decrease in the Contract Sum will be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

10.2.4 When the COUNTY and the Design/Builder agree upon the adjustments in the Contract Sum and Contract Time, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

10.3 Minor Changes in the Work

10.3.1 The Design/Builder shall have authority to make minor changes in the Construction Documents and construction consistent with the intent of the Contract Documents when such minor changes do not involve adjustment in the Contract Sum or extension of the Contract Time. The Design/Builder shall promptly inform the COUNTY, in writing, of minor changes in the Construction Documents and construction and shall not proceed with such changes without prior written approval of

COUNTY.

10.3.2 If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, or (2) unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then the Design/Builder shall promptly notify the COUNTY before conditions are disturbed and in no event later than 5 days after first observance of the conditions. The Contract Sum may be equitable adjusted for such concealed or unknown conditions by Change Order upon claim by the Design/Builder made within 5 days after the Design/Builder becomes aware of the conditions. The foregoing notwithstanding, COUNTY shall have the right to terminate this Contract in accordance with the provisions of the Contract Documents in the event that the Contract Sum would have to be increased due to the discovery of such concealed or unknown conditions, in an amount which would be unacceptable to COUNTY, in its sole discretion.

SECTION 11 - PAYMENTS AND SCHEDULE OF VALUES

11.1 Schedules. The DESIGN/BUILDER will not be entitled to receive a Progress Payment until the COUNTY approves the Progress Schedule. Each Application for Payment shall be based upon the most recent Schedule of Values submitted by the Design/Builder in accordance with the contract documents. The Schedule of Values shall allocate the Contract Sum to the various portions of the Work as appropriate. The Schedule of Values shall be prepared in such a form and supported by such data to substantiate its accuracy as the COUNTY may require. This schedule, unless objected to by the COUNTY, shall be used as a basis for reviewing the Design/Builder's Applications for Payment. The Schedule of Values shall be amended as necessary to reflect change orders and changes to the Contract Sum.

11.2 Application for Payment.

11.2.1 Each Application for Payment shall be for one calendar month. The COUNTY shall pay progress payments by the twentieth (20th) of the month for properly submitted Applications for Payment received by the COUNTY by the last day of the preceding month. Such payments shall be for ninety percent (90%) of the substantiated actual Cost of the Work in place and stored materials in bonded for the previous calendar month as certified by the Design/Builder and verified by the COUNTY.

11.2.2 Each Application for Payment shall include (1) list the name and address of each of its Subcontractors and Suppliers who have performed Work or provided supplies or Material during the time period of Work reflected by the Application; (2) any information required in Progress Payment section; and, (3) submit a monthly updated Progress Schedule including cash flow projections.

11.3 Progress Payments.

11.3.1 The DESIGN/BUILDER will receive progress payments on monthly estimates based on the amount of Work done or completed (including delivery of certain Materials, as specified herein). The monthly payments shall be approximate only, and all partial estimates and payments shall be subject to correction in the subsequent estimates and the final estimate and payment. The amount of such payments shall be the total value of the Work done to the date of the estimate, based on the quantities and the Unit Prices, less an amount retained and less payments previously made.

11.3.2 The Design/Builder shall deliver to the COUNTY itemized Applications for Payment in accordance with the provisions of this section.

11.3.3 Within thirty (30) days of the COUNTY's receipt of a properly submitted and correct Application for Payment, the COUNTY shall make payment to the Design/Builder.

11.3.4 The Application for Payment shall constitute a representation by the Design/Builder to the COUNTY that the design and construction have progressed to the point indicated; the quality of the Work covered by the application is in accordance with the Contract Documents; and the Design/Builder is entitled to payment in the amount requested.

11.3.5 With each Application for Payment, the Design/Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, affidavits and lien waivers as requested and any other evidence required by the COUNTY to demonstrate that cash disbursements already made by the Design/Builder on account to the Cost of the Work equal or exceed: (1) progress payments already received by the Design/Builder, less: (2) that portion of those payments attributable to the Design/Builder's fee; plus (3) payrolls for the period covered by the present Application for Payment.

11.3.6 Upon receipt of payment from the COUNTY, the Design/Builder shall promptly pay the Engineer, other design professionals and each contractor the amount of which each is entitled in accordance with the terms of their respective contracts.

11.3.7 The COUNTY shall have no obligation under this Agreement to pay or to be responsible in any way for payment to the Engineer, another design professional, or a contractor performing portions of the Work.

11.3.8 Neither progress payment nor partial or entire use of the Project by the COUNTY shall constitute an acceptance of Work not in accordance with the Contract Documents.

11.3.9 The Design/Builder warrants that title to all construction covered by an Application for Payment will pass to the COUNTY no later than the time of payment. The Design/Builder further warrants that upon submittal of an Application for Payment all construction for which payments have been received from the COUNTY shall be free and clear of liens, claims, security interests or encumbrances in favor of the Design/Builder or any other person or entity performing construction at the site or furnishing materials or equipment relating to the construction.

11.4 Final Application for Payment.

11.4.1 A final payment of the retained percentage shall be paid after compliance with the requirements specified in the contract documents and within sixty (60) days after Substantial Completion of the entire Work, approval, and acceptance of the entire Work by the COUNTY and all other governmental agencies and authorities having jurisdiction over the Work or the Project. The final payment may be reduced by one hundred percent (100%) of the estimated dollar value of any uncorrected punch list items as may be determined by the COUNTY.

11.4.2 The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents and such other data and schedules as COUNTY may reasonably require, together with complete and legally effective releases or waiver (satisfactory to COUNTY) of all Liens and Contract Claims arising out of or filed in connection with the Work. In lieu thereof and as approved by COUNTY, DESIGN/BUILDER may furnish receipts or releases in full with an affidavit of DESIGN/BUILDER that the releases and receipts include all labor, services, Material and Equipment for which a Lien or Contract Claim could be filed, and that all payrolls, Material and Equipment bills and other indebtedness in connection with the Work for which COUNTY might in any way be responsible, have been paid or otherwise satisfied. COUNTY shall require consent of the Surety to Final Payment.

11.4.3 With the final Application for Payment, the Design/Builder shall submit a breakdown of the following: Final project amount in dollars, amount in dollars of work to subcontracted FDOT certified DBE firms, amount, in dollars, of work the FDOT certified DBE firms further subcontracted out. This statement will be signed and notarized. To determine if a firm is FDOT DBE certified, contact Morris Scott, FDOT, (904) 943-5000.

11.4.4 Neither final payment nor amounts retained, if any, shall become due until the Design/Builder submits to the COUNTY (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the COUNTY or COUNTY's property might be responsible or encumbered (less amounts withheld by the COUNTY) have been paid or otherwise satisfied; (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days prior written notice has been given to the COUNTY; (3) a written statement that the Design/Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents; (4) consent of surety, if any, to final payment; and (5) if required by the COUNTY, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the COUNTY. If a contractor or other person or entity entitled to assert a lien against the COUNTY's property refuses to furnish a release or waiver required by the COUNTY, the Design/Builder may furnish a bond satisfactory to the COUNTY to indemnify the COUNTY against such lien. If such lien remains unsatisfied after payments are made, the Design/Builder shall indemnify the COUNTY for all loss and cost, including reasonable attorneys' fees incurred as a result of such lien. If such lien remains unsatisfied after payments are made, the Design/Builder shall refund to

the COUNTY all money that the COUNTY may be compelled to pay in discharging such lien, including all costs and reasonable attorney fees. As a further condition precedent to Final Payment, and as part of the Application, Design/Builder shall deliver all warranties and guarantees required under the Contract Documents, including such warranties on long-lead items.

11.4.5 When the Work has been completed and the contract fully performed, the Design/Builder shall submit a final application for payment to the COUNTY, who shall make final payment within sixty (60) days of receipt.

11.4.6 The making of final payment shall constitute a waiver by the COUNTY except those arising from: (1) liens, claims, security interests or encumbrances arising out of the Contract and unsettled; (2) failure of the Work to comply with the requirements of the Contract Documents; or (3) terms of special warranties required by the Contract Documents.

11.4.7 Acceptance of final payment shall constitute a waiver of all claims by the Design/Builder.

SECTION 12 - SUSPENSION OF WORK AND TERMINATION

12.1 COUNTY May Stop the Work. If the Work is Defective and the DESIGN/BUILDER has been notified by COUNTY's Representative, or if DESIGN/BUILDER fails to perform the Work in compliance with the requirements of the Contract Documents, or if DESIGN/BUILDER fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, or suitable Materials or Equipment, or if DESIGN/BUILDER fails to obtain, maintain or renew insurance in conformance with the Contract Documents in a form acceptable to COUNTY, or if any insurance company DESIGN/BUILDER has obtained insurance from declares bankruptcy or is declared bankrupt, or if DESIGN/BUILDER fails to prosecute the Work without endangering persons or property, COUNTY may order DESIGN/BUILDER to stop the Work, or any portion thereof, until the cause for such order has been eliminated. COUNTY's order to stop the Work may be communicated through COUNTY's Representative. This right of COUNTY to stop the Work shall not give rise to any duty on the part of COUNTY to exercise this right for the benefit of DESIGN/BUILDER or any other party. DESIGN/BUILDER shall bear all direct, indirect, and consequential costs of such order to stop the Work (including but not limited to fees and charges of engineers, attorneys and other professionals, any additional expenses incurred by COUNTY due to delays to others performing Work under a separate contract with COUNTY, and other obligations), and DESIGN/BUILDER shall further bear the responsibility for maintaining the Progress Schedule and shall not be entitled to any extension of Contract Time or increase in the Contract Price. COUNTY shall be entitled to deduct any expenses so incurred from the Contract Price by issuing a Change Order.

12.2 Suspension for Convenience.

12.2.1 Without invalidating the Contract Documents, and without notice to any surety, COUNTY may, at any time, order DESIGN/BUILDER in writing to stop, delay or interrupt Work for such a period of time as COUNTY may deem appropriate. Upon receipt of that order, DESIGN/BUILDER shall immediately proceed in accordance with any specific provisions or instructions, protect and maintain the Work, and make reasonable and diligent efforts to mitigate costs associated with the suspension order.

12.2.2 If any suspension of Work under this subsection causes an increase or decrease in DESIGN/BUILDER's cost or the time required to perform or complete any part of the Work, COUNTY shall make a change in Contract Price or Contract Time, as provided in the Contract Documents; except that no change in Contract Price or Contract Time will be made for any suspension of Work to the extent that performance would have been suspended anyhow by causes not meeting the criteria in the Contract Documents, or for which an adjustment is provided or excluded under any other provision of the Contract Documents.

12.3 Termination for Cause.

12.3.1 COUNTY may upon the occurrence of any one or more of the following events terminate the services of DESIGN/BUILDER:

12.3.1.1 If a trustee, receiver, custodian or agent of DESIGN/BUILDER is appointed under applicable law or under contract, whose appointment or authority to take charge of property of DESIGN/BUILDER is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of DESIGN/BUILDER's creditors;

12.3.1.2 If DESIGN/BUILDER admits in writing an inability to pay its debts generally as they become due;

12.3.1.3 If DESIGN/BUILDER fails to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled Workers, sufficient supervisory personnel, or suitable Materials or Equipment or failure to adhere to the Progress Schedules);

12.3.1.4 If DESIGN/BUILDER discontinues prosecution of the Work or any portion thereof;

12.3.1.5 If DESIGN/BUILDER allows any final judgment against it to remain unsatisfied for a period of ten days;

12.3.1.6 If DESIGN/BUILDER disregards laws, policies, court orders, or administrative directives, etc., of any governmental body, agency or court having jurisdiction;

12.3.1.7 If DESIGN/BUILDER disregards the authority of COUNTY's Representative;

12.3.1.8 If DESIGN/BUILDER otherwise violates in any substantial way any provisions of the Contract Documents; or

12.3.1.9 If DESIGN/BUILDER fails to promptly pay Subcontractors, Suppliers, Materialmen, Laborers, etc.

12.3.2 As it is recognized that if DESIGN/BUILDER is adjudged bankrupt or makes a general assignment for the benefit of creditors or if a receiver is appointed on account of its insolvency, such could impair or frustrate DESIGN/BUILDER's performance of the Work, therefore it is agreed that upon occurrence of any such event, COUNTY shall be entitled to request DESIGN/BUILDER or its successor to provide adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to provide said adequate assurance within seven (7) days of the delivery of the request shall entitle COUNTY to terminate DESIGN/BUILDER. In all events pending receipt of adequate assurance of performance and actual performance in accordance herewith, COUNTY shall be entitled to proceed with the Work with its own forces or with their contractors on a time and Material or other appropriate basis the cost of which will be back charged against DESIGN/BUILDER. COUNTY shall be entitled to deduct these costs from the Contract Price by issuing a Change Order.

12.3.3 COUNTY may, after giving DESIGN/BUILDER and Surety seven (7) days written notice, and to the extent permitted by laws and regulations, terminate the services of DESIGN/BUILDER, exclude DESIGN/BUILDER from the site and take possession of the Work and of all DESIGN/BUILDER's tools, appliances, construction Equipment and machinery at the site and use the same to the full extent they could be used by DESIGN/BUILDER (without liability to DESIGN/BUILDER for trespass or conversion), incorporate in the Work all Materials and Equipment stored at the site or for which COUNTY has paid DESIGN/BUILDER but which are stored elsewhere, and finish the Work as COUNTY may deem expedient. DESIGN/BUILDER shall assign all of its interest in any or all Sub-agreements to COUNTY upon COUNTY's request. In such case DESIGN/BUILDER shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect and consequential costs of completing the Work (including but not limited to fees and charges of engineers, Engineers, attorneys and other professionals and court and arbitration costs including costs for appellate proceedings) such excess will be paid to DESIGN/BUILDER. If such costs exceed such unpaid balance, DESIGN/BUILDER shall pay the difference to COUNTY. If DESIGN/BUILDER leaves the site at any time during the seven (7) day period, COUNTY shall have the right to secure the site to protect the property from damage and to insure the health and safety of the public.

12.3.4 Notwithstanding the above notice period, in the event of an emergency, the COUNTY may take over the site and perform any or all of the activities set out above immediately. COUNTY shall provide notice of such takeover within 24 hours after its occurrence.

12.3.5 Where DESIGN/BUILDER's services have been terminated by COUNTY, the termination shall not affect any rights of COUNTY against DESIGN/BUILDER then existing or which may thereafter accrue. Any retention or payment due DESIGN/BUILDER by COUNTY will not release DESIGN/BUILDER from liability.

12.3.6 COUNTY may, at its sole discretion, permit DESIGN/BUILDER to continue to perform Work when DESIGN/BUILDER is in default, however caused. Such a decision by COUNTY shall in no way operate as a waiver on the part of COUNTY of any of its rights under the Contract Documents.

12.4 Termination for Convenience.

12.4.1 COUNTY may, without prejudice to any other right or remedy, terminate this Agreement in whole or in part at any time for its convenience by giving DESIGN/BUILDER and Surety seven (7) days written notice. COUNTY shall have the right, in that event, to take over any or all of DESIGN/BUILDER's Materials, (whether stored on or off site) supplies, Equipment, Sub-agreements or other obligations to complete the Work and DESIGN/BUILDER shall assign them to COUNTY upon COUNTY's request. DESIGN/BUILDER shall proceed to complete any part of the Work, as directed by COUNTY, and shall settle all its Contract Claims and obligations under the Agreement.

12.4.2 In any such termination for the convenience of COUNTY, DESIGN/BUILDER shall be paid for Work completed in accordance with the Contract Documents prior to receipt of the notice of termination, and for reasonable termination settlement costs relating to commitments which had become firm prior to the termination; however, payment to DESIGN/BUILDER will exclude any and all anticipated supplemental costs, administrative expenses overhead and profit on uncompleted Work and any type of wrongful termination damages. DESIGN/BUILDER shall justify its Contract Claims as requested by COUNTY with thorough, accurate records and data.

12.4.3 If, after notice of Termination for Cause of DESIGN/BUILDER, it is determined that DESIGN/BUILDER was not in default, the termination shall be deemed to have been for the convenience of COUNTY. In such event DESIGN/BUILDER may recover from COUNTY payment in accordance with Contract Documents.

SECTION 13 - MISCELLANEOUS

13.1 Notice to Other Agencies.

DESIGN/BUILDER shall notify all public and private entities or agencies in accordance with any and all ordinances, laws, agreements, licenses, and any other directions of construction activity, disruption of access or services. COUNTY shall not be responsible for any such notification.

13.2 Regulatory Changes.

The Design/Builder shall be compensated for changes in the construction necessitated by the enactment or revisions of codes, laws or regulations subsequent to the submission of the Design/Builder's Proposal.

13.3 Partial Invalidity.

If any provision of this contract is held by a court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can continue to be effectuated. To that end, this Agreement is declared severable.

13.4 Advertising.

No advertising shall be permitted upon any part of the site or structures located on the site. News or press releases pertaining to the services, Work product(s), or performance of DESIGN/BUILDER under the Contract Documents or the Project to which it relates shall be at the sole discretion of COUNTY.

13.5 Interest Payments.

Any prejudgment or post judgment interest assessed against either party to this Agreement shall be assessed at the prevailing rate currently in the State of Florida.

SECTION 14 - CONTRACT CLAIMS RESOLUTION

14.1 Purpose.

The purpose of this Section is to provide a cooperative team building dispute resolution process for payment of monetary obligations and provision of time extensions under the Contract Claim provisions of the Contract Documents. The team building approach to dispute resolution provided in this Section is intended to complement other requirements imposed by the Contract Documents and is not intended to create duties or obligations not otherwise imposed by law or these Contract Documents. The parties remain responsible for performance of all obligations imposed under these Contract Documents. At all times during the time that any Contract Claim is pending and in the process of being resolved or decided, the DESIGN/BUILDER shall proceed diligently with the Work so as to achieve completion of the Work within the Contract Time.

14.2 Administrative Forum.

The parties agree that all Contract Claims arising under the Contract Documents shall be submitted for alternative dispute resolution under Chapter 220, "Contract Claims", Seminole County Code or successor provisions. DESIGN/BUILDER agrees that the submission of Contract Claims during performance of the Work provides an efficient dispute resolution procedure and that resolution of disputes by the COUNTY's Purchasing Manager and the COUNTY's Appeal Committee or their designees provide adequate remedies. The DESIGN/BUILDER agrees that the status of hearing officers as COUNTY employees does not violate public policy, deny due process, or provide the basis for disregarding or avoiding the alternative dispute resolution procedures established by Chapter 220, Seminole County Code. The DESIGN/BUILDER, by executing the Contract Documents, expressly waives due process rights and agrees to resolve disputes under these Alternative Dispute Resolution procedures.

14.3 Contract Claims Procedure.

Contract Claims procedure shall comply with the requirements of Chapter 220, "Contract Claims", Seminole County Code and this Section. The parties agree to voluntarily exchange information and documents necessary for resolution of the Contract Claim. The hearing officers (Purchasing Manager or Appeal Committee) under Chapter 220, Seminole County Code, shall have the right to make written requests to the COUNTY staff, COUNTY's Representative, and DESIGN/BUILDER at any time for additional information and documents needed to render a decision. Hearing officers may grant extensions of time and direct COUNTY staff and DESIGN/BUILDER to participate in structured negotiations or mediation to resolve disputes prior to rendering a decision. In the event of referral to mediation, the parties agree that mediators shall be mutually acceptable to the parties and that the costs of mediation shall be shared equally among the parties participating in the mediation. Further, the parties agree that hearing officers under Chapter 220, Seminole County Code, shall not be required to render written decisions until Substantial Completion of the Work has been accomplished and the parties expressly waive the time periods for written decisions by the County's Purchasing Manager and Appeal Committee. In the event that DESIGN/BUILDER appeals any decision of the Purchasing Manager under the Seminole County Code, DESIGN/BUILDER agrees to identify specific exceptions to the Purchasing Manager's decision including specific identification of the provisions of the Contract Documents relied upon. General assertions that the Purchasing Manager's decision is contrary to provisions of the Contract Documents, law, or fact are not sufficient. The DESIGN/BUILDER recognizes and accepts the Seminole County Code requirements for posting an appeal bond.

14.4 Notice of Contract Claims.

Contract Claims by the DESIGN/BUILDER must be made by written notice on the form provided in the Contract Documents with complete documentation to COUNTY's Representative and the COUNTY's Purchasing Manager. Notwithstanding the allowance of a specific time for giving notice in the Contract Documents, notices shall be given at the earliest possible moment and in no event later than the time allowed in the Contract Documents.

14.5 Contract Claim Correspondence.

To assure prompt resolution of Contract Claims, the DESIGN/BUILDER's correspondence related to Contract Claims shall have Contract Claim identification numbers assigned by DESIGN/BUILDER. The Contract Claim numbers shall be sequential and assigned chronologically so that each Contract Claim can be individually identified by reference to the Contract Claim number. Each document submitted in support of a Contract Claim must bear the appropriate Contract Claim number.

14.6 Contract Claim Disposition.

Each Contract Claim shall be treated separately under Chapter 220, Seminole County Code and this Section. Continuing Contract Claims or Contract Claims asserting damages for the cumulative effect of more than one Contract Claim are not permitted. However, if DESIGN/BUILDER files a timely notice of Contract Claim under the Contract Documents, DESIGN/BUILDER may file supplemental documents in support of any Contract Claim prior to the decision of the COUNTY's Purchasing Manager under Section 220, Seminole County Code. As to Contract Claim disputes under the Contract Documents, the decision of the COUNTY's Purchasing Manager or Appeal Committee or their designees shall stand as a COUNTY staff recommendation of settlement of the Contract Claim to the Seminole County Board of County Commissioners.

14.7 Reservation of Contract Claims.

The parties agree that these Contract Documents provide no procedure for reservation, notice of reservation or notice of intent to file a Contract Claim and that such notices are void and of no effect. The parties agree that prompt and separate resolution of each Contract Claim benefits DESIGN/BUILDER, COUNTY and the public.

14.8 False Claims.

The COUNTY and DESIGN/BUILDER acknowledge that the "Florida False Claims Act" provides civil penalties not more than \$10,000.00 plus remedies for obtaining treble damages against Design/Builder or persons causing or assisting in causing Florida governments to pay claims that are false when money or property is obtained from a Florida government by reason of a false claim.

SECTION 15 – PROVISIONS FOR DESIGN/BUILDER INSURANCE

PROVISIONS FOR DESIGN/BUILDER'S INSURANCE

Section 1 GENERAL

The DESIGN/BUILDER shall not commence Work until the DESIGN/BUILDER has, at the DESIGN/BUILDER's own cost, procured the insurance required under this Section and the County's Risk Management Division has approved such insurance.

1.1 Before commencing Work, the DESIGN/BUILDER shall furnish the COUNTY's Purchasing Division with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required by Section 3. The Certificate of Insurance shall provide that the COUNTY's Purchasing Division shall be given not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by the DESIGN/BUILDER, the DESIGN/BUILDER shall provide the COUNTY's Purchasing Division with a renewal or replacement Certificate of Insurance not less than thirty (30) days before the expiration or replacement of the insurance for which a previous certificate has been provided.

1.2 The Certificate shall contain a statement that it is being provided in accordance with the Contract Documents and that the insurance is in full compliance with the requirements of the COUNTY. Provide further, that in lieu of the statement on the Certificate, the DESIGN/BUILDER shall, at the option of the COUNTY's Purchasing Division submit a sworn and notarized statement from an authorized representative of the insurer that the Certificate is being provided in accordance with the Contract Documents and that the insurance is in full compliance with the requirements of the Contract Documents.

1.3 In addition to providing the Certificate of Insurance pursuant to the above, if required by the COUNTY's Purchasing Division, the DESIGN/BUILDER shall, within thirty (30) days after receipt of the request, provide the COUNTY's Purchasing Division with a certified copy of each of the policies of insurance providing the coverage required by Section 3.

1.4 Before commencing Work, the DESIGN/BUILDER shall (except as permitted under Section 3.4.5 furnish the COUNTY's Purchasing Division with the original of the policy or policies of insurance evidencing the insurance required by Section 3, upon request, and the original or certified copy of the policy or policies of insurance evidencing the insurance required by Section 3 as appropriate. The authorized representative of the insurer(s) shall sign the policy or policies of insurance. Until such time as the insurance is no longer required to be maintained by the DESIGN/BUILDER, the DESIGN/BUILDER shall provide the COUNTY's Purchasing Division with renewal or replacement policies of insurance, as required by this Section not less than thirty (30) days before the expiration or replacement of the policies which have previously been provided.

1.5 Neither approval by the COUNTY's Purchasing Division nor failure to disapprove the insurance furnished by DESIGN/BUILDER shall relieve the DESIGN/BUILDER of the DESIGN/BUILDER's full responsibility for liability, damages and accidents.

1.6 Deductible/self-insured retention amounts shall be subject to approval by COUNTY, and shall be reduced or eliminated upon written request from COUNTY. The insurer's cost of defense including attorney's fees (and attorney's fees on appeal) shall not be included within the policy coverage but shall remain the responsibility of insurer.

1.7 If not covered under the "all risk" insurance, DESIGN/BUILDER shall purchase and maintain similar property insurance on portions of the Work including all Materials stored on and off the site or in transit when such portions of the Work are to be included in an Application for Payment.

1.8 In the event of loss covered by Property Insurance, the proceeds of a claim shall be paid to COUNTY, and the COUNTY shall apportion the proceeds between the COUNTY and DESIGN/BUILDER as their interests may appear.

1.9 The risk of loss within the deductible amount, if any, in the insurance purchased and maintained pursuant to this Section will be borne by DESIGN/BUILDER.

1.10 Neither COUNTY's review of the coverage afforded by or the provisions of the policies of insurance purchased and maintained by DESIGN/BUILDER in accordance with this Section, nor COUNTY's decisions to raise or not to raise any objections about either or both, shall in no way relieve or decrease the liability of DESIGN/BUILDER. If COUNTY elects to raise an objection to the coverage afforded by or the provisions of the insurance furnished, DESIGN/BUILDER shall promptly provide to COUNTY such additional information as COUNTY may reasonably request, and DESIGN/BUILDER shall remedy any deficiencies in the policies of insurance at once.

1.11 COUNTY's authority to object to insurance shall not in any way whatsoever give rise to any duty on the part of COUNTY to exercise this authority for the benefit of DESIGN/BUILDER or any other party.

1.12 Named Insured: The Board of County Commissioners of Seminole County, Florida, its officials, officers and employees must be included as named insured.

Section 2 INSURANCE COMPANY REQUIREMENTS

Insurance companies providing the insurance under the Contract Documents must meet the following requirements.

2.1 Such companies must be either (a) authorized by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida to conduct business in the State of Florida or (b) with respect only to the coverage required by Section 3.1 (Workers' Compensation/Employers' Liability) authorized as a group self-insurer by Florida Statute 440.57.

2.2 In addition, such companies other than those authorized by Florida Statute 440.57 shall have and maintain a Best's Rating of "A" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.

2.3 If, during the period which an insurance company is providing the insurance coverage required by the Contract Documents, an insurance company shall: 1) lose its Certificate of Authority, 2) no longer comply with Florida Statute 440.57, or 3) fail to maintain the Best's Rating and Financial Size Category, the DESIGN/BUILDER shall, as soon as the DESIGN/BUILDER has knowledge of any such circumstance, immediately notify the COUNTY's Purchasing Division and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of the Contract Documents. Until such time as the DESIGN/BUILDER has replaced the unacceptable insurer with an insurer acceptable to the COUNTY's Purchasing Division, the DESIGN/BUILDER shall be deemed to be in default of the Contract Documents.

Section 3 SPECIFICATIONS

Without limiting any of the other obligations or liabilities of the DESIGN/BUILDER, the DESIGN/BUILDER shall, at the DESIGN/BUILDER's sole expense, procure, maintain and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this Section. Except as otherwise specified in the Contract Documents, the insurance shall become effective prior to the commencement of Work by the DESIGN/BUILDER and shall be maintained in force until Final Completion or such other time as required by the Contract Documents. The amounts and types of insurance shall conform to the following minimum requirements.

3.1. WORKERS' COMPENSATION/EMPLOYERS' LIABILITY (MANDATORY - NO EXCEPTIONS)

3.1.1. The DESIGN/BUILDER's insurance shall cover the DESIGN/BUILDER and its Subcontractors of every tier for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers Compensation Act, where appropriate, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act and any other applicable federal or state law.

3.1.2. Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

3.2. COMMERCIAL GENERAL LIABILITY

3.2.1. The DESIGN/BUILDER's insurance shall cover the DESIGN/BUILDER for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C. Medical Payment and the elimination of coverage for Fire Damage Legal Liability.

3.2.2. The DESIGN/BUILDER shall maintain separate limits of coverage applicable only to the Work performed under the Contract Documents. The minimum limits to be maintained by the DESIGN/BUILDER (inclusive of any amounts provided by an Umbrella or Excess policy) shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated Project or Premises) endorsement (ISO Form CG 25 01) to a Commercial General Liability Policy with amount specified for each project:

	<u>Limits</u>	
General Aggregate Limit (Other than Products) (Completed Operations)	\$	-PER REQUIRED LIMITS
Products-Completed Operations Aggregate Limit	\$	- PER REQUIRED LIMITS
Personal & Advertising Injury Limit	\$	- PER REQUIRED LIMITS
Each Occurrence Limit	\$	- PER REQUIRED LIMITS
Fire Damage Limit	\$	nil
Medical Expense Limit	\$	nil

3.2.3. The DESIGN/BUILDER (applicable to construction contracts only) shall continue to maintain Products/Completed Operations coverage for a period of three years after Final Completion. The insurance shall cover those sources of liability which would be covered by the latest edition of Coverage A of the Commercial General Liability Form (ISO Form CG 00 01) or Coverage A of the Products/Completed Operations Liability Coverage Form (ISO Form CG 00 37), as filed for use in the State of Florida by the Insurance Services Office without restrictive endorsements. The DESIGN/BUILDER shall maintain separate limits of coverage applicable specifically to the Work performed under the Contract Documents. The minimum limits to be maintained by the

DESIGN/BUILDER (inclusive of any amounts provided by an Umbrella or Excess policy) shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated Project or Premises) endorsement (ISO Form CG 25 01) with amounts specified for each project:

<u>Limits</u>		
Products-Completed Operations Aggregate Limit	\$	- PER REQUIRED LIMITS
Each Occurrence Limit	\$	- PER REQUIRED LIMITS

3.3 BUSINESS AUTO POLICY

3.3.1. The DESIGN/BUILDER's insurance shall cover the DESIGN/BUILDER for those sources of liability which would be covered by Part IV of the latest edition of the standard Business Auto Policy (ISO Form CA 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements. Coverage shall include owned, non-owned and hired autos.

3.3.2. The minimum limits to be maintained by the DESIGN/BUILDER (inclusive of any amounts provided by an umbrella or Excess policy) shall be per accident combined single limit for bodily injury liability and property damage liability. If the coverage is subject to an aggregate, the DESIGN/BUILDER shall maintain separate aggregate limits of coverage applicable to claims arising out of or in connection with the Work under the Contract Documents. The separate aggregate limits to be maintained by the DESIGN/BUILDER shall be a minimum of three times per accident limit required and shall apply separately to each policy year or part thereof.

3.4 COUNTY'S PROTECTIVE LIABILITY COVERAGE

3.4.1. The DESIGN/BUILDER shall provide the COUNTY's Purchasing Division with an COUNTY's and DESIGN/BUILDER's Protective Liability Policy (OCP Policy). The policy shall cover the Board of County Commissioners of Seminole County, Florida for all sources of liability which would be covered by the latest edition of the standard COUNTY's and DESIGN/BUILDER's Protective Liability Coverage Form - Coverage for Operations of Designated DESIGN/BUILDER (ISO Form CG 00 09), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements.

3.4.2. The Board of County Commissioners of Seminole County, Florida shall be the named Insured on the OCP Policy. The policy shall be endorsed to include the COUNTY's officials, officers and employees as insured. The OCP Policy shall include the DESIGN/BUILDER and the DESIGN/BUILDER's Subcontractors of every tier as designated in the declarations.

3.4.3. The minimum OCP Policy limits to be provided by the DESIGN/BUILDER (inclusive to any amounts provided by an Umbrella or Excess policy) shall be per occurrence combined single limit for bodily injury liability and property damage liability. If the OCP Policy limits are subject to an aggregate, the separate aggregate limits to be provided by the DESIGN/BUILDER shall be a minimum of three times the per occurrence limit required and shall apply separately to each policy year or part thereof. The limits afforded by the OCP Policy (or Excess policy if any) shall apply only to the Board of County Commissioners of Seminole County, Florida and the COUNTY's officials, officers and employees and only to claims arising out of or in connection with the Work under the Contract Documents.

3.4.4. Notice of Cancellation and/or Restriction: A policy must be specifically endorsed to provide the COUNTY's Purchasing Division with thirty (30) days' notice of cancellation and/or restriction.

3.4.5. As an alternative to providing the COUNTY with COUNTY's Protective Liability Coverage, DESIGN/BUILDER may satisfy the requirements of this Section by naming the COUNTY (and if required,

the Engineer) as Additional Insured on the DESIGN/BUILDER's Commercial General Liability policies (inclusive of any amounts provided by an Umbrella or Excess policy). In this event, such policies must be endorsed to provide the COUNTY (and, if required, the Engineer) with thirty (30) days notice of cancellation and/or restriction.

3.5 BUILDER'S RISK

When a Work includes construction of and/or additions to above ground buildings or structures, Builder's Risk coverage must be provided as follows:

3.5.1. Form: All Risk Coverage. Coverage is to be no more restrictive than that afforded by the latest editions of Insurance Services Office Forms CP 00 20 and CP 10 30.

3.5.2. Amount of Insurance: 100% of the completed value of such addition(s), building(s) or structure(s).

3.5.3. Waiver of Occupancy Clause or Warranty: Policy must be specifically endorsed to eliminate any "Occupancy Clause" or similar warranty or representation that the building(s), addition(s) or structure(s) in the course of construction shall not be occupied without specific endorsement of the policy. The policy must be endorsed to provide the Builder's Risk coverage and will continue to apply until final acceptance of the building(s), addition(s), or structure(s) by the COUNTY.

3.5.4. Maximum Deductible: \$5,000 each claim.

3.5.5. Named Insured: The Board of County Commissioners of Seminole County, Florida, its officials, or officers and employees must be included as named insured.

3.5.6. Notice of Cancellation and/or Restriction: The policy must be specifically endorsed to provide the COUNTY's Purchasing Division with thirty- (30) days' notice of cancellation and/or restriction.

3.5.7. Flood Insurance: When buildings or structures are located within an indemnified special flood hazard area, flood insurance must be afforded for the lesser of the total insurable value of such buildings or structures, or, the maximum amount of flood insurance coverage available under the National Flood Program.

3.6 INSTALLATION FLOATER

If the Work includes the installation of machinery and/or equipment into an existing structure, the following insurance coverage must be provided on that machinery and/or equipment.

3.6.1. Form: "All Risk" including Installation and Transit.

3.6.2. Amount of Insurance: 100% of the "installed replacement cost value".

3.6.3. Valuation: 100% of the "installed replacement cost of value".

3.6.4. Cessation of Insurance: Coverage is not to cease and is to remain in force (subject to cancellation notice) until Final Acceptance.

3.6.5. Maximum Deductible: \$5,000 each claim.

3.6.6. Named Insured: The Board of County Commissioners of Seminole County, Florida, its officials, officers and employees must be included as named insured.

3.6.7. Notice of Cancellation and/or Restriction: The policy must be specifically endorsed to provide the Purchasing Division with thirty- (30) days' notice of cancellation and/or restriction.

3.6.8. Flood Insurance: When the machinery or equipment is located within an identified special flood hazard area, flood insurance must be afforded for the lesser of the total insurable value of such buildings or structures, or, the maximum amount of flood insurance coverage available under the National Flood Program.

NOTE: IT IS NOT NECESSARY THAT THE DESIGN/BUILDER PROVIDE BOTH A BUILDER'S RISK AND INSTALLATION FLOATER. IF THE WORK INCLUDES CONSTRUCTION OF AND/OR ADDITIONS TO ABOVE GROUND BUILDINGS OR STRUCTURES, BUILDER'S RISK, BUT NOT INSTALLATION FLOATER, COVERAGE MUST BE PROVIDED. WHEN THE WORK INCLUDES THE INSTALLATION OF MACHINERY AND/OR EQUIPMENT INTO AN EXISTING STRUCTURE, BUT DOES NOT CONTEMPLATE CONSTRUCTION OF OR ADDITION TO THE STRUCTURE ITSELF, ONLY THE INSTALLATION FLOATER MUST BE PROVIDED.

Section 4 COVERAGE

The insurance provided by DESIGN/BUILDER pursuant to the Contract Documents shall apply on a primary basis and any other insurance or self-insurance maintained by the Board of County Commissioners of Seminole County, Florida or the County's officials, officers or employees shall be excess of and not contributing with the insurance provided by the DESIGN/BUILDER.

Section 5 PROVISION

Workers' Compensation Policy, Commercial General Liability, Business Auto Policy and the OCP Policy required by the Contract Documents shall be provided on an occurrence rather than a claims-made basis.

Section 6 OBLIGATIONS

Compliance with the foregoing requirements shall not relieve the DESIGN/BUILDER, its employees or agents of liability from any obligations under a section or any other portions of the Contract Documents.

Section 7 AGREEMENT

In consideration of the contract, if awarded, the DESIGN/BUILDER shall agree without reservation to the indemnification and insurance clauses of the Contract Documents.

Section 8 REQUIRED LIMITS OF INSURANCE

The minimum amounts of insurance (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

8.1 Workers' Compensation/Employers' Liability

8.1.1 Part One: There shall be no maximum limit (other than as limited by the applicable statute) for liability imposed by the Florida Workers' Compensation Act, the Longshoremen's and Harbor Workers' Compensation act or any other coverage required by the Contract Documents which are customarily insured under Part One of the standard Workers' Compensation Policy.

8.1.2 Part Two: The minimum amount of coverage required by the Contract Documents which are customarily insured under Part Two of the standard Workers' Compensation Policy shall be:

\$1,000,000	(Each Accident)
\$1,000,000	(Disease - Policy Limit)
\$1,000,000	(Disease - Each Employee)

8.2 Commercial General Liability: The limits are to be applicable only to Work performed under the Contract Documents and shall be those that would be provided with the attachment of the Amendment of Limits of Insurance (Designated Project or Premises) endorsement (ISO Form CG 2501) to a Commercial General Liability Policy with the following minimum limits:

General Aggregate	\$Three Times the Each Occurrence Limit
Products/Completed Operations Aggregate	\$6,000,000
Personal and Advertising Injury	\$6,000,000
Each Occurrence	\$6,000,000

8.3 Business Auto Policy

Each Occurrence Bodily Injury and Property Damage Liability Combined	\$3,000,000
Annual Aggregate (if applicable)	\$Three Times the Each Occurrence Limit

8.4 COUNTYs Protective Liability Coverage: The minimum OCP Policy limits per occurrence and, if subject to an aggregate, annual aggregate to be provided by the DESIGN/BUILDER shall be the same as the amounts shown above as the minimum occurrence and policy aggregate limits respectively required for the Commercial General Liability Coverage. The limits afforded by the OCP Policy and any excess policies shall apply only to the COUNTY and the COUNTY's officials, officers, agents and employees and only to claims arising out of or in connection with the Work under the Contract Documents. Requirement for OCP Policy shall be waived provided the DESIGN/BUILDER shall require that its insurer name the COUNTY as Additional Insured on the DESIGN/BUILDER's Commercial General Liability (inclusive of amounts provided by an Umbrella or Excess policy).

8.5 Property Insurance: If the Contract Documents include construction of or additions to above ground buildings or any structure, the DESIGN/BUILDER shall provide Builder's Risk Insurance with the minimum amount of insurance to be 100% of the completed value of such addition(s), building(s) or structure(s).

8.6 Installation Floater: If the Contract Documents do not include construction of or additions to above ground buildings or structures, but does involve the installation of machinery or equipment, the DESIGN/BUILDER shall provide an Installation Floater with the minimum amount of insurance to be 100% of the completed value of such addition (s), building (S) or structure(s).

8.7 Professional Liability Insurance. The Design-Consultant must carry limits of not less than One Million AND NO/100 DOLLARS (\$1,000,000.00).