

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

**Meeting Date:** July 16, 2013

**Consent** [X]  
**Public Hearing** [ ]

**Regular** [ ]

**Department:** Water Utilities Department

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve: a Contract for Disaster Recovery Design/Build Services with CDM Constructors, Inc (CDM).

**Summary:** This Contract is recommended as prudent planning to ensure the integrity of the County's water and wastewater infrastructure prior to, during, and immediately following natural disasters. Following these events, reconstruction of water utility facilities needs to begin immediately in order to protect public health. This Contract facilitates the immediate reconstruction of such infrastructure and will be used by the Water Utilities Department (WUD) to obtain engineering/professional design/build/construction services for disaster recovery or mitigation related projects. The Facilities Development and Operations Department may also use the design/build Contract. CDM was procured under the provisions of s. 287.055, Florida Statutes (Consultant Competitive Negotiation Act) and County-wide PPM No. CW-O-048. Consultant Services Authorizations (CSA) will be negotiated and issued in accordance with the standard County procedures outlined in Countywide PPM No. CW-F-050. The Contract has a term of five (5) years. CDM has agreed to meet or exceed a 30.5% small business participation goal. CDM has an office in Palm Beach County. (WUD 10-027) Countywide (JM)

**Background and Justification:** The on-going operation, maintenance and administration of WUD requires consulting engineering and design/build services to supplement staff availability and expertise in order to mitigate and recover from natural disasters including Category 4 and 5 hurricanes. Assignment of tasks to the selected design/build firm will be at the sole discretion of the County, and the County may choose to select another firm or use in-house staff to perform any task. Task scope and fee negotiation will be performed on a task by task basis subject to the standard County procedures outlined in Countywide PPM No. CW-F-050.

**Attachments:**

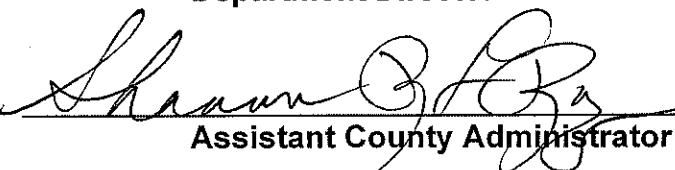
1. Location Map
2. Two (2) Original Contracts
3. Selection Committee Results Memo

Recommended By:

  
Department Director

7/9/13  
Date

Approved By:

  
Assistant County Administrator

7/15/13  
Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

| Fiscal Years                                   | 2013     | 2014     | 2015     | 2016     | 2017     |
|--|----------|----------|----------|----------|----------|
| Capital Expenditures                           | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| External Revenues                              | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| Program Income (County)                        | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| In-Kind Match County                           | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| <b>NET FISCAL IMPACT</b>                       | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| <b># ADDITIONAL FTE POSITIONS (Cumulative)</b> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> |

**Budget Account No:** Fund \_\_\_\_\_ Agency \_\_\_\_\_ Org \_\_\_\_\_ Object \_\_\_\_\_

Is Item Included in Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_

Reporting Category N/A

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

This Contract does not encumber any funds. CSA's will be issued under each of these Contracts on a task-by-task basis.

**C. Department Fiscal Review:** Debra Morst

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**

[Signature]  
OFMB  
JD  
7/10 PM  
7-13

[Signature]  
Contract Development and Control

**B. Legal Sufficiency:**

[Signature]  
Assistant County Attorney  
7/15/13

**C. Other Department Review:**

\_\_\_\_\_  
Department Director



Palm Beach County  
Water Utilities  
Department  
Service Area (SA) and  
Major Facilities

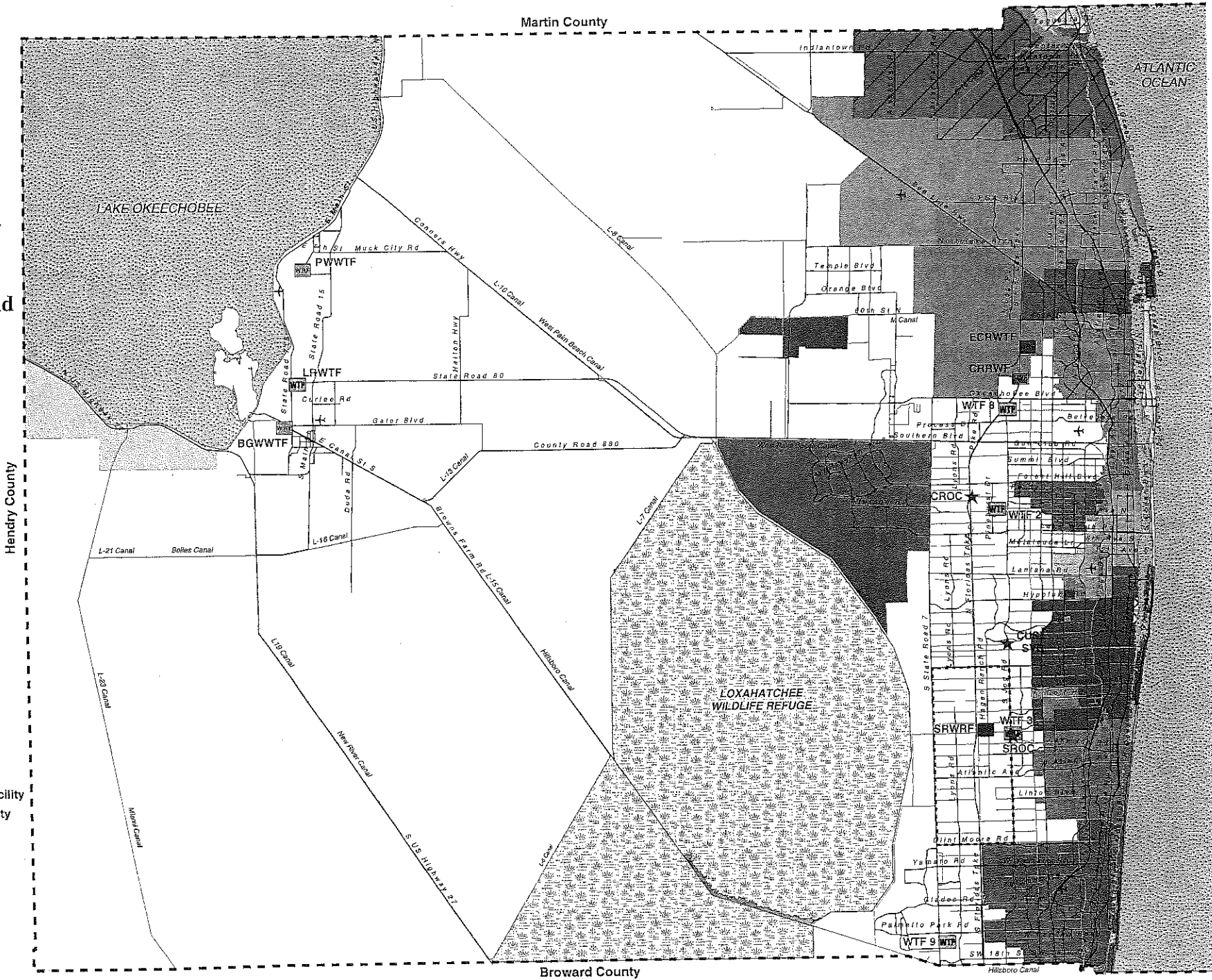
Attachment 1

Legend

- ★ Administration
- WTF Water Treatment Facility
- Reclamation Facility
- Wastewater Reclamation Facility
- Wastewater Treatment Facility
- Mandatory Reclaimed SA
- - - Palm Beach County Limits
- P.B.C.W.U.D. Service Area



NOT TO SCALE



**DISASTER RECOVERY AND MITIGATION SERVICES**

**AND**

**DESIGN BUILD CONTRACT**

**PROJECT NO. WUD**

**BETWEEN**

**PALM BEACH COUNTY FLORIDA**

**AND**

**DESIGN BUILD ENTITY**

**\_\_\_\_ 2013**

## CONTRACT

THIS CONTRACT made and entered into this \_\_\_\_\_ day of \_\_\_\_ 2013, between PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the "County" and CDM Constructors Inc., hereinafter referred to as the "DESIGN BUILD ENTITY".

### WITNESSETH:

That the said Design Build Entity having been awarded the contract for the:  
DISASTER RECOVERY AND MITIGATION SERVICES – DESIGN BUILD PROJECT NO.  
WUD 13-027

in accordance with the Request For Proposals therefore and for and in consideration of the promises and of the covenants and agreements, and of the payments herein specified, to be made and performed by the Design Build Entity and the County, the Design Build Entity hereby covenants and agrees to and with the County to undertake and execute all of the said named work, in a good, substantial and workmanlike manner, and to furnish and pay for all design services, materials, labor, supervision, equipment, supplies, fees, expertise, and other services necessary to fully complete all work in accordance with all requirements of the Contract Documents and in accordance with The Palm Beach County minimum Engineering Standards (latest edition), all applicable codes and governing regulations, within the time limit specified in the Bid Form. The Contract Documents consist of the following documents, as and when issued, which shall be incorporated herein by reference.

- A - Request For Proposal and Design Build Entity's Response thereto
- B - Completed Bonds and Guarantee.
- C - Attachment A.
- D - Supplemental Conditions.
- E - Special Conditions.
- F - Technical Specifications.
- G - Addenda.
- H - Drawings.
- I- Consultant Services Authorization (CSA)
- J- Work Authorization (WA)
- K- Service Authorizations (SA)
- L- Manual of Minimum Engineering Standards
- M- Design Criteria Packages

Design Build Entity agrees to accept as full compensation for the satisfactory performance of this Contract such sums as shall be authorized by such Consultant Services Authorization (CSA(s)), Service Authorizations (SA(s)), and Work Authorization (WA(s)) as may be issued by County. The prices agreed to in such CSA(s), SA(s) and WA(s) are for the completed work set forth therein and all expense, direct or indirect, connected with the proper execution of the work and of maintaining the same until it is accepted by the Board of County Commissioners. It is understood that, for each issued CSA(s), SA(s), or WA(s), the Design Build Entity will hold and maintain current, appropriate certification(s) and/or license(s) for the purpose of performing the specified work pursuant to this Contract. The time limit for the Substantial Completion of all work under this contract shall be as stated in the issued CSA(s), SA(s), or WA(s). The date fixing the beginning of this period upon the calendar shall be established and stated in a Notice to Proceed to be issued by the County. Liquidated damages, if any, shall be as specified in an issued Work Authorization.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida, has made and executed this Contract on behalf of the said County and caused the seal of the said County to be affixed hereto, and the Design Build Entity has hereunto set its hand and seal the day and year written. The Design Build Entity represents that it is authorized to execute this contract on behalf of itself and its Surety.

ATTEST:  
SHARON R. BOCK  
CLERK AND COMPTROLLER

PALM BEACH COUNTY, FLORIDA, A  
Political Subdivision of the State of Florida  
BOARD OF County COMMISSIONERS

By: \_\_\_\_\_  
Steven L. Abrams, Mayor

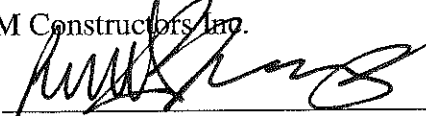
APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

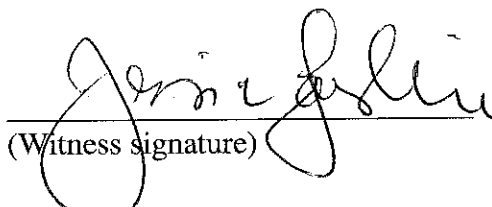
APPROVED AS TO TERMS AND  
CONDITIONS

\_\_\_\_\_  
Assistant County Attorney

  
\_\_\_\_\_  
Bevin A. Beaudet, Director  
Water Utilities Department

CDM Constructors, Inc.

By:   
\_\_\_\_\_  
Title: **SVP**

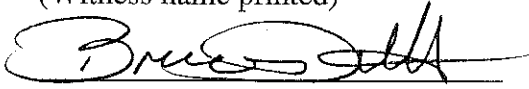
  
\_\_\_\_\_  
(Witness signature)

(Insert state of corporation)

3 RICHARD SLOVARP

JESSICA LAUSHINE

(Witness name printed)



(Witness signature)

Bruce Duff

(Witness name printed)

(Date of execution)

1601 Belvedere Road, Ste 400 East  
(Design Build Entity's Official Address)

West Palm Beach, FL 33406  
(Design Build Entity's City, State, Zip Code)

**ATTACHMENT A**

**I - GENERAL PROVISIONS**

**A. General Scope of Work**

1. This agreement is intended to provide a continuing contractual mechanism for the Water Utilities Department to obtain professional Design Build Consulting Services within the scope of the practice of architecture, engineering, landscape architecture or land surveying, as defined by the laws of the State of Florida, which may include evaluation, permitting, staff assistance, Design Build, construction, and construction management services for projects as further defined below:

1. Provide Design Build services to design and build improvements to repair or replace damaged facilities in-kind.
2. Provide skilled "on-call" personnel for operations support, debris removal, damage assessment, and repairs.
3. Provide the key services/equipment/commodities required for the continued operations and repair of the utility from vendors located outside the State of Florida for a period of 3-6 months.
4. Structurally harden essential facilities. Activities include structural reinforcement, window upgrades, door replacements, enclosing/modifying wall and ceiling penetrations, securing exterior ductwork and critical piping systems, and structural flooding mitigation. Building envelopes will be secured to minimize the risk of structural or water damage including all critical electrical, control, and instrumentation systems.
5. Provide other infrastructure mitigation improvements as needed to reduce or prevent disaster damage and to maintain service following a disaster including but not limited to electrical power connections and switchgear, emergency power generation and diesel fuel storage.
6. Assist with State or Federal grant funding proposals for hazard mitigation grants.

7. Damage survey reporting (to include assistance with FEMA and state required record keeping, documentation support, and assistance in preparing claim documentation).
8. Training county employees in preparing FEMA and state required reports for reimbursement.
9. Provide temporary emergency power generators.
10. Provide emergency rental of light, medium and heavy equipment, trucks, and other vehicles.
11. Provide temporary housing, upon request.
12. Provide other related Design Build Services.

2. Assignment of tasks to the Design Build Entity will be at the sole discretion of the County. The County may choose to select another firm or use in-house staff to perform any of the above described items in whole or in part. Task assignments will be subject to scope definition and fee negotiation on a task-by-task basis. It is intended that the agreement for the above described project be for a term of five years, unless terminated earlier in accordance with the provisions of this agreement. No minimum amount of professional or construction service or compensation is guaranteed to the Design Build Entity.

3. Palm Beach County's annual goal for Small Business Enterprise (SBE) participation for this contract is 15%, as further detailed in the SBE Program Policies and Procedures Manual dated June 22, 2009. Design Build Entity has agreed to meet or exceed the 30.5% SBE participation goal set forth in Design Build Entity's proposal. Except as may be specifically provided to the contrary, in writing, Design Build Entity agrees to abide by all provisions of the Palm Beach County Code establishing the SBE Program, as amended, and understands that failure to comply with any of the requirements will be considered a breach of contract.

4. The task specific scope of work to be performed by the Design Build Entity shall be determined by the parties at the time the County requests services as recommended by the Design Build Entity on-scene representatives. Each request for services will be accompanied by a design criteria package. The Design Build Entity shall provide all supervision, labor, materials, tools, equipment, subcontracted equipment/tools and materials necessary for the performance and completion of the work specified in the CSA(s), SA(s), and WA(s), unless otherwise agreed to between the parties. The Design Build Entity shall conduct the work so as not to interfere with disaster response and recovery activities of federal, state, and local governments and agencies or public utilities. Design Build Entity shall provide a Project Manager for the entire duration of the operation, subject to the approval of County. The Project Manager's education and experience shall be appropriate to the nature of each event. The Project Manager shall attend meetings, provide for daily progress reports as well as dispatch field supervisors where necessary. All key personnel must be trained in the National Incident Management System and respond in



accordance with applicable national response guidelines. The Project Manager may be removed by the County, in its discretion, at any time. The Project Manager shall remain the same throughout the duration of the project, unless the County agrees otherwise.

5. Design Build Entity shall have every available means of communication, including but not limited to, radio, satellite telephones, smart phones and other cellular telephones and devices to be utilized during the performance of services pursuant to this Contract.

6. Once a storm or emergency occurs, the following services may be required during and within 48 hours of a storm event:

- a. Provide Design Build services to design and build improvements to repair or replace damaged facilities in-kind.
- b. Provide skilled "on-call" personnel for operations support, debris removal, damage assessment, and repairs.
- c. Provide the key services/equipment/commodities required for the continued operations and repair of the utility from vendors located outside the State of Florida for a period of 3-6 months.
- d. Damage survey reporting (to include assistance with FEMA and state required record keeping, documentation support, and assistance in preparing claim documentation).
- e. Provide temporary emergency power generators.
- f. Provide emergency rental of light, medium and heavy equipment, trucks, and other vehicles.
- g. Provide temporary housing, upon request.
- h. Provide other related Design Build Services.

7. County encourages the Design Build Entity to utilize, when appropriate, local resources of the community, to the greatest extent possible for disaster recovery assistance.

8. The County, at its sole discretion, may expand the scope of work to include additional requirements in subsequent Consultant Services Authorization or Work Authorizations.

#### **B. Work Products Required**

1. Records - Design Build Entity shall prepare full and detailed daily itemized records indicating all services, and site expenditure(s) performed by the DESIGN BUILD ENTITY. Design Build Entity shall submit to County documentation of all costs associated with the emergency incidents in a timely manner to assist the County in cost recovery in accordance with

established requirements of all governmental agencies. Design Build Entity shall coordinate with appropriate County staff regarding proper billing procedures to meet all governmental agencies' reimbursement requirements. Invoicing requirements shall include segregation of costs by site or Project Worksheet (PW).

2. Reports - The Design Build Entity shall make such periodic reports to the County, as required by the County, to detail the progress of disaster recovery services. Based on the disaster, such reports shall include but are not limited to:

- a. A daily report detailing the locations, street names and addresses where particular services were conducted and/or completed; the total number of personnel engaged on that day, the type and number of equipment and vehicles in operation on that day; percent completion of the project; the estimated completion date; any damage to private property caused by Design Build Entity's operations.
- b. A monthly summary of the information from the daily reports.
- c. At final acceptance of the project by the County, the Design Build Entity shall prepare a detailed description of recovery activities conducted, to include, but not limited to total labor and equipment, by type; the total cost of the project.
- d. Submittal of written reports documenting all action taken to assess and dispose of hazardous materials.
- e. Any other report required to satisfy any entity or agency providing funding for any project authorized pursuant to this contract.

3. Design Build Entity shall submit a plan describing methods of compliance with all applicable laws and regulations.

#### **C. Performance Schedule**

The County anticipates the performance for services/commodities related to this Agreement to begin at the time an emergency is declared by the County, or as other such services are request by CSA(s), SA(s), or WA(s). No Work shall be performed until a CSA, SA, or WA is issued. Emergency services may be initiated by a CSA, SA, or WA delivered by hand, e-mail or facsimile transmission.

#### **D. Emergency Operations Command Center**

The Emergency Operations Command Center ("EOC") is located at the Palm Beach County Emergency management Division, located at 20 S. Military Trail, West Palm Beach, Florida 33415. Water Utilities Department Command Center is located at the Water Utilities

Department Administration Building, Central Region Operation Center (CROC), 8100 Forest Hill Blvd., West Palm Beach, Florida 33413. The WUD Command Center shall be the primary point of contact and base of operations.

**E. Definitions**

Wherever the words or terms defined in this section or pronouns used in their stead occur in the Technical Specifications or other Contract Documents, they shall have the meanings herein given.

1. "Application for Payment" The form furnished by the County which is to be used by the Design Build Entity to request progress or final payment and which includes such supporting documentation as is required by the Contract Documents.
2. "Bonds" Bid, Public Construction Bond, and other instruments which protect against loss due to inability, failure or refusal of the Design Build Entity to perform the Work specified in the Contract Documents.
3. "Work Supplement" A document recommended by the Engineer, which is signed by the Design Build Entity and the County and authorizes an addition, deletion, or revision in the Work, or an adjustment in the Contract Price or the Contract Time as set forth in an issued Work Authorization and which is issued on or after execution of Contract.
4. "Construction Manager" The Construction Manager is an employee of the Design Build Entity who shall be in attendance at the project site during performance of the Work and shall represent the Design Build Entity. Communications given to the Construction Manager or decisions made by the Construction Manager shall be as binding as if given to or made by the Design Build Entity. Important communications or decisions shall be confirmed in writing. Other communications or decisions shall be similarly confirmed on written request in each case.
5. "Consultants Services Agreement" A document so labeled, which, when executed by the County and Design Build Entity, becomes part of the Contract Documents and specifies the scope of work, duration, total price, liquidated damages, design criteria, and schedule for specific professional services to be rendered regarding a project to be demolished, repaired, replaced, or constructed by Design Build Entity in accordance with the terms of the contract document.
6. "Contract" This written agreement between the County and the Design Build Entity, including the Contract Documents, covering the Work to be performed; when other documents are attached and incorporated by reference they become part of the Contract.
7. "Contract Documents" means, inclusively,
  - a. Request For Proposal and Design Build Entity's Response thereto
  - b. Completed Bonds and Guarantee.
  - c. Attachment A.

- d. Supplemental Conditions.
  - e. Special Conditions.
  - f. Technical Specifications.
  - g. Addenda.
  - h. Drawings.
  - i. Consultant Services Authorization (CSA)
  - j. Work Authorization (WA)
  - k. Manual of Minimum Engineering Standards
  - l. Design Criteria Packages
8. "Contract Price" The total monies payable by the County to the Design Build Entity under the terms and conditions of the Contract Documents.
  9. "Contract Time" The number of successive calendar days stated in the Contract Documents for the completion of the Work.
  10. "County" Palm Beach County Board of County Commissioners, Palm Beach County, Florida.
  11. "Defective Work" Work that is unsatisfactory, faulty, or deficient; or that does not conform to the Contract Documents; or that does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents; or Work that has been damaged prior to the Engineer's recommendation of final payment.
  12. "Design Criteria Package" means concise, performance-oriented drawings or specifications of the project. The purpose of the design criteria package is to furnish sufficient information to permit Design Build Entity to enter into a negotiated design build contract. The design criteria package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project.
  13. "Drawings" The drawings, plans, maps, profiles, diagrams, and other graphic representations which meet or exceed the requirements of the design criteria package and which show in detail the character, location, nature, extent and scope of the Work to be performed, which have been prepared by Design Build Entity and accepted by the Engineer, and which are considered a part of the Contract Documents.
  14. "Effective Date of the Contract " The date indicated in the Contract on which it was executed, but if no such date is indicated it means the date on which the Contract is signed and delivered by the last of the two parties to sign and deliver.
  15. "Emergency Services" Services provided by Design Build Entity following a declaration of emergency and notice by the County as described herein.

16. "Engineer" – PALM BEACH COUNTY WATER UTILITIES DEPARTMENT and its authorized agents, inspectors or representatives acting within the scope of duties entrusted to them by the County.
17. "Field Order" An order by the Engineer that does not impact the cost or time of performance of the Work.
18. "Final Acceptance" – The date the project is finally accepted by the Board of County Commissioners or their designee.
19. "General Requirements" Division 1 of the Technical Specifications.
20. "Inclement Weather" – A normal work day during which the Design Build Entity was unable to perform critical path work for a continuous period of more than four (4) hours during that day.
21. "Inspector" The inspector shall be in attendance at the project site during performance of the Work and shall report to, and be under the direct supervision of, the Resident Project Representative. The inspector shall have no authority to permit deviation from or to modify any of the provisions of the Drawings or Technical Specifications without the written permission or instruction of the Engineer.
22. "Laws and Regulations; Laws or Regulations" Laws, rules codes, regulations, ordinances and/or orders promulgated by a lawfully constituted body authorized to issue such laws and regulations with jurisdiction over the project.
23. "Living Wage Ordinance" The Palm Beach County Living Wage Ordinance (Palm Beach County Code Section 2-147, *et seq*) went into effect for all construction contracts issued on or after October 1, 2003. The ordinance requires the County and its construction contractors and subcontractors to pay a living wage. This ordinance shall apply to all construction contracts exceeding \$100,000 in value that are not subject to the Davis-Bacon Act or any related act or amendments that require Davis-Bacon wage rates. The ordinance shall apply to construction related services meaning any service, other than a professional service as defined by the Palm Beach County Purchasing Ordinance, consisting of work or labor performed directly upon the site of work and directly related to construction. Before entering into any construction contract, the Design Build Entity must provide a certificate to the Water Utilities Department stating that if awarded the contract, they will pay each employee no less than the living wage. Sub Design Build Entities must provide the certificate to the Design Build Entity, who shall forward to the Water Utilities Department. Each Design Build Entity and subDesign Build Entity is required to ascertain the current, applicable living wage rate prior to pricing any work.

The Design Build Entity shall post a copy of the following statement at the work site in a prominent place where it can easily be seen by the employees: "NOTICE TO EMPLOYEES: If you are employed to provide certain services to Palm Beach County,

your employer may be required by Palm Beach County law to pay you at least [insert the living wage rate as adjusted]. If you are not paid this hourly rate, contact your supervisor or lawyer.” The preceding statement shall be printed in English, Spanish, and Creole, and shall be printed with black lettering on letter-size, white paper using Times New Roman 14-point font, Courier new 14-point font, or Arial 14-point font. Posting requirements will not be required if the employer attaches a copy of the preceding statement to the employee’s first paycheck, and to subsequent paychecks at least every six (6) months thereafter. General Contractors shall forward a copy of the requirements of this ordinance to any person or business submitting a bid for a subcontract.

Every six (6) months the Design Build Entity shall certify and file with the Water Utilities Department, certification that all employees who worked on each construction contract during the preceding six (6) month period were paid the living wage in compliance with the ordinance. Each subDesign Build Entity must submit the certification to the Design Build Entity, who shall forward to the Water Utilities Department.

24. "Notice to Proceed" The written notice issued by the County, or its authorized agents, to the Design Build Entity authorizing the Design Build Entity to proceed with the Work and establishing the date of commencement of the Contract Time.
25. "Operations Support" Technical support, skilled labor, materials, equipment and tools required for the operation, maintenance, repair, or replacement of water or wastewater treatment facilities.
26. "Partial Utilization" Placing a portion of the Work in service for the purpose for which it is intended (or a related purpose) before reaching Substantial Completion for all the Work.
27. "Professional/Consulting Services" refers to all design, study, operation, management, and report activities primarily performed by licensed architects, engineers, their employees and subconsultants as may be authorized by CSA or required by an issued WA.
28. "Project" The entire construction to be performed as provided in the Contract.
29. "Resident Project Representative" Has the meaning set forth in Section III – General Conditions, paragraph 70.
30. "Shop Drawings" All drawings, diagrams, illustrations, schedules, and other data which are specifically prepared by or on behalf of the Design Build Entity 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 the Design Build Entity to illustrate material or equipment for some portion of the Work.

31. "Sub-Design Build Entity" A subconsultant or subcontractor, individual, firm, or corporation having a direct contract with the Design Build Entity or with any other Sub-Design Build Entity for the performance of a part of the Work authorized by an issued CSA, WA, or Supplement.
32. "Substantial Completion" The date as determined by the Engineer, as evidenced by the Engineer's definitive Certificate of Substantial Completion, when the construction of the entire Project (or a specified part thereof) is sufficiently completed, in accordance with the Contract Documents, so that the entire Project (or a specified part) can be utilized for the purposes for which it is intended. When the entire Project is considered to be Substantially Complete, this does not constitute Final Acceptance or Final Completion of the entire Project.
33. "Supplier" A manufacturer, fabricator, provider, distributor, materialman or vendor.
34. "Supplement" a written agreement, signed by County and Design Build Entity, which amends the scope, time, or compensation provided for in an issued Consultant Service Authorization or Work Authorization.
35. "Technical Specifications" Those portions of the Contract Documents consisting of the General Requirements and written technical descriptions of materials, equipment, products, supplies, manufactured articles, standards and the execution of the Work.
36. "Underground Utilities" All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasement containing such facilities which have been installed underground to furnish any of the following services or materials: water, sewage and drainage removal, electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, traffic, or other control systems.
37. "Work" – All of Design Build Entity's design, construction, and other services required by the Contract Documents including, but not limited to, including procuring and furnishing all materials, equipment, services, and labor reasonably inferable from the Contract Documents.
38. "Work Authorization" - A document which, when executed by the County and Design Build Entity, becomes a part of the Contract Documents and specifies the scope of work, duration, total price, liquidated damages, and schedule for a specific project to be demolished, repaired, replaced, or constructed by Design Build Entity in accordance with the terms of the contract document. A Work Authorization may be referred to herein as WA(s).
39. "Work Directive" A written directive to the Design Build Entity, issued on or after the Effective Date of the Contract, signed by the Engineer, ordering an addition, deletion or revision in the Work in response to an emergency or in the case of an inability to agree upon the amount of compensation of a requested change. The Design Build Entity shall

proceed upon receipt of a Work Directive to complete the work on a "cost plus" basis in accordance with Article 44, Paragraph A.3.C. A Work Directive may not change the Contract Price or Contract Time, but is evidence that the parties expect that the change directed or documented by a Work Directive will be incorporated in a subsequently issued Supplement following negotiations by the parties as to its effect, if any, on the Contract Price and/or Contract Time.

40. "Written Amendment" A written amendment of the Contract Documents, signed by the County and the Design Build Entity on or after the Effective Date of the Contract and normally dealing with the non engineering or non technical rather than strictly work related aspects of the Contract Documents.

#### **F. Design Build Entity's Insurance**

1. Unless otherwise specified in this Contract, the Design Build Entity shall, at its sole expense, maintain in full force and effect at all times during the performance of work hereunder, insurance coverage with limits not less than those set forth in the text and table below and with insurers and under forms of policies acceptable to the County. Design Build Entity shall deliver to County Certificate(s) of Insurance evidencing that such policies are in full force and effect, not later than fifteen (15) calendar days after receipt of notification from County, but in any event, prior to execution of the Contract by County and prior to commencement of work on the project. Such certificate(s) shall adhere in every respect to the conditions set forth herein. All insurance shall be primary coverage with respect to the County and shall so state on the policy. Any insurance carried by the County, or its consultants, shall be excess insurance only.
2. The Design Build Entity shall maintain during the term of this Contract, standard Professional Liability Insurance, including errors and omissions coverage, in the minimum amount of \$ 3,000,000. For policies written on a Claims-Made basis, Design Build Entity warrants the Retroactive Date equals or precedes the effective date of this contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced; or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this Contract, Design Build Entity shall agree to purchase a SERP with a minimum reporting period not less than four (4) years. This coverage shall be provided on a primary basis.
3. The Design Build Entity shall purchase and maintain during the life of this Contract, Worker's Compensation Insurance, including Employers Liability, to comply with all applicable state and federal laws covering all of its employees on the project, and in accordance with all of the limits, terms and conditions set forth herein. Design Build Entity shall defend, indemnify and save the County and the Engineer harmless from any damages resulting to them for failure of Design Build Entity to take out or maintain such insurance.
4. Design Build Entity shall purchase and maintain during the life of this Contract Commercial General Liability Insurance in accordance with all of the limits, terms and conditions set forth herein.



5. Should any of the work hereunder involve watercraft owned or operated by Design Build Entity, or any sub-Design Build Entities, such shall be insured under the Commercial General Liability Policy or by other such liability insurance such as Protection and Indemnity.

6. Design Build Entity shall purchase and maintain during the life of this Contract Comprehensive Automobile Liability Insurance covering all owned, non-owned and hired automobiles with all of the limits, terms and conditions set forth herein.

7. BUILDER'S RISK - With respect to any of the work involving the construction of real property (buildings and improvements other than buildings) during the construction project, the County will maintain Builders Risk insurance providing coverage for the entire work at the project site, and will also cover portions of work located away from the site but intended for use at the site, and will also cover portions of the work in transit.

The Design Build Entity agrees and understands the County shall not provide any Builder's Risk insurance on behalf of Design Build Entity for loss or damage to property owned, hired, or borrowed by the Design Build Entity. The Design Build Entity shall be responsible for policy deductibles of \$25,000 on all perils.

A copy of the Master Builders Risk Insurance policy is now available for review. It has been posted to the internet at: <http://www.pbcgov.com/riskmanagement/>

8. Should any of the Work hereunder involve the hauling and/or rigging of property in excess of \$500,000 or \$250,000 in transit, Design Build Entity shall procure and maintain "ALL RISK" Transit or Motor Truck Cargo Insurance or a similar form of coverage insuring against physical damage or loss of property being transported, stored, moved, or handled by Design Build Entity, or any sub-Design Build Entities, pursuant to the terms of this Contract, subject to the limits, terms and conditions set forth herein.

9. Should any of the work hereunder involve aircraft (fixed wing or helicopter) owned or operated by Design Build Entity, or any sub-Design Build Entities, Design Build Entity shall procure and maintain Aircraft Liability Insurance in accordance with the terms and conditions set forth herein.

10. The requirement contained herein as to types and limits, as well as County approval of insurance coverage to be maintained by Design Build Entity are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Design Build Entity under the Contract.

11. Certificates of Insurance must provide clear evidence that Design Build Entity's Insurance Policies contain the minimum limits of coverage and terms and conditions set forth herein. All policies must be endorsed so that thirty- (30) days advance notification of cancellation and/or any material change(s) in coverage shall be provided to the Board of County Commissioners, Palm Beach County, Florida. Copies of such endorsements shall be provided to the Board of County Commissioners, Palm Beach County prior to the Design/Build entity

performing any work under this Contract. Insurance shall remain in full force and effect until all work required to be performed under the terms of this Contract are satisfactorily completed as evidenced by final acceptance of the Work by Palm Beach County.

12. In the event that the insurance certificates provided hereunder indicate that the insurance shall terminate and lapse during the period of this Contract, then in that event, the Design Build Entity shall furnish at least thirty (30) days prior to the expiration of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Contract and any extension thereof is in effect. Design Build Entity shall not continue to work pursuant to this Contract unless all required insurance remains in effect. County may, without liability to the Design Build Entity, stop work and/or withhold payment to Design Build Entity until coverage is reinstated.

13. Design Build Entity shall deliver original Certificate(s) of Insurance to:

Palm Beach County Water Utilities Department  
 Engineering Division  
 8100 Forest Hill Blvd.  
 West Palm Beach, FL 33413

Notices of cancellation, terminations and alterations of said policies shall be delivered to:

Palm Beach County Water Utilities Department  
 Engineering Division  
 P.O. Box 16097  
 West Palm Beach, FL 33406

**14. STANDARD CONSTRUCTION CONTRACT INSURANCE REQUIREMENTS**

| <b>INSURANCE COVERAGE &amp; LIMIT TABLE</b>                                      |                                      |                                    |
|--|--------------------------------------|------------------------------------|
| <b>TYPE OF COVERAGE</b>  | <b>CONTRACTS LESS THAN \$500,000</b> | <b>CONTRACTS \$500,000 OR MORE</b> |
| <b><u>COMMERCIAL GENERAL LIABILITY:</u></b><br>Limit of Liability not less than: | \$500,000<br>per occurrence          | \$1,000,000<br>per occurrence      |
| Additional Insured endorsement required:   | Yes                                  | Yes                                |
| <b><u>COMPREHENSIVE AUTO LIABILITY:</u></b><br>Limit of Liability not less than: | \$500,000<br>per occurrence          | \$1,000,000<br>per occurrence      |
| Additional Insured endorsement required:   |                                      |                                    |

| <b>INSURANCE COVERAGE &amp; LIMIT TABLE</b>   |  |
|---|--|
| <b><u>WORKERS COMPENSATION &amp; EMPLOYER'S LIABILITY:</u></b><br>Coverage not less than:<br><br>Employers Liability Limits:  | Statutory<br><br>\$100/500/100   |
| <b><u>WATERCRAFT LIABILITY:</u></b><br>Limit of Liability not less than:<br><br>Additional Insured endorsement required:  | \$5,000,000<br>per occurrence<br><br>Yes                                     |
| <b><u>AIRCRAFT LIABILITY:</u></b><br>Limit of Liability not less than:<br><br>When used to carry passengers (excluding aircraft's crew) coverage for Passenger Liability not less than:<br><br>Additional Insured endorsement required: | \$5,000,000<br>per occurrence<br><br>\$1,000,000<br>per passenger<br><br>Yes |
| <b><u>INLAND MARINE COVERAGE:</u></b><br>Limit not less than:<br><br>Additional Insured & Loss Payee endorsements required:   | Highest value exposed during the construction project.<br><br>Yes            |

**ADDITIONAL REQUIREMENTS FOR CERTIFICATES OF INSURANCE:**

- a. The certificate holder on the insurance certificate shall be "Board of County Commissioners, Palm Beach County, Florida" care of the Palm Beach County Water Utilities Department, P.O. Box 16097, West Palm Beach, Florida 33416-6097.
- b. Where required, the following Additional Insured paragraph shall appear unaltered on the Certificate of Insurance to guarantee that the Board of County Commissioners is named as additional insured:

"The Board of County Commissioners, Palm Beach County, Florida (a political

subdivision of the State of Florida), are hereby named as additional insured under the terms of this policy."

c. Where required, the following Additional Insured paragraph shall appear unaltered on the Certificate of Insurance to guarantee that the Palm Beach County Water Utilities Department, its officers, directors, agents, and employees are named as additional insured:

"Palm Beach County Water Utilities Department, its officers, directors, agents, and employees are hereby named as additional insured under the terms of this policy."

d. General Liability must state coverage is primary as respect to County and its authorized representatives and contain Cross Liability and Severability of Interest clauses.

## **G. Preliminary Matters**

1. When the Design Build Entity delivers the signed Contracts to the County, the Design Build Entity shall also deliver to the County such Insurance Certificates or other documents as the Design Build Entity may be required to furnish in accordance with the Contract Documents.

The County will provide Design Build Entity with three (3) copies of the Contract Documents. Additional quantities of the Contract Documents will be furnished at Design Build Entity expense.

## **H. Intent of Contract Documents**

1. The Contract Documents comprise the entire Contract between the County and Design Build Entity concerning the Work. The Contract Documents are complementary, so that any Work exhibited in the one, or any section of one, shall be executed just as if it has been set forth in all, in order that the Work shall be completed in every respect according to the complete design or designs; compliance with the complete design or designs shall be decided and determined by the Engineer.

2. It is the intent of the Contract Documents to describe the Work, functionally complete, to be constructed in accordance with the Contract Documents. Any work, 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.

3. In the event of a conflict, omission, error or discrepancy in the Contract Documents the Design Build Entity shall promptly notify the Engineer. In resolving conflicts resulting from errors or discrepancies in any of the Contract Documents, the more specific document shall control over the more general, the most recently executed shall control over the older document, and after award, Work Supplements, supplemental agreements, and County approved revisions to plans and specifications will take precedence over other Contract Documents. Detailed plans shall have precedence over general plans however, requirements of a design criteria package

shall have precedence over Drawings and Technical Specifications prepared by Design Build Entity. In the event that any conflicts cannot be resolved by reference to this governing order of Contract Documents provision, then County shall resolve the conflict in any manner which is acceptable to County and which comports with the overall intent of the Contract Documents.

4. The captions or subtitles used in these Contract Documents constitute no part of the context hereof, but are only labels to assist in locating and reading the provisions hereof.

5. From time to time during the progress of the Work, the Engineer may furnish supplementary drawings attached to a Work Supplement, a Field Order, a work Directive, or as a response to the Design Build Entity's request for additional information, as it determines necessary to show changes or define the Work in more detail, and these also shall be considered as part of the Contract Documents.

#### **I. Pricing and Payment**

1. Pricing for each CSA, SA, and WA issued pursuant to this Contract shall be in accordance with the rates, costs, and expenses set forth in Appendices A-1, A-2, or A-3 unless otherwise agreed to in writing by the parties. For the purposes of this provision, written notice shall include notice by e-mail or facsimile transmission.

2. All payments made for Work performed pursuant to any CSA, SA, or WA shall be made in accordance with the applicable provisions of Florida Statute 218.70 *et seq*, the Local Government Prompt Payment Act.

#### **J. Indemnification**

1. In consideration of the amount paid and to be paid pursuant to the issued CSA(s), SA(s), and WA(s) and other valuable consideration, the Design Build Entity shall indemnify and hold harmless the County, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Design Build Entity and persons employed or utilized by the Design Build Entity in the performance of this Contract. This provision shall, in all circumstances, be interpreted in a manner so as to be consistent with Florida Statute 725.06.

2. The Design Build Entity further agrees to obtain, maintain and pay for such general liability insurance coverage as will insure the provisions of this Paragraph and other contractual indemnities assumed by the Design Build Entity in this Contract.

#### **K. County's Right to Terminate**

1. If at any time there shall be filed by or against the Design Build Entity in any court, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of the Design Build Entity's property, and within thirty (30) days therefrom the Design Build Entity fails to secure a discharge thereof, or if the Design Build

Entity makes an assignment for the benefit of creditors or petitions for or enters into an agreement or arrangement with its creditors, or if the Design Build Entity admits in writing an inability to pay its debts generally as they become due, or if the Design Build Entity persistently fails to perform the Work in accordance with the Contract Documents (including, but not limited to failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under the General Requirements of the Technical Specifications as revised from time to time), or if Design Build Entity disregards Laws or Regulations of any public body having jurisdiction, or if Design Build Entity disregards the authority of the Engineer, or if Design Build Entity otherwise violates in any substantial way any provisions of the Contract Documents, then the County by giving seven (7) days prior written notice of any such default to the Design Build Entity and without prejudice to any other remedy it may have, may terminate the employment of the Design Build Entity, exclude Design Build Entity from the site, and take possession of the Work and all or some of the Design Build Entity's materials, tools, equipment and appliances and use the same to the full extent they could be used by the Design Build Entity (without liability to the Design Build Entity for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which County has paid Design Build Entity but which are stored elsewhere and complete the Work by such means as the County deems expedient. In such case, the Design Build Entity shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Sum shall exceed (1) the expense of completing the Work including compensation for additional managerial and administrative services, plus (2) the County's indirect and consequential losses and damages because of the Design Build Entity's default, including but not limited to fees and charges of Engineers, Architects, Attorneys and other professionals and court costs, such excess shall be paid to the Design Build Entity. If such expense, plus the County's losses and damages shall exceed such unpaid balance, the Design Build Entity shall pay the difference to the County promptly on demand. Such costs incurred by the County shall be approved as to reasonableness by the Engineer and incorporated into a Work Supplement, but when exercising any rights or remedies under this paragraph, County shall not be required to obtain the lowest price for the Work performed.

2. The County may terminate this Contract without cause by giving seven (7) days prior written notice to the Design Build Entity, and in such event, the County will pay the Design Build Entity for that portion of the Contract Sum, less the aggregate of previous payments, allocable to the Work completed as of the Date of Termination. The County also will reimburse the Design Build Entity for all reasonable costs necessarily incurred for organizing and carrying out the stoppage of the Work and paid directly by the Design Build Entity, not including overhead, general expenses or profit. The County will not be responsible to reimburse the Design Build Entity for any continuing contractual commitments to subDesign Build Entities or material suppliers or penalties or damages for canceling such contractual commitments inasmuch as the Design Build Entity shall make all subcontracts and other commitments subject to this provision. County will not be liable for, and Design Build Entity hereby waives, any claim for lost prospective profits, economic losses, or other consequential damages.

3. In the event of termination by the County, the County may require the Design Build Entity promptly to assign to it all or some subcontracts, construction, plant, materials, tools, equipment, appliances, rental agreements, and any other commitments which the County, in its

sole discretion, chooses to take by assignment, and in such event the Design Build Entity shall promptly execute and deliver to the County written assignments of the same.

4. In the event that any termination under subparagraph (2) above is determined to have been effectuated without proper or sufficient cause, then such termination shall be deemed to have been a termination for convenience under subparagraph (3) above.

**L. Design Build Entity's Right to Terminate or Stop Work**

If through no act or fault of the Design Build Entity, the Work is suspended for a period of more than ninety (90) days by the County or under an order of court or other public authority, or the Engineer fails to act on any Application for Payment within thirty (30) days after it is submitted or County fails for sixty (60) days to pay the Design Build Entity any sum finally determined to be due, then the Design Build Entity may, upon giving seven (7) days prior written notice to the Engineer, and provided Engineer does not remedy such suspension or failure within that time, terminate the Contract and recover from the County payment on the same terms as provided in K(2), above. In lieu of terminating the Contract and without prejudice to any other right or remedy, if the Engineer has failed to act on an Application for Payment within thirty (30) days after it is submitted, or the County has failed for sixty (60) days to pay the Design Build Entity any sum finally determined to be due, the Design Build Entity may upon seven (7) days prior written notice to the Engineer stop the Work until payment is received of all such amounts due the Design Build Entity.

**M. Choice of Laws and Venue**

This Contract shall be governed by the laws of the State of Florida as now and hereafter in force. The venue for actions arising out of this Contract shall be in a State Court of competent jurisdiction located in Palm Beach County, Florida.

**N. Right to Audit**

If the Design Build Entity submits a claim to the County for additional compensation, the County shall have the right, as a condition to considering the claim, and as a basis for evaluation of the claim, and until the claim has been settled, to audit the Design Build Entity's books to the extent they are relevant. This right shall include the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to discover and verify all direct and indirect costs of whatever nature claimed to have been incurred or anticipated to be incurred and for which the claim has been submitted. The right to audit shall include the right to inspect the Design Build Entity's plants, or such parts thereof, as may be or have been engaged in the performance of the Work. The Design Build Entity further agrees that the right to audit encompasses all subcontracts and is binding upon all sub-Design Build Entities. The rights to examine and inspect herein provided for shall be exercisable through such representatives as the County deems desirable during the Design Build Entities normal business hours at the office of the Design Build Entity. The Design Build Entity shall make available to the County for

auditing, all relevant accounting records and documents, and other financial data, and upon request, shall submit true copies of requested records to the County.

**O. Notice and Service**

1. All notices, demands, requests, instructions, approvals and claims shall be made in writing.
2. Any notice to or demand upon the Design Build Entity shall be sufficiently given if delivered to such office of the Design Build Entity specified in the Proposal (or to such other office as the Design Build Entity may from time to time designate to the County in writing), or if hand delivered to Construction Manager, or if deposited in the United States Mail in a sealed, postage prepaid envelope, or if delivered with charges prepaid to any telegraph company for transmission, in each case addressed to such office.
3. All notices or other papers required to be delivered by the Design Build Entity to the County, or to any of its representatives shall, unless otherwise specified in writing to the Design Build Entity, be delivered to the office of the Engineer, and any other notice or demand upon the County shall be sufficiently given if delivered to such office, or if delivered, with the charges prepaid to any telegraph company for transmission, in each case addressed to such office (or to such other representative of the County or to such other address as the County may subsequently specify in writing to the Design Build Entity for such purpose).
4. Any such notice or demand shall be deemed to have been given or made as of the time of actual delivery, or in the case of telegrams, at the time of actual receipt thereof.

**P. Availability of Funds**

The County's performance and obligation to pay under this contract for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners.

**Q. Successors and Assigns**

The County and the Design Build Entity each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as specifically provided herein, neither the County nor the Design Build Entity shall assign, sublet, convey or transfer its interest in this Contract without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the County and the Design Build Entity.

**R. Conflicts of Interest**

1. The Design Build Entity represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of



services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes. The Design Build Entity further represents that no person having any such conflict of interest shall be employed for said performance of services.

2. The Design Build Entity shall promptly notify the County's representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the Design Build Entity's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Design Build Entity may undertake and request an opinion of the County as to whether the association, interest or circumstance would, in the opinion of the County, constitute a conflict of interest if entered into by the Design Build Entity. The County agrees to notify the Design Build Entity of its opinion by certified mail within thirty (30) days of receipt of notification by the Design Build Entity. If, in the opinion of the County, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Design Build Entity, the County shall so state in the notification and the Design Build Entity shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the County by the Design Build Entity under the terms of this Contract.

#### **S. Criminal History Records Check**

The Design Build Entity shall comply with the provisions of Palm Beach County Code Section 2-371, *et seq.*, the Criminal History Records Check Ordinance ("Ordinance"), if Design Build Entity's employees or subcontractors are required under this contract to enter a "critical facility" as identified in Resolution R-2003-1274. The Design Build Entity acknowledges and agrees that all employees and subcontractors who are to enter a "critical facility" will be subject to a fingerprint based criminal history records check. Although County agrees to pay for all applicable FDLE/FBI fees required for criminal history record checks, the Design Build Entity shall be solely responsible for the financial, schedule, and staffing implications associated in complying with Ordinance 2003-030.

#### **T. Severability**

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

#### **U. Public Entity Crimes**

As provided in F.S. 287.132-133, by entering into this contract or performing any work in furtherance hereof, the Design Build Entity certifies that it, its affiliates, suppliers, subcontractors

and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3) (a).

**V. Authority To Practice**

The Design Build Entity hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the County's representative upon request.

**W. Contingent Fees**

The Design Build Entity warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Design Build Entity to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Design Build Entity, any fee, commission, percentage, gift , or any other consideration contingent upon or resulting from the award or making of this Contract.

**X. Independent Contractor Relationship**

The Design Build Entity is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the County. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the Design Build Entity's sole direction, supervision, and control. The Design Build Entity shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Design Build Entity's relationship and the relationship of its employees to the County shall be that of an Independent Contractor and not as employees or agents of the County.

The Design Build Entity does not have the power or authority to bind the County in any promise, agreement or representation.

**Y. Arrears**

The Design Build Entity shall not pledge the County's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The Design Build Entity further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

**Z. Federal And State Tax**

The County is exempt from payment of Florida State Sales and Use Taxes. The County will sign an exemption certificate submitted by the Design Build Entity. The Design Build Entity shall

not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the County, nor is the Design Build Entity authorized to use the County's Tax Exemption Number in securing such materials.

The Design Build Entity shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this contract.

**AA. Performance During An Emergency**

By executing this Contract, Design Build Entity agrees and promises that, during and after a public emergency, disaster, hurricane, flood, or acts of God, Palm Beach County shall be given "first priority" for all goods and services under this contract. Design Build Entity agrees to provide all goods and services to Palm Beach County during and after the emergency/disaster at the terms, conditions, and prices as provided in this Contract and with a priority above, a preference over, sales to the private sector. Design Build Entity shall furnish a 24-hour phone number to the County in the event of such an emergency. Failure to provide the stated priority/preference during and after an emergency/disaster shall constitute breach of contract and make the Design Build Entity subject to sanctions from further business with the County.

During, and only during, such periods as Design Build Entity is authorized to charge Emergency rates for the services required pursuant to article I – General Conditions, paragraph I, above, this Contract, the following changes to this Contract shall be in effect:

1. The standard of care for all professional, architectural, engineering, and other related services performed or provided by Design Build Entity shall be the care and skill normally used by members of the same professions practicing under similar circumstances at the same time in the same locality. Design Build Entity will re-perform any professional, architectural, engineering or related services not meeting this standard without additional compensation. At all other times, i.e. when services are being provided at non-emergency rates, the higher standards of care provided for in this Contract shall apply.

2. In the General Conditions, Section I - General Provisions, subsection K.1, Section III - General Conditions, subsection 42.N, Section III - General Conditions, subsection 51.J, Section III - General Conditions, subsection 51.K, Section III - General Conditions, subsection 53.A, and Section III - General Conditions, subsection 53.B, the words "indirect and consequential" will be deleted. The agreement of the parties to the deletion of these terms during periods when Design Build Entity is being compensated at Emergency rates shall not be construed against either party as authorizing, permitting, waiving, or prohibiting the recovery of such costs or damages.

**BB. Compliance With Applicable Laws**

1. Design Build Entity is familiar with, and certifies that all work shall comply with, all Federal, State and Local laws, ordinances, rules and regulations that in any way affect the cost, progress or performance of the Work including where applicable on specific Federal Funded projects Davis-Bacon Wage and Rate provisions and documentation.

**CC. Compliance With No Gift Policy**

Palm Beach County Water Utilities has a no gift policy under Policy and Procedures Manual WUD-P-018. The County reserves the right to cancel any Agreement or Contract with any person or entity that violates this policy

**DD. Palm Beach County Office of the Inspector General**

Palm Beach County has established the Office of the Inspector General, Ordinance R2009-049 which is authorized and empowered to review past, present and proposed County contracts, transactions, accounts and records. All contractors and parties doing business with the County and receiving County funds shall fully cooperate with the Inspector General including receiving access to records relating to Bid or any resulting contract. The Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and audit, investigate, monitor, and inspect the activities of the contractor, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud.

**EE. Scrutinized Companies**

As provided in F.S. 287.135, by entering into any agreement with the Authority, or performing any work in furtherance hereof, Design Build Entity hereby certifies that Design Build Entity and Design Build Entity's affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473. If the Authority determines, using credible information available to the public, that a false certification has been submitted by Design Build Entity, this Agreement may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed, pursuant to F.A. 287.135.

**FF. Third Party Beneficiaries**

Except as specifically and expressly provided for herein, no provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement.

**GG. Contract Methodology**

It is the intent of this contract that work be assigned to Design Build Entity in the following manner:

1. Emergency services, equipment, and manpower may be contracted for pursuant to issued Service Authorizations. Each Service Authorization shall contain a scope of work and a

price determined in accordance with paragraph I, above. Each SA shall be governed by the applicable terms and conditions set forth in Sections II and III below.

2. Design build services shall be contracted for by the issuance of appropriate CSA(s) and WA(s). Each design build CSA and WA shall contain a scope of work, guaranteed schedule, and guaranteed maximum price based upon the design criteria package. The guaranteed maximum price shall be separately allocated and designated for services rendered pursuant to the CSA and for services, labor, materials, and equipment rendered pursuant to the WA. The parties acknowledge the difficulty associated with accurately pricing the work to be provided pursuant to the WA based solely on the design criteria package; before the final plans and specifications have been prepared. Therefore the parties agree, at an appropriate stage of completion of the final plans and specifications, to revisit the guaranteed maximum price allocated to the WA with the intent of reducing the guaranteed maximum price, if possible, to more accurately reflect the actual anticipated cost of the work, based upon the final plans and specifications. If after revisiting the guaranteed maximum price, the County is not satisfied with the pricing, the County may terminate the WA, paying Design Build Entity for the services rendered prior to termination in accordance with the provisions of paragraph K(2), above. In the event the WA is terminated, County may initiate negotiations with another contractor or may separately bid the project. If requested by County to do so, Design Build Entity shall complete all design work required by the CSA and County shall have full use of all documents obtained or prepared by Design Build Entity pursuant to any related CSA(s), SA(s), and WA(s).

## **II. PROFESSIONAL SERVICES**

The following provisions relate primarily to Professional Services rendered pursuant to this Contract.

One of Design Build Entity's responsibilities under this Contract is to provide professional/consultation services as more specifically set forth in the Scope of Work and as more particularly detailed in such CSA(s) as may be issued pursuant to this Contract. Design Build Entity shall perform no services pursuant to this part until authorized in writing pursuant to an issued CSA. Where Design Build Entity is required to perform design work, all designs shall meet or exceed the requirements of the design criteria package.

### **A. Schedule**

The Design Build Entity shall commence services and complete all services as directed in an issued CSA. Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in such CSA.

### **B. Payments To Design Build Entity**

1. The total amount to be paid by the County under this Contract for all services and materials including, if applicable, "out of pocket" expenses (specified in paragraph 3 below) shall not exceed a total contract amount of all issued CSA(s), SA(s), and WA(s). For each issued CSA

and WA, the Design Build Entity shall notify the County's representative in writing when 90% of that CSA's, SA's, or WA's contract amount has been reached. The Design Build Entity will bill the County as provided in each CSA, SA, or WA. Where incremental billings for partially completed items are permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date.

2. Invoices received from the Design Build Entity pursuant to this Contract will be reviewed and approved by the County's representative, to verify that services have been rendered in conformity with the Contract. Approved invoices will then be handled in accordance with the Florida Local Government Prompt Payment Act, Florida Statute 218.70 *et seq.*

3. "Out-of-pocket" expenses will be reimbursed as provided for in each issued CSA. All requests for payment of "out-of-pocket" expenses eligible for reimbursement under the terms of this Contract shall include copies of paid receipts, invoices, or other documentation acceptable to the Palm Beach County Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Scope of Work described in this Contract. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Contract will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.

4. Final Invoice - In order for both parties herein to close their books and records, the Design Build Entity will clearly state "final invoice" on the Design Build Entity's final/last billing to the County for each CSA. This shall constitute Design Build Entity's certification that all services rendered pursuant to that CSA have been properly performed and all charges and costs have been invoiced to Palm Beach County. Any other charges not properly included on this final invoice are waived by the Design Build Entity.

#### **C. Excusable Delays**

1. The Design Build Entity shall not be considered in default by reason of any failure in performance if such failure relates to a critical path item and arises out of causes reasonably beyond the control of the Design Build Entity or any person or entity for whom it is responsible, and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

2. Upon the Design Build Entity's request, the County shall consider the facts and extent of any failure to perform the work and, if the Design Build Entity's failure to perform was without it or its subconsultant's fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly, subject to the County's rights to change, terminate, or stop any or all of the work at any time.

#### **D. Changes**

The scope, amount, or time provided for in any CSA, SA, or WA(s) may be amended by issuance of a change order, Supplement, amendment or other written agreement executed by both parties.

**E. Truth-In-Negotiation Certificate**

1. Signature of this Contract by the Design Build Entity shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the Design Build Entity's most favored customer for the same or substantially similar service.

2. The said rates and costs shall be adjusted to exclude any significant sums should the County determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside consultants. The County shall exercise its rights under this article within four (4) years following final payment.

**F. Personnel**

1. The Design Build Entity represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under each issued CSA or SA. Such personnel shall not be employees of or have any contractual relationship with the County.

2. All of the services required pursuant to this Contract shall be performed by the Design Build Entity or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

3. Any changes or substitutions in the Design Build Entity's key personnel must be made known to the County's representative and written approval must be granted by the County's representative before said change or substitution can become effective.

4. The Design Build Entity warrants that all services shall be performed by properly licensed, skilled and competent personnel to the professional standards exercised by firms of national repute practicing in the areas of expertise required for the performance of the services required by this Contract.

5. All of the Design Build Entity's personnel (including all subconsultants and subcontractors) while on County premises will comply with all County requirements governing conduct, safety and security.

**G. Subcontracting Professional Services**

1. The County reserves the right to accept the use of a subconsultant or to reject the selection of a particular subconsultant and to inspect all facilities of any subconsultants in order to make a determination as to the capability of the subconsultant to perform properly under this

Contract. The Design Build Entity is encouraged to seek additional small business enterprises for participation in subcontracting opportunities.

2. If a subconsultant fails to perform or make progress, as required by this Contract, and it is necessary to replace the subconsultant to complete the work in a timely fashion, the Design Build Entity shall promptly do so, subject to acceptance of the new subconsultant by the County.

3. The Design Build Entity understands and agrees that each SBE firm utilized on this Contract must be certified by Palm Beach County in order to be counted toward the SBE participation goal.

4. The Design Build Entity shall provide the County with a copy of the Design Build Entity's contract with any SBE subconsultant or any other related documentation upon request.

5. The Design Build Entity understands the requirements to comply with the tasks and proportionate dollar amounts throughout the term of this Contract as it relates to the use of SBE firms.

6. The Design Build Entity will only be permitted to replace a certified SBE subconsultant who is unwilling or unable to perform. Such substitutions must be done with another certified SBE in order to maintain the SBE percentages established in this Contract. Requests for substitutions of SBE's must be submitted to the County's representative and to the Office of Small Business Assistance.

7. The Design Build Entity shall be required to submit to the County Schedule 1 (Participation of SBE-M/WBE Contractors) and Schedule 2 (Letter of Intent) to further indicate the specific participation anticipated, where applicable.

8. The Design Build Entity agrees to maintain all relevant records and information necessary to document compliance pursuant to Palm Beach County Code, Chapter 2, Article III, Sections 2-71 through 2-80.13 and any revisions thereto, and will allow the County to inspect such records.



### III - GENERAL CONDITIONS

#### TABLE OF CONTENTS

##### ARTICLE

---

|    |   |
|----|---|
| 1  | Applicability   |
| 2  | Not Used  |
| 3  | Before Starting Construction  |
| 4  | Pre-construction Conference   |
| 5  | Intent and Amending Contract Documents                                    |
| 6  | Reuse of Documents  |
| 7  | Occupying Private Land  |
| 8  | Work in State and County Rights-of Way and Easements                      |
| 9  | Work Adjacent to Telephone, Power, Cable TV<br>and Gas Company Structures |
| 10 | Use of Public Streets   |
| 11 | Subsurface Investigation  |
| 12 | Obstructions  |
| 13 | Dimensions of Existing Structures   |
| 14 | Elevation Datum   |
| 15 | Work to Conform   |
| 16 | Location of Proposed Work   |
| 17 | Bonds   |
| 18 | Compensation  |
| 19 | Design Build Entity's Responsibility                                      |
| 20 | Discontinuance of Construction  |
| 21 | Guarantee   |
| 22 | Field Layout of Work  |
| 23 | Specified Materials   |
| 24 | Handling and Distribution   |
| 25 | Storage of Materials  |
| 26 | Salvaged and Excavated Materials  |
| 27 | Subcontracts  |
| 28 | Permits   |
| 29 | Employees   |
| 30 | Florida Products and Labor  |
| 31 | Equal Employment Opportunity  |
| 32 | Sanitary Regulations  |
| 33 | Taxes   |
| 34 | Design Build Entity's Use of Premises                                     |
| 35 | Accident Prevention   |
| 36 | Precautions During Adverse Weather  |
| 37 | Scheduling  |
| 38 | Non-assignable  |

|    |  |
|----|--|
| 39 | Not Used   |
| 40 | Confidentiality  |
| 41 | Work by Others   |
| 42 | Engineer's Responsibility  |
| 43 | Changes in the Work  |
| 44 | Change of Contract Price   |
| 45 | Change Procedures  |
| 46 | Omitted Work   |
| 47 | Changes Not to Affect Bonds  |
| 48 | Continuing the Work  |
| 49 | Change of Contract Time  |
| 50 | Extension of Time on Account of Weather/Inclement Weather  |
| 51 | Materials, Samples and Inspection  |
| 52 | Inspection of Work Away From the Site  |
| 53 | One Year Correction Period   |
| 54 | Application for Progress Payment   |
| 55 | Partial Utilization  |
| 56 | Substantial Completion   |
| 57 | Final Application for Payment  |
| 58 | Record Documents   |
| 59 | Final Payment and Acceptance   |
| 60 | Design Build Entity's Continuing Obligation  |
| 61 | Final Payment Terminates Liability of County   |
| 62 | Not Used   |
| 63 | Not Used   |
| 64 | Not Used   |
| 65 | Title to Materials Found on the Work   |
| 66 | Not Used   |
| 67 | Asbestos   |
| 68 | Explosives and Hazardous Materials   |
| 69 | Not Used   |
| 70 | Listing of the Duties, Responsibilities and Limitations<br>of Authority of the Resident Project Representative |
| 71 | Not Used   |
| 72 | Design Build Entity Furnished Drawings, Data and Samples   |
| 73 | Design Build Entity Work-Site Emergency Action Plan  |
| 74 | Cost Savings   |
| 75 | Safety and Health Regulations  |
| 76 | Best Management Practices for the Construction Industry  |
| 77 | Performance During Emergency   |

---

**1    Applicability**

The following terms and conditions apply, primarily, to field work including, but not limited to, efforts to demolish, clean-up, repair, maintain, replace and reconstruct damaged structures and property of the County.

**2 Not Used**

**3. Before Starting Construction**

A. Design Build Entity shall not perform any services pursuant to this section until County has issued a Work Authorization for such work.

B. The Design Build Entity shall submit to the Engineer for review those documents identified in the General Requirements of the Technical Specifications. Before undertaking each part of the Work, the Design Build Entity shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. The Design Build Entity shall notify the Engineer, in writing, of all conflicts, errors, inconsistencies, or omissions which it may discover; and obtain specific instructions in writing from the Engineer before proceeding with any part of the Work affected thereby. The Design Build Entity shall not take advantage of any apparent error or omission which may be found in the Contract Documents, but the Engineer shall be entitled to make such corrections therein and interpretations thereof, as it may deem necessary for the fulfillment of their intent. The Design Build Entity shall be responsible for all errors in construction which could have been avoided by such examination and notification and shall correct at its own expense all Work improperly constructed through failure to notify the Engineer and request specific instructions.

**4. Pre-construction Conference**

Following the execution of the Contract and prior to start of any construction services, a pre-construction conference will be scheduled by the Engineer, which must be attended by the Design Build Entity. This conference will be held to review the schedules, to establish procedures for handling shop drawings and other submissions, and to establish a working understanding between the Parties as to the Project. This conference may include representatives of the Engineer, County, local utilities, regulatory agencies, other Design Build Entities performing work in the area for the County, and any other party that may be deemed as necessary for the orderly performance of the Contract. However, this does not relieve the Design Build Entity of the responsibility of contacting local utilities and any other necessary agencies or Design Build Entities.

**5 Intent and Amending Contract Documents**

A. Amending and Supplementing the Contract Documents

1. The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways:

- a. A formal Written Amendment
- b. A Supplement
- c. A Field Order
- d. A Work Directive

As indicated in Articles 44 and 49, Contract Price and Contract Time may only be changed by a Supplement.

- 2. In addition, the requirements of the Contract Documents may be supplemented and minor variations and deviations in the Work may be authorized, in one or more of the following ways:
  - a. A Field Order
  - b. The Engineer's approval of a Shop Drawing or Sample, provided that Design Build Entity has called such variation or deviation from the contract requirements to the attention of Engineer in a writing in accordance with GC 72, which specifically identifies the change.
  - c. The Engineer's written interpretation or clarification of the Intent of the Contract Documents.

## **6. Reuse of Documents**

Neither the Design Build Entity, nor any Sub-Design Build Entity or Supplier, nor any other person or organization performing or furnishing any of the Work under a Contract with the County shall have or acquire any title to or ownership rights in any of the Drawings, Technical Specifications, or other documents (or copies of any thereof) prepared for use on the Work, and they shall not reuse any of them on extensions of the project or any other project without prior written consent of the Engineer.

## **7. Occupying Private Land**

A. The County shall furnish, as indicated in the Contract Documents, the lands upon which the work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of the Design Build Entity. It is the Design Build Entity's Responsibility to perform the work within the legally described limits of the lands. The Design Build Entity shall provide for all additional lands and access thereto required for temporary Construction facilities or storage of equipment and materials.

B. The Design Build Entity shall not (except after written consent from the proper parties) enter or occupy with personnel, tools, equipment or materials, any land outside the rights-of-way or property of the County. Upon request of the County, the Design Build Entity shall give a copy of the written consent to the Engineer.

## **8 Work in State and County Rights-of-Way and Easements**

When the Work involves the installation of sanitary sewers, storm sewers, drains, water mains, manholes, underground structures, or other disturbances of existing features in or across streets, rights-of-way, easements, or other property, the Design Build Entity shall (as the Work progresses) promptly back-fill, compact, grade and otherwise restore the disturbed area to a basic condition which will permit resumption of pedestrian or vehicular traffic and any other critical activity or function consistent with the original use of the land. Unsightly mounds of earth, large stones, boulders, and debris shall be removed so that the site presents a neat appearance.

## **9 Work Adjacent to Telephone, Power, Water, Sewer, Drainage Cable TV and Gas Company Structures**

In all cases where Work is to be performed near utilities including telephone, power, water, sewer, drainage, cable TV, or gas company facilities, the Design Build Entity shall provide written notification to the respective companies of the areas in which Work is to be performed, prior to the actual performance of any Work in these areas, and shall take all actions necessary to protect such facilities from damage. Design Build Entity shall comply with all requirements of the state's "One Call" system.

## **10 Use of Public Streets**

The use of public streets and alleys shall be such as to provide a minimum of inconvenience to the public and to other vehicular and non-vehicular traffic. Any earth or excavated material spilled from trucks shall be removed by the Design Build Entity and the streets cleaned to the satisfaction of the Engineer and the County Engineering Department, the Florida Department of Transportation, or other local agency having jurisdiction, as applicable.

## **11 Subsurface Investigation**

A. In the preparation of the Contract Documents, the Engineer has relied on the reports and tests of subsurface conditions taken at the job site. Such reports are not guaranteed as to their accuracy or completeness and are not part of the Contract Documents.

B. The County and the Engineer do not warrant or guarantee the accuracy or correctness of this material with respect to actual subsurface conditions.

C. Except as may be otherwise agreed to in writing, the Design Build Entity shall be responsible for having determined to its satisfaction, prior to the execution of any Work Authorization, the nature and location of the Work, the conformation of the ground, the character and quality of the substrata, the types and quantity of materials to be encountered, the nature of the ground water conditions, the character of equipment and facilities needed preliminary to and during the execution of the Work, the general and local conditions and all other matters which can in any way affect the Work under this Contract. The prices established for the Work to be done will reflect all costs pertaining to the Work.

## **12 Obstructions**

A. The information and data shown or indicated in the Contract Documents with respect to existing underground utilities at or contiguous to the site and reports of prior property ownership of the site are based on information and data furnished to the County or the Engineer by the owners of such Underground Utilities or others. The County and the Engineer are not responsible for the accuracy or completeness of any such information or data, and the Design Build Entity shall have full responsibility for reviewing and checking all such information and data, for locating all Underground Utilities shown or indicated in the Contract Documents, for coordination of the Work with the owners of such Underground Utilities during construction, for the safety and protection thereof and repairing any damage thereto resulting from the Work, the cost of which will be considered as having been included in the Contract Price.

B. All water pipes, sanitary sewers, storm drains, force mains, gas mains, or other pipe, telephone or power cables or conduits, pipe or conduit casings, curbs, sidewalks, service lines and all other obstructions, whether or not shown, shall be temporarily removed from or supported across all excavations. Ground penetrating radar or conductive material surveys maybe required prior to excavating and the Design Build Entity shall provide these services as necessary. Where it is necessary to temporarily interrupt services, the Design Build Entity shall notify the owner or occupant of such facilities, both before the interruption and again immediately before service is resumed. Before disconnecting any pipes or cables, the Design Build Entity shall obtain permission from their owner, or shall make suitable arrangements for their disconnection by their owner. The Design Build Entity shall be responsible for any damage to any such pipes, conduits or cables, and shall restore them to service promptly as soon as the Work has progressed past the point involved. Approximate locations of known water, sanitary, drainage, natural gas, power, telephone and cable TV installations along the route of new pipelines or in the vicinity of new work are shown, but are to be verified in the field by the Design Build Entity prior to performing the Work. The Design Build Entity shall uncover these pipes, ducts, cables, etc., carefully, by hand, prior to installing its Work. Any discrepancies or differences found shall be immediately brought to the attention of the Engineer in order that necessary changes may be made to permit installation of the Work.

### **13 Dimensions of Existing Structures**

Where the dimensions and locations of existing structures are of critical importance in the installation or connection of new work, the Design Build Entity shall verify such dimensions and locations in the field before the fabrication of any materials or equipment which is dependent on the correctness of such information.

### **14 Elevation Datum**

The datum adopted by the Engineer is NAVD of 1988. All elevations on the Drawings or referred to in the Technical Specifications refer to this datum.

### **15 Work to Conform**

A. During its progress and on its completion, all Work shall conform truly to the lines, levels, and grades indicated on the Drawings or given by the Engineer and shall be built in a

thoroughly substantial and workmanlike manner, in accordance with the Contract Documents and the written instructions or written directions given from time to time by the Engineer. In no case shall any Work in excess of the requirements of the Contract documents be paid for unless so approved in writing by an appropriately executed Supplement, work directive or written amendment.

B. All Work done without written instructions having been given therefore by the Engineer, done without proper lines or levels, or done during the absence of the Engineer, or its agent, will not be estimated or paid for except when such Work is authorized in writing by an appropriately executed Supplement, work Directive or written amendment. Work so done may be ordered uncovered or taken down, removed and replaced entirely at the Design Build Entity expense.

## **16 Location of Proposed Work**

Piping and structures to be installed by Design Build Entity, will be located substantially as indicated on the Drawings, but the right is reserved by the County, acting through the Engineer, to make such modifications in location as may be found desirable to avoid interference with existing structures or for other reasons.

## **17 Bonds**

A. Prior to the issuance of a notice to proceed with any work pursuant to a Work Authorization executed by Design/Build Entity in the amount of \$200,000 or more, the Design/Build Entity shall provide the County a Public Construction Bond, in the form included in these documents, providing for the satisfactory completion of the Work and providing security for payment of all persons performing labor in connection with such Work Authorization. Such bond shall be furnished in an amount equal to 100% of the amount of the Work Authorization award as security for the faithful performance and payment of all Design/Build Entity's obligations under the Work Authorization. The form and conditions of the Bond and the Surety shall be acceptable to the County. For projects under \$200,000, on which Design Build Entity chooses not to provide a Public Construction Bond, Design Build Entity shall comply with the requirements of Palm Beach County Policies And Procedures Manual CW-F-016.

Projects which utilize Federally Funded sources require a Performance Bond and a Payment Bond for projects \$100,000 or more.

B. The bond shall be written by a Surety Company of recognized standing, licensed to do business in the State of Florida, and having a resident agent in the State of Florida. The Surety Company shall hold a current certificate of authority as acceptable surety on Federal Bonds in accordance with U.S. Department of Treasury, Fiscal Service, Bureau of Government Financial Operations, Circular 570, current revision, entitled, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies". The bond shall be executed by an Attorney-in-Fact for the Surety Company with a certified copy of his Power of Attorney attached to the Bonds.

C. The bonding limit of the Surety Company shall not exceed the limits indicated in the U.S. Department of Treasury listing unless the Surety Company submits a "reinsurance agreement form" indicating the amount above the bonding limit is insured by another Surety Company also on the U.S. Department of Treasury listing.

D. If the Surety Company on any Bond furnished to the County is declared, upon notification of the Insurance Agent, as bankrupt or becomes insolvent or its right or license to do business is terminated in the State of Florida, or it ceases to meet any of the requirements stated herein, the Design Build Entity shall within ten (10) working days thereafter substitute another Bond and Surety Company at no cost to the County, both of which must be acceptable to the County. If the project is declared more than 90% complete by the County at the time of the Surety's bankruptcy or insolvency, the Design Build Entity may, at the County's option, obtain a Maintenance Bond in the amount of 100% of the project cost, for the one (1) year warranty period after project completion. The Maintenance Bond shall be submitted on the form provided by the County and shall comply with all of the requirements for Public Construction Bond stated herein.

D. Failure by the Design Build Entity to substitute satisfactory Bonds under this section shall result in any or all of the following actions by the County:

1. Withholding of all applications for payment until satisfactory bonds are received and accepted, and/or;
2. Default in the Contract and cancellation as provided for in the Contract's default clause, and/or;
3. Suspension of the Design Build Entity's name from the County's bid list for a period of not less than three (3) years from the date of Surety or Contract default.

## **18 Compensation**

A. Compensation for Work performed pursuant to a Work Authorization shall be as set forth therein. Such compensation may be based upon time and materials for the Cost of Work in accordance with Article 44, or upon an agreed upon lump sum amount, or upon the basis of a Guarantee Maximum Price (GMP) or upon any other legal basis agreed upon by the parties. If the WA is issued as a part of a design build assignment, such WA shall be based upon a GMP.

### **B. GMP Agreements**

1. For all design build assignments, Design Build Entity shall, based upon the design criteria package, develop Guaranteed Maximum Price (GMP) Proposal(s), including, a Project Construction Schedule. As required by Section I, paragraph GG(2), the GMP for the WA portion of any design build effort shall be revisited and may be reduced based upon the construction documents prepared by Design Build Entity. All assumptions made by the Design Build Entity in the development of the GMP shall be specifically listed in the GMP proposal(s), and the GMP will not be adjusted due to assumptions made by the Design Build Entity, but not included in the



GMP Proposal. The Guaranteed Maximum Price shall include all costs associated with the planning, design, permitting, and performance of the Work required by the CSA and WA.

## **19 Design Build Entity's Responsibility**

A. The Design Build Entity 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. The Design Build Entity shall be solely and wholly responsible for the means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incidental thereto. The Design Build Entity shall be responsible to see that the finished Work complies accurately with the Contract Documents and for the good condition of the Work and materials until Final Acceptance by the County. The Design Build Entity shall bear all losses resulting on account of the weather, fire, the elements, or other causes of every kind or nature prior to Final Acceptance.

B. The Design Build Entity shall designate in writing and keep on the Work site at all times during progress of the Work, a technically qualified representative, who shall not be replaced without prior written notice to the Engineer. This representative shall be the Design Build Entity's representative at the site and shall have full authority to act on behalf of the Design Build Entity. All communications given to the Design Build Entity's representative shall be as binding as if given to the Design Build Entity. The Design Build Entity shall issue all its communications to the County through the Engineer.

C. The Design Build Entity's representative shall be present at the site of the Work at all times while Work is in progress. Failure to observe this requirement shall be considered as suspension of the Work by the Design Build Entity until such time as a Design Build Entity representative is again present at the site.

D. All materials shall be supplied and the Work shall be provided in accordance with the rules, requirements, regulations and directives of various Building Departments and such other State, County, or City Departments having jurisdiction over the same and in accordance with the requirements of the representatives of the mortgagee or mortgagees, if any, or any other governmental bureau, agency, or department interested in this job either directly or indirectly. Design Build Entity shall be responsible for making itself aware of any laws or ordinances which may affect Design Build Entity's access to the project, the times of day when Design Build Entity may prosecute the work or in any other way affect Design Build Entity's performance of the Work. County will not be liable to Design Build Entity for any action of any other governmental or private entity or agency which impacts Design Build Entity's costs or schedule for completing the Work.

E. Except as otherwise provided in this Article, the Design Build Entity shall receive no additional compensation for overtime work, i.e., work in excess of eight (8) hours in any one calendar day or forty (40) hours in any one calendar week, even though such overtime work may be required under emergency conditions. Additional compensation will be paid to the Design Build Entity for overtime work only in the event that extra work is ordered by the Engineer and the Supplement specifically authorizes the use of overtime work and then only to such extent as

overtime wages are regularly being paid by the Design Build Entity for overtime work of a similar nature in the same locality.

F. All costs of field observations, inspection and testing performed by the Engineer during overtime work by the Design Build Entity which is allowed solely for the convenience of the Design Build Entity shall be borne by the Design Build Entity, based upon Engineer's salary rates plus fringe benefits, overhead, profit and indirect costs in accordance with the terms of the Engineer's Contract with the County. The County shall have the authority to deduct the cost of all such inspection and testing from any partial payments otherwise due to the Design Build Entity.

G. Unless otherwise specified in the Contract Documents, the Design Build Entity shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, drainage, sanitary facilities, and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up, and Final Completion of the Work. In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, Design Build Entity, without special instruction or authorization from Engineer or County, is obligated to act to prevent threatened damage, injury or loss. Design Build Entity shall give Engineer prompt written notice if Design Build Entity believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Work Directive or Supplement will be issued to document the consequences of the changes or variations.

## **20 Discontinuance of Construction**

A. The Design Build Entity agrees and guarantees to perform the above mentioned Work in accordance with the terms stated herein, irrespective of any strikes, lockouts, or stoppages, and the Design Build Entity shall not knowingly employ men, means, materials, or equipment which a reasonable person would understand would create a substantial possibility of causing strikes, work stoppages, or any disturbances by workmen employed by the Design Build Entity.

## **21 Guarantee**

The Design Build Entity guarantees that the Work and service to be performed under all Work Authorizations and all workmanship, materials, and equipment performed, furnished, used, or installed in such Work shall be free from defects and flaws, and shall be performed and furnished in strict accordance with the Contract Documents; that the strength of all parts of all manufactured equipment shall be adequate and as specified; and that performance test requirements of the Contract shall be fulfilled. The Design Build Entity shall remedy all defects in the Work and shall repair, correct, or replace all damage to other work, persons or property resulting from failures covered by the guarantee. The guarantee shall remain in effect for one (1)

year from the date of final acceptance unless a longer period is specified. The County shall give notice of observed defects with reasonable promptness. Unremedied defects identified for correction during the guarantee period but remaining after its expiration shall be considered as part of the obligations of the guarantee. Defects in material, workmanship, or equipment which are remedied as a result of obligations of the guarantee shall subject the remedied portion of the Work to an extended guarantee period of one (1) year after the defect has been remedied. The Surety shall be bound with and for the Design Build Entity in the Design Build Entity's faithful observance of the guarantee.

## **22 Field Layout of Work**

A. All Work under this Contract shall be constructed in accordance with the lines and grades shown on the Drawings or as approved by the Engineer in writing. Elevation of existing ground, structures and appurtenances are believed to be reasonably correct but are not guaranteed to be absolute and therefore are presented only as an approximation.

B. All survey work for construction control purposes shall be made by a land surveyor registered in the State of Florida with demonstrated experience in the project area who shall be employed by the Design Build Entity at its expense. The Design Build Entity shall establish all base lines for the location of the principal component parts of the Work together with permanent benchmarks and temporary bench marks adjacent to the Work. Based upon the information provided by the Design Criteria Package and/or Drawings, the Design Build Entity shall develop and make all detail surveys necessary for construction including establishment or construction of grid coordinates as shown on the Design Criteria Package and/or Drawings, location of property boundaries, stakes for all working points, lines and elevations.

C. The Design Build Entity shall have the responsibility to carefully preserve all benchmarks, reference points and stakes. In case of destruction thereof by the Design Build Entity resulting from its negligence, or for any other reason, it shall be held liable for any expense and damage resulting therefrom and shall be responsible for any mistakes that may be caused by the unnecessary loss or disturbance of such bench marks, reference points and stakes. Existing or new control points, property markers, and monuments that will be established or are destroyed during the normal causes of construction shall be re-established by the Design Build Entity; and all reference ties recorded therefore shall be furnished to the Engineer. All computations necessary to establish the exact position of the Work shall be made and preserved by the Design Build Entity.

## **23 Specified Materials**

Where any materials, articles, items, equipment, or processes are specified by one or more trade or brand names, the substitution of unnamed materials, articles, items, equipment, or processes will not be allowed. Where the words "equivalent", "proper", "equal to", or "or Equal" are used, they shall be understood to mean that the referred to materials, items, equipment, articles or processes shall be the equivalent of, or equal to some other materials, items, equipment, articles or processes in the opinion or judgment of the Engineer. Unless otherwise specified, all materials, items, equipment, articles or processes shall be the best of their respective kinds and

shall be in all cases, fully equal to samples acceptable to the Engineer. Even though the words "or equal" or other such expressions may be used in the Technical Specifications, unless a substitute is accepted in writing by the Engineer, the Engineer shall have the right to require the use of such specifically designated material, equipment, items, articles or processes named in the Technical Specifications.

#### **24 Handling and Distribution**

A. The Design Build Entity shall, at its own expense, handle, haul and distribute all materials and all surplus materials on the different portions of the Work, as necessary. Suitable and adequate storage room for materials and equipment shall be furnished until the Final Acceptance of the Work.

B. Storage charges and demurrage charges by transportation companies and vendors, which result from delays in handling, shall be borne by the Design Build Entity.

#### **25 Storage of Materials**

A. Suitable storage facilities shall be furnished by the Design Build Entity. All materials, supplies and equipment intended for use in the Work shall be stored by the Design Build Entity in accordance with the recommendations of the associated manufacturer or supplier to prevent damage from exposure, contamination by foreign substances, or vandalism. The Engineer may refuse to accept, or sample for testing, materials, supplies, or equipment that have been improperly stored. Materials, supplies and equipment found unfit for use shall not be incorporated in the Work and shall immediately be removed from the construction or storage site and replaced at no cost to the County.

B. Should the Design Build Entity build temporary structures for housing workers, tools, machinery and supplies, they shall be permitted only at places acceptable under Local codes, Ordinances, Laws, Rules, and Regulations, and their surroundings shall be maintained at all times in a satisfactory and sanitary manner. On or before the completion of the Work, all such structures shall be removed in their entirety, together with all rubbish and trash, at the expense of the Design Build Entity.

#### **26 Salvaged Materials**

In the absence of special provisions to the Contract, salvaged materials, equipment or supplies that occur are the property of the County and shall be stored as directed by the Engineer, or shall be properly disposed of by the Design Build Entity at its sole cost, if directed by the Engineer.

#### **27 Subcontracts**

A. As soon as practical after execution of the Contract, the Design Build Entity shall notify the Engineer and request approval in writing, of the use of sub-Design Build Entities proposed for the Work and shall not employ any that the Engineer may, within a reasonable time,

determine are not performing the work in strict conformance with the Contract Documents, or approved changes thereto.

B. The Design Build Entity agrees that it is as fully responsible to the County for the acts and omissions of its sub-Design Build Entities and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.

C. Nothing contained in the Contract Documents shall create any contractual relation between any sub-Design Build Entity and the County.

D. The Design Build Entity shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind sub-Design Build Entities to the Design Build Entity by the terms of the General Conditions, the Supplemental General Conditions and other Contract Documents insofar as applicable to the Work of sub-Design Build Entities, and to give the Design Build Entity the same power as regards to terminating any subcontract that the County may exercise over the Design Build Entity under any provision of the Contract Documents.

## **28 Permits**

A. The Design Build Entity shall assist the County in preparing applications for and in obtaining any environmental permits as may be necessary for the prosecution of the Work. If such assistance is deemed to fall within the scope of Professional Services, Design Build Entity shall notify County and request an appropriate CSA, SA, WA or Supplement to an existing CSA, SA, or WA.

B. The Design Build Entity shall, obtain all other necessary permits, licenses, royalties, inspections and certificates pertaining to the Work including having a design professional, licensed in Florida, sign and seal the design drawings, engineering reports, permit applications, record drawings and final certification and shall comply with all Federal, State, Municipal and local laws, ordinances, rules, regulations, orders, notices and requirements, whether or not provided by the Drawings, Technical Specifications, General Conditions or other parts of the Contract Documents without additional charge or expense to the County and shall also be responsible for and correct at its own cost and expense, any violations thereof resulting from and in connection with its performance of the Work.

## **29 Employees**

A. All labor described in the Technical Specifications or indicated on the Drawings and the Work specified or indicated shall be executed in a thoroughly substantial and workmanlike manner by personnel skilled in the applicable trades.

B. Any person employed on the Work who fails, refuses or neglects to obey the instructions of the Construction Manager in anything relating to this Work, or who appears to the Construction manager to be disorderly, intoxicated, insubordinate, unfaithful or incompetent, shall upon the order of said Construction Manager, be at once remove from all County work sites

and not again employed in any part of the Work. Any interference with, or abuse or threatening conduct toward the Engineer or its inspectors by the Construction Manager or its employees or agents, shall be authority for the County to annul the Contract and re-let the Work. No intoxicating substance shall be allowed on the Work.

### **30 Florida Products and Labor**

The Design Build Entity's attention is called to Section 255.04, Florida Statutes, which requires that on public building contracts, Florida products and labor shall be used wherever price, availability, and quality are equal.

### **31 Equal Employment Opportunity**

The Design Build Entity shall not discriminate against employees or applicants for employment because of sex, race, color, religion, disability, age, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or national origin. The Design Build Entity will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their sex, race, color, religion, disability, age, ancestry, marital status, sexual orientation, gender identity and expression, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Design Build Entity agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

### **32 Sanitary Regulations**

A. The Design Build Entity shall provide adequate sanitary conveniences for the use of those employed on the Work. Such conveniences shall be made available when the first employees arrive on the Work, shall be properly secluded from public observation, and shall be constructed and maintained in suitable numbers and at such points and in such a manner as may be required by Local codes, Ordinances, Laws, Rules and Regulations.

B. The Design Build Entity shall maintain the sanitary facilities in a satisfactory and sanitary condition at all times and shall enforce their use. It shall rigorously prohibit the committing of nuisances on the site of the Work, on the lands of the County, or on adjacent property.

C. The County and the Engineer shall have the right to inspect any building or other facility erected, maintained, or used by the Design Build Entity, to determine compliance with these Sanitary Regulations.

### **33 Taxes**

The Design Build Entity shall pay all sales, consumer, use, and other similar taxes required to be paid by the Design Build Entity in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

### **34 Design Build Entity's Use of Premises**

The Design Build Entity's use of the project site shall be limited to its construction operations, including on-site storage of materials, on-site fabrication facilities, and field offices.

### **35 Accident Prevention**

A. No laborer or mechanic employed in the performance of this Project shall be required to work under working conditions which are unsanitary, hazardous, or dangerous to its health or safety as determined under construction safety and health standards promulgated by the Secretary of Labor.

B. The Design Build Entity shall appoint a qualified and experienced safety representative and shall exercise proper caution at all times for the protection of persons and property and shall be responsible for all damage to persons or property, either on or off the work site, which occur as a result of its prosecution of the Work. The safety provisions of applicable laws and building and construction codes shall be observed and the Design Build Entity shall take or cause to be taken such additional safety and health measures as the Local Public Agency involved may determine to be reasonably necessary. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the "Manual of Accident Prevention in Construction" as published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable laws.

C. The Design Build Entity shall maintain an accurate record of all cases of death, occupational disease, or injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on Work under the Contract. The Design Build Entity shall promptly furnish the Local Public Agency with reports concerning these matters.

D. The Design Build Entity shall indemnify and save harmless the County and the Engineer from any claims for damages resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result of any Work conducted under this Contract.

### **36 Precautions During Adverse Weather**

A. During adverse weather, and against the possibility thereof, the Design Build Entity shall take all necessary precautions to insure that the Work shall be done in a good and workmanlike condition and is satisfactory in all respects. When required, protection shall be provided by the use of tarpaulins, wood and building paper shelters, or other acceptable means. The Design Build Entity shall be responsible for all changes caused by adverse weather, including unusually high winds and water levels and it shall take such precautions and procure such additional insurance as it deems prudent.

B. The Design Build Entity may suspend construction operations at any time when, in its judgment, the conditions are unsuitable or the proper precautions are not being taken, whatever the weather or water level conditions may be, in any season.

### **37 Scheduling**

Design Build Entity shall provide a schedule with the Consultant Services Authorization during the design phase and provide monthly updates. Design Build Entity shall provide a CPM schedule when the notice to proceed is issued for work under the Work Authorization and shall provide monthly updates. If the Design Build Entity does not meet the schedule requirements then the County may request a recovery schedule. The Design Build Entity shall provide a recovery schedule within 7 calendar days.

### **38 Non-assignable**

Neither this Contract, nor any monies due hereunder, or any part thereof, shall be assigned, transferred, or sublet by Design Build Entity, nor shall County be liable to any assignee or transferee, or sublease, without the written consent of the County, and without consent to the assignment, transfer, or sublease, the County shall not release or discharge Design Build Entity from any obligation hereunder. County shall not consider its approval to an assignment unless the Surety on the Contract Public Construction Bond has informed the County in writing that it consents to the assignment.

### **39 Not Used**

### **40 Confidentiality**

In the performance of the Work, the Design Build Entity may be exposed to the confidential information of the County and others. The Design Build Entity shall not disclose to anyone not employed by the County nor use, except on behalf of the County, any such confidential information acquired by it in the performance of the Work except as authorized by the County in writing and, regardless of the term of this Contract, the Design Build Entity shall be bound by this obligation until such time as said confidential information shall become part of the public domain. Information regarding all aspects of the County's business and information concerning the Work (either directly or indirectly disclosed to it or developed by it in the performance of the Work) shall be presumed to be confidential except to the extent that same shall have been published or otherwise made freely available to the general public without restriction. The Design Build Entity also agrees that it will not disclose to the County any information it holds subject to any obligation or confidence to any third persons or parties.

### **41 Work by Others**

A. The County may perform additional Work related to the Project by itself, or it may let other direct contracts therefor which shall contain General Conditions similar to these. The Design Build Entity shall afford the other Contractors or Design Build Entities, who are parties to such direct contracts (or the County, if it is performing the additional work itself), reasonable



opportunity for the introduction and storage of materials and equipment and the execution of the Work, and shall properly connect and coordinate its Work with theirs.

B. If any part of the Design Build Entity's Work depends on proper execution or results upon the Work of any such other Contractor or Design Build Entity (or County), the Design Build Entity shall inspect and promptly report to the Engineer, in writing, any defects or deficiencies in such Work that render it unsuitable for such proper execution and results. Its failure to so report shall constitute an acceptance of the other Work as fit and proper for the reception of its Work except as to defects and deficiencies, which may appear in the other Work after the execution of the Work under this Contract.

C. The Design Build Entity shall do all cutting, fitting and patching of its Work that may be required to make its several parts come together properly and fit it to receive or be received by such other Work. The Design Build Entity 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 the Engineer and of the other Design Build Entity's whose Work will be affected.

D. If the performance of additional Work by other Design Build Entity's or the County is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the Design Build Entity by the Engineer prior to starting any such additional Work.

#### **42 Engineer's Responsibility**

A. The supervision of the execution of this Contract is vested wholly in the Design Build Entity. The orders, instructions, directions, or requests of the County are to be given through the Engineer. The Design Build Entity shall designate a representative to receive such instructions, directions or requests and will be held responsible for the execution of them.

B. The Engineer shall have the authority to suspend the Work wholly or in part for such period or periods as may be deemed necessary due to failure on the part of the Design Build Entity to carry out orders given to perform any or all provisions of the Contract. This right of the Engineer to stop the Work shall not give rise to any duty on the part of the Engineer to exercise this right for the benefit of the Design Build Entity or any other party. The Design Build Entity shall not suspend the Work and shall not remove any equipment, tools, lumber or other materials without the written permission of the Engineer.

C. The Engineer shall have free access to the materials and the Work at all times for measuring or observing the same, and the Design Build Entity shall afford it all necessary facilities and assistance for so doing.

D. After written authorization to proceed with the Work, the Engineer shall:

1. 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; not be responsible for the construction means, methods, procedures, techniques and sequences of construction and will not be responsible for the Design Build Entity's failure to perform the construction Work in accordance with the Contract Documents; not be responsible for safety precautions and procedures in connection with the Work; and during such visits and on the basis of on-site observations, as an experienced and qualified design professional, will keep the County informed of the progress of the Work, will endeavor to guard the County against defects and deficiencies in the Work of the Design Build Entity and may reject Work as failing to conform to the Contract Documents.

2. Issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of drawings or otherwise) as the Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents.
3. Review samples, catalog data, schedules, shop drawings, laboratory, shop and mill tests of materials and equipment and other data, which the Design Build Entity is required to submit, only for conformance with the design concept of the project and compliance with the information given by the Contract Documents, and assemble written guarantees, which are required by the Contract Documents.
4. Consult with and advise the County, act as the County's representative at the project site, issue all instructions of the County to the Design Build Entity and prepare routine Supplements as required.
5. Based on on-site observations, as an experienced and qualified design professional and on the review of the Design Build Entity's applications for payment, determine the amount owing to the Design Build Entity and approve in writing payment to the Design Build Entity in such amounts; such approvals of payment to constitute a representation to the County, based on such observations and review of data comprising such applications, that the Work has progressed to the point indicated and that, to the best of its knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents, subject to the results of any subsequent tests called for in the Contract Documents and any qualifications stated in the approval. Such partial and final payments will be as specified elsewhere herein except as modified in this paragraph.
6. Conduct, in the company of the County, a final inspection and an "eleventh month inspection" of the Project for conformance with the design concept of the project and compliance with the information given by the Contract Documents, and recommend to the County, in writing, acceptance of the

Project for ownership and final payment to the Design Build Entity in accordance with Article 59 "Final Payment and Acceptance."

- E. The Engineer will be the interpreter of the requirements of the Contract Documents.
- F. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Design Build Entity. Engineer will review with Design Build Entity the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise).
- G. Neither the Engineer's authority to act under this Article or other provisions of the Contract Documents nor any decision made by the Engineer, in good faith either to exercise or not exercise such authority, shall give rise to any duty or responsibility of the Engineer to the Design Build Entity, any SubDesign Build Entity, any Supplier, any Surety, or any other person or organization performing any of the Work.
- H. Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as reviewed", "as approved", or terms of the like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper", or "satisfactory" or adjectives of the like effect or import are used to describe a requirement, direction, review, or judgment of the Engineer as to the Work, it is intended that such requirements, 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 the Engineer any duty or authority to undertake responsibility for the Work.
- I. The authority and duties of the Resident Project Representative are limited to examining the material furnished, observing the Work done, and reporting their findings to the Engineer. The Engineer does not underwrite, guarantee or insure the Work done by the Design Build Entity. It is the Design Build Entity's responsibility to perform the Work in all details in accordance with the Contract Documents. Failure by the Engineer or by any inspectors or other representatives of the County engaged in on-site observation to discover defects or deficiencies in the Work of the Design Build Entity shall never, under any circumstances, relieve the Design Build Entity from its liability therefore to the County. Inspectors shall have no authority to permit deviations from or to modify any of the provisions of the Drawings or Technical Specifications without the written permission or instruction of the Engineer.
- J. The Engineer, its representatives, employees, or any Resident Project Representative in employment of the Engineer shall have no authority to supervise, direct, expedite or otherwise control and instruct or order the Design Build Entity or its employees in the fulfillment of the Design Build Entity's obligation. The County's instructions, orders, directions and/or orders to the Design Build Entity shall be given only through the Engineer.
- K. The Engineer shall have the authority to disapprove or reject work which the Engineer believes to be defective or that the Engineer believes will not produce a completed project that conforms to the Contract Documents or that will prejudice the integrity of the construction of the

completed Project as a functioning whole as indicated by the Contract Documents. The Engineer shall also have the authority to require special inspections or testing of the Work as provided in Article 51 of these specifications, whether the Work is fabricated, installed or completed.

L. If any Work (including the Work of subDesign Build Entities) that is to be inspected, tested or approved is covered without written concurrence of the Engineer, it must, if requested by the Engineer, be uncovered for observation. Such uncovering shall be at the Design Build Entity's sole expense unless the Design Build Entity has given the Engineer timely notice of the Design Build Entity's intention to perform such test or to cover the same and the Engineer has not acted with five (5) days in response to such notice.

M. If any Work is covered contrary to the written request of the Engineer, it must, if requested by the Engineer, be uncovered for the Engineer's observation and replaced at the Design Build Entity's sole expense.

N. If the Engineer considers it necessary or advisable that covered Work be observed by the Engineer or inspected or tested by others, the Design Build Entity, at the Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection or testing as the Engineer may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the Design Build Entity shall bear all direct, indirect and consequential costs and damages of such uncovering, exposure, observation, inspection and testing and of satisfactory re-construction, including but not limited to fees and charges of engineers, attorneys and other professionals. However if such Work is found not to be defective, the Design Build Entity shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and re-construction; and if the parties are unable to agree as to the amount or extent thereof, the Design Build Entity may make a claim therefore as provided in Articles 44 and 49.

O. The payment of any compensation, regardless of its character or form, or the giving of any gratuity, or the granting of any valuable favor, directly or indirectly, by the Design Build Entity to any project representative, is strictly prohibited and any such act on the part of the Design Build Entity will constitute a violation of the Contract.

### **43 Changes in the Work**

A. Without invalidating the Contract and without notice to any Surety, County may, at any time or from time to time, order additions, deletions, or revisions in the Work; these will be authorized by a Written Amendment, a Supplement, or a Work Directive. Upon receipt of any such document, Design Build Entity shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If County and Design Build Entity are unable to agree on the extent, if any, of an increase or decrease in the Contract Price or an extension or shortening of the Contract Time that should

be allowed as a result of a Work Directive, a claim may be made thereof as provided in Article 44 or Article 49.

C. Design Build Entity shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented as provided, except in the case of an emergency as provided in Article 19.

D. County and Design Build Entity shall execute appropriate Supplements (or Written Amendments) covering:

1. Changes in the Work which are ordered by County, or are required because of acceptance of defective work under Article 51 or correcting defective Work under Article 53, or are agreed to in writing by the parties;
2. Changes in the Contract Price or Contract Time which are agreed to in writing by the parties; and,
3. Changes in the Contract Price or Contract Time which embody the substance of any written decision rendered by Engineer, provided that, in lieu of executing any such Supplement, Design Build Entity or County may agree to use alternative dispute resolution or may litigate any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such process, Design Build Entity shall carry on with the Work and adhere to the Progress Schedule as provided in Article 49.

E. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Time) is required by the provisions of any Bond to be given to a Surety, the giving of any such notice will be Design Build Entity's responsibility, and the amount of each applicable Bond will be adjusted accordingly.

F. All changes to the contract must comply to Palm Beach County Board of County Commissioners Resolution R-89-633, any revisions thereto and any other policies enacted by the Board of County Commissioners in relation to contract changes.

#### **44 Contract Price**

A. General

1. The Contract Price constitutes the total compensation (subject to adjustments authorized in writing) payable to Design Build Entity for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by Design Build Entity shall be at its expense without change in the Contract Price.

2. The Contract Price may only be changed by a Supplement. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered by the party making the claim to the other party and to the Engineer promptly (but in no event later than thirty (30) days) after occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within sixty (60) days after such occurrence (unless the Engineer allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by claimant's written statement that the amount claimed covers all known amounts (direct, indirect and consequential) to which the claimant is entitled as a result of the occurrence of said event. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance with this Article.
3. The value of any Work covered by a Supplement or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:
  - a. Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.
  - b. By mutual acceptance of a lump sum price.
  - c. On the basis of the Cost of the Work (determined as provided in paragraphs B.1 and B.2) plus a Design Build Entity's Fee for overhead and profit (determined as provided in paragraphs C.1 and C.2).

#### B. Cost of the Work

1. The term Cost of the Work means the sum of all costs necessarily incurred and paid by Design Build Entity in the proper performance of the Work. Except as otherwise may be agreed to in writing by County, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in paragraph B.2.
  - a. Payroll costs for employees in the direct employ of Design Build Entity in the performance of the Work under schedules of job classifications agreed upon by County and Design Build Entity. Payroll costs for employees not employed full time in the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment compensation, excise and payroll taxes, worker's or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation pay and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing Work after regular working hours, on Saturday, Sunday or legal holidays shall be included in the above to the extent authorized by the County.

- b. Costs of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and supplier's field services required in connection therewith.
- c. Payments made by Design Build Entity to the SubDesign Build Entity's for Work performed by SubDesign Build Entity's.
- d. Cost of special consultants including but not limited to engineers, architects, testing laboratories, surveyors, attorneys and accountants) employed for services specifically related to the Work.
- e. Supplemental costs including the following:
  - (i) The proportion of necessary transportation, travel and subsistence expenses of Design Build Entity's employees incurred in the discharge of duties connected with the Work.
  - (ii) Costs, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work, and costs less market value of such items used but not consumed which remain the property of Design Build Entity.
  - (iii) Rentals of all construction equipment and machinery and the parts thereof whether rented from Design Build Entity or others. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for completion of the Work or any portion thereof for which the equipment, machinery or parts are specifically required. For special equipment and machinery such as power driven pumps, concrete mixers, trucks, front-end loaders, backhoes, and tractors, or other equipment required for the economical performance of the authorized Work, the Design Build Entity shall receive payment based weekly rate divided by 40 to arrive at an hourly cost. The weekly rate shall be from the latest edition of the Rental Rate Blue Book for Construction Equipment, published by Equipment Guide Book Co., reduced by twenty-five percent (25%). Equipment cost shall be calculated based upon the actual time used on the Work. If said Work requires the use of machinery not on the Work or not to be used on the Work, the cost of transportation, not exceeding a distance of one hundred (100) miles, of such machinery to and from the Work shall be added to the fair rental rate; provided, however, that this shall not apply to machinery or equipment already required to be furnished under the terms of the Contract. If, because of the emergency nature of Design Build Entity's Work, the equipment or machinery described herein is not available at the rates described herein or within the locale described, Design Build Entity may obtain such equipment or machinery from the best available source at the best available rate provide such acquisition is approve in advance,

in writing, by County. For the purposes of this exception, such writing may be evidenced by an e-mail or facsimile transmission.

(iv) Sales, consumer, use or similar taxes related to the Work, and for which Design Build Entity is liable, imposed by Laws and Regulations.

(v) The cost of utilities, fuel and sanitary facilities at the site.

(vi) Minor expenses such as telegrams, long distance phone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.

(vii) Cost of premiums for additional Bonds and insurance required because of changes in the Work and for premiums for property insurance coverage within the limits of the deductible amounts established by County in accordance with Article 18.

2. The term Cost of Work shall not include any of the following:

- a. Payroll costs and other compensation of Design Build Entity's officers, executives, principals (or partnerships and sole proprietorships), general managers, engineers, architects, attorneys, auditors, accountants, purchasing and contract agents, expeditors, timekeepers, clerks and other personnel employed by Design Build Entity whether at the site or in Design Build Entity's principal office or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph B.1.a or specifically covered by paragraph B.1.d, all of which are considered administrative costs covered by the Design Build Entity's fee.
- b. Expenses of Design Build Entity's principal and branch offices other than Design Build Entity's office at the site.
- c. Any part of Design Build Entity's capital expenses, including interest on Design Build Entity's capital employed for the Work and charges against Design Build Entity for delinquent payments.
- d. Cost of premiums for all Bonds and for all insurance whether or not Design Build Entity is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by subparagraph B.1.e.vii above).
- e. Costs due to the negligence of Design Build Entity, any subDesign Build Entity, or anyone directly or indirectly employed by any of them or for those acts any of them may be liable for, including but not limited to, the correction



of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

- f. Other overhead or general expense costs of any kind and the costs of any items not specifically and expressly included in paragraph B.1.

C. Design Build Entity's Fee

1. The Design Build Entity's Fee allowed for overhead and profit shall be determined as follows:
  - a. A mutually acceptable fixed fee, or if none can be agreed upon, a fee based on the following percentages of the various portions of the Cost of the Work:
    - (i) For costs incurred under paragraphs B.1.a and B.1.b, the Design Build Entity's Fee shall be fifteen percent (15%).
    - (ii) For costs incurred under paragraph B.1.c, the Design Build Entity's Fee shall be ten percent (10%); and if a subcontract is on the basis of Cost of the Work plus a Fee, the maximum allowable fee to Design Build Entity on account of overhead and profit of all subDesign Build Entities shall be fifteen percent (15%).
    - (iii) No fee shall be payable on the basis of costs itemized under paragraph B.1.d, B.1.e, and B.2.
    - (iv) The amount of credit to be allowed by Design Build Entity to County for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in Design Build Entity's Fee by an amount equal to ten percent (10%) of the net decrease; and,
    - (v) When both additions and credits are involved in any one change, the adjustment in Design Build Entity's Fee shall be computed on the basis of the net change in accordance with paragraphs C.1.b.i through C.1.b.iv, inclusive.
2. Whenever the cost of any Work is to be determined pursuant to paragraph B.1 or B.2, Design Build Entity will submit in a form acceptable to the Engineer an itemized cost breakdown together with supporting data.
3. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Contract. The estimated quantities of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of

Unit Price Work performed by Design Build Entity will be made by Engineer. Each Unit price will be deemed to include an amount considered by Design Build Entity to be adequate to cover Design Build Entity's overhead and profit for each separately identified item.

Where the quantity of any item of Unit Price Work performed by Design Build Entity differs materially and significantly from the estimated quantity of such item indicated in the Contract and there is not a corresponding adjustment with respect to any other item of Work and if Design Build Entity believes that Design Build Entity has incurred additional expense as a result thereof, Design Build Entity may make a claim for an increase in the Contract Price.

#### **45 Change Procedures**

**A. Minor Changes:**

The Engineer will advise the Design Build Entity, in writing, of minor changes in the Work not involving an adjustment to Contract Price or Contract Time by issuance of a Field Order.

**B. Other Changes:**

1. The County, through its Engineer may, at any time, without notice to the surety, by written order designated or indicated to be a Supplement, make any change in the Work within the general scope of the Contract, including but not limited to changes:
  - a. In the Technical Specifications (including drawings and designs);
  - b. In the time, method or manner of performance of the Work;
  - c. In the County furnished facilities, equipment, materials, services, or site; or
  - d. Directing acceleration in the performance of the Work.
2. Any other written order (which terms as used in this paragraph shall include direction, instruction, interpretation, or determination) from the County, which causes any change, shall be treated as a Supplement under this clause, provided that the Design Build Entity gives the Engineer written notice not later than ten (10) days after the occurrence of the event giving rise to the claim but prior to incurring any expense stating the date, circumstances, and source of the order and that the Design Build Entity regards the order as a Supplement.
3. Except as provided in this Article, no order, statement, or conduct of the County shall be treated as a change under this clause or entitle the Design Build Entity to an equitable adjustment, and this Article shall not allow, nor be construed to allow, a claim otherwise disallowed by the Contract Documents.

4. If any change under this clause causes an increase or decrease in the Design Build Entity's cost of, or the time required for, the performance of any part of the Work under this Contract, whether or not changed by any order, an equitable adjustment shall be made and the Contract modified in writing accordingly; provided however, that no claim for any change under Paragraph 2 above shall be allowed for any costs unless the Design Build Entity gives written notice as herein required.
5. If the Design Build Entity intends to assert a claim for an equitable adjustment under this clause, it must, within thirty (30) days after receipt of a written Supplement under Paragraph 1 above or the furnishing of a written notice under Paragraph 2 above, submit to the County a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the County. The statement of claim hereunder may be included in the notice under Paragraph 2 above.
6. No claim by the Design Build Entity for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Contract.

#### **46 Omitted Work**

A. The County may, at any time, by a written order, without notice to the Sureties, require the omission of such Contract Work as it may find necessary or desirable. An order for omission of Work shall be valid only by an executable Supplement. All Work so ordered must be omitted by the Design Build Entity. The amount by which the Contract Price shall be reduced shall be determined as follows:

1. By such applicable unit prices, or rates for work of a similar nature or character as set forth in the Contract; or,
2. By the appropriate lump sum price set forth in the Contract; or,
3. By the reasonable and fair estimated cost of such omitted Work as determined by the Design Build Entity and the Engineer, and approved by the County.

#### **47 Changes Not to Affect Bonds**

A. It is distinctly agreed and understood that any changes made in the Contract Documents for Work associated with this Project (whether such changes increase or decrease the amount thereof) or any change in the manner or time of payments or time of performance made by the County to the Design Build Entity shall in no way annul, release or affect the liability and surety on the Bonds given by the Design Build Entity.

B. If notice of any change is required to be given to a Surety by the provisions of any Bond, the giving of any such notice will be the Design Build Entity's responsibility, and the amount of each applicable Bond shall be adjusted accordingly.

#### **48 Continuing the Work**

Design Build Entity shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with County. If the Design Build Entity and County are unable to agree, all such disputes shall be referred to voluntary alternative dispute resolution, if the parties so agree, or litigation. No Work shall be delayed or postponed pending resolution of any disputes or disagreements except as the Design Build Entity and County agree in writing otherwise and County shall continue to make payments in accordance with the Contract Documents.

#### **49 Change of Contract Time**

A. The Contract Time may only be changed by a Supplement. Any claim for an extension of the Contract Time shall be based on written notice delivered by the Design Build Entity to the Engineer promptly (but in no event later than 10 days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within thirty (30) days after such occurrence (unless the Engineer allows, in writing, an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the Design Build Entity's written statement that the adjustment claimed is the entire adjustment to which the Design Build Entity has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Time shall be determined by the Engineer in accordance with Article 42 if County and Design Build Entity cannot otherwise agree. No claim for an adjustment in the Contract Time shall be valid if not submitted as previously specified above.

B. The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of Design Build Entity if a claim is made therefore as provided in this Article. Such delays shall include, but not be limited to, acts or neglect by County or others performing additional Work as contemplated by Article 41, or to fires, floods, labor disputes, epidemics, abnormal weather conditions (Article 50) or acts of God.

C. Pursuant to the Contract's float-sharing requirements, no time extensions will be granted nor delay damages considered until a delay occurs that impacts the project's critical path, consumes all available float, and extends the work beyond the Contract completion date.

#### **50 Extension of Time on Account of Weather/Inclement Weather**

A. If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be submitted within five (5) days of occurrence and shall be documented by data substantiating the severity and duration of the weather conditions and that the conditions could not have been reasonably anticipated and mitigated and, further, documenting that weather conditions had an adverse effect on the critical path of the scheduled construction.

B. The Design Build Entity's construction schedule shall be based upon the inclusion of at least fifteen (15) calendar days per calendar year, of inclement weather delays to be prorated

over the length of the contract. Further, the Design Build Entity has the responsibility to take reasonable precautions to mitigate the impact of unfavorable weather conditions.

C. Failure by the Design Build Entity to comply with the proper notice or to supply substantial data within the time limit will result in the Design Build Entity waiving its claim for weather delay.

## **51 Materials, Samples and Inspections**

A. Unless otherwise indicated in the Design Criteria Package or specified elsewhere by Engineer, only new materials and equipment shall be incorporated in the Work. All materials and equipment furnished by the Design Build Entity to be incorporated in the Work shall be subject to inspection by the Engineer. No material shall be processed for, fabricated for, or delivered to the Site without prior acceptance from the Engineer.

B. If not required by the Proposal, as soon as possible after the formal execution of the Contract, the Design Build Entity shall submit to the Engineer, the names and addresses of the manufacturers and suppliers of all materials and equipment it proposes to incorporate into the Work. When shop and supplemental drawings are required as specified below, such information shall be submitted prior to the submission of the drawings so that the Engineer may consider the manufacturer, and/or the supplier, to be acceptable or unacceptable, as to its or their ability to furnish a product meeting the Technical Specifications, subject to final acceptance of the particular material or equipment. As requested, the Design Build Entity shall also submit data relating to the material and equipment it proposes to incorporate into the Work, in sufficient detail to enable the Engineer to identify the particular product in question and to form an opinion as to its conformity to the Contract requirements. Such data shall be submitted in a manner similar to that specified for shop drawings.

C. Facilities and labor for the handling and inspection of all materials and equipment shall be furnished by the Design Build Entity. Defective materials and equipment shall be removed immediately from the site of the Work. The Engineer will make arrangements for, and the County shall pay for soil density tests wherever and whenever the Engineer desires. If the results of a density test indicate that compaction is less than that specified in the Technical Specifications, the Design Build Entity shall reimburse the County for the full cost of the test.

D. If the Engineer so requires, either prior to beginning or during the progress of the Work, the Design Build Entity shall submit samples of materials for such special tests as may be necessary to demonstrate that they conform to the requirements of the Contract Documents. Such samples, including concrete test cylinders, shall be furnished, taken, stored, packed, and shipped as directed, at the expense of the Design Build Entity. The Design Build Entity shall, at its own expense, furnish acceptable molds for making concrete test cylinders. Except as otherwise specified, the County will make arrangements for, and pay for, the tests.

E. All samples shall be packed so as to reach their destination in good condition, and shall be labeled to indicate the material represented, the name of the building or Work and location of which the material is intended, and the name of the Design Build Entity submitting the sample.

To ensure consideration of samples, the Design Build Entity shall notify the Engineer by letter that the samples have been shipped and shall properly describe the samples in the letter. In no case shall the original letter of notification be enclosed with the samples.

F. The Design Build Entity shall submit data and samples, or place its orders, sufficiently early to permit consideration, inspection, testing, and acceptance before the materials and equipment are needed for incorporation in the Work. Delay resulting from its failure to do so shall not be used as the basis of a claim against the County.

G. When required, the Design Build Entity shall furnish to the Engineer triplicate sworn copies of manufacturer's shop or mill tests (or reports from independent testing laboratories) relative to materials and concrete data.

H. After the samples, data, etc., are considered acceptable to the Engineer, the materials and equipment used on the Work shall correspond therewith.

I. If the Work is defective, or the Design Build Entity fails to perform the Work in such a way that the completed Work will conform with the Contract Documents, the County may order the Design Build Entity to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the County to stop the Work, or the right of the Engineer to make this recommendation to the County, shall not give rise to any duty on the part of the County or the Engineer to exercise this right for the benefit of the Design Build Entity or any other party.

J. If required by the Engineer, the Design Build Entity shall promptly either correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by the Engineer, remove it from the site and replace it with non-defective Work. The Design Build Entity shall bear all direct, indirect, and consequential costs of such correction or removal, including but not limited to fees and charges of engineers, architects, attorneys, and other professionals made necessary thereby.

K. If, instead of requiring correction or removal and replacement of defective Work, County, and, prior to Engineer's recommendation of final payment, also Engineer, prefers to accept the Work, County may do so. Design Build Entity shall bear all direct, indirect and consequential costs attributable to County's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness and to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals). If any such acceptance occurs prior to Engineer's recommendation of Final Payment, a Supplement will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and County shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, County may make claim therefore as provided in Article 44. If the acceptance occurs after such recommendation, an appropriate amount will be paid by the Design Build Entity to the County.

**52 Inspection of Work Away From the Site**

If Work to be done away from the construction site is to be inspected on behalf of the County during its fabrication, manufacture, or testing, or before shipment, the Design Build Entity shall give notice to the Engineer of the place and time where such fabrication, manufacture, testing or shipping is to be done. Such notice shall be in writing and delivered to the Engineer in ample time so that the necessary arrangements for the inspection can be made.

### **53 One Year Correction Period**

A. If within one (1) year after the date of Final Acceptance or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents, any Work which is found to be defective, the Design Build Entity shall promptly, without cost to the County, and in accordance with the County's written notification, either correct such defective Work, or, if it has been rejected by the County, remove it from the site and replace it with non-defective Work. If the Design Build Entity does not promptly comply with such notification, or in an emergency where delay would cause serious risk of loss or damage, the County may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect, and consequential costs of such removal and replacement including but not limited to fees and charges of engineers, architects, attorneys and other professionals will be paid by the Design Build Entity.

B. If, instead of requiring correction or removal and replacement of defective Work, the County prefers to accept the Work, the County may do so. The Design Build Entity shall bear all direct, indirect, and consequential costs attributable to the County's evaluation of and determination to accept such defective Work. If any such acceptance occurs prior to final payment, a Supplement will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and the County shall be entitled to an appropriate decrease in the Contract Price. If the acceptance occurs after final payment, an appropriate amount will be paid by the Design Build Entity to the County, as determined by the Engineer.

### **54 Application for Progress Payment**

A. Unless otherwise prescribed by law, at the end of each month, the Design Build Entity shall submit to the Engineer for review, an Application for Progress Payment filled out and signed by the Design Build Entity covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.

B. The Application for Progress Payment and SBE-M/WBE Construction Activity Report (sample is attached at the end of this section) shall identify the amount of the Design Build Entity's Total Earnings to Date based upon value of original contract Work performed to date as approved by fully executed Supplements. Retainage, in the amount of 10% will be withheld on the calculated value of any work, with the exception of stored materials which may be paid at the supplier's invoiced cost. At Design Build Entity's request, after 50% completion of the work has been achieved, the County will implement a reduction in retainage to 5% of all future pay requests. If retainage is reduced, Design Build Entity may not withhold more than 5% retainage from subcontractors or suppliers and will be required to certify compliance with F.S. 218.70 et seq on each subsequent pay application. Notwithstanding the foregoing, in no instance can the

amount retained be less than the value of County's good faith claims plus the value of the work the County determines remains to be put in place or required to be performed as remedial activities. For the purposes of this section, 50% completion shall be that point in time when Engineer determines that half of the Work required by the Contract has been completed. In no event shall the Work be determined to be 50% completed before the County has paid 50% of the Contract amount and 50% of the Contract time has expired. The amount of previous Pay Estimate payments shall then be subtracted to equal the Balance Due during the Pay Estimate period.

C. Partial payment may be made for the delivered cost of stored materials planned for incorporation into the Work, provided such materials meet the requirements of this Contract, the Drawings, and the Technical Specifications, and are delivered and suitably stored at the project site, or at another location acceptable to the Department. Such material must be stored in a secure manner acceptable to the Department, and in accordance with the manufacturer's recommendations.

D. The delivered cost of such stored or stockpiled materials may be included in any subsequent application for payment provided the Design Build Entity meets the following conditions:

1. An applicable purchase order or supplier's invoice is provided listing the materials in detail, the cost of each item, and identifies this specific contract by name.
2. The materials are fully insured against loss or damage (from whatever source) or disappearance prior to incorporation into the Work.
3. Stored materials approved for payment by the County shall not be removed from the designated storage area except for incorporation into the Work.
4. Evidence that the Design Build Entity has verified quantity and quality of the materials delivered (verified packing list).

E. It is further agreed between the parties that the transfer of title and the County's payment for any stored or stockpiled materials pursuant to these General Conditions, and any applicable provisions of the Supplementary General Conditions, shall in no way relieve the Design Build Entity of the responsibility of ensuring the correctness of those materials and for furnishing and placing such materials in accordance with the requirements of this Contract, the Drawings, the Technical Specifications, and any approved changes thereto.

F. The following monthly Application for Progress Payment shall be accompanied by Bills of Sale, copies of paid invoices, releases of lien, or other documentation warranting that the Design Build Entity has received the stored materials and equipment free and clear of all liens, charges, security interests, and encumbrances (which are hereinafter in these General Conditions



referred to as "Liens") and evidence that the stored materials and equipment are covered by appropriate property insurance and other arrangements to protect the County's interest therein, all of which shall be satisfactory to the County.

G. The Design Build Entity shall warrant and guarantee that title to all Work, materials, and equipment covered by an Application for Progress Payment, whether incorporated in the Work or not, will pass to the County no later than the time of Final Payment free and clear of all liens or other encumbrances.

H. The Engineer shall, within twenty (20) business days after receipt of each Application for Progress Payment, either pay such application or return the Application to the Design Build Entity indicating in writing the Engineer's reasons for refusing to recommend payment. In the later case, the Design Build Entity may make the necessary corrections and resubmit the Application. All Applications or resubmitted Applications shall be processed in accordance with Florida Statute Chapter 218.70, *et seq.*

I. The Engineer may refuse to make payment of the full amount requested by Design Build Entity because claims have been made against the County on account of the Design Build Entity's performance of the Work, or because Liens have been filed in connection with the Work, or there are other items entitling the County to a credit against the amount claimed, but Engineer must give the Design Build Entity written notice within twenty (20) business days after the date on which the invoice is stamped as received which specifies the invoice deficiency and any action necessary to make the invoice complete and proper.

## **55 Partial Utilization**

A. The County shall have the right to utilize or place into service any item of equipment or other usable portion of the Work prior to substantial completion of all of the Work. Whenever the County plans to exercise said right, the Design Build Entity shall be notified in writing by the County, identifying the specific portion or portions of the Work to be so utilized or otherwise placed into service. If the Design Build Entity agrees that such part of the Work is substantially complete and is capable of being partially utilized, The Design Build Entity shall certify to the County and the Engineer that such part of the Work is substantially complete and requests the Engineer to issue a Certificate of Substantial Completion for that part of the Work. If the Engineer does not consider that part of the Work to be substantially complete, the Engineer shall notify the County and the Design Build Entity in writing, giving the reasons therefore. If the Engineer considers that part of the Work to be substantially complete, the Engineer shall issue the certificate.

B. It shall be understood by the Design Build Entity that until such written notification of the certification of substantial completion of that part of the Work is issued by the Engineer, all responsibility for care and maintenance of all items or portions of the Work to be partially utilized shall be borne by the Design Build Entity. Upon issuance of said written notice of partial utilization, the County will accept responsibility for the protection and maintenance of all such items or portions of the Work described in the written notice.

C. The Design Build Entity shall retain full responsibility for satisfactory completion of the Work, regardless of whether a portion thereof has been partially utilized by the County, and the Design Build Entity's one (1) year correction period shall commence only after the date of Final Acceptance of the Work.

#### **56 Substantial Completion**

When the Design Build Entity considers the entire Work ready for its intended use, the Design Build Entity shall notify the County and the Engineer in writing that the Work is substantially complete and request that the Engineer prepare a Certificate of Substantial Completion. Within the time allowed by F.S. 218.70, *et seq.*, and in accordance with the County, the Engineer and the Design Build Entity shall make an inspection of the Work to determine the status of completion. If the Engineer does not consider the Work substantially complete, the Engineer shall notify the Design Build Entity in writing giving the reasons therefore. If the Engineer considers the Work to be substantially complete, the Engineer will prepare, execute, and record the Certificate of Substantial Completion signed by the Engineer and Design Build Entity, which shall fix the Date of Substantial Completion. When the Engineer determines the Work to be Substantially Complete, the County may reduce the retainage to one hundred fifty percent (150%) of the dollar value of all Work remaining to be satisfactorily completed, provided that the Design Build Entity is making satisfactory progress toward Financial Completion of the Work, that in the opinion of the Engineer there is no specific cause for a greater retainage, and the Design Build Entity obtains the written consent of the Surety Companies furnishing the required Public Construction Bond on consent forms provided by the Department. All punch list work shall be completed or corrected to the satisfaction of the County within the time stated on the punch list; otherwise the Design Build Entity does hereby waive any and all claims to all monies withheld by the County to cover the value of all such uncompleted or uncorrected items.

#### **57 Final Application for Payment**

A. After the Design Build Entity has completed all correction Work referred to in Article 56 "Substantial Completion", and on the final punch lists, or any other punch lists which have been completed, and the Design Build Entity has delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents (as provided in these General Conditions) and other documents, all as required by the Contract Documents, and has given the Engineer written notice that the Work has been completed in conformity with the Drawings and Technical Specifications and any approved changes thereto, the Design Build Entity may make application for final payment following the procedure for progress payments in Article 54 "Applications for Progress Payments. The Final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, including but not limited to the following on forms provided by the County:

1. Design Build Entity's Certification of Final Completion
2. Consent of Surety for Final Payment (Payment Bond)

The Design Build Entity shall also submit complete and legally effective releases or waivers (satisfactory to the County) of all liens and "Notices to Owner" arising out of or filed in connection with the Work.

## **58 Record Documents**

The Design Build Entity shall keep one (1) record copy of all Technical Specifications, Drawings, Addenda, modifications and shop drawings at the site in good order and clearly annotated to show all changes made during the construction process. These shall be available to the Engineer for inspection and reference and shall be delivered to it upon completion of the Project, prior to Application for Final Payment.

## **59 Final Payment and Acceptance**

A. Upon receipt of written notice from the Design Build Entity that the Work has been completed in conformity with the Drawings and Technical Specifications and any approved changes thereto, and receipt of the Final Application for Payment and accompanying documentation, the Engineer shall promptly examine the Work and, making such tests as it may deem proper and using all of the care and judgment normally exercised in the examination of completed Work by a properly qualified and experienced professional engineer, shall satisfy itself that the Design Build Entity's statement appears to be correct and the Design Build Entity's other obligations under the Contract Documents have been fulfilled. Engineer shall then inform the County in writing that it has examined the Work and that the work appears, to the best of Engineer's knowledge and belief, to conform to the Contract Drawings, Technical Specifications and any approved Supplements, that the Design Build Entities other obligations under the Contract Documents have been fulfilled, and that Engineer therefore recommends acceptance of the Work for ownership and Final Payment to the Design Build Entity. However, it is agreed by the County and the Design Build Entity that such statement by the Engineer does not in any way relieve the Design Build Entity from its responsibility to deliver a fully completed job in a good and workmanlike condition, and does not render the Engineer or the County liable for any faulty Work done or defective materials or equipment used by the Design Build Entity.

B. The Engineer will then make a final estimate of the value of all Work done and will deduct there from all previous payments which have been made. The Engineer will report such estimate to the County together with Engineer's recommendation as to the acceptance of the Work or its findings as to any deficiencies therein. After receipt and acceptance by the County of the properly executed Final Warranty of Title and within sixty (60) days after approval of the Engineer's estimate and recommendation to the County, the County will make final payment to the Design Build Entity of the Amount remaining after deducting all prior payments and all amounts to be kept or retained under the provisions of the Contract Documents, including the following items:

1. Liquidated Damages, as applicable.
2. At the discretion of the County, one and one-half times the value of outstanding items of correction Work or "punch list" items indicated on the Certificate of

Substantial Completion, "final punch list", or any other "punch list" as being yet uncompleted or uncorrected, as applicable. All such Work shall be completed or corrected to the satisfaction of the County within the time stated on the Certificate of Substantial Completion, or on the "final punch list", or any other "punch list", otherwise the Design Build Entity does hereby waive any and all claims to all monies withheld by the County to cover the value of all such uncompleted or uncorrected items.

C. All prior estimates are subject to correction in the final estimate.

**60 Design Build Entity's Continuing Obligation**

The Design Build Entity'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 the Engineer, nor the issuance of a Certificate of Substantial completion nor any payment by the County to the Design Build Entity under the Contract Documents, for any use or occupancy of the Work or any part thereof by the County, nor any act of acceptance by the County, nor any failure to do so, nor any review of a Shop Drawing or sample submittals, will constitute an acceptance of Work not in conformance with the Contract Documents or a release of the Design Build Entity's obligation to perform the Work in accordance with the Contract Documents.

**61 Final Payment Terminates Liability of County**

Final Payment is defined as the last Progress Payment made to the Design Build Entity for earned funds, less retainage as applicable, less deductions listed in Article 59 "Final Payment and Acceptance". The acceptance of the Final Payment referred to in Article 59, shall be a full release of the County and its agents from any and all claims of liability to the Design Build Entity for anything done or furnished for, or relating to, the Work or for any act or neglect of the County, or of any person relating to or affecting the Work, except demands against the County for the remainder, if any, of the amounts kept or retained under the provisions of Article 59.

**62 Not Used**

**63 Not Used**

**64 Not Used**

**65 Title to Materials Found on the Work**

A. The County reserves the right to retain title to all suitable soils, stone, sand, gravel, and other materials (as determined suitable by the Engineer) developed and obtained from excavations and other operations connected with the Work. Unless otherwise specified in the Contract Documents, neither the Design Build Entity nor any subDesign Build Entity shall have any right, title, or interest in or to any such materials.

B. The Design Build Entity will be permitted to use any such suitable materials in the Work, without charge, provided that such materials meet the requirements of the Contract Documents.

**66 Not Used**

**67 Asbestos**

If the Design Build Entity during the course of the Work observes, uncovers or otherwise becomes aware of the existence of any asbestos, hazardous waste, or toxic or radioactive material at the site which has not been rendered harmless to which the Design Build Entity or any subDesign Build Entity, supplier or other person may be exposed, the Design Build Entity shall immediately stop Work in the affected area and notify the County and the Engineer and thereafter confirm any oral notice in writing. In addition, the Design Build Entity shall take reasonable precautions to prevent or contain the movement, spread or disturbance of such materials and to protect persons and property. The County shall promptly determine the necessity of County's retaining special consultants or qualified experts to deal therewith. The Design Build Entity shall not perform any Work in connection therewith prior to receipt of special written instructions from the County through the Engineer.

**A. PROCEDURES FOR DEMOLITION OF STRUCTURES:**

1. Notification:

Federal and state asbestos regulations require, prior to demolition of any structure:

- (a) An inspection for asbestos-containing materials (ACM);
- (b) Removal of specific ACM; and,
- (c) An asbestos notification of demolition received at least ten (10) business days prior to demolition.

To meet requirements (a) and (b) above, the County has surveyed the structure(s) in this Contract for the presence of ACM and every effort has been made to remove Regulated Asbestos-Containing Material (RACM) and Category II Non-Friable ACM (e.g. asbestos-cement board and shingles) before releasing this project to the Design Build Entity. Verification of this Work is attached to this Contract. If not attached, it is the Design Build Entity's responsibility to contact the Project Manager of the County Department overseeing this Contract, or the County's Risk Management/Loss Control section to obtain:

- (a) A copy of the pre-demolition asbestos inspection report; and,
- (b) A copy of Risk Management/Loss Control's memo of approval to proceed to the next phase of the project addressed to the County department overseeing this project.

To meet requirement (c) above, the Design Build Entity is responsible for submitting a complete and accurate asbestos notification of demolition form titled "Notice of Asbestos Renovation or

Demolition" [i.e., NESHAP notification, 40 CFR Part 61.145(b)], for each separate address to be demolished to the below listed agency at least ten (10) business days prior to demolition. The form is available from the Department of Environmental Protection (FDEP) at [www.dep.state.fl.us/air/rules/forms/asbestos.htm](http://www.dep.state.fl.us/air/rules/forms/asbestos.htm).

SEND ORIGINAL TO:  
State Asbestos Coordinator  
Florida Department of Environmental Protection  
Division of Air Resources Management  
400 N. Congress Avenue, Suite 200  
West Palm Beach, FL 33401  
Fax (561) 681-6790

The Design Build Entity must notify the project manager of the County Department overseeing the project and FDEP immediately if the demolition start date changes. No demolition may begin before the start date on the NESHAP notification and no demolition may occur without a notice to proceed from the County department. It is the responsibility of the Design Build Entity to call and submit revised NESHAP notifications to the above listed agency, adhering to required NESHAP time frames.

The Design Build Entity is responsible for physically checking the structure(s) before submitting the NESHAP notification to ensure that all RACM and Category II ACM, as identified in the pre-demolition asbestos inspection report, have been removed. If RACM or Category II ACM is discovered, immediately contact the County's Project Manager or Loss Control.

2. Work Practices:

The Design Build Entity will utilize wet methods to control airborne emissions during the demolition process and during loading onto transport vehicles, regardless whether Category I is present or not. The Design Build Entity is responsible for supplying water meters, hoses, and adequate volume of water to the demolition site.

Recycling of substructure with either presumed or confirmed asbestos-containing Category I (e.g. floor tile, sheet vinyl, and/or roofing materials) is not permitted, unless written authorization is provided to the Design Build Entity by Palm Beach County.

3. OSHA and Florida Statutes Compliance:

In accordance with OSHA (ref. 29 CFR 1926.1101) the Design Build Entity must have a competent person on-site who:

- (a) Is capable of identifying existing asbestos hazards in the work place;

- (b) Is capable of selecting the appropriate control strategy for asbestos exposure;
- (c) Has the authority to take prompt corrective action to eliminate them.

This person must be trained in accordance with Chapter 469 Florida Statutes as an on-site supervisor.

Copies of training certificates of the on-site supervisor shall be made available to the County upon request.

**B. REMOVAL OF CONFIRMED OR PRESUMED ASBESTOS-CONTAINING BITUMINOUS ROOFING MATERIALS:**

The County will provide all known information as to the roofing material used on the existing roof specified in the Contract Documents. This information will include all existing specifications, drawings, and the results of any recent bulk sampling analysis of the existing roof system determining the presence or absence of asbestos by percentage and the location where each sample was taken. In the absence of bulk sampling for asbestos, the roofing materials will be presumed asbestos containing until proven otherwise.

It is the Design Build Entity's responsibility to determine if the information furnished is adequate to provide a bid.

It is the responsibility of the Design Build Entity awarded the Contract to determine if the roofing materials do not contain asbestos. If the Design Build Entity wishes not to sample and analyze for asbestos, the materials will be presumed to contain asbestos and must be handled accordingly. If the Design Build Entity elects to sample the roof system it must first notify the County of the sampling, including date, location, and number of samples to be collected. The bulk sample analyses must be performed by an NVLAP-accredited laboratory (NVLAP is the National Voluntary Laboratory Accreditation Program). Results, if proven less than one percent (1.0%) asbestos, shall be provided to the County prior to the start of any Work.

The Design Build Entity awarded the Contract will be required to meet all Federal, State, and local regulations pertaining to the handling, removal, and disposal of confirmed or presumed asbestos-containing roofing materials. This includes, but is not limited to:

1. Meeting the requirements listed in Chapter 469.012 (2) and (3) Florida Statutes regarding training of on-site roofing supervisors involved in the removal of asbestos containing bituminous resinous roofing materials; and,
2. Utilizing removal methods that will maintain the roofing material's Category I non-friable status and will not create dust (i.e., employ methods other than sanding, grinding, drilling, abrading, rotary blade, or saw cutting). Suggested methods are slicing, shearing, or punch cutting while using wet methods where feasible.

The Design Build Entity will submit upon award of the Contract the following documentation to the County department coordinating this project:

1. Copies of training certificates of the on-site roofing supervisor in compliance with the current requirements of Chapter 469 Florida Statutes;
2. Resume of the on-site roofing supervisor documenting asbestos-containing roofing removal jobs performed within the last two (2) years;
3. Approval of a landfill to accept confirmed or presumed asbestos containing roofing material and any conditions associated with its acceptance; and,
4. A plan of action, as specified by OSHA 29 CFR 1926.1101, which addresses:
  - a. Method(s) of removal;
  - b. Worker protection;
  - c. Protection of building occupants and ventilation system;
  - d. Method and location of disposal.

C. HANDLING AND DISPOSAL OF ASBESTOS CEMENT PIPE:

1. General:

Federal regulations (40 CFR Part 61, Sub-part M) classify asbestos-cement pipe (AC pipe) as Category II non-friable asbestos-containing material. AC pipe must be handled in a manner which will maintain this classification. Therefore, all cutting and disposal of AC pipe must be performed by a Florida licensed Asbestos Design Build Entity.

The County will make every effort to identify and quantify the location of known AC pipe and material prior to onset of the Work.

If during the course of the Work the Design Build Entity observes, uncovers, or otherwise becomes aware of the existence of any AC pipe, pieces, or material at the site to which the Design Build Entity or any subDesign Build Entity, supplier, or other person may be exposed, the Design Build Entity shall immediately notify the County and confirm any verbal notice in writing. The County shall promptly determine the necessity of the County retaining special consultants or qualified experts. The Design Build Entity shall not perform any Work near or in connection with the suspect material until receipt of special written instructions from the County.

The Design Build Entity will ensure that all subDesign Build Entities follow these procedures.

2. Pre-Work Submittals:



The Design Build Entity shall submit the name of the Asbestos Design Build Entity and a copy of their Florida Asbestos Design Build Entity license to the Palm Beach County department coordinating this project, prior to start of the Work.

3. Worker Protection:

Licensed asbestos Design Build Entities will comply with the requirements of OSHA 29 CFR 1926.1101 concerning worker protection.

4. Execution of Work:

AC pipe will be kept wet during all phases of removal. No visible emissions are permitted. Wet the pipe using an airless sprayer or utilize available water.

Apply drop cloth of 6-mil polyethylene to the area beneath and a minimum of three feet (3') beyond the section of pipe to be cut.

Break, cut or snap pipe into sections suitable in size to the disposal facility. Abrasive disc saws are prohibited.

Apply lockdown encapsulant to exposed edges of pipe. Pick up all pipe debris that may have fallen outside the drop cloth.

Use of compressed air to clean AC pipes is prohibited.

At no time should AC pipe or pieces be mixed in with fill material.

5. Disposal:

Wrap pipe in existing drop cloth. Transfer pipe to a clean drop cloth outside the trench, and wrap and secure in a second layer of 6-mil polyethylene.

Affix the following labels to the exterior of each separately wrapped section of pipe. Labels are to be waterproof, legible, and large enough in size to be readily visible:

- |               |  |
|---------------|--|
| First Label:  | CAUTION<br>Contains Asbestos Fibers<br>Avoid Opening or Breaking Container<br>Breathing Asbestos is Hazardous to Your Health   |
| Second Label: | DANGER<br>Contains Asbestos Fibers<br>Avoid Breathing Dust<br>Cancer and Lung Disease Hazard<br>Breathing Airborne Asbestos, Tremolite,<br>Anthophyllite or Actinolite Fibers<br>is Hazardous to Your Health |

- Third Label: RQ HAZARDOUS SUBSTANCE  
Solid, NOS  
ORM-E, NA9188  
(Asbestos)
- Fourth Label: Label each container with the name of the generator (owner) and the location at which the waste was generated.

Properly dispose of all AC pipe generated each day. All wrapped sections may be stored in a secure, locked enclosure pending disposal, if authorized by the County. At no time are sections or pieces of AC pipe to be left on the project site unwrapped and unsecured at the end of the day.

All vehicles and/or containers used to haul asbestos containing waste material shall be lined with a minimum of 6-mil polyethylene layer.

Label trucks used to transport asbestos-containing waste material during loading and unloading as follows (refer to 29 CFR 1910.145 (d) (4) for sign format):

DANGER                      Asbestos Dust Hazard  
Cancer and Lung Disease Hazard  
Authorized Personnel Only

6. Post Work Submittals

The Design Build Entity, or Asbestos Design Build Entity, shall complete a Waste Shipment Record (WSR) for each shipment of asbestos-cement pipe disposed. Refer to 40 CFR Part 61, Revision Final Rule for an example of WSR or contact Palm Beach County Risk Management/Loss Control.

The Design Build Entity or its designated subDesign Build Entity will submit the following documents to the Palm Beach County department coordinating this project prior to payment:

- (a) A copy of the WSR prior to shipment; and,
- (b) A copy of the WSR signed by the disposal facility within 35 days of shipment.

7. Regulations:

Environmental Protection Agency: 40 CFR Part 61 National Emission Standards for Hazardous Pollutants; Asbestos NESHAP Revision Final Rule, November 20, 1990.

Occupational Safety and Health Administration: 29 CFR 1926.1100 - Asbestos, Construction Industry Standard.

**68 EXPLOSIVES AND HAZARDOUS MATERIALS**

A. Design Build Entity shall obtain all required Federal, State and local permits and licenses and shall be responsible for the safe and proper handling, transporting, storage and use of any explosive or hazardous materials brought onto or encountered within the site, and at its expense, make good any damage caused by its handling, transporting, storage and use. Transporting explosive or hazardous materials onto the site will require prior written approval from the County. The Design Build Entity shall maintain and Post as necessary Material Hazard Data Sheets for all applicable Hazardous Materials used in the course of its work.

B. Design Build Entity shall give notices and comply with all laws, ordinances, rules, regulations and lawful orders of public authorities relating to the Work; including the removal or treatment, if any, of any hazardous substances or the prosecution of necessary abatement procedures. If Design Build Entity discovers hazardous substances on any project site, Design Build Entity shall immediately notify Owner of such discovery and shall take all reasonably necessary actions to abate, remediate or mitigate such condition. If the hazardous substances were not caused to be on the project site by Design Build Entity or its subcontractors or suppliers of any tier, Owner shall pay Design Build Entity the reasonable costs of such abatement, remediation or mitigation of hazardous substances. Owner shall not be responsible for the payment of such costs to the extent that such costs were caused, incurred or increased by the negligent acts, errors, or omissions of Design Build Entity or its subcontractors or suppliers of any tier.

C. In the event that hazardous material is improperly handled or stored by the Design Build Entity, its subDesign Build Entities, any sub-sub Design Build Entities, or any employee or agent of any of the aforementioned which results in contamination of the site, Design Build Entity shall immediately notify the County and the appropriate governmental authority and shall take whatever action is necessary or desirable to remediate the contamination at the Design Build Entity's sole cost and expense. Further, Design Build Entity shall indemnify and hold harmless from any and all cost, expense, action, or liability whatsoever resulting from such contamination and/or remedial activities.

**69 Not Used**

**70 Listing of the Duties, Responsibilities and Limitations of Authority of the Resident Project Representative**

A. The Engineer may furnish a Resident Project Representative (RPR), assistants and other field staff to assist the Engineer in observing performance of the Work of the Design Build Entity. The RPR may only be part time on site, and the Design Build Entity shall coordinate with the RPR as required in the Contract Documents.

B. Through on-site observations of the Work in progress and field checks of materials and equipment by the RPR and assistants, the Engineer shall provide further protection for the County against defects and deficiencies in the Work; but, the furnishing of such services will not make the Engineer responsible for or give the Engineer control over construction means, methods, techniques, sequences or procedures or for the safety precautions or programs, or responsibility for the Design Build Entity's failure to perform the Work in accordance with the Contract Documents.

C. The duties and responsibilities of the RPR are limited and described as follows:

1. GENERAL:

The RPR is the Engineer's agent at the site, will act as directed by and under the supervision of the Engineer, and will confer with the Engineer regarding the RPR's actions. The RPR's dealings in matters pertaining to the on-site Work shall in general be with the Engineer and the Design Build Entity, keeping the County advised as necessary. RPR's dealings with subDesign Build Entities shall only be through or with the full knowledge and approval of the Design Build Entity. RPR shall generally communicate with the County with the knowledge of and under the direction of the Engineer.

2. DUTIES AND RESPONSIBILITIES OF THE RPR:

a. Review the construction progress schedule, schedule of shop drawing submittals, and schedule of values prepared by the Design Build Entity and consult with the Engineer concerning their acceptability.

b. Attend various meetings with the Design Build Entity, including pre-construction conferences, construction progress meetings, job site conferences and other project-related meetings, and prepare and circulate written copies of minutes thereof.

c. Serve as the Engineer's liaison with the Design Build Entity, working principally through the Design Build Entity's superintendent or Design Build Entity, and assist in understanding the intent of the Contract Documents; and assist the Engineer in serving as the County's liaison with the Design Build Entity when the Design Build Entity's operations affect the County's on-site operations.

d. Assist in obtaining from the County additional details or information, when required for proper execution of the Work.

e. Record the dates of receipt of shop drawings and samples.

f. Receive samples furnished at the site by the Design Build Entity, and notify the Engineer of availability of samples for examination.

- g. Advise the Engineer and the Design Build Entity of the commencement of any Work requiring a shop drawing or sample if the submittal has not been approved by the Engineer.
- h. Conduct on-site observations of the Work in progress to assist the Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
- i. Report to the Engineer whenever the RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise the Engineer of Work that the RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
- j. Verify that tests, equipment and systems start-ups and operating and maintenance training are conducted in the presence of appropriate personnel and that the Design Build Entity maintains adequate records thereof; and observe, record and report to the Engineer appropriate details relative to the test procedures and start-ups.
- k. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to the Engineer.
- l. Report to the Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to the Design Build Entity clarifications and/or interpretations as issued by the Engineer.
- m. Consider and evaluate the Design Build Entity's suggestions for modifications in Drawings or Technical Specifications and report with the RPR's recommendations to the Engineer. Transmit to the Design Build Entity decisions as issued by the Engineer.
- n. Maintain at the job site and the Engineer's office files for correspondence, reports of job conferences, shop drawings and samples, reproductions of original Contract Documents including all Work Directive Changes, Addenda, Supplements, Field Orders, Written Amendments, additional drawings issued subsequent to the execution of the Contract, the Engineer's clarifications and interpretations of the Contract Documents, progress reports, and other Project-related documents.
- o. Record names, addresses and telephone numbers of all subDesign Build Entities and major suppliers of materials, equipment and manufactured articles.
- p. Furnish the Engineer periodic reports as required of progress of the Work and of the Design Build Entity's compliance with the progress schedule and schedule of shop drawing and sample submittals.

- q. Consult with the Engineer in advance of scheduled major tests, inspections or start of important phases of the Work.
- r. Draft proposed Supplements and Work Directive Changes, obtaining backup material from the Design Build Entity and recommend to the Engineer Supplements, Work Directive Changes, and Field Orders.
- s. Report immediately to the Engineer and the County upon the occurrence of any accident witnessed by the RPR or that was otherwise made known to the RPR.
- t. Review applications for payment with the Design Build Entity for compliance with the established procedure for their submission and forward with recommendations to the Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.
- u. During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by the Design Build Entity are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to the Engineer for review and forwarding to the County prior to final payment for the Work.
- v. Before the Engineer issues a Certificate of Substantial Completion, submit to the Design Build Entity a list of observed items requiring completion or correction.
- w. Conduct final inspections in the company of the Engineer, the County and the Design Build Entity and prepare a final list of items to be completed or corrected.
- x. Observe that all items on the final list have been completed or corrected and make recommendations to the Engineer concerning acceptance.

D. LIMITATIONS OF AUTHORITY:

- 1. The Resident Project Representative shall not:
  - a. Authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized in writing by the Engineer.
  - b. Exceed limitations of the Engineer's authority as set forth in the Contract Documents.
  - c. Undertake any of the responsibilities of the Design Build Entity, subDesign Build Entities or the Design Build Entities superintendent or Design Build Entity.
  - d. Advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of

construction unless such advice or directions are specifically required by the Contract Documents.

- e. Advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
- f. Accept shop drawings or sample submittals from anyone other than the Design Build Entity.
- g. Authorize the County to occupy the Project in whole or in part.
- h. Participate in specialized field or laboratory tests or inspections conducted by others as specifically authorized by the Engineer.

**71 Not Used**

**72 Design Build Entity Furnished Drawings, Data and Samples**

A. Review, acceptance, and permission to proceed by County as stated in this Contract does not constitute approval of design details, calculations, analyses, test methods, certificates or materials developed or selected by the Design Build Entity, shall not make County or Engineer liable for any defects or deficiencies therein, and does not relieve Design Build Entity from full compliance with its contractual obligations. Drawings, samples, catalogues, data and certificates required to be submitted to the County for review, shall be submitted attached to forms provided by County.

B. All correspondence from the Design Build Entity to the County shall be numbered sequentially and the submittal number shall be referenced. Submittal drawings (shop, erection or setting diagrams) and schedules, required for work of various trades, shall be checked before submission by technically qualified employees of Design Build Entity for accuracy, completeness and compliance with contract requirements. These drawings and schedules shall be stamped and signed by Design Build Entity certifying to such check. The certification stamp shall read as follows:

"I certify that I have checked this submittal for accuracy, completeness and compliance with contract requirements, and it has been coordinated with all other submittals and Contract Documents."

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Company Name)

**C. Record Drawings**

1. Record drawings shall be supplied in accordance with the Palm Beach County Water Utilities Department Manual of Minimum Engineering Standards and shall be signed and sealed by an appropriate professional, licensed in the State of Florida.

2. Where drawings are required for (a) fabrication of Design Build Entity furnished equipment; (b) installing Design Build Entity furnished material or equipment; or (c) planning and performance of the work under Contract; such drawings shall be submitted by and at the expense of the Design Build Entity before fabrication, installation or performance is commenced. Each submittal shall be made not less than thirty five (35) calendar days prior to the time that the drawings are required in accordance with the schedule. Allow at least 21 calendar days for review by County. County's review will be accomplished based on the Design Build Entity's submittal schedule portion of the CPM schedule, as approved. Such drawings shall include, but not be limited to, match marks, erection diagrams and other details, such as field connections for proper installation, erection of the equipment, and performance of the work.

3. For drawings greater in size than 11" x 17", one reproducible and four copies shall be submitted to the County by and at the expense of the Design Build Entity. The County will be the sole judge of the adequacy of the quality of the reproducible and prints and may reject reproducibles and/or prints on the basis of quality alone. Such drawings will not be folded, but will be transmitted in mailer rolls manufactured expressly for that purpose. The reproducible with the County's review comments will be returned to the Design Build Entity. A reproducible copy of drawings equal to or less than 11" x 17" is not necessary, but five copies of the unfolded drawings must be transmitted to the County.

4. If drawings show variations from the contract requirements, the Design Build Entity shall describe such variations in writing, separate from the drawings, at the time of submission. If the County approves any such variation(s), it shall issue an appropriate contract modification, except that, if the variation is minor and does not involve a change in price or in time of performance, a modification need not be issued.

5. Drawings of a specific piece of equipment shall identify components with the manufacturer's part number or reference drawing clearly indicated. If reference drawing numbers are used, the review date of such drawings shall be included. Drawings shall indicate design dimensions, maximum and minimum allowable operating tolerances on all major wear fits, i.e. rotating, reciprocating or intermittent sliding fits between shafts or stems and seals, guides and pivot pins. The sequence of submission of all drawings shall be such that all information is available for reviewing each drawing when it is received.

6. All drawings submitted by the Design Build Entity shall be certified and dated by the Design Build Entity on the face of each drawing to be correct, accurate and shall be furnished in accordance with requirements of the specifications. County will conduct a review of Design Build Entity's drawings and a drawing marked with one of the following review comments will be returned to the Design Build Entity.

- a. No exceptions taken.
- b. Comments attached. Resubmit.
- c. Rejected.

The Design Build Entity must incorporate the changes indicated, resubmit and obtain a Code (a.) or (b.) notation before release for shipment can be granted.



D. Samples

1. Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the work will be judged. Samples of all items of related systems (i.e. adjacent surfaces requiring similar colors but manufactured of different materials) must be submitted in the same time frame before the approval process can begin.

2. Where samples are required, they shall be submitted by and at the expense of the Design Build Entity. Such submittal shall be made not less than thirty five (35) calendar days prior to the time that the materials represented by such samples need to be ordered for incorporation into any work in accordance with the schedule. Allow at least 21 calendar days for County's review. Materials represented by such samples shall not be manufactured, delivered to the site or incorporated into any work without such review. Each sample shall bear a label showing the Design Build Entity's name, date submitted, project name, name of the item, manufacturer's name, brand name, model number, supplier's name, and reference to the appropriate drawing, technical specification section and paragraph number, all as applicable.

3. Samples which have been reviewed may, at County's option, be returned to the Design Build Entity for incorporation into the work.

E. Catalogues, Data and Certificates

1. Where catalogues, data or certificates are required, five (5) copies of each shall be submitted by and at the expense of the Design Build Entity. Such submittal shall be made not less than thirty five (35) calendar days prior to the time that the materials represented by such catalogues, data or certificates must be ordered for incorporation into any work in accordance with the CPM schedule. Allow at least 21 calendar days for County's review. Material represented by such shall not be fabricated, delivered to the site or incorporated into any work without such review.

2. Certificates shall clearly identify the material being certified and shall include but not be limited to providing the following information: Design Build Entity's name, project name, name of the item, manufacturer's name, and reference to the appropriate drawing, technical specification section and paragraph number all as applicable. All catalogues, data and certificates submitted by the Design Build Entity shall be certified and dated by the Design Build Entity on the face of each catalogue, data and certificate to be correct and shall be furnished in accordance with these requirements and the requirements of the Technical Specification, on forms provided by the County. County will conduct a review of Design Build Entity's catalogues, data, and certificates and one copy marked with the review comments listed in paragraph A, above, will be returned to the Design Build Entity.

**73 Design Build Entity Work-Site Emergency Action Plan**

Design Build Entity shall be fully and solely responsible for the safety of all on-site contract personnel, including subDesign Build Entities. The Design Build Entity shall supply the Water

Utilities Communication Department with names, telephone numbers and/or pager numbers of designated contract/subcontract personnel responsible for implementing Design Build Entity emergency action plans.

**74 Not Used**

**75 Safety and Health Regulations**

A. The Design Build Entity shall be fully and solely responsible for conducting all operations under this Contract at all times in such a manner as to avoid the risk of bodily harm to persons and damage to property. The Design Build Entity shall continually and diligently inspect all work, materials, and equipment to discover any conditions that might involve such risks and shall be solely responsible for discovery and correction of any such conditions.

B. The Design Build Entity shall comply with the Department of Labor Safety and Health Regulations promulgated under the Occupational Safety and Health Act of 1970 to include General Industry Standards (29 CFE 1910) and (29 CFR 1926/1910) for construction, and under Section 107 of the Contract Work Hours and Safety Standards Act.

C. The Design Build Entity shall comply with the Manual on Uniform Traffic Control Devices when working on or off the site.

D. The Design Build Entity shall allow representatives of the Department of Labor and authorized representatives of the Palm Beach County Water Utilities Department and the Palm Beach County Risk Management Department full access to the project for inspection.

**76 Best Management Practices for the Construction Industry**

A. The Design Build Entity shall be responsible for assuring that each Design Build Entity or subDesign Build Entity evaluates the site before construction is initiated to determine if any site conditions may pose particular problems for the use, handling, production or storage of any regulated substances. For instance, handling regulated substances in the proximity of water bodies or wetlands may be improper.

B. If any regulated substances are stored on the construction site during the construction process, they shall be stored in a location and manner which will minimize any possible risk of release to the environment. Any storage container of 55 gallons or 440 pounds or more containing regulated substances shall have constructed below it an impervious containment system constructed of material of sufficient thickness, density and composition that will prevent the discharge to the land, groundwater or surface water of any pollutant which may emanate from said storage container. Each containment system shall be able to contain 150% of the contents of all storage containers above or within the containment system.

C. Each Design Build Entity shall familiarize itself with the manufacturer's safety data sheet supplied with each material containing a regulated substance and shall be thoroughly familiar

with procedures required to contain and clean up any releases of the regulated substance. Any tools or equipment necessary to accomplish same shall be available in case of release.

D. Upon completion of construction, all unused and waste regulated substances and containment systems shall be removed from the construction site by the Design Build Entity and shall be disposed of in a proper manner as prescribed by law.

Appendix A-1  
CDM Constructors Inc. Billing Rate

|                                      | Minimum Bill Rate | Maximum Bill Rate |
|--------------------------------------|-------------------|-------------------|
| Construction Project Administrator 2 | \$41.00           | \$59.00           |
| Construction Project Administrator 3 | \$48.00           | \$71.00           |
| Construction Project Administrator 4 | \$63.00           | \$92.00           |
| Administrative Assistant 1           | \$42.00           | \$51.00           |
|                                      |                   |                   |
| Construction Specialist 1            | \$60.00           | \$88.00           |
| Construction Specialist 2            | \$66.00           | \$99.00           |
| Construction Specialist 3            | \$83.00           | \$128.00          |
|                                      |                   |                   |
| General Foreman                      | \$79.00           | \$118.00          |
| Assistant Superintendent             | \$79.00           | \$118.00          |
| Superintendent                       | \$89.00           | \$137.00          |
| General Superintendent               | \$103.00          | \$159.00          |
|                                      |                   |                   |
| Asst Project Manager - Construction  | \$89.00           | \$137.00          |
| Project Manager 1 - Construction     | \$103.00          | \$159.00          |
| Project Manager 2 - Construction     | \$118.00          | \$188.00          |
| Project Manager 3- Construction      | \$137.00          | \$226.00          |
| Area Manager-Construction            | \$139.00          | \$229.00          |
| Region Manager - Construction        | \$197.00          | \$393.00          |
|                                      |                   |                   |
| Estimator 2                          | \$79.00           | \$118.00          |
| Senior Estimator                     | \$103.00          | \$159.00          |
| Lead Estimator                       | \$103.00          | \$159.00          |
| Estimator Specialist                 | \$103.00          | \$159.00          |
| Regional Chief Estimator             | \$118.00          | \$188.00          |
|                                      |                   |                   |
| Carpenter                            | \$48.00           | \$71.00           |
| Construction Worker 1                | \$33.00           | \$43.00           |
| Construction Worker 2                | \$36.00           | \$51.00           |
| Construction Worker 3                | \$44.00           | \$65.00           |
| Instrument Technician                | \$48.00           | \$71.00           |
| Electrician                          | \$52.00           | \$78.00           |
| Electrician Foreman                  | \$61.00           | \$96.00           |
| Fabricator                           | \$48.00           | \$71.00           |
| Carpenter Foreman                    | \$56.00           | \$86.00           |
| Construction/Craft Foreman           | \$56.00           | \$86.00           |
| Operator Foreman                     | \$61.00           | \$96.00           |
| Pipefitter Foreman                   | \$61.00           | \$96.00           |
| Fabricator Foreman                   | \$61.00           | \$96.00           |
| Operations Foreman                   | \$61.00           | \$96.00           |

All other costs shall be reimbursed at cost plus a 15% fee for overhead and profit. Overtime hours for Non-exempt employees will be invoiced at multiples in accordance with the Fair Labor Standards Act (FLSA).

Appendix A-1 Continued  
CDM Constructors Inc. Billing Rates

|                                      | Minimum Bill Rate | Maximum Bill Rate |
|--------------------------------------|-------------------|-------------------|
| Operator                             | \$56.00           | \$86.00           |
| Pipefitter                           | \$52.00           | \$78.00           |
| Operations Specialist                | \$52.00           | \$78.00           |
| O & M Technician                     | \$44.00           | \$65.00           |
| Sr O & M Technician                  | \$48.00           | \$71.00           |
| Lead O&M Technician                  | \$61.00           | \$96.00           |
| Senior O & M Specialist              | \$74.00           | \$112.00          |
| Lead O & M Specialist                | \$109.00          | \$128.00          |
| Manager 1 - Operations & Maintenance | \$120.00          | \$200.00          |
| Manager 2 - Operations & Maintenance | \$139.00          | \$229.00          |
|                                      |                   |                   |
| Project H&S Technician               | \$63.00           | \$92.00           |
| Health & Safety Mgr 1                | \$79.00           | \$118.00          |
| Health & Safety Mgr 2                | \$89.00           | \$137.00          |
| Regional Health & Safety Mgr         | \$103.00          | \$159.00          |
|                                      |                   |                   |
| Project Controls Scheduler           | \$79.00           | \$118.00          |
| Sr Project Controls Scheduler        | \$89.00           | \$137.00          |
| Procurement Specialist I             | \$42.00           | \$63.00           |
| Procurement Specialist I             | \$42.00           | \$63.00           |
| Procurement Specialist 1             | \$57.00           | \$83.00           |

All other costs shall be reimbursed at cost plus a 15% fee for overhead and profit. Overtime hours for Non-exempt employees will be invoiced at multiples in accordance with the Fair Labor Standards Act (FLSA).

**Appendix A-2**  
CDM Smith Inc. Billing Rates

Minimum Bill Rate                      Maximum Bill Rate

Professional Services

|                     |          |          |
|---------------------|----------|----------|
| Officer             | \$200.00 | \$300.00 |
| Principal/Associate | \$175.00 | \$255.00 |
| Senior Professional | \$150.00 | \$200.00 |
| Professional II     | \$135.00 | \$155.00 |
| Professional I      | \$110.00 | \$140.00 |

Professional Support Services

|                         |          |          |
|-------------------------|----------|----------|
| Senior Support Services | \$130.00 | \$175.00 |
| Staff Support Services  | \$110.00 | \$140.00 |

Field Services

|                     |          |          |
|---------------------|----------|----------|
| Senior Professional | \$120.00 | \$160.00 |
| Professional        | \$100.00 | \$130.00 |

Project Support Services

|                        |         |          |
|------------------------|---------|----------|
| Project Administration | \$95.00 | \$120.00 |
|------------------------|---------|----------|

All other costs shall be reimbursed at cost plus a 15% fee for overhead and profit. Overtime hours for Non-exempt employees will be invoiced at multiples in accordance with the Fair Labor Standards Act (FLSA).

**WORK AUTHORIZATION NO. \_\_\_\_\_**  
**Palm Beach County Water Utilities Department**  
**Disaster Recovery and Mitigation Services Design-Build Contract**

Project No. WUD \_\_\_\_\_

District: \_\_\_\_\_

Budget Line Item No. \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Project Title: \_\_\_\_\_

**THIS AUTHORIZATION No. \_\_\_\_\_ to the Contract for Disaster Recovery and Mitigation Services Design-Build dated \_\_\_\_\_ (R20\_\_ - \_\_\_\_), by and between Palm Beach County and the Design Build Entity identified herein, is for the Design-Build Services of this Work Authorization. The Contract provides for \_\_\_% SBE participation overall. This Work Authorization includes \_\_\_% overall participation. The cumulative proposed SBE participation, including this authorization is \_\_\_\_\_% overall. Additional authorization will be utilized to meet or exceed the stated overall participation goal.**

1. DESIGN-BUILD ENTITY: \_\_\_\_\_

2. ADDRESS: \_\_\_\_\_

3. Description of Services (Scope of Work) to be provided by the Design Build Entity:

See **ATTACHMENT A.**

4. Services completed by the Design Build Entity to date:

See **ATTACHMENT G.**

5. Design Build Entity shall begin work promptly or deliver ordered materials within the following calendar days from the approval date of the Work Authorization:

Substantial Completion \_\_\_\_\_ Calendar Days

Final Construction Completion \_\_\_\_\_ Calendar Days

Liquidated damages will apply as follows:

\$ \_\_\_\_\_ per day past substantial completion date.

\$ \_\_\_\_\_ per day past final completion date.

The parties hereby agree and acknowledge that County's actual damages in the event of delay would be difficult or impossible to ascertain and that the foregoing liquidated damages amount represents a liquidated sum of damages agreed upon by the parties as a measure of damages in the event of such delay and not as a penalty.

6. The Contract Price or Guaranteed Maximum Price, as applicable, to be paid to the Design Build Entity for providing the requested services in accordance with the Contract shall be \$ \_\_\_\_\_, subject to adjustment in accordance with the terms of the Contract,.

7. EXCEPT AS HEREBY AMENDED, CHANGED OR MODIFIED, all other terms, conditions and obligations of the Contract dated \_\_\_\_\_ remain in full force and effect.

WORK AUTHORIZATION NO. \_\_\_\_\_

Project No. WUD \_\_\_\_\_

Project Title: \_\_\_\_\_

IN WITNESS WHEREOF, this Authorization is accepted, subject to the terms, conditions and obligations of the aforementioned Contract.

PALM BEACH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA

Palm Beach County  
Water Utilities Department

\_\_\_\_\_  
Bevin Beaudet, Director

\_\_\_\_\_  
Date

DESIGN BUILD ENTITY:

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name and Title)

\_\_\_\_\_  
(Name and Title)

(CORPORATE SEAL)

\_\_\_\_\_  
Date



WORK AUTHORIZATION NO. \_\_\_\_\_

Project No. WUD \_\_\_\_\_

Project Title: \_\_\_\_\_

IN WITNESS WHEREOF, this Authorization is accepted, subject to the terms, conditions and obligations of the aforementioned Contract.

PALM BEACH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA

Palm Beach County  
Contract Review Committee

\_\_\_\_\_  
Irwin Jacobowitz, Director,  
Contract Development Control

\_\_\_\_\_  
Date

DESIGN BUILD ENTITY:

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name and Title)

\_\_\_\_\_  
(Name and Title)

(CORPORATE SEAL)

\_\_\_\_\_  
Date

WORK AUTHORIZATION NO. \_\_\_\_\_

Project No. WUD \_\_\_\_\_

Project Title: \_\_\_\_\_

IN WITNESS WHEREOF, this Authorization is accepted, subject to the terms, conditions and obligations of the aforementioned Contract.

PALM BEACH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA

Sharon R. Bock, Clerk & Comptroller,  
Palm Beach County

Palm Beach County,  
Board of County Commissioners

ATTEST:

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_  
Steven L. Abrams, Mayor

Typed Name: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_   
Date

Approved as to Form and Legal  
Sufficiency

Signed: \_\_\_\_\_

Typed Name: \_\_\_\_\_  
County Attorney

DESIGN BUILD ENTITY:

\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name and Title)

\_\_\_\_\_  
(Name and Title)

(CORPORATE SEAL)

\_\_\_\_\_  
Date

**LIST OF ATTACHMENTS**

**WORK AUTHORIZATION NO. \_\_\_\_\_**

**Palm Beach County Water Utilities Department**

**Disaster Recovery and Mitigation Services Design-Build Contract**

|                       |   |
|-----------------------|---|
| <b>ATTACHMENT – A</b> | Scope of Work   |
| <b>ATTACHMENT – B</b> | Rate for Liquidated Damages   |
| <b>ATTACHMENT – C</b> | Public Construction Bond  |
| <b>ATTACHMENT – D</b> | Form of Guarantee   |
| <b>ATTACHMENT – E</b> | Work Authorization Cost Schedule  |
| <b>ATTACHMENT – F</b> | SBE Schedule 1 and Schedule 2   |
| <b>ATTACHMENT – G</b> | Authorization Status Report - Summary and Status of Authorizations      |
| <b>ATTACHMENT – H</b> | Authorization Status Report - Summary of SBE/Minority Business Tracking |
| <b>ATTACHMENT – I</b> | Location Map  |
| <b>ATTACHMENT – J</b> | DESIGN-BUILD CRITERIA   |
| <b>ATTACHMENT – K</b> | VENDOR QUOTES   |

**ATTACHMENT A**

**WORK AUTHORIZATION NO. \_\_\_\_\_**

**Palm Beach County Water Utilities Department**

**Disaster Recovery and Mitigation Services Design-Build Contract**

**SCOPE OF WORK  
FOR**

---

**INTRODUCTION**

Palm Beach County (County) entered into an agreement entitled \_\_\_\_\_ - Palm Beach County Water Utilities Department Project No. WUD \_\_\_\_\_ (CONTRACT) with \_\_\_\_\_ (DESIGN BUILD ENTITY) to provide design-build services for various general activities on the Disaster Recovery and Mitigation Services Design-Build Contract dated \_\_\_\_\_, (R - ). This Work Authorization will be performed under that CONTRACT.

This Work Authorization encompasses providing services related to \_\_\_\_\_

---

**SCOPE OF SERVICES**

Design Build Entity shall perform the Scope of Services as described herein \_\_\_\_\_

---

**COMPENSATION**

Compensation for this Work Authorization shall not exceed the Contract Price or Guaranteed Maximum Price, as applicable.

**SBE PARTICIPATION**

As described in General Provisions Section A.3 of the Contract, SBE participation is included in ATTACHMENT F under this Authorization. The attached Schedule 1 defines the SBE applied to this Authorization/Contract and Schedule 2 establishes the SBE contribution from each subcontractor (Letter of Intent to perform as an SBE).

**ATTACHMENT B**

**WORK AUTHORIZATION NO. \_\_\_\_\_**

**Palm Beach County Water Utilities Department**

**Disaster Recovery and Mitigation Services Design-Build Contract**

**Rates for Liquidated Damages**

Substantial Completion \_\_\_\_\_ Calendar Days

Final Construction Completion \_\_\_\_\_ Calendar Days

Liquidated damages will apply as follows:

\$ \_\_\_\_\_ per day past substantial completion date.

\$ \_\_\_\_\_ per day past final completion date.

The parties hereby agree and acknowledge that County's actual damages in the event of delay would be difficult or impossible to ascertain and that the foregoing liquidated damages amount represents a liquidated sum of damages agreed upon by the parties as a measure of damages in the event of such delay and not as a penalty.

**ATTACHMENT C**

**WORK AUTHORIZATION NO. \_\_\_\_\_**

**Palm Beach County Water Utilities Department**

**Disaster Recovery and Mitigation Services Design-Build Contract**

**PUBLIC CONSTRUCTION BOND**

BOND NUMBER: \_\_\_\_\_

BOND AMOUNT: \_\_\_\_\_

CONTRACT AMOUNT: \_\_\_\_\_

CONTRACTOR'S NAME: \_\_\_\_\_

CONTRACTOR'S ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CONTRACTOR'S PHONE: \_\_\_\_\_

SURETY COMPANY: \_\_\_\_\_

SURETY'S ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OWNER'S NAME: PALM BEACH COUNTY

OWNER'S ADDRESS: 8100 Forest Hill Boulevard (P. O. Box 16097)  
West Palm Beach, FL 33413

OWNER'S PHONE: (561) 493-6000

DESCRIPTION OF WORK: \_\_\_\_\_

PROJECT LOCATION: \_\_\_\_\_

LEGAL DESCRIPTION: PCN# \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**PUBLIC CONSTRUCTION BOND**

This Bond is issued in favor of the County conditioned on the full and faithful performance of the Contract.

KNOW ALL MEN BY THESE PRESENTS: that Contractor and Surety, are held and firmly bound unto

Palm Beach County Board of County Commissioners  
301 N. Olive Avenue  
West Palm Beach, Florida 33401

as Obligee, herein called County, for the use and benefit of claimant as herein below defined, in the amount of

Dollars (\$ \_\_\_\_\_)

(Here insert a sum equal to the Contract Price)

for the payment whereof Principal and Surety bind themselves, their heirs, personal representatives, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Principal has by written agreement dated \_\_\_\_\_, 20\_\_, entered into a contract with the County for

Project Name: \_\_\_\_\_  
Project No.: \_\_\_\_\_  
Project Description: \_\_\_\_\_  
Project Location: \_\_\_\_\_

in accordance with Design Criteria Drawings and Specifications prepared by

Name of Design Firm: \_\_\_\_\_  
Location of Firm: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

which contract is by reference made a part hereof in its entirety, and is hereinafter referred to as the Contract.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the contract dated \_\_\_\_\_, 20\_\_, between Principal and County for the design and construction of \_\_\_\_\_, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and

2. Promptly makes payments to all claimants, as defined in Section 255.05, Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and

3. Pays County all losses, damages (including liquidated damages), expenses, costs, and attorneys' fees, including appellate proceedings, that County sustains because of a default by Principal under the contract; and

4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

5. Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond and Surety waives notice of such changes.

6. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of construction liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against the bond.

7. Principal and Surety expressly acknowledge that any and all provisions relating to consequential, delay and liquidated damages contained in the contract are expressly covered by and made a part of this Performance, Labor and Material Payment Bond. Principal and Surety acknowledge that any such provisions lie within their obligations and within the policy coverage's and limitations of this instrument.

8. Section 255.05, Florida Statutes, as amended, together with all notice and time provisions contained therein, is incorporated herein, by reference, in its entirety. Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes. This instrument regardless of its form, shall be construed and deemed a statutory bond issued in accordance with Section 255.05, Florida Statutes.

9. Any action brought under this instrument shall be brought in the state court of competent jurisdiction in Palm Beach County, Florida and not elsewhere.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Principal (Seal)

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Surety (Seal)

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Title



**ATTACHMENT D**

**WORK AUTHORIZATION NO. \_\_\_\_\_**

**Palm Beach County Water Utilities Department**

**Disaster Recovery and Mitigation Services Design-Build Contract**

**FORM OF GUARANTEE**

GUARANTEE FOR (Contractor and Surety Name) \_\_\_\_\_  
\_\_\_\_\_

We the undersigned hereby guarantee that the Project Name : \_\_\_\_\_  
Project No.: \_\_\_\_\_, Palm Beach County, Florida, which we have constructed and bonded, has been done in accordance with the plans and specifications; that the work constructed will fulfill the requirements of the guaranties included in the Contract Documents. We agree to repair or replace any or all of our work, together with any work of others which may be damaged in so doing, that may prove to be defective in the workmanship or materials within a period of one year from the date of Substantial Completion of all of the above named work by the County of Palm Beach, State of Florida, without any expense whatsoever to said County of Palm Beach, ordinary wear and tear and unusual abuse or neglect excepted by the County. When correction work is started, it shall be carried through to completion.

In the event of our failure to acknowledge notice, and commence corrections of defective work within five (5) calendar days after being notified in writing by the Board of County Commissioners, Palm Beach County, Florida, we, collectively or separately, do hereby authorize Palm Beach County to proceed to have said defects repaired and made good at our expense and we will honor and pay the costs and charges therefore upon demand.

DATED \_\_\_\_\_  
(notice of completion filing date)

**SEAL AND NOTARIAL ACKNOWLEDGMENT OF SURETY**

\_\_\_\_\_(Seal)  
(Contractor)

By: \_\_\_\_\_  
(Signature) (Printed Name)

\_\_\_\_\_(Seal)  
(Surety)

By: \_\_\_\_\_  
(Signature) (Printed Name)

**ATTACHMENT E**

**WORK AUTHORIZATION NO. \_\_\_\_\_**

**Palm Beach County Water Utilities Department**

**Disaster Recovery and Mitigation Services Design-Build Contract**

**Work Authorization Cost Schedule**

*(Provide breakdown of materials, labor and subcontractors)*

**ATTACHMENT F**  
**SBE Schedules 1 and 2**

**LIST OF PROPOSED SBE-M/WBE PARTICIPATION**

PROJECT NAME OR BID NAME: \_\_\_\_\_

PROJECT NO. OR BID NO.: \_\_\_\_\_

NAME OF PRIME BIDDER: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

PHONE NO.: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

BID OPENING DATE: \_\_\_\_\_

USER DEPARTMENT: \_\_\_\_\_

**THIS DOCUMENT IS TO BE COMPLETED BY THE PRIME CONTRACTOR AND SUBMITTED WITH BID PACKET. PLEASE LIST THE NAME, CONTACT INFORMATION AND DOLLAR AMOUNT AND/OR PERCENTAGE OF WORK TO BE COMPLETED BY ALL SBE -M/WBE's ON THIS PROJECT. IF THE PRIME IS AN SBE-M/WBE, PLEASE ALSO LIST THE NAME, CONTACT INFORMATION AND DOLLAR AMOUNT AND/OR PERCENTAGE OF WORK TO BE COMPLETED BY THE PRIME ON THIS PROJECT. THE PRIME AFFIRMS THAT IT WILL MONITOR THE SBES LISTED TO ENSURE THE SBES PERFORM THE WORK WITH ITS OWN WORKFORCE.**

| Name, Address and Phone Number | (Check one or both Categories) |                          | DOLLAR AMOUNT AND/OR PERCENTAGE OF WORK |          |       |           |                  |
|--------------------------------|--------------------------------|--------------------------|---|----------|-------|-----------|------------------|
|                                | M/WBE                          | SBE                      | Black                                   | Hispanic | Women | Caucasian | Other            |
|                                | Minority Business              | Small Business           |   |          |       |           | (Please Specify) |
| 1.                             | <input type="checkbox"/>       | <input type="checkbox"/> | _____                                   | _____    | _____ | _____     | _____            |
| 2.                             | <input type="checkbox"/>       | <input type="checkbox"/> | _____                                   | _____    | _____ | _____     | _____            |
| 3.                             | <input type="checkbox"/>       | <input type="checkbox"/> | _____                                   | _____    | _____ | _____     | _____            |
| 4.                             | <input type="checkbox"/>       | <input type="checkbox"/> | _____                                   | _____    | _____ | _____     | _____            |
| 5.                             | <input type="checkbox"/>       | <input type="checkbox"/> | _____                                   | _____    | _____ | _____     | _____            |

(Please use additional sheets if necessary)

**Total**

Total Bid Price \$ \_\_\_\_\_

Total SBE-M/WBE Participation Dollar Amount and/or Percentage of Work \_\_\_\_\_

I hereby certify that the above information accurate to the best of my knowledge: \_\_\_\_\_

Signature

Title

- NOTE:**
- The amount listed on this form for a SBE-M/WBE Prime or Subcontractor must be supported by price or percentage listed on the signed Schedule 2 or signed proposal in order to be counted toward goal attainment.
  - Firms may be certified by Palm Beach County as an SBE and/or M/WBE. If firms are certified as both an SBE and M/WBE, please indicate the dollar amount and/or percentage under the appropriate category.
  - M/WBE information is being collected for tracking purposes only.

**OSBA SCHEDULE 2  
LETTER OF INTENT TO PERFORM AS AN SBE-M/WBE**

This document must be completed by ALL SBE-M/WBE's and submitted with this bid packet. Specify in detail, the particular work items to be performed and the dollar amount and/or percentage for each work item. SBE credit will only be given for items which the SBE-M/WBE's is certified to perform. Failure to properly complete Schedule 2 will result in your SBE participation not being counted.

PROJECT NUMBER: \_\_\_\_\_ PROJECT NAME: \_\_\_\_\_

TO: \_\_\_\_\_  
(Name of Prime Bidder)

The undersigned is certified by Palm Beach County as a - (check one or more, as applicable):

Small Business Enterprise \_\_\_\_\_ Minority Business Enterprise \_\_\_\_\_  
Black \_\_\_\_\_ Hispanic \_\_\_\_\_ Women \_\_\_\_\_ Caucasian \_\_\_\_\_ Other (Please Specify) \_\_\_\_\_

Date of Palm Beach County Certification: \_\_\_\_\_

The undersigned is prepared to perform the following described work in connection with the above project. Additional Sheets May Be Used As Necessary

| Line Item/<br>Lot No. | Item Description | Qty/Units | Unit Price | Total Price/<br>Percentage |
|-----------------------|------------------|-----------|------------|----------------------------|
| _____                 | _____            | _____     | _____      | _____                      |
| _____                 | _____            | _____     | _____      | _____                      |
| _____                 | _____            | _____     | _____      | _____                      |
| _____                 | _____            | _____     | _____      | _____                      |

at the following price or percentage \_\_\_\_\_  
(SBE Prime or Subcontractor's Quote)

and will enter into a formal agreement for work with you contingent upon your execution of a contract with Palm Beach County.

If undersigned intends to sub-subcontract any portion of this job to a certified SBE-M/WBE or a non-SBE subcontractor, please list the name of that subcontractor and the amount below.

Price or Percentage \_\_\_\_\_  
(Name of Subcontractor)

The Prime affirms that it will monitor the SBE-M/WBE listed to ensure the SBE-M/WBE perform the work with their own work force. The undersigned SBE-M/WBE Prime or SBE-M/WBE subcontractor affirms that it has the resources necessary to perform the work listed without subcontracting to a non-certified SBE or any other certified SBE subcontractors except as noted above.

The undersigned subcontractor understands that the provision of this form to Prime Bidder does not prevent Subcontractor from providing quotations to other bidders.

\_\_\_\_\_  
Print name of  
SBE-M/WBE Company

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Print name/title of person executing on behalf  
of SBE-M/WBE

Date: \_\_\_\_\_



# ATTACHMENT H

## AUTHORIZATION STATUS REPORT

### SUMMARY OF SBE / MINORITY BUSINESS TRACKING

|  | Total   | SBE     |
|--|---------|---------|
| <b>Current Proposal</b>                            |         |         |
| Value of Authorization No.                         | \$0     |         |
| Value of SBE - M/WBE Letters of Intent             | \$0     | \$0     |
| Actual Percentage                                  | #DIV/0! | #DIV/0! |
| <b>Signed Authorizations</b>                       |         |         |
| Total Value of Authorizations                      | \$0     |         |
| Total Value of SBE - M/WBE Signed Subcontracts     | \$0     | \$0     |
| Actual Percentage                                  | #DIV/0! | #DIV/0! |
| <b>Signed Authorizations Plus Current Proposal</b> |         |         |
| Total Value of Authorizations                      | \$0     |         |
| Total Value of Subcontracts & Letters of Intent    | \$0     | \$0     |
| Actual Percentage                                  | #DIV/0! | #DIV/0! |
| <b>GOAL</b>  | 0%      | 0%      |



# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
07/09/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|   |  |  |               |
|---|--|--|---------------|
| <b>PRODUCER</b><br>Aon Risk Services Northeast, Inc.<br>Boston MA Office<br>One Federal Street<br>Boston MA 02110 USA | <b>CONTACT NAME:</b><br>PHONE (A.C. No. Ext): (866) 283-7122      FAX (A.C. No.): 800-363-0105 |  |               |
|   | <b>E-MAIL ADDRESS:</b>   |  |               |
| <b>INSURED</b><br>CDM Constructors Inc<br>555 17th Street<br>Denver CO 80202 USA                                      | <b>INSURER(S) AFFORDING COVERAGE</b>   |  | <b>NAIC #</b> |
|   | INSURER A: Underwriters At Lloyds London   |  | 15792         |
|   | INSURER B: Zurich American Ins Co  |  | 16535         |
|   | INSURER C:   |  |               |
|   | INSURER D:   |  |               |
|   | INSURER E:   |  |               |

Holder Identifier:

**COVERAGES**      **CERTIFICATE NUMBER: 570050670141**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.      **Limits shown are as requested**

| INSR LTR | TYPE OF INSURANCE  | ADDL INSR | SUBR WVD | POLICY NUMBER  | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS  |
|----------|--|-----------|----------|----------------|-------------------------|-------------------------|---|
| B        | <b>GENERAL LIABILITY</b><br><input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br>CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC  |           |          | GL0837663217   | 01/01/2013              | 01/01/2014              | EACH OCCURRENCE \$2,000,000<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000<br>MED EXP (Any one person) \$10,000<br>PERSONAL & ADV INJURY \$2,000,000<br>GENERAL AGGREGATE \$4,000,000<br>PRODUCTS - COMP/OP AGG \$4,000,000 |
| B        | <b>AUTOMOBILE LIABILITY</b><br><input checked="" type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS<br><input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS<br><input checked="" type="checkbox"/> Comp ded - \$1000 <input checked="" type="checkbox"/> Coll ded - \$1000 |           |          | BAP 8376631-17 | 01/01/2013              | 01/01/2014              | COMBINED SINGLE LIMIT (Ea accident) \$2,000,000<br>BODILY INJURY (Per person)<br>BODILY INJURY (Per accident)<br>PROPERTY DAMAGE (Per accident)   |
|          | <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR<br><b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE<br>DED <input type="checkbox"/> RETENTION   |           |          |                |                         |                         | EACH OCCURRENCE<br>AGGREGATE  |
| B        | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below  | Y/N<br>N  | N/A      | WC837663318    | 01/01/2013              | 01/01/2014              | <input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER<br>E.L. EACH ACCIDENT \$1,000,000<br>E.L. DISEASE-EA EMPLOYEE \$1,000,000<br>E.L. DISEASE-POLICY LIMIT \$1,000,000                         |
| A        | Archit&Eng Prof  |           |          | qc1301367      | 01/01/2013              | 01/01/2014              | Each Claim \$3,000,000<br>Aggregate \$3,000,000   |

Certificate No : 570050670141

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)**  
 Re: Project Name: Disaster Recovery Services Design-Build Contract Project No. WUD, 13-027.  
 The Board of County Commissioners, Palm Beach County, Florida (a political subdivision of the state of Florida) and The Palm Beach County Water Utilities Department, its officers, directors, agents, and employees and the Engineer, its officers, agents and employees are included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies. General Liability evidenced herein is Primary and Non-Contributory to other insurance available to an Additional Insured, but only in accordance with the policy's provisions. General Liability includes Severability of Interests / Cross Liability.

|   |  |
|---|--|
| <b>CERTIFICATE HOLDER</b><br><br>Board of County Commissioners,<br>Palm Beach County, Florida<br>c/o Palm Beach County Water<br>Utilities Department<br>P.O. Box 16097<br>West Palm Beach, FL 33416 USA | <b>CANCELLATION</b><br><br>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.<br><br>AUTHORIZED REPRESENTATIVE<br><br><i>Aon Risk Services Northeast, Inc.</i> |
|---|--|

©1988-2010 ACORD CORPORATION. All rights reserved.

ACORD 25 (2010/05)

The ACORD name and logo are registered marks of ACORD





ZURICH

# Additional Insured – Automatic – Owners, Lessees Or Contractors – Products-Completed Operations Liability Amendment

| Policy No.    | Eff. Date of Pol. | Exp. Date of Pol. | Eff. Date of End. | Producer No. | Add'l. Prem | Return Prem. |
|---------------|-------------------|-------------------|-------------------|--------------|-------------|--------------|
| GLO8376632-17 | 01/01/2013        | 01/01/2014        | 01/01/2013        | 90060000     | INCL        |              |

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**Named Insured:** CDM Smith Inc. and CDM Constructors Inc

**Address (including ZIP Code):**

This endorsement modifies insurance provided under the:

### Commercial General Liability Coverage Part

- A. Section II – **Who Is An Insured** is amended to include as an insured any person or organization who you are required to add as an additional insured on this policy under a written contract or written agreement.
- B. The insurance provided to the additional insured person or organization applies only to "bodily injury", "property damage" or "personal and advertising injury" covered under Section I – **Coverage A – Bodily Injury And Property Damage Liability** and Section I – **Coverage B – Personal And Advertising Injury Liability**, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:
  - 1. Your acts or omissions; or
  - 2. The acts or omissions of those acting on your behalf,
 and resulting directly from your ongoing operations or "your work" as included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.
- C. However, regardless of the provisions of Paragraphs **A.** and **B.** above:
  - 1. We will not extend any insurance coverage to any additional insured person or organization:
    - a. That is not provided to you in this policy; or
    - b. That is any broader coverage than you are required to provide to the additional insured person or organization in the written contract or written agreement; and
    - c. Subject to Paragraphs 1.a. and 1.b. above and solely as respects "products-completed operations hazard" coverage, unless a claim or "suit" for damages is presented to us no later than one year from the "products-completed operations hazard" completion date deemed applicable to "your work" from which the loss originates if no time requirement for reporting a claim or "suit" for damages is stipulated in the written contract or written agreement; and
  - 2. We will not provide Limits of Insurance to any additional insured person or organization that exceed the lower of:
    - a. The Limits of Insurance provided to you in this policy; or
    - b. The Limits of Insurance you are required to provide in the written contract or written agreement.
- D. The insurance provided to the additional insured person or organization does not apply to:
 "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering or failure to render any professional architectural, engineering or surveying services including:

1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
  2. Supervisory, inspection, architectural or engineering activities.
- E. The additional insured must see to it that:
1. We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
  2. We receive written notice of a claim or "suit" as soon as practicable; and
  3. A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured, if the written contract or written agreement requires that this coverage be primary and non-contributory.
- F. For the coverage provided by this endorsement:
1. The following paragraph is added to Paragraph 4.a. of the Other Insurance Condition of Section IV – **Commercial General Liability Conditions**:  
This insurance is primary insurance as respects our coverage to the additional insured person or organization, where the written contract or written agreement requires that this insurance be primary and non-contributory with respect to any other policy upon which the additional insured is a Named Insured. In that event, we will not seek contribution from any other such insurance policy available to the additional insured on which the additional insured person or organization is a Named Insured.
  2. The following paragraph is added to Paragraph 4.b. of the Other Insurance Condition of Section IV – **Commercial General Liability Conditions**:  
This insurance is excess over:  
Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.
- G. This endorsement does not apply to an additional insured which has been added to this policy by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.

All other terms and conditions of this policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**DESIGNATED INSURED**

This endorsement modifies insurance provided under the following:

- BUSINESS AUTO COVERAGE FORM
- GARAGE COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM
- TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

|                                 |  |
|---------------------------------|--|
| Endorsement Effective: 1-1-2013 | Countersigned By:<br><br><br><br><br><br><br><br><br><br>(Authorized Representative) |
| Named Insured: CDM Smith Inc.   |  |

**SCHEDULE**

**Name of Person(s) or Organization(s):**

ANY PERSON OR ORGANIZATION TO WHOM OR WHICH YOU ARE REQUIRED TO PROVIDE ADDITIONAL INSURED STATUS OR ADDITIONAL INSURED STATUS ON A PRIMARY, NON-CONTRIBUTORY BASIS, IN A WRITTEN CONTRACT OR WRITTEN AGREEMENT EXECUTED PRIOR TO LOSS, EXCEPT WHERE SUCH CONTRACT IS PROHIBITED BY LAW

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

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in **Section II** of the Coverage Form.



# Blanket Notification to Others of Cancellation



| Policy No.     | Eff. Date of Pol. | Exp. Date of Pol. | Eff. Date of End. | Producer No. | Add'l. Prem | Return Prem. |
|----------------|-------------------|-------------------|-------------------|--------------|-------------|--------------|
| GLO 8376632-17 | 01/01/2013        | 01/01/2014        | 01/01/2013        | 90060000     |             |              |

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the:

## **Commercial General Liability Coverage Part**

- A.** If we cancel this Coverage Part by written notice to the first Named Insured for any reason other than nonpayment of premium, we will deliver electronic notification that such Coverage Part has been cancelled to each person or organization shown in a Schedule provided to us by the First Named Insured. Such Schedule:
1. Must be initially provided to us within 15 days:
    - a. After the beginning of the policy period shown in the Declarations; or
    - b. After this endorsement has been added to policy;
  2. Must contain the names and e-mail addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled;
  3. Must be in an electronic format that is acceptable to us; and
  4. Must be accurate.
- Such Schedule may be updated and provided to us by the First Named Insured during the policy period. Such updated Schedule must comply with Paragraphs 2, 3, and 4, above.
- B.** Our delivery of the electronic notification as described in Paragraph A. of this endorsement will be based on the most recent Schedule in our records as of the date the notice of cancellation is mailed or delivered to the first Named Insured. Delivery of the notification as described in Paragraph A. of this endorsement will be completed as soon as practicable after the effective date of cancellation to the first Named Insured.
- C.** Proof of emailing the electronic notification will be sufficient proof that we have complied with Paragraphs A. and B. of this endorsement.
- D.** Our delivery of electronic notification described in Paragraphs A. and B. of this endorsement is intended as a courtesy only. Our failure to provide such delivery of electronic notification will not:
1. Extend the Coverage Part cancellation date;
  2. Negate the cancellation; or
  3. Provide any additional insurance that would not have been provided in the absence of this endorsement.
- E.** We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the Schedule provided to us as described in Paragraphs A. and B. of this endorsement.

All other terms and conditions of this policy remain unchanged.

# Blanket Notification to Others of Cancellation



| Policy No.     | Eff. Date of Pol. | Exp. Date of Pol. | Eff. Date of End. | Producer No. | Add'l. Prem | Return Prem. |
|----------------|-------------------|-------------------|-------------------|--------------|-------------|--------------|
| BAP 8376631-17 | 01/01/2013        | 01/01/2014        | 01/01/2013        | 90060000     |             |              |

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the:

## **Commercial Auto Coverage Part**

- A.** If we cancel this Coverage Part by written notice to the first Named Insured for any reason other than nonpayment of premium, we will deliver electronic notification that such Coverage Part has been cancelled to each person or organization shown in a Schedule provided to us by the First Named Insured. Such Schedule:
1. Must be initially provided to us within 15 days:
    - a. After the beginning of the policy period shown in the Declarations; or
    - b. After this endorsement has been added to policy;
  2. Must contain the names and e-mail addresses of only the persons or organizations requiring notification that such Coverage Part has been cancelled;
  3. Must be in an electronic format that is acceptable to us; and
  4. Must be accurate.
- Such Schedule may be updated and provided to us by the First Named Insured during the policy period. Such updated Schedule must comply with Paragraphs 2, 3, and 4, above.
- B.** Our delivery of the electronic notification as described in Paragraph A. of this endorsement will be based on the most recent Schedule in our records as of the date the notice of cancellation is mailed or delivered to the first Named Insured. Delivery of the notification as described in Paragraph A. of this endorsement will be completed as soon as practicable after the effective date of cancellation to the first Named Insured.
- C.** Proof of emailing the electronic notification will be sufficient proof that we have complied with Paragraphs A. and B. of this endorsement.
- D.** Our delivery of electronic notification described in Paragraphs A. and B. of this endorsement is intended as a courtesy only. Our failure to provide such delivery of electronic notification will not:
1. Extend the Coverage Part cancellation date;
  2. Negate the cancellation; or
  3. Provide any additional insurance that would not have been provided in the absence of this endorsement.
- E.** We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the Schedule provided to us as described in Paragraphs A. and B. of this endorsement.

All other terms and conditions of this policy remain unchanged.

## NOTIFICATION TO OTHERS OF CANCELLATION ENDORSEMENT

This endorsement is used to add the following to Part Six of the policy.

## PART SIX – CONDITIONS

## F. Notification To Others Of Cancellation

1. If we cancel this policy by written notice to you for any reason other than nonpayment of premium, we will deliver electronic notification to each person or organization shown in a Schedule provided to us by you. Such Schedule:
  - a. Must be initially provided to us within 15 days:
    - After the beginning of the policy period shown in the Declarations; or
    - After this endorsement has been added to policy;
  - b. Must contain the names and e-mail addresses of only the persons or organizations requiring notification that this policy has been cancelled;
  - c. Must be in an electronic format that is acceptable to us; and
  - d. Must be accurate.

Such Schedule may be updated and provided to us by you during the policy period. Such updated Schedule must comply with Paragraphs **b.**, **c.**, and **d.** above.
2. Our delivery of the electronic notification as described in Paragraph 1. of this endorsement will be based on the most recent Schedule in our records as of the date the notice of cancellation is mailed or delivered to you. Delivery of the notification as described in Paragraph 1. of this endorsement will be completed as soon as practicable after the effective date of cancellation to you.
3. Proof of emailing the electronic notification will be sufficient proof that we have complied with Paragraphs 1. and 2. of this endorsement.
4. Our delivery of electronic notification described in Paragraphs 1. and 2. of this endorsement is intended as a courtesy only. Our failure to provide such delivery of electronic notification will not:
  - a. Extend the policy cancellation date;
  - b. Negate the cancellation; or
  - c. Provide any additional insurance that would not have been provided in the absence of this endorsement.
5. We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the Schedule provided to us as described in Paragraphs 1. and 2. of this endorsement.

All other terms and conditions of this policy remain unchanged.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 01/01/2013

Policy No. WC837663318

Endorsement No.

Insured CDM Smith, Inc.

Premium \$

Insurance Company Zurich American Ins

U-WC-332-A

(Ed. 01-11) Includes copyrighted material of National Council on Compensation Insurance, Inc. used with its permission.



**INTER-OFFICE MEMORANDUM**

Water Utilities Department  
Engineering

P. O. Box 16097

West Palm Beach, Fl 33416-6097

(561) 493-6000

Fax: (561) 493-6085

www.pbcwater.com

Palm Beach County  
Board of County  
Commissioners

Steven L. Abrams, Mayor

Priscilla A. Taylor, Vice Mayor

Hal R. Valeche

Paulette Burdick

Shelley Vana

Mary Lou Berger

Jess R. Santamaria

County Administrator

Robert Weisman

"An Equal Opportunity  
Affirmative Action Employer"

**DATE:** June 13, 2013

**TO:** Steven L. Abrams, Mayor  
Members, Board of County Commissioners

**FROM:** Maurice Tobon, P.E., Director of Engineering *wt*  
Water Utilities Department

**THRU:** Brian Shields, P.E., Deputy Director  
Water Utilities Department *BAS*

**RE:** Professional Engineering Consulting Services for Disaster  
Recovery and Mitigation Services Design-Build  
Project No. WUD 13-027

On June 13, 2013 the Selection Committee convened to hear presentations for the above-referenced Consulting Contract. A total of two (2) proposals were received. Both proposals were forwarded to the Selection Committee. One (1) firm would be selected to provide the above-mentioned services. The following identifies the ranking of the firms and their sub-consultants. The Committee's evaluation of the presenting firms resulted in the following ranking for the identified project (See Attachment 2):

1. **CDM SMITH**  
 Alan Gerwig & Associates, Inc.  
 Brasfield & Gorrie, LLC  
 Cooper Construction Management & Consulting  
 Electron Corp. of South Florida  
 ESG Operations, Inc.  
 Globaltech, Inc.  
 Hillers Electrical Engineering, Inc.  
 Proshell Construction Services, Inc.  
 RTD Construction, Inc.

**2. GARNEY COMPANIES, INC.**

Alan Gerwig & Associates, Inc.  
Dennis J. Leavy & Associates  
Hillers Electrical Engineering, Inc.  
Holtz Consulting Engineers, Inc.  
Jacobs Engineering Group, Inc.  
Radise International, LLC

In accordance with PPM# CW-O-048, the results of the referenced Selection Committee Meeting are being sent to you for your information. Also, as prescribed in PPM #CW-O-048, negotiations will commence with the top ranked firm unless a request to review the results is received within ten (10) business days of the date of this communication. Please be advised that a Cone of Silence remains in effect until the Board of County Commissioners has entered into a formal contract.

MT/mnn

**Attachments**

cc: Robert Weisman, P.E., County Administrator (*email*)  
Shannon LaRocque, P.E., Assistant County Administrator (*email*)  
George T. Webb, P.E., County Engineer (*email*)  
Irwin Jacobowitz, Director of Contract Development & Control (*email*)  
Bevin Beaudet, P.E., Director, Water Utilities Department (*email*)  
Stephen McGrew, P.E., Project Manager (*email*)  
Allen F. Gray, Manager, Office of Small Business Assistance (*email*)  
David L. Young, P.E., Special Projects Manager (*email*)  
Sheryl G. Steckler, Inspector General (*email*)  
Maximo Heredia, Office of the Inspector General (*email*)