

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

Meeting Date: October 19, 2021 Consent Regular
 Workshop Public Hearing

Department: Engineering & Public Works
Submitted By: Engineering & Public Works
Submitted For: Construction Coordination Division

I. EXECUTIVE BRIEF


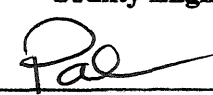
Motion and Title: Staff recommends motion to approve: Change Order No. 1 to the contract with MJC Land Development (MJC) dated September 1, 2020 (R2020-1251) for a time extension of 47 days for Lyons Road from south of the Lake Worth Drainage District L-38 Canal to West Atlantic Avenue (Project).

SUMMARY: Per PPM CW-F-050, the time extension in Change Order No. 1 exceeds staff approval, and requires approval by the Board of County Commissioners (BCC). Approval of Change Order No. 1 will allow a time extension of 47 days to MJC, pursuant to the Florida Department of Transportation Specification 8-7.3.2, for Florida Power and Light (FP&L) to relocate existing power poles on Lyons Road and Farmers Road. This utility work is detailed in the plans, but was not completed by FP&L prior to issuing the Notice to Proceed. MJC took every measure to minimize the impact of the utility work by adjusting their schedule and continuing construction on other areas of the Project. The Affirmative Procurement Initiative selected for this contract on March 4, 2020 by the Goal Setting Committee is a 20% minimum mandatory Small Business Enterprise (SBE) participation. MJC committed to 20.61% SBE participation for this contract. Their SBE participation for Change Order No. 1 is 0%. Their cumulative SBE participation for this Project, including this Change Order, is 0%. MJC expects to meet their SBE participation toward the end of the Project. Districts 5 (YBH)

Background and Justification: Change Order No. 1 extends the contract time by 47 days to allow FP&L to relocate existing power poles on Lyons Road and Farmers Road. The Engineering Department recommends approval by the BCC.

Attachments:

1. Location Map
2. Change Order No. 1 with Exhibits A, B and C

Recommended by:		9/18/2021
ybh	County Engineer	Date
Approved by:		9/23/21
	Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2022	2023	2024	2025	2026
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes No
 Does this item include the use of federal funds? Yes No X

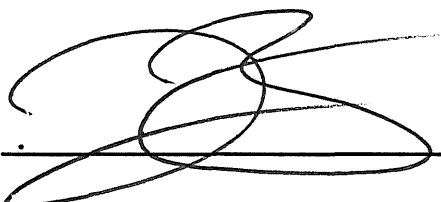
Budget Account No:

Fund Dept Unit Object

Recommended Sources of Funds/Summary of Fiscal Impact:

Change Order #1 Time Extension

**This Item has no fiscal impact. The time extension in this change order exceeds staff approval/authority, and requires the Board of the County Commissioners approval.



C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Lisa Mauer 9/10/21 OFMB CPA 9-10-21 BR 9/10
Th. J. Javelle 9/22/21 Contract Dev. and Control 9-22-21 TW

B. Approved as to Form and Legal Sufficiency:

[Signature]
 Assistant County Attorney
 for Liz Harmon

C. Other Department Review:

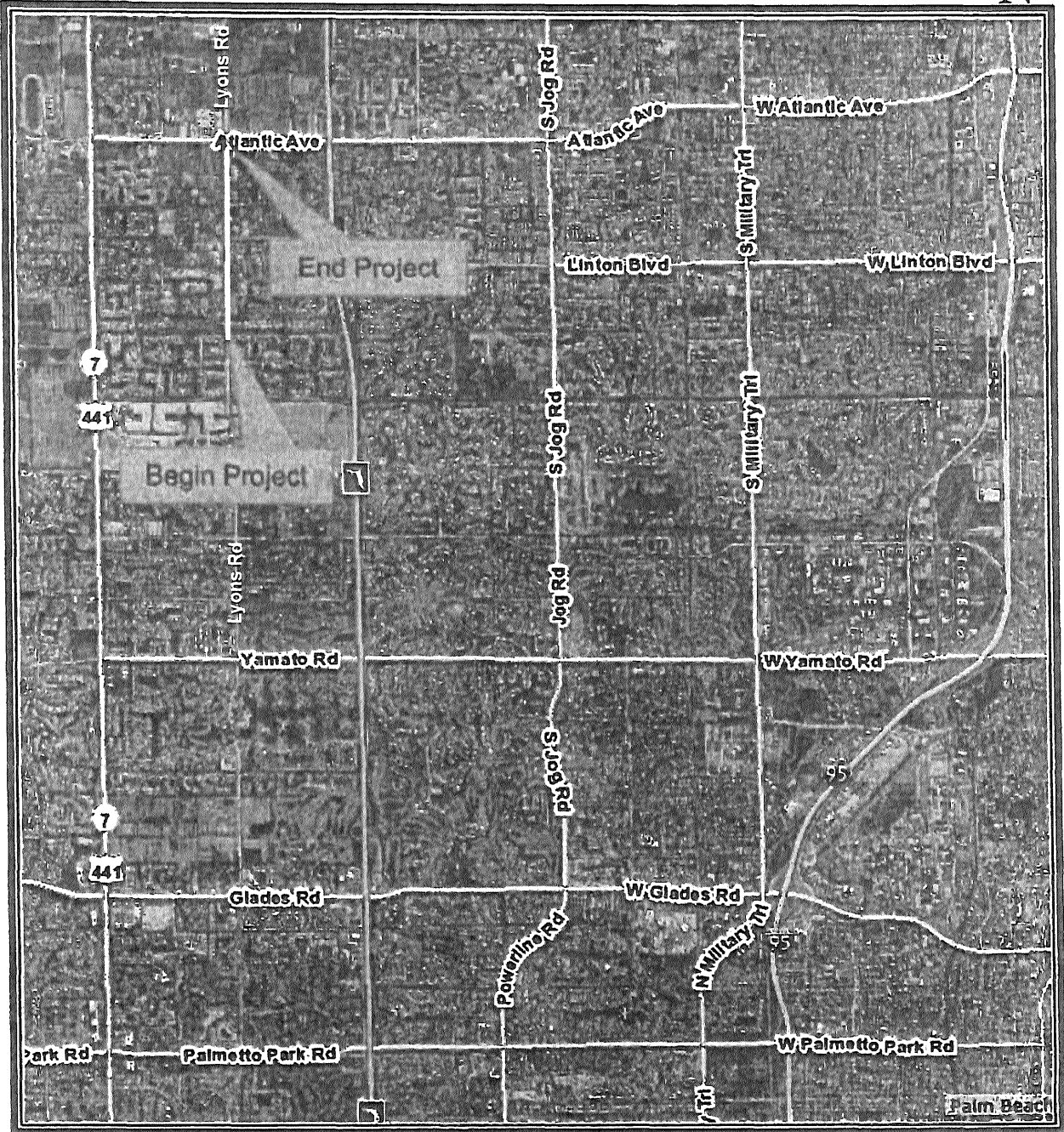
 Department Director

This summary is not to be used as a basis for payment.

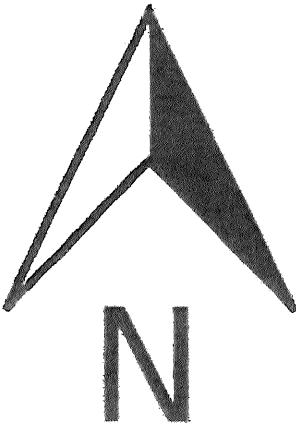
PROJECT LOCATION

LYONS ROAD, S. OF LWDD L-38 CANAL TO W. ATLANTIC AVE

PROJECT NO. 2013527B



LOCATION MAP





**PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS
ENGINEERING & PUBLIC WORKS DEPARTMENT
P. O. BOX 21229, WEST PALM BEACH, FL 33416-1229**

REQUEST:

- WORK ORDER NO. _____
- NEW AUTHORIZATION _____
- CHANGE ORDER NO. 1 _____
- SUPPLEMENTAL NO. _____
- OTHER: _____

REQUESTING DIVISION:

- ROAD & BRIDGE
- TRAFFIC
- ROADWAY PRODUCTION
- CONSTRUCTION COOR.
- STREETScape

INFORMATION:

DATE 6/7/2021
 REQUESTOR John Kopelakis
 COMMISSION DISTRICT NO: 5
 RESOLUTION NO: R2020-1251
 PBC PO NUMBER: N/A

PROJECT LOCATION/LIMITS: Lyons Road S. of LWDD L-38 Canal to West Atlantic Avenue

PROJECT NUMBER: 2013527B
CONTRACT NO: N/A

BUDGET LINE ITEM: : 3505-361-1388-001-6551
CONTRACT DATE: 9/1/2020

CONTRACTOR/CONSULTANT/VENDOR: MJC Land Development

VENDOR #: _____

CONTACT: Tom Castano

CONTACT PHONE NUMBER: (561) 309-4488

Details: Change Order #1 is for a 47-day time extension to allow FP&L to relocate existing power poles at Station 640+00 to 643+00 Left Roadway Lyons Road and Station 173 +/- Left Roadway Farmers Road (Utility Work)
Exhibit "A" - Change Order Details
Exhibit "B" - Certificate of Insurance
Exhibit "C" - FDOT Spec. 8-7.3.2

The total amount of this request, per the attached documentation, is not to exceed \$ 0.00

The Affirmative Procurement Initiative (API) for this contract is 20.61 %.

The API for this request is 0 %.

The API to date for this Contract including this request is 0 %.

The Minority/Women Owned Business Enterprise (M/WBE) API for this contract is N/A %. The estimated M/WBE participation for this request is N/A %. The cumulative M/WBE participation to date for this Contract including this request is N/A %.

Palm Beach County Engineering and Public Works Contact:

<u>Albert W. Hoffman</u>	<u>Director, Construction Coordination</u>	<u>561-684-4180</u>
Name	Title	Telephone Number

CONTRACTOR/CONSULTANT/VENDOR APPROVALS
 Please indicate your receipt of this request by signing and returning this original document to our office.

Please sign below and submit with invoice at the completion of the project. Project completed in compliance with Contract and Project Specifications.

[Signature] 08/18/2021
 Signature Date
Jeffrey Choquette
 Print Name and Title

 Signature Date

 Print Name and Title

PALM BEACH COUNTY APPROVALS
[Signature] 8/25/21
 Division Approval Date
[Signature] 9/1/21
 Deputy County Engineer Date
ASL

BOARD APPROVAL? YES Date: October 19, 2021
[Signature] 8/18/21
 Budget Approval Date

 PBC Board of Co. Commissioner Date

ATTEST: Joseph Abruzzo,
 Clerk of the Circuit Court
 & Comptroller

 (Deputy Clerk) Date

Approved as to Form and Legal Sufficiency:
[Signature]

 (County Attorney)

CHANGE ORDER

- Owner Initiated _____
- Differing Site Conditions _____
- Zoning/Code/Ordinance Changes _____
- Errors/Omissions/In Design _____

- Quantity Overruns/Underruns
- Request By Another Agency/Outside Party:
- A. Reimbursable B. Non-Reimbursable
- Other: _____

PROJECT: Lyons Road S. of LWDD L-38 Canal to
 West Atlantic Avenue
 TO: MJC Land Development

CHANGE ORDER NO: 1 (One)
 COUNTY PROJECT NO: 2013527B
 CONTRACT DATE: 9/1/2020
 RESOLUTION NO: R2020-1251
 DISTRICT NO: 5


You are directed to make the following changes in this Contract:

Add 47-day time extension to allow FP&L to relocate existing power poles at Station 640+00 to 643+00 Left Roadway Lyons Road and Station 173+/- Left Roadway Farmers Road (Utility Work)

Preliminary request timely submitted by contractor for adjustment of contract time pursuant to FDOT Spec 8-7.3.2. This Utility Work was detailed in the plans but was not accomplished as scheduled. The Utility Work would affect progress toward completion of proposed contract work in the area. The contractor took reasonable measures to minimize the affect of the Utility Work on the job progress by adjusting their schedule and continuing construction on other areas of the project.

The original Contract Sum was	\$ 9,823,244.20
Net change by previous Change Orders	\$ 0.00
The Contract Sum prior to this Change Order was	\$ 9,823,244.20
The Contract Sum will be <u>unchanged</u> by this Change Order	\$ 0.00
The new Contract Sum including this Change Order will be	\$ 9,823,244.20
The Contract Time will be <u>increased</u> by	(47) Days
The Date of Completion including this Change Order therefore is	10/21/22

EXECUTION OF THIS CHANGE ORDER ACKNOWLEDGES FINAL SETTLEMENT OF, AND RELEASE OF ALL CLAIMS FOR COSTS AND TIME ASSOCIATED, DIRECTLY OR INDIRECTLY, WITH THE ABOVE-STATED MODIFICATION(S), INCLUDING ALL CLAIMS FOR CUMULATIVE DELAYS OR DISRUPTIONS RESULTING FROM, CAUSED BY, OR INCIDENT TO, SUCH MODIFICATION(S), AND INCLUDING ANY CLAIM THAT THE ABOVE-STATED MODIFICATION(S) CONSTITUTES, IN WHOLE OR PART, A CARDINAL CHANGE TO THE CONTRACT.

MJC Land Development, LLC
 CONTRACTOR
 1127 Royal Palm Beach Blvd #340—
 Address
 Royal Palm Beach, FL 33411
 NAME: Jeffrey Choquette
 SIGNATURE: 
 TITLE: VP
 DATE: 08/18/2021

Tom Castano

 1128 Royal Palm Beach Blvd #340 Royal Palm Beach, FL
 11535 Orange Ave Fort Pierce, FL
 888-421-9712 (Office)
 561-688-5004 (Office)
 561-309-4488 (Cell)
 tcastano@mjclanddev.com
 www.mjclanddev.com [mjclanddev.com]



Woman Owned Small Business

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From: John Kopelakis <JKopelak@pbcgov.org>
Sent: Thursday, January 21, 2021 10:44 AM
To: Tom Castano <tcastano@mjclanddev.com>
Cc: Kathleen Farrell <KFarrell@pbcgov.org>
Subject: Lyons Rd. L-38 to Atlantic Ave. Project #2013527B FP&L Delay

Hello Tom,

The NTP was issued on January 13, 2021. Per your request for a Contract Time Suspension until March 1, 2021, please respond in writing (e-mail) as to the reason.

Also will MJC hold their approved contract prices during the delay?

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

John Kopelakis

From: John Kopelakis
Sent: Friday, January 22, 2021 8:00 AM
To: Albert Hoffman
Subject: FW: Lyons Rd. L-38 to Atlantic Ave. Project #2013527B FP&L Delay

From: Tom Castano [mailto:tcastano@mjcclanddev.com]
Sent: Thursday, January 21, 2021 4:27 PM
To: John Kopelakis <JKopelak@pbcgov.org>
Cc: Kathleen Farrell <KFarrell@pbcgov.org>
Subject: RE: Lyons Rd. L-38 to Atlantic Ave. Project #2013527B FP&L Delay

***** Note: This email was sent from a source external to Palm Beach County. Links or attachments should not be accessed unless expected from a trusted source. *****

John,

On January 13, 2021 we had an onsite meeting with FPL to go over the pole relocation issues on this Project (Sta. 640+00 to 643+00). At that meeting the FPL Representative stated that they would need approximately 4 weeks for design then approval and then scheduling.

At that meeting we also went over some changes that the design engineer will be sending to the canal that will require the existing canal to be filled in to accommodate the Pole relocation and possibly the new road design.

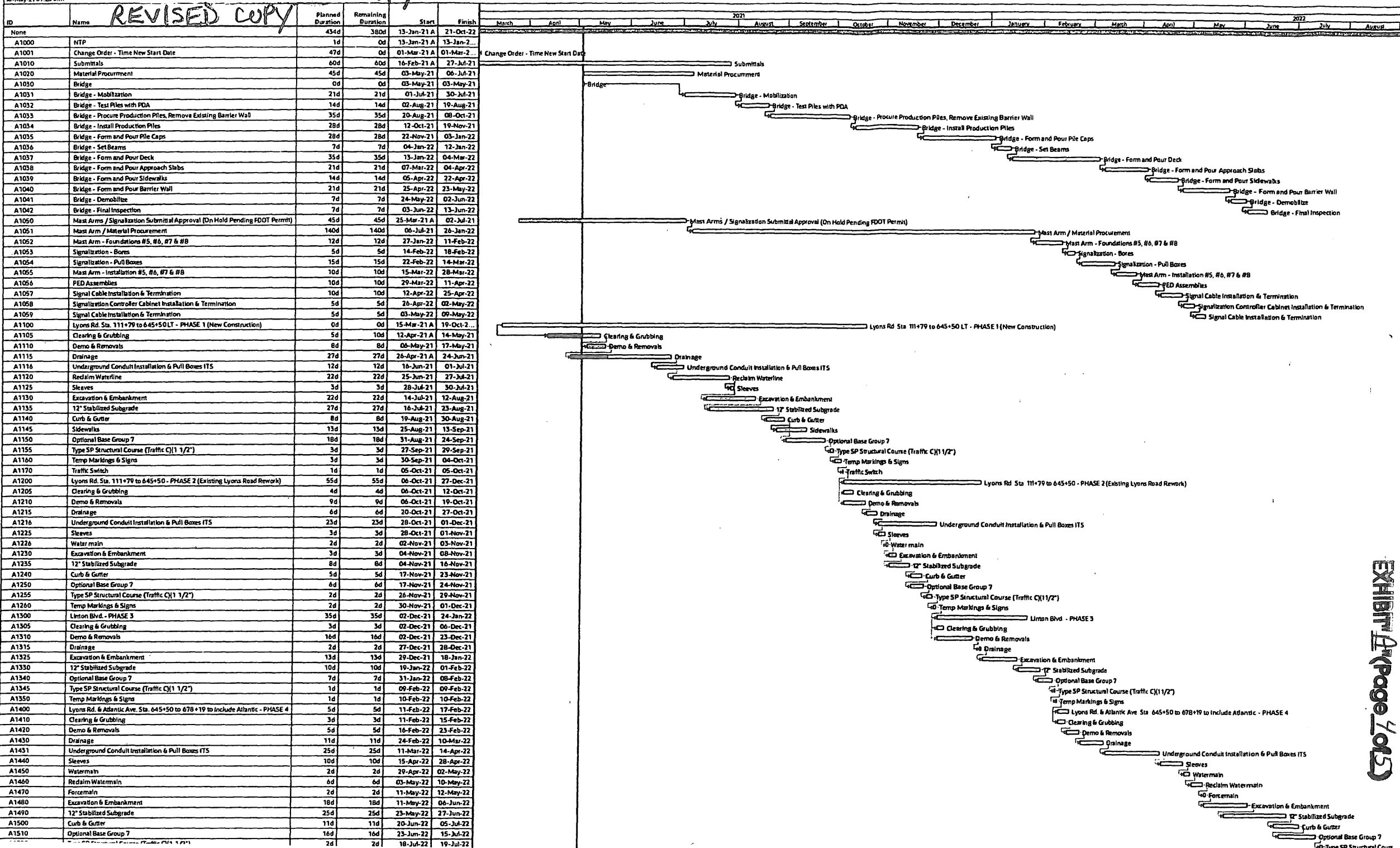
With this being said MJC Land Development is requesting the NTP be moved until March 1, 2021 so that this design work can be completed before we arrive on site without delaying our contract work.

MJC Land Development will also hold our contract unit pricing during this delay.

Let me know if you have any questions.

Thanks,







CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/31/2021

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 have ADDITIONAL INSURED provisions or 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).

PRODUCER: Brown & Brown of Florida, Inc. 1661 Worthington Rd Ste 175 West Palm Beach FL 33409. CONTACT NAME: Avonelle McClean CPIA BBA ARM. PHONE: (561) 686-2266. FAX: (561) 686-2313. E-MAIL ADDRESS: amcclean@bb-wpb.com. INSURER(S) AFFORDING COVERAGE: INSURER A: The First Liberty Insurance Corporation NAIC # 33588. INSURER B: Liberty Mutual Fire Insurance Company 23035.

COVERAGES CERTIFICATE NUMBER: CL2183127375 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.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability (AS6-Z51-292293-061), Umbrella Liab, Workers Compensation and Employers' Liability (WC2-Z51-292293-031), and Equipment Floater (YM2-Z51-292293-041).

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) RE: Lyons Rd, S of LWDD L-38 Canal to W Atlantic Ave. Contract Number: 2013527B

CERTIFICATE HOLDER: Palm Beach County Insurance Compliance PO Box 100085-DX Duluth GA 30096. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: [Signature]



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 09/01/2021

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 have ADDITIONAL INSURED provisions or 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).

PRODUCER: Brown & Brown of Florida, Inc. 1661 Worthington Rd Ste 175 West Palm Beach FL 33409
INSURED: MJC Land Development, LLC 1127 Royal Palm Beach Blvd 340 Royal Palm Beach FL 33411
CONTACT NAME: Avonelle McClean CPIA BBA ARM
PHONE (A/C, No, Ext): (561) 686-2266 FAX (A/C, No): (561) 686-2313
E-MAIL ADDRESS: amcclean@bb-wpb.com
INSURER(S) AFFORDING COVERAGE: INSURER A: The First Liberty Insurance Corporation NAIC # 33588
INSURER B: Liberty Insurance Corporation 42404

COVERAGES CERTIFICATE NUMBER: 21/22 Master / MJC 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.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Includes Commercial General Liability (A), Automobile Liability, Umbrella Liab (B), and Workers Compensation and Employers' Liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Palm Beach County is an additional insured with respects to the General Liability as required by written contract
RE: Lyons Rd, S of LWDD L-38 Canal to WAtlantic Ave.
Contract Number: 2013527B

CERTIFICATE HOLDER: Palm Beach County Insurance Compliance PO Box 100085-DX Duluth GA 30096
CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: [Signature]

The Department considers in the computation of the Contract Time the effect that utility relocation and adjustments have on job progress and the scheduling of construction operations required in order to adequately maintain traffic, as detailed in the Plans or as scheduled in the Special Provisions.

8-7.2 Date of Beginning of Contract Time: The date on which Contract Time begins is either the date on which the Contractor actually begins work, or the date for beginning the charging of Contract Time as set forth in the proposal; whichever is earlier.

8-7.3 Adjusting Contract Time:

8-7.3.1 Increased Work: The Department may grant an extension of Contract Time when it increases the Contract amount due to overruns in original Contract items, adds new work items, or provides for unforeseen work. The Department will base the consideration for granting an extension of Contract Time on the extent that the time normally required to complete the additional designated work delays the Contract completion schedule.

8-7.3.2 Contract Time Extensions: The Department may grant an extension of Contract Time when a controlling item of work is delayed by factors not reasonably anticipated or foreseeable at the time of bid. The Department may allow such extension of time only for delays occurring during the Contract Time period or authorized extensions of the Contract Time period. When failure by the Department to fulfill an obligation under the Contract results in delays to the controlling items of work, the Department will consider such delays as a basis for granting a time extension to the Contract.

Whenever the Engineer suspends the Contractor's operations, as provided in 8-6, for reasons other than the fault of the Contractor, the Engineer will grant a time extension for any delay to a controlling item of work due to such suspension. The Department will not grant time extensions to the Contract for delays due to the fault or negligence of the Contractor.

The Department does not include an allowance for delays caused by the effects of inclement weather or suspension of Contractor's operations as defined in 8-6.4, in establishing Contract Time. The Engineer will continually monitor the effects of weather and, when found justified, grant time extensions on either a bimonthly or monthly basis. The Engineer will not require the Contractor to submit a request for additional time due to the effects of weather.

The Department will grant time extensions, on a day for day basis, for delays caused by the effects of rains or other inclement weather conditions, related adverse soil conditions or suspension of operations as defined in 8-6.4 that prevent the Contractor from productively performing controlling items of work resulting in:

1. The Contractor being unable to work at least 50% of the normal work day on pre-determined controlling work items; or
2. The Contractor must make major repairs to work damaged by weather, provided that the damage is not attributable to the Contractor's failure to perform or neglect; and provided that the Contractor was unable to work at least 50% of the normal workday on pre-determined controlling work items.

No additional compensation will be made for delays caused by the effects of inclement weather.

The Department will consider the delays in delivery of materials or component equipment that affect progress on a controlling item of work as a basis for granting a time extension if such delays are beyond the control of the Contractor or supplier. Such delays may include an area-wide shortage, an industry-wide strike, or a natural disaster that affects all

feasible sources of supply. In such cases, the Contractor shall submit substantiating letters from a representative number of manufacturers of such materials or equipment clearly confirming that the delays in delivery were the result of an area-wide shortage, an industry-wide strike, etc. No additional compensation will be made for delays caused by delivery of materials or component equipment.

The Department will not consider requests for time extension due to delay in the delivery of custom manufactured equipment such as traffic signal equipment, highway lighting equipment, etc., unless the Contractor submits documentation that he placed the order for such equipment in a timely manner, the delay was caused by factors beyond the manufacturer's control, and the lack of such equipment caused a delay in progress on a controlling item of work. No additional compensation will be paid for delays caused by delivery of custom manufactured equipment.

The Department will consider the effect of utility relocation and adjustment work on job progress as the basis for granting a time extension only if all the following criteria are met:

1. Delays are the result of either utility work that was not detailed in the Plans, or utility work that was detailed in the Plans but was not accomplished in reasonably close accordance with the schedule included in the Contract Documents.
2. Utility work actually affected progress toward completion of controlling work items.
3. The Contractor took all reasonable measures to minimize the effect of utility work on job progress, including cooperative scheduling of the Contractor's operations with the scheduled utility work at the preconstruction conference and providing adequate advance notification to utility companies as to the dates to coordinate their operations with the Contractor's operations to avoid delays.

As a condition precedent to an extension of Contract Time the Contractor must submit to the Engineer:

A preliminary request for an extension of Contract Time must be submitted in writing to the Engineer within ten calendar days after the commencement of a delay to a controlling item of work. If the Contractor fails to submit this required preliminary request for an extension of Contract Time, the Contractor fully, completely, absolutely and irrevocably waives any entitlement to an extension of Contract Time for that delay. In the case of a continuing delay only a single preliminary request for an extension of Contract Time will be required. Each such preliminary request for an extension of Contract Time shall include as a minimum the commencement date of the delay, the cause of the delay, and the controlling item of work affected by the delay.

Furthermore, the Contractor must submit to the Engineer a request for a Contract Time extension in writing within 30 days after the elimination of the delay to the controlling item of work identified in the preliminary request for an extension of Contract Time. Each request for a Contract Time extension shall include as a minimum all documentation that the Contractor wishes the Department to consider related to the delay, and the exact number of days requested to be added to Contract Time. If the Contractor contends that the delay is compensable, then the Contractor shall also be required to submit with the request for a Contract Time extension a detailed cost analysis of the requested additional compensation. If the Contractor fails to submit this required request for a Contract Time extension, with or without a detailed cost analysis, depriving the Engineer of the timely opportunity to verify the delay and

the costs of the delay, the Contractor waives any entitlement to an extension of Contract Time or additional compensation for the delay.

Upon timely receipt of the preliminary request of Contract Time from the Contractor, the Engineer will investigate the conditions, and if it is determined that a controlling item of work is being delayed for reasons beyond the control of the Contractor the Engineer will take appropriate action to mitigate the delay and the costs of the delay. Upon timely receipt of the request for a Contract Time extension the Engineer will further investigate the conditions, and if it is determined that there was an increase in the time or the cost of performance of the controlling item of work beyond the control of the Contractor, then an adjustment of Contract Time will be made, and a monetary adjustment will be made, excluding loss of anticipated profits, and the Contract will be modified in writing accordingly.

The existence of an accepted schedule, including any required update(s), as stated in 8-3.2, is a condition precedent to the Contractor having any right to the granting of an extension of Contract Time or any monetary compensation arising out of any delay. Contractor failure to have an accepted schedule, including any required update(s), for the period of potential impact, or in the event the currently accepted schedule and applicable updates do not accurately reflect the actual status of the project or fail to accurately show the true controlling or non-controlling work activities for the period of potential impact, will result in any entitlement determination as to time or money for such period of potential impact being limited solely to the Department's analysis and identification of the actual controlling or non-controlling work activities. Further, in such instances, the Department's determination as to entitlement as to either time or compensability will be final, unless the Contractor can prove by clear and convincing evidence to a Disputes Review Board that the Department's determination was without any reasonable factual basis.

8-8 Failure of Contractor to Maintain Satisfactory Progress.

8-8.1 General: Pursue the work to completion: Section 337.16 of the Florida Statutes establishes certain requirements pertaining to the suspension or revocation of a Contractor's Certificate of Qualification because of delinquency on a previously awarded Contract.

8-8.2 Regulations Governing Suspension for Delinquency:

1. A Contractor is delinquent when the Contract Time for performing the work has expired, and the Contractor has not completed the Contract work.

2. Once the Department determines that the Contractor is delinquent, the Department will give the Contractor written notice of intent to suspend the Contractor's Certificate of Qualification. If the Contractor disagrees with the delinquency, the Contractor shall file a request for an administrative hearing with the Clerk of Agency Proceedings within ten days of receipt of the notice of intent to suspend. If the Contractor does not file a request, the Department will make the suspension conclusive and final. The request for hearing is filed when the Contractor delivers it to, and it is received by, the Clerk of Agency Proceedings, Mail Station 58, Room 562, Haydon Burns Building, 605 Suwannee Street, Tallahassee, Florida 32399-0450.

3. If the Contractor files a request for a hearing, the Department will schedule the hearing within 30 days of the hearing officer's receipt of the request.

4. The Department will continue the period of suspension of the Contractor's Certificate of Qualification until the Contractor is no longer delinquent. If the Contractor requests an administrative hearing, the Department's final order, depending on the outcome of the hearing, will set forth the time period of suspension for the number of days the Department