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### DIVISION I OF THE STANDARD SPECIFICATIONS FOR FACILITIES: RECREATIONAL PARKS, BUILDING CONSTRUCTION OR BUILDING RENOVATION

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**DIVISION I STANDARD SPECIFICATIONS  
GENERAL CONDITIONS**

**SECTION 1 - DEFINITIONS/INTERPRETATIONS**

**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 Bids which modify or interpret the Bidding Documents by additions, deletions, corrections or clarifications.

**Acceptance; Final Acceptance** - The formal action by COUNTY accepting the Work as being complete after certification by ARCHITECT of Final Completion.

**Agreement** - The written Agreement between COUNTY and CONTRACTOR 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.

**Apparent Low Bidder** - The Bidder submitting the lowest Bid at the Bid opening without correction of numerical discrepancies or determination of responsiveness and responsibility.

**Application for Payment** - The form furnished in the Contract Documents which is to be used in processing Partial or Final Payments to CONTRACTOR and which shall contain an affidavit by CONTRACTOR that Partial Payments theretofore received from COUNTY on account of the Work have been applied by CONTRACTOR to discharge in full all of CONTRACTOR's obligations stated in prior Applications for Payment. The application includes such supporting documentation as required by the Contract Documents.

**Architect** - Design Professional that provides planning, design, and construction administration services for the project.

**Bid** - The offer or proposal of a Bidder submitted in the prescribed manner on the prescribed forms to perform the Work in accordance with the Contract Documents.

**Bidder** - The individual, partnership, corporation, joint venture, or other legal entity or combination thereof submitting a Bid for the Work directly to COUNTY through an authorized representative.

**Bid Documents** - The Invitation For Bid, Instructions to Bidders, Bid Forms, Addenda, Bid Bond, Sworn Statement Under Section 287.133(3)(a) of Florida Statutes, Bidder Information, Non-Collusion Affidavit Of Bidder, Certificate of Non-segregated Facilities, List of Subcontractors and Major Materials Suppliers, Plans and Specifications, Agreement, General Conditions, Contract Documents, Bonds, Technical Specifications if applicable, CONTRACTOR's Insurance Requirements, Certificates, and Insurance Policies.

**Bid Security** - The security designated in the Instructions to Bidders.

**Bonds** - Instruments of security furnished by CONTRACTOR and his Surety in accordance with the Contract Documents.

**Building Elements** - An architectural, structural, electrical, mechanical or plumbing component of a building, facility, space, or site.

**Certificate of Occupancy** - Certificate issued by a local authority indicating that a permitted project meets Building-Code requirements.

**Change Order** - A written instrument issued on or after the Effective Date of the Agreement, of which when duly executed by COUNTY and CONTRACTOR amends the Contract Documents to provide for changes in the Work or in the provisions of the Contract Documents, or changes in Contract Price or Contract Time, or any combination thereof.

**Consultant** - The professional engineering or architectural firm registered in the State of Florida who performs professional engineering or architectural services for the COUNTY other than COUNTY personnel. The Consultant may be the ENGINEER or ARCHITECT OF RECORD or may provide contracted services to the ENGINEER or ARCHITECT OF RECORD.

**Contract Claim** - Any dispute arising out of or related to the Contract Documents between the COUNTY and CONTRACTOR including, but not limited to, any demand or assertion by one of the parties seeking any equitable adjustment of the Contract Price, Contract Time or other relief with respect to the Contract Documents.

**Contract Documents** - The Agreement and those documents referenced in the Agreement.

**Contract Price** - The total compensation, subject to authorized adjustments, payable by COUNTY to CONTRACTOR 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.

**CONTRACTOR** - The individual, partnership, corporation, joint venture, or other legal entity or combination thereof, who is currently and actively licensed by the State of Florida and who has entered into the Agreement with COUNTY for the performance of the Work. The term "CONTRACTOR" means CONTRACTOR or its authorized representative.

**Critical Path Items** - Those Work items that are directly interrelated such that each has a definite influence on achieving the Date of Substantial Completion as agreed and on the progress of the overall Work.

**Cost and Pricing Data** - Refers to all data available to or relied upon by CONTRACTOR in negotiating, pricing or costing Work covered by a Change Order or a Change Request, or involved in a Contract Claim.

**COUNTY** - Seminole County, a political subdivision of the State of Florida; the Owner.

**Date of Commencement of the Contract Time** - The Begin 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.

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**Defect or Defective** - A reference to Work that is unsatisfactory, faulty or deficient, or does not conform to the contract plans or specifications or does not meet the requirements of any inspection, code, reference standard, test or approval referred to in the Contract Documents or has been damaged prior to Final Acceptance (unless responsibility for the protection thereof has been assumed by COUNTY).

**Drawings, Plans** - The drawings, plans or reproduction thereof, which show scope, character, location, dimensions, and other details of the Work to be performed under the Contract Documents.

**Effective Date of the Agreement** - The date indicated in the Agreement on which it becomes effective, but if no such date is indicated it means the date on which the Agreement is signed by the last of the two parties to sign.

**Architect or Engineer of Record** - The Professional Engineer or Architect contracted by the COUNTY or employed by COUNTY and registered in the State of Florida who develops criteria and concept for the Work, performs the analysis, responsible for the preparation of the Plans and Specifications and administers over the construction. The Architect or Engineer of Record may be COUNTY in-house staff or a Consultant retained by the COUNTY.

**Equipment** - The Machinery and Equipment, together with the necessary supplies for upkeep and maintenance thereof; also, the tools and all other apparatus necessary, for the construction and acceptable completion of the Work.

**Facilities** - Any County general or office buildings, fire stations, correctional facilities, Courthouse, Juvenile Justice Center, Animal Control Facilities, libraries, building structures at County parks, site utilities or improvements, equipment, roads, walks, passageways, parking lots or other real or personal property of Seminole County.

**Field Order** - A written instrument issued by ENGINEER to CONTRACTOR which orders minor variations in the Work, as opposed to a change in the Work, and which does not involve an adjustment in Contract Price or Contract Time.

**Final Completion** - That date when (a) the Work is complete in accordance with the Contract Documents including the minor items identified during the inspection described in these General Conditions, and (b) the CONTRACTOR has submitted its request for Final Payment including the CONTRACTOR's Release and all Subcontractor Affidavits.

**General Conditions** - Division I of the Standard Specifications. The contractual provisions describing the responsibilities, rights and relationships of the Owner (Seminole County) and of the Contractor.

**Holidays** - Days designated by Seminole County as legal holidays. These days are:

New Year's Day	-	January 1st
Martin Luther King's Birthday	-	Third Monday in January
Memorial Day	-	Last Monday in May
Independence Day	-	July 4th
Labor Day	-	First Monday in September
Veteran's Day	-	As Designated
Thanksgiving Day	-	Fourth Thursday in November
Day After Thanksgiving Day	-	Fourth Friday in November
Christmas Day	-	December 25th

**Inspector or Field Representative** - An authorized representative of the Architect, assigned to make official inspections of the Materials furnished and of the Work performed by the CONTRACTOR.

**Laws and Regulations; Laws or Regulations** - Laws, Rules, Codes, Regulations, Ordinances, and/or court or administrative Orders of the federal, state and local governments.

**Low Bidder** - The lowest responsive, responsible Bidder.

**Lump Sum** - A pay item within the Contract Documents, which is paid without regard to quantities or units of measure.

**Major Item of Work** - Any item of Work having an original value in excess of five percent of the original Contract Price shall be considered as a major item of Work.

**Materials** - Any substances to be incorporated in the Work under the Contract Documents.

**Notice of Award** - The written notice of the acceptance of the Bid from COUNTY to Low Bidder.

**Notice to Proceed** - The written notice issued by COUNTY to CONTRACTOR authorizing it to proceed with the Work and establishing the Date of Commencement of the Contract Time.

**Owner** - Refer to definition of COUNTY.

**Payment Bond** - The security furnished by CONTRACTOR and its Surety as a guarantee that CONTRACTOR 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.

**Plans** - The approved plans, including reproductions thereof, showing the location, character, dimensions and details of the Work to be done.

**Performance Bond** - The security furnished by CONTRACTOR and its Surety as a guarantee that CONTRACTOR 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.

**Permits** - An authoritative or official certificate of permission.

**Progress Schedule** - All documentation related to the planning, scheduling and implementation of the Work as described in the Contract Documents.

**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.

**Project Manager** - The authorized representative of the County who is assigned to the Project. The County's representative acting directly or through duly authorized representatives. Consultants who may serve as the COUNTY's Architect of Record for construction, engineering and inspection or Consultants acting within the scope of the duties and authority assigned to them.

**Request for Information** - CONTRACTOR's inquiries for information as submitted on the Request for Information form included in the Contract Documents.

**Right-of-Way** - The land which the COUNTY has title to or rights of use.

**Shop Drawings** - All Drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for CONTRACTOR 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 CONTRACTOR to illustrate Material or Equipment for some portion of the Work, specifically indicating how CONTRACTOR 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.

**Subagreement** - A contract or purchase order awarding a part of the Work under the Contract Documents to a Subcontractor, Supplier or other person or entity.

**Subcontractor** - An individual, partnership, corporation, joint venture, or other combination thereof having a Subagreement with CONTRACTOR 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 of the Work at the site.

**Substantial Completion** - That date when (a) the Work is complete in accordance with the Contract Documents, with the exception of the minor items identified during the inspection described in these General Conditions, 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.

**Superintendent** - The CONTRACTOR's authorized representative, who must be a principal or employee of the CONTRACTOR, in responsible charge of the Work.

**Supplemental Agreement** - A written agreement between the CONTRACTOR and the COUNTY, and signed by the Surety, modifying the contract within the limitations set forth in the Standard Specifications.

**Supplementary Conditions** - The part of the Contract Documents which amends or supplements these General Conditions.

**Supplier** - A manufacturer, fabricator, Supplier, distributor, materialman or vendor.

**Surety** - The corporate body which is bound by the Bonds required by the Contract Documents with and for the CONTRACTOR 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.

**Technical Specifications** - Directions and provisions relating to the quality of the Work or conditions under which Work shall be performed and described in the Technical Specifications section of these Contract Documents.

**Total Bid** - Amount stated in the Bid Form by the Bidder as the Bidder's offer to furnish all labor, Materials and Equipment to perform all Work in strict accordance with the Contract Documents. If an Agreement is awarded to a Bidder, the Total Bid amount shall be the Contract Price.

**Underground Facilities** - All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or Materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

**Unit Price** - Amount stated in the Contract Documents as a price per unit of measurement for Materials or services required in the Work.

**Unit Price Work** - Work to be paid on the basis of Unit Prices.

**Value Engineering Change Proposal** - A cost reduction proposal initiated and developed by the CONTRACTOR for the purpose of refining the Contract Documents so as to contribute to design cost effectiveness or significantly improve the quality of Work.

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

**Work** - All labor, permits, bonds, equipment, 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 CONTRACTOR 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 CONTRACTOR's expense.

## **1.2 Interpretations.**

1.2.1 Any reference to a Section or subsection in these General Conditions without identification of the particular Section or subsection shall mean a reference to these General Conditions.

1.2.2 Each Section in these General Conditions is composed of sub-sections, numbered as this subsection 1.2 is numbered; parts, numbered as this part 1.2.2 is numbered; and sub-parts - all of which are generally referred to as subsections. A reference to a sub-section means a reference to the entire sub-section, or to a part, or a sub-part, or any combination of them, depending on the intent of the reference.

1.2.3 Often, the Contract Documents omit the modifying word "all" and "any", and the articles "the" and "an". However, omitting modifiers or articles from, or inserting any of them into, a statement shall not in any way affect the meaning or interpretation of either statement.

### **1.3 Abbreviations.**

AAN	American Association of Nurserymen, Inc.
AASHTO	American Association of State Highway and Transportation Officials
AGC	The Associated General Contractors of America, Inc.
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute, Inc.
AREA	American Railway Engineering Association
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWS	American Welding Society
AWPA	American Wood Preservers Association
AWWA	American Water Works Association
CRSI	Concrete Reinforcing Steel Institute
CSI	Construction Specification Institute
FDEP	Florida Department of Environmental Protection
FDOT	Florida Department of Transportation
FSS	Federal Specifications and Standards
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
IPCEA	Insulated Power Cable Engineers Association
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code (As recommended by the National Fire Protection Association)
NEMA	National Electrical Manufacturers Association
NFPA	National Fire Protection Association
PCA	Portland Cement Association
SAE	Society of Automotive Engineers
SJRWMD	St. John's River Water Management District
SSPC	Steel Structures Painting Council

Each of the above abbreviations, when followed by a number or letter designation, or combination of numbers and letters, shall be understood to designate a specification, test method or other code or recommendation of the particular authority or organization so shown.

## **SECTION 2 - PRELIMINARY MATTERS**

**2.1 Copies of Documents.** COUNTY shall furnish to CONTRACTOR one copy of the Contract Documents free of charge. CONTRACTOR will be responsible for obtaining additional copies.

**2.2 Commencement of the Contract Time; Notice to Proceed.**

2.2.1 The Contract Time will commence to run on the Day indicated in the Notice to Proceed. The Notice to Proceed may indicate a Date of Commencement of the Contract Time any time within thirty days after the Effective Date of the Agreement.

2.2.2 The CONTRACTOR shall start to perform the Work on the date indicated on the Notice to Proceed. The CONTRACTOR shall not start to perform the Work prior to the date indicated on the Notice to Proceed unless otherwise authorized in writing by COUNTY.

2.2.3 Prior to the issuance of a Notice to Proceed, a preconstruction conference shall be attended by the CONTRACTOR and his subcontractors, PROJECT MANAGER and COUNTY and other entities as applicable to the Work at which time a date will be established for the issuance of the Notice to Proceed. Thereafter, the Notice to Proceed shall be sent by the COUNTY's Purchasing Division for execution no later than five (5) calendar days prior to the date listed on the Notice to Proceed. The CONTRACTOR shall return the executed Notice to Proceed to the COUNTY by the date indicated on the Notice to Proceed. The failure of the CONTRACTOR to comply with this provision will not change the Contract Time.

**2.3 Before Starting Construction.**

2.3.1 Before undertaking each part of the construction, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to PROJECT MANAGER any conflict, error or discrepancy which CONTRACTOR or any of his Subcontractors or Suppliers may discover and shall obtain a written interpretation or clarification from PROJECT MANAGER before proceeding with any Work affected thereby; provided, however, CONTRACTOR shall not be liable to COUNTY or PROJECT MANAGER for failure to report any conflict, error or discrepancy unless CONTRACTOR or any of his Subcontractors or suppliers had actual knowledge thereof or should reasonably have known thereof.

2.3.2 Before commencement of the Work, CONTRACTOR shall submit to the PROJECT MANAGER for review a preliminary Progress Schedule indicating the starting and finishing dates of each Work activity, a proposed schedule of Shop Drawing submissions, a procurement and delivery schedule for materials, a schedule of values, an emergency contact list, and a listing of manpower and cash flow projections through the Contract Time.

2.3.3 COUNTY or PROJECT MANAGER will review and return the schedules submitted in accordance with this Section and CONTRACTOR, if required, shall revise, adjust or modify and resubmit acceptable schedules within fourteen (14) days upon receipt of the returned schedules from the Project Manager or (10) days before submission of the first Application for Payment whichever shall first occur.

2.3.4 Before starting construction, the CONTRACTOR shall initiate his coordination and scheduling of the work with all utility contractors, utility agencies, the COUNTY's own forces, and others performing work at the Project site by directly contacting the utility agency or utility department of each utility performing work at the Project site to review the projected schedules of each entity performing

work at the Project site to assure that CONTRACTOR's Progress Schedule and meeting discussions address the starting and finishing dates of all aspects of the work at the Project site whether the work is being performed by CONTRACTOR or others.

## **2.4 Preconstruction Conference(s).**

2.4.1 Preconstruction Conference. Prior to commencement of Work at the site, a conference will be held for review of the schedules, to establish procedures for RFI's, for handling Shop Drawings and other submittals, for processing Applications for Payment, and to establish a working understanding among the parties as to the Work. The CONTRACTOR shall attend such conference and shall require any or all of its Subcontractors and Suppliers, as COUNTY directs, to attend the conference.

2.4.2 Utilities Preconstruction Conference. For Projects and Work involving the COUNTY Utilities Division or any other Governmental Agencies' Utilities Divisions, a separate Utilities Preconstruction Conference shall be planned and scheduled by the CONTRACTOR with the COUNTY, PROJECT MANAGER, utility subcontractors, other utility agencies and the appropriate County Utilities Division personnel. After the Utilities Preconstruction Conference, the Utilities Division is responsible for issuance of an Underground Utilities Permit. No Work involving utilities may commence until the Underground Utilities Permit is issued.

2.4.3 Threshold Inspection Preconstruction Conference. A separate and additional pre construction conference will be held as needed for Threshold Inspection projects. The Threshold Inspector, County Building Inspector, Architect of Record, General Contractor, Testing Lab(s), Subcontractors performing structural work, and project managers will attend. The CONTRACTOR shall plan and facilitate this meeting before commencement of the Work.

## **SECTION 3 - CONTRACT DOCUMENTS; GENERAL CONDITIONS; INTENT AND REUSE**

### **3.1 Applicable Law; Intent.**

3.1.1 The Contract Documents comprise the entire agreement between COUNTY and CONTRACTOR concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be governed by the laws of the State of Florida and venue shall be in Seminole County for state actions and the Middle District of Florida for federal actions.

3.1.2 It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Labor, Materials or Equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe Labor, Materials or Equipment, such words shall be interpreted in accordance with that meaning. Reference to specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental entity whether such reference be specific or by implication, shall mean the latest specification, manual, code or Laws or Regulations in effect at the time of opening of Bids, except as may be otherwise specifically stated. However, no provision of any referenced specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall change the duties and responsibilities of COUNTY, CONTRACTOR, ARCHITECT or PROJECT MANAGER, or any of their consultants, agents or employees from those expressly set forth in the Contract Documents, nor shall it assign to COUNTY or PROJECT MANAGER, or any of their consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of Sections 8 or 9 of these General Conditions.

### **3.2 Priority of the Contract Documents.**

3.2.1 If, during the performance of the Work, the CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR shall so report to PROJECT MANAGER in writing at once, and before proceeding with the Work affected thereby, shall obtain a written interpretation or clarification from PROJECT MANAGER. However, CONTRACTOR shall not be liable to COUNTY or PROJECT MANAGER for failure to report any conflict, error or discrepancy in the Contract Documents unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof. PROJECT MANAGER will promptly investigate the matter and respond to CONTRACTOR with an interpretation or clarification. After CONTRACTOR's discovery of such a conflict, error or discrepancy, or after the date when CONTRACTOR should have reasonably known thereof, until the interpretation or clarification is obtained from PROJECT MANAGER, any Work done by CONTRACTOR which is directly or indirectly affected by same, will be at CONTRACTOR's own risk and CONTRACTOR shall bear all costs and delay arising therefrom.

3.2.2 In resolving conflicts, errors or discrepancies there is an order of precedence for the documents, with the Agreement being paramount. If a conflict exists in a lesser document then the language in the document highest in the order of precedence shall prevail.

3.2.3 If an issue of priority arises, consult the PROJECT MANAGER and the ARCHITECT by submission of an RFI. Furthermore, detail Drawings shall govern over general drawings, larger scale drawings take precedence over smaller scale drawings, Change Order Drawings govern over Contract Drawings, and Contract Drawings govern over standard or Shop Drawings. In all cases where notes, specifications, sketches, diagrams, details or schedules in the Specifications or in the Drawings, or  
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between the Specifications and the Drawings, conflict, the higher cost requirement shall be furnished by CONTRACTOR, unless otherwise directed by the ARCHITECT.

3.2.4 If the issue of priority is due to a conflict or discrepancy between express provisions of the Contract Documents and any referenced specification, manual, or code of any technical society, organization or association, the provisions of the Contract Documents will take precedence if they are more stringent or presumptively cause a higher level of performance. If there is any conflict or discrepancy between standard specifications, manuals, or codes of any technical society, organization or association, or between Laws or Regulations, the provision with the higher cost requirement shall be binding on CONTRACTOR, unless otherwise directed by the ARCHITECT.

3.2.5 In accordance with the intent of the Contract Documents, CONTRACTOR recognizes and accepts that compliance with the priority order specified shall not justify an increase in Contract Price or extension in Contract Time.

**3.3 General Conditions.** The General Conditions are contractual provisions describing the responsibilities, rights and relationships of the Owner (Seminole County) and of the Contractor. The General Conditions also represent compensable items for administrating, managing, facilitating, and performing work by the Contractor but does not lend itself readily to the direct costs of the construction of the Work. The compensable items may include, but, are not limited to the following: project administration; project management; project superintendent; home and branch office support; overhead and profit; mobilizations; clearing and grubbing; engineering and surveying services; legal services; bonds; insurance; materials testing; inspections; quality assurance; maintenance of traffic; field office and staff; temporary utilities; temporary labor; permits and fees; tree protection; site drainage; erosion and sediment control and any other expense that cannot be assigned as a direct cost of construction.

**3.4 Use of Forms Provided.** Unless COUNTY provides in writing to the contrary, only those forms provided by COUNTY with the sole exception of the Bid Bond shall be used and no modifications or substitutions shall be allowed.

**3.5 Re-use of Documents.** Neither CONTRACTOR nor any Subcontractor or Supplier or other person or organization (other than COUNTY) shall acquire any title to or have ownership rights of any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of the ARCHITECT or ENGINEER of RECORD they shall not be reused on extensions of the Project or any other project nor shall they be generally published without written consent of COUNTY.

## **SECTION 4 - AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS**

### **4.1 Availability of Lands.**

4.1.1 COUNTY shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, the Rights-of-Way and the easements. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by COUNTY, unless otherwise provided in the Contract Documents. Any additional lands, Rights-of-Way and easements not furnished by COUNTY that CONTRACTOR deems necessary, including but not limited to the requirements for mobilization, construction, hauling, demolition, excavation, parking, access and egress, secured storage of materials and equipment shall be obtained by CONTRACTOR at no increase in Contract Price or extension in Contract Time. The CONTRACTOR shall confine his operations to those areas furnished by COUNTY or areas obtained at the expense of the CONTRACTOR.

4.1.2 CONTRACTOR shall obtain permits and written approvals (and submit copies to COUNTY before utilization of those areas) from the appropriate governmental entity or property owner(s), for use of lands not furnished by COUNTY; and for all lands which include borrow pits, waste and disposal areas. Such permits and approvals shall specify their treatment during and at completion of construction.

4.1.3 Accessibility. Access to municipal and government buildings, parks, structures, hydrants, valves, manholes, fire alarms, electric control panels, electric sub-stations, lift stations etc., shall not be obstructed by CONTRACTOR. CONTRACTOR shall not make connections to or operate valves on water mains or otherwise interfere with the operation of the water system, without first giving written notice to and securing written approval from the appropriate governmental and jurisdictional entity. The CONTRACTOR shall not make any sanitary sewer connections without prior approval from the governmental and jurisdictional agency having authority.

### **4.2 Physical Conditions**

4.2.1 The CONTRACTOR shall take the steps necessary to ascertain the nature and the location of the Work. The CONTRACTOR shall also determined for himself the existing physical conditions which can affect the work or its cost, including but not limited to, (1) conditions bearing upon mobilization, demolition, transportation, disposal, handling and storage of materials; (2) the availability of labor, water, electric power and roads; (3) uncertainties of weather, floods, sinkholes and earthquakes; (4) the conformation of surface and subsurface ground conditions; (5) the character and limitations of the equipment, machinery and existing physical conditions within the limits of construction or within the buildings that are utilized during the Work.

4.2.2 The Contract Documents may identify drawings, documents and reports of the exploration, testing and analysis of individual building components, existing overall building conditions, site conditions, surface and subsurface conditions and/or underground facilities owned by COUNTY, which are at or contiguous to the site that have been utilized in preparation of the Contract Documents. The CONTRACTOR shall have full responsibility for all existing physical conditions including, but not limited to, the building and appurtenances, the site and grounds, the surface and subsurface and the underground facilities owned by COUNTY or others.

4.2.3 The information and data shown or indicated in the Contract Documents with respect to facilities owned by others at or contiguous to the site is based on information and data furnished to COUNTY or ARCHITECT OF RECORD by the owners of such facilities or by others. The COUNTY, The PROJECT MANAGER and ARCHITECT OF RECORD shall not be responsible for the accuracy or

completeness of any such information or data. The CONTRACTOR shall have full responsibility for reviewing and checking all such information and data.

4.2.4 If the Contract Documents necessitate amending to order changes in the Work due to the facilities owned by the COUNTY or others, whether they be shown or indicated or newly discovered, COUNTY shall authorize the required changes in the Work by Change Order. If those facilities owned by the COUNTY or others cause or will cause delays in the performance or extend completion of all or part of the Work, CONTRACTOR shall absorb all related delay, extension or acceleration costs, however caused; except that, if COUNTY and CONTRACTOR agree that the delays require a change in Contract Time, COUNTY shall authorize the necessary change in Contract Time only to the extent that such delays exceed 30 days impact to critical path items. However, an extension in Contract Time, when and if so granted shall be CONTRACTOR'S sole and exclusive remedy with respect to COUNTY for any delay, disruption, interference, inefficiency, acceleration, extension or hindrance and associated costs, however caused, resulting from variance in the location or configuration of facilities owned by the COUNTY or others shown or indicated, or from newly discovered facilities owned by the COUNTY or others.

4.2.5 Unless it prejudices Work already excavated and uncovered, CONTRACTOR shall schedule mobilization, layout, demolition, excavation and uncovering of any Work or existing facilities, whether above ground or underground a sufficient time in advance to allow PROJECT MANAGER'S review, and the possible amending or supplementing of the Contract Documents.

**4.3 Differing Physical Conditions.** CONTRACTOR shall promptly, after becoming aware thereof, and before the existing conditions are disturbed, notify PROJECT MANAGER in writing of any building or appurtenance condition, site or ground condition, surface or subsurface condition or latent physical condition; that are encountered at or uncovered at or are contiguous to the site which differ materially from those indicated in the Contract Documents; that are of an extremely unusual nature, differing materially from those ordinarily encountered at or uncovered at or are contiguous to the site and are not generally recognized as inherent in the character of the Work specified in the Contract Documents; that are of a hazardous nature or poses a health, safety or security risk.

**4.4 Resolution of a Report of Differing Physical Conditions.**

4.4.1 Promptly after receipt of notice from CONTRACTOR, PROJECT MANAGER will review the pertinent conditions, determine the necessity of obtaining additional explorations or tests, and advise COUNTY in writing of his findings and conclusions. Until such time when CONTRACTOR resumes the affected Work (and at all times thereafter), CONTRACTOR shall be responsible for the safety and protection of the affected Work.

4.4.2 If COUNTY, with the advice of PROJECT MANAGER, concludes that the conditions do materially differ, and that the Contract Documents need to be amended, COUNTY shall, without invalidating the Agreement and without notice to any Surety by duly executed Change Order, order the necessary changes in the Work, as long as COUNTY has not exercised its rights to terminate the Agreement. Upon receipt of that order, CONTRACTOR shall promptly proceed or continue with the Work involved pursuant to the conditions stated in the order.

4.4.3 If COUNTY, with the advice of PROJECT MANAGER, concludes that the Contract Documents need to be supplemented only, appropriate minor deviations in the Work shall be authorized by a Field Order issued by PROJECT MANAGER. COUNTY's determination that the Contract Documents do not need to be amended shall be final and binding on CONTRACTOR unless CONTRACTOR delivers to COUNTY written notice of a Contract Claim within seven (7) days of receipt of the applicable Field Order.

4.4.4 If any change in the Work required due to differing physical conditions causes an increase or decrease in CONTRACTOR's cost of or the time required for the performance of all or part of the Work, COUNTY shall make an adjustment in Contract Price or Contract Time or both, subject to the provisions of this Section and Sections 10 and 11.

4.4.5 No proposal by CONTRACTOR for an adjustment under this Section, nor Contract Claim by CONTRACTOR for an adjustment on account of differing physical conditions, shall be allowed unless CONTRACTOR has given the written notice required in subsection 4.3.

**4.5 Special Requirements for Facilities.** CONTRACTOR shall have sole responsibility for the following: a) for locating any and all facilities including those utilities shown or indicated as to location, depth and alignment in advance of demolition or excavation; b) for identifying to the owner of any newly discovered facility and promptly notifying that facilities' owner and the PROJECT MANAGER of that discovery; c) for disconnecting, abandonment, shoring, blocking, and protecting all facilities including utilities shown, indicated or discovered; d) for coordination, scheduling and sequencing of the Work with the owners of all facilities shown, indicated or discovered; e) for repairing any damages, done to the satisfaction of the facilities' owners and the PROJECT MANAGER, to the extent that the damages were due to CONTRACTOR's failure to adhere to the requirements of this subsection or subsection 4.2.2., or to the fault or negligence of CONTRACTOR; and f) for the safety and protection of employees of the Owner, employees of the CONTRACTOR, subcontractors, other utility agencies, site visitors and any affected Work, and for repairing any damage done to the Work. Except as otherwise provided in subsection 4.2.3., all costs involved and time required to perform these responsibilities shall be considered as having been included in the Contract Price and in the CONTRACTOR's schedule for the performance of the Work within the Contract Time, even if the Contract Documents need amending to authorize minor deviations or changes in the Work due to those underground facilities including utilities.

**4.6 Reference Points.** The COUNTY shall provide engineering surveys to establishing existing bench marks or reference points for construction of which in the ARCHITECT OF RECORD's judgment are necessary to enable CONTRACTOR to proceed with the WORK. The CONTRACTOR shall be solely responsible for laying out the Work, for protecting and for the preservation of the established reference points, bench marks and property monuments. The CONTRACTOR shall make no changes or relocations without the prior written approval of the COUNTY. The CONTRACTOR shall report to the ARCHITECT OF RECORD and the PROJECT MANAGER whenever any reference point or property monument is lost, disturbed or destroyed. The CONTRACTOR shall report to the ARCHITECT OF RECORD when it is required to relocate such reference points or property monuments because of changes in grades or locations or locations of facilities. The CONTRACTOR shall be responsible for the accurate replacement and relocation of such reference points and property monuments by a Florida Registered Surveyor and Mapper.

4.6.1 When required as a provision from the Owner or upon recommendation of the ARCHITECT, the OWNER will provide a legal description and/or a land survey of the site, giving as needed, rights of way, easements, boundaries, contours and/or elevations by retaining the services of a Professional Surveyor and Mapper.

4.6.2 The CONTRACTOR shall be responsible for all stakes, templates, labor and other materials necessary for establishing and maintaining of the lines and grades necessary for control and construction of the Work.

4.6.3 The CONTRACTOR shall be responsible for all staking and for the professional engineering services necessary to layout and control the Work to the elevations, lines, angles and dimensions shown, implied or inferred in the Contract Documents. Any deviations must receive prior written approval from the ARCHITECT OF RECORD.

4.6.4 Utilizing the reference points furnished by the Owner's Professional Surveyor and Mapper in accordance with 4.6.1, the CONTRACTOR shall establish all horizontal and vertical controls necessary to construct the Work in conformance with the Plans and Specifications. The Work shall include performing all calculations required and setting all stakes needed such as grade stakes, offset stakes, reference point stakes, slope stakes, and other reference marks or points necessary to provide lines, grades and elevations for construction of all project items. When the Work includes utility construction to be done by the CONTRACTOR, all horizontal and vertical controls necessary to carry out such Work shall be established by the CONTRACTOR. The CONTRACTOR shall be solely responsible for the accuracy of its layout work and shall be liable for preserving all established lines, grades and elevations. Stakes damaged or destroyed by the operations of the Contractor or anyone else will be replaced at the CONTRACTOR'S expense.

4.6.5 The CONTRACTOR shall employ only competent personnel and utilize only suitable equipment in performing the layout of the Work. He shall not engage the services of any person or persons in the employ of the COUNTY for performance of the layout of the Work. Adequate field notes and records shall be kept on a daily basis as the layout work is accomplished. These field notes and records shall be available for review by the PROJECT MANAGER and ARCHITECT as the Work progresses and copies shall be furnished at the time of completion of the Project. Any inspection or checking of the CONTRACTOR's field notes or layout work by the PROJECT MANAGER or the ARCHITECT and the acceptance of all or any part thereof, shall not relieve the CONTRACTOR of his responsibility to achieve the lines, grades and dimensions shown in the Plans and Specifications. Prior to final acceptance of the Work, the CONTRACTOR shall mark in a permanent manner on the surface of the completed Work all horizontal and vertical control points originally furnished by the COUNTY.

4.6.6 The cost of performing the layout of the Work as described above shall be included in the pricing for the various items of Work to which it is incidental.

## **SECTION 5 - BONDS and INSURANCE**

### **5.1 Performance, Payment and Other Bonds.**

5.1.1 CONTRACTOR shall furnish a Performance Bond, a Payment Bond and a Material and Workmanship Bond, each with good and sufficient surety. The Performance Bond shall be in an amount equal to 100% of the Contract Price; the Payment Bond shall be in an amount equal to 100% of the Contract Price; the Material and Workmanship Bond shall be in an amount equal to 10% of the Contract Price as adjusted in the Final Application For Payment. The Performance and Payment Bonds shall be recorded by the COUNTY with the Clerk of the Circuit Court of the County where the Project is located no later than the Date of Commencement of the Contract Time. All Bonds shall remain in effect after the date of Final Completion of the entire Work, except as otherwise provided by Laws or Regulations, or the other provisions of the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Supplementary Conditions. The Performance Bond requirement in the Contract Documents shall insure solely to COUNTY's benefit and its successors or assigns, as obligee, and no other person shall have any right of action based thereon.

5.1.2 All Bonds shall be in accordance with statutory bond provisions in Florida Statutes and all other applicable Laws and Regulations and be in the form prescribed by the Contract Documents. All Bonds shall be executed by such Sureties as are licensed to conduct business in the state of Florida and, except as otherwise provided by Laws and Regulations, are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of its authority to act.

5.1.3 If the Surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its license to do business in the state of Florida is terminated or it ceases to meet the requirements of the Contract Documents, CONTRACTOR shall within five (5) days thereafter substitute another Bond and Surety, both of which shall be in accordance with the Contract Documents and acceptable to COUNTY.

5.1.4 In addition to the other bonding requirements, the Surety(ies) named on the Bonds submitted by CONTRACTOR pursuant to the Contract Documents shall be subject to the approval of COUNTY. If COUNTY has a reasonable objection to the proposed Surety, COUNTY may request CONTRACTOR to submit an acceptable substitute without an increase in the CONTRACT price. If CONTRACTOR declines or is unable to make any such acceptable substitution, COUNTY may, at its sole option, rescind the Notice of Award, and any award of the Contract to CONTRACTOR will be of no effect.

### **5.2 Provisions for Contractor Insurance**

5.2.1 The CONTRACTOR shall not commence any Work until the CONTRACTOR has at the CONTRACTOR'S own expense, procured all of the required Insurance specified in the Contract Documents and has provided evidence of such to the County's Purchasing Department and such evidence has been approved by the County's Risk Management Division.

## **SECTION 6 - CONTRACTOR'S RESPONSIBILITIES**

### **6.1 Supervision and Superintendence.**

6.1.1 CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for all means and methods, techniques, schedules, sequences and procedures of construction and for providing the required safety precautions, for coordinating all portions of the Work with all regulatory, jurisdictional and governmental authorities, for further coordination as required with commercial businesses, private residents and employees of the Owner and for enforcement of order and cooperation among the CONTRACTOR's employees and all of the Subcontractors and Suppliers. The CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents and its intent.

6.1.2 CONTRACTOR shall keep on the Work site at all times during its progress a competent resident Superintendent, who shall not be replaced without written notice to OWNER'S PROJECT MANAGER. The CONTRACTOR's resident Superintendent shall be a principal or employee of CONTRACTOR. COUNTY may, at its sole discretion, require replacement of the Superintendent, in which case CONTRACTOR shall submit an acceptable replacement at no increase in Contract Price nor extension in Contract Time. The Superintendent shall be CONTRACTOR's representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications given to the Superintendent shall be as binding as if given to CONTRACTOR. Whenever the Superintendent is not present on any particular part of the Work where the PROJECT MANAGER may desire to inform the CONTRACTOR relative to interpretation of the Plans and Specifications or regarding disapproval or rejection of Materials or Work performed, the PROJECT MANAGER may so inform the foreman or other workers in charge of the particular part of the Work in reference to which the information is given. Information so given shall be as binding as if given to the Superintendent.

6.1.3 The Superintendent and similar authorized representatives of any Subcontractor, Supplier or other person or organization shall attend all meetings pertaining to the Work, as requested by COUNTY or PROJECT MANAGER.

6.1.4 No Work shall be performed by any Subcontractors without the CONTRACTOR's Superintendent's authorization and approval.

6.1.5 The CONTRACTOR's Superintendent at the Pre-Construction and all Project meetings shall discuss, not to the exclusion of other topics, the Construction Schedule and summary bar charts relating to coordination and scheduling including, but not limited to, CONTRACTOR's coordination of all site and building utility installations, utility relocations (temporary and permanent), coordination of ingress and egress to the facility, procurement and delivery of materials, RFIs, shop drawings, accessibility to work area, impact to COUNTY employees, COUNTY work, and the work of others that will influence the Project..

### **6.2 Personnel and Working Hours.**

6.2.1 CONTRACTOR shall at all times maintain good discipline and order at the site.

6.2.2 CONTRACTOR shall provide competent, qualified personnel to perform construction as required by the Contract Documents. Contractor shall employ a Professional Land Surveyor and Mapper  
GENERAL CONDITIONS Facilities: Recreational Parks, Building Construction  
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with current Florida registration to survey and lay out the Work (in accordance with any additional provisions included in the Supplementary Conditions). CONTRACTOR is fully responsible to provide a sufficient number of skilled workers and supervisory personnel to perform the Work and assure that the Work is completed according to the established Construction Schedule and within the Contract Time. Failure to fully man the Project with supervisory personnel, skilled workers or common laborers of which actions shall lead to a delay in the Construction Schedule shall be cause for a claim for damages against CONTRACTOR or termination of CONTRACTOR by the Owner.

6.2.3 Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Supplementary Conditions, all Work at the site shall be performed during normal Working hours, and CONTRACTOR will not permit overtime Work or the performance of Work on Saturday, Sunday or any Holiday without COUNTY's written consent given after prior written notice to OWNER'S PROJECT MANAGER. Normal Working hours shall be defined as the CONTRACTOR's normal eight hour Working period occurring between the hours beginning at **7:00 a.m.** and ending at **5:00 p.m.**, exclusive of Saturdays, Sundays, or Holidays. Work during other than normal Working hours may be scheduled by CONTRACTOR if he first obtains written permission from COUNTY.

6.2.4 COUNTY shall be entitled to deduct from the Contract Price, by issuing a Change Order, COUNTY's extra costs incurred in connection with CONTRACTOR's performance of Work during hours other than normal Working hours. Such costs may include, but shall not be limited to, OWNER'S REPRESENTATIVE'S charges to COUNTY while acting as COUNTY's representative (including charges outside of normal Working hours for Construction Manager, Field Representatives, Inspectors, Testing Lab Services and Fees, Architectects, Engineers and Project Manager), COUNTY's costs incurred in the performance of COUNTY's responsibilities as set forth in the Contract Documents, and other related costs.

**6.3 Project Survey Requirements.** The Contractor shall ensure that the location and protection of the established and or the existing horizontal and vertical control points is maintained thru out the construction. Other requirements are as follows:

- a. Record locations of horizontal and vertical data on the As-Built Survey.
- b. Make no changes or relocations without prior written notice to the Owner.
- c. Report to the Owner when any of the control points are lost or destroyed or requires relocation.
- d. Maintain stakes and markings on the ground as needed to identify, locate and reference the constructed improvements.
- e. Use survey control points to layout such tasks as the following:
  - i. Clearing, grubbing and construction limits.
  - ii. Batter boards for structures.
  - iii. Wetland limits and jurisdictional limits.
  - iv. Foundations, footings, columns, finished floor elevations and building corners.

- v. Signs, flagpoles, street light poles, utility poles and utility lines, transformers and pedestals.
- vi. Existing obstructions either vertical or horizontal.
- vii. Potential conflicts either vertical or horizontal.
- viii. All site work such as, underground utilities, sidewalks, tree surveys, landscaping, irrigation, storm sewers, parking lots and ponds.

**6.4 CONTRACTOR's Responsibilities for Furnishing.** Unless otherwise specified in the Contract Documents, CONTRACTOR shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction, other equipment and machinery, tools, appliances, fuel, power, light, heat, ventilation, cooling, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.

**6.5 Items of Material or Equipment.**

6.5.1 All Materials and Equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by PROJECT MANAGER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of Materials and Equipment. All Materials and Equipment shall be handled, stored, applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to PROJECT MANAGER, or any of COUNTY's or OWNER'S REPRESENTATIVE's consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility assigned to CONTRACTOR under the Contract Documents.

6.5.2 Manufacturers' or Suppliers' warranties for all Materials, products and Equipment to be furnished by CONTRACTOR and to be incorporated into the completed Work shall be furnished to COUNTY through CONTRACTOR.

6.5.3 CONTRACTOR shall obtain from Suppliers of all Materials, products and Equipment, complete information as to any special condition or restriction to be applied in the use of these items. Should the manner or method of installation, specified performance or test results as set forth in the Specifications be contrary to the manufacturer's recommendations for use of the product, CONTRACTOR shall notify PROJECT MANAGER in writing of such conflict as soon as reasonably possible, but no later than the time of Shop Drawing submittal including those products. Failure to provide such written notice before proceeding with the Work affected thereby shall be certification by CONTRACTOR that the Specification requirements will be met by the Materials, products and Equipment, and that the cost and time required to perform or complete the Work affected thereby have been included in the Contract Price and in the schedule for the performance of the Work within the Contract Time.

6.5.4 Data submitted on all Equipment shall include complete operation and maintenance instructions (including preventive maintenance and operating requirement data) and parts lists in sufficient detail to facilitate ordering replacements. Such submittals shall conform to any additional requirements provided in the Contract Documents.

**6.6 Wood Products.** Except as may be otherwise provided by Laws or Regulations, pursuant to Chapter 225, Florida Statutes, lumber, timber and other forest products specified in the Contract Documents shall be produced and manufactured in Florida whenever such products are available, provided that price, fitness and quality are equal to other available products. This requirement does not apply where plywood is specified for monolithic concrete forms.

**6.7 Equivalent Materials and Equipment.**

6.7.1 Whenever Materials or Equipment are specified or described in the Drawings or Specifications by using the name of a proprietary item or the name of a particular Supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, Materials or Equipment of other Suppliers may be accepted by PROJECT MANAGER if sufficient information is submitted by CONTRACTOR to allow PROJECT MANAGER and the ARCHITECT to determine that the material or Equipment proposed is equivalent to that named.

6.7.2 Requests for review of substitute items of material and Equipment will not be accepted by PROJECT MANAGER from anyone other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or Equipment CONTRACTOR shall, within ten (10) Days prior to the opening date to allow a proper review without impacting the schedule, make written application to PROJECT MANAGER AND THE ARCHITECT for acceptance thereof, certifying that the proposed substitute will perform adequately the functions called for by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing the same function as that specified. The application shall state whether or not acceptance of the substitute for use in the Work will require a change in the Drawings or Specifications to adapt the design to the substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified shall be identified in the application and available maintenance, repair and replacement service shall be indicated. The application shall also contain an itemized estimate of all increases or decreases in (1) the cost of, or the time required to perform any part of the Work, and the corresponding adjustments in Contract Price and Contract Time, resulting directly or indirectly from evaluation and acceptance of the proposed substitute, including, but not as a way of limitation, costs and delays associated with redesign, or claims of other contractors affected by the resulting substitute; and (2) increases or decreases in operating, maintenance, repair, replacement or spare part costs, all of which will be considered by PROJECT MANAGER in evaluating the proposed substitute. PROJECT MANAGER may require CONTRACTOR to furnish, at CONTRACTOR's expense, additional data about the proposed substitute.

6.7.3 The PROJECT MANAGER or ARCHITECT shall judge acceptability, and no substitute shall be ordered or installed without PROJECT MANAGER'S or ARCHITECT'S prior written acceptance. However, COUNTY reserves the right to reject any proposed substitute which would result in an increase in Contract Price or Contract Time, and COUNTY may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other Surety with respect to any substitute. If approval is given, CONTRACTOR shall not be excused from producing Work in conformity with the requirements of the Contract Documents.

6.7.4 The PROJECT MANAGER will record time required by PROJECT MANAGER, ARCHITECT OF RECORD and their consultants in evaluating substitutions proposed by CONTRACTOR and in making changes in the Drawings or Specifications occasioned thereby. Whether or not PROJECT MANAGER accepts a proposed substitute, COUNTY shall be entitled to deduct from the Contract Price, by issuing a Change Order, COUNTY's costs including the charges of the PROJECT GENERAL CONDITIONS Facilities: Recreational Parks, Building Construction  
*MAY 2013 (REVISED)* or Building Renovation00800-21

MANAGER, the ARCHITECT OF RECORD and their consultants for evaluating any proposed substitute.

6.7.5 The net difference in cost between the substitute item and that specified shall benefit COUNTY and CONTRACTOR in equal proportions. If PROJECT MANAGER estimates that the deduction proposed by CONTRACTOR does not, in its opinion, reflect the sharing of costs in the portions described above, this shall be adequate justification to reject the proposed substitution.

6.7.6 The CONTRACTOR assumes sole responsibility for verifying that the proposed substitute items are in accordance with the requirements of the Contract Documents, and that the dimensions, arrangement, design and construction details, and all other features of substitute items are suitable for their intended purpose.

6.7.7 In the event that a substitute item differs materially from the specified item of Material or Equipment, and said difference was not expressly identified in CONTRACTOR's request for the substitution, or the incorporation of the substitute into the Work results in a change(s) to the Work or in the function or general design of the Project, PROJECT MANAGER will have authority to require the removal and replacement of said substitute.

## **6.8 Concerning Subcontractors, Suppliers and Others.**

6.8.1 CONTRACTOR shall not employ any Subcontractor, Supplier or other person or organization (including but not limited to those who are to furnish the principal items of Materials or Equipment), whether initially or as a substitute, against whom COUNTY or PROJECT MANAGER may have a reasonable objection. A Subcontractor, Supplier or other person or organization identified in writing to COUNTY and PROJECT MANAGER by CONTRACTOR prior to the Notice of Award and not objected to in writing by COUNTY or PROJECT MANAGER prior to the Notice of Award will be deemed acceptable to COUNTY or PROJECT MANAGER. Acceptance of any Subcontractor, Supplier or other person or organization by COUNTY or PROJECT MANAGER shall not constitute a waiver of any right of COUNTY or PROJECT MANAGER to reject Defective Work by CONTRACTOR or any Subcontractor, Supplier or any other person or organization. If COUNTY or PROJECT MANAGER after due investigation has reasonable objection to any Subcontractor, Supplier or other person or organization proposed by CONTRACTOR after the Notice of Award, CONTRACTOR shall submit an acceptable substitute. Such Subcontractor, Supplier person or organization shall neither commence nor continue Work after COUNTY or PROJECT MANAGER objects to said entity. In the event that any such reasonable objection and acceptable substitute will cause additional expense or extend performance of the Work, or part thereof, beyond the Contract Time for the Work, or part thereof, CONTRACTOR may make a request for an adjustment in Contract Price or Contract Time. However, any changes in Contract Price made under this subsection shall exclude any adjustments for any increases in CONTRACTOR's costs in connection with an increase in Contract Time resulting from the reasonable objection and acceptable substitute submitted pursuant to this subsection. In any such case, the extension in Contract Time so granted, if any, shall be CONTRACTOR's sole and exclusive remedy for delay, disruption, interference, inefficiency, acceleration, hindrance and costs thereto. CONTRACTOR shall not be required to employ any Subcontractor, Supplier or other person or organization against whom CONTRACTOR has reasonable objection.

6.8.2 CONTRACTOR shall give prompt written notice to COUNTY with copy to PROJECT MANAGER of CONTRACTOR's intent to remove or replace a Subcontractor, Supplier or other person.

6.8.3 CONTRACTOR shall be fully responsible for all acts and omissions of his Subcontractors and Suppliers and of persons and organizations directly or indirectly employed by them and of persons  
GENERAL CONDITIONS Facilities: Recreational Parks, Building Construction  
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and organizations for whose acts any of them may be liable to the same extent that CONTRACTOR is responsible for the acts and omissions of persons directly employed by CONTRACTOR. Nothing in the Contract Documents shall create any contractual relationship between COUNTY or PROJECT MANAGER and any Subcontractor or Supplier or other person or organization having a Subagreement with CONTRACTOR, nor shall it create any obligation on the part of COUNTY or PROJECT MANAGER to pay or to see to the payment due any Subcontractor, Supplier or other person or organization, except as may otherwise be required by law. COUNTY or PROJECT MANAGER may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to CONTRACTOR on account of specific Work done. No Subcontractor, Supplier or other person or organization shall be a third party beneficiary of this Contract.

6.8.4 The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade. The divisions of the Specifications are complementary, and anything mentioned or shown in a division of the Specifications or in a specific trade Drawing shall be of like effect as if shown in all divisions of the Specifications and in all Drawings. In addition to other requirements in the Contract Documents, Shop Drawings of a specific trade shall be compared to and coordinated with those from other trades by CONTRACTOR before submission to PROJECT MANAGER.

6.8.5 All Work performed for CONTRACTOR by a Subcontractor, Supplier or other person or organization will be pursuant to an appropriate Subagreement between CONTRACTOR and the Subcontractor, Supplier or other person or organization which specifically binds the Subcontractor, Supplier or other person or organization to the applicable terms and conditions of the Contract Documents for the benefit of COUNTY.

6.8.6 If requested in writing by COUNTY, CONTRACTOR shall deliver to COUNTY a copy of each Subagreement with a Subcontractor, Supplier or other person or organization performing a part of the Work within seven (7) days of COUNTY's request.

**6.9 Patent Fees and Royalties.** CONTRACTOR shall pay all license fees and royalties and assume all costs incidental to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work, and its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, it shall remain the responsibility of CONTRACTOR to assume all costs, expenses and liabilities incidental to the use in the performance of the Work or the incorporation in the Work of said invention, design, process, product or device. Whenever CONTRACTOR is required or desires to use any design, device, material or process covered by letters, patent, trademark or copyright, the right for such use shall be provided for by suitable legal agreements with the patentee or owner, and a copy of this Agreement shall be filed with PROJECT MANAGER. However, whether or not such agreement is made or filed as noted, CONTRACTOR and CONTRACTOR's Surety in all cases shall indemnify and hold harmless and defend COUNTY and PROJECT MANAGER and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including but not limited to charges of PROJECT MANAGER, architects, other professionals and attorneys' fees and attorneys' fees on appeal and all costs of defense or appeal) arising out of any infringement of letters, trademark, patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product or device not specified in the Contract Documents, and shall defend all such claims in connection with any alleged infringement of such rights.

**6.10 Permits.** Unless otherwise provided in the Contract Documents, CONTRACTOR shall obtain and pay for all construction permits, fees, and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening of Bids. CONTRACTOR shall pay all charges of public and private utility service companies for all required utility services that complete and accomplish the Work according to the Contract Documents. The CONTRACTOR shall meet all requirements of all permits and licenses and shall be responsible for all fines, assessments, and penalties of any nature assessed against the CONTRACTOR or COUNTY or both relating to any permit violation.

**6.11 Laws and Regulations.**

6.11.1 CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to the Work. If CONTRACTOR observes that the Contract Documents are at variance therewith, CONTRACTOR shall give PROJECT MANAGER prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Change Order (subject to the provisions of Sections 3, 10, and 11). If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such Laws or Regulations and without such notice to PROJECT MANAGER, CONTRACTOR shall bear all costs arising therefrom.

6.11.2 CONTRACTOR 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.

6.11.3 CONTRACTOR shall comply with all Federal, State, and Local laws, ordinances, codes, and regulations applying to the Work. The CONTRACTOR shall be solely responsible for bidding and constructing the Work per the current building codes as required by the Contract Documents and the construction practices normally applicable to each trade vendors or installer's trade.

**6.12 Use of Premises.**

6.12.1 The CONTRACTOR shall confine construction equipment, the storage of materials and the operations of workers to areas permitted by Laws and Regulations, rights-of-way, easements or required by the Contract Documents or limited by the Owner. The CONTRACTOR shall not unreasonably encumber the premises with construction equipment or materials or other equipment. The CONTRACTOR shall assume full responsibility for any damage to any such property, or to the owner or occupant thereof or of any other property, caused or alleged to have been caused by or incident to the execution of this Work. The CONTRACTOR shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim.

6.12.2 Notwithstanding the designation of Project limits or the indication of temporary fences or barricades, the provisions of the Contract Documents governing certain phases or portions of the Work, such as trenching, excavating and landscaping, may require that certain operations be carried out beyond such limits. Those operations, if required beyond such designated limits, shall be coordinated and scheduled in such a manner as to cause or occasion a minimum of inconvenience or disturbance to or interference with the normal operation of COUNTY, abutters and the public. CONTRACTOR shall obtain COUNTY's prior approval and all necessary approvals from others, commercial businesses, private residents, governmental entities and utility companies for such operations, and prosecute such operations expeditiously and restore the affected property to its original condition immediately upon completion of such operations, unless otherwise specified in the Contract Documents. All those areas on which temporary driveways or walks are routed shall be restored to their original condition, immediately when normal routing can be reinstated, unless otherwise specified in the Contract Documents. Pumping, draining and control of surface and groundwater shall be carried out so as to avoid endangering the Work

or any adjacent facility or property, or interrupting, restricting or otherwise infringing or interfering with the use thereof.

6.12.3 Except as specifically arranged with the owners of adjacent premises, CONTRACTOR shall avoid any encroachment on adjacent premises. It is specifically agreed that CONTRACTOR shall repair and make good any damage to adjacent premises or improvements thereon caused by its operation, including any damage or loss to the tenant of such adjoining premises or to the owners thereof, whether to buildings, stocks of merchandise, trade fixtures, or otherwise.

6.12.4 During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. Periodically, during construction, the CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises for disposal. At completion of the Work all tools, appliances, construction equipment and machinery, and surplus materials shall be removed by the Contractor and shall leave the site clean and ready for occupancy by COUNTY. CONTRACTOR shall restore to original condition or better all property not designated for alteration by the Contract Documents ,but, was impacted due to the construction operations and close proximity to the Project.

6.12.5 CONTRACTOR shall not load or permit any part of any structure to be loaded in any manner that will endanger human life or damage the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to loads that will endanger human life or damage it.

6.12.6 During the progress of the Work, CONTRACTOR shall maintain the Project premises including all property owned by the COUNTY and all easements (temporary and permanent). CONTRACTOR shall implement a grass mowing schedule for all property within the Project premises including all property owned by the COUNTY and all easements (temporary and permanent). The grass mowing schedule shall assure that grass and weeds within the Project premises do not exceed eighteen inches (18") in height.

**6.13 Record Documents.** The CONTRACTOR shall keep and maintain in a safe place at the site current copies of all Drawings, Specifications, Addenda, Change Orders, Change Requests, Field Orders, Construction Schedules, correspondence, laboratory test records, contractor's daily reports, construction photographs, written interpretations and clarifications in good order and annotated to show all changes made during construction. *Record Drawings* are required for any and all work including, but, not limited to, repairs, reconstructions, build backs, demolitions, additions, modifications, renovations and new constructions by the CONTRACTOR. In addition, the CONTRACTOR is required and shall provide an *As-Built Survey* for all 'new' Facilities' construction and development or as required by any governmental, jurisdictional or regulatory authority.

6.13.1 Record Drawings. The CONTRACTOR shall provide Record Drawings. The Record Drawings shall be a marked up copy of the construction plans as the Work progresses showing in a neat, well-organized manner the changes, revisions, additions, deletions, modifications or substitutions during the construction of the site and/or the building. The Record Drawings shall clearly show locations and elevations of existing features such as utilities, property lines, easements, building corners and walls, floors, structural members, sidewalks, entryways, equipment, materials, other structures, etc., that are encountered and are differing from the plans or are in conflict during the development of the site and construction of the building. The Record Drawings shall also include, without limitation, all field changes, all design changes and the final locations of all HVAC, electrical, plumbing, fire protection, elevators, structural, architectural, security and communication systems within the building, final locations and elevations of all the site utilities and landscape/ hardscape features and any other significant features that differ from the construction plans. The Record Drawings, together with all approved samples

and shop drawings will be available at all times to the PROJECT MANAGER , the ARCHITECT or the COUNTY. Failure to keep and maintain Record Drawings current shall be just cause to withhold payments for Work performed. Upon completion of the Work, the CONTRACTOR shall deliver to the PROJECT MANAGER a reproducible copy of the Record Drawings.

6.13.2 As-Built Survey. The CONTRACTOR shall provide an As-Built Survey for all 'new' Facilities' construction and development such as buildings, parks, any site utilities and apputenances, stormwater drainage and management systems, ponds, irrigation systems, recreational fields, sports fields, outdoor/sports lighting, special site features, parking lots, driveways, sidewalks, landscape, hardscape, streetscape, ADA accessible routes and ramps, fencing, and all required improvements that depicts the actual Work as constructed. The CONTRACTOR shall retain the services of a Professional Surveyor and Mapper licensed and registered in the State of Florida to provide professional surveying and mapping services and to maintain both the horizontal and the vertical control survey and to provide an As-Built Survey during the construction. A signed and sealed copy of the current As-Built Survey shall be submitted monthly with each Application for Payment. Each completed signed and sealed copy of the As-Built Survey must include on its face, a signed certified statement by the CONTRACTOR'S Professional Surveyor and Mapper that states, "This As-Built Survey accurately depicts the actual Work as constructed." Upon completion and acceptance of the Work, the CONTRACTOR shall deliver to the COUNTY, three (3) approved, signed and sealed , As-Built Survey(s), and one (1) As-Built Survey in the latest version of AUTOCAD.

6.13.3 Daily Report. The CONTRACTOR shall submit on a periodic basis, copies of the CONTRACTOR'S Daily Reports to the PROJECT MANAGER.

#### **6.14 Safety and Protection.**

6.14.1 CONTRACTOR shall be solely and completely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR 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 or employees of the Owner) 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 CONTRACTOR 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. CONTRACTOR's duties and responsibilities for the safety and protection of the Work shall continue until such time as PROJECT MANAGER issues a notice to COUNTY and CONTRACTOR that the Work is acceptable.

6.14.2 All damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by CONTRACTOR, 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 CONTRACTOR at his sole cost.

6.14.3 CONTRACTOR shall comply with all applicable Laws and Regulations of any governmental entity having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss including, but not limited to, OSHA (Public Law 91-596) and the Contract Work Hours and Safety Standards Act (Public Law 91-54); and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall designate a responsible member of his organization at the site whose duties shall be preventing accidents and insuring compliance with all

applicable safety regulations. This person shall be CONTRACTOR's Superintendent unless otherwise designated in writing by CONTRACTOR to COUNTY.

6.14.4 When the performance of the Work requires the use of bracing, shoring, scaffolding, sheet piling and other special construction related to excavating, and when required by Laws or Regulations, CONTRACTOR shall cause the design of said bracing, shoring, scaffolding, sheet piling and other special construction to be performed by a registered professional structural engineer licensed in the State of Florida. The CONTRACTOR shall submit, as a Shop Drawing, a certification by the structural engineer, stating that it has complied with this requirement. The CONTRACTOR shall meet all requirements of such designs prepared by a structural engineer. In addition to any requirements imposed by law, CONTRACTOR shall shore up, brace, underpin, and protect as may be necessary, all foundations and other parts of all existing structures adjacent to and adjoining the site of the Work which are in any way affected by the excavations or other operations connected with the performance of the Work.

6.14.5 CONTRACTOR shall notify owners of adjacent property and of underground facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. Whenever any notice is required to be given to any adjacent or adjoining landowner or other party before commencement of any Work, such notice shall be given by the CONTRACTOR.

6.14.6 CONTRACTOR shall take reasonable care during construction to avoid damage to vegetation. Ornamental shrubbery and tree branches shall be temporarily tied back, where appropriate, to minimize damage. Trees which receive damage to branches shall be trimmed of those branches to improve the appearance of the tree. Tree trunks receiving damage from equipment shall be treated with a tree dressing. The CONTRACTOR shall evenly cut tree roots with a saw or chainsaw and shall not tear, rip or twist with construction equipment. A certified tree surgeon may be required to assess and perform the work. Equipment trailers, construction vehicles, stockpiles of building materials and soils are prohibited to be located, parked or stored within the dripline of any tree.

6.14.7 At all times CONTRACTOR shall, and shall cause his Subcontractors and Suppliers to, carefully protect its and their Work, materials, equipment, and supplies against damage or injury from the weather. If in the opinion of PROJECT MANAGER any of the above has been damaged or injured by reason of failure on the part of CONTRACTOR, any Subcontractor or Supplier to perform according to the requirements of this provision, said Work, Materials, Equipment and supplies shall be removed and replaced at the expense of CONTRACTOR.

6.14.8 CONTRACTOR shall notify PROJECT MANAGER of any job site injuries at the Project site. Serious injuries shall be verbally reported to the PROJECT MANAGER within two (2) hours of occurrence of the incident. CONTRACTOR shall submit a written report of each serious injury to PROJECT MANAGER within twenty-four (24) hours of occurrence of the incident. CONTRACTOR shall prepare injury reports regardless of whether the injury is to the CONTRACTOR's personnel, subcontractors, COUNTY personnel or other persons.

6.14.9 Prior to mobilization, CONTRACTOR shall submit to PROJECT MANAGER a copy of CONTRACTOR's safety plan. CONTRACTOR's safety plan shall address, but not be limited to, the following:

6.14.9.1 Trench Safety Procedures;

6.14.9.2 Confined Space Entry Procedures;

6.14.9.3 Compliance with all U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) requirements applicable to the Work;

6.14.9.4 Assurance that a first aid person is designated, phone numbers of physicians, hospitals and ambulance services must be posted at the site, assurance that a first aid kit is available at the job site;

6.14.9.5 Provide all necessary personnel protective equipment including as necessary, but not limited to, the following: hard hats, safety glasses, respirators, ear protection, protective clothing;

6.14.9.6 Assure observation of all applicable speed limits;

6.14.9.7 Provide all necessary safety equipment including as necessary, but not limited to, the following: barricades, flags and flagmen, bracing, shoring and sloping at excavations and scaffolds.

6.14.9.8 The safety plan shall assure proper use of lasers or other activities involving combustibles;

6.14.9.9 The safety plan shall assure that during welding and cutting operations, the CONTRACTOR shall provide appropriate fire watchmen and fire extinguishers;

6.14.9.10 CONTRACTOR's safety plan shall assure that all heavy equipment shall be equipped as required by all applicable OSHA, ANSI, or other regulations.

6.14.10 No provision of these Contract Documents or the requirement that CONTRACTOR provide a copy of CONTRACTOR's safety plan shall be effective to assign to PROJECT MANAGER or to the COUNTY, their Consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work relating to CONTRACTOR's responsibility for safety or any duty or authority to undertake responsibility assigned to CONTRACTOR under the Contract Documents.

**6.15 Emergencies.** In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from PROJECT MANAGER or COUNTY, is obligated to act to prevent threatened damage, injury or loss. CONTRACTOR shall give COUNTY prompt written notice if CONTRACTOR 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 CONTRACTOR, 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 CONTRACTOR's cost or the time required to perform any part of the Work, COUNTY shall make an adjustment in Contract Time, as provided in Sections 10 and 11.

#### **6.16 Shop Drawings and Samples.**

6.16.1 After checking and verifying all field measurements and after complying with applicable procedures specified in the Specifications, CONTRACTOR shall submit to PROJECT MANAGER for review and approval in accordance with the accepted schedule of Shop Drawing submissions, five (5) copies for use by COUNTY, PROJECT MANAGER and plus additional copies as required by CONTRACTOR (unless otherwise specified in the Contract Documents) of all Shop Drawings, which shall have been checked by and stamped with the approval of CONTRACTOR and identified as PROJECT MANAGER may require. CONTRACTOR shall submit a copy of the transmittal letter providing drawing numbers and titles for each item included in a Shop Drawing submittal to PROJECT MANAGER.



CONTRACTOR's means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence, or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto, the correctness of which shall remain the sole responsibility of CONTRACTOR. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. The CONTRACTOR shall make any corrections required by the ARCHITECT OF RECORD and PROJECT MANAGER and shall return the required number of corrected copies of Shop Drawings and resubmit new samples for review. The CONTRACTOR shall direct specific attention in writing regarding revisions that do not include the corrections called for by the ARCHITECT OF RECORD or PROJECT MANAGER on previous submittals.

6.16.6 The ARCHITECT OF RECORD's and PROJECT MANAGER's review and approval of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ARCHITECT OF RECORD's and PROJECT MANAGER's attention to each such variation at the time of submission and ARCHITECT OF RECORD or PROJECT MANAGER has given written approval of each such variation by a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample approval; nor will any approval by the ARCHITECT OF RECORD or PROJECT MANAGER relieve CONTRACTOR from responsibility for errors or omissions in the Shop Drawings or from responsibility for having complied with the provisions of subsection 6.16.3.

6.16.7 Where a Shop Drawing or sample is required by the Specifications, no related Work shall be commenced until the submittal has been returned by the ARCHITECT OF RECORD or PROJECT MANAGER and noted "Approved" or "Approved As Corrected".

6.16.8 All costs incurred in connection with the ARCHITECT OF RECORD's or PROJECT MANAGER's review and return of a particular Shop Drawing or sample submission after the ARCHITECT OF RECORD's or PROJECT MANAGER's second time review shall be borne by CONTRACTOR, including the ARCHITECT OF RECORD's and PROJECT MANAGER's charges to COUNTY under the terms of their agreements with COUNTY. COUNTY shall be entitled to deduct these costs from the Contract Price by issuing a Change Order.

6.16.9 In reviewing Shop Drawings or samples, the ARCHITECT OF RECORD or PROJECT MANAGER shall be allowed (thirty) 30 days from the date ARCHITECT OF RECORD or PROJECT MANAGER receives the submittal or resubmittal from CONTRACTOR to return the submittal in accordance with this Section, unless otherwise provided in the Contract Documents. ARCHITECT OF RECORD's or PROJECT MANAGER's review and return of a Shop Drawing or sample within the time allowed shall not justify an increase in Contract Price or an extension in Contract Time. Any delay in connection with CONTRACTOR's submittal and any resubmittal of a particular Shop Drawing or sample shall represent delays under the control of CONTRACTOR and shall not justify an increase in Contract Price or an extension in Contract Time.

**6.17 Continuing the Work.** CONTRACTOR shall carry on the Work and maintain the Progress Schedule during all disputes or disagreements with COUNTY. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as CONTRACTOR and COUNTY may otherwise agree in writing. Suspension of the Work by CONTRACTOR during any dispute or disagreement with COUNTY shall entitle COUNTY to terminate the CONTRACT for cause, except as otherwise provided in Section 15.

## **6.18 Indemnity.**

6.18.1 To the fullest extent permitted by law, the CONTRACTOR shall indemnify, hold harmless and defend (provide and pay for legal defense) COUNTY, ARCHITECT OF RECORD, PROJECT MANAGER and their consultants, and each of their directors, officers, agents, and employees from and against all claims, damages, losses, expenses, and other costs, including costs of defense and attorneys' fees, and cost and attorney's fees on appeal, arising or allegedly arising in any manner out of, related to, resulting from, or in connection with the performance of the Work, both on and off the Project site, including any act or omission of CONTRACTOR, any Subcontractor, any Supplier, anyone directly or indirectly employed by any of them or anyone for whose acts or omissions any of them may be liable, caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and persons or entities employed or utilized by the CONTRACTOR in the performance of the Work.

6.18.2 In any and all claims against the indemnified parties by any employee of CONTRACTOR, any Subcontractor, any Supplier, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under subsections 6.18.1 and 6.18.4 shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable, by or for CONTRACTOR, or any Subcontractor, or any supplier, or other person under Workers' compensation acts, disability benefit acts, or other employee acts.

6.18.3 The obligations of CONTRACTOR under subsections 6.18.1 and 6.18.4 shall not extend to the liability of ARCHITECT OF RECORD, PROJECT MANAGER and their consultants, directors, officers, employees and agents and each of their directors, officers, employees, and agents arising out of, or resulting from, or in connection with the preparation or approval of maps, Drawings, opinions, reports, surveys, designs or Specifications, providing that the foregoing were the sole and exclusive cause of the loss, damage, or injury.

6.18.4 The CONTRACTOR shall also indemnify and hold harmless and defend (provide and pay for legal defense) COUNTY and PROJECT MANAGER and their consultants, and each of their directors, officers, employees, and agents from and against all losses, expenses, damages (including damages to the Work itself), attorneys' fees, and other costs (including costs and attorney's fees on appeal), which any of them may incur with respect to the failure, neglect, or refusal of CONTRACTOR to faithfully perform the Work and the CONTRACTOR's obligations under the Contract Documents. Such costs, expenses, and damages shall include all costs including attorneys' fees and costs and attorneys' fees and costs on appeal incurred by the indemnified parties in any lawsuit to which they are a party.

6.18.5 At COUNTY's sole option and utilizing attorneys agreeable to COUNTY, CONTRACTOR shall defend all suits or claims as set out in this Section 6.18.

6.18.6 In the event that COUNTY incurs costs contrary to this indemnification agreement, COUNTY shall be entitled to deduct these costs from the Contract Price by issuing a Change Order.

## **6.19 Progress of the Work.**

6.19.1 The CONTRACTOR shall physically mobilize at the Work site within fifteen (15) Days of the begin date on the Notice to Proceed and complete mobilization activities no later than thirty (30) Days from the begin date on the Notice to Proceed. Completion for mobilization shall be defined as activities that include, if applicable to the Work, at least (1) installation of the field office, (2) temporary utility provisions for water, sewer, electrical, telephone and other utilities in service, and (3) commencement of initial site work including clearing and grubbing, demolition, abandonment, blasting and removal of existing improvements at the Work site. In the event that the CONTRACTOR fails to

GENERAL CONDITIONS Facilities: Recreational Parks, Building Construction  
MAY 2013 (REVISED) or Building Renovation00800-31

mobilize as required in this Section, the COUNTY may withhold additional retainage as provided in Section 6 of the Agreement.

6.19.2 If PROJECT MANAGER determines that CONTRACTOR is failing to maintain progress of the Work in accordance with the Project Schedule, the CONTRACTOR shall take steps as may be necessary to improve its progress, and the PROJECT MANAGER may require an increase in Work force, or hours, or days of Work, or the amount of construction plant or all of them, and to submit to PROJECT MANAGER for approval such supplementary schedule or schedules as may be deemed necessary to demonstrate the manner in which the requisite progress will be regained and maintained, at the sole expense of the CONTRACTOR, without time extensions or additional compensation from the COUNTY.

6.19.3 Failure of CONTRACTOR to comply with the requirements of PROJECT MANAGER under this Section shall be grounds for determination by PROJECT MANAGER that CONTRACTOR is not prosecuting the Work with such diligence as will insure completion by the date of Substantial Completion.. The PROJECT MANAGER will then so inform COUNTY. COUNTY may thereupon withhold additional retainage in anticipation of liquidated damages as provided in Section 6 of the Agreement or suspend the Work or terminate CONTRACTOR's services should CONTRACTOR fail to comply with this Section.

## **6.20 Project Meetings.**

6.20.1 The CONTRACTOR along with appropriate subcontractors shall attend Project meetings requested by PROJECT MANAGER or COUNTY for the purpose of discussing and resolving matters concerning the various elements of the Work. If CONTRACTOR or his subcontractors fail to attend a meeting without giving an advanced written notice, COUNTY shall be entitled to deduct the costs of COUNTY, PROJECT MANAGER, and ARCHITECT OF RECORD representatives attending the meeting from the CONTRACT PRICE by issuing a Change Order.

6.20.2 The CONTRACTOR shall submit for the Project Meeting a summary bar chart of the Work activities anticipated for the following fourteen (14) days. This schedule will be used by the CONTRACTOR to discuss and coordinate all of the Work with trade contractors, site and utility contractors, utility agencies, the COUNTY's own forces and Departments, the Building Inspectors, other governmental or jurisdictional agencies and others performing work at the Project site, within the right-of-way or within the easements.

6.20.3 The CONTRACTOR's obligation to coordinate the Project Schedule and meetings with trade contractors, site and utility contractors, utility agencies, the COUNTY's own forces and Departments, the Building Inspectors, other governmental or jurisdictional agencies shall be an item of discussion raised by the CONTRACTOR at each Project meeting. The CONTRACTOR shall discuss scheduling concerns related to the Work. The CONTRACTOR's summary bar chart of Work activities referenced above and CONTRACTOR's discussion shall identify all reasonable measures taken by the CONTRACTOR to minimize the effect on the Project Schedule, including, the CONTRACTOR's cooperative scheduling of all such work. The CONTRACTOR's summary bar chart and the CONTRACTOR's discussion shall include the advance notification, required by this Contract Document including dates on which all of the utilities, the COUNTY and the work by others must be coordinated with the CONTRACTOR's work and operations to avoid delay.

**6.21 CONTRACTOR Not Agent of COUNTY.** CONTRACTOR shall perform all Work under the Contract Documents as an independent contractor and shall not be considered an agent of COUNTY, nor shall CONTRACTOR's Subcontractors or Suppliers or employees be considered agents of COUNTY.

CONTRACTOR and not COUNTY shall be solely responsible to any and all Subcontractors and Suppliers and all those employed by them for their costs, expenses, fees and profits, if any, in performing the Work.

## **6.22 Inspection and Audit.**

6.22.1 COUNTY shall have access to the Work and the right to audit all of CONTRACTOR's books, ledgers, records, correspondence, instructions, drawings, receipts, vouchers, memoranda, and other documents pertinent to all Cost and Pricing Data used by CONTRACTOR in the determination of CONTRACTOR'S Bid for the Work, in pricing, negotiating or costing Work covered by a Change Order, Change Request or Contract Claim, or otherwise relating to the Work, and CONTRACTOR shall preserve and make available at CONTRACTOR's office at all reasonable times all such records for a period of five (5) years after Final Payment.

6.22.2 In the event of termination, the records relating to the Work, or part thereof, affected by such termination shall be made available for five (5) years after the termination. Records pertaining to Contract Claims, to litigation or the settlement of Contract Claims arising under or relating to the performance of the Work shall be made available until disposition of such appeals, litigation, or Contract Claims.

6.22.3 The CONTRACTOR shall insert a provision containing all the requirements of subsection 6.22, including this subsection 6.22.3, in all Subagreements between CONTRACTOR and Subcontractors or Suppliers or other persons, altering the subsection only as necessary to properly identify the contracting parties.

## **6.23 Truth-In-Negotiation.**

6.23.1 The CONTRACTOR warrants that all bid line items are true, complete and accurate and include all costs, overhead, profit and all other expenses, liabilities, risks and amounts associated with such items and may be relied upon by COUNTY when making additions or deductions to the Contract Price. The CONTRACTOR further warrants that all Cost and Pricing Data provided to PROJECT MANAGER and COUNTY during the term of the Contract Documents shall be complete, accurate and current when provided. Should there be any changes in the Cost and Pricing Data previously submitted, the CONTRACTOR shall notify and provide the new information to PROJECT MANAGER , ARCHITECT and COUNTY immediately. The COUNTY shall be entitled to issue an appropriate Change Order to adjust the Contract Price and Contract Time on account of corrections to inaccurate or incomplete information provided by CONTRACTOR. However, Change Orders that potentially would net an increase in the Contract Price or Contract Time may require additional review and approval by the COUNTY.

6.23.2 Despite any provisions in the Contract Documents to the contrary, any amounts paid by COUNTY to CONTRACTOR in excess of what it is entitled under the Contract Documents shall be reimbursed by CONTRACTOR to COUNTY. The making of Final Payment to CONTRACTOR shall not be a waiver of COUNTY's right to reimbursement from CONTRACTOR nor shall it discharge CONTRACTOR's obligation to refund the overpayment. The terms of subsection 6.23 shall survive the COUNTY's making Final Payment.

6.23.3 The CONTRACTOR shall insert a provision containing all the requirements of subsection 6.23, including this subsection 6.23.3, in all Subagreements between the CONTRACTOR and Subcontractors or Suppliers or other persons, altering the subsection only as necessary to identify properly the contracting parties.

**6.24 Correspondence.** All CONTRACTORS's correspondence shall include the COUNTY's Project name and the COUNTY's designated contract number. All CONTRACTOR's correspondence shall have identification numbers assigned by CONTRACTOR. The identification numbers shall be sequential and assigned chronologically to these Contract Documents only such that each CONTRACTOR's submission can be individually identified by reference to the assigned identification number. The numbering system must be approved by PROJECT MANAGER . Any correspondence not so identified may not be accepted by PROJECT MANAGER .

**6.25 Protection of Historical Properties.**

6.25.1 CONTRACTOR shall comply with Florida's Archives and Historical Act (Chapter 267, Florida Statutes) and the regulations of the local historic preservation board as applicable and protect against the potential loss or destruction of significant historical or archaeological data, sites, and properties in connection with the Work.

6.25.2 CONTRACTOR shall be responsible for immediately reporting to the governmental entity or agency with jurisdiction any archaeological features which are encountered, discovered or unearthed during the performance of the Work, and for protecting same to the satisfaction of such governmental entity or agency. CONTRACTOR shall absorb all related delay, extension or acceleration costs, however caused, except that if COUNTY and CONTRACTOR believe the delays require an extension in Contract Time, COUNTY shall authorize the necessary change in Contract Time only and CONTRACTOR shall not be entitled to any increase in Contract Price.

**6.26 Responsibility for Coordinating and Connecting to Existing Services and Utilities.**

At all points where the Work constructed by CONTRACTOR connects to existing utilities and services, the actual Work of making the necessary connection to the existing service or utility shall be arranged for and coordinated by CONTRACTOR at no expense to COUNTY (unless specifically indicated otherwise). Services and utilities included within (but not limited to) this responsibility are roadways, sidewalks, driveways, ditches, electrical, lighting, sanitary sewer, mechanical, fire suppression, water distribution, gas, plumbing, communications, data, phone, storm water, landscaping, irrigation, fencing, etc. Connections shall be made at a time that will result in the least possible interference with existing services.

**6.27 Additional Provisions.**

6.27.1 The CONTRACTOR shall be responsible for all cutting of masonry and other materials, and all fitting, drilling or patching which may be necessary to complete the Work or to make its several parts fit together properly, whether or not such work is expressly specified in the Contract Documents.

6.27.2 The CONTRACTOR shall be responsible for preparing and delivering to PROJECT MANAGER , on a daily basis, reports recording labor, materials and equipment available and utilized, and on the materials and equipment received each day, on a form acceptable to PROJECT MANAGER . If CONTRACTOR fails to submit reports daily, PROJECT MANAGER may withhold approval of any Application for Payment until such time as CONTRACTOR submits the required information. CONTRACTOR shall make available any such records as requested by PROJECT MANAGER to verify that the reports are accurate.

6.27.3 CONTRACTOR shall submit to PROJECT MANAGER at the beginning of each Work shift, a list of specific items requiring final inspection, monitoring, or witnessing by PROJECT MANAGER or the Building Department.

## **6.28 Inspection and Tests at Source of Supply.**

6.28.1 If the volume, progress of the Work, and other considerations warrant, the PROJECT MANAGER may undertake the inspection of materials at the source of supply.

6.28.2 The CONTRACTOR shall assure that the COUNTY representative has free entry at all times to such parts of the plant as concern the manufacture or production of the materials ordered, and shall bear all costs incurred in providing all reasonable facilities to assist in determining whether the Material furnished complies with the requirements of the Specifications.

6.28.3 The COUNTY, however, assumes no obligation to make such inspection of materials at the source of supply, and the responsibility for assuring that the materials are satisfactory rests entirely with the CONTRACTOR.

6.28.4 The COUNTY may elect to retest materials which have been tested and accepted at the source of supply, after they have been delivered, and all materials which, when retested, do not comply with the requirements of the Specifications or acceptance by the OWNER'S REPRESENTATIVE shall be rejected.

## **6.29 Control by Samples and Tests.**

6.29.1 The PROJECT MANAGER may require any or all materials to be subjected to tests by means of samples or otherwise, at production points, after delivery, or both, as he may determine. Unless otherwise provided, such tests will be made by and at the expense of the CONTRACTOR. The CONTRACTOR shall afford such facilities as the PROJECT MANAGER may require, for collecting and forwarding samples and shall not make use of, nor incorporate in the Work, any Materials represented by the samples until the tests have been made and the materials found acceptable. The CONTRACTOR shall furnish at his own expense, the material necessary for the required samples, delivered to the point designated, without charge.

6.29.2 Methods of sampling and testing Materials shall be in accordance with standards of ASTM or other criteria as specifically designated. Whenever ASTM or other standards are referenced without identification of the specific time of issuance, the reference shall be construed to mean the most current issuance, including interims or addendums thereto, at the time of advertisement for Bids for a Project.

6.29.3 As a general practice, the COUNTY, in order to expedite the Work, may accept certain materials on the basis of tests made on advance samples taken and submitted by the producer, provided that tests on a representative number of samples of the material taken by the PROJECT MANAGER after its arrival at the Work site confirm that the material meets the design or COUNTY's requirements. In the event that tests made on the samples taken by the PROJECT MANAGER do not substantiate those made on the advance samples submitted by the producer, and there is evidence that this privilege of expediting the use of the material is being abused, then this privilege will no longer be extended to such producer.

6.29.4 A card shall be attached to each producer's sample, showing the following information: Project designation, intended use of Material, name of producer, source of supply, quantity represented by sample, date sampled and any other information pertinent to the Material or Work. Care shall be used in preparing and shipping samples to assure that all packages are clean before Material has been placed therein, and are tied, or closed and wrapped, securely.

### **6.30 Storage of Materials.**

6.30.1 Materials shall be so stored as to insure the preservation of their quality, color, and fitness for the Work and shall be so located as to facilitate prompt inspection, and to minimize noise impacts on sensitive receivers. Materials improperly stored may be rejected without testing. Materials or equipment shall not be stored under the canopy or within the 'dripline' of any trees without prior approval by the OWNER'S REPRESENTATIVE .

6.30.2 The insurance, protection and security of stored materials shall be the sole responsibility of the CONTRACTOR. The COUNTY shall not be liable or at risk for any loss of materials due to theft, weather, negligence, nor for any damages to the stored materials.

**6.31 Defective Materials.** Materials which are or have been improperly stored; All such materials, whether in place or not, will be rejected and shall, unless otherwise permitted by the PROJECT MANAGER , be removed immediately from the site of the Work and from the CONTRACTOR's storage areas, at the CONTRACTOR's expense. No rejected material, the defects of which have been subsequently corrected, shall be used until approval has been given. Upon failure on the part of the CONTRACTOR to comply promptly with any order of the PROJECT MANAGER made under the provisions of this Section, the PROJECT MANAGER shall have authority to remove and replace defective material and to deduct the cost of removal and replacement from any moneys due or to become due the CONTRACTOR.

### **6.32 Preservation of Property.**

6.32.1 The CONTRACTOR shall preserve from damage all property along the line of Work, or which is in the vicinity of or is in any way affected by the Work, the removal or destruction of which is not called for by the plans. This applies to public and private property, public and private utilities, (except as modified by the provisions of 6.33), public and private buildings, trees, shrubs, crops, signs, monuments, fences, guardrail, pipe and underground structures, public highways (except natural wear and tear of highway resulting from legitimate use thereof by the CONTRACTOR), etc., and whenever such property is damaged due to the activities of the CONTRACTOR it shall be immediately restored to a condition similar or equal to that existing before such damage or injury was done by the CONTRACTOR, and at his own expense, or he shall make good such damage or injury in an acceptable manner. The CONTRACTOR shall protect existing buildings during the entire construction period, from damage caused by any of his operations or Equipment. The CONTRACTOR will not be required to provide routine repairs or maintenance for such structures but will be required, at his own expense, to make immediate repairs of any damage occasioned by his use or operations. In the event that the CONTRACTOR's use or operations result in damage to a building requiring repairs, such repairs shall have a prior right to any Equipment, Materials or labor at the CONTRACTOR's disposal.

6.32.2 In case of failure on the part of the CONTRACTOR to restore such property, building, utility, or street, or to make good such damage or injury, the PROJECT MANAGER may, upon 48 hours notice, proceed to repair, rebuild or otherwise restore such property, building, utility or street as may be deemed necessary, and the cost thereof will be deducted from any monies due or which may become due the CONTRACTOR under the Agreement. Nothing in this Section shall prevent the CONTRACTOR from receiving proper compensation for the removal, damage or replacement of any public or private property, not shown on the Plans, such Work is authorized by the PROJECT MANAGER provided that such property has not been damaged through fault of the CONTRACTOR or his employees or agents.

6.32.2.1 Where the CONTRACTOR hauls materials or equipment to the Project over public or private property and whether paved or unpaved, and such use causes damages, he shall immediately, at  
GENERAL CONDITIONS Facilities: Recreational Parks, Building Construction  
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his expense, repair such public or private property to as good a condition as before the hauling began. The above requirement may be modified in accordance with any agreement the CONTRACTOR might make with the authority or governmental unit having jurisdiction over a particular road provided that he submits written evidence of such agreement.

6.32.2.2 Operation of equipment or hauling units of such size, weight and maneuverability as to cause damage to previously constructed elements of the Project including, but, not necessarily limited to sidewalk, driveways, curb and gutters, drainage structures, walls, columns, roof overhangs, landscaping, hardscaping, above ground and under ground utility lines and boxes or asphalt pavement will not be permitted. Exceptions to these weight restrictions may be allowed for movement of necessary equipment to and from its Work site, for hauling of offsite fabricated components to be incorporated into the Project and for crossings as authorized by the PROJECT MANAGER .

### **6.33 Utilities.**

6.33.1 At points where the CONTRACTOR's operations are adjacent to utility facilities or other property, damage to which might result in expense, loss, disruption of service or other undue inconvenience to the public or to the Owner, the Work shall not be commenced until all necessary arrangements for the protection thereof have been made. The CONTRACTOR shall be solely and directly responsible to the owners and operators of such properties for any damage, injury, expense, loss, inconvenience, penalties or delay, caused by the CONTRACTOR's negligence or failure of operations. Relocations or adjustments requested only on the basis of the CONTRACTOR's proposed use of a particular method of construction or a particular type of Equipment will not be considered as being essential to the construction of the Project if other commonly used methods and Equipment will determine the responsibility for any such required adjustments of utilities. Relocations or adjustments requested because of delivery to the job of Materials furnished by the CONTRACTOR will be the responsibility of and at the expense of the CONTRACTOR. Circumstances under which it will be considered essential to remove or adjust (or to otherwise protect) utilities in order to construct the Project shall include, but not be limited to, the following:

6.33.1.1 Utilities lying within the vertical and horizontal construction limits, plus the reasonably required Working room necessary for operation of Equipment normally used for the particular type of construction. In the case of overhead electrical conductors which carry more than 400 volts, a minimum of ten feet (10') clearance between the conductor and the nearest possible approach of any part of the Equipment will be required, except where the utility owner effects safeguards approved by the Florida Department of Labor and Employment Security.

6.33.1.2 Utilities lying within the horizontal limits of the Project and within twelve inches (12") below the ground surface or the excavation surface on which the construction Equipment is to be operated, or within twelve inches (12") below the bottom of any stabilizing course called for on the plans.

6.33.1.3 Utilities lying within the normal limits of excavation for underground drainage facilities, foundations, footings or other structures. Such normal limits shall extend to side slopes along the angle of repose, as established by sound Engineering practice, unless the sides of the excavation are required by the Plans or special provisions to be supported by sheeting, or the CONTRACTOR elects to sheet such excavation for his own convenience.

6.33.1.4 Where utilities cross pipe trenches transversely within the excavation area, but not within positions from which relocation or removal is necessary, the CONTRACTOR shall provide necessary coordination and support to the utility owner in the utility owner's effecting support and protective measures to utilities. In the event that CONTRACTOR is performing utility Work for the  
GENERAL CONDITIONS Facilities: Recreational Parks, Building Construction  
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COUNTY under the Contract Documents, the CONTRACTOR shall be responsible for providing and effecting all measures for utility support and protection during construction operations. It is the responsibility of the CONTRACTOR to provide all sheeting, bracing, shoring and other forms of support for all utilities when working adjacent to or directly upon existing and proposed utilities. The CONTRACTOR shall comply with support requirements for the duration of the Work, whether the CONTRACTOR is constructing, demolishing, relocating or removing foundations and footers, buildings, public and private utility lines, parking lots, equipment, roadway pavement, base, and infrastructure, stormwater piping structures and traffic signalization devices. The CONTRACTOR shall be responsible for any damage to the utility which is caused by neglect or failure on the CONTRACTOR's part to cooperate and to use proper precaution in performing his Work. In the event that a temporary relocation of a utility or a particular sequence of timing in the relocation of a utility is necessary, such relocation shall be done only as directed by the PROJECT MANAGER so as to cause the least impediment to the overall construction operations. The COUNTY will not assume responsibility for utility adjustments or temporary relocation Work, nor for the conditions resulting therefrom.

6.33.2 The CONTRACTOR shall coordinate and cooperate with the owners of any underground or overhead utility lines in their removal and rearrangements operations in order that these operations may progress in a reasonable manner, that duplication or rearrangement Work may be reduced to a minimum, and that services rendered by the utility owners will not be unnecessarily interrupted. In the event of interruption of water, sewer, communications or other utility services as a result of accidental breakage or as a result of their being exposed or unsupported, the CONTRACTOR shall promptly notify the proper authority and shall cooperate with the authority in the prompt restoration of service. If water, sewer, communication or any service that would be necessary for the immediate safety, health and wellbeing of the Seminole County Board of Commissioners and its employees or of the residents of Seminole County, is interrupted, repair Work shall be continuous until the service is restored. No Work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

6.33.3 Certain utility installations, relocations (temporary and permanent), adjustments and reconstruction work may be underway during the progress of the Work. The CONTRACTOR will be required to cooperate and coordinate as is necessary with the various utility construction crews in order that utility service may be maintained. Upon completion of the utilities work by others the utilities will be in their final location and the CONTRACTOR shall exercise due caution when working adjacent to such utilities. Any damage to the relocated utilities resulting from the CONTRACTOR's operations shall be repaired at his expense. The CONTRACTOR's attention is directed to the requirements of 6.33.1 and 6.33.2 outlining responsibility for protection of utility facilities.

6.33.4 No additional monetary compensation will be allowed for any delays, disruptions, inconveniences, inefficiencies, constructive acceleration or damages of any nature sustained by CONTRACTOR due to any delay, disruptions, constructive accelerations, inefficiency, interference relating to utilities or appurtenances or from the operations of relocating and installing utilities.

**6.34 CONTRACTOR's Responsibility For Work.** Until acceptance of the Work by the COUNTY it shall be under the charge and custody of the CONTRACTOR and he shall take every necessary precaution against injury or damage to the Work by the action of the elements or from any other cause whatsoever, arising either from the execution or from the nonexecution of the Work. The CONTRACTOR shall rebuild, repair, restore and make good, without additional compensation, all injury or damage to any portion of the Work occasioned by any of the above causes before its completion and acceptance except that in case of catastrophic damage the COUNTY may, at its discretion, reimburse the CONTRACTOR for the repair of such damage due to unforeseeable causes beyond the control of and

without the fault or negligence of the CONTRACTOR including, but not restricted to, Acts of God, of the public enemy or of governmental authorities.

**6.35 Interferences.** The CONTRACTOR shall at all times conduct the Work in such manner and in such sequence as to insure the least practicable interference with County employees, pedestrian/visitor traffic due to County business and vehicular traffic. The CONTRACTOR's vehicles, personnel, materials and equipment shall be operated in such a manner that they will not be a hazard or hinderance to daily operations and performance of County business.

**6.36 Coordination with other Contractors.** The CONTRACTOR shall coordinate and arrange his Work and dispose of his Materials so as not to interfere with operations of other contractors engaged upon adjacent work and to join his Work to that of others in a proper manner, in accordance with the spirit of the Plans and Specifications, and to perform his Work in the proper sequence in relation to that of other contractors. Each contractor shall be responsible for any damage done by him or his agents to the work performed by another contractor.

**6.37 Drainage.** The CONTRACTOR shall so conduct his operations and maintain the Work in such condition that adequate drainage will be in effect at all times. Existing functioning roofs, roof drains, gutters, storm sewers, catch basins, inlets, ditches, ponds and other run-off facilities shall not be obstructed.

**6.38 Fire Hydrants.** Fire hydrants on or adjacent to the roadway or site shall be kept accessible to fire apparatus at all times and Material or obstruction shall not be placed within fifteen feet (15') of any such hydrant.

**6.39 Protection of Structures and Trees.** Heavy Equipment shall not be operated close enough to pipe headwalls, foundations, footings, columns, walls or other structures to cause their displacement. The equipment shall not be stored or parked overnight under the canopy or within the 'dripline' of any trees without prior approval by the PROJECT MANAGER.

**6.40 Fencing.** On all Work which includes fencing and where the PROJECT MANAGER determines it to be necessary for maintaining the security of livestock or adjacent property, or for protection of pedestrians who are likely to gain access to the Work from adjacent property, the CONTRACTOR shall erect appropriate temporary security fence as a first order of business. Temporary fencing shall be installed at temporary construction easement areas on all commercial and residential properties appropriate to secure the Work areas and protect persons and domestic animals. At all times, the CONTRACTOR shall conduct the Work under secure temporary fencing. Permanent fencing shall be addressed as required by the Plans and Specifications.

**6.41 Hazardous or Toxic Waste.** When the CONTRACTOR's operations encounter or expose any abnormal condition which may indicate the presence of a hazardous or toxic waste such operations shall be discontinued in the vicinity of the abnormal conditions and the PROJECT MANAGER and the ENGINEER shall be notified immediately. The presence of tanks or barrels; discolored earth, metal, wood, ground water, etc.; visible and non-visible fumes; abnormal odors; excessively hot earth; smoke; asbestos (PCB) or other conditions which appear abnormal may be indicators of hazardous or toxic wastes and shall be treated with extraordinary caution.

In the event the Contractor encounters on the site material reasonably believed to be asbestos, polychlorinated biphenyl (PCB), or other hazardous or potentially hazardous materials as defined by appropriate regulatory, jurisdictional or governmental authorities and has not been rendered harmless, the Contractor shall immediately stop Work in the area affected, install warning signs, fencing, and

barricades meeting OSHA requirements, and report the condition immediately to the Owner and Architect in writing.

Every effort shall be made by the CONTRACTOR to minimize the spread of any hazardous or toxic waste into uncontaminated areas.

The CONTRACTOR's operations shall not resume until so directed by the PROJECT MANAGER.

Disposition of the hazardous or toxic waste will be made in accordance with the requirements and regulations of any Local, State, or Federal Agency having jurisdiction. Where the CONTRACTOR performs work necessary to dispose of hazardous or toxic waste, and the contract does not include pay items for disposal, payment will be made as provided in 4.4, Resolution of a report of Differing Physical Conditions.

#### **6.42 Computation of Contract Time.**

6.42.1 The CONTRACTOR shall perform fully, entirely and in accordance with the Specifications, the contracted Work within the Contract Time or as may be extended in accordance with the Contract Documents. The CONTRACTOR acknowledges that the allowable Contract Time is calculated with consideration given that significant Work is not normally accomplished on Saturdays, Sundays, COUNTY Legal Holidays and during seasonal inclement weather conditions common to Central Florida with accompanying normal delays in prosecution of Work on controlling items. The effect on job progress, as detailed in the Plans, has also been considered in the computation of the allowable Contract Time.

#### **6.42.2 Adjusting Contract Time.**

6.42.2.1 The COUNTY may grant an extension of Contract Time when a controlling work item is delayed by factors not anticipated or foreseeable at the time of Bid. Such extension of time may be allowed only for delays occurring during the Contract Time period or authorized extension of the Contract Time period. When failure by the COUNTY to fulfill an obligation under the agreement results in delays in the controlling work items, such delays will be considered as a basis for granting credit to the Contract Time. Extensions of Contract Time will not be granted for delays due to the fault or negligence of the CONTRACTOR. Time extensions for delays caused by the effects of inclement weather are justified only when rains or other inclement weather conditions or related adverse soil conditions prevent the CONTRACTOR from productively performing controlling work items resulting in:

(1) The CONTRACTOR being unable to work at least 50 percent of the normal Work day on pre-determined controlling work items due to adverse weather conditions or;

(2) The CONTRACTOR must make major repairs to Work damaged by weather. Providing the damage was not attributable to a failure to perform or neglect by the CONTRACTOR, and providing that the CONTRACTOR was unable to Work at least 50 percent of the normal Workday on pre-determined controlling work items.

The affect of utility relocation (temporary and permanent) and adjustment Work on job progress will be considered as the basis for granting a time extension only if all the following criteria are met:

(1) Delays are the result of utility Work not detailed in the Plans or utility Work detailed in the Plans which is not accomplished in reasonably close accordance with the schedule;

(2) Utility Work actually affected progress toward completion of controlling work items;  
and,

(3) The CONTRACTOR took all reasonable measures to minimize the effect of utility Work on job progress including a coordinated and cooperative scheduling of his operations with the scheduled utility Work at the preconstruction conference, at Project meetings, and providing that adequate advance notification was given to utility companies at Project meetings as to the dates on which their operations must be coordinated with the Contractor's operations to avoid delays.

(4) Such delays exceed thirty (30) days impact to controlling work items.

6.42.2.2 Extension or Adjustment of Contract Time under the provisions of these Contract Documents shall not entitle CONTRACTOR to additional compensation or form the basis for Contract claims.

#### **6.43 Rights In and Use of Materials Found On the Site of the Work.**

6.43.1 Except as provided in the Plans and Specifications, all Materials which are not the property of the COUNTY or other persons, and all Material in structures removed by the CONTRACTOR, shall become the property of the CONTRACTOR and shall be disposed of by him. Such Materials shall not include earth or other excavated Material required for the construction of the Work. Materials from existing structures required to be removed and which are designated to remain the property of the COUNTY may generally be used by the CONTRACTOR during construction. Such material shall not be cut or otherwise damaged during removal unless permission is given, and shall subsequently be stored in an accessible location if so directed by the PROJECT MANAGER.

6.43.2 Any ornamental trees and shrubs existing within the limits of the Work, which are required to be removed for the construction operations and which are not specifically designated on the Plans to be reset, or to be removed by others prior to the construction operations, shall become the property of the CONTRACTOR.

**6.44 Final Cleaning Up of Job Site.** Upon completion of the Work, and before Acceptance and Final Payment will be made, the CONTRACTOR shall remove from the COUNTY's job site and adjacent property all false Work, Equipment, surplus and discarded Materials, rubbish and temporary structures; CONTRACTOR shall restore in an acceptable manner all property, both public and private, which has been damaged during the prosecution of the Work, and shall leave all waterways and drainage facilities unobstructed.

#### **6.45 Maintenance of Traffic.**

6.45.1 The Maintenance of Traffic requirements of the Contract Documents are essential life safety requirements designed to assure the safety of the traveling vehicular and pedestrian public or employees of the County who may be executing County business in the vicinity of the Work.. The Contractor shall include in its costs provisions for maintenance of traffic as required by the local codes, laws and regulations which would be incidental to the cost of implementing the work.

6.45.2 Additional Project specific Maintenance of Traffic requirements may be set forth in the Supplementary Conditions.

#### **6.46 Pollution, Vibration and Noise Controls.**

6.46.1 Scope of Work. The CONTRACTOR shall minimize noise, vibration, and air pollution caused by construction activities. The CONTRACTOR shall control the generation and disposal of solid and hazardous wastes.

6.46.2 Implementation.

6.46.2.1 Noise Control shall be in accordance with Federal, State, and COUNTY regulations. The CONTRACTOR shall comply with all COUNTY Ordinances and regulations dealing with noise abatement.

6.46.2.2 Vibration Control shall be in accordance with Federal, State, and COUNTY regulations. It is the CONTRACTOR's sole responsibility to prevent damage from vibration to adjacent structures and property.

6.46.2.3 Air Pollution Control shall be in accordance with Federal, State, and COUNTY regulations.

**6.47 Dust and Waste Control.**

6.47.1 CONTRACTOR shall take precautions to minimize dust emissions from operations involving demolition, repairs, renovations, excavation, grading, clearing of land and disposal of solid waste.

6.47.2 Solid and Hazardous Waste Control shall be in accordance with Federal, State, and COUNTY regulations. The CONTRACTOR is solely responsible for the disposal of any hazardous waste that is generated by the CONTRACTOR's operation.

6.47.3 In order to implement these regulations, CONTRACTOR shall use the following procedures and techniques:

6.47.3.1 Air Pollution.

- (a) Dust
  - (i) Cover loads of materials, debris and soil transported from construction sites. Set up dust and debris screens wherever needed.
  - (ii) As needed, wash trucks which haul soil from the site.
  - (iii) Water down construction sites as needed to suppress dust, during handling of excavation soil, debris or during demolition.
- (b) Remove scrap and waste material and dispose of in accordance with laws, codes, regulations, ordinances and permits.
- (c) Use construction equipment which has been designed and equipped to prevent or control air pollution in conformance with the regulations of the EPA, state and local authorities.

6.47.3.2 Solid and Hazardous Waste.

- (a) Solid wastes may be disposed of in a number of ways, including reuse on the project, sale for fuel, through controlled incineration, donation to other public private dump sites, either free or for a fee. Hazardous material shall be disposed of at properly permitted disposal facilities.
- (b) Haul routes for transporting solid or hazardous wastes shall comply with the requirements of state and local authorities.

#### **6.48 Temporary Facilities.**

6.48.1 Description. This section describes the CONTRACTOR'S responsibility for temporary facilities and utilities that the CONTRACTOR shall require during construction, unless otherwise specified in the Supplementary Conditions of this Project.

##### 6.48.2 Scope.

6.48.2.1 Provide temporary facilities required which may include, but are not necessarily limited to, the following:

- (a) Telephone (two lines at a minimum)
- (b) Storage sheds
- (c) Temporary water service
- (d) Temporary sanitary service
- (e) Temporary lighting and electrical service
- (f) Temporary data and phone service
- (g) Temporary internet service
- (h) Temporary fire protection
- (i) Temporary office trailers, including temporary utilities
- (j) Safety and Visitor Protection

6.48.2.2 Furnish and install temporary water service for use throughout construction period.

- (a) Water for construction purposes.
- (b) Water for other purposes:
  - (i) Testing
  - (ii) Temporary sanitary facilities
  - (iii) Cleaning
- (c) Drinking water.
- (d) Potable water for construction personnel:
  - (i) Portable containers to dispense drinking water.
- (e) Pay costs of water or ice.
- (f) Drinking water: Convenient to work stations.

6.48.2.3 Maintain adequate volume of water for all purposes.

6.48.2.4 Provide separate supply of potable water. If supplied from COUNTY source, the system shall be protected by approved back flow devices.

6.48.2.5 Maintain strict supervision of use of temporary services.

- (a) Enforce conformance with applicable codes and standards.
- (b) Enforce sanitary practices.
- (c) Prevent abuse of services.
- (d) Prevent wasteful use of water.

6.48.2.6 Pay costs for temporary water supply used by all trades, including costs of installation, maintenance, and removal of pipe and equipment.

6.48.2.7 Requirements of Regulatory Agencies.

- (a) Obtain, pay for permits, fees, deposits required by governing authorities.
- (b) Comply with federal, state and local codes.

6.48.3 Temporary Electricity and Lighting.

6.48.3.1 Furnish, install and maintain adequate temporary lighting and electric power service for construction needs throughout construction period. **ALL TEMPORARY ELECTRICAL FACILITIES SHALL MEET THE REQUIREMENTS OF ALL PERTINENT BUILDING CODES.**

6.48.3.2 Maintain strict supervision of use of temporary services.

- (a) Enforce conformance with applicable standards.
- (b) Enforce safe practices.
- (c) Prevent abuse of services.

6.48.3.3 Pay costs of, installation, maintenance and removal of temporary electrical services used.

6.48.3.4 Requirements of Regulatory Agencies.

- (a) Obtain and pay for permits as required by governing authorities.
- (b) Comply with applicable codes.
  - (i) National Electrical Code.
  - (ii) National Electrical Safety Code.
  - (iii) National Fire Protection Association Pamphlet.
  - (iv) Federal, state and local codes and utility company regulations.

6.48.3.5 Provide night security lighting at secured areas within construction limits at offices, storage facilities and excavated areas.

6.48.4 Temporary Sanitary Facilities.

6.48.4.1 Furnish, install and maintain temporary sanitary facilities for use throughout construction period.

- (a) Enclosed toilet facilities for construction personnel.

6.48.4.2 Maintain strict supervision of use of facilities.

- (a) Enforce conformance with applicable standards.
- (b) Maintain, service and clean facilities as needed by Owner..
- (c) Enforce proper use of sanitary facilities.

6.48.4.3 Cost of Installation and Operation.

- (a) Pay costs of temporary sanitary facilities, including costs of installation, maintenance and removal.
- (b) Pay service charges for use of portable units.

6.48.4.4 Facility Locations.

- (a) Within the project site.
- (b) Toilet and washing facilities:
  - (i) Secluded from public observation if possible.
  - (ii) Convenient for use of personnel in relation to work stations.

6.48.4.5 Requirements of Regulatory Agencies.

- (a) Obtain and pay for permits as required by governing authorities.
- (b) Comply with federal, state and local codes, and utility company regulations.

6.48.5 Contractor Employee Parking.

6.48.5.1 The CONTRACTOR is to submit a plan of intended parking areas prior to mobilizing on site.

6.48.5.2 The CONTRACTOR is to maintain strict supervision of use of the parking areas. The CONTRACTOR is to maintain, service and clean the areas.

6.48.6 Contractor Offices. This section is reserved for Project Specific. If this section is required for a particular project, further instructions to CONTRACTORS will be provided by the COUNTY in the Supplementary Conditions.

## **6.49 Photographs and Videos**

6.49.1 CONTRACTOR shall provide the COUNTY with photographs of the existing conditions prior to construction, photographs taken monthly throughout progress of the Work, prior to requisition job meeting for Application for Payment..

- (a) Take photographs at beginning and completion of elements of construction.
  - (i) Site clearing
  - (ii) Excavations
  - (iii) Foundations
  - (iv) Slab; Formwork, Steel and Concrete Pour
  - (v) Structural framing
  - (vi) Enclosure of building; Exterior and Interior
  - (vii) Utility Rough-ins
  - (viii) Control Panels, Equipment and Mechanical Rooms
  - (ix) Roofing
  - (x) Interior Finishes
  - (xi) Site Development
  - (xii) Final Completion
- (b) View and Quantities Required:
  - (i) At each specified time, photograph the Project from average of four different views, SE, NE, SW, NW or as instructed by the OWNER'S REPRESENTATIVE.
  - (ii) Provide three (3) prints of each view.

6.49.2 Costs of Photographs: The CONTRACTOR is responsible for all costs for specified photography and prints.

### 6.49.3 Prints:

- (a) Digital
- (b) Identify each print listing:
  - (i) Name of the Project
  - (ii) Phase
  - (iii) Name of Contractor
  - (iv) Orientation of View
  - (v) Date and Time of View
  - (vi) Name and address of photographer and photographer's number identification of exposure.

### 6.49.4 Technique:

- (a) Factual presentation
- (b) Corect exposure and focus
  - (i) High resolution and sharpness
  - (ii) Minimum distortion

6.49.5 Preconstruction Video. A video prior to start of any Work is required and a copy of the video must be submitted to the Project Manager before mobilization.

**6.50 Field Materials on Private Property.** Work performed on private property when the COUNTY owns permanent easements for access, drainage facilities, or other purposes, may require excavation and the use of fill materials. The CONTRACTOR shall, when possible, backfill excavated lands with the fill materials originally excavated. In any event the filling of excavated lands shall be accomplished using material of substantial similarity to the excavated material.

## **SECTION 7 - WORK BY OTHERS**

### **7.1 Related Work At Site.**

7.1.1 COUNTY may perform other work at the site by COUNTY's own forces, provide for or allow other work to be performed by other owners, or let others direct contracts for other work. If the fact that such other work is to be performed was not noted in the Contract Documents, written notice thereof will be given to CONTRACTOR prior to starting any such other work.

7.1.2 CONTRACTOR shall afford each owner and contractor (or COUNTY, if COUNTY is performing the additional work with COUNTY's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of Materials and Equipment and the execution of such work, and shall properly connect and coordinate the Work with theirs. CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make it integrate properly with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their Work and will only cut or alter their work with the written consent of PROJECT MANAGER and the others whose work will be affected.

7.1.3 If any part of CONTRACTOR's Work depends for proper execution or results upon the work of COUNTY or any such other contractor or owner, CONTRACTOR shall inspect and promptly report to PROJECT MANAGER in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. CONTRACTOR's failure to so report will constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR's Work except for latent or nonapparent defects and deficiencies in the other work. Wherever Work to be performed by CONTRACTOR is dependent upon the work of others or any separate contractor, CONTRACTOR shall: (1) coordinate his Work with the dependent work; (2) provide necessary dependent data and requirements; (3) supply or install items to be built into dependent work of others; (4) make provisions for dependent work; (5) check and verify dependent dimensions of previously placed work; (6) notify PROJECT MANAGER of previously placed dependent work or dependent dimensions which are unsatisfactory or will prevent a satisfactory installation of any such Work; and (7) not proceed with any such Work until any unsatisfactory dependent conditions have been corrected. Installation of work by CONTRACTOR or by a Subcontractor in any given area shall constitute acceptance by CONTRACTOR or by such Subcontractor of all previously placed dependent work, subject to the exceptions previously noted.

7.1.4 If COUNTY contracts with others for the performance of other work at the site, the CONTRACTOR shall be responsible for coordination of the activities among the various contractors. Coordination with other contractors will be the sole responsibility of CONTRACTOR and neither COUNTY nor PROJECT MANAGER shall have any authority or responsibility with respect to such coordination.

### **7.2 Mutual Duties and Responsibilities.**

7.2.1 Should CONTRACTOR cause damage to the work or property of others or any separate contractor or owner performing work at or contiguous to the site, or should any claim arising out of CONTRACTOR's performance of Work at or contiguous to the site be made by any separate contractor or utility owner against CONTRACTOR, COUNTY, PROJECT MANAGER, ARCHITECT OF RECORD. The CONTRACTOR shall promptly attempt to settle with such separate contractor or utility owner by agreement, or to otherwise resolve the dispute at equity or at law.

7.2.2 Should any separate contractor or Owner or others cause damage to the Work or property of CONTRACTOR, or should the performance of work by any separate contractor or owner at or contiguous to the site give rise to any other claim by CONTRACTOR, CONTRACTOR shall promptly attempt to settle with such separate contractor or Owner by agreement, or to otherwise resolve the dispute at equity or at law. CONTRACTOR shall not institute any action, legal or equitable, against COUNTY, PROJECT MANAGER, ARCHITECT OF RECORD, or their consultants, directors, officers, agents, and employees or permit any action against them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability or recover damages from COUNTY, PROJECT MANAGER, ARCHITECT OF RECORD or their consultants, directors, officers, agents, or employees on account of these.

7.2.3 In the event that COUNTY incurs costs contrary to the provisions of this subsection, COUNTY will be entitled to deduct these costs from the Contract Price by issuing a Change Order.

**7.3 Extensions in Contract Time.** If CONTRACTOR is delayed at any time in performing or furnishing the Work by any act or neglect of another contractor or entity performing work at the site noted in the Contract Documents, CONTRACTOR may request an extension or adjustment in Contract Time as provided in this Section and in Section 6.42.2, above; if COUNTY agrees that the delay requires an adjustment in Contract Time, COUNTY shall authorize the necessary extension of Contract Time. However, an extension in Contract Time(s), if so granted, shall be CONTRACTOR's sole and exclusive remedy with respect to COUNTY, PROJECT MANAGER, and ARCHITECT OF RECORD, and their consultants, agents and employees for any delay, disruption, interference, inefficiency, extension, constructive acceleration or hindrance and associated costs, however caused, resulting from delays caused by others performing other work at the site.

#### **7.4 Contract Time Coordination.**

7.4.1 CONTRACTOR shall give prompt written notice to COUNTY, PROJECT MANAGER and any other affected contractor(s) whenever CONTRACTOR anticipates a conflict in Contract Time(s) related to or simultaneous with associated Contract Time (s) in the work of others. Within seven (7) days thereafter, CONTRACTOR shall be required to deliver to PROJECT MANAGER proposed actions to either (a) prevent an adverse effect on the Progress Schedule of the other contractors arising from delays to the Work, or (b) prevent or overcome an adverse effect on the Progress Schedule for the Work arising from delays from another contract.

7.4.2 When Work is performed out of sequence and ahead of interfacing Work, CONTRACTOR shall be responsible for taking reasonable steps to minimize damage or loss to the Work which may be caused by others during the performance of their work, including (but not limited to) furnishing written notice to PROJECT MANAGER and to the other contractors that Work has been performed out of sequence and ahead of interfacing Work.

7.4.3 When work by others is performed out of sequence and ahead of interfacing Work, the said work shall be considered as if it had been shown on the Contract Documents. CONTRACTOR shall be responsible for protecting said work and shall replace, repair or otherwise settle with others any and all damage caused as a result of the performance of Work out of sequence.

## **SECTION 8 - COUNTY'S RESPONSIBILITIES**

### **8.1 General.**

8.1.1 COUNTY shall generally issue all communications to CONTRACTOR through PROJECT MANAGER. However, communications related to 3.5540 – “Contract Claims” of Section 3.55, Purchasing Policy of the Seminole County Administrative Code, or successor provisions, shall be issued by the COUNTY’s Purchasing Manager or County Manager.

8.1.2 In case of termination of the employment of PROJECT MANAGER, COUNTY shall appoint a PROJECT MANAGER whose status under the Contract Documents shall be that of the former PROJECT MANAGER.

8.1.3 COUNTY shall furnish the data required of COUNTY under the Contract Documents promptly and shall make payments to CONTRACTOR promptly after they are due as provided in Section 14.

8.1.4 COUNTY's duties with respect to providing lands and easements and surveys to establish reference points, and identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions at the site and in existing structures which have been utilized by ARCHITECT OF RECORD in preparing the Drawings and Specifications are set forth in Section 4.

8.1.5 COUNTY will issue unilaterally or negotiate, at its discretion, Change Orders as provided in these Contract Documents.

8.1.6 COUNTY's responsibility with respect to certain inspections, tests and approvals is set forth in Section 13.

8.1.7 COUNTY may allow its consultants, agents, attorneys, employees, and others access to the site. CONTRACTOR shall cooperate with COUNTY in allowing such access.

## **SECTION 9 - PROJECT MANAGER'S AND ARCHITECT OF RECORD'S STATUS DURING CONSTRUCTION**

**9.1 COUNTY'S Representative.** PROJECT MANAGER will be COUNTY's representative during the construction of the Work. The duties and responsibilities and the limitations of authority of PROJECT MANAGER as COUNTY's representative during construction are set forth in the Contract Documents and shall not be extended without written consent of COUNTY and PROJECT MANAGER.

### **9.2 Visits to Site.**

9.2.1 PROJECT MANAGER may make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.

9.2.2 PROJECT MANAGER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.

**9.3 Project Representation.** COUNTY may designate another agent to represent COUNTY at the site who is not the PROJECT MANAGER or it's agent or employee.

### **9.4 Duties, Responsibilities and Limitations of Authority of PROJECT MANAGER .**

9.4.1 The PROJECT MANAGER will perform the duties and responsibilities described herein. PROJECT MANAGER shall generally issue all communications to CONTRACTOR including but not limited to communications directed to CONTRACTOR from COUNTY. CONTRACTOR shall generally issue all communications to COUNTY through PROJECT MANAGER

9.4.2 PROJECT MANAGER will provide instructions on procedures to be followed and schedule inspections of the Work; review daily inspection reports prepared; prepare draft Field Orders, Change Requests or Change Orders as required and review them with COUNTY, as applicable.

9.4.3 PROJECT MANAGER will attend meetings with CONTRACTOR, such as the Preconstruction Conference, Project Meetings and any other Project related meetings and prepare and circulate copies of minutes thereof. The preparation and circulation of minutes of preconstruction conferences, Project meetings and any other Project related meetings shall not relieve CONTRACTOR of CONTRACTOR's responsibility to coordinate the work of the COUNTY, utility contractors, or the work of others or the CONTRACTOR's responsibility for scheduling and sequencing its Work with the work of the COUNTY, utility contractors or the work of others.

9.4.4 PROJECT MANAGER, working principally through CONTRACTOR's superintendent, will assist in understanding the intent of the Contract Documents, and will serve as COUNTY's liaison with CONTRACTOR when CONTRACTOR's operations affect COUNTY's on-site operations, and when additional information is required from COUNTY for proper execution of the Work.

9.4.5 PROJECT MANAGER will advise CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample.

9.4.6 PROJECT MANAGER will conduct general on-site observations of the Work in progress and will observe for non-conformance reports to determine if the Work is proceeding in accordance with the Contract Documents.

9.4.7 PROJECT MANAGER will notify CONTRACTOR of disapproval or rejection of defective Work and will notify CONTRACTOR whether Defective Work is to be corrected, or replaced.

9.4.8 PROJECT MANAGER will notify CONTRACTOR of any Work that is to be uncovered for observation, testing inspection or approval.

9.4.9 PROJECT MANAGER will accompany visiting inspectors representing governmental or other agencies having jurisdiction over the Project, and record the results of the inspections.

9.4.10 PROJECT MANAGER will transmit to CONTRACTOR clarifications and interpretations as issued by the COUNTY.

9.4.11 PROJECT MANAGER will consider and evaluate CONTRACTOR's proposed variations and the changes in the Work or the Contract Documents. PROJECT MANAGER will communicate decisions on such proposals to CONTRACTOR as issued by COUNTY.

9.4.12 PROJECT MANAGER will report promptly to COUNTY upon gaining knowledge of the occurrence of any accident at the site.

9.4.13 PROJECT MANAGER will prepare reports of the progress of the Work and of CONTRACTOR's compliance with the Progress Schedule.

9.4.14 PROJECT MANAGER will consult as appropriate with COUNTY's staff in advance of scheduled major tests, inspections or the commencement of important phases of the Work.

9.4.15 PROJECT MANAGER will review and evaluate CONTRACTOR's Application for Payment and advise COUNTY staff accordingly.

9.4.16 PROJECT MANAGER will review and evaluate CONTRACTOR's notice that CONTRACTOR considers the Work (or part thereof) substantially complete and advise COUNTY staff accordingly.

9.4.17 PROJECT MANAGER will observe whether all items on lists of items to be completed prior to Final Payment have been completed and make recommendations to COUNTY concerning Acceptance.

9.4.18 During the course of the Work, the PROJECT MANAGER will verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed.

**9.5 Clarifications and Interpretations.** PROJECT MANAGER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as PROJECT MANAGER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents.

**9.6 Authorized Variations in Work.** PROJECT MANAGER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents and required to produce the intended result. These may be accomplished by a Field Order and will be binding on CONTRACTOR who shall perform the Work involved promptly.

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

**9.8 Determinations of Quantities and Classifications of Unit Price Work.** PROJECT MANAGER will determine the actual quantities of each classification of Unit Price Work. PROJECT MANAGER will review with CONTRACTOR, PROJECT MANAGER's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). PROJECT MANAGER's written decisions thereon will be final and binding upon CONTRACTOR, unless, within seven (7) days after the date of any such decision, CONTRACTOR delivers to COUNTY written notice of a Contract Claim.

**9.9 Decisions on Disputes.** PROJECT MANAGER will be the initial interpreter of the requirements of the Contract Documents, and in such capacity will render initial determinations in respect of the acceptability of the Work thereunder. Unless otherwise provided in the Contract Documents, notices, proposals or other matter relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work will be referred initially to PROJECT MANAGER in writing with a request for a formal decision in accordance with this subsection which PROJECT MANAGER will render within a reasonable time. PROJECT MANAGER's written determination thereon shall be final and binding on CONTRACTOR unless CONTRACTOR delivers to COUNTY written notice of a Contract Claim within seven (7) days of receipt of such decision.

**9.10 Limitations on PROJECT MANAGER's and ARCHITECT OF RECORD's Responsibilities.**

9.10.1 Neither PROJECT MANAGER's or ARCHITECT OF RECORD's authority to act under this Section or elsewhere in the Contract Documents nor any decision or determination made by PROJECT MANAGER or ARCHITECT OF RECORD in good faith to exercise or not to exercise such authority shall give rise to any duty or responsibility of PROJECT MANAGER or ARCHITECT OF RECORD to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization performing any of the Work, or to any Surety for any of them.

9.10.2 Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used to describe requirement, direction, review or judgment of PROJECT MANAGER or ARCHITECT OF RECORD as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to PROJECT MANAGER or ARCHITECT OF RECORD any duty or authority to supervise or direct the

furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of this Section.

9.10.3 PROJECT MANAGER and ARCHITECT OF RECORD will not be responsible for CONTRACTOR's means, schedules, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and PROJECT MANAGER and ENGINEER OF RECORD will not be responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents.

9.10.4 PROJECT MANAGER and ARCHITECT OF RECORD will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

## **SECTION 10 - CHANGES IN THE WORK**

### **10.1 Changes in the Work.**

10.1.1 Without invalidating the Agreement and without notice to any Surety, COUNTY may, at any time, by duly executed Change Order, order changes within the scope of the Contract Documents consisting of additions, deletions or other revisions in the Work. Upon receipt of that order, CONTRACTOR shall promptly proceed or continue with the Work involved (based on the conditions stated and other applicable conditions in the Contract Documents). If a change under this Section causes an increase or decrease in the Contract Price or any extension or shortening of the Contract Time, COUNTY will make an adjustment as provided in Section 11.

10.1.2 The COUNTY or PROJECT MANAGER may present to CONTRACTOR a Change Request requesting that CONTRACTOR submit a proposal for an adjustment in Contract Price or Contract Time or both for a proposed change in the Work. CONTRACTOR shall submit a proposed adjustment with all supporting data and the directions given in the Change Request within 7 days of receipt. Said proposed adjustment shall include an itemized estimate of all costs and time for the performance that will result directly or indirectly from the changes described. Estimates shall be prepared and in sufficient detail and with documentation such that PROJECT MANAGER can (1) analyze all material, labor and equipment, subcontracts, Contractor Allowances, and fees, and any other costs covering all aspects of the Work involved in the change, whether such was added, deleted, changed, or impacted; (2) determine that the proposal reflects all impacts on the Contract Documents of the proposed change; and (3) establish that all provisions of the Contract Documents have been complied with.

10.1.3 The COUNTY or PROJECT MANAGER may give instructions which may result in changes in the Work not involving an adjustment in the Contract Price or the Contract Time when such changes are necessary or expedient to the satisfactory performance and completion of the Work. These instructions shall be binding on CONTRACTOR. Any instruction, direction, interpretation, or determination from COUNTY or PROJECT MANAGER which causes a change shall be treated as a change under this Section provided that CONTRACTOR gives PROJECT MANAGER written notice stating the date, circumstances, specific order, and that CONTRACTOR regards the instruction as a change. Such written notification shall be given to PROJECT MANAGER within seven (7) days after receipt and before CONTRACTOR acts on said instruction, direction, interpretation, or determination. No Contract Claim, change or notice by CONTRACTOR will be allowed if asserted after Work has commenced on, or if notice is not provided within the stated time limit provided after receipt of, the instruction, direction, interpretation, or determination from COUNTY, PROJECT MANAGER, or any other source.

10.1.4 In making changes under this Section, COUNTY may give consideration to a notice, proposal or Contract Claim from CONTRACTOR, provided the notice, proposal or Contract Claim is presented in accordance with the requirements of this Section. CONTRACTOR shall provide COUNTY or PROJECT MANAGER any additional or supplemental information requested for purposes of evaluation of CONTRACTOR's submittal, but such requests by the COUNTY or PROJECT MANAGER will not constitute acceptance of the notice, proposal or Contract Claim.

10.1.5 The PROJECT MANAGER will evaluate a change notice from CONTRACTOR, and will review with CONTRACTOR the results of the evaluation before rendering a determination. If COUNTY, with the advice of PROJECT MANAGER, concurs that a change in the Work has occurred or been ordered, CONTRACTOR will be directed to submit a proposal for an adjustment. If COUNTY concludes that a change has not occurred or been ordered, COUNTY's determination shall be final and

binding on CONTRACTOR unless CONTRACTOR delivers to COUNTY written notice of a Contract Claim within seven (7) days from receipt of such decision.

## **10.2 Change Orders and Change Requests.**

10.2.1 The Contract Price, Contract Time or Scope of the Work shall be changed only by Change Order (unilateral or bilateral).

10.2.2 A Change Order duly executed by COUNTY and CONTRACTOR provides for an all inclusive settlement and total compensation for all requested changes and for the direct, supplemental, indirect, consequential and cumulative costs and delays. The CONTRACTOR's execution of the Change Order represents a waiver of any and all rights to file a Contract Claim on account of this instrument or the requested changes. An executed Change Order constitutes an agreement, an accord and complete satisfaction of all potential or actual claims related to the Change Order or the requested changes.

10.2.3 The COUNTY and CONTRACTOR shall execute Change Orders covering changes in the Work (including any necessary adjustments in Contract Price or Contract Time) which are ordered or agreed to by the parties or changes in Contract Price or Contract Time which are agreed to in total with reasonable promptness. Adjustments to Contract Price resulting from changed Work shall only be included in Applications for Payment after a Change Order has been duly executed.

10.2.4 A Change Order, duly executed by COUNTY, but not executed by CONTRACTOR, or executed by CONTRACTOR with a notice of reservation of rights to claim additional adjustments under a Contract Claim, shall become final and binding on CONTRACTOR as a Unilateral Change Order, without consideration of the reservation of rights, unless CONTRACTOR delivers to COUNTY written notice of a Contract Claim within seven (7) days after receipt of that instrument.

10.2.5 If changes to the Agreement result in a contract amount over 120% of the original value, the Surety shall be notified by the Contractor in writing and a copy of the notification shall be provided to the Project Manager.

## **10.3 Waivers.**

10.3.1 No Contract Claim by CONTRACTOR for an adjustment under these Contract Documents shall be allowed for any costs, disruption, suspension, interference, inefficiency, constructive acceleration or delay incurred more than seven (7) days before CONTRACTOR gives written notice as required.

10.3.2 No Contract Claim by CONTRACTOR for an adjustment under this Section shall be allowed if made after the date of Final Payment.

10.3.3 Additional Work performed without authorization by COUNTY of a Change Order will not entitle CONTRACTOR to an increase in Contract Price or an extension of Contract Time.

10.3.4 The CONTRACTOR acknowledges that there may be changes during the course of the Work and acknowledges that the probable effect of changes has been accounted for in the development of the Contract Price and the CPM Project Schedule. Whenever CONTRACTOR makes a Contract Claim under Section 11 such Contract Claim shall include the total amount of adjustment in Contract Price and Contract Time to which the CONTRACTOR believes it is entitled. Except as COUNTY and CONTRACTOR may otherwise agree in writing, CONTRACTOR shall be deemed to have waived (1) any adjustment to which it might otherwise be entitled under Section 11 where such Contract Claim fails

GENERAL CONDITIONS Facilities: Recreational Parks, Building Construction  
MAY 2013 (REVISED) or Building Renovation00800-56

to request such adjustments, (2) any increase in the amount of adjustment additional to that requested in the Contract Claim, and (3) any Contract Claim for reimbursement of impact allegedly resulting from the cumulative effect of the number, nature, or extent of any changes.

10.3.5 The CONTRACTOR recognizes and accepts the notice provisions of these Contract Documents as material conditions of the Contract Documents and agrees to make no claim based upon COUNTY'S actual notice or lack of prejudice to the COUNTY.

## **SECTION 11 - CHANGES IN CONTRACT PRICE OR CONTRACT TIME**

**11.1 Changes in Contract Price or Contract Time.** The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for the Work. All duties, responsibilities, liabilities, risks of every nature, and obligations assigned or undertaken by CONTRACTOR shall be at CONTRACTOR's sole expense without change in the Contract Price or Contract Time except as set out below:

### **11.2 Change Requests or Contract Claims Substantiating Adjustments.**

11.2.1 Supporting data for any Change Request or Contract Claim by the CONTRACTOR shall include at a minimum a complete and detailed breakdown of the proposed price and a detailed explanation of any time impact for the change. Said proposed price shall be based on the lowest reasonable cost consistent with sound construction practice. Such breakdown shall include itemizations by trade of all labor with man hours and hourly rates, by equipment with hours of use and hourly rates, and by material with each type of costs, all in sufficient detail to evaluate the cost of the individual components of the Work, including copies of purchase orders, invoices and subcontract change orders and other similar instruments that can document the transactions influencing the costs of the change order.

11.2.2 The CONTRACTOR's Change Request or Contract Claim shall state in writing and provide evidence that the amounts included cover all of the necessary changes or claims and all of the direct, supplemental, indirect, consequential, and cumulative costs and delays, as applicable, and that those costs and delays would be or were necessarily incurred, despite CONTRACTOR's reasonable, prudent and diligent efforts to mitigate them.

11.2.3 The CONTRACTOR's Change Request or Contract Claim supporting data shall become due within seven (7) days of receipt of a Change Request or receipt by COUNTY of written notice of Contract Claim and shall remain firm for a period of not less than sixty (60) days from receipt by PROJECT MANAGER of the proposal and supporting data. Any delay in the submittal of Change Request or Contract Claim will not justify or constitute basis for an increase in Contract Price or Contract Time. Contract Claims shall be submitted in the form provided in the Contract Documents.

11.2.4 Failure of CONTRACTOR to comply with the time requirements for written notice or for submittal of supporting data shall be considered a waiver by CONTRACTOR of any Contract Claim for an addition to the Contract Price or an adjustment to the Contract Time and CONTRACTOR agrees that no additional compensation or time adjustments are due if the provisions of Section 10 and this Section are not complied with.

11.2.5 Where the change in Contract Price arises from changes in the schedule of all or part of the Work, or where a change in Contract Time is sought, the change request shall be based on a detailed analysis of the CPM Project Schedule, and shall cover all applicable elements affecting the Work involved.

11.2.6 Contract Claims shall cover all aspects of the Work involved, whether relating to deleted, added, revised, or impacted items of Work. Amounts for Subcontractors or Suppliers at any tier shall be equally supported.

11.2.7 Contract Claims for an adjustment in Contract Price or Contract Time shall not be valid unless submitted in accordance with Section 10 and this Section.

11.2.8 Contract Claims shall be resolved under Section 3.55, Purchasing Policy of the Seminole County Administrative Code, or successor provisions.

### **11.3 Methods for Determining Adjustments in Contract Price.**

11.3.1 The methods to be used to determine an adjustment in Contract Price necessitated by changes ordered and negotiated pursuant to these General Conditions, or a Contract Claim, collectively to be referred to as the "Work involved," are limited to the following:

11.3.2 Where the Work involved is covered or is of the same character as Unit Price Work (whether the Work involved is within the Project limits or not), by application of those Unit Prices to the quantities of the items involved (subject to the provisions covering Unit Price Work). No additional allowances or charges shall be added to these Unit Prices.

11.3.3 Where the Work involved is not covered by Unit Prices contained in the Contract Documents, Unit Prices may be negotiated on the basis of costs calculated in accordance with this Section.

11.3.4 By mutual acceptance of a lump sum price negotiated on the basis of CONTRACTOR's itemized estimate of the anticipated cost of the Work involved, determined as specified in this Section.

11.3.5 Where COUNTY and CONTRACTOR cannot agree on any of the methods described in subsections 11.3.2, 11.3.3, or 11.3.4, COUNTY may direct CONTRACTOR to proceed with the Work involved on the basis of actual costs in accordance with this Section. When the Cost of the Work basis is directed by COUNTY, the COUNTY shall prescribe the required procedures for accounting of the allowed costs. The COUNTY may also authorize this work with an upset limit or not-to-be-exceeded cost established. These procedures shall include daily accounting of the labor, material and equipment used and employed. Failure to submit this information for acknowledgement by the PROJECT MANAGER within one day after any part of the Work is performed shall result in any discrepancy between PROJECT MANAGER's records and CONTRACTOR's records being resolved in favor of the PROJECT MANAGER's records.

11.3.6 Where COUNTY and CONTRACTOR cannot agree on any of the methods described in subsections 11.3.2, 11.3.3, or 11.3.4, and the COUNTY does not wish to proceed on a Cost of the Work basis as described in subsection 11.3.5, COUNTY with the advice of PROJECT MANAGER shall determine a reasonable adjustment of the Contract Price for the Work involved on the basis as described in Section 10 and this Section. The adjustment in Contract Price and Contract Time will be issued by Unilateral Change Order and CONTRACTOR shall be paid on that basis. COUNTY's determination shall be final and binding unless CONTRACTOR delivers to COUNTY written notice of a Contract Claim within seven (7) days of receipt of such Unilateral Change Order.

11.3.7 Where the Work involved is not covered by any of the preceding methods, and when payment is to be determined under the COUNTY's Contract Claims procedures or by a court of competent jurisdiction, it is agreed that the actual cost of the Work method shall be the appropriate method for determining the cost of the Work involved. Payroll, Equipment, Material and other costs will only be allowable when determined from daily time sheets which expressly correlate to the Work involved, were prepared while Work was in progress, clearly list actual units and usage, and were submitted to ENGINEER as the Work was performed. Costs, including but not limited to, office overhead and home office overhead of CONTRACTOR or subcontractors of every tier, shall not be derived from the computation of a rate by application of the Eichleay, Allegheny, Burden Fluctuation, total cost, or other similar formula based methodology.

11.3.8 Anticipated or actual costs computed for the Work involved means the sum of all incremental costs which would be, or actually were, necessarily incurred by CONTRACTOR in the proper performance of the Work. Those costs shall be in amounts no higher than those prevailing in the locality of Seminole County, a political subdivision of the State of Florida, or as allowed elsewhere in these Contract Documents, and shall include only the appropriate items for labor, material, equipment, and other supplemental and additional costs specified below:

#### **11.4 Determining Cost Adjustments to Changes in Contract Price.**

11.4.1 The CONTRACTOR shall provide to PROJECT MANAGER proof of any burdens, including insurance costs, added to base wages to determine payroll costs described in this Section.

11.4.2.1 Changes in the Contract Price made on the basis of the methods described in Section 11.3 shall be based upon the following: Payroll costs for craft labor in the direct employ of CONTRACTOR assigned to the site and engaged in furnishing and incorporating materials or equipment in the Work involved. Payroll costs shall include wages plus the necessary labor burdens, which may include social security, unemployment, workers compensation insurance, health and retirement benefits, vacation and Holiday pay, and other payments pursuant to union agreements but shall exclude profit sharing, bonuses, and similar remunerations. Labor charges shall be allowed only for hourly labor directly involved in the Work. Such personnel may include working foreman at the site. The cost of all salaried employees shall be considered as a part of Contractor Allowances allowed in this Section. Labor rates shall be as actually paid based on certified payroll records or in accordance with general rates for various pay categories established by union agreements or by mutual agreement between the COUNTY and CONTRACTOR prior to the commencement of the Work. The expenses of performing Work outside of normal Working hours, on weekends or Holidays, shall be included in the above to the extent authorized by COUNTY as set out in the Contract Documents.

11.4.2.2 Payments by CONTRACTOR to Suppliers for all material and equipment in the Work involved, including transportation, delivery, and storage costs and the necessary Suppliers field services for installation, assembly, inspection, testing and start-up All cash deposits shall accrue to COUNTY, if COUNTY advances funds to CONTRACTOR with which to make payments. All trade discounts, rebates and refunds and all returns from sale of surplus items shall accrue to COUNTY and CONTRACTOR shall make provisions so that they may be obtained. When required by COUNTY, CONTRACTOR shall obtain competitive bids from Suppliers in order to achieve a reasonable price. When determining material and equipment costs, actual invoices segregating items associated with Work involved shall be the record upon which actual costs shall be based.

11.4.2.3 Payments by CONTRACTOR to Subcontractors for Work involved performed by Subcontractors. When required by the COUNTY, the CONTRACTOR shall obtain competitive detailed bids from Subcontractors in order to achieve a reasonable price. When determining Subcontractor costs at any tier, the Subcontractor's Cost shall be determined in the same manner as CONTRACTOR's costs. All Subcontracts shall be subject to the provisions of this Section insofar as applicable.

11.4.2.4 Costs of field supplies consumed in the performance of the Work involved, and purchase costs of small tools used or consumed in the performance of the Work involved (and purchase cost less market value if used but not consumed) which are individually valued at less than \$1,000.00. Consumable shall include such items as rags, nails, fasteners, weld rod, gases, lubricants, paper, grout, stakes, power and fuel for tools and equipment, chains, cables, hoses, water, and similar items normally used in the course of the Work. Costs of field supplies will be paid as a percentage of direct labor cost in an amount that shall not exceed the allowance shown in this Section.

11.4.2.5 The equipment costs required solely in connection with the Work involved reflecting rented or leased or owned equipment costs for individual construction equipment or machinery whose replacement value is in excess of \$1,000.00. Transportation, delivery, loading and unloading, installation, dismantling and removal costs shall be included only if such equipment is or was transported to the site solely to perform the Work involved. All equipment costs shall cease when the equipment is no longer necessary to perform the Work involved. Payroll costs for craft labor operating the equipment shall be as in subsection 11.4. The equipment costs shall be computed using the same accounting and estimating rules regardless of whether related to added or deleted items of Work.

11.4.2.6 Rented or owned equipment at the site, and not in actual use, shall be paid at the rates for rented equipment, or on the basis of fifty percent (50%) of the rates for owned Equipment, respectively, as specified below. In no event shall the idle time claimed in a day exceed the established normal Working hours. Payments for idle equipment shall come due only as long as the equipment was idled solely by actions of COUNTY, and provided that the idle period exceeds that normally experienced for such equipment.

11.4.2.7 Except as provided below, for equipment rented or leased, CONTRACTOR shall be entitled to amounts based on negotiated rental or lease rates, but in no event shall the amounts allowed exceed an hourly rate based on the monthly rates, listed in the most current and most appropriate Rental Rate Blue Book (Blue Book) published by Dataquest, Inc. for the area where the Project is located (presently 3 volumes, relating to Equipment of various ages) divided by 176 hours per month. Rates for Equipment not included in the Blue Book shall be interpolated or extrapolated from the information contained therein. In addition to the rental or leasing rate, operating costs shall not exceed the estimated hourly operation rate in the Blue Book. For multiple shift Work, the allowable equipment rate for second or third shifts shall not exceed fifty percent (50%) of the adjusted base rate.

11.4.2.8 For equipment rented or leased from lessor firms associated with or owned by CONTRACTOR, the CONTRACTOR shall be entitled to reimbursement as though the equipment was owned equipment, as specified below.

11.4.2.9 For equipment owned by CONTRACTOR, the CONTRACTOR shall be entitled to costs based on billings established by his normal accounting practices, but in no event shall those costs exceed the maximum allowable costs for rented or leased equipment.

11.4.2.10 Costs of special consultants, Engineers or Architects who are not employees in the direct employ of CONTRACTOR or any of the Subcontractors or Suppliers, or special Subcontractors; provided that those costs are or were authorized by COUNTY prior to proceeding with the Work involved, and only if their activities are not covered by costs included under subsection 11.4, or are not excluded by subsection 11.9.

11.4.2.11 Sales, consumer, or similar taxes related to the Work involved, and for which CONTRACTOR is liable, royalty payments, and fees for permits and licenses, any of them related solely to the Work involved.

11.4.2.12 Deposits to be lost for causes other than negligence of the CONTRACTOR, the Subcontractors or anyone directly or indirectly employed by them.

11.4.2.13 Increased costs of premiums for Bonds and Insurance resulting solely because of the Work involved.

## **11.5 Costs Covered by CONTRACTOR's ALLOWANCES.**

11.5.1 Except as otherwise specifically provided in subsection 11.9, the Cost of the Work involved shall not include any of the following costs, all of which are considered to be covered by CONTRACTOR's ALLOWANCES:

11.5.2 Payroll costs and other compensation of personnel employed by CONTRACTOR whether at the site or in CONTRACTOR's principal or a branch office for management or administration of the Work, including, but not limited to, (a) CONTRACTOR's officers, executives, principals, general managers, project managers, project engineers, construction managers, estimators, schedulers, detailers, claims consultants, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, and (b) resident superintendents, nonworking foremen, field engineers and architects, safety personnel, timekeepers, and clerks.

11.5.3 Expenses of CONTRACTOR's principal, branch and site offices and all field and home office overhead expenses of any nature except as authorized in writing by COUNTY prior to proceeding with the Work involved.

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

11.5.5 Costs due to the fault or negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to deposits to be lost, costs to correct Defective Work, disposal of Materials or Equipment wrongly supplied and making good any damage to property.

11.5.6 Market value of small tools used but not consumed which remain in the property of CONTRACTOR.

11.5.7 Costs associated with the preparation of Change Orders (whether or not ultimately authorized by COUNTY), or the preparation or filing of Contract Claims or other claims of any nature.

11.5.8 Expenses of CONTRACTOR associated with anticipated lost profits or lost revenues, lost income or earnings, lost interest on earnings or unpaid retainage.

11.5.9 Costs derived from the computation of a "home office overhead" rate by application of the Eichleay, Allegheny, Burden Fluctuation, total cost, or other similar formula based methods.

11.5.10 Costs of special consultants or attorneys, whether or not in the direct employ of CONTRACTOR, employed for services specifically related to the resolution of a Contract Claim, dispute, or other matter relating to the acceptability of the Work.

11.5.11 Other administrative expense or contingent costs of any kind, and the costs of any item not specifically and expressly included in Section 11.

**11.6 CONTRACTOR ALLOWANCES for Changes to the Work.** CONTRACTOR's ALLOWANCES, which includes costs not directly chargeable under this Section, expenses itemized in subsection 11.5, and profit shall not exceed the following percentages of the various portions of the Work involved. The percentages for allowances are specific as to each identified cost element and are not layered or cumulative in effect. No other allowances in addition to these will be allowed.

Cost Element	Allowance for Additions	Allowances for Deletions
CONTRACTOR and Subcontractor labor per subsection 11.4.2.1. exclusive of the premium portion of craft labor	15%	(7.5)%
CONTRACTOR and Subcontractor Equipment and Materials per subsection 11.4.2.2.	15%	(7.5)%
Subcontractor costs resulting from direct Subagreement with CONTRACTOR per subsection 11.4.2.3.	5%	(2.5)%
Allowance for small tools and consumable per subsection 11.4.2.4. (percentage of direct labor)	2%	0%
CONTRACTOR and Subcontractor owned or rented Equipment per subsection 11.4.2.5.	15%	(7.5)%
CONTRACTOR and Subcontractor supplemental costs per subsection 11.4.2.9. premium portion of craft labor costs; and other authorized costs.	0%	0%

### **11.7 Unit Price Work.**

11.7.1 Where the Contract Documents provide for Unit Price Work, the Contract Price stated in the Agreement will include for all Unit Price Work an amount equal to the sum of the Unit Prices for each item of Unit Price Work times the estimated quantity of each item as indicated in the Contract Documents. Each Unit Price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover all costs, including supplemental and administrative costs, and profit.

11.7.2 The CONTRACTOR shall promptly, after becoming aware of, and before proceeding with any significant quantities of affected Work, notify COUNTY in writing of any additional or reduced quantities for an item of Unit Price Work which will require a twenty percent (20%) or higher adjustment in the as-awarded quantity for that item or an increase in Contract Price greater than five percent (5%).

11.7.3 The COUNTY reserves the right to notify CONTRACTOR in writing of any variation in quantities meeting the criteria established in this subsection.

11.7.4 Prior to Final Payment, or before the total amount paid exceeds the established Contract Price, an appropriate Change Order will be issued on the recommendation of PROJECT MANAGER, to adjust the estimated quantities for Unit Price Work and to correspondingly adjust the Contract Price.

11.7.5 If the COUNTY determines that the additional or reduced quantities for an item of Unit Price Work justify an adjustment in the Unit Price, COUNTY shall authorize such an adjustment. No adjustment shall be provided under this subsection unless the variation between actual and estimated quantities for all Unit Price Work result in an increase or decrease in Contract Price by more than ten percent (10%). If COUNTY determines that the Unit Prices established in the Contract Documents are valid even for the additional or lower quantities, that decision shall be final and binding on CONTRACTOR unless CONTRACTOR delivers to COUNTY written notice of a Contract Claim within 7 days from receipt of such decision.

11.7.6 In re-evaluating Unit Prices contained in the Contract Documents, the CONTRACTOR and COUNTY shall take into account increases or decreases in CONTRACTOR's supplemental and administrative costs for the performance of the Work solely as a result of the variation in quantities, as opposed to as a result of CONTRACTOR's fault or negligence, or bid estimate errors.

**11.8 Cash Allowances.** It is understood that when cash allowances are named in the Contract Documents CONTRACTOR has included in the Contract Price all allowances so named. CONTRACTOR shall cause the Work so covered to be within the limit of the allowances set forth in the Contract Documents. Upon Final Payment, the Contract Price shall be adjusted as required and an appropriate Change Order issued. CONTRACTOR agrees that the original Contract Price includes such sums as the CONTRACTOR deems proper for costs and profit on account of cash allowances. No demand for additional cost or profit in connection therewith will be valid.

### **11.9 Criteria for Determining Adjustments in Contract Time.**

11.9.1 The criteria to be used to determine an adjustment in Contract Time necessitated by changes ordered or negotiated pursuant to these General Conditions or a Contract Claim, are limited to the following:

11.9.2 An extension in Contract Time will not be granted unless CONTRACTOR can demonstrate through an analysis of the CPM Project Schedule that the increases in the time to complete the Work, or specified part of the Work, beyond the corresponding Contract Time(s) arise from unforeseeable causes beyond the control and without the fault or negligence of both CONTRACTOR and his Subcontractors, Suppliers or other persons or organizations, and that such causes in fact lead to performance or completion of the Work, or specified part in question, beyond the corresponding Contract Time. An adjustment in Contract Time will be based solely upon net increases in the time required for the performance or completion of parts of the Work controlling achievement of the corresponding Contract Time(s) at the time that the incident which causes the change occurs. However, even if the time required for the performance or completion of controlling work items of the Work is extended, an extension in Contract Time will not be granted until performance or completion of the controlling work items necessarily extends beyond the Contract Time in question despite CONTRACTOR's reasonable and diligent actions to guard against those effects. Examples of unforeseeable causes include: (1) acts of God or of the public enemy; (2) acts of COUNTY or PROJECT MANAGER in its sovereign or contractual capacity; (3) acts of the Government or another Public Entity in its sovereign capacity; (4) acts of another contractor in the performance of a contract with the COUNTY, if not identified in the Contract; (5) fires, floods, epidemics, quarantine restrictions; (6) sink holes, archaeological finds; (7) strikes, freight embargoes; (8) hurricanes, tornadoes or unusually severe weather; (9) a case of differing physical

conditions; and (10) unusually severe shortages of construction materials from such causes as area-wide shortages, an industry-wide strike, or a natural disaster which affects all feasible sources of supply.

11.9.3 Notwithstanding any provisions in the Contract Documents to the contrary, an extension of Contract Time shall be the sole remedy of CONTRACTOR for any delay of any kind. The COUNTY's exercise of any of its rights under Section 10 and this Section regardless of the extent or number of the changes, or the COUNTY's exercise of its remedies of stopping the Work or requiring correction or re-execution of any defective Work shall not under any circumstances be construed as active or intentional interference with the CONTRACTOR's performance of the Work.

**11.10 Waivers.** The CONTRACTOR expressly waives recovery (1) of acceleration costs incurred as an alternative to an extension in Contract Time on account of delays not meeting the requirements for extensions in Contract Time or an adjustment in Contract Price; (2) of escalation costs for any part of the Work; and, (3) of any Contract Claim for an addition to the Contract Price when the CONTRACTOR fails to comply with the time requirements for notice or submittal of supporting data under these Contract Documents.

## SECTION 12 - SCHEDULES

### 12.1 Schedules.

#### 12.1.1 Types of Schedules

##### 12.1.1.1 Project Schedule:

###### 12.1.1.1.1 Project Schedule Definitions:

- a) **Work Activites** - The significant events of the Project. All significant work activities must be identified in sufficient detail to track work activity progress towards completion and consequentially, the completion of the Project.
- b) **Start Date and Finish Date** - The dates a work activity will begin and will be completed.
- c) **Duration** - The length of time it takes for a work activity to be completed, from Start Date to Finish Date.
- d) **Sequence** - The order in which a group of work activites must be completed. This includes work activites that are done **concurrently** (at the same time), **sequentially** (must finish one before starting the next) or **overlap** (may start one before finishing the other).
- e) **Critical Path** - The complete sequence of work activites whose accumulative duration determines the length of time needed to complete the entire Project from NTP to Final Completion. In addition, the Date of Substantial Completion is typically 30 days before the Final Completion and should be considered as a critical path item that should be accomplished on schedule. Liquidated Damages can accumulate for each day in delinquency of reaching a certified Date of Substantial Completion from the Architect.
- f) **Critical Path Items** - The work activites on the Critical Path.
- g) **Controlling Work Items** – Those activities that are either critical path or indirectly influences the critical path. Such as a controlling work item provided by the Owner.
- h) **Float Time** - The duration of a work activity that is not on the Critical Path which could be delayed without affecting the date of Substantial Completion. Time and conditions for Float Time shall be clearly established in the Contract Documents.

12.1.1.1.2 CONTRACTOR shall prepare and submit for ARCHITECT's review a time scaled Project Schedule with a Critical Path (CPM). The Project Schedule shall show the sequence in which CONTRACTOR proposes to accomplish the Work including, but, not limited to procurement and delivery of materials and equipment, expected durations for RFI and Shop Drawing Reviews, expected durations for utility coordinations, permit approvals and provisions for the work of others. The Project Schedule shall clearly depict the order, interdependence, duration, and installation man-days by craft of each Work activity. The Project Schedule shall show all of the Work activities to be completed and the accumulative duration of the Critical Path leading to each Substantial and Final Completion. Beginning with the Notice To Proceed (NTP) and ending with the date of Final Completion, the duration of the Project Schedule's Critical Path shall comply with the Contract Time and shall meet the Contract Agreement's Substantial and Final Completion requirements. The float time for each Work activity not on the Critical Path shall be depicted. At a minimum, the Project Schedule shall be submitted in a digital format acceptable to the Owner, such as Microsoft Project or an equivalent. All project scheduling software shall be approved by the PROJECT MANAGER before schedule submittal. The Project Schedule breakdown shall be by divisions of Work subdivided into areas or facilities in sufficient detail so that ARCHITECT may readily evaluate CONTRACTOR's progress at any given time during the Project and shall be arranged and itemized so ARCHITECT can evaluate CONTRACTOR'S requests for progress payments.

12.1.1.1.3 CONTRACTOR shall include in the Project Schedule Work activities clearly showing sufficient time for CONTRACTOR's coordination of all utility work at, or adjacent to, the Project site. These Work activities apply to all utility work at the site; including all locate services, connections to existing utilities, demolition, removal, re-locations and adjustments (temporary and permanent) regardless of whether the work is performed by CONTRACTOR, the COUNTY's own forces or by others. The CONTRACTOR shall assign reasonable and realistic start and finish dates to utility relocation work activities and must include a mandatory 30 days minimum float time. The 30 days of float time for utility relocations must be clearly depicted on the Project Schedule. The COUNTY will not consider any Contract Time extensions related to utility coordination matters unless the utility related delays exceed the thirty (30) Days float time and extend the Critical Path of the Project Schedule.

12.1.1.1.4 The CONTRACTOR shall include in the Project Schedule sufficient time for Architectural or Engineering review of Shop Drawings and RFI's.

12.1.1.2 Shop Drawing Schedule: CONTRACTOR shall prepare and submit to ARCHITECT and PROJECT MANAGER for review, a schedule of Shop Drawing and sample submissions. This schedule shall consist of a list of the submittals to be made over the course of the Project; anticipated and actual dates of submittal and return for both initial and resubmissions; and the anticipated dates of submittal approval so as not to delay the Project. The schedule shall allow for review and processing time by the Architect, the Engineers and the COUNTY.

12.1.1.3 Manpower/Cash Flow Schedule: CONTRACTOR shall prepare and submit to PROJECT MANAGER for review with the Project Schedule, manpower charts and cash flow Projections contemplated or required by the schedule in a form acceptable to PROJECT MANAGER. Updated plan and actual expended manpower charts and cash flow Projections shall be submitted with each monthly or interim Project Schedule submission.

12.1.1.4 Schedule of Values: For all lump sum contracts or as needed CONTRACTOR shall prepare and submit to PROJECT MANAGER for review a schedule of values to describe itemized costs before work begins.

#### 12.1.2 Submittals.

12.1.2.1 CONTRACTOR shall submit to the ARCHITECT and the PROJECT MANAGER at the Pre-Construction Meeting a Preliminary Project Schedule and a Schedule of Values for general review.

12.1.2.2 CONTRACTOR shall submit to the ARCHITECT and the PROJECT MANAGER for acceptance and approval the CPM Project Schedule within five (5) days of the Date of Notice To Proceed.

12.1.2.3 CONTRACTOR shall depict on the CPM Project Schedule, the actual progress on a monthly basis and at such intervals as requested by the PROJECT MANAGER OR ARCHITECT and shall deliver to ARCHITECT five (5) copies of the schedule documentation and a digitally formatted version on CD.

12.1.2.4 Updated CPM Project Schedules are to be submitted with each Application for Payment. An Application for Payment shall not be paid until the schedule submittal, including cash flow projections, and any requested corrections or clarifications have been accepted by ARCHITECT OF RECORD for inclusion into the Application for Payment. If additional updated schedules are requested by the Architect or the Engineers more frequently, they are to be provided within three (3) days of the date of request, but, do not constitute permission to submit additional Applications for Payment.

### 12.1.3 Review.

12.1.3.1 The CONTRACTOR shall submit all project schedules that are accompanied with an Application of Payment to the Architect for review. If, in the opinion of the Architect, the project schedule (1) does not accurately reflect CONTRACTOR's actual construction progress or, (2) is unreasonable or cannot be used to effectively evaluate the CONTRACTOR's progress or, (3) is not in compliance with this Section and other appropriate sections of the Contract Documents, it will be returned to CONTRACTOR for corrections or clarification. The CONTRACTOR shall make the necessary corrections and resubmit or shall respond in detail to the Architect's comments immediately, and request that the submittal be accepted without modification. Failure by the CONTRACTOR to provide corrections or clarifications to schedule submittals as directed by Architect or the Project Manager shall constitute reason to withhold or delay approval of any Application for Payment.

12.1.3.2 The Architect's review of schedule submittals shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has, in writing, called COUNTY's attention to each such variation at the time of submission and COUNTY has given written approval of each such variation; nor shall any approval by COUNTY or the ARCHITECT of RECORD relieve CONTRACTOR from responsibility for compliance with any provision of the Contract Documents.

12.1.4 The Contract Time establishes the start and completion of the Work period and the Work duration is the measurement of time from which the COUNTY expects the Work to be performed. Any schedule which shows completion ahead of the Contract Time shall include additional detailed supporting data to explain the basis of the shorter time for performance. Submission by the CONTRACTOR of any Schedule or Contractor's Claim indicating completion ahead of schedule shall not constitute an adjustment in Contract Time; however, CONTRACTOR may complete the Work ahead of the Contract Time and close out the Work as provided in the Contract Documents. The increased schedule flexibility represented in the shorter schedule shall allow the use of the increased schedule flexibility by the COUNTY. In any case, the COUNTY shall not consider nor be responsible for any costs, risks, liabilities or obligations, actual or anticipated, resulting from any delay or acceleration to CONTRACTOR's schedule that prevents completion of any part or all of the Work according to the agreed upon Contract Time and Date of Substantial Completion; nor shall the COUNTY be obligated to incur any additional costs or expenses for administrative, architectural, engineering or inspection related work regarding the CONTRACTOR's voluntary accelerated Work. No Contractor's Claim for Contract Time or Contract Price shall be considered nor compensated to the CONTRACTOR for any County or Architect of Record's delay, disruption, interference, inefficiency, constructive acceleration or other time impacts prior to the original or current agreed upon Contract Time for Substantial or Final Completion of the Work.

12.1.5 It is understood that revisions in the schedule are inherent in the nature of construction. This may require that changes be made in the schedule to reflect the dynamic nature of the design and the Work. Actions by COUNTY, PROJECT MANAGER or ARCHITECT OF RECORD, that may affect the progress of any part or all of the Work shall make use of the flexibility in the Project Schedule, often expressed as schedule float time, and that which may result from changes in the sequencing of individual Work items, to limit the impact of such actions. The flexibility in the Project Schedule shall not be limited by the inclusion of restraints, logic or imposed dates into the schedule that cannot be reasonably justified. Float time is defined as the amount of time between the early start date and the late start date or the early finish date and the late finish date of any of the activities on the Project Schedule. Positive float time is for the exclusive use or benefit of COUNTY. Positive float time is owned and belongs to the COUNTY and must be used in the best interest of the public to assure timely completion of the Work.

Therefore, any float time shall be used to the maximum extent possible to offset: (1) unexpected delays which occur in connection with the Work; (2) acts of God; and (3) change actions initiated by the COUNTY including, but not limited to, unilateral Change Orders and acceleration orders.

12.1.6 After Substantial Completion, but prior to Final Payment, CONTRACTOR shall submit an as-built schedule. The schedule shall reflect (1) all as-built critical paths, (2) all contract activities, including all added activities, with their actual start and finish dates, (3) the actual number of separate Work days during which Work was performed on each activity, and (4) the actual number of man-days that were required to complete each activity.

12.1.7 It is expressly agreed that CONTRACTOR shall not be entitled to damages for any type of delay or acceleration whatsoever under any circumstances; and the CONTRACTOR expressly waives any increase in Contract Price or damages of any type on account of time impacts to the Project Schedule including, but not limited to, Contract Claims for delay, acceleration, disruption, suspension, interference and inefficiency. It is further expressly agreed that the exclusive remedy for time impacts to the Project Schedule including, but not limited to, Contract Claims for delay, acceleration, disruption, suspension, interference and inefficiency, will consist of Contract Time extensions under the terms of the Contract Documents and will exclude the CONTRACTOR's right to recover any monetary damages of any nature from COUNTY. The parties agree that this no damages for delay clause applies to all damages or claims that may arise because of delay or acceleration of any nature experienced by CONTRACTOR, no matter how caused, because of acts or omissions of the COUNTY, the presence and operations of the COUNTY performing work with its forces, the work of utility contractors, utility agencies or the work of others at the Project site; the COUNTY assumes no direct or vicarious liability for any losses and expenses incurred by the CONTRACTOR. In the event that this subsection is found by a court of competent jurisdiction to be void or inapplicable, then CONTRACTOR shall compute all damage claims as provided in subsection 17.9 of these General Conditions.

12.1.8 Delays of Subcontractors, suppliers, materialmen, or others selected by CONTRACTOR or CONTRACTOR's Subcontractors, without regard to the tier or privity of contract between the CONTRACTOR and CONTRACTOR's Subcontractors, shall not be excusable to the CONTRACTOR and shall not be the basis of a Contract Claim for Contract Time or Contract Price by CONTRACTOR.

## **SECTION 13 - WARRANTY AND GUARANTEE, TESTS AND INSPECTIONS, CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**

**13.1 Warranty and Guarantee.** CONTRACTOR warrants and guarantees that all Work will be in accordance with the Contract Documents and will not be Defective. All Defective work, whether or not in place, may be rejected, corrected or accepted as provided in this Section. The obligations of CONTRACTOR under this subsection shall be in addition to and not in limitation of any obligation imposed upon him by special guarantees required by the Contract Documents or otherwise prescribed by Laws or Regulations.

**13.2 Access to Work.** COUNTY, PROJECT MANAGER, ARCHITECT OF RECORD, their representatives, testing agencies and governmental entities with jurisdiction shall be permitted access to the Work for their observation, inspection and testing. CONTRACTOR shall provide proper and safe conditions for such access.

### **13.3 Tests and Inspections.**

13.3.1 CONTRACTOR shall give PROJECT MANAGER timely notice of readiness of the Work for all required inspections, tests or approvals. Inspections, tests or observations by PROJECT MANAGER, ARCHITECT OF RECORD, COUNTY or their agents may be performed at their discretion to provide information to the COUNTY on the progress of the Work. However, such information is not intended to fulfill the CONTRACTOR's obligations in accordance with the Contract Documents.

13.3.2 If any law, ordinance, rule, regulation, code or order of any public body, government entity or court having jurisdiction requires any Work (or part thereof) to specifically be inspected, tested or approved, CONTRACTOR shall assume full responsibility therefore, pay all related costs, schedule related activities at appropriate times, and furnish PROJECT MANAGER the required certificates of inspection, testing or approval. CONTRACTOR shall also be responsible for and shall pay all costs, in connection with any inspection or testing required in connection with COUNTY's or PROJECT MANAGER's acceptance of a proposed manufacturer, fabricator, supplier or distributor of materials or equipment proposed to be incorporated in the Work, or of material or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation of the Work. All inspections, tests or approvals shall be performed by persons or organizations acceptable to COUNTY and PROJECT MANAGER.

13.3.3 The CONTRACTOR shall perform sufficient testing and inspection of the Work to support the Warranty and Guaranty requirements.

13.3.4 Neither observations by PROJECT MANAGER or COUNTY nor inspections, tests or approvals by others shall relieve CONTRACTOR from his obligations to perform the Work in accordance with the Contract Documents and Building Code Requirements.

13.3.5 If any testing, inspection or approval under this subsection reveal Defective Work, CONTRACTOR shall not be allowed to receive any associated costs and COUNTY shall be entitled to deduct from the Contract Price, by issuing a Change Order, COUNTY's costs arising out of the Defective Work, including costs of repeated procedures, compensation for PROJECT MANAGER's and ARCHITECT OF RECORD's services and other related costs.

### **13.4 Uncovering Work.**

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

13.4.2 If PROJECT MANAGER considers it necessary or advisable that covered Work be observed by PROJECT MANAGER or inspected or tested by others, CONTRACTOR, at PROJECT MANAGER's request, shall uncover, expose or otherwise make available for observation, inspection or testing as PROJECT MANAGER may require, that portion of the Work in question, furnishing all necessary labor, Material and Equipment. If it is found that such Work is Defective, CONTRACTOR shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, any additional expenses experienced by the COUNTY due to delays to others performing additional Work, other contractual obligations, and attorneys' fees and COUNTY shall be entitled to issue an appropriate deductive Change Order. CONTRACTOR shall further bear the responsibility for maintaining the schedule and will not be allowed an increase in Contract Price or Contract Time due to the uncovering. If, however, such Work is not found to be Defective, and subsection 13.4.1 is not applicable, CONTRACTOR shall be allowed an increase in the Contract Price or the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction if it makes a Contract Claim therefor as provided in Section 10.

**13.5 Correction or Removal of Defective Work.** CONTRACTOR shall promptly, without cost to COUNTY and as specified by PROJECT MANAGER, either correct any defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by PROJECT MANAGER, remove it from the site and replace it with conforming Work. The CONTRACTOR shall bear the cost of repairing or replacing all Work and property of the COUNTY or others destroyed or damaged or in any way impacted by such correction or removal.

**13.6 Acceptance of Defective Work.** If, instead of requiring correction or removal and replacement of Defective Work, COUNTY prefers to accept it, COUNTY may do so. In such case, if acceptance occurs prior to Final Payment, COUNTY shall be entitled to issue a Change Order incorporating the necessary revisions in the Contract Documents, including appropriate reduction in the Contract Price. If the acceptance occurs after such Final Payment, an appropriate amount shall be paid by CONTRACTOR to COUNTY.

**13.7 COUNTY May Correct Defective Work.** If CONTRACTOR fails within a reasonable time after written notice of PROJECT MANAGER to correct Defective Work or to remove and replace rejected Work as required by PROJECT MANAGER in accordance with this Section, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents (including any requirements of the Progress Schedule), COUNTY may, after seven (7) days written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising its rights under this subsection COUNTY shall proceed with reasonable promptness. To the extent necessary to complete corrective and remedial action, COUNTY may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which COUNTY has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow COUNTY, COUNTY's representatives, GENERAL CONDITIONS Facilities: Recreational Parks, Building Construction  
*MAY 2013 (REVISED)* or Building Renovation00800-71

agents and employees such access to the site as may be necessary to enable COUNTY to exercise its rights under this subsection. All direct and indirect costs of COUNTY in exercising such rights shall be charged against CONTRACTOR in an amount documented by COUNTY, and COUNTY will be entitled to issue a Change Order incorporating the necessary revisions in the Contract Documents and a reduction in the Contract Price. Such direct and indirect costs shall include, in particular but without limitation, all corrective or replacement costs, compensation for additional professional services required and all costs of repair and replacement of property of others destroyed, impacted or damaged by correction, removal or replacement of CONTRACTOR's Defective Work. CONTRACTOR shall not be allowed an increase in the Contract Price or the Contract Time because of any delay in the performance of the Work attributable to the exercise by COUNTY of COUNTY's rights hereunder.

### **13.8 Warranty Period.**

13.8.1 The Warranty Period shall commence on the date of Final Completion of the entire Work, or a later date if so specified in the Contract Documents, and extend until two (2) years after that date (or whatever longer period may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.)

13.8.2 If within the designated Warranty Period, the Work, or any part of the Work, is discovered to be Defective, CONTRACTOR shall promptly, without an adjustment in Contract Price and in accordance with COUNTY's or PROJECT MANAGER's written instructions, either correct that Defective Work, or if it has been rejected by COUNTY or PROJECT MANAGER, remove it from the site and replace it with non-Defective Work. If circumstances warrant it, including, but not limited to, in an emergency, COUNTY may have the defective Work corrected or the rejected Work removed and replaced. In that event, CONTRACTOR shall not be allowed to recover any associated costs, and he shall reimburse COUNTY for all direct, indirect and consequential costs of COUNTY, or COUNTY shall be entitled to issue a Change Order to incorporate an appropriate decrease in Contract Price if prior to Final Payment. COUNTY shall reserve and retain all of its rights and remedies at law and equity against CONTRACTOR and its Surety for damages and for corrections of any and all latent defects.

### **13.9 Extended Warranties and Guarantees.**

13.9.1 COUNTY may at its sole discretion advance or defer the date of commencement of the Warranty Period, in which case CONTRACTOR shall maintain the warranties and guarantees in full force and effect until the revised date for commencement of the Warranty Period. If such advancement or deferral in the date for commencement of the Warranty Period causes an increase or decrease in the cost of the warranties and guarantees provided by CONTRACTOR, COUNTY shall make an adjustment in Contract Price or Contract Time, as provided in Sections 10 and 11.

13.9.2 In circumstances where COUNTY undertakes partial utilization of a portion of the Work which was specifically identified in the Contract Documents, CONTRACTOR shall maintain the warranties and guarantees in full force and effect during the period between the applicable commencement of partial utilization date, and the date of commencement of the Warranty Period, and for such warranties and guarantees CONTRACTOR shall receive no adjustment in Contract Price.

13.9.3 In special circumstances where CONTRACTOR fails to complete the Work or a separable portion of the Work within the corresponding Contract Time, including any authorized adjustments and COUNTY undertakes partial utilization, CONTRACTOR shall maintain the warranties and guarantees in full force and effect during the period between the applicable commencement of partial utilization date, and the date of commencement of the Warranty Period, and for such warranties and guarantees CONTRACTOR shall receive no adjustment in Contract Price.

**13.10 Special Maintenance Requirements.** In special circumstances where the Work, or a designated part, reaches Substantial Completion, but as provided in the Contract Documents, is not placed in continuous service until the commencement of the Warranty Period, CONTRACTOR shall maintain the Work, or designated part, in good order and in proper Working condition, provide suitable drainage, and take all other actions as are necessary for its protection during the period between the applicable Substantial Completion date and the date of commencement of the Warranty Period, and for such maintenance CONTRACTOR shall receive no adjustment in Contract Price. In the event that Work suffers loss or damage, however caused, CONTRACTOR shall rebuild, repair, restore, and make good without an increase in Contract Price all losses or damages to any portion of any Work and shall without an increase in Contract Price provide suitable drainage and erect such temporary structures and take all other actions as are necessary for its protection. Suspension of Work or the granting of an extension in Contract Time for any cause shall not relieve CONTRACTOR of his responsibility for the Work, or designated part, as specified in this subsection.

**13.11 Extended Warranty Period Due to Defective Work.** Any Defective Work that is either corrected, accepted, or rejected and replaced will be warranted and guaranteed for a period of two (2) years from the date of such correction, acceptance, or removal and replacement, even if it had previously been corrected, accepted or replaced, in accordance with the provisions of this Section 13. If within such extended Warranty Period, that Work is once again found to be Defective, COUNTY shall be entitled to all of COUNTY's rights and remedies under this Section.

## SECTION 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

**14.1 Submittals.** The Contractor will not be entitled to receive a Progress Payment until the following are submitted and approved by the PROJECT MANAGER:

- a) Application for Payment w/requested backup as needed.
- b) Signed Certificate of Payment from Architect of Record.
- c) Signed and Sealed As-Built Survey of work constructed or installed during pay period by a Florida Registered Professional Surveyor and Mapper.
- d) Updated and current CPM Project Schedule for pay period.

On each Application for Payment, the CONTRACTOR shall (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) submit certified payroll sheets for his own forces and all Subcontractors for the month preceding this application; and, (3) submit a monthly cash flow projections for the Project.

Additional items that may be requested along with the Application for Payment are the following: partial releases of liens, contractor material tickets, invoices for services or purchases, record drawings, surveyor's notes and contractor daily logs or reports.

**14.2 Application for Payment.** Not later than the *First* of each month, the CONTRACTOR shall meet with the ARCHITECT and the PROJECT MANAGER to agree on quantities of Work completed and to review and approve the draft copy of the Application for Payment and the materials on site for the previous month. Using the agreed upon figures, the CONTRACTOR shall generate the Application for Payment and deliver it to the ARCHITECT for a signed Certificate of Payment. The CONTRACTOR then, shall submit the signed Application for Payment and Certificate of Payment to the Seminole County Finance Department for processing and submit the As-Built Survey and the CPM Project Schedule to the PROJECT MANAGER accompanied by any additional supporting documentation as requested.

14.2.1 After the first Application for Payment, CONTRACTOR shall include an affidavit stating that all previous progress payments received on account of the Work have been applied (1) to discharge CONTRACTOR's obligations and (2) to pay in full (less retainage) all amounts owed to its Subcontractors and Suppliers reflected in prior Applications for Payment. The CONTRACTOR shall on the Application for Payment form note and explain when it has not discharged its obligations or paid in full (less retainage) all amounts owed as stated above.

14.2.2 The CONTRACTOR shall submit partial releases of liens from Subcontractors and Suppliers in a form satisfactory to the COUNTY, prior to processing any Pay Applications.

14.2.3 Neither COUNTY or PROJECT MANAGER is under any duty or obligation whatsoever to any Subcontractor, Supplier, laborer or any other party to ensure that payments due and owing by CONTRACTOR to any of them are or will be made.

### 14.3 Stored Materials.

14.3.1 COUNTY may, at its sole option, pay an amount equal to ninety percent (90%) of the value of materials and equipment not incorporated into the Work but delivered and suitably stored in a secured condition, less in each case the aggregate of payments previously made. In no event shall payments for materials and equipment stored on site exceed ninety percent (90%) of the value of the GENERAL CONDITIONS Facilities: Recreational Parks, Building Construction MAY 2013 (REVISED) or Building Renovation00800-74

related cost for the specific item of Work shown in the schedule of values regardless of the stated value of the Material or Equipment. The COUNTY may, at its sole option, pay an amount equal to ninety percent (90%) of the value of materials and equipment not incorporated into the Work and stored off site. When payment to CONTRACTOR is made for stored material and equipment, CONTRACTOR shall submit invoices marked paid by the Supplier with the Application for Payment following payment to CONTRACTOR documenting that CONTRACTOR has paid for said materials and equipment or the previously paid amount shall be deducted from remaining payments or retainage for stored Materials and Equipment not so properly documented.

14.3.2 If payment is requested on the basis of materials and equipment not incorporated into the Work but delivered and suitably stored at the site in a secured condition or at a bonded warehouse, the Application for Payment shall be accompanied by such data, satisfactory to COUNTY, as will establish COUNTY's title to the material and equipment and protect COUNTY's interest therein, including applicable insurance. In no event shall the quantity of material and equipment submitted for payment be in excess of the actual final installed quantity. COUNTY may deduct from the final Application for Payment amounts paid CONTRACTOR for material and equipment not finally installed in the Work.

14.3.3 If payment is requested on the basis of materials and equipment not incorporated into the Work but stored off site, the CONTRACTOR shall store all off site Materials and Equipment in a bonded and insured warehouse. The shipping yards of manufacturers or suppliers are not suitable off site storage sites. COUNTY shall be named on insurance as sole beneficiary.

14.3.4 Without limitation, the CONTRACTOR shall assume all risk of loss and be solely responsible for all stored materials and equipment on-site, off-site stored in bonded warehouses including, but not limited to, stored materials paid under prior Applications For Payment.

**14.4 CONTRACTOR's Warranty of Title.** The CONTRACTOR warrants and guarantees that title to all Work, Materials and Equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to COUNTY at the time of payment free and clear of all liens, claims, security interests and encumbrances (hereafter referred to as "Liens").

#### **14.5 Review and Payment.**

14.5.1 PROJECT MANAGER must approve all 'draft' Applications For Payment prior to Contractor's submission to the Seminole County Finance Department and prior to recommendation of payment to Contractor by the COUNTY. Applications For Payment shall be processed in accordance with Chapter 218, Part VII, "Florida Prompt Payment Act" when received by the Seminole County Finance Department.

14.5.2 PROJECT MANAGER's recommendation of any payment requested in an Application for Payment will constitute a representation by PROJECT MANAGER to COUNTY, based on on-site observations of the Work in progress and on PROJECT MANAGER's review of the Application for Payment and the accompanying data and schedules, that the Work has progressed to the point indicated; that to the best of PROJECT MANAGER's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning Project prior to or upon Substantial Completion; to the results of any subsequent tests called for in the Contract Documents; or to any qualifications stated in the recommendation) and that CONTRACTOR is entitled to payment of the amount recommended. However, by recommending any such payment, PROJECT MANAGER will not thereby be deemed to have represented that any examination has been made to ascertain how or for what purpose CONTRACTOR has used the monies paid or to be paid to

CONTRACTOR on account of the Contract Price, or that title to any Work, Materials or Equipment has passed to COUNTY free and clear of any lien.

14.5.3 PROJECT MANAGER may refuse to recommend the whole or any part of any payment if, in its opinion, it would be incorrect to make such representations to COUNTY. PROJECT MANAGER may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended to such extent as may be necessary in PROJECT MANAGER's opinion to protect COUNTY from loss or anticipated loss because: (1) the Work is Defective, or completed Work has been damaged requiring correction or replacement or, (2) written Contract Claims have been made against COUNTY or Liens have been filed in connection with the Work or, (3) the Contract Price has been reduced because of Change Order or, (4) COUNTY has been required to correct Defective Work or complete the Work or, (5) of CONTRACTOR's unsatisfactory prosecution of the Work in accordance with the Contract Documents or, (6) of CONTRACTOR's failure to make payment to Subcontractors, Suppliers or for labor, or (7) of CONTRACTOR's failure to provide acceptable schedule submittals for inclusion into the Application for Payment or, (8) of CONTRACTOR's failure to properly maintain and submit with Application for Payment Record Documents.

#### **14.6 Retainage.**

14.6.1 The value of each Application for Payment shall be equal to the total value of the Work performed to date, less an amount retained in accordance with Chapter 218.735, Part VII "Florida Prompt Payment Act", and less payments previously made and amounts withheld in accordance with the Contract Documents.

14.6.2 Retainage under the Contract Documents is held by COUNTY as collateral security to assure completion of the Work.

**14.7 Overpayment.** Any overpayment by COUNTY to CONTRACTOR shall be promptly repaid to COUNTY upon demand.

#### **14.8 Final Application for Payment.**

14.8.1 After CONTRACTOR has completed all corrections to the satisfaction of COUNTY and PROJECT MANAGER as verified by Final Inspection and delivered all maintenance and operating instructions, schedules, guarantees, warranties, Bonds, certificates of inspection, marked-up record documents, as-built surveys, and other documents, all as required by the Contract Documents and acceptable to COUNTY, and after PROJECT MANAGER has indicated that Work is acceptable, CONTRACTOR may make application for Final Payment following the procedure for Applications for Payment.

14.8.2 The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents and such other data and schedules as PROJECT MANAGER 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, CONTRACTOR may furnish receipts or releases in full with an affidavit certifying 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.

#### **14.9 Final Payment and Acceptance.**

14.9.1 If, on the basis of PROJECT MANAGER's observations of the Work during construction and Final Inspection, and PROJECT MANAGER's review of the final Application for Payment and accompanying documentation all as required by the Contract Documents, PROJECT MANAGER is satisfied that the Work has been completed and CONTRACTOR has fulfilled all of its obligations under the Contract Documents, PROJECT MANAGER will, within twenty days after receipt of the final Application for Payment, indicate in writing its recommendation of payment and present the Application to COUNTY for payment. Thereupon PROJECT MANAGER will give written notice to COUNTY and CONTRACTOR that the Work is acceptable and that all documents required for the close-out of the project have been reviewed and approved by the PROJECT MANAGER. Otherwise, PROJECT MANAGER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend Final Payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. If the Application and accompanying documentation are appropriate as to form and substance, COUNTY shall, within twenty days after receipt from PROJECT MANAGER, pay CONTRACTOR the amount due giving consideration to the recommendations of PROJECT MANAGER, but not being bound thereby.

14.9.2 After receipt of the PROJECT MANAGER 's written notice that the Work is acceptable and prior to Final Payment, CONTRACTOR shall submit an affidavit, in a form acceptable to COUNTY, certifying that the Bonds and insurances required under Section 5 are in effect and will not be allowed to expire for the required period of time.

#### **14.10 Waiver of Claims.**

14.10.1 The making and acceptance of Final Payment shall constitute:

14.10.2 A waiver of all claims by COUNTY against CONTRACTOR, except claims arising from unsettled liens, from Defective Work appearing after final inspection, from fraud or gross negligence or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein or the terms of any Bonds; however, it shall not constitute a waiver by COUNTY of any rights with respect to CONTRACTOR's continuing obligations under the Contract Documents; and

14.10.3 A waiver of all Contract Claims, requests for equitable adjustment or claims of any nature by CONTRACTOR against COUNTY, PROJECT MANAGER, and ARCHITECT OF RECORD.

#### **14.11 COUNTY's Obligations.**

14.11.1 In no event shall any interest be due and payable to CONTRACTOR on any of the sums retained by COUNTY pursuant to any of the terms or provisions of any of the Contract Documents.

14.11.2 Any provision to the contrary notwithstanding, COUNTY shall not be obligated to make any payment to CONTRACTOR and may withhold partial payments if any one or more of the following conditions exists: (1) COUNTY has reason to believe CONTRACTOR is in default of any of its obligations or otherwise is in default under any of the Contract Documents; (2) Any part of such payment is attributable to Work which is Defective; (3) CONTRACTOR has failed to make payments promptly to Subcontractors and Suppliers or for labor and Material for which COUNTY has made payment to CONTRACTOR; (4) If COUNTY, in its good faith judgment, determines that the portion of the Contract Price remaining unpaid will not be sufficient to complete the Work in accordance with the Contract Documents; (5) CONTRACTOR has failed to maintain progress of the Work in accordance with the

Progress Schedule or CONTRACTOR has failed to meet an interim completion date or the Substantial or Final Completion Date.

#### **14.12 Partial Utilization.**

14.12.1 Use by COUNTY of completed portions of the Work may be accomplished at the option of COUNTY prior to Substantial Completion of all the Work subject to the following:

14.12.1.1 COUNTY at any time may request CONTRACTOR in writing to permit COUNTY to use any part of the Work which COUNTY believes to be substantially complete and which may be so used without significant interference with construction of the other parts of the Work. If CONTRACTOR agrees, CONTRACTOR shall certify to COUNTY that said part of the Work is substantially complete and request ARCHITECT to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify COUNTY and PROJECT MANAGER in writing when CONTRACTOR considers that a portion of the Work which has been identified in the Contract Documents as eligible for Partial Utilization is substantially complete. Within a reasonable time thereafter, COUNTY, CONTRACTOR, and PROJECT MANAGER shall make an inspection of that part of the Work to determine its status of completion. If ARCHITECT does not consider that part of the Work to be substantially complete, PROJECT MANAGER will notify CONTRACTOR in writing giving the reasons therefor. If ARCHITECT considers that part of the Work to be substantially complete, ARCHITECT will execute and deliver to PROJECT MANAGER and CONTRACTOR a certificate to that effect, fixing the date of Substantial Completion as to that part of the Work, and attaching a list of minor items as to that part of the Work to be completed or corrected before Final Payment.

14.12.1.2 Prior to issuing a Certificate of Substantial Completion as to part of the Work, PROJECT MANAGER will deliver to COUNTY and CONTRACTOR a written recommendation as to the division of responsibilities pending Final Payment between COUNTY and CONTRACTOR with respect to security, operation, safety, maintenance, utilities, insurance and the Warranty Period for that part of the Work. COUNTY shall have the right to exclude CONTRACTOR from any part of the Work which ARCHITECT has so certified to be substantially complete, but COUNTY shall allow CONTRACTOR reasonable access to complete or correct items described above.

14.12.1.3 In lieu of the issuance of a Certificate of Substantial Completion as to part of the Work, COUNTY may take over operation of a facility constituting part of the Work whether or not it is substantially complete if such facility is functionally and separately useable; provided that prior to any such takeover, COUNTY and CONTRACTOR have agreed in writing as to the division of responsibilities between COUNTY and CONTRACTOR for security, operations, safety, maintenance, Warranty Period, utilities and insurance with respect to such facility. During such utilization and prior to Substantial Completion of that portion of the Work, COUNTY shall allow CONTRACTOR reasonable access to complete or correct items and to complete other related Work.

#### **14.13 Substantial Completion.**

14.13.1 When CONTRACTOR considers the entire Work to have progressed to the point where it is substantially complete, CONTRACTOR shall, in writing to ARCHITECT and PROJECT MANAGER certify that the entire Work is Substantially Complete, submit to PROJECT MANAGER all operation and maintenance manuals and instructions and spare parts required by the Contract Documents, and request that ARCHITECT or PROJECT MANAGER inspect the Work for issuance of a Certificate of Substantial Completion. Within a reasonable time thereafter, ARCHITECT, CONTRACTOR and PROJECT MANAGER shall make an inspection of the Work to determine the Status of Completion. If ARCHITECT or PROJECT MANAGER does not consider the Work substantially complete, GENERAL CONDITIONS Facilities: Recreational Parks, Building Construction  
*MAY 2013 (REVISED)* or Building Renovation00800-78

ARCHITECT or PROJECT MANAGER will notify CONTRACTOR in writing giving the reasons therefore. The CONTRACTOR shall then accomplish the requisite Work and then recertify that the entire Work is Substantially Complete. If ARCHITECT or PROJECT MANAGER considers the Work substantially complete, ARCHITECT or PROJECT MANAGER will prepare and deliver to CONTRACTOR and COUNTY a Certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a Punch List of items (which should be minor in scope and nature) to be completed or corrected before Final Payment. CONTRACTOR shall continue to be responsible for maintaining the Work until the date of Certification of Substantial Completion, or longer if so required by the Contract Documents.

14.13.2 After the date of Substantial Completion, COUNTY shall allow CONTRACTOR reasonable access to complete or correct items on the list attached to the Certificate of Substantial Completion.

**14.14 Final Inspection.** Upon written notice from CONTRACTOR that the minor items described in the Punch List attached to the Certificate of Substantial Completion have been completed, ARCHITECT or PROJECT MANAGER will make an inspection with COUNTY and CONTRACTOR and will notify CONTRACTOR in writing of the results of this inspection as to the items of the Work that appear to be incomplete, non-conforming or Defective. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies, and notify ARCHITECT or PROJECT MANAGER upon completion. The Final Inspection by ARCHITECT or PROJECT MANAGER with COUNTY and CONTRACTOR will verify completion of all items.

**14.15 CONTRACTOR's Continuing Obligation.** CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or Final Payment by PROJECT MANAGER, nor the issuance of a Certificate of Substantial Completion, nor any payment by COUNTY to CONTRACTOR nor any Partial Utilization by COUNTY nor any act of acceptance by COUNTY nor any failure to do so, nor any review and approval of the Shop Drawings or samples, nor any review of a Progress Schedule, nor the issuance of a notice of acceptability by PROJECT MANAGER, nor any correction of Defective Work by COUNTY will constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents except as provided in a waiver of Contract Claims at the time of making and acceptance of Final Payment.

**14.16 Deleted Work.** The COUNTY shall have the right to cancel the portions of the Agreement relating to the construction of any item therein by the payment to the CONTRACTOR of a fair and equitable amount covering all items of cost incurred prior to the date of cancellation or suspension of the Work by order of the PROJECT MANAGER.

#### **14.17 Partial Payments.**

14.17.1 General. The CONTRACTOR will receive partial 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.

14.17.2 Withholding Payment for Defective Work. Should any defective Work or Material be discovered prior to the Final Acceptance, or should a reasonable doubt arise prior to Final Acceptance as

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to the integrity of any part of the completed Work, payment for such defective or questioned Work will not be allowed until the defect has been remedied and causes for doubt removed.

## **SECTION 15 - SUSPENSION OF WORK AND TERMINATION**

**15.1 The COUNTY May Stop the Work.** If the Work is Defective and the CONTRACTOR has been notified by PROJECT MANAGER or COUNTY, or if CONTRACTOR fails to perform the Work in compliance with the Contract Documents, or if CONTRACTOR 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 CONTRACTOR fails to obtain, maintain or renew insurance or bonds in conformance with the Contract Documents in a form acceptable to COUNTY, or if any insurance company CONTRACTOR has obtained insurance from declares bankruptcy or is declared bankrupt, or if CONTRACTOR fails to prosecute the Work without endangering persons or property, COUNTY may order CONTRACTOR 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 PROJECT MANAGER or by COUNTY. This right of COUNTY to stop the Work shall not give rise to any duty on the part of COUNTY or PROJECT MANAGER to exercise this right for the benefit of CONTRACTOR or any other party. CONTRACTOR shall bear all direct, indirect, and consequential costs of such order to stop the Work (including but not limited to fees and charges of PROJECT MANAGER, 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 CONTRACTOR 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.

### **15.2 Suspension for Convenience.**

15.2.1 Without invalidating the Contract Documents, and without notice to any surety, COUNTY may, at any time, order CONTRACTOR in writing to stop, delay or interrupt Work for such a period of time as COUNTY may deem appropriate. Upon receipt of that order, CONTRACTOR 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.

15.2.2 If any suspension of Work under this subsection causes an increase or decrease in CONTRACTOR'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 Section 10 and 11; 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 Section 11, or for which an adjustment is provided or excluded under any other provision of the Contract Documents.

### **15.3 Termination for Cause.**

15.3.1 COUNTY may upon the occurrence of any one or more of the following events terminate the services of CONTRACTOR:

15.3.1.1 If a trustee, receiver, custodian or agent of CONTRACTOR is appointed under applicable law or under contract, whose appointment or authority to take charge of property of CONTRACTOR 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 CONTRACTOR's creditors;

15.3.1.2 If CONTRACTOR admits in writing an inability to pay its debts generally as they become due;

15.3.1.3 If CONTRACTOR 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);

15.3.1.4 If CONTRACTOR discontinues prosecution of the Work or any portion thereof;

15.3.1.5 If CONTRACTOR allows any final judgment against it to remain unsatisfied for a period of ten days;

15.3.1.6 If CONTRACTOR disregards laws, policies, court orders, or administrative directives, etc. of any governmental body, agency or court having jurisdiction;

15.3.1.7 If CONTRACTOR disregards the authority of PROJECT MANAGER ; OR COUNTY;

15.3.1.8 If CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents; or

15.3.1.9 If CONTRACTOR fails to promptly pay Subcontractors, Suppliers, Materialmen, Laborers, etc.

15.3.2 As it is recognized that if CONTRACTOR 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 CONTRACTOR's performance of the Work, therefore it is agreed that upon occurrence of any such event, COUNTY shall be entitled to request CONTRACTOR 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 CONTRACTOR. 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 basis or other appropriate basis that the costs will be back charged against the CONTRACTOR. COUNTY shall be entitled to deduct these costs from the Contract Price by issuing a Change Order.

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

15.3.4 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.

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

15.3.6 COUNTY may, at its sole discretion, permit CONTRACTOR to continue to perform Work when CONTRACTOR 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.

#### **15.4 Termination for Convenience.**

15.4.1 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 CONTRACTOR and Surety seven (7) days written notice. COUNTY shall have the right, in that event, to take over any or all of CONTRACTOR's Materials, (whether stored on or off site) supplies, Equipment, Subagreements or other obligations to complete the Work and CONTRACTOR shall assign them to COUNTY upon COUNTY's request. CONTRACTOR 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.

15.4.2 In any such termination for the convenience of COUNTY, CONTRACTOR 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 CONTRACTOR will exclude any and all anticipated supplemental costs, administrative expenses overhead and profit on uncompleted Work and any type of wrongful termination damages. CONTRACTOR shall justify its Contract Claims as requested by COUNTY with thorough, accurate records and data.

15.4.3 If, after notice of Termination for Cause of CONTRACTOR, it is determined that CONTRACTOR was not in default, the termination shall be deemed to have been for the convenience of COUNTY. In such event CONTRACTOR may recover from COUNTY payment in accordance with subsection 15.4.2.

## SECTION 16 - VALUE ENGINEERING INCENTIVE

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

16.1.1 VECPs contemplated are those that would result in net savings to the COUNTY by providing either: (A) a decrease in the cost of performance of the Work, or; (B) a reduction in cost of ownership (hereinafter referred to as collateral costs) of the Work, regardless of acquisition costs. VECPs must result in savings without impairing essential functions and characteristics such as safety, service, life, reliability, economy of operation, ease of maintenance, aesthetics and necessary standard design features. However, nothing herein prohibits the submittal of VECPs where the required functions and characteristics could be combined, reduced or eliminated as being nonessential or excessive. Plan errors or omissions which are identified by the CONTRACTOR and which result in a cost reduction, will not qualify for submittal as a VECP.

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

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

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

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

(2) Separate detailed cost estimates for both the existing requirements and the proposed change. The cost estimates shall be broken down by item numbers indicating quantity increases or decreases and deleted pay items. Additional proposed Work, now covered by the Contract Documents, shall be identified by current COUNTY pay item numbers. In preparing the estimates, the CONTRACTOR shall include overhead, profit and bond. No separate pay item(s) for these costs will be allowed.

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

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

(5) Engineering Incentive or other analysis in sufficient detail to identify and describe specific features of the Contract Documents which must be changed if the VECP is accepted, with a proposal as to how these changes can be accomplished and an assessment of their effect on other Project elements. The

COUNTY may require that Engineering Incentive analyses be performed by a prequalified consultant in the applicable class of Work. Any design changes which result from the VECP must be supported by computations sealed by a Professional ARCHITECT OR ENGINEER registered in the State of Florida.

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

**16.4 Processing Procedures.** Two copies of each VECP shall be submitted, one to the PROJECT MANAGER, or his duly authorized representative, and one to the COUNTY. VECPs will be processed expeditiously; however, the COUNTY will not be liable for any delay in acting upon a VECP submitted pursuant to this Section. The CONTRACTOR may withdraw, in whole or in part, a VECP not accepted by the COUNTY within the period specified in the VECP. The COUNTY shall not be liable for any VECP development cost in the case where a VECP is rejected or withdrawn. The PROJECT MANAGER shall be the sole judge of the acceptability of a VECP and of the estimated net savings in construction and/or collateral costs from the adoption of all or any part of such proposal. In determining the estimated net savings, the right is reserved to disregard the Bid prices if, in the judgment of the PROJECT MANAGER, such prices do not represent a fair measure of the value of Work to be performed or to be deleted. Prior to approval, the PROJECT MANAGER may modify a VECP, with the concurrence of the CONTRACTOR, to make it acceptable. If any modification increases or decreases the net savings resulting from the VECP, the CONTRACTOR's fair share will be determined upon the basis of the VECP as modified and upon determination of final quantities. The net savings shall be computed by subtracting the revised total cost of all bid items affected by the VECP design from the total cost of the same bid items as represented in the Contract Documents. Prior to approval of the VECP, which initiates the supplemental Agreement, the CONTRACTOR shall provide acceptable contract quality Plan sheets revised to show all details consistent with the VECP design.

**16.5 Computations for Change in Contract Cost of Performance.** CONTRACTOR development and implementation costs for the VECP will not be recoverable. If the VECP is adopted, the CONTRACTOR's share of the net savings as defined hereinafter shall be considered full compensation to the CONTRACTOR for the VECP. COUNTY costs of processing or implementation of a VECP will not normally be considered in the estimate. However, the COUNTY reserves the right, where it deems such action appropriate, to require the CONTRACTOR to pay the COUNTY's cost of investigating and implementing a VECP submitted by the CONTRACTOR as a condition of considering such proposal. Where such a condition is imposed, the CONTRACTOR shall indicate his acceptance thereof in writing, and such acceptance shall constitute full authority for the COUNTY to deduct amounts payable to the COUNTY from any monies due or that may become due to the CONTRACTOR under the Agreement.

**16.6 Computations for Collateral Costs.** When collateral cost savings are sought by the CONTRACTOR, separate estimates must be prepared for collateral costs of both the existing Agreement requirement and the proposed change. Each estimate shall consist of an itemized breakdown of all costs and the basis for the data used in the estimate. Cost benefits to the COUNTY include, but are not limited to: reduced costs of operation, maintenance or repair, and extended useful service life. Increased collateral costs include the converse of such factors. Computations shall be as follows:

(1) Costs shall be calculated over a 20-year period on a uniform basis for each estimate.

(2) If the difference in the estimates as approved by the COUNTY indicate a savings, the CONTRACTOR shall divide the resultant amount by 20 to arrive at the average annual net collateral savings. The resultant savings shall be shared as stipulated in subsection 16.7.

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

Accrued Net Savings	CONTRACTOR's Share %	COUNTY's Share %
Less than \$25,000	75	25
Over \$25,000	50	50

If an approved change is identical or similar to a previously submitted VECP or an idea previously utilized by the COUNTY it will not be considered an innovative idea, thus, will only qualify for a 50 percent sharing of savings. When collateral savings occur, the CONTRACTOR shall receive 20 percent of the average one year's net collateral savings. The CONTRACTOR shall not receive construction savings or collateral savings on optional Work listed in this Agreement until the COUNTY exercises its option to obtain that Work.

## SECTION 17 - MISCELLANEOUS

### 17.1 Giving Notice

17.1.1 Whenever any provision of the Contract Documents requires the giving of written notice it shall be deemed to have been validly given as of the time of actual delivery if delivered in person; or if it is delivered by registered mail, at the actual time of delivery.

17.1.2 Written notice to be delivered to COUNTY or PROJECT MANAGER or to any of its representatives by CONTRACTOR shall be delivered at the office stated in the Agreement, unless otherwise specified in writing to CONTRACTOR. Written notice to CONTRACTOR by COUNTY or PROJECT MANAGER shall be delivered to the individual or member of the firm or to an officer of the corporation for whom it is intended at the office stated in the Agreement, or such other office or individual designated by CONTRACTOR in writing to COUNTY.

**17.2 Notice to Other Agencies.** CONTRACTOR 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 or PROJECT MANAGER shall not be responsible for any such notification.

**17.3 Computation of Time.** When any period of time is referred to in the Contract Documents by Days, it shall be computed to include the first and the last Day of such period. If the last Day of any such period falls on a Saturday or Sunday or on a Holiday, such Day shall be omitted from the computation.

**17.4 Claims for Injury or Damage to Person or Property.** Should COUNTY or CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time from the first observance of such injury or damage. This provision shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

### 17.5 No Conflict with Laws or Regulations.

17.5.1 The duties, obligations, criteria or procedure imposed by these General Conditions and the rights and remedies made available are in addition to, and are not to be construed in any way as a limitation of any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, except that in the event that a specific part or detailed requirement of a provision, criterion or procedure in these General Conditions and a specific part or detailed requirement of a provision, criterion or procedure imposed or available by Laws or Regulations are in conflict the specific part or detailed requirement of Laws and Regulations shall govern. All other specific parts or detailed requirements in the provisions, criteria or procedures of the applicable Laws or Regulations and these General Conditions not in conflict shall remain in full force and effect and be read with the controlling specific part or detailed requirement.

17.5.2 The provisions of this subsection will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply.

17.5.3 Each and every provision of law and clause required by law to be inserted in the Contract Documents shall be deemed to be inserted therein and the Contract shall be read and enforced as though it were included therein.

**17.6 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.

**17.7 No Waiver of Rights, Duties.**

17.7.1 Except as otherwise specifically provided in the Contract Documents, no action or failure to act by the COUNTY, PROJECT MANAGER, COUNTY's Representative(s), or CONTRACTOR on one or more occasions shall constitute a waiver of any right or duty afforded any of them under the Contract Documents, nor shall any such action or failure to act constitute an approval of or acquiescence of any breach thereunder.

17.7.2 All representations, indemnities, warranties and guarantees required by the Contract Documents, including the Warranty Period shall survive Final Payment and termination or completion of the Agreement.

**17.8 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 CONTRACTOR under the Contract Documents or the Project to which it relates shall be at the sole discretion of COUNTY.

**17.9 Recovery of Damages.** In no event shall CONTRACTOR be entitled to recover from COUNTY any indirect, incidental, or consequential damages in any proceeding arising out of or relating to this Agreement or breach thereof. In the event that subsection 12.1.7 is found by a court of competent jurisdiction to be void, inapplicable or in the event that subsequent legislation renders such provisions void or inapplicable, then no formula based or total cost approaches including, but not limited to, the Eichleay, Allegheny, Burden Fluctuation or other similar formula based methods shall be used to compute damages. CONTRACTOR shall base all damage claims upon Cost and Pricing Data at the time of the occurrence of the event upon which the damage claims are based.

**17.10 Recovery of Interest.** Any prejudgment or postjudgment interest assessed against either party to this Agreement shall be assessed at the rate provided by Florida law or four percent (4%) per annum, whichever is less.

**17.11 Notice of Claims.** The contractual limitations periods for filing Contract Claims or other claims for increases in Contract Price, Contract Time, or any other claim of any nature set forth in the Contract Documents shall be controlling. However, in the event that no limitations periods is established in the Contract Documents for the specific type of claim asserted then, the parties agree that all such claims shall be made in writing with complete supporting documentation to the persons designated to receive such claims (CONTRACTOR's Superintendent, PROJECT MANAGER and COUNTY's Purchasing Manager) no more than 7 days after the occurrence of the event giving rise to any such claim, or else any such claim shall be waived and deemed invalid.

**17.12 Waiver of Jury Trial.** The parties expressly waive any right to jury trials under Florida law.

**17.13 Attorney Fees.** The parties expressly agree that each party shall be solely responsible for their own attorney's fees and costs incurred in any negotiation, use of the COUNTY's Contract Claims procedures, or litigation related to or arising out of these Contract Documents.

## **SECTION 18 - MEASUREMENT AND PAYMENT – UNIT PRICE**

### **18.1 Measurement of Quantities.**

18.1.1 Measurement Standards: Unless otherwise stipulated, all Work completed under the Contract Documents shall be measured, by the PROJECT MANAGER, according to United States Standard Measures.

18.1.2 Method of Measurements: Unless otherwise provided by in the Specifications for the particular items involved, all measurements shall be taken horizontally or vertically.

#### **18.1.3 Determination of Pay Areas:**

18.1.3.1 In measurement of items paid for on the basis of area of finished Work, where the pay quantity is designated to be determined by calculation, the lengths and widths to be used in the calculations shall be shown on the Plans or the final dimensions actually measured along the surface of the completed Work shall be shown on the Plans. The method or combination of methods of measurement shall be those which will reflect with reasonable accuracy the actual surface area of the finished Work as determined by the PROJECT MANAGER.

### **18.2 NOT USED.**

### **18.3 Compensation for Altered Quantities.**

18.3.1 Whenever any change or combination of changes in the Plans, including changes outside the original limits of the Project, results in an increase or decrease in the original contract quantities, and the Work added or eliminated is of the same general character as that shown on the original Plans, the Contractor shall accept payment in full at the original contract Unit Prices for the actual quantities of Work done.

#### **18.3.2 Payment Based on Plan Quantity.**

18.3.2.1 Where the pay quantity for any item is designated to be the original plan quantity, such quantity will be revised only in the event that it is determined to be substantially in error. An error shall be deemed substantial if the quantity will increase or decrease in excess of five percent of the original plan quantity for that item or the amount due for that item will increase or decrease in excess of \$500 (whichever is smaller). In general, such revisions will be determined by final measurement or plan calculations or both as additions to or deductions from plan quantities. In the event either the COUNTY or the CONTRACTOR contends that the plan quantity for any item is in error and additional or less compensation is thereby due, he shall submit, at his own expense, evidence of such in the form of acceptable and verifiable measurements or calculations. The plan quantity will not be revised solely on the basis of a particular method of construction selected by the CONTRACTOR. For earthWork items, any significant differences in the original ground surfaces from that shown in the original plan cross sections which would result in an adjustment to the plan quantity, must be noted by the CONTRACTOR and properly documented by appropriate level notes, acceptable to both the CONTRACTOR and the COUNTY, prior to disturbance of the original ground surface by construction operations to the extent that the original ground surface elevations in question cannot be documented. Any Contract Claim based upon significant differences in the original ground surface must be supported by documentation as provided above. A significant difference in the earthWork surface is defined as a consistent difference in elevation,

either up or down, averaging in excess of 0.3 foot over a length of 500 feet in any one area, or an equivalent volume in any individual roadway area of a lesser distance.

18.3.2.2 Where the pay quantity for any item is designated to be the original plan quantity and a plan change which results in an increase or decrease in the quantity of that item is authorized, the plan quantity will be revised accordingly provided that such change will increase or decrease the amount due for the item in excess of \$100. In general, such revisions will be determined by final measurement or plan calculations or both.

18.3.2.3 The limitations set out in subsections 18.3.2.1 and 18.3.2.2 do not apply:

(1) Where these Specifications provide that the pay quantity for an item to be paid for on the basis of area of finished Work is to be adjusted according to the ratio of measured thickness to nominal thickness.

(2) Where the Specifications provide for a deduction due to test results falling outside of the allowable Specification tolerances.

## **SECTION 19 - CONTRACT CLAIMS RESOLUTION**

**19.1 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 CONTRACTOR shall proceed diligently with the Work so as to achieve completion of the Work within the Contract Time.

**19.2 Administrative Forum.** The parties agree that all Contract Claims arising under the Contract Documents shall be submitted for alternative dispute resolution under Section 3.55, Seminole County Administrative Code or successor provisions. CONTRACTOR 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 CONTRACTOR agrees that the status of hearing officers as COUNTY employees does not violate public policy or deny due process under Section 3.55, Seminole County Administrative Code or successor provisions. The CONTRACTOR, by executing the Contract Documents, expressly agrees to resolve disputes under the COUNTY's Contract Claims procedures.

**19.3 Contract Claims Procedure.** Contract Claims procedure shall comply with the requirements of the Seminole County Purchasing Code & Procedures. 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 the Seminole County Purchasing Code & Procedures, shall have the right to make written requests to the COUNTY staff, ENGINEER, ENGINEER of RECORD, and CONTRACTOR at any time for additional information and documents needed to render a decision. The parties agree that persons required to render decisions under the procedures described in Section 3.5540 of the Seminole County Administrative 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 CONTRACTOR appeals any decision of the Purchasing Manager under Seminole County Code, CONTRACTOR 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 CONTRACTOR recognizes and accepts the Seminole County Code requirements for posting an appeal bond.

**19.4 Resolution of Contract Time and Contract Price Disputes.** Contract Claims related to Contract Time under the Contract Documents provide for extensions of the Contract Time as the sole and exclusive remedy of CONTRACTOR. As to Contract Claims related to Contract Time or Contract Price disputes under the Contract Documents, the parties agree to exhaust all prescribed options under Section 3.55 of the Seminole County Administrative Code and the COUNTY's Contract Claims procedures prior to filing suit or otherwise pursuing legal remedies. The parties agree that they will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in the COUNTY's alternative dispute resolution procedures of which the parties had knowledge and failed to present during the COUNTY's Contract Claims procedures.

**19.5** In the event that the COUNTY's Contract Claims process is exhausted then, as a condition precedent to the filing of any suit or other legal proceeding, the parties shall endeavor to resolve claims,

disputes or other matters in question by mediation. Mediation shall be initiated by any party serving a written request for the same on the other party. The parties shall, by mutual agreement, select a mediator within fifteen days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator then the COUNTY shall select a mediator who, if selected solely by the COUNTY, shall be a mediator certified by the Supreme Court of Florida. The cost of mediation shall be split equally between the two parties. This clause shall not prevent a party from filing a suit or other legal proceeding seeking emergency or injunctive relief.

**19.6 Notice of Contract Claims.** Contract Claims by the CONTRACTOR must be made by written notice on the form provided in the Contract Documents with complete documentation to ENGINEER 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.

**19.7 Contract Claim Correspondence.** To assure prompt resolution of Contract Claims, the CONTRACTOR's correspondence related to Contract Claims shall have Contract Claim identification numbers assigned by CONTRACTOR. 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.

**19.8 Contract Claim Disposition.** Each Contract Claim shall be treated separately under 3.55, Seminole County Administrative 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 CONTRACTOR files a timely notice of Contract Claim under the Contract Documents, CONTRACTOR may file supplemental documents in support of any Contract Claim prior to the decision of the COUNTY's Purchasing Manager under Section 3.55, Seminole County Administrative 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.

**19.9 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 CONTRACTOR, COUNTY and the public.

**19.10 False Claims.** The COUNTY and CONTRACTOR acknowledge that the "Florida False Claims Act" provides civil penalties not more than \$10,000.00 plus remedies for obtaining treble damages against contractors 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.