



**CITY COMMISSION AGENDA
CITY HALL COMMISSION CHAMBERS
300 W. Plant Street**

REGULAR MEETING

OCTOBER 25, 2012

6:30 P.M.

CALL TO ORDER

Determination of a Quorum

Invocation and Pledge of Allegiance

1. APPROVAL OF MINUTES

Regular Meeting of October 11, 2012

2. PRESENTATION

A. **Proclamation 12-24** declaring October 27 through November 3, 2012 as the Week of the Family – Mayor Rees

B. **Proclamation 12-27** declaring the month of November 2012 as Pancreatic Cancer Awareness Month – Mayor Rees

C. Teaching local elementary students about the importance of nutritional gardens in our schools – John Rinehart

D. International City/County Management Association awards for Voice of the People for Transformation and Excellence – City Manager Bollhoefer

E. Oath of Office and introduction of new police officers – Police Chief Brennan

3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

A. **Ordinance 12-30:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 63.06 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED NORTH OF ROPER ROAD ON THE EAST AND WEST SIDE OF WINTER GARDEN VINELAND ROAD (CR 535) AND ON THE WEST SIDE OF DANIELS ROAD AT 420 AND 421 WINTER GARDEN VINELAND ROAD, FROM SINGLE-FAMILY RESIDENTIAL DISTRICT (R-1) TO PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR CERTAIN PUD REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE BRADFORD CREEK PUD; PROVIDING FOR NON-SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE - Community Development Director Williams

B. **Ordinance 12-61:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING DIVISION 2 OF ARTICLE II, CHAPTER 42 OF THE CITY'S CODE OF ORDINANCES; PROVIDING FOR ELIMINATION OF THE CR 545 SPECIAL BENEFIT OVERLAY DISTRICT IMPACT FEE; PROVIDING FOR PARTIAL REFUNDS OF PAID CR 545 SPECIAL BENEFIT OVERLAY DISTRICT IMPACT FEES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE – Community Development Director Williams

4. REGULAR BUSINESS

A. Recommendation to approve the purchase of two solid waste trucks for \$228,597.00 – Public Services Director Cochran

B. Recommendation to approve and award to Middlesex Corporation the 2012-2013 street resurfacing projects using Orange County's contract #Y10-195 - Public Services Director Cochran

C. Approve City Manager to enter in to an agreement with Tetra Tech Engineering to provide engineering services for the design of the Tucker Ranch Community Park – Parks and Recreation Director Conn

D. Recommendation to authorize the disposal of four 2008 Harley-Davidson motorcycles to Gator Harley-Davidson, Inc. in exchange for a two-year lease on four new police motorcycles – Police Chief Brennan

E. Consider reappointment of Larry Cappleman to the Community Redevelopment Agency for his expiring four year term – City Clerk Golden

5. MATTERS FROM CITIZENS (Limited to 3 minutes per speaker)

6. MATTERS FROM CITY ATTORNEY – Kurt Ardaman

7. **MATTERS FROM CITY MANAGER** – Mike Bollhoefer
- A. Cancel regular City Commission meetings of November 22 and December 27, 2012 for the holidays
 - B. Request closure of city offices on Monday, December 24, 2012 and Monday, December 31, 2012.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

ADJOURN to a Regular Meeting on November 8, 2012 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1st floor

NOTICE: In accordance with Florida Statutes 286.0105, if any person decides to appeal any decision made by said body with respect to any matter considered at such meeting, he/she will need a record of the proceedings and, for that purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The City of Winter Garden does not prepare or provide such record.

	Those needing assistance to participate in any of these proceedings should contact the City Clerk's Office at least 48 hours in advance of the meeting (407) 656-4111 x2254.		Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained at the meeting from the Information Technology Director.
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CITY OF WINTER GARDEN

CITY COMMISSION REGULAR MEETING MINUTES

October 11, 2012

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:30 p.m. at City Hall, 300 West Plant Street, Winter Garden, Florida. The invocation and Pledge of Allegiance were given.

Present: Mayor John Rees, Commissioners Bob Buchanan, Kent Makin, Robert Olszewski and Colin Sharman

Also Present: City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, City Clerk Kathy Golden, Assistant to City Manager - Public Services Don Cochran, Finance Director Laura Zielonka, Community Development Director Ed Williams, Deputy Fire Chief Matt McGrew, Police Chief George Brennan, Building Official Skip Lukert, Economic Development Director Tanja Gerhartz, Network Specialist George Strobel, West Orange Times Reporter Kelsey Tressler and Orlando Sentinel Reporter Stephen Hudak

1. **APPROVAL OF MINUTES**

Motion by Commissioner Makin to approve the budget hearings and regular meeting of September 27, as submitted. Seconded by Commissioner Buchanan and carried unanimously 5-0.

• **PRESENTATION**

Mayor Rees invited Greg Ohe from Health Central to come forward. Mr. Ohe stated that they came to give an update on their status since they have recently merged with Orlando Health. He introduced Director of Governor Relations Michelle Strength of Orlando Health.

Mr. Ohe gave a brief overview and update of Orlando Health with details about their facilities, offerings to the community, and upcoming programs. He offered to come to future meetings and provide updates and will contact the City Manager in that regard.

2. **FIRST READING OF PROPOSED ORDINANCE**

A. **Ordinance 12-61:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING DIVISION 2 OF ARTICLE II, CHAPTER 42 OF THE CITY'S CODE OF ORDINANCES; PROVIDING FOR ELIMINATION OF THE CR 545 SPECIAL BENEFIT OVERLAY DISTRICT IMPACT FEE; PROVIDING FOR PARTIAL REFUNDS OF PAID CR 545 SPECIAL BENEFIT OVERLAY DISTRICT IMPACT FEES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-61 by title only. Community Development Director Williams stated that in 2006 a Special Overlay Transportation Impact Fee ordinance was adopted by the City Commission on a specific area of CR 545. At the time, it was a great idea because there were a number of development proposals in the City and County areas. If all of them had developed, the road networks would have been overrun. The CR 545 area developers worked with the City to create a special impact fee in order to address future road needs and to allow their projects to move forward. Many of the projects did not move forward due to the change in the economy.

The overlay has not generated sufficient funds to do the improvements that were projected. The traffic counts are substantially below their projection. Staff believes that the intersection improvements authorized by the board (City Commissioner) for CR 545 and Tilden, and CR 545 and Marsh Rd will handle any traffic congestion for the foreseeable future. The need for this special overlay, the doubling of the City's transportation impact fees, is no longer needed. This fund was created in 2006 and transportation impact fees have to be spent in a certain period of time or be refunded. We are getting very close to that time and there have been inquiries as to whether the City will do the entire road project or refund the impact fees. It was clear to staff with everything happening in that area that there is no need for that second impact fee. The primary impact fee on transportation will remain in effect and generate substantial funds for additional road improvements.

Mr. Williams stated that staff feels it would be prudent to remove the transportation overlay fee of \$5,000 which will in turn lead to a positive in economic development. Staff can refund the portions of the funds that have not been spent to date on designing and installing the improvements to those intersections, and move forward with the new projects utilizing just the primary transportation impact fee.

Commissioner Buchanan asked if the intersection at CR 545 and Tilden would be completed. **Mr. Williams** responded affirmatively that the intersection would be completed. There are sufficient funds from regular impact fees and a portion this fee already generated for that project. Additionally, the school and three of the projects in that area are also participating in that intersection improvement. This is a high priority this coming year to get them completed.

Commissioner Olszewski asked if this change will affect us on economic development opportunity. **Mr. Williams** responded that it absolutely will have a positive affect with more development and commercial properties coming forward because of the reduction in impact fees.

Motion by Commissioner Olszewski to approve Ordinance 12-61 with the second reading and public hearing being scheduled for October 25, 2012. Seconded by Commissioner Buchanan and carried unanimously 5-0.

3. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

- A. **Ordinance 12-53**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE VII OF CHAPTER 62 OF THE WINTER GARDEN CITY CODE; PROVIDING FOR REVISED DEFINITIONS; PROVIDING FOR REVISED STANDARDS, REQUIREMENTS, CRITERIA AND CONDITIONS FOR SIDEWALK CAFES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-53 by title only. City Manager Bollhoefer noted that there was a merchant meeting regarding this ordinance. Many good ideas and suggestions to change the ordinance were given. He still believes in the basic philosophy of the ordinance but staff would like to make these changes. He believes they will not hurt the ordinance, but will also accommodate many of the businesses and those with concerns. Mr. Bollhoefer suggested postponing this item until November 8, 2012.

Motion by Commissioner Buchanan to postpone Ordinance 12-53 to the November 8, 2012 meeting at 6:30 p.m. Seconded by Commissioner Makin and carried unanimously 5-0.

4. **REGULAR BUSINESS**

- A. Selection of a voting delegate and alternate for the National League of Cities Convention November 28 – December 1, 2012

Motion by Commissioner Sharman selecting Commissioner Makin as the voting delegate. Seconded by Commissioner Buchanan and carried unanimously 5-0.

Motion by Commissioner Buchanan selecting Commissioner Makin as the alternate voting delegate. Seconded by Commissioner Makin and carried unanimously 5-0.

5. **MATTERS FROM CITIZENS**

David Kassander, 15155 Ovation Drive, Belle Meade Subdivision, Winter Garden, Florida, board member of the Belle Meade residence association distributed a packet of information. He addressed the issue of an unfinished sidewalk section of approximately 300 to 400 feet which would connect to the shopping area. He asked the City Commission for their support and consideration in the completion of the sidewalk.

City Manager Bollhoefer noted that this project is already in this year's budget along with the road and will go out for bid in January. There was discussion on the project, its maintenance, and the possibility of expediting the project.

6. **MATTERS FROM CITY ATTORNEY** – There were no items.

7. **MATTERS FROM CITY MANAGER**

City Manager Bollhoefer thanked and commended staff for all the preparations before, during, and after this past weekend's event.

Community Relations Manager Andrea Vaughn came forward and announced the upcoming Relay for Life 2013 kick-off event. Also, the Thanksgiving food basket drive is starting for this year and noted that there would be information available in the newspapers and on flyers.

8. **MATTERS FROM MAYOR AND COMMISSIONERS**

Commissioner Makin stated that this weekend's event was great and he also commended staff for all their efforts.

Commissioner Buchanan stated that this was a wonderful event and noted that he heard extremely good things about the car show. He shared that there were some things that he would like to have addressed before next year's event, but all in all it was a great event.

Commissioner Olszewski commended and thanked staff for their efforts during this weekend's event. Also, the Winter Garden Heritage Foundation volunteers for hosting this annual event.

Commissioner Olszewski announced that the SPCA of Central Florida would be giving out about 500 free dog vaccinations this weekend at the Farmer's Market. He thanked the City Manager for working with him on this.

Commissioner Olszewski announced that the Orange County Public Schools Montessori of Winter Garden Charter School will be having their fall festival on October 21st from 2:00 p.m. to 6:00 p.m. There will also be a pumpkin patch October 19 – 21, 2012.

Commissioner Sharman stated that he received an e-mail from a constituent thanking the Fire Department Shift C Tower 22 (fire station on Daniels Road) for a job well done during inclement weather to stabilize Mrs. Matton in less than five minutes.

Mayor Rees stated that he received a call for Chief Brennan from a lady who wanted to commend Officer Orlando on the great professional job he did and how appreciative she was of him and the Police Department.

Mayor Rees apologized to anyone who may have overheard the unprofessional conversation he had earlier in the lobby.

The meeting adjourned at 7:03 p.m.

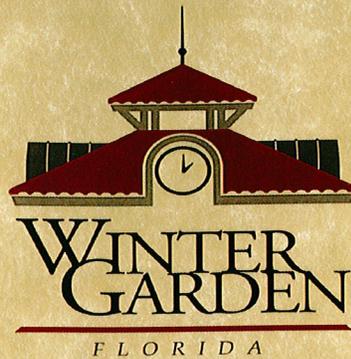
APPROVED:

Mayor John Rees

ATTEST:

City Clerk Kathy Golden, CMC

DRAFT



Proclamation

12-24

Whereas, the City of Winter Garden is blessed with a multitude of families – an essential part of the cultural, social, and spiritual fabric of our community; and

Whereas, the City of Winter Garden recognizes that strong families are at the center of strong communities; that children live better lives when their families are strong; and that families are strong when they live in communities that connect them to economic opportunities, social networks, and services; and

Whereas, everyone has a role to play in making families successful, including neighborhood organizations, businesses, non-profit agencies, policymakers, and families themselves; and

Whereas, during the week of October 27 through November 3, 2012, City of Winter Garden residents should take time to honor the importance of families and recommit to enhancing and extending the special connections that support and strengthen them throughout the year; and

Whereas, during this week, we urge the residents of the City of Winter Garden to join other agencies and organizations throughout the county to honor and celebrate our families;

Therefore, it is my great pleasure and privilege as the Mayor of the City of Winter Garden to hereby proclaim the week of October 27 through November 3, 2012, as

“WEEK OF THE FAMILY”

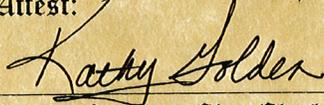
in the City of Winter Garden, and urge all citizens to share in this occasion.

In Witness Whereof, I hereunto have set my hand and caused the City Seal to be affixed this 25th day of October, 2012.




Mayor John Rees

Attest:


Kathy Golden, City Clerk





Proclamation

12-27

Whereas, in 2012, an estimated 43,920 people will be diagnosed with pancreatic cancer in the United States and 37,390 will die from the disease, including approximately 2,670 in Florida. It is one of the deadliest cancers and the fourth leading cause of cancer death in the United States; and

Whereas, there has been no cure and no significant improvements found in early detection, treatment methods or survival rates in the last 40 years. When symptoms present themselves it is usually too late, with 74 percent dying within the first year of their diagnosis and 94 percent dying within the first five years; and

Whereas, the Pancreatic Cancer Action Network is the first and only national patient advocacy organization that serves the pancreatic cancer community in the City of Winter Garden and nationwide by focusing its efforts on public policy, research funding, patient services, public awareness and education related to developing effective treatments and a cure for pancreatic cancer.

Therefore, it is my great pleasure and privilege as the Mayor of the City of Winter Garden to hereby designate the month of November 2012 as

“PANCREATIC CANCER AWARENESS MONTH”

in the City of Winter Garden and encourage our citizens to join the efforts in advocating public awareness of pancreatic cancer, which continues to affect our community and nation.



Attest:

Kathy Golden

Kathy Golden, City Clerk

In witness whereof, I have hereunto set my hand and caused the City Seal to be affixed this 25th day of October, 2012.

John Rees
Mayor John Rees



THE CITY OF WINTER GARDEN
CITY COMMISSION AGENDA ITEM

From: Ed Williams, Community Development Director

Via: City Manager Mike Bollhoefer

Date: **October 17, 2012** **Meeting Date: October 25, 2012**

Subject: 420 and 421 Winter Garden Vineland Road (Bradford Creek PUD)
Parcel ID# 26-22-27-0000-00-019
Parcel ID# 26-22-27-0000-00-018
Parcel ID# 35-22-27-0000-00-002
Parcel ID# 34-22-27-0000-00-014
Parcel ID# 35-22-27-0000-00-004

Issue: Applicant requests to rezone 63.06 +/- acres of land from City R-1 to City PUD. The subject property is located within the City of Winter Garden municipal limits, and is designated Low Density Residential on the Future Land Use Map of the City's Comprehensive Plan.

Discussion: Rezoning the subject property from City R-1 to City PUD is consistent with the Code of Ordinances, the Future Land Use Map of the City's Comprehensive Plan, and the surrounding property uses. (See Attached Staff Report).

Recommended Action:

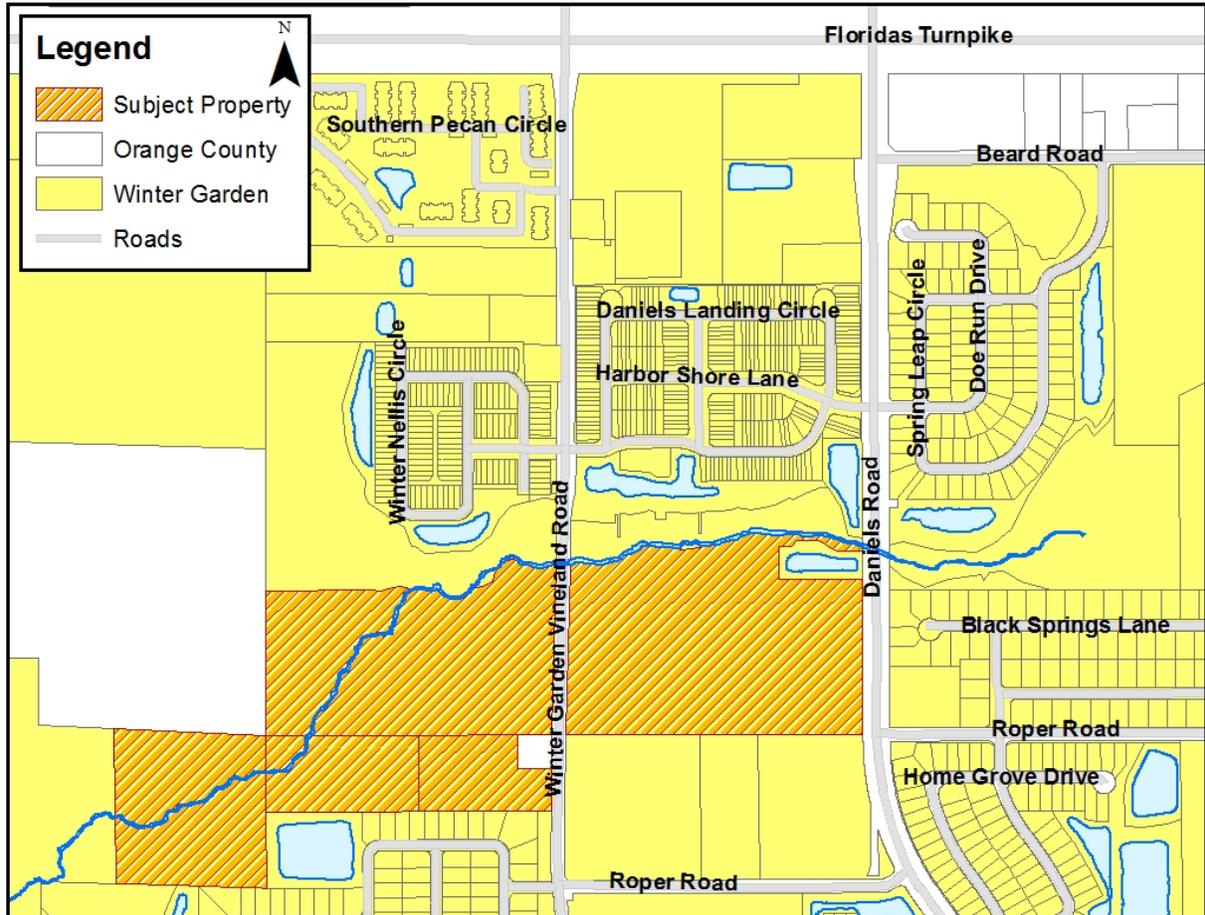
City staff recommends adoption of Ordinance 12-30, (Rezoning 63.06 +/- acres located at 420 and 421 Winter Garden Vineland Road from City R-1 to City PUD).

Attachments/References:

Location Map
Ordinance 12-30
Staff Report

LOCATION MAP

Ordinance 12-30
Bradford Creek Subdivision
420 Winter Garden Vineland Road



ORDINANCE 12-30

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 63.06 ± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED NORTH OF ROPER ROAD ON THE EAST AND WEST SIDE OF WINTER GARDEN VINELAND ROAD (CR 535) AND ON THE WEST SIDE OF DANIELS ROAD AT 420 AND 421 WINTER GARDEN VINELAND ROAD, FROM SINGLE-FAMILY RESIDENTIAL DISTRICT (R-1) TO PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR CERTAIN PUD REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE BRADFORD CREEK PUD; PROVIDING FOR NON-SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Owner(s) of real property generally described as approximately 63.06 ± acres of certain real property generally located north of Roper Road on the east and west side of Winter Garden Vineland Road and on the west side of Daniels Road at 420 and 421 Winter Garden Vineland Road in Winter Garden, Florida, being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"), desire to rezone their property from City R-1 to City PUD, and

WHEREAS, on October 23, 2012, the School Board of Orange County, Florida approved the transfer of thirty-six (36) owner capacity credits from Capacity Enhancement Agreement (CEA) 06-011-13 owned by Metropolitan Estates, LLC to the Bradford Creek property (Standard Pacific of Florida); and

WHEREAS, after public notice and due consideration of public comment, the City Commission of the City of Winter Garden hereby finds and declares the adoption of this Ordinance and the proposed development of the Property is consistent with the City of Winter Garden Comprehensive Plan, and the City of Winter Garden Code of Ordinances; therefore,

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1: Rezoning. After due notice and public hearing, the zoning classification of the Property, as described in Exhibit "A" attached hereto, is hereby rezoned from Single-Family Residential District (R-1) to Planned Unit Development (PUD) in the City of Winter Garden, Florida subject to the following conditions, provisions and restrictions:

- a. **Conceptual Plan-** All development on the Property must substantially conform to the requirements identified in the Bradford Creek Subdivision PUD Development Plan attached hereto as Exhibit "B." Should any conflict be found between this Ordinance and the Bradford Creek Subdivision PUD Development Plan attached hereto as Exhibit "B", then the standards and

conditions established by this Ordinance shall control.

- b. **Zoning-** Unless specifically noted elsewhere in Exhibit “B” attached hereto, all residential development on the Property must comply with the general zoning requirements of the R-1 Single Family Residential District for any structures, including but not limited to swimming pools, screen rooms accessory structures and buildings that are developed on the Property.

- c. **Design Criteria/Architectural Standards-**
 - 1. **Lot Size-** Minimum lot width shall be 60 feet

 - 2. **Building Height-** Maximum building height shall be 35 feet, not to exceed 2 stories.

 - 3. **Minimum Living Area-** Minimum living area for each residential unit shall be 2,400 square feet.

 - 4. **Signage-** All signage shall be reviewed and permitted by the City of Winter Garden. All proposed signage, with the exception of street and traffic signs, shall be submitted for review and approval as part of the Development Agreement for the Property.

 - 5. **Setbacks and Required Yards-**
 - a. **Front yard:** 25 feet, may be reduced to 20 feet if garage is recessed 5 feet behind front façade of primary structure.

 - b. **Rear yard:** 20 feet, except when located along the perimeter of the PUD boundary which shall require 25 feet.

 - c. **Side yard:** 5 feet, all side yards shall be unobstructed by A/C, mechanical or other equipment of any kind. 15 foot building separation shall be maintained between at least 50% of all residential structures within each phase.

 - d. **Corner/Street Side yard:** 15 feet

 - e. **Pool (side and rear) setback:** 5 feet

 - 6. **Residential Design Criteria-** All development on the Property must maintain the same general design criteria and architectural characteristics as the Building Elevations attached hereto as Exhibit “C”. Prior to obtaining any preliminary plat approvals for the Property, the Owner shall submit typical floor plans for project dwelling units for Planning and Zoning Board review and approval. The typical floor plans shall provide:

- a. At least 40% of all lots shall feature one or more of the following: radius frontage, garage recessed 5 feet behind the front façade of the primary structure, side entrance garage, and/or courtyard entry garage.
 - b. Model/Elevation/Color scheme shall not repeat more frequently than every 3rd lot.
 - c. Homes with secondary, separated garages shall have a side-entry garage with courtyard access for the secondary garage. No additional curb cuts will be permitted to accommodate twin-driveways.
7. Swimming pools must meet all requirements of the City Code of Ordinances. Encroachments into drainage and/or utility easements will not be permitted. Applications for swimming pools will be reviewed on an individual basis.
8. **Common Recreation and Open Space-** The Property is located within the Resource Protection Overlay, and in compliance with the City of Winter Garden Comprehensive Plan Future Land Use Element Policies 1-3.1.7 and 1-3.1.8 no less than 25% Wekiva Study Area Open Space shall be provided.

None of the 25% Wekiva Study Area Open Space shall be chemically treated with pesticides to establish sensitive natural habitat.

To the greatest extent possible, 5% of the developable area of the Property shall be set aside for passive, dry-land recreational use. In the event that this requirement cannot be met wholly or in part, then a financial contribution in accordance with Chapter 110, Article V, Division 2 of the City Code of Ordinances shall be made to the City Recreation Fund to fulfill the requirement.

- d. **Staff Conditions-** All development on the Property must comply with the following conditions:
- 1. The Property will be developed in two phases of development with approximately 48 lots in phase 1 (west parcel) and 70 lots in phase 2 (east parcel).
 - 2. If approval is granted by the City of Winter Garden, it does not grant authority to enter, construct or otherwise alter the property of others, nor does it waive any permits that may be required by federal, state, regional, county, municipal or other agencies that may have jurisdiction.
 - 3. No fill or runoff will be allowed to discharge onto adjacent properties;

existing drainage patterns shall not be altered. The Owner/applicant should note that if approval is granted, the City of Winter Garden is not granting rights or easements for drainage from, or onto, property owned by others. Obtaining permission, easements or other approvals that may be required to drain onto private property is the Owner/applicant's responsibility. Should the flow of stormwater runoff from, or onto adjacent properties be unreasonable or cause problems, the City will not be responsible and any corrective measures required will be the responsibility of the Owner. Site construction shall adhere to the City of Winter Garden erosion and sediment control requirements as contained in Chapter 106 - Stormwater. If approval is granted by the City of Winter Garden, it does not waive any permits that may be required by federal, state, regional, county, municipal or other agencies that may have jurisdiction.

4. After final plan approval, a preconstruction meeting will be required prior to any commencement of construction. The Owner/applicant shall provide an erosion control and street lighting plan at the preconstruction meeting and shall pay all engineering review and inspection fees prior to construction. Inspection fees in the amount of 2.25% of the cost of all site improvements shall be paid prior to issuance of the building permit.
5. The City of Winter Garden will inspect private site improvements only to the extent that they connect to City owned/maintained systems (roadways, drainage, utilities, etc.). It is the responsibility of the Owner and Design Engineer to ensure that privately owned and maintained systems are constructed to the intended specifications. The City is not responsible for the operation and maintenance of privately owned systems, to include, but not be limited to, roadways, parking lots, drainage, stormwater ponds or on-site utilities.
6. The City will have a traffic study performed for the intersection of Roper Road (east leg) and Daniels Road, with a proportionate share of the cost paid by the Owner/applicant. If and when a traffic signal is warranted at the Roper Road and Daniels Road intersection, this development will also be required to pay its proportionate share of the cost of those improvements, based on traffic generated by the development of the Property. Provisions concerning the Owner/applicant's payment of its proportionate share will be set forth in the Developer's Agreement required in Section 2 of this Ordinance.
7. Landscaping, fencing, signage, etc. shall not infringe on sight distance requirements at any intersection, including Daniels Road, CR 535, or Roper Road.

8. All work shall conform to City of Winter Garden standards and specifications. Typical road section shall incorporate the current City Standard Details (i.e. 10" soil cement base, etc.).
9. The Property is proposed to be developed as a gated community, a turn-around area shall be provided at each gated entrance and gates shall be set back far enough from the main roadway to accommodate trucks. Access to the east parcel from Daniels Road as shown on Exhibit "B" attached hereto shall be from the east-west extension of Roper Road (public road) which must line up with the existing Roper Road located on the east side of Daniels Road and such access improvements shall accommodate the secondary connection of the Serenades By Sonata PUD (Ordinance 11-36) parcel ("Sonata Parcel") located to the south of and adjacent to the east parcel of the Property. Owner is to convey right-of-way from the Property to the City sufficient for the public Roper Road extension running east and west from Daniels Road and curving north towards and up to the access key pad area for the Project's private subdivision entrance gate. The public Roper Road extension and the Project's access to and from Daniels Road is subject to and contingent upon the City obtaining ownership of necessary right-of-way from the Sonata Parcel. Owner, at its expense, is responsible for the design, permitting and construction of all access improvements supporting the Project, including the public road extension of Roper Road.
10. Permits from SJRWMD and FDEP (water, wastewater and NPDES) are required prior to issuance of site or building permits.
11. All utilities required for the project shall be extended at the Developer's expense. 50% of all water and sewer impact fees shall be paid prior to City execution of FDEP permits and issuance of site or building permits.
12. All irrigation on the site shall be designed to be supplied by reclaimed water (located on Daniels Road and CR 535).
13. Bradford Creek Subdivision PUD Development Plan attached hereto as Exhibit "B" indicates filling-in an existing wetland that is shared with several other properties and will reduce the flood capacity of this system. It is the opinion of the City at this time that all or at least a portion of the existing wetland is a closed wetland basin that does not have an outfall. Retention of the 100 year, 24 hour storm event, or volumetric pre-post 25 year, 96 hour storm event may be required (and site design shall be coordinated with the Sonata plans). Compensating storage will be required unless a positive outfall is provided. Flood stages on surrounding properties that abut or drain into this wetland shall not be increased.

SECTION 2: *General Requirements.*

- a. Developer's Agreement-** A Developer's Agreement shall be drafted, approval obtained and recorded prior to approval of Preliminary Plat of the Property and prior to the issuance of any site or building permits. The Developer's Agreement shall include, but is not limited to the following: project phasing; vehicular access to the site; restriction of additional curb-cuts on Daniels Road (except the possible future Roper Road Extension); provisions concerning Owner's design, permitting and construction of access improvements for the Project including the Roper Road extension running east and west from Daniels Road and curving north towards and up to the access key pad area for the Project's private subdivision entrance on the Property's east parcel; Owner's proportionate fair share payment to the City for a potential traffic signal at the Roper Road and Daniels Road intersection; off-site public infrastructure improvements; impact fees; other conditions and commitments of this Ordinance and the Bradford Creek Subdivision PUD Development Plan, attached hereto as Exhibit "B"; and adherence to all City Codes and Standards.
- b. Stand Alone Clause-** Each phase of development of the Property must operate as an individual unit in that each particular phase will be able to stand-alone in the event that no other phase is developed.
- c. Land Development Approvals and Permits-** This Ordinance does not require the City to issue any permit or approval for development, construction, preliminary plat, final plat, building permit, or other matter by the City relating to the Property or the project or any portion thereof. These and any other required City development approvals and permits shall be processed and issued by the City in accordance with procedures set forth in the City's Code of Ordinances and subject to this Ordinance.
- d. Amendments-** Minor amendments to this Ordinance will be achieved by Resolution of the City Commission of the City of Winter Garden. Major amendments to this Ordinance will require approval of the City Commission of the City of Winter Garden by Ordinance.
- e. Expiration-** Expiration of this PUD shall be governed in accordance with Section 118-830, City of Winter Garden Code of Ordinances. Time extensions may be granted in accordance with Section 118-829, City of Winter Garden Code of Ordinances.

SECTION 3: *Zoning Map.* The City Planner is hereby authorized and directed to amend the Official Winter Garden Zoning Map in accordance with the provisions of this ordinance.

SECTION 4: *Non-Severability.* Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 5: *Effective Date.* This Ordinance shall become effective upon adoption at its second reading.

FIRST READING AND PUBLIC HEARING: _____, 2012.

SECOND READING AND PUBLIC HEARING: _____, 2012.

ADOPTED this _____ day of, _____, 2012, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

Exhibit "A"

LEGAL DESCRIPTION

LEGAL DESCRIPTION

The South 1/2 of the Southeast 1/4 of the Southwest 1/4; and the N. 1/2 of the Southeast 1/4 of the Southwest 1/4, South of the Branch; all in Section 26, Township 22 South, Range 27 East, Less right-of-ways and subject to easements.

Also Less:

Commence at the Northeast Corner of the Southeast 1/4 of the Southwest 1/4 of said Section 26, thence run S.00°11'04"E., along the East line of the Southeast 1/4 of the Southwest 1/4 of said Section 26, a distance of 462.07 feet; thence run S. 89°48'56"W., a distance of 60.00 feet to a point on the West right-of-way line of Daniels Road and the Point of Beginning; thence run S.00°11'04"E. along said right-of-way line, a distance of 125.00 feet; thence run S.89°48'56"W., a distance of 371.50 feet; thence run N.00°11'04"W., a distance of 144.12 feet; thence run N.87°01'05"E., a distance of 61.75 feet; thence run N.38°42'38"E., a distance of 30.67 feet; thence run N.89°56'19"E, a distance of 93.29 feet; thence S.66°29'14"E., a distance of 33.96 feet; thence run S.51°43'56"E., a distance of 37.87 feet; thence run S.69°20'03"E., a distance of 24.19 feet; thence run N.89°48'56"E., a distance of 113.92 feet to the aforesaid west right-of-way line of Daniels Road and the Point of Beginning.

AND

Begin at the Southeast corner of the SW 1/4 of the SW 1/4 of Section 26, Township 22 South, Range 27 East, run thence N.00°02'00"E. along the East line of said SW 1/4 of the SW 1/4, a distance of 756.03 feet to the thread of a stream; thence Westerly, along the thread of said stream, the following courses and distances: S.78°12'30"W., 9.66 feet; thence S.89°57'26"W., 50.05 feet; thence S.81°30'03"W., 74.43 feet; thence N.77°45'10"W., 51.67 feet; thence S.87°40'08"W., 29.99 feet; thence N.43°20'18"W., 30.48 feet; thence S.77°16'50"W., 61.00 feet; thence S.76°21'15"W., 15.30 feet; thence S.29°28'07"W., 47.06 feet; thence S.13°45'29"W., 43.00 feet; thence S.60°29'53"W., 35.09 feet; thence S.82°46'31"W., 39.20 feet; thence S.71°52'36"W., 45.36 feet; thence S.47°23'08"W., 54.19 feet; thence N.76°01'52"W., 14.46 feet; thence N.82°37'22"W., 27.34 feet; thence N.58°49'09"W., 43.01 feet; thence 60°26'07"W., 31.96 feet; thence N.88°35'40"W., 106.82 feet; thence N.76°14'16"W., 52.21 feet; thence S.83°37'37", 50.09 feet; thence S.71°48'12"W., 34.20 feet; thence N.86°42'47"W., 46.04 feet; thence departing from stream, run S.89°18'20"W. 464.76 feet to a point on the West line of said SW 1/4 of the SW 1/4; thence S.00°06'06"W. 642.86 feet; to the Southwest Corner of said Section 26; run thence S.89°59'40"E., 1351.62 feet to the Point of Beginning. Subject to right-of-way for Winter Garden-Vineland Road. Not including road rights-of-way. Subject to restriction, reservations and easements of record.

AND

NORTH 1/2 OF NORTHEAST 1/4 OF NORTHWEST 1/4 OF NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 22 SOUTH, RANGE 27 EAST, LYING WEST OF THE WEST RIGHT OF WAY LINE OF SR 535 (LESS BEGIN ON NORTH LINE OF NORTHWEST 1/4 OF NORTHWEST 1/4 AND WEST RIGHT OF WAY LINE OF SR 535, RUN WEST 150 FEET, SOUTH 150 FEET, EAST TO THE WEST RIGHT OF WAY LINE OF SR 535, NORTH TO THE POINT OF BEGINNING).

AND

NORTH 1/2 OF NORTHWEST 1/4 OF NORTHWEST 1/4 OF NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 22 SOUTH, RANGE 27 EAST, ORANGE COUTNY, FLORIDA.

AND

NORTHEAST 1/4 OF NORTHEAST 1/4 OF NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 22 SOUTH, RANGE 27 EAST, ORANGE COUTNY, FLORIDA.

CONTAINING 63.055 ACRES, MORE OR LESS.

Exhibit "B"

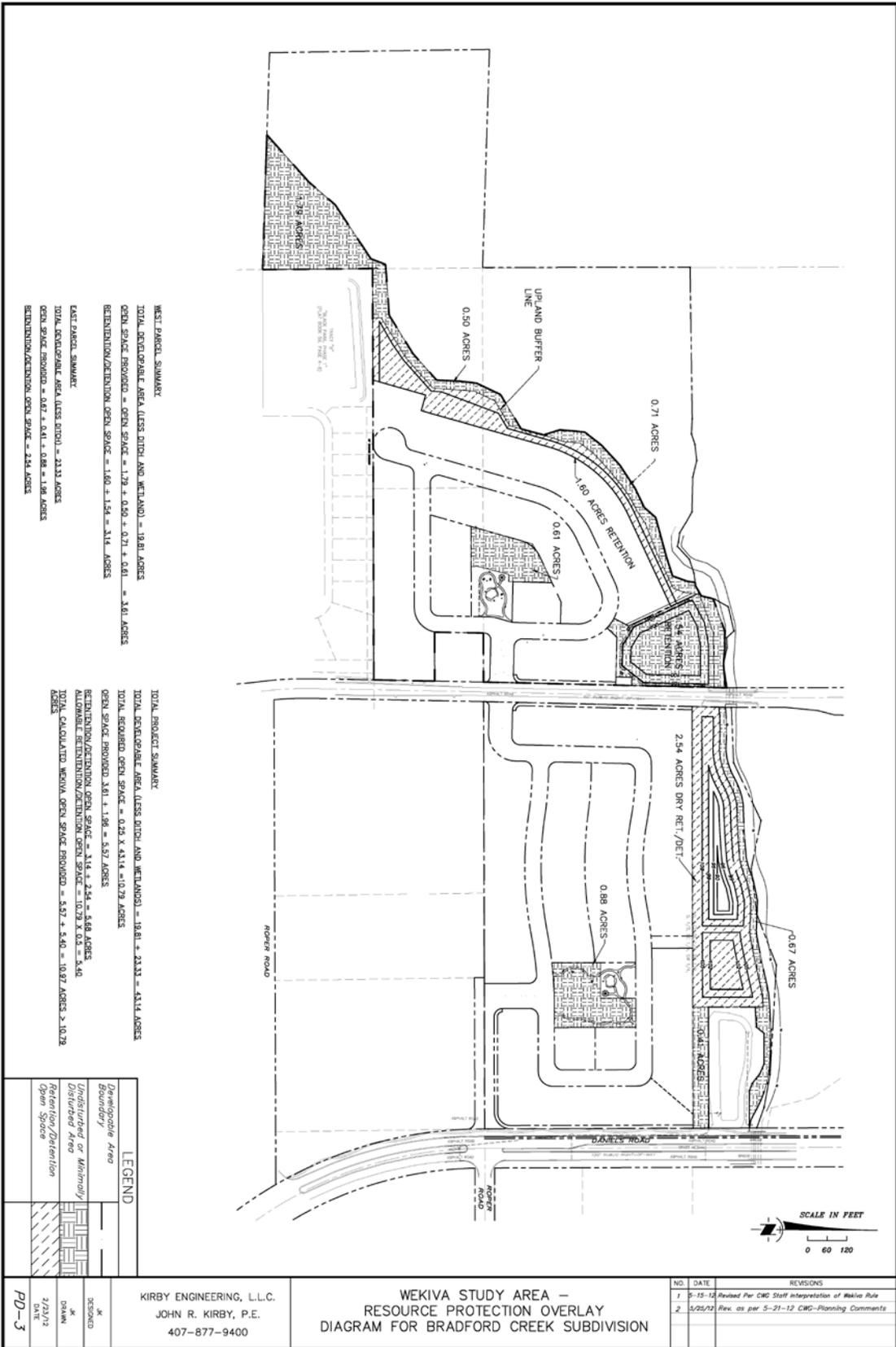
COVER PAGE

PLANNED UNIT DEVELOPMENT PRELIMINARY PLAN

BRADFORD CREEK

REVISED JUNE 2012

(7 PAGES - ATTACHED)



WEST PARCEL SUMMARY

TOTAL DEVELOPABLE AREA (LESS DITCH AND WETLAND) = 19.61 ACRES
 OPEN SPACE PROVIDED = OPEN SPACE = 1.79 + 0.50 + 0.71 + 0.61 = 3.61 ACRES
 RETENTION/RETENTION OPEN SPACE = 1.60 + 1.54 = 3.14 ACRES

EAST PARCEL SUMMARY

TOTAL DEVELOPABLE AREA (LESS DITCH) = 23.33 ACRES
 OPEN SPACE PROVIDED = 0.67 + 0.41 + 0.88 + 1.98 ACRES
 RETENTION/RETENTION OPEN SPACE = 2.44 ACRES

TOTAL PROJECT SUMMARY

TOTAL DEVELOPABLE AREA (LESS DITCH AND WETLANDS) = 19.61 + 23.33 = 43.14 ACRES
 TOTAL REQUIRED OPEN SPACE = 0.22 X 43.14 = 10.79 ACRES
 OPEN SPACE PROVIDED 3.61 + 1.96 = 5.57 ACRES
 RETENTION/RETENTION OPEN SPACE = 3.14 + 2.44 = 5.58 ACRES
 ALLOWABLE RETENTION/RETENTION OPEN SPACE = 10.79 X 0.5 = 5.40 ACRES
 TOTAL CALCULATED WETLAND OPEN SPACE PROVIDED = 5.97 + 5.40 = 10.97 ACRES > 10.79 ACRES

LEGEND	
	Developable Area Boundary
	Undisturbed or Minimally Disturbed Area
	Retention/Retention Open Space

2/20/12
 DATE
 PD-3

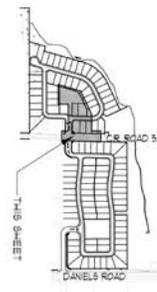
KIRBY ENGINEERING, L.L.C.
 JOHN R. KIRBY, P.E.
 407-877-9400

WEKIVA STUDY AREA –
 RESOURCE PROTECTION OVERLAY
 DIAGRAM FOR BRADFORD CREEK SUBDIVISION

NO.	DATE	REVISIONS
1	5-15-12	Revised Per CMC Staff Interpretation of Wekiva Rule
2	5/25/12	Rev. as per 5-21-12 CMC-Planning Comments

Sheet Key

N.T.S.



Note:
PROPOSED ENTRY FEATURES AND LANDSCAPING ON EAST SIDE OF ROAD SHOWN FOR REFERENCE ONLY AND ARE NOT INTENDED.

L-1



DATE: 12/15/2011
SCALE: AS SHOWN
DRAWN BY: J. BROWN
CHECKED BY: J. BROWN
PROJECT: BRADFORD CREEK
SHEET: L-1

BRADFORD CREEK
WINTER GARDEN, FLORIDA
PRELIMINARY WEST ENTRY AND PARK PLAN

LANDSCAPE ARCHITECTURE
PARKER VANLETTE
design group, inc.
14000 W. BAYVIEW BLVD.
SUITE 100
MIAMI, FL 33147
TEL: (305) 375-2800
FAX: (305) 375-2801
WWW.PARKERVANLETTE.COM

Streetscape Elevation

Model A

Model B

Model C

Model D

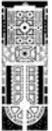
Model E



NOT TO SCALE



BRADFORD CREEK WINTER GARDEN, FLORIDA STREETScape ELEVATION STUDY



PARKER-YANNETTE
 design group, inc.
 LICENSED ARCHITECTURE
 2211 South U.S. Highway One
 Winter Garden, Florida 34787
 Telephone: (861) 547-5066
 Fax: (888) 347-2844
 License #: CA0000297

L-4

CITY OF WINTER GARDEN

PLANNING & ZONING DIVISION

300 West Plant Street - Winter Garden, Florida 34787-3011 • (407) 656-4111

STAFF REPORT

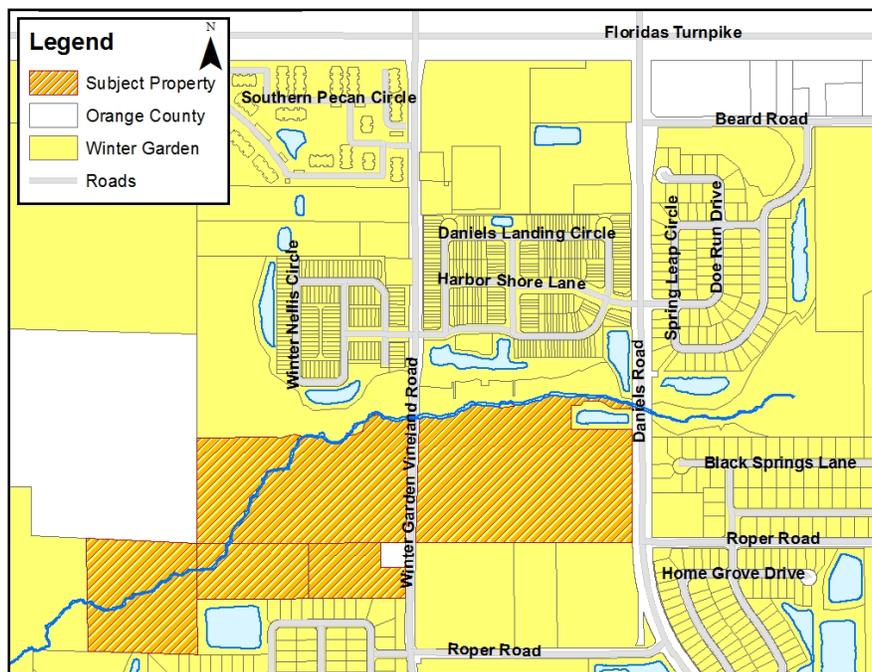
TO: CITY COMMISSION
PREPARED BY: LAURA SMITH, SENIOR PLANNER
DATE: OCTOBER 18, 2012
SUBJECT: REZONING
420 & 421 Winter Garden Vineland Road (63.06+/- ACRES)
PARCEL ID # 26-22-27-0000-00-019 34-22-27-0000-00-014
26-22-27-0000-00-018 35-22-27-0000-00-004
35-22-27-0000-00-002

APPLICANT: J & WB, Inc, Ed. Bradford Family Trust, & Ann Reaves McFadden Trust

INTRODUCTION

The purpose of this report is to evaluate the proposed project for compliance with the City of Winter Garden Code of Ordinances and Comprehensive Plan.

The subject property, located north of Roper Road on the east and west side of Winter Garden Vineland Road and on the west side of Daniels Road, is approximately 63.06± acres. The map below depicts the location of the subject property within the City of Winter Garden municipal limits.



The applicant is requesting to rezone 63.06± acres of land. The subject property is located within the City of Winter Garden municipal limits, and carries the zoning designation R-1 (Single Family Residential). The subject property is designated LR- Low Density Residential on the Future Land Use Map of the City's Comprehensive Plan (see attached map).

EXISTING USE

The parcel of the subject property located on the east side of Winter Garden Vineland Road is presently vacant and does not contain any structures. The parcels of the subject property located on the west side of Winter Garden Vineland Road contains 5 total structures: 1, 232 square foot commercial office building, 3,714 square foot warehouse building, 2,596 square foot warehouse building, 875 square foot shed, and a 1,216 square foot single family residential structure.

ADJACENT LAND USE AND ZONING

The properties located to the north are The Orchards a townhome community zoned PUD, and Daniels Landing a townhome community zoned R-3. The properties located to the south are Black Lake Park a single family residential community zoned PUD, 2 vacant unimproved parcels zoned R-1, and Serenades by Sonata a memory care/assisted living facility zoned PUD which is currently under construction. The property to the east is Cobblestone a single family residential community zoned R-1. The property to the west is a 36.1 acre vacant unimproved parcel located in unincorporated Orange County zoned A-1.

PROPOSED USE

The applicant proposes to develop the 63.06 ± acre site into a residential planned unit development containing 118 single-family dwelling units. The proposed subdivision will be a private gated community with gross density proposed at 2.73 dwelling units per acre, the LR-Low Density Residential Future Land Use Designation allows up to 6 dwelling units per acre. The proposed subdivision will contain 2 recreational parks (one located at the parcel on the east side of Winter Garden Vineland Road and another located at the parcel on the west side of Winter Garden Vineland Road) and 19+/- acres of wetlands preserved for conservation.

The applicant proposes to construct the project in two phases of development with approximately 48 lots in phase 1 (west parcel) and 70 lots in phase 2 (east parcel). The proposed project will contain a mixture of 60'x120' lots and 70'x120' lots, with a total of 21 lots at 70' or wider and 97 lots at between 60' and 70' wide.

PUBLIC FACILITY ANALYSIS

Potable Water, Reclaimed Water, and Wastewater Services

The proposed residential development will be served by and required to connect to City of Winter Garden water, wastewater, and reclaimed water which are available and have adequate capacity to serve the proposed residential development. At such time that the property is developed, all necessary utility lines will be extended and connections made, all extension and connection costs shall be borne by the property owner.

Stormwater

The stormwater retention/detention facilities designed to service the proposed development

will meet or exceed the LOS Standards stated in Policy 4-1.1.1 of the Public Facilities Element included in the City of Winter Garden Comprehensive Plan. In addition, the stormwater facilities will be designed in accordance with St. Johns River Water Management District and City of Winter Garden requirements.

Common Recreation and Open Space

The proposed residential development is located within the Wekiva Study Area Resource Protection Overlay, and in accordance with the City of Winter Garden Comprehensive Plan Future Land Use Element Policies 1-3.1.7 and 1-3.1.8 no less than 25% Wekiva Study Area Open Space shall be provided. None of the 25% Wekiva Study Area Open Space shall be chemically treated with pesticides to establish sensitive natural habitat.

To the greatest extent possible, 5% of the developable area of the Property shall be set aside for passive, dry-land recreational use. In the event that this requirement cannot be met wholly or in part, then a financial contribution in accordance with Chapter 110, Article V, Division 2 of the City Code of Ordinances shall be made to the City Recreation Fund to fulfill the requirement.

The proposed development will have 10.97 +/- acres of open space, consisting of Wekiva Study Area Open Space and 2.16 +/- acres set aside passive, dry-land recreational use.

All of the common recreation and open space will be maintained by a homeowner's association and available to the residents. The developer shall establish a homeowner's association in accordance with Chapter 720, Florida Statutes and having governing documents in compliance with Chapter 110 of the City of Winter Garden Code of Ordinances.

Environment

The subject property is located within the Wekiva Study Area Resource Protection Overlay. The developers are required to provide a minimum of 25% of the gross developable area as Wekiva Open Space as stated in Policies 1-3.1.7 and 1-3.1.8 of the Future Land Use Element included in the City of Winter Garden Comprehensive Plan.

Transportation

The City will have a traffic study performed for the intersection of Roper Road (east leg) and Daniels Road, with a proportionate share of the cost paid by the Applicant. If a traffic signal is warranted, this developer will also be required to pay their proportionate share of the cost of those improvements.

Schools

Determination of School Capacity has been received from Orange County Public Schools. The School Capacity Determination dated August 27, 2012 received from Orange County Public Schools was a recommendation for denial due to capacity enhancement failure at the high school level. The applicant has coordinated with Orange County Public Schools to transfer owner capacity credits from Capacity Enhancement Agreement (CEA) 06-011-13 owned by Metropolitan Estates, LLC part of the Horizon West Village F property to the Bradford Creek property developer Standard Pacific of Florida.

Other Services

The City will provide garbage collection, police protection, and all other services regularly provided to City of Winter Garden residents including building permits. The property will be served by both Orange County Fire and Rescue and the City of Winter Garden Fire Department under the First Response System.

SUMMARY

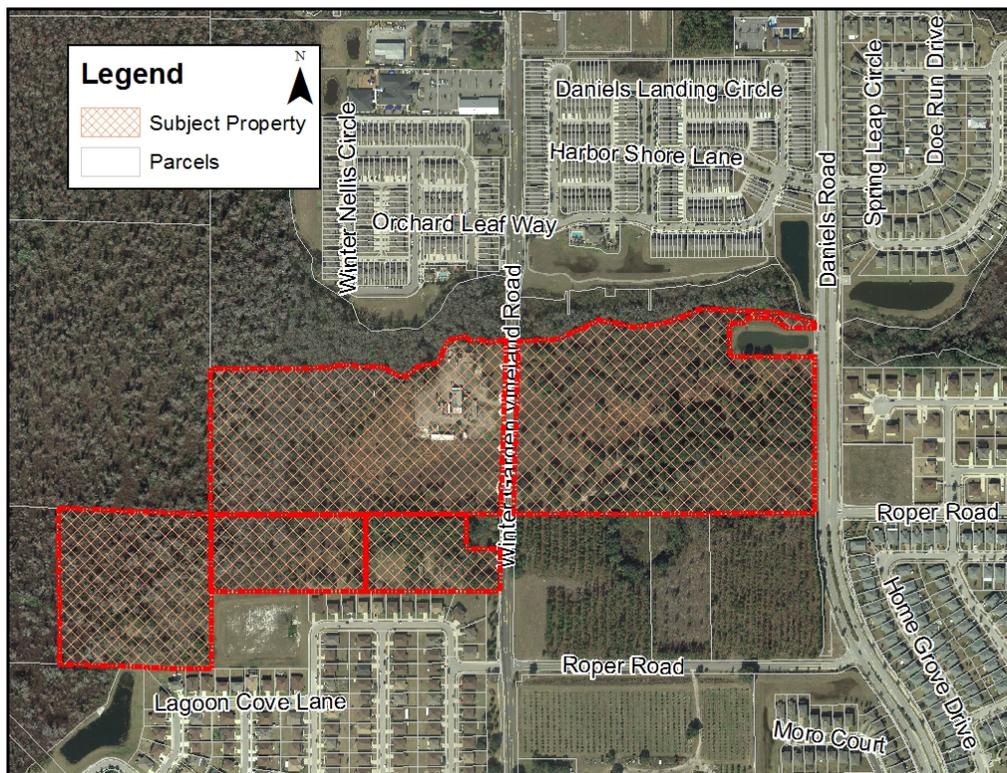
City Staff recommends approval of Ordinance subject to the following condition(s):

- Access to phase 2 (the east parcel) from Daniels Road must line up with the existing Roper Road located on the east side of Daniels Road and must be a public road.
- Proof of permitting for all wetland removal must be provided prior to any site work or construction beginning. In the event that permitting for wetland removal cannot be obtained then the PUD must be amended following all city procedures for amendment.

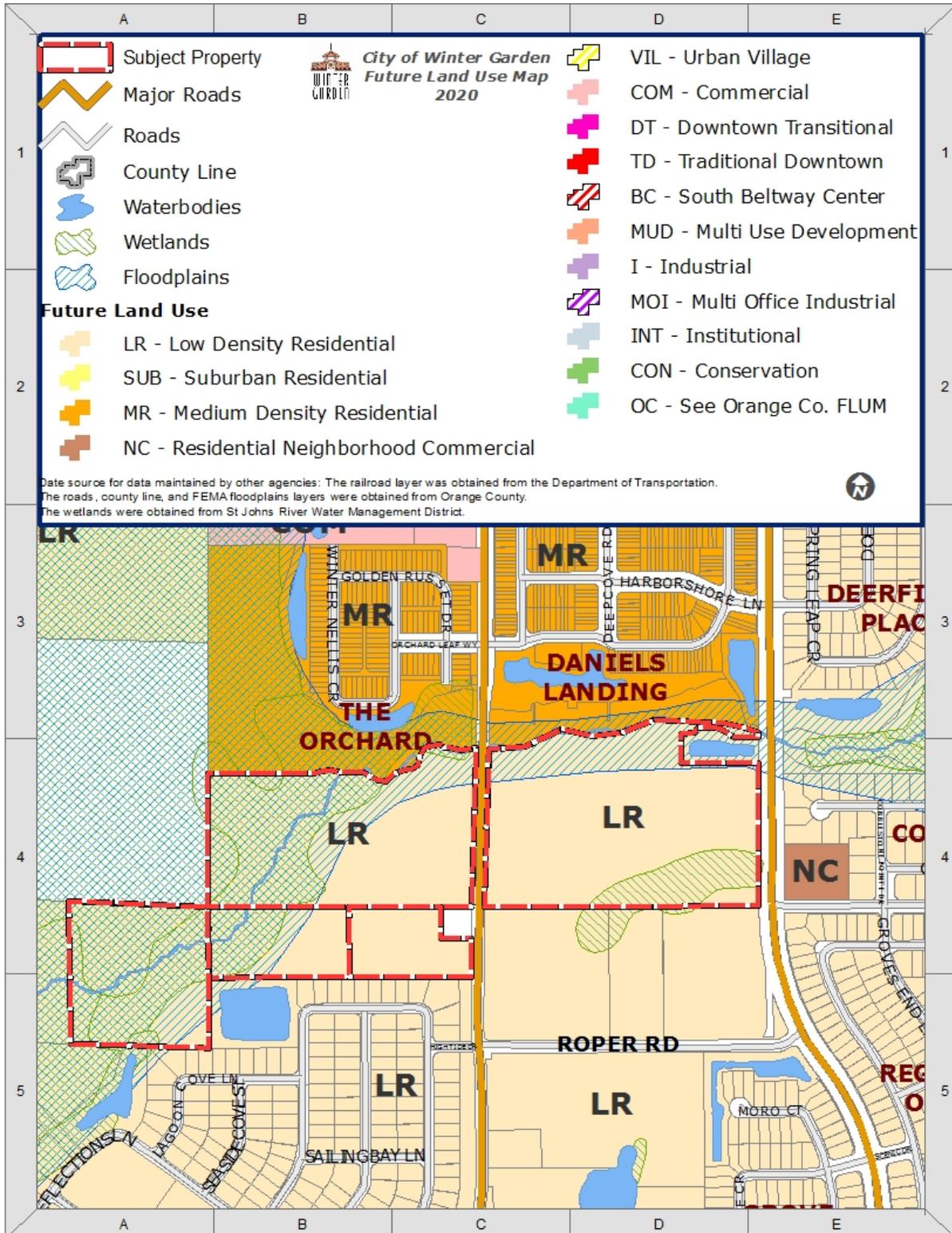
Rezoning the subject property from City R-1 to City PUD is consistent with the Future Land Use Map of the City's Comprehensive Plan, and is consistent with the trend of development in the area. The proposed development is a compatible and consistent with the uses in the surrounding area. The proposed development of the subject property is consistent with the goals, objectives and policies of the City's Comprehensive Plan and land development regulations.

MAPS

AERIAL PHOTO BRADFORD CREEK SUBDIVISION



**FUTURE LAND USE MAP
 BRADFORD CREEK SUBDIVISION**



END OF STAFF REPORT

THE CITY OF WINTER GARDEN
CITY COMMISSION AGENDA ITEM

From: City Manager, Mike Bollhoefer

Date: 10/18/12

Meeting Date: 10/25/12

Subject: Elimination of the CR 545 special impact fee

Issue: On October 26, 2006 the City adopted Ordinance 06-40 creating the CR 545 Special Impact Fee. This impact fee was additional to the existing impact fee. The funds were to be used to four lane CR 545 from Tilden Road to just south of the Hickory Hammock entrance.

Staff believes that the four laning will not be necessary for several years and intersection improvements at the Tilden and CR 545 intersection and the Marsh and CR 545 intersection will be sufficient to handle the traffic for several years. There will be sufficient funds generated by the regular impact fee to pay for these improvements. Furthermore, the special impact fee has been an impediment to economic development.

Recommended action: Motion to adopt Ordinance 12-61

ORDINANCE 12-61

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING DIVISION 2 OF ARTICLE II, CHAPTER 42 OF THE CITY'S CODE OF ORDINANCES; PROVIDING FOR ELIMINATION OF THE CR 545 SPECIAL BENEFIT OVERLAY DISTRICT IMPACT FEE; PROVIDING FOR PARTIAL REFUNDS OF PAID CR 545 SPECIAL BENEFIT OVERLAY DISTRICT IMPACT FEES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, on October 26, 2006, the City Commission adopted Ordinance 06-40 which created the CR 545 Special Benefit Overlay District Impact Fee; and

WHEREAS, since the adoption of Ordinance 06-40, new development has been hindered by recession and other economic constraints; and

WHEREAS, the CR 545 Special Benefit Overlay District Impact Fee imposes additional cost on development for those properties within the overlay district; and

WHEREAS, the City has recently conducted a review of the CR 545 Special Benefit Overlay District Impact Fee and reevaluated the need for expansion of CR 545 within the foreseeable future based on current development trends; and

WHEREAS, the City has concluded that less substantial improvements to CR 545 than those previously contemplated by Ordinance 06-40 are likely to be needed in the foreseeable future as the result of current development trends, and therefore, the four-laning of and other substantial improvements to CR 545 are unlikely needed for some time; and

WHEREAS, the City Commission desires to eliminate the CR 545 Special Benefit Overlay District Impact Fee for all new development and to partially refund such impact fees previously paid as specified herein.

NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:

Section I. Amendment. Sections 42-55 and 42-56 of Division 2 of Article II of Chapter 42 of the Code of Ordinances is hereby amended to reflect the following changes (~~struckout text~~ indicates deletions while underlined text indicates additions):

Sec. 42-55. - Road impact fee schedule.

(a) The road impact fee for all areas in the city shall be determined in accordance with the schedule set forth as identified in exhibit "A", Traffic Impact Fee Rates.

* The business park category will be used for all speculative heavy commercial or industrial incubators.

~~(b) CR 545 Special Benefit Overlay District — In addition to the road impact fees identified above, all new developing property located within the CR 545 Special Benefit Overlay District as identified in Exhibit "B", Map of the CR545 Special Benefit Overlay Area, shall be required to pay an additional road impact fee on or prior to the issuance of certificate of occupancy in accordance with the schedule set forth as identified in Exhibit "C", Traffic Impact Fee Rates for the CR 545 Benefit Overlay Area. This fee will automatically end on October 1, 2021 without any additional commission action.~~

(eb) If an applicant for a building permit contends that the land use for which the building permit is requested is not within the categories set forth in subsection (a) of this section or is within a different category, the development review committee shall make a determination as to the appropriate land use designation. Such determination may be appealed to the city commission, whose decision shall be final and binding on the applicant.

[Editor's Note - Exhibit B Map of the CR 545 Special Benefit Overlay Area and Exhibit C-Traffic Impact Fee Rates for the CR 545 Benefit Overlay Area are deleted pursuant to the change above.]

Sec. 42-56. - Alternative road impact fee calculation.

(a) If an applicant believes that the cost of his off-site roadway improvements needed to serve his proposed development will be less than that established in section 42-54, the applicant may submit an alternative road impact fee calculation, prepared by a competent professional within the traffic engineering field, to the city manager. The city manager may request an alternative impact fee calculation in lieu of the standard fee structure, if, in the manager's opinion, a study is warranted by exceptional traffic generation characteristics of the proposed development.

(b) The city manager shall review the data, information, and assumptions used by the applicant in the alternative road impact fee calculation to determine whether the requirements of this section are satisfied. If the city manager finds that data, information, and assumptions used by the applicant to calculate the alternative impact fee satisfy the requirements of this section, he shall recommend an alternative road impact fee for the applicant to the city commission. If the city manager finds the requirements of this section are not satisfied, he shall so advise the applicant. The applicant may appeal the city manager's decision to the city commission, and the decision of the city commission as to an alternative road impact fee or the road impact fee schedule shall be final and binding on the applicant.

(c) The alternative road impact fee shall be calculated by use of the following formula:

Alternative Impact Fee =	$\frac{(ADT) \times (DF) \times (TL) \times (C)}{CAP \times 2}$	$(1 + IF)^n \times (1+FS)$
--------------------------	---	----------------------------

Where:

ADT	=	Number of average daily trip ends generated
-----	---	---

DF	=	Diversion capture factor (% new trips)
TL	=	Local trip length for each proposed use
CAP	=	Typical new capacity per lane mile in vehicles per day at LOS D (7500)
C	=	Cost of right-of-way acquisition plus construction costs (\$4,945,000.00 per lane mile in 2005 dollars)
IF	=	Inflation Factor projected at 2.5% per year
ⁿ	=	Number of periods from the base year of 2005
FS	=	Financing surcharge of 29.90%

~~(d) Reserved.~~

~~(e) An applicant may provide an alternative road impact fee for the CR 545 Special Benefit Overlay District Impact Fee Area subject to approval by the city manager. The methodology for an alternative calculation should be approved prior to submittal of the calculation and shall be based upon the following formula:~~

~~CR 545 Benefit Overlay District Impact Fee per ERU = (The City's Contribution to Improve the southern section of CR 545 (approximately \$12,010,000 in 2006 dollars) + Inflation to 2011 + Debt Service Cost) / Projected number of ERUs constructed post 2005 that will effect CR 545.~~

One ERU equals the amount of traffic from one single family residential unit.

(e) ~~(f)~~ The alternative road impact fee calculations shall be based on data, information or assumptions contained in this division and supporting documents, or provided by independent sources, provided that:

(1) The independent source is an accepted standard source of transportation engineering or planning data or information;

(2) The independent source is a local study carried out by a qualified traffic planner or engineer pursuant to an accepted methodology of transportation planning or engineering; or

(3) If a prior approved development submitted, during the approval process, a traffic impact study substantially consistent with the criteria required by this division, and if that study is determined by the city manager to still be valid, the traffic impacts of the approved development shall be presumed to be as described in such prior study. In such circumstances, the road impact fee payable for such development under this division shall be revised accordingly to reflect the presumed traffic impact of such development. There shall be a rebuttable presumption that a traffic impact study conducted more than one year prior to the effective date of the ordinance from which this division derives is invalid. This subsection shall not apply where a development order previously granted provides that this division shall supersede such traffic impact study.

(f) ~~(g)~~ The diversion and capture factor used in the alternative road impact fee calculations shall be that used in the March, 2004, City of Winter Garden Road Impact Fee Study or based on actual surveys conducted in the city or West Orange County. For the purposes of the alternative

road impact fee calculation, the diversion and capture factor shall be the percentage of average daily trips that a proposed use will generate that constitutes new or additional trips added to the city's major road network system. Those trips that do not represent additional trip ends shall not be counted as new or additional trips.

(g) (h) The new building shall be presumed to generate the maximum number of average daily trips to be generated by the most intensive use permitted under the applicable land development regulations, such as the comprehensive plan or zoning regulations, or under applicable deed or plat restrictions.

(h) (i) The cost of development and the city review of the alternative road impact fee calculation shall be paid by the applicant. Upon submittal of the alternative road impact fee calculation by the applicant, the finance department shall collect a review deposit of \$1,000.00 from the applicant.

(i) (j) A determination by the city manager that the alternative calculation does not satisfy the requirements of this section may be appealed to the city commission.

Section II. *Partial Refund of CR 545 Benefit Overlay Area Impact Fee.* Commencing upon thirty (30) days after the Effective Date of this Ordinance, the City will begin the process to refund, in pro rata shares, any unspent and unencumbered portion of the CR 545 Benefit Overlay Area road impact fees ("CR 545 Impact Fee") previously received by the City pursuant to Section 42-55 or 42-56 of the City Code prior to the Effective Date of this Ordinance. The pro rata refund shall be based on the ratio of the CR 545 Impact Fee paid for each parcel or property to the total amount of the CR 545 Impact Fees received by the City for all parcels and properties. All portions of the CR 545 Impact Fee received by the City that have been spent or encumbered by the City as of the Effective Date of this Ordinance for any purpose identified in Section 42-63(a), City of Winter Garden Code of Ordinances, shall not be refunded. Partial impact fee refunds will be made in accordance with the following procedure:

(1) On or before November 30, 2012, the entity or person that paid a CR 545 Impact Fee to the City must file an application with the City Community Development Department seeking a partial refund of the CR545 Impact Fee paid by such entity or person. Any other person or entity that wishes to make a claim to a partial refund of CR545 Impact Fee previously paid to the City must file an application for the refund by November 30, 2012.

The application form will be made available by the City Community Development Department for those seeking refunds.

(2) At a minimum, the partial impact fee refund application must include the following information:

a. Name, address and telephone number of the person/entity seeking the partial refund (the "applicant");

b. A notarized sworn statement that the applicant is the entity or person that paid the CR545 Impact Fee to the City, or alternatively the entity or person that did not pay the fee to the City but is entitled to the partial refund and setting forth the basis for such entitlement and attaching all documentation supporting the claim;

- c. The legal description and address of the property for which the partial refund is sought;
- d. The date or approximate date on which the CR545 Impact Fee was paid and the amount paid and documentation reflecting the amount and date paid; and
- e. A copy of the dated receipt issued by the City for payment of the CR545 Impact Fee.

f. Representations confirming that the applicant is entitled to the requested partial refund. As part of the application, the applicant must include an executed agreement (“Indemnity and Hold Harmless Agreement”) with the City which provides that in the event the partial refund is paid to the applicant and either the City or a court of competent jurisdiction later determines that the partial refund should not have been paid to the applicant or that a different person or entity is entitled to the partial refund, or both, then the applicant shall return the partial refund to the City or to the person or entity as directed by the City or court. Further, the Indemnity and Hold Harmless Agreement shall also include, at minimum: (i) that the applicant shall hold harmless and indemnify the City from and against all claims, disputes, lawsuits, judgments and damages, including without limitation, reasonable attorneys’ fees and costs at the trial and appellate level, arising out of or in any way related to the City’s payment of the partial refund and any refund, return, repayment, rescission and other actions involving the partial refund; (ii) the applicant’s release of the City from any and all claims for, and the applicant’s waiver of, all portions of the CR 545 Impact Fees paid by the applicant and to which the applicant claims to have a right which portions are not refunded to the applicant; and (iii) for the hold harmless obligation the City shall have the right to select its counsel. The City Attorney shall provide and approve the form of the Indemnity and Hold Harmless Agreement for execution.

(3) If a partial refund application is not timely filed on or before November 30, 2012, by the entity or person that paid the CR 545 Impact Fee or other entity or person that is entitled to said partial refund, the CR 545 Impact Fee attributable to such property (including all its units/ERUs) shall be forfeited to the City and, thereafter be placed within the City’s general road impact fee trust fund for use in a manner consistent with the purpose of general road impact fees.

(4) On or before January 25, 2013 at 5:00p.m. the City will review and evaluate all applications and documents submitted for partial reimbursement therewith, and request from any applicant any additional information that the City deems appropriate in order to satisfy the City that a partial refund is appropriate. In the event more than one application for a partial CR 545 Impact Fee refund for a property is timely received by the City, the City shall notify each applicant of the other applications and provide a copy of each application and documents for such property submitted as part of each application to the other applicants for the same property. Each applicant shall then have ten (10) days after the date of the City’s notification of multiple applications to submit additional documents and information to the City for the City’s consideration. Thereafter, the City may either determine which applicant is entitled to the partial refund, that an allocation between the applicants is appropriate and pay the partial refund as the City so allocates the partial refund between the applicants, or pay the requested partial refund to the Clerk of the Circuit Court of the 9th Judicial Circuit as part of an interpleader lawsuit to allow the Circuit Court to determine who between the different applicants may be entitled to such partial refund.

(5) To the extent that partial refunds are to be paid to the fee simple owner of the property at issue as of the date of the application, the payment will be payable jointly to all fee simple owners of the applicable property as of the date of the application.

(6) The City Manager is hereby given the authority to set policies and further procedures as may be necessary to carry out the purpose and intent of this Section II.

(7) To the extent that any partial refunds are paid by the City to any entity or person and either the City or a Court of competent jurisdiction determines that the partial refund, or any portion of any partial refund, should have been paid to a different entity or person, the City shall have the right to recover such partial refund, from the entity or person that received the partial refund and such entity or person receiving such partial refund shall have the obligation to repay to the City, such partial refund.

(8) To the extent not prohibited by law, any person or entity receiving a partial refund as set forth above and as a condition thereof, shall indemnify, save and hold harmless the City and the City's officers, agents and employees from and against any and all losses and claims, demands, payments, attorneys' fees, suits, actions, recoveries and judgments of every nature and description whatsoever. This provision also applies to Orange County, Florida in connection with the Interlocal Agreement regarding CR 545.

For purposes of this Section II, the word "unencumbered" means the lack of any contractual obligations and the lack of any vested rights, either of which would otherwise require the expenditure of money. This section II shall control over any conflicts with Chapter 42 of the Code of Ordinances.

Section III. *Severability.* To the extent that other Ordinances and parts of Ordinances are in conflict this Ordinance, this Ordinance controls.

Section IV. *Codification.* Section I of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; Sections and exhibits of this Ordinance may be renumbered or relettered to accomplish such intention, if adopted; the word "*Ordinance*" may be changed to "*Section*", "*Article*", or other appropriate word. Sections II, III, IV and V are not intended to be codified.

Section V. *Effective Date.* This Ordinance shall become effective upon adoption by the City Commission.

FIRST READING: _____ October 11, _____ 2012.

SECOND READING AND PUBLIC HEARING: _____ October 25, _____ 2012.

APPROVED:

JOHN REES, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

c:\docume~1\m175e6-1.mld\locals~1\temp\metasave\ordinance repeal of cr 545 special benefit overlay district road impact fee rev 8-6-12.doc

THE CITY OF WINTER GARDEN
CITY COMMISSION AGENDA ITEM

From: Don Cochran, Public Services
Via: City Manager Mike Bollhoefer
Date: October 15, 2012 **Meeting Date:** October 25, 2012
Subject: Purchase of Two (2) Solid Waste Collection Trucks

Issue: The 2012–2013 budget includes the purchase of the solid waste trucks listed below. It is our recommendation to use piggy-back bids for these purchases.

1. 2013 Lodal MAG 20 Sideloader

This vehicle replaces truck #214, a 2002 Evo Mag 20 with over 120,000 miles. Estimated cost of repairs for the past three years has been \$39,113.11.

Purchase price of the new Lodal Truck – \$207,520
City of Venice, FL, bid #2954-12

2. 2013 Mack MRU 40-Yard Frontloader

This vehicle will replace truck #260, which is a Mack truck with over 105,000 miles, with repair costs of approximately \$33,600 for the past three (3) years.

Purchase price of the new 2013 Mack truck – \$228,597.00
Florida State Sheriffs, bid #11-19-0907

Recommended Action:

Recommend approval of the purchase of the 2013 Lodal MAG truck for \$207,520 and the purchase of the 2013 Mack MRU truck, for \$228,597.00.

Attachments/References:

- Bid packets

MEMO

To: Donald Cochran, Assistant City Manager

From: Richard Fasano, Solid Waste Division Manager

Date: 10/3/2012

Re: Unit Number 214 Replacement

Message:

Don,

The attached bid is to replace Load All truck number 214. We are piggybacking with the City of Venice's Bid to purchase the new unit from Container Systems & Equipment Co. You will find a copy of the bin in the proposal and the cost of the new truck is \$207,520. The unit we are replacing is a 2002 Evo Mag 20 with over 115,000 miles. Over the last three years, we have spent approximately \$39,113.11 in repairs and maintenance (a total of \$100,883.71 since the purchase) and considering the age of the unit, it does not make financial sense for us to continue spending money on a piece of equipment that is beyond its useful life.

Respectfully

Richard Fasano

Container Systems & EQUIPMENT CO., INC.

October 1, 2012

Mr. Richard Fasano
City of Winter Garden

RE: Piggyback proposal of the City of Venice bid # 2954-12 for 2013 Side Loading Refuse Truck, for the purchase of a Lodal MAG 20 sideloader

Hi Richard,

Container Systems & Equipment Company agrees to allow the City of Winter Garden to piggyback the City of Venice's bid #2954-12 for the purchase of another Lodal sideloader. The bid package contains an add and delete option sheet that allows you to make changes to spec a truck that meets your needs. The bid price is \$210,760.

	\$210,760
Change engine from Cummins ISC 285 to Navistar DT466 (285 HP)	- 10,000
Delete Amerex fire extinguishers	- 1,400
Deduct paint charge since your color is standard white	- 900
Deduct Motorola 2-way radio	- 925
ADD additional tipper (\$5,200-\$3,050)	+ 2,150
ADD underbody tailage locks with extended seal	+ 3,250
ADD Intec backup camera system – color, flat screen	+ 1,600
ADD Biodegradable hydraulic oil	+ 1,200
ADD 3/16" liner to hopper floor	+ 350
ADD tool box	+ 300
ADD for spare wheel	+ 550
ADD 3/16" hopper sidewall liners	+ 585
TOTAL	\$207,520

The above options are shown on the following pages which are part of the Venice bid. This package has a complete copy of the Venice bid. As stated in the bid, delivery is 210 to 240 days. Thank you for the opportunity to work with City of Winter Garden again.

Sincerely,



Robert Barton

City of Venice

ITB #2954-12

To be opened at 2:00 pm June 19, 2012

ONE (1) 2013 Side Loading Refuse Truck

BID SCHEDULE ATTACHMENT

The following options are also available. Costs with an * indicate that the option is included in the bid price.

DESCRIPTION	PRICE
25 cu yd body (includes tandem rear axles)	\$18,260
28 cu yd body (includes tandem rear axles)	\$19,010
Underbody tailgate locks w/ extended tailgate seal	\$3,250
Split-body option (2 compartment) & underbody locks	\$19,750
Global Search Eye Sensor System	\$4,200
Preco Preview Back-up Sensor system w/2 sensors	\$2,100
air-ride seat ILO flip-up seat	\$575
spare wheel	\$550
undercoating	\$410*
Cummins ISC8.3 extended warranty - 5 yr, 200,000 mile	\$3,500
Cummins ISC8.3 extended warranty - 4 yr, 150,000	\$2,125
Cummins ISC8.3 extended warranty 3yr. 100,000	\$1,300
International DT466 extended warranty 3yr	\$3,500
International DT466 extended warranty 5yr	\$5,750
Allison transmission 2 yr extended warranty (5 yrs total)	\$1,100
Intec rear vision camera system	\$1,600
Amerex fire suppression system	\$4,000
dual roof vents (not available w/ air conditioning)	\$525
biodegradable hydraulic oil	\$1,200
hopper chute with 1 door	\$750
hopper chute with 2 doors	\$850*
additional worklights - each (1 is std.)	\$80
silicone coolant hoses	\$600
Cummins ISC8.3 - 285 hp	included
Cummins ISC8.3 - 240 hp	N/C
NOTE: Lodal standard engine is 285 HP. 240 HP engines can be special ordered at no additional cost.	
International DT466 - 285 hp (deduct)	-\$10,000
International DT466 - 230 hp (deduct)	-\$10,000
Bendix AD9 air dryer	\$550*
axle differential lock w/light and buzzer	\$225*
FT90 Autoloader - automated arm option pkg., includes:	\$25,795
*operate in gear at idle w/ joystick control *hopper enclosure w/curb-side door *hydraulic hopper cover *curbside air-ride seat *dual camera system w/switcher (hopper and back-up)	
air conditioning - 45,000 btu	\$2500*
amber strobe on tailgate, w/brushguard	\$250*
dual amber strobes in rear bumper - brake activated	\$250*

(continued)

MEMO

To: Donald Cochran, Assistant City Manager

From: Richard Fasano, Solid Waste Division Manager

Date: 10/3/2012

Re: Unit Number 260 Replacement

Message:

Don,

The attached bid is to replace Front End Load truck number 260. We are piggybacking with the Florida Sherriff's bid to purchase a new unit from Nextran of Orlando. You will find a copy of the bid in the proposal and the cost of the new truck is \$228,597.00. The truck is a 2003 Mack with over 105,000 miles (the true mileage is difficult to determine due to the City acquiring the unit as refurbished in November of 2006.) The shop determined that the previous damage prior to purchase was extensive. Over the last three years, we have spent approximately \$33,600 in repairs and maintenance and considering the age of the unit, it does not make financial sense for us to continue spending money on a piece of equipment that is beyond its useful life.

Respectfully,

Richard Fasano

BUYER'S ORDER



NEXTRAN™

TRUCK CENTER



Sold to: City Of Winter Garden
 880 West Bay Street
 Winter Garden, FL 34787

Invoice Number: 10012012
Date: October 1, 2012
PO #:
Salesman: Rob Race

Make	Year	Model	Type	VIN NUMBER	Amount
Mack	2013	MRU	NEW	ORDEROUT	\$ 132,595.00
McNeilus	2013	4029/40yrd	NEW	ORDEROUT	\$ 96,002.00
Total Selling Price:					\$ 228,597.00

Less Trade In: \$0.00

Price in accordance with the Florida Sheriffs
 State BID 11-19-0907, Specification # 51
 , Page 1189 - 1220

Sub Total: \$ 228,597.00

Central Florida Base Price \$ 130,007
 66,000 lbs GVW Upgrade \$ 1,051
 Double Frame Insert \$ 535
 Front Engine PTO \$ 1,002
 McNEILUS 4029 40 YD Front Loader \$ 96,002
 Complete Spec Attached

Federal Excise Tax: _____

Net Price Difference: \$ 228,597.00

Disposal Fee:

Sales Tax: ????????

Tag & Title \$ -

Plus Payoff: \$ -

Customer Signature _____

AMOUNT DUE: \$ 228,597.00

WITH OUT FLA SALES TAXES

MV Registration#: MV12152

Our Service Manager is Joe Ponder

Our Parts Manager is Matt Lenhart

Our Sales Manager is Barry Sessions

Feel free to call if you need any assistance!

2200 W. Landstreet Rd., Orlando, FL 32809

Phone: 800-800-6225 Fax: 407-398-0297



**City of Winter Garden
2011 Florida Sheriffs Bid #51
2013 Mack MRU613
Front Loader Truck
Sheriffs Bid (11-19-0907)**

1. Bid Price: \$130,007.00 - *MRU*
2. GVWR upgrade: ~~\$1,051.00~~ *66,000 lbs* \$
3. Double Frame; Full Steel Insert: \$535.00 ✓
4. Front Engine PTO (FEPTO): \$1,002.00 ✓
5. Loader Body HEIL Half/Pack Front End Loader
\$92,884.00

Total Bid Price: \$225,479.00

2011 FSB X 5% = 2012 FSB Budget

Number

\$236,753.00

**Prepared For:**

City of Winter Garden
880 West Bay Street
Winter Garden, FL 34787
(407) 656-4111

Presented By:

Nextran Truck Center, Orlando
2200 W. Landstreet Road
Orlando, Florida 32609
800-800-6225
rtrace@nextrancorp.com

Oct 1, 2012
2013 MRU613
Ref#: ADZS002613C

Pid Code	Description
	ORDER/CUSTOMER/VEHICLE INFORMATION
5050001	INITIAL REGISTRATION LOCATION, UNITED STATES, FLORIDA
CIR0001	IDLE EMISSION CERTIFICATION, IDLE EMISSION CERTIFICATION - BASIC
0130001	TYPE OF SERVICE, COMMERCIAL
APP0003	VEHICLE APPLICATION CLASS, HEAVY VOCATIONAL - Unlimited operation on concrete, asphalt, or maintained gravel/packed dirt with a maximum 3% grade; limited operation on unmaintained surfaces with maximum 5% grade; limited operation on concrete, asphalt, or maintained gravel/packed dirt with maximum 10% grade. (3 AXLES) 78,000 lbs (35,281 kg) MAX GVW. (4 AXLES) 80,000 lbs (36,288 kg) MAX GVW.
CAR0090	CARRIER APPLICATION, WITH CRD150-151, Unlimited miles on 3% grade maintained gravel/packed dirt or paved, Max 15% miles on 10% grade maintained gravel/packed dirt or paved, Max 10% miles on 5% unmaintained, maintained gravel, packed dirt, or paved. 90000# (41000 kg) MAX GCW. (Carrier Code USA-V1)
0010002	VEHICLE TYPE, STRAIGHT TRUCK WITHOUT TRAILER
0064951	VEHICLE USE AND BODY/TRAILER TYPE, REFUSE, FRONT LOADER On/Off Hwy
PB1013C	PRICE BOOK LEVEL, 2013C PRICE BOOK LEVEL
PT10019	PRODUCT TYPE, PRODUCT TYPE - OM64R TRUCK
PC10029	PRODUCT CLASS, PRODUCT CLASS 29
US00010	BACK OFFICE PROCESS, BACK OFFICE PROCESS
	BVS/WHEELBASE/PLATFORM
0021194	CHASSIS (BASE MODEL), MRU603 6-WHEEL TRUCK
2741008	FRAME RAILS, 13.25" x 3.25" x .3125" (337 x 83 x 8mm) STEEL Combined rating w/inside channel reinforcement Section Modulus 26.06 cu in/RBM 3,127,200 in lbs per rail.
2710210	WHEELBASE, 210" (5334 mm) WB 207" CA (5258 mm)
2720273	PLATFORM, 273" LP (6934 mm) 66" AF (1676 mm) USED WITH 210" WB
2731001	FRAME REINFORCEMENT - INSIDE, 1/4" STEEL CHANNEL
	ENGINE/TRANSMISSION/CLUTCH
1001544	ENGINE, MACK MP7-325M 325 HP @1500-1900 RPM (PEAK) 1200 LB FT. MAX TORQUE @ 1100-1300 RPM
1364940	TRANSMISSION, ALLISON RDS4560
1330000	CLUTCH, OMIT CLUTCH
	EXHAUST/EMISSIONS
DPF0102	DPF, CLEARTECH VV DPF VERTICAL LH SIDE BACK OF CAB W/SCR VERT RH SIDE BOC
EAS0101	EXHAUST AFTER-TREATMENT SYSTEM, EXHAUST AFTER-TREATMENT SYSTEM DIESEL PARTIC FILTER CERAMIC ACTIVE REGEN
RGN0006	DPF REGENERATION CONTROL, AUTO IN MOTION, MAN. STATIONARY MAN. INHIBIT & AUTO STATIONARY W/PTO ENGAGED
CS10001	DPF SMART SWITCH, LOCKING INHIBIT DPF REGENERATION SWITCH
1305021	EXHAUST, DPF, OUTBOARD, SINGLE (R/S) VERTICAL STRAIGHT EXHAUST STACK PLAIN END, SIDE OUTLET DIFFUSER
	ENGINE EQUIPMENT
1134101	AIR COMPRESSOR, MERITOR/WABCO 636 (37.4 CFM)
1060001	PRE-CLEANER (DRY TYPE CLEANER)
1321228	ALTERNATOR, DELCO 12V 130A (24SI) BRUSH-TYPE
3165105	BATTERIES, (3) MACK 12V 650/1950 CCA THREADED STUD TYPE
1190004	TO -34 DEGREES F (-37 DEGREES C)
1230011	MACK COOLANT CONDITIONER

Pid Code	Description
1100000	ENGINE BRAKE, W/O ENGINE BRAKE
1180026	FAN DRIVE, BEHR FAN AND ELECTRONIC MODULATING FAN DRIVE
1400002	FLYWHEEL HOUSING, ALUMINUM
2930001	FUEL-WATER SEPARATOR, MACK W/MANUAL DRAIN VALVE (INTEGRAL W/PRIMARY FUEL FILTER)
1249009	HOSES - RADIATOR/HEATER, SILICONE W/SPRING LOADED CLAMPS FOR BOTH RADIATOR AND HEATER HOSE
4310000	OIL PAN HEATER, W/O OIL PAN HEATER
1311212	STARTER, MITSUBISHI ELECTRIC 105P PLANETARY GEAR REDUCTION STARTER
4110004	ELECTRONIC STARTER INTERLOCK
4191003	TETHER DEVICE, FURNISH FOR RADIATOR, OIL, POWER STEERING, TRANS FILL CAP AND DIPSTICK W/CHAIN
	CLUTCH/TRANS EQUIPMENT/DRIVELINES
3350002	CLUTCH PEDAL, CLUTCH PEDAL RUBBER PAD
1920001	TRANSMISSION BELL HOUSING, IRON
3380000	W/O DRIVESHAFT GUARD
1951201	DRIVELINE - MAIN, MERITOR 17 MXL "XTENDED LUBE"
2041202	DRIVELINE - INTERAXLE, MERITOR 17 MXL "XTENDED LUBE"
	CAB (A thru G)
1730002	AIR CONDITIONING, MACK INTEGRAL W/HEATER (COMBO HEATER/AIR CONDITIONER UNIT) W/R134a REFRIGERANT
5931001	AIR CONDITIONING COMPRESSOR, SANDEN ROTARY
1440602	CAB, CA531 LOW-PROFILE COE (WELDED STEEL GALVANIZED SHELL) INCLUDES MACK RUST PREVENTATIVE PROCEDURES
3260003	CAB LIFT/TILT, LOCATED IN STD LOCATION
9970001	CERTIFIED WEIGHT
9050001	PARK BRAKE ACTIVATED
4240003	MC DOORS, LH & RH (ROLL-UP WINDOWS)
3410001	ENGINE SHUTOFF, KEY TYPE
4600102	FENDERS, POLYUREA FOR CHASSIS AND CAB SECTIONS
1980001	GAUGES, ENGLISH DISPLAY
1990008	GAUGE, SPEEDOMETER W/TRIP ODOMETER (ELECTRONIC 1% ACCURACY) GAUGE, TACHOMETER
2140004	TRANSMISSION GAUGE AND TRANS. OIL HIGH TEMPERATURE LIGHT
1450001	GLASS - CAB WINDOW, SAFETY TINTED WINDSHIELD SIDE AND REAR WINDOWS
4000000	GRILLE, STANDARD FINISH
	CAB (H thru R)
1540006	HORN - AIR, (1) TWIN TRUMPET (MOUNTED UNDER CAB)
1600001	CHASSIS KEYED AT RANDOM - 2 KEYS
1522102	MIRRORS - EXTERIOR, WEST COAST, RH & LH BRIGHT FINISH MACK BULLDOG HEATED W/STAINLESS STEEL ARMS AND BRACKETS
1532002	MIRRORS - CONVEX TYPE, BRIGHT FINISH, LH & RH 8.0" DIA. MOUNTED BELOW LOWER ARM OF WEST COAST MIRROR
4710001	MIRRORS - PROXIMITY, RECT CONVEX ABOVE RH DOOR WINDOW
4440001	MUD FLAPS, 24" FRONT FENDER MOUNTED
4150006	FORWARD OVERHEAD STORAGE, (2) RADIO SHELF, DRIVER SIDE
1746000	AM/FM STEREO CD W/WEATHERBAND

Pid Code	Description
1569002	RADIO ANTENNA, CH STYLE COWL MOUNTED ON LH SIDE
6410002	RADIO SHUTOFF, AUTO SHUTOFF FOR RADIO ENTERTAINMENT SYSTEM WHEN VEHICLE IS ENGAGED IN REVERSE
	CAB (S thru Z)
1962273	SEAT - DRIVER, BOSTROM TALLADEGA 905 (MID-BACK) AIR SUSPENSION
1971107	SEAT - RIDER, MACK FIXED (MID-BACK) NON-SUSPENSION
4850000	SEAT COVERING, ALL VINYL, CAB INTERIOR DEPENDENT COLOR DRIVER & RIDER SEATS
5929003	SEAT BELTS (ORANGE)/RETRACTORS, LAP AND SHOULDER FOR DRIVER AND RIDER SEAT
1500002	DRIVER'S AND RIDER'S SEAT
1610012	STEERING WHEEL, TWO SPOKE URETHANE GRIP PAINTED SPOKES & BULLDOG HORN CAP
2390009	TURN SIGNAL SWITCH, MANUAL CANCELLING TURN SIGNALS
1480011	WINDSHIELD WIPERS, 2 SPEED ELECTRIC MOTOR W/INTERMITTENT FEATURE
	FRAME EQUIPMENT/FUEL TANKS
2794101	BUMPER - FRONT, SWEEP BACK STEEL CHANNEL TYPE EXTENDED 63"/1600 mm BBC W/CENTER TOW PIN (92.62" x 11.25")
2811008	CROSSMEMBERS, HD STEEL CHANNELS BACK TO BACK BEHIND CAB & INTERMEDIATE(S)
4670007	CROSSMEMBER (BEHIND REAR AXLE), W/O OPTIONAL CROSSMEMBERS BEHIND REAR AXLE/BOGIE
2240015	10" FRONT FRAME EXTENSION FOR REFUSE SERVICE
3530001	SKID PLATE UNDER BUMPER AND RADIATOR
2430008	TOWING DEVICE - FRONT, TOW PIN
2760001	TOWING DEVICE - REAR, HOOKS (FRAME MOUNTED)
2887080	FUEL TANK - LH, 80 GALLON (300 L) STEEL, 26"x24" RECTANGULAR
2900000	FUEL TANK - RH, OMIT RH STANDARD
DF13025	6.6 GALLON (25 L) 22" DIAMETER TANK LEFT SIDE MTD
5901100	FUEL DRAW/RETURN SYSTEM, AEROQUIP FIRE RESISTANT HOSE
8520001	FOR LH FUEL TANK INCLUDES SUMP
4890022	RELOCATE FUEL TANK, LOCATE BEHIND LH FENDER - 5" BELOW TOP RAIL
	FRONT AXLE/EQUIPMENT/TIRES
2401501	FRONT AXLES, 20000# (9072kg) MACK FXL20 WIDE PIVOT CENTER
9001261	TIRES BRAND/TYPE - FRONT, BRIDGESTONE - TUBELESS RADIAL PLY, (2) 425/65R22.5 20 L M844F (ALL POSITION) (CHASSIS WIDTH EXCEEDS 96")
250 2000	WHEELS - FRONT, STEEL DISC (10-HOLE)
5312724	(2) 22.5x12.25 HAYES LEMMERZ 10-HOLE HUB PILOTED (11 1/4"/286mm BC)
3760000	WHEELS - POLISHED (FRONT), W/O FRONT DISC WHEEL BRIGHT FINISH
2411105	BRAKES - FRONT, MERITOR "S" CAM TYPE 16.5" x 6" Q+
2472200	BRAKE DRUMS - FRONT, CAST OUTBOARD MOUNTED
6370000	DUST SHIELDS - FRONT BRAKE, OMIT
2481000	HUBS - FRONT, FERROUS
3850000	WITHOUT SHOCK ABSORBERS
2420003	SLACK ADJUSTERS - FRONT, MERITOR - AUTOMATIC
2442003	SPRINGS - FRONT, MACK MULTILEAF 20000# (9072kg) GROUND LOAD RATING
3840001	STATIC LOAD CUSHIONS
2452217	STEERING, XD120 SHEPPARD STEERING GEAR (RATIO 23:1)
	REAR AXLE/EQUIPMENT/TIRES/RATIOS
268 1020	REAR AXLE/SUSPENSION, 46000# (20866kg) MACK S462 CAST DUCTILE IRON HOUSING, SS462 MACK
1861035	MULTILEAF (CAMELBACK) 46000#

Pid Code	Description
7170001	4S/4M SYSTEM REAR WHEEL END SENSORS
9011318	TIRES BRAND/TYPE - REAR, BRIDGESTONE - TUBELESS RADIAL PLY, (8) 12R22.5 16 H L320 (TRACTION)
018 0153	CARRIER/RATIO - REAR AXLE, CRDP150/151, 4.50 RATIO
2570450	
267 2000	WHEELS - REAR, STEEL DISC (10 HOLE)
3462720	(8) 22.5x8.25 (210 mm) HAYES LEMMERZ 10-HOLE HUB PILOTED (11 1/4"286 mm BC)(TWO HAND HOLE)
2531104	BRAKES - REAR, MERITOR "S" CAM 16.5"x7" (419x178 mm) Q+
5400001	BRAKE DIAPHRAGMS, NEOPRENE FOR MGM BRAKE CHAMBERS
2632200	BRAKE DRUMS - REAR, CAST OUTBOARD MOUNTED
6380000	DUST SHIELDS - REAR BRAKE, OMIT
2641000	HUBS - REAR, FERROUS
2622003	OIL SEALS, STEMCO (VOYAGER)
2560003	POWER DIVIDER LOCKOUT W/WARNING LIGHT AND BUZZER (INCLUDES IN CAB MANUAL AIR VALVE)
3910001	RAISED REAR BRAKE CHAMBERS (REAR REAR AXLE ONLY)
2300001	SHOCK INSULATORS, HEAVY DUTY URETHANE
2550003	SLACK ADJUSTERS - REAR, MERITOR - AUTOMATIC
4020002	SPRINGS, ANTI-SWAY
3009013	SPRING BRAKE CHAMBERS - VENDOR, MGM MDL TR-T (TAMPER RESISTANT BRAKE CHAMBERS) RECLOCK INLET PORTS TO 2 & 10 O'CLOCK POSITIONS
4790001	SPRING BRAKE CHAMBERS, TYPE 30/30 REAR
3290001	TRANSVERSE TORQUE ROD (REAR AXLE ONLY)
2700002	BRONZE TRUNNION BUSHING
	AIR/BRAKE
2961005	AIR DRYER, MERITOR/WABCO HEATED AIR DRYER, 1800 W/COALESCING OIL FILTER
6980006	ANTI-LOCK BRAKE SYSTEM, BENDIX ABS
3520100	AIR CONTROL VALVES - VENDOR, BENDIX SWITCHES AND VALVES WHERE POSSIBLE
DVA0001	DRAIN VALVES, MANUAL (PETCOCK) DRAIN VALVES ON ALL TANKS
	ELECTRICAL
1850001	BATTERY BOX(ES), STEEL BASE
4050005	BATTERY BOX COVERS, MOLDED PLASTIC
3939048	BATTERY BOX - MOUNTING, SINGLE BOX 3 BATTERY MAX. PERP TO FRAME 11" FROM NTOF
3180010	FLAMING RIVER BIG SWITCH WIRED ON POSITIVE SIDE
3250002	BATTERY SWITCH WARNING LIGHT, FURNISH ON OR NEAR BATTERY BOX (LIGHT ON IN RUN POSITION)
9749006	COMPUTER AND 2-WAY RADIO DEDICATED CIRCUIT
8690002	ELECTRIC CIRCUIT PROTECTION PACKAGE, 12 VOLT W/CIRCUIT BREAKERS (HEADLAMP CIRCUIT: SAE TYPE I; ALL OTHER CIRCUITS SAE TYPE II) NEGATIVE GROUND SYSTEM
3980001	WATERPROOF ELECTRICAL CONNECTIONS SPRAYED W/PROTECTIVE COATING
B830030	CONTROL LINK II REFUSE BODYBUILDER ELECTRICAL CONNECTION SYSTEM
M110001	CONSOLE INCLUDED WITH CONTROL LINK II
3102100	HEADLIGHTS, (2) SINGLE ROUND HALOGEN LAMPS
4830000	REAR LIGHTING, FURNISH STANDARD TAIL-LIGHTS
3152013	SIGNAL FLASHER TYPE, TRANSISTORIZED TURN SIGNAL, ACD TRITON
3470000	W/O PWR TERMINAL-STROBE LIGHT OPTION
	PAINT
950 4100	PAINT - CAB EXTERIOR, SINGLE COLOR, MACK WHITE (HIGH GLOSS)
9442007	

Pid Code	Description
9960001	PAINT - CAB, URETHANE BASE COAT W/O CLEAR COAT
9410000	PAINT - CAB INTERIOR, SAME COLOR AS CAB EXTERIOR COLOR
9512006	PAINT - CHASSIS RUNNING GEAR, MACK BLACK (URETHANE)
	PAINT - BUMPER, SAME AS CHASSIS RUNNING GEAR
	PAINT - FUEL TANK, SAME AS CHASSIS RUNNING GEAR
9520000	PAINT - FRONT SPOKE WHEELS, WITHOUT OPTIONAL SPOKE WHEEL PAINT
9530000	WITHOUT OPTIONAL SPOKE WHEEL PAINT
6520002	FRONT WHEELS PRE-FINISHED WHITE
6530002	REAR WHEELS PRE-FINISHED WHITE
	PAINT PROCESS CODES
9380001	SAME COLOR AS CHASSIS RUNNING GEAR (5ZB-A1X)
9220000	CHASSIS RUNNING GEAR - STD COLOR (MACK BLACK) (6AB-Z1X)
9390001	SAME COLOR AS CHASSIS RUNNING GEAR (7HB-A1X)
9860000	W/O CUSTOM PAINT FOR HUB&DRUM/SPOKES (5YB-Z1X)
9850000	W/O CUSTOM PAINTED FRONT/REAR RIM/WHEEL (6BB-Z1X)
	PTO/SPECIALTY/ADDITIONAL EQUIPMENT
1830002	PTO - CRANKSHAFT ADAPTER, 1350 SERIES FLANGE FOR FRONT END MIXER OR REFUSE PTO DRIVE (DOES NOT INCLUDE FRONT FRAME EXTENSION)
4160000	PTO - REAR ENGINE (REPTO), WITHOUT REAR ENGINE POWER TAKE OFF
8260000	HYDRAULIC PUMP, WITHOUT HYDRAULIC PUMP
4420003	TORQUE CONVERTER TC541
	V-MAC IV PROGRAMMABLE PARAMETERS
	CRUISE CONTROL SETTINGS WITH ALLISON TRANS
9330065	CRUISE CONTROL MAX SET SPEED (MPH) 65 mph
A020020	CRUISE CONTROL MIN SET SPEED (MPH) 20 mph
A2W0000	CRUISE CONTROL AUTORESUME W/CLUTCH Omit
AL10000	CRUISE'N BRAKE ENGAGEMENT DELAY (MPH) 0 mph
4667000	SMOOTH CRUISE/RSL Omit
A902200	ENGINE OVERSPEED COMPANY LIMIT (RPM) 2200 rpm
A3K2100	FUELED ENGINE OVERSPEED COMPANY LIMIT (RPM) 2100 rpm
A880075	VEHICLE OVERSPEED COMPANY LIMIT (MPH) 75 mph
A870070	FUELED VEHICLE OVERSPEED COMPANY LIMIT (MPH) 70 mph
A1Y0002	IDLE LOGGING DELAY (MIN) 2
	PERIODIC TRIP TYPE Monthly Trip Summary
C0U0000	PERIODIC TRIP HOUR OF DAY 0 (disable)
C0V0000	PERIODIC TRIP DAY OF WEEK 0 (disable)
C0W0001	PERIODIC TRIP DAY OF MONTH 1
A942100	EHT MAX ENGINE SET SPEED (RPM) 2100 rpm
A030500	EHT MIN ENGINE SET SPEED (RPM) 500 rpm
A010010	EHT VEHICLE SPEED RANGE LIMIT (MPH) 10 mph
A970100	EHT RAMP RATE (RPM/Sec)
A950000	EHT SINGLE SPEED CONTROL ACTIVATION Omit
A961000	EHT SINGLE SPEED CONTROL SET SPEED (RPM) 1000 rpm
AE50000	EHT JUMP-TO-MIN SET SPEED Omit
A070001	ENGINE PROTECTION - OIL PRESSURE SHUTDOWN Furnish

Pid Code	Description
A080000	ENGINE PROTECTION - COOLANT LEVEL SHUTDOWN Omit
A060001	ENGINE PROTECTION - COOLANT TEMP SHUTDOWN Furnish
C0X0001	ENGINE PROTECTION - ENGINE OIL TEMP SHUTDOWN Furnish
A2Y0000	ENGINE PROTECTION TRANS OIL TEMP SHUTDOWN Omit
A830001	ALLOW FAN OVERRIDE WHEN MOVING Furnish
A840001	FAN OVERRIDE TIME WHEN MOVING (MIN) 1
A820000	ALLOW FAN OVERRIDE WHEN PARKED Omit
A3A0000	FAN ACTIVATION WITH PTO Omit
A810060	AIR CONDITIONING OVERRIDE TIME (SEC) 60
	GOVERNOR SETTINGS FOR USE WITH AUTOMATIC TRANSMISSIONS
A260002	GOVERNOR TYPE Min-Max Governor
AZQ0000	ENGINE HIGH IDLE SPEED IN UPPER GEARS 0000
A742100	ENGINE HIGH IDLE SPEED IF STOPPED ENGINE HIGH IDLE SPEED IF STOPPED VEHICLE ACCELERATION LIMITING FEATURE
A110650	ENGINE LOW IDLE SET SPEED (RPM) 650 rpm
A100000	DRIVER LOW IDLE ADJUST FEATURE ACTIVATION Omit
C0K0000	SMART IDLE FEATURE ACTIVATION Omit
C0T0010	SMART IDLE ELEVATED IDLE RPM TIME (MINS) 10
B690001	IDLE COOLDOWN FEATURE ACTIVATION Furnish
9080000	IDLE SHUTDOWN FEATURE ACTIVATION Omit
9340005	IDLE SHUTDOWN TIME (MINS) 5
M020030	IDLE SHUTDOWN WARNING TIME (SECS) 30
A170100	IDLE SHUTDOWN WARM-UP TEMPERATURE (DEG F) 100
A160005	IDLE SHUTDOWN WARM-UP TIMER (MINS) 5
A140000	IDLE S/D OVERRIDE W/EHT Omit
A130002	IDLE S/D OVERRIDE W/PTO Furnish
A230001	IDLE S/D OVERRIDE W/ENGINE LOAD Furnish
C0N0001	MAINTENANCE MONITOR FEATURE ACTIVATION Furnish
C0P0005	MAINTENANCE MONITOR OEM DEFAULT INTERVALS MP Vocational
AG60090	MAINTENANCE DUE WARNING PERCENT 90
A412100	PTO 1 MAX ENGINE SET SPEED (RPM) 2100 rpm
A980600	PTO 1 MIN ENGINE SET SPEED (RPM) 600 rpm
A1A0010	PTO 1 VEHICLE SPEED RANGE LIMIT (MPH) 10 mph
A2B0100	PTO 1 RAMP RATE (RPM/Sec) 100
2330000	PTO 1 SINGLE SPEED CONTROL ACTIVATION Omit
A051000	PTO 1 SINGLE SPEED CONTROL SET SPEED (RPM) 1000 rpm
A5K0000	PTO 1 SINGLE SPEED CONTROL AUTOSET Omit
AF60000	PTO 1 JUMP-TO-MIN SET SPEED Omit
M030060	PTO 1 VEHICLE LIMITING SPEED (MPH) 60 mph
A622100	PTO 2 MAX ENGINE SET SPEED (RPM) 2100 rpm
A1B0600	PTO 2 MIN ENGINE SET SPEED (RPM) 600 rpm
A1D0010	PTO 2 VEHICLE SPEED RANGE LIMIT (MPH) 10 mph
A1E0100	PTO 2 RAMP RATE (RPM/Sec) 100
A1Z0000	PTO 2 SINGLE SPEED CONTROL ACTIVATION Omit
A611000	PTO 2 SINGLE SPEED CONTROL SET SPEED (RPM) 1000 rpm
A5L0000	PTO 2 SINGLE SPEED CONTROL AUTOSET Omit

Pid Code	Description
AK10000	PTO 2 JUMP-TO-MIN SET SPEED Omit
M040060	PTO 2 VEHICLE LIMITING SPEED (MPH) 60 mph
DTS0000	SPEED SENSOR TAMPER DETECTION SYSTEM ACTIVATION Omit
A790050	SPEED SENSOR TAMPER DETECTION TORQUE LIMIT (%) 50
9320065	CUSTOMER VEHICLE LIMITING SPEED (MPH) 65 mph
A200000	LGVL5 FEATURE ACTIVATION Omit
A210065	LOWER GEAR VEHICLE LIMITING SPEED (MPH) 65 mph
	DEALER INFORMATION
WAR0003	ENGINE WARRANTY, 2YR/250,000 MILES ENGINE WARRANTY US10
4460001	MANUALS, PEDIGREED PROTECTION PLAN TECH. SERVICE MANUAL PROVIDED PILOT INSPECTION, WITHOUT PILOT INSPECTION PREP LOCALS ALLISON TRANSMISSION
	PERFORMANCE/GRAPHICS/TECH DATA
9310001	OVERWIDTH STATEMENT, OVERALL WIDTH EXCEEDS 96"

THE CITY OF WINTER GARDEN
CITY COMMISSION AGENDA ITEM

From: Don Cochran, Public Services

Via: City Manager Mike Bollhoefer

Date: October 16, 2012 **Meeting Date:** October 25, 2012

Subject: Award the Orange County Piggy-Back Contract with Middlesex Corporation for the 2012–2013 Street Resurfacing Projects.

Issue: After completing the competitive procurement process, Orange County awarded a contract for street resurfacing to Middlesex Corporation as the lowest responsive and qualified bidder on July 9, 2010 (contract no. Y10-195). The term of this contract was extended to May 24, 2012 through May 23, 2013, on February 28, 2012.

The City of Winter Garden has an opportunity to benefit from the economy of scale by piggy-backing on this contract for the City’s street resurfacing projects, including the resurfacing for Westside Townhomes.

Middlesex’s prices are competitive. The City has used Middlesex for the street resurfacing projects for the past two years, and their performance has been satisfactory.

Recommended Action:

Approve and award the Orange County Piggy-Back Contract with Middlesex Corporation.

Attachments:

- Orange County Contract
- City of Winter Garden Supplemental Contract
- List of Recommended Street Projects

February 28, 2012

BOARD OF COUNTY COMMISSIONERS
ORANGE COUNTY, FLORIDA

AMENDMENT NO. 2 / CONTRACT NO. Y10-195
ASPHALT RESURFACING AND SUPERPAVE

The Middlesex Corporation
One Spectacle Pond Road
Littleton, MA 01460

This amendment is hereby incorporated into the contract documents of the project referenced above. The following items are clarifications, corrections, additions, deletions and/or revisions to and shall take precedence over the original documents. Additions are indicated by underlining, deletions are indicated by ~~strikethrough~~.

1. In accordance with General Conditions Article 27, Option to Extend the Term of the Contract, the County exercises Option No. 2 by extending the term of the contract as follows:

From: May 24, 2011 through May 23, 2012

To: May 24, 2012 through May 23, 2013

Option Year No. 2 prices will become effective on May 24, 2012. All other terms and conditions remain the same.

2. All other terms, conditions and specifications remain the same.

Board of County Commissioners
Orange County, FL



John E. Schmidt, CPPB, Sr. Contract Administrator
Purchasing and Contracts Division

Date

2-28-12

February 22, 2011

BOARD OF COUNTY COMMISSIONERS
ORANGE COUNTY, FLORIDA

AMENDMENT NO. 1 / CONTRACT NO. Y10-195
ASPHALT RESURFACING AND SUPERPAVE

The Middlesex Corporation
One Spectacle Pond Road
Littleton, MA 01460

This amendment is hereby incorporated into the contract documents of the project referenced above. The following items are clarifications, corrections, additions, deletions and/or revisions to and shall take precedence over the original documents. Additions are indicated by underlining, deletions are indicated by ~~strikethrough~~.

1. In accordance with General Conditions Article 27, Option to Extend the Term of the Contract, the County exercises Option No. 1 by extending the term of the contract as follows:

From: May 24, 2010 through May 23, 2011

To: May 24, 2011 through May 23, 2012

Option Year No. 1 prices will become effective on May 24, 2011. All other terms and conditions remain the same.

2. All other terms, conditions and specifications remain the same.

Board of County Commissioners
Orange County, FL



John E. Schmidt, CPPB, Sr. Contract Administrator
Purchasing and Contracts Division

2-22-11

Date

February 5, 2010

BOARD OF COUNTY COMMISSIONERS
ORANGE COUNTY, FLORIDA
ADDENDUM NO. 1 / IFB NO. Y10-195-J2

ASPHALT RESURFACING AND SUPERPAVE

BID OPENING DATE: FEBRUARY 18, 2010 AT 2:00 PM

This Addendum is hereby incorporated into the bid documents of the project referenced above. The following items are clarifications, corrections, additions, deletions and/or revisions to and shall take precedence over the original documents. Additions are indicated by underlining, deletions are indicated by ~~strikethrough~~.

THE BID OPENING DATE REMAINS THE SAME.

1. The following are clarifications resulting from bidders' inquiries/questions.

Question 1: On page H-7 Equipment and Resources - Section 3 – Last Paragraph: Failure to submit a Management Plan and Resource List with the bid, or within 24 hours of the request, may be grounds for rejection of the bid due to non-responsiveness. Can you please elaborate on what the County is looking for when asking a Management Plan and Resource List?

Response: The Resource List will provide the county with the contractor's list of equipment and personnel. The Management plan is to demonstrate how the contractor plans to utilize the resource list in implementing this contract. The contract requires adequate personnel and equipment to work on one or more projects at any given time. The requirement of the Management Plan and Resource List provides the County the opportunity to determine that the contractor has the equipment and personnel to fulfill the requirements of Contract.

Question 2: On the Asphalt Resurfacing project (Y10-195), the document states that all work performed under the contract will conform to the latest edition of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction. Does this mean that the FDOT specifications pertaining to Fuel & Bituminous Material adjustments, as stated under section 9-2.1.1 and 9-2.1.2 applies to this contract? If it does not, is there any type of Fuel / Bituminous adjustments which will apply to this contract, or are there no adjustments of any type for the duration of the contract.

Response: No, there are no price adjustment provisions of any type for fuel or bituminous materials in this solicitation.

2. The following represents a change to the IFB.

A. Regarding Part G, Paragraph 19, **ADD** the following to read:

"Failure to submit a Management Plan and Resource List with bid, or within 24 hours of request, may be grounds for rejection of the bid as non-responsive."

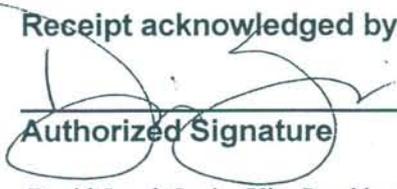
B. Regarding Part H, Technical Provisions, Paragraph 13, Performance Issues, **REVISE** third sentence to read as follows:

"Failure to provide a satisfactory corrective action plan, or failure to follow through on an approved plan, shall may result in the issuance of a Notice to Cure."

3. All other terms, conditions and specifications remain the same.

4. The Bidder shall acknowledge receipt of this addendum by completing the applicable section in the solicitation or by completion of the acknowledgement information on the addendum. Either form of acknowledgement must be completed and returned not later than the date and time for receipt of the bid.

Receipt acknowledged by:



Authorized Signature

David Socci, Senior Vice President Estimating

Title

Feb. 18, 2010

Date Signed

The Middlesex Corporation

Name of Firm

February 11, 2010

**BOARD OF COUNTY COMMISSIONERS
ORANGE COUNTY, FLORIDA
ADDENDUM NO. 2 / IFB NO. Y10-195-J2**

ASPHALT RESURFACING AND SUPERPAVE

BID OPENING DATE: FEBRUARY 18, 2010 AT 2:00 PM

This Addendum is hereby incorporated into the bid documents of the project referenced above. The following items are clarifications, corrections, additions, deletions and/or revisions to and shall take precedence over the original documents. Additions are indicated by underlining, deletions are indicated by ~~strikethrough~~.

THE BID OPENING DATE REMAINS THE SAME.

1. The following are clarifications resulting from bidders' inquiries/questions.

Question 1: Part C, Instruction to Bidders, Part 3 Minority/Women Owned Business Enterprises, paragraph a states that the overall goal for all bids is 25% participation for M/WBE subcontractors and suppliers. While we will make all attempts to obtain M/WBE certified subcontractors through solicitations, newspaper advertisements, etc., we request that Orange County review the 25% goal and lower it to a more attainable level.

Response: The County has decided not to lower the M/WBE goal on this solicitation. Bidders should follow the usual process of documenting the lack of available M/WBE firms in the good faith effort process. The goal remains 25%.

2. The following represents a change to the IFB.

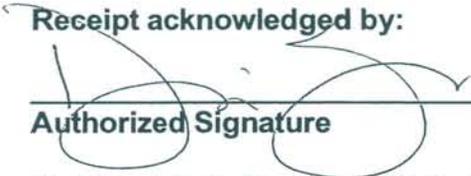
A. Regarding Part H, Paragraph 2.4, Temporary Markings, **ADD** the following to read:

"Both the temporary crosswalk bars and stop bars are to be installed 12 inches wide. IFB Y10-195-J2 includes bid item "Pavement Markings 4-inch" wide temporary paint, paid per LF. The contractor shall install 12-inch bars and will be paid utilizing the 4-inch pavement markings line item accordingly (example; a 12-inch bar 15 linear feet long shall be paid as 45 feet of 4-inch line.) This is temporary work only and will be covered with permanent pavement markings promptly after the project is completed, issued under a separate contract."

3. All other terms, conditions and specifications remain the same.

4. The Bidder shall acknowledge receipt of this addendum by completing the applicable section in the solicitation or by completion of the acknowledgement information on the addendum. Either form of acknowledgement must be completed and returned not later than the date and time for receipt of the bid.

Receipt acknowledged by:



Authorized Signature

David Socci, Senior Vice President Estimating

Title

February 18, 2010

Date Signed

The Middlesex Corporation

Name of Firm

February 12, 2010

BOARD OF COUNTY COMMISSIONERS
ORANGE COUNTY, FLORIDA

ADDENDUM NO. 3 / IFB NO. Y10-195-J2
ASPHALT RESURFACING AND SUPERPAVE

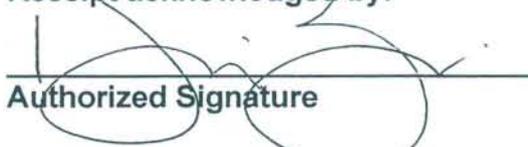
BID OPENING DATE: FEBRUARY 18, 2010

This Addendum is hereby incorporated into the bid documents of the project referenced above. The following items are clarifications, corrections, additions, deletions and/or revisions to and shall take precedence over the original documents. Additions are indicated by underlining, deletions are indicated by ~~strikethrough~~.

THE BID OPENING DATE REMAINS THE SAME.

1. The following represents a change to the IFB.
 - A. Regarding Part D, Bid Item Schedule, DELETE existing Schedule of Prices, Pages D-3 through D-5, and REPLACE with attached "Revised Schedule of Prices", (Pages "Revised" D-3 through "Revised" D-5). This revision reflects corrected bid item numbering. Failure to submit a bid using the "Revised Schedule of Prices" (Pages "Revised" D-3 through "Revised" D-5) shall deem your bid as non-responsive:
2. All other terms, conditions and specifications remain the same.
3. The Bidder shall acknowledge receipt of this addendum by completing the applicable section in the solicitation or by completion of the acknowledgement information on the addendum. Either form of acknowledgement must be completed and returned not later than the date and time for receipt of the bid.

Receipt acknowledged by:



Authorized Signature

David Socci, Senior Vice President Estimating

Title

February 18, 2010

Date Signed

The Middlesex Corporation

Name of Firm



At a meeting of the Board of Directors of THE MIDDLESEX CORPORATION held on December 7, 2009, at which all the Directors were present or waived notice, it was VOTED, that Robert W. Pereira, Chairman & CEO; Robert W. Pereira II, President & COO; Alfred S. Aponas, President Southeast; Robert L. Mabardy, President Northeast & Clerk; Robert N. Jacobson, Senior Vice President Finance/Treasurer & Assistant Clerk; David K. Skerrett, Senior Vice President Construction; David Socci, Senior Vice President Estimating and John P. Cavatorta, Vice President Construction Operations be and they hereby are authorized to execute bids, contracts, bonds, and owners' payment requisitions in the name and on behalf of said Corporation, and affix its Corporate Seal thereto; and such execution of any contract or obligation in the Corporation's name on its behalf by such Chairman, President, Vice President, Clerk and Assistant Clerk under seal of the Corporation, shall be valid and binding upon this Corporation.

A true copy

ATTEST

A handwritten signature in cursive script, appearing to read "Robert L. Mabardy", is written over a horizontal line. Below the line, the name and title are printed.

Robert L. Mabardy
Clerk

Place of Business: One Spectacle Pond Road
Littleton, MA 01460

Date: February 18, 2010

I hereby certify that I am the Clerk of THE MIDDLESEX CORPORATION, that Robert W. Pereira is the duly elected Chairman & CEO, Robert W. Pereira II is the duly elected President & COO, Alfred S. Aponas is the duly elected President Southeast, Robert L. Mabardy is the duly elected President Northeast & Clerk, Robert N. Jacobson is the duly elected Senior Vice President Finance/Treasurer & Assistant Clerk, David K. Skerrett is the duly elected Senior Vice President Construction, David Socci is the duly elected Senior Vice President Estimating, and John P. Cavatorta is the duly elected Vice President Construction Operations of said Corporation, and that the above vote has not been amended or rescinded and remains in full force and effect as of this date.

A handwritten signature in cursive script, appearing to read "Robert L. Mabardy", is written over a horizontal line. Below the line, the name and title are printed.

Robert L. Mabardy
Clerk

INVITATION FOR BIDS
TERM CONTRACT FOR
ASPHALT RESURFACING AND SUPERPAVE

Mail or Hand Deliver
ORIGINAL BID FORM & THREE (3) COMPLETE COPIES
By February 18, 2010

To:

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

Bid Opening:

February 18, 2010 - 2:00 PM

Internal Operations Centre II
Purchasing and Contracts Division, 2nd Floor
Orlando, Florida 32801

Non-Mandatory Pre-Bid Conference - January 25, 2010 - 1:00 P.M.
Roads & Drainage Division Conference Room
4200 S. John Young Parkway, Orlando, Florida 32839
Interested bidders are encouraged to attend.

NOTICE TO BIDDERS/OFFERORS

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

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VOLUME I**

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ISSUED: January 15, 2010

**NOTICE
INVITATION FOR BIDS (IFB) NO. Y10-195-J2**

ASPHALT RESURFACING AND SUPERPAVE

Sealed Bid offers (Original Bid Form and three (3) complete copies) for furnishing the above will be accepted up to **2:00 PM, February 18, 2010**, in the Internal Operations Centre II, the Purchasing and Contracts Division, 2nd Floor, 400 E. South Street, Orlando, FL 32801. Bids will be opened shortly thereafter in the Second Floor Conference Room, Orange County Internal Operations Centre II.

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

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

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

A Non-Mandatory Pre-Bid Conference will be held on **January 25, 2010, 1:00 P.M., at Roads & Drainage Division Conference Room, 4200 S. John Young Parkway, Orlando, Florida 32839.** Interested bidders are encouraged to attend.

SCOPE OF WORK:

Roadway asphalt milling and resurfacing on specified locations throughout Orange County.

LOCATION ADDRESS:

Various locations in Orange County, Florida.

Johnny M. Richardson, CPPO, CFCM
Manager, Purchasing and Contracts

PART B

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PART C - INSTRUCTION TO BIDDERS

1. GENERAL:

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

2. PREPARATION AND SUBMISSION OF BIDS:

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

The base Bid is the sum of all pay item totals and the County reserves the right to correct errors in pay item totals arising from incorrect extensions. See "**Bid Errors**", Item 4.

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

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

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

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

- (1) Invitation for Bid Number
 - (2) Hour and Date of Opening
 - (3) Name of Bidder
 - (4) Return address of the Bidder
- c. Bids will be publicly opened in the Purchasing and Contracts Conference Room, 2nd Floor of the Orange County Internal Operations Centre II, 400 E. South Street, Orlando, Florida.
- d. All Bid proposals must be manually and duly signed by an authorized corporate officer, principal, or partner (as applicable) with a signature in full. When a firm is a Bidder, the officer signing shall set out the corporate name in full beneath which he shall sign his name, give title of his office and affix the corporate seal. Anyone signing the Bid proposal as agent must file with it legal evidence of signature authority. Bidders who are nonresident corporations shall furnish to the County a duly certified copy of their permit to transact business in the State of Florida along with the Bid Proposal. Failure to promptly submit this evidence or qualification to do business in the State of Florida may be basis for rejection of the Bid Proposal.
- e. The Bidder is solely responsible for reading and completely understanding the requirements and the specifications of the solicitation.
- f. Bid proposals may be withdrawn by written, telecopied or telegraphic requests dispatched by the Bidder and received by the Manager of Purchasing and Contracts before the time for receiving Bids has expired. Negligence on the part of the Bidder in preparing a Bid proposal is not grounds for withdrawal or modification of a Bid proposal after such Bid proposal has been opened by the County. A Bidder may not withdraw or modify a Bid proposal after the appointed Bid proposal opening and such Bid proposal must be in force for **ninety (90)** days after the Bid opening. Bidders may not assign or otherwise transfer their Bid proposals.
- g. At the time and place fixed for the opening of Bid proposals (see above), every Bid proposal properly delivered within the time fixed for receiving Bid proposals will be opened and publicly read aloud, irrespective of any irregularities found therein. Bidders and other persons interested may be present, in person or by representative. Opened Bids shall remain confidential for ten days after Bid opening or upon posting of the recommended award, whichever comes first.
- h. A Bid, Payment and Performance Bond are a requirement of the IFB when the bid/contract amount exceeds \$200,000.

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

Certified Checks or Cashier's Checks shall be drawn on a solvent bank or trust company to the order of The Board of County Commissioners and shall have all necessary documentary revenue stamps attached, if required by law. Personal checks are not acceptable to the County. See Section 17, "Qualifications of Surety Companies" for additional requirements.

- i. A pre-Bid conference will be held at the time and location shown in the Notice, Part B of this Bid package.
- j. No interpretation of the meaning of the requirements contained in this solicitation will be made to any Bidder orally. Every request for such interpretation must be **in writing, addressed to John Schmidt, Fax #407/836-5899 or email john.schmidt@ocfl.net.** To be given consideration, such requests must be received **Ten (10) days prior to Bid opening.**

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

3. MINORITY/WOMEN OWNED BUSINESS ENTERPRISES:

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

The Contract requires that the Contractor commit to the expenditure of at least the required M/WBE percentage of the dollar value of the Contract.

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

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

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

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

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

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

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

d. **Subcontracts/Purchase Orders**

The successful Bidder shall provide a copy of all fully executed subcontracts and purchase orders issued to M/WBE's listed on Attachment C-2 to the Business Development Division. **Submittal of these subcontracts/purchase orders is a condition precedent to execution of the prime Contract by the County.**

The Contractor shall include a Prompt Payment Clause (reference Part F, Article 22, paragraph B) in all subcontracts and purchase orders. The Contractor should include in the subcontracts that they are contingent upon execution of the prime Contract.

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

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

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

- i. Bidders shall provide written notice to certified M/WBEs that provides the type of work that the Bidder intends to subcontract. The notice shall be by e-mail or fax, no fewer than seven (7) calendar days prior to bid or proposal opening. All e-mails and faxes shall include the legal name of the M/WBE firm. The notice shall advise the M/WBE's:
 - a. that their interest in the contract is being solicited;
 - b. of the specific work the Bidder intends to subcontract;
 - c. how to obtain information about and review the contract plans and specifications;
 - d. information on bonding, insurance and other pertinent requirements;
 - e. the deadline for bid or proposal submissions to the Bidder and the bid due date to the County;
 - f. 24 hours notice of any addenda.
- ii. Bidders shall provide an explanation why the M/WBE goals were not achieved, and list the scopes of service not subcontracted on Attachment C-2
- iii. Bidders shall follow up initial submittals of interest by contacting M/WBEs and documenting using a contract log, which shall include the firm's name address, contact information (e-mail, telephone and/or fax numbers), scope of work requested, the date, name of person making the effort, denote if M/WBEs will bid, time quote received and notes denoting if plans and specifications were sent. Each bidder shall use the standardized contact log, Attachment C-5.

- iv. In instances where a non-minority/non-woman contractor is listed for work for which M/WBE availability exists, the Bidder shall submit **ALL** quotations received from M/WBEs **AND** the listed non-M/WBE **within twenty-four (24) hours, if one of the three (3) apparent low Bidders**. The Bidder shall provide an explanation as to why the M/WBE's quotations were not accepted.

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

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

If the Bidder fails to meet requirements (i – iv) of the above mentioned good faith effort documentation, then the bidder will be permitted to substitute one of the following with documentation showing that

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

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

If, after Contract award, Prime Contractors who have not achieved the M/WBE participation goals choose to subcontract work indicated as being self-performed without prior written approval of the Business Development Division (reference Part F, Article 22, paragraph D), the matter will be reported to the Purchasing and Contracts Division with an appropriate responsibility recommendation for consideration in the event the contractor competes for future County contracts.

- f. Sliding scale for enforcement of good faith effort requirements

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

- i. Eight (8) percent on contract awards up to one hundred thousand dollars (\$100,000.00); or
- ii. Seven (7) percent on contract awards from \$100,000.00 to \$500,000.00; or
- iii. Six (6) percent on contract awards from \$500,000.01 to \$750,000.00; or
- iv. Five (5) percent on contract award from \$750,000.01 to \$2,000,000.00; or
- v. Four (4) percent on contract awards from \$2,00,000.01 to \$5,000,000.00; or
- vi. Three (3) percent on contract awards over \$5,000,000.01.

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

- g. Letters of Intent shall match **exactly the information provided on Attachment C-2 to the Bid Forms D, Attachment C-3** and shall be executed by the apparent low Bidder and all M/WBE Subcontractors and/or suppliers listed on Attachment C-2 shall be submitted to the Business Development Division office before 5:00 P.M. on the second business day after bid opening.
- h. Bidders shall not reject an M/WBE as unqualified without sound reasons based on a thorough and documented investigation of that M/WBE's capabilities.
- i. Bidder's efforts will be evaluated considering the ability of other Bidders to meet the requirements relating to the use of M/WBE subcontractors.
- j. Bidders should make whatever additional efforts are necessary to achieve the goals and it is recommended that these efforts be documented. However, this documentation shall not replace the required documentation if the goals are not met. Bidders are encouraged to contact the Business Development Division for guidance and assistance. Additional efforts by Bidders may include but are not limited to the following:
 - i. Bidders should provide interested M/WBE's with assistance in reviewing the Contract plans and specifications.
 - ii. Bidders should assist interested M/WBE's in obtaining required lines of credit, insurance or bonding.
 - iii. Bidders should solicit only types of work that match the capabilities of the M/WBE's and for which they are certified.

- k. All participating M/WBE's must be certified by Orange County. The Business Development M/WBE Directory is available by e-mail or through the Orange County web site at Orangecountyfl.net. **Only firms having established offices in the Orlando MSA (Orange, Lake, Seminole and Osceola Counties) are eligible for Orange County certification.** All firms must be certified prior to bid opening and must be certified in the area(s) for which they will be used. If a firm claims to be certified, but is not listed in the Directory, Contractor should obtain a copy of their Certificate and/or contact the Business Development Division for verification of certification.
- l. The County has established a credit program whereby Contractors are awarded credits to be applied toward meeting the M/WBE goals on certain County bids. Emphasis will be placed on credits for Non-County Utilization and First-Time M/WBE Utilization. Bidders are encouraged to contact the Business Development Division for information on acquiring and applying the credits.
- m. Effective August 1, 2003, the County implemented a graduation program. Under this program, utilization of M/WBE firms designated as graduates shall count toward meeting M/WBE participation goals only on specified projects. All construction solicitations for which the County has determined the overall contract amount to be awarded to the prime in excess of \$10,000,000 for vertical construction, \$7,000,000 for horizontal construction and \$7,000,000 for all other construction are eligible for graduate M/WBE participation. Vertical construction is any construction of a structure or building which requires a general or building contractor's license. Horizontal construction includes but is not limited to roadwork, site work, drainage or utilities work. Other construction is any construction other than what is defined as vertical or horizontal construction. The Bidder's total base bid, which is used by the Purchasing and Contracts Division as the basis for determining Contract award value, will be used to determine if graduated M/WBE firms are eligible to participate. For the purposes of this provision, the total base Bid is the total of the Basic Contract Year plus all Option Years. Prime contractors will receive full M/WBE credit for the use of graduated M/WBE's that meet all other requirements.
- It is the Bidder's responsibility to insure that graduate M/WBE's are not listed in proposals to meet M/WBE participation requirements on projects in which they are not eligible to participate.
- o. The County is compiling information about the MWBE program in order to gauge the level of program understanding and acceptance. Bidders should complete the M/WBE Survey, Attachment C-4 and return with their Bid Proposal Form. Failure to submit the completed survey may delay award of the Contract.

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

4. BID ERRORS:

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

5. DEVIATIONS:

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

6. SUBSTITUTE MATERIAL AND EQUIPMENT:

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

7. REQUESTED INFORMATION AND DESCRIPTIVE LITERATURE:

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

8. AWARD OF CONTRACT/REJECTION OF BIDS:

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

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

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

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

In the event the lowest responsive and responsible bid submitted in response to any invitation for bid is by a bidder whose principal place of business is in a county other than Orange County, and such county grants a bid preference for purchases to a bidder whose principal place of business is in such county, then Orange County may award a preference to the (next) lowest responsive and responsible bidder having a principal place of business within Orange County, Florida.

Such preference shall be equal to the preference granted by the county in which the lowest responsive and responsible bidder has its principal place of business.

9. POSTING OF RECOMMENDED AWARD:

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

<http://www.orangecountyfl.net/cmsdocs/govern/lobbyist/lobbyingord.pdf>

A lobbying blackout period shall commence upon issuance of the solicitation until the Board selects the successful Bidder. For procurements that do not require Board approval, the blackout period commences upon solicitation issuance and concludes upon Contract award.

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

10. CONTRACT DOCUMENTS:

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

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

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

12. LAWS AND REGULATIONS:

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

13. REQUIRED DISCLOSURE:

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

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

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

14. EXECUTION OF WRITTEN CONTRACT:

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

15. LICENSING REQUIREMENTS:

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

- a. Prime Contractors, to be considered for Contract award for this work shall be either "registered" or "certified" by the State of Florida, Division of Professional Regulation, Construction Industries Licensing Board and licensed by other federal, state, regional, county or municipal agencies having jurisdiction over the specified construction work.
- b. Said licenses shall be in the Bidder's name as it appears on the Official Bid Form. Bidder shall supply appropriate license numbers, with expiration dates, as part of their Bid. Failure to hold and provide proof of proper licensing, certification and registration may be grounds for rejection of the Bid.
- c. Bidder shall provide copies of all applicable licenses with their Bid Proposal.
- d. Subcontractors contracted by the Prime Contractor shall be licensed in their respective fields to obtain construction permits from the County. Said license must be in the name of the Subcontractor listed on Attachment C, Subcontractor/Supplier Page, herein.

16. SECURITY FORFEITURE:

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

17. PERFORMANCE BONDS AND PAYMENT BONDS:

When the contract amount exceeds \$200,000, a Performance Bond and a Payment Bond issued in a sum equal to one hundred (100%) percent of the total estimated Contract amount for the first Contract year by a Surety company considered satisfactory by the County according to the criteria in Section 18 will be required from the successful Bidder for purposes of insuring the faithful performance of the obligations imposed by the resulting Contract and for purposes of protecting the County from lawsuits for non-payment of debts as might be incurred during the successful Bidder's performance under such Contract. The Performance Bond and the Payment Bond forms will be included in the Contract Documents and said forms must be properly executed by the Surety company and successful Bidder within ten (10) days after receipt of notification from the County of its award of the Contract. Within (10) ten days after the exercise of an option period, the Contractor shall provide Consent of Surety to renewal of the option period at the option period prices accompanied by a power of attorney according to the criteria in Section 18.

Awarded Bidders shall record bonds in the public records as required by Florida State Statutes, Chapter 255.05.

18. QUALIFICATIONS OF SURETY COMPANIES:

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

- a. Surety must be admitted to do business in the State of Florida and shall comply with the provisions of Florida Statute 255.05.
- b. Surety must be listed on the U.S. Department of Treasury Fiscal Service, Bureau of Government financial Operations, Federal Register, Part V, latest revision, entitled: "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies".
- c. All bonds shall be originals and issued or countersigned by a producing agent with satisfactory evidence of the authority of the person or persons executing such bond shall be submitted with the bond. Attorneys-in-fact who sign Bid bonds or performance/payment bonds must file with such bond a certified copy of their power of attorney to sign such bond. **Agents of Surety companies must list their name, address and telephone number on all Bonds.**
- d. The life of the bonds shall extend twelve (12) months beyond the end of the Contract term and shall contain a waiver of alteration to the terms of the Contract, extensions of time and/or forbearance on the part of the County.

19. TRENCH SAFETY ACT:

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

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

20. DRUG-FREE WORKPLACE FORM:

A Drug-Free Workplace Form (included in Part E) shall be submitted prior to award. Failure to submit this form certifying a drug-free workplace shall be cause for disqualification of the Bidder.

21. RECIPROCAL IN-STATE PREFERENCE:

In the event the lowest responsive and responsible Bid submitted in response to this Invitation for Bid is by a Bidder whose principal place of business is in a county other than Orange County, and such county grants a Bid preference for purchases to a Bidder whose principal place of business in such county, then Orange County may award a preference to the next lowest responsive and responsible Bidder having a principal place of business within Orange County, Florida. Such preference shall be equal to the preference granted by the County in which the lowest responsive and responsible Bidder has its principal place of business.

22. BID TABULATION:

Bid files may be examined during normal working hours, ten (10) days after bid opening, or upon recommendation for award, whichever occurs first. Bidders desiring to view these documents are urged to schedule an appointment. For information concerning this bid, please contact the Purchasing and Contracts Division at the address listed above or by calling (407) 836-5635. Please specify the bid number for which you are inquiring.

Bid opening results will be available at <http://orangecountyfl.net/orangebids/bidresults/results.asp> the day following the Bid opening. Unsuccessful Bidders will not be notified, unless a request is submitted in accordance with this paragraph.

23. INDEMNIFICATION FOR TORT ACTIONS/LIMITATION OF LIABILITY:

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

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

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

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

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

25. PUBLIC ENTITY CRIME STATEMENT (FS 287.133):

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

26. SUBCONTRACTOR/SUPPLIER INFORMATION:

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

27. REFERENCES:

Bidder shall include with the Bid Form a list of at least four similar projects successfully completed by the bidder within the past three years. Failure to provide this information may be cause for rejection of the Bid.

28. UNIT PRICES:

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

29. EVALUATION OF OPTIONS:

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

30. UNBALANCED BIDS:

Bids shall be analyzed to determine whether they are unbalanced with respect to unit priced or individually priced line items. A Bid may be mathematically unbalanced if it is based on prices that are significantly less than the cost for some Contract line items and significantly overstated in relation to cost for others. A Bid may be materially unbalanced if it is mathematically unbalanced and:

- a. There is reasonable doubt that the Bid would result in the lowest overall cost to the County, even though it is the lowest evaluated Bid; or
- b. The Bid is so grossly unbalanced that its acceptance would be tantamount to allowing an advance payment.

Bids that are materially unbalanced may be rejected.

31. BID AND RELATED COSTS:

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

32. SOLICITATION CANCELLATIONS

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

33. LICENSES/PERMITS/FEES:

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

The fee directory link "Fees" is available at:

<http://www.orangecountyfl.net/building>

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

34. BID ACCEPTANCE PERIOD:

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

35. EQUAL OPPORTUNITY

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

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

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

36. ETHICS COMPLIANCE

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

Orange County Specific Project Expenditure Report -The purpose of this form is to document any expenses incurred by a lobbyist for the purposes described in Section 2-351, Orange County Code. This form shall be completed and submitted with any bid, proposal or other response to an Orange County solicitation. The bidder, proposer or responder to the solicitation shall not be awarded a contract unless this form has been completed and submitted.

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

- b. **Relationship Disclosure Form – The purpose of this form is to document any relationships between a bidder, proposer or responder to an Orange County solicitation and the Mayor or any other member of the Orange County Board of County Commissioners.** This form shall be completed and submitted with the applicable bid, proposal or response to an Orange County solicitation. No contract award will be made unless this form has been completed and submitted. Any questions concerning this form shall be addressed to the purchasing agent or contract administrator identified in the applicable solicitation. Also, a listing of the most frequently asked questions concerning this form is attached for your information.

37. TOBACCO FREE CAMPUS

Effective January 1, 2010, virtually all Orange county operations under the Board of County Commissioners will effectively become tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to contractors and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars, cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties levied under Chapter 386, Florida Statutes and/or contract enforcement remedies.

IFB NO. Y10-195-J2 ISSUED: January 15, 2010

OFFICIAL BID FORM
TERM CONTRACT FOR
ASPHALT RESURFACING AND SUPERPAVE

Mail or Hand Deliver By 2:00 PM , February 18, 2010

ORIGINAL BID FORM AND THREE (3) COMPLETE COPIES

To:

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

Bid Opening:

February 18, 2010, - 2:00 PM

The Middlesex Corporation

COMPANY NAME

One Spectacle Pond Road

COMPLETE MAILING ADDRESS

Littleton, Middlesex, Massachusetts, 01460

CITY, COUNTY, STATE, ZIP CODE

978-742-4400

TELEPHONE NUMBER

David Socci, Senior Vice President Estimating

CONTACT PERSON

978-742-4434

FAX NUMBER

dsocci@middlesexco.com

E-MAIL ADDRESS

TIN#: 04-2534615

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

PART D

To the Board of County Commissioners
Orange County, Florida

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

- a. The sites for the work that may be performed under this Contract may be anywhere within Orange County.
- b. Countywide local conditions that may impact the work have been considered.
- c. The Contract Form, General Conditions, Supplementary Conditions, and other Contract documents have been thoroughly examined.
- d. The resultant Contract will contain estimated quantities, unit prices, extended totals and a total estimated contract amount to furnish all labor, materials, plant, equipment, manpower and other resources, including overhead and profit. These costs shall be the means to price any and all Delivery Orders issued thereunder.
- e. Each specific site for work under this Contract shall be issued to the Contractor via Delivery Order per Articles 4, 25, 30, 32 of the General Conditions and other applicable provisions.
- f. This is a unit price Term Contract and the total Estimated Bid is the sum of all pay items total from the Bid Item Schedule, Pages D-3 – D-5.
- g. No specifications or drawings are applicable to the Contract. However, if required, specifications and drawings will apply to individual projects issued under specified Deliver Orders.

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

Sixteen Million Four hundred Nine thousand Three hundred
Twenty five dollars and no cents. DOLLARS

(\$ 16,409,325⁰⁰)

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

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

**Asphalt Resurfacing and SUPERPAVE
Y10-195-J2**

“REVISED” Schedule of Prices

BASE YEAR, “Revised”

Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Cost
1	S-III Asphalt in place, 1" (compacted) > 5,500 SY	150,000	SY	\$ 5 ⁵⁵	\$ 832,500 ⁰⁰
2	SP 9.5 Asphalt in place, 1.25" (compacted) < 5,500 SY	49,500	SY	\$ 5 ⁷⁰	\$ 282,150 ⁰⁰
3	SP 9.5 Asphalt in place, 1.25" (compacted) > 5,500 SY	100,000	SY	\$ 5 ⁶⁵	\$ 565,000 ⁰⁰
4	SP 12.5 Asphalt in place, 1.5" Compacted < 5,500 SY	18,000	SY	\$ 6 ⁴⁰	\$ 115,200 ⁰⁰
5	SP 12.5 Asphalt in place, 1.5" Compacted > 5,500 SY	150,000	SY	\$ 6 ¹⁵	\$ 922,500 ⁰⁰
6	SP 12.5 Asphalt in place, 2.0" Compacted > 5,500 SY	200,000	SY	\$ 7 ⁶⁵	\$ 1,530,000 ⁰⁰
7	SP FC 9.5 Asphalt in place, 1.25" (compacted) < 5,500 SY	18,000	SY	\$ 5 ⁷⁵	\$ 103,500 ⁰⁰
8	SP FC 9.5 Asphalt in place, 1.25" (compacted) > 5,500 SY	75,000	SY	\$ 5 ⁷⁰	\$ 427,500 ⁰⁰
9	Leveling, as specified	100	TON	\$ 175 ⁰⁰	\$ 17,500 ⁰⁰
10	Milling existing pavement 1" or less	67,500	SY	\$ 1 ⁷⁵	\$ 118,125 ⁰⁰
11	Milling existing pavement between 1" - 2"	72,000	SY	\$ 1 ⁷⁵	\$ 126,000 ⁰⁰
12	Milling existing pavement between 2" - 3"	15,000	SY	\$ 2 ⁷⁵	\$ 41,250 ⁰⁰
13	Curb Reveal Milling	100,000	SY	\$ 1 ⁷⁵	\$ 175,000 ⁰⁰
14	Raise manholes w/riser ring	300	EA	\$ 125 ⁰⁰	\$ 37,500 ⁰⁰
15	Raise water valves w/riser ring	55	EA	\$ 50 ⁰⁰	\$ 2,750 ⁰⁰
16	Base Repair 4" (S-I or SP 12.5 Asphalt)	4,500	SY	\$ 28 ⁵⁰	\$ 128,250 ⁰⁰
17	Pavement Markings 4" (paint white/yellow)	2,700	LF	\$ 3 ⁰⁰	\$ 8,100 ⁰⁰
18	Pavement Markings (paint messages and arrows (white))	90	EA	\$ 225 ⁰⁰	\$ 20,250 ⁰⁰
19	Law Enforcement for special MOT operations	20	HR	\$ 75 ⁰⁰	\$ 1,500 ⁰⁰
19A	Indemnification	1	LS	\$100.00	\$100.00
Total Estimated Bid Amount - Base Year		\$ 5,454,675 ⁰⁰			

Minimum Quantity/Dollars – During the initial performance period of this contract, the COUNTY guarantees that the CONTRACTOR shall receive orders for a minimum of \$500,000.

Option Year 1, "Revised"- Schedule of Prices

Y10-195-J2

Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Cost
20	S-III Asphalt in place, 1" (compacted) > 5,500 SY	150,000	SY	\$ 5 ⁵⁰	\$ 825,000 ⁰⁰
21	SP 9.5 Asphalt in place, 1.25" (compacted) < 5,500 SY	49,500	SY	\$ 5 ⁷⁰	\$ 282,150 ⁰⁰
22	SP 9.5 Asphalt in place, 1.25" (compacted) > 5,500 SY	100,000	SY	\$ 5 ⁶⁵	\$ 565,000 ⁰⁰
23	SP 12.5 Asphalt in place, 1.5" Compacted < 5,500 SY	18,000	SY	\$ 6 ⁴⁰	\$ 115,200 ⁰⁰
24	SP 12.5 Asphalt in place, 1.5" Compacted > 5,500 SY	150,000	SY	\$ 6 ¹⁵	\$ 922,500 ⁰⁰
25	SP 12.5 Asphalt in place, 2.0" Compacted > 5,500 SY	200,000	SY	\$ 7 ⁶⁵	\$ 1,530,000 ⁰⁰
26	SP FC 9.5 Asphalt in place, 1.25" (compacted) < 5,500 SY	18,000	SY	\$ 5 ⁷⁵	\$ 103,500 ⁰⁰
27	SP FC 9.5 Asphalt in place, 1.25" (compacted) > 5,500 SY	75,000	SY	\$ 5 ⁷⁰	\$ 427,500 ⁰⁰
28	Leveling, as specified	100	TON	\$ 175 ⁰⁰	\$ 17,500 ⁰⁰
29	Milling existing pavement 1" or less	67,500	SY	\$ 1 ⁷⁵	\$ 118,125 ⁰⁰
30	Milling existing pavement between 1" - 2"	72,000	SY	\$ 1 ⁷⁵	\$ 126,000 ⁰⁰
31	Milling existing pavement between 2" - 3"	15,000	SY	\$ 2 ⁷⁵	\$ 41,250 ⁰⁰
32	Curb Reveal Milling	100,000	SY	\$ 1 ⁷⁵	\$ 175,000 ⁰⁰
33	Raise manholes w/riser ring	300	EA	\$ 125 ⁰⁰	\$ 37,500 ⁰⁰
34	Raise water valves w/riser ring	55	EA	\$ 50 ⁰⁰	\$ 2,750 ⁰⁰
35	Base Repair 4" (S-I or SP 12.5 Asphalt)	4,500	SY	\$ 28 ⁵⁰	\$ 128,250 ⁰⁰
36	Pavement Markings 4" (paint white/yellow)	2,700	LF	\$ 3 ⁰⁰	\$ 8,100 ⁰⁰
37	Pavement Markings (paint messages and arrows (white))	20	EA	\$ 225 ⁰⁰	\$ 4,500 ⁰⁰
38	Law Enforcement for special MOT operations	20	HR	\$ 75 ⁰⁰	\$ 1,500 ⁰⁰
Total Estimated Bid Amount – Option Year #1		\$ 5,431,325⁰⁰			

Option Year 2, "Revised" – Schedule of Prices

Y10-195-J2

Item No.	Description	Estimated Quantity	Unit	Unit Price	Total Cost
39	S-III Asphalt in place, 1" (compacted) > 5,500 SY	150,000	SY	\$ 5.35	\$ 802,500.00
40	SP 9.5 Asphalt in place, 1.25" (compacted) < 5,500 SY	49,500	SY	\$ 5.70	\$ 282,150.00
41	SP 9.5 Asphalt in place, 1.25" (compacted) > 5,500 SY	100,000	SY	\$ 5.65	\$ 565,000.00
42	SP 12.5 Asphalt in place, 1.5" Compacted < 5,500 SY	18,000	SY	\$ 6.40	\$ 115,200.00
43	SP 12.5 Asphalt in place, 1.5" Compacted > 5,500 SY	150,000	SY	\$ 6.15	\$ 922,500.00
44	SP 12.5 Asphalt in place, 2.0" Compacted > 5,500 SY	200,000	SY	\$ 8.00	\$ 1,600,000.00
45	SP FC 9.5 Asphalt in place, 1.25" (compacted) < 5,500 SY	18,000	SY	\$ 5.75	\$ 103,500.00
46	SP FC 9.5 Asphalt in place, 1.25" (compacted) > 5,500 SY	75,000	SY	\$ 5.70	\$ 427,500.00
47	Leveling, as specified	100	TON	\$ 175.00	\$ 17,500.00
48	Milling existing pavement 1" or less	67,500	SY	\$ 1.80	\$ 121,500.00
49	Milling existing pavement between 1" - 2"	72,000	SY	\$ 1.80	\$ 129,600.00
50	Milling existing pavement between 2" - 3"	15,000	SY	\$ 2.75	\$ 41,250.00
51	Curb Reveal Milling	100,000	SY	\$ 1.80	\$ 180,000.00
52	Raise manholes w/riser ring	300	EA	\$ 125.00	\$ 37,500.00
53	Raise water valves w/riser ring	55	EA	\$ 55.00	\$ 3,025.00
54	Base Repair 4" (S-I or SP 12.5 Asphalt)	4,500	SY	\$ 29.00	\$ 130,500.00
55	Pavement Markings 4" (paint white/yellow)	2,700	LF	\$ 3.00	\$ 8,100.00
56	Pavement Markings (paint messages and arrows (white)	20	EA	\$ 225.00	\$ 4,500.00
57	Law Enforcement for special MOT operations	20	HR	\$ 75.00	\$ 1,500.00
Total Estimated Bid Amount Option Year #2		\$ 5,523,325.00			
Total Estimated Bid Amount, Base Year plus Option Years #1 and #2		\$ 16,409,325.00			

The Bidder hereby agrees that there is attached a:

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

ACKNOWLEDGEMENT OF ADDENDA

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

Addendum No. 1 Dated 2/5/10 Addendum No. 2 Dated 2/11/10

Addendum No. 3 Dated 2/12/10 Addendum No. _____ Dated _____

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

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

FLORIDA CONSTRUCTION INDUSTRIES LICENSING BOARD CERTIFICATION:

Robert W. Pereira, II

CGC061926/CUC057453

(NAME OF HOLDER)

(CERTIFICATION NO.)

(SIGNATURE OF BIDDER)

August 31, 2010

(CERTIFICATE EXPIRATION DATE)

David Socci, Senior Vice President Estimating

(NAME TYPED)

IDENTIFICATION OF BUSINESS ORGANIZATION

Complete and submit the following information:

Type of Organization

Sole Proprietorship Partnership

Joint Venture Corporation

State of Incorporation: Massachusetts

Principal Place of Business (Florida Statute Chapter 607): One Spectacle Pond Road
Littleton, MA 01460

AUTHORIZED SIGNATORIES/NEGOTIATORS

The Bidder or proposer represents that the following persons are authorized to sign and/or negotiate Contracts and related documents to which the Bidder or proposer will be duly bound:

Name Title Telephone Number E-Mail Address

Please see attachment D-8A

IN WITNESS WHEREOF, THE BIDDER HAS HEREUNTO SET HIS SIGNATURE AND AFFIXED HIS SEAL THIS 18th DAY OF February, A.D. 2010.

BY:  _____ (SEAL)

TITLE: David Socci, Senior Vice President Estimating

PRINT NAME AND TITLE

FEDERAL I.D.# 04-2534615

**Authorized Signatories of The Middlesex Corporation
Corporate Office:
One Spectacle Pond Road
Littleton, MA 01460**

Name	Title	Telephone Number	Email Address
Robert W. Pereira	Chairman & CEO	978-742-4400	N/A
Robert W. Pereira II	President & COO	407-206-0077	rwpir@middlesexco.com
Alfred S. Aponas	President Southeast	407-206-0077	aaponas@middlesexco.com
Robert L. Mabardy	President Northeast & Clerk	978-742-4400	rmabardy@middlesexco.com
Robert N. Jacobson	Senior V.P. Finance/ Treasurer & Asst. Clerk	978-742-4400	rjacobson@middlesexco.com
David K. Skerrett	Senior V.P. Construction	978-742-4400	dskerrett@middlesexco.com
David Socci	Senior V.P. Estimating	978-742-4400	dsocci@middlesexco.com
John P. Cavatorta	V.P. Construction Operations	978-742-4400	jcavatorta@middlesexco.com

NON-COLLUSION AFFIDAVIT

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

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

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

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

A _____, formed under the laws of _____

of which he is _____

(Sole Owner, partner, president, etc.)

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

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

(AFFIANT)

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

Notary Public _____ (SEAL)

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

Personally Known _____ **or Produced Identification** _____

Type of Identification: _____

REQUIRED DISCLOSURE

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

BIDDER

IFB/RFP Number & Title: _____

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

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

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

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

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

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

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

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PRIME CONTRACTOR/SUBCONTRACTOR/SUPPLIER INFORMATION

List **all** proposed Subcontractors **and suppliers** to be used--Orange County certified M/WBE's **and** non-M/WBE's. Provide company names; contacts, addresses, phone numbers; trade/service/commodity to be provided (specify if Subcontractor or supplier); work to be performed with the Contractor's own workforce, including estimated dollar amount allocated for that work (work that is consistently and historically performed in-house); total amount to be paid to this sub/supplier (do not discount supply dollars); and M/WBE designation or if non-M/WBE (Majority). Dollar amounts listed for each Subcontractor shall represent estimated totals for the entire contract, including all Option Years. See Instructions to Bidders, Part C, for complete M/WBE requirements. Provide **all** information requested. Use additional sheets if necessary.

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

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

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

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

Signature of Bidder

Title

PRIME CONTRACTOR/SUBCONTRACTOR/SUPPLIER INFORMATION

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

Signature of Bidder

Title

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

**LETTER OF INTENT
(VERIFICATION OF UTILIZATION)**

IFB # _____ **PROJECT TITLE** _____

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

SUBCONTRACTOR/SUPPLIER

SPECIFIC SCOPES OF WORK/COMMODITY

SUBCONTRACT/PURCHASE ORDER PRICE

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

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

Authorized Agent of Prime Contractor

Authorized Agent, Subcontractor/Supplier

Printed Name & Title

Printed Name & Title

Date: _____

Date: _____

Phone Number

Fax Number

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M/WBE Survey

Company _____ Contact Name: _____

Contact's Phone Number: _____ IFB #: _____

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

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

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

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

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

Yes No

If no, why not?

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

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

Yes No

If no, why not?

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

Yes No If no, why not?

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

Yes No

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

Routine business only

Only during bid solicitation

Other (please explain)

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

Yes No

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

Yes No

10. Please provide any additional comments:

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

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

IFB No/ Project Name

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

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

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

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

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

SIGNED: _____

TITLE: _____

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

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

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REFERENCES: List at least four similar projects successfully completed within the last three years

1. Project Name _____
Owner _____
Contact _____
Address _____

Telephone Number _____
Original Contract \$ _____
Change Orders \$ _____
Final Contract \$ _____
Completed on Schedule? _____ Date: _____
Project Description _____

2. Project Name _____
Owner _____
Contact _____
Address _____

Telephone Number _____
Original Contract \$ _____
Change Orders \$ _____
Final Contract \$ _____
Completed on Schedule? _____ Date: _____
Project Description _____

3. Project Name _____
Owner _____
Contact _____
Address _____

Telephone Number _____
Original Contract \$ _____
Change Orders \$ _____
Final Contract \$ _____
Completed on Schedule? _____ Date: _____
Project Description _____

4. Project Name _____
Owner _____
Contact _____
Address _____

Telephone Number _____
Original Contract \$ _____
Change Orders \$ _____
Final Contract \$ _____
Completed on Schedule? _____ Date: _____
Project Description _____

5. Project Name _____
Owner _____
Contact _____
Address _____

Telephone Number _____
Original Contract \$ _____
Change Orders \$ _____
Final Contract \$ _____
Completed on Schedule? _____ Date: _____
Project Description _____

6. Project Name _____
Owner _____
Contact _____
Address _____

Telephone Number _____
Original Contract \$ _____
Change Orders \$ _____
Final Contract \$ _____
Completed on Schedule? _____ Date: _____
Project Description _____

ORANGE COUNTY SPECIFIC PROJECT EXPENDITURE REPORT

This form should be completed in full and filed with all bids, proposals, quotes or other responses to the Orange County Solicitation and shall remain cumulative. Amendments to the initial report shall also be submitted to the Purchasing and Contracts Division.

Part I

Please complete the following:

Name and Address of Principal or Principal's Authorized Agent: The Middlesex Corporation, One Spectacle

Pond Road, Littleton, MA 01460

Name and Address of Lobbyist, consultants, contractors, if any: None

Part II

Expenditures:

An "expenditure" is defined to mean a payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying, as this term is defined in section 2-351, Orange County Code. The term "expenditure" does not include contributions or expenditures reported pursuant to chapter 106, FS, or federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4). (s.112.3215, FS) Do not disclose professional fees paid by the principal to his/her lobbyist for the purpose of lobbying. (s.2-354, Orange County Code)

The following is a complete list of all lobbying expenditures incurred by the principal or his/her authorized agent, his/her lobbyist, and/or his/her contractors, if applicable, expended in connection with the above-referenced project or issue:

Date of Expenditure	Name of Payee	Description of Expenditure	Amount Expended
None			\$
			\$
			\$
			\$
			\$
			\$
			\$

If continued on a separate sheet, please check here _____

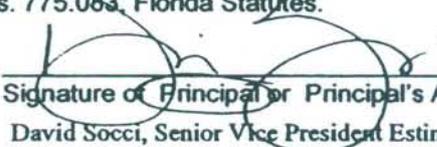
Total Expenditures this Report: _____ \$
Date of this Report: _____

Solicitation # Y10-195-J2

Part III

I hereby certify that information provided in this specific project expenditure report is true and correct based on my knowledge and belief. I further acknowledge and agree to comply with the requirement of section 2-354 of the Orange County code to amend this specific project expenditure report for any additional expenditure incurred related to this solicitation prior to the scheduled Board of County Commissioner meeting. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Date: Feb. 18, 2010



Signature of Principal or Principal's Authorized Agent
David Socci, Senior Vice President Estimating

Failure to complete and submit this form with your bid, proposal or response may render it non-responsive.

RELATIONSHIP DISCLOSURE FORM

This form shall be completed by the bidder, offer or, quoter or respondent or his/her agent (when accompanied by an agent authorization form on file with the County) and is required to be submitted to the Purchasing and Contracts Division by the bidder, offer or, quoter or respondent or his/her agent prior to contract award.

In the event any information provided on this form should change, the applicant(s) should file an amended form on or before the date of project consideration before the appropriate board or body.

PART I. BID/PROPOSAL INFORMATION

Name of Bidder, Proposer or Responder: The Middlesex Corporation

Solicitation No.: Y10-195-J2

Business Address (Street/P.O. Box, City and Zip Code): _____
One Spectacle Pond Road, Littleton, MA 01460

Business Phone (978) 742-4400

Facsimile (978) 742-4434

PART II.

IS THE BIDDER, OFFEROR, QUOTER OR RESPONDENT OR ANY PERSON INVOLVED IN THIS SOLICITATION A RELATIVE OR BUSINESS ASSOCIATE OF THE MAYOR OR MEMBER OF THE BCC?

___ YES X NO

IS THE MAYOR OR ANY MEMBER OF THE BCC YOUR EMPLOYEE?

___ YES X NO

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

___ YES X NO

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

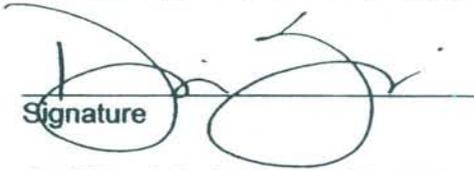
Solicitation # Y10-195-J2

PART III

ORIGINAL SIGNATURE REQUIRED

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

Date: Feb. 18, 2010


Signature

David Socci, Senior Vice President Estimating
Print Name and Title

Failure to complete and submit this form with your bid, proposal or response may render it non-responsive.

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Licensed Florida Insurance Agent? Yes No

License Number: E145169

STATE OF Massachusetts)

COUNTY OF Suffolk) SS

CITY OF Boston)

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

Susan M. Kedian

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

Travelers Casualty and Surety Company of America

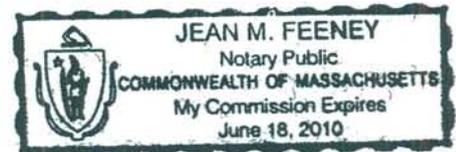
as Surety, and that he has been authorized by said Surety to execute the foregoing Bid Bond on behalf of the Principal (CONTRACTOR) named therein in favor of the owner.

Subscribed and sworn to before me this the 12th day of February, 2010

Jean M. Feeney
Notary Public

Jean M. Feeney

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



Personally Known _____ or Produced Identification

Type of Identification: A License

Countersigned

By: Joseph Pietrangelo
Joseph Michael Pietrangelo License #A207358

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

CONTRACT:

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

**The Middlesex Corporation
One Spectacle Pond Road
Littleton, MA 01460**

Federal Identification Number: 04-2534615

The CONTRACTOR shall perform all the Work required by the Contract Documents for the proper execution and completion of **ASPHALT RESURFACING AND SUPERPAVE** in full accordance with the drawings and as elaborated in the specifications of **Invitation for Bids No. Y10-195-J2** (hereinafter referred to as IFB) which is made a part of this Contract as completely as if set forth herein.

I

AMOUNT OF CONTRACT:

The County shall pay the Contractor in current funds, and in accordance with the progress payment schedule as stated herein, for the performance of the work, subject to additions and deductions by Change Order as provided in the Contract Documents, the estimated amount of Five Million, Four Hundred Fifty-Four Thousand, Six Hundred Seventy-Five Dollars and no cents (\$5,454,675.00).

II

ASBESTOS FREE MATERIALS:

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

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

III

ADMINISTRATIVE DATA:

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

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

IV
CONTRACT DOCUMENTS:

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

A. The Contractor shall furnish all labor, equipment and materials and perform the Work described for the amount specified in individual Delivery Order in strict accordance with the General Conditions, Supplementary Conditions/Special Provisions, Plans and Specifications and other Contract Documents, all of which are made a part hereof and designated as follows:

1. Orange County Invitation for Bids/Project Manual, **IFB No. Y10-195-J2**, dated **January 15, 2010**; (which contains the Invitation for Bids, Notice, Instruction to Bidders, Bid Form and Attachments, this Contract, required Bonds and insurance certificates, General Conditions, Supplementary Conditions/Special Provisions, and Specifications);
2. Addendum No.1, dated February 5, 2010; Addendum No.2, dated February 11, 2010; and Addendum No.3, dated February 12, 2010;
3. The Middlesex Corporation's Bid Proposal dated **February 18, 2010**;
4. Certificates of Insurance;
5. Payment/Performance Bonds;

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

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

C. Contract Type:

This is an indefinite quantity contract for the goods and/or services specified. The quantities of goods and/or services specified are estimates only and are not purchased by this Contract.

Delivery or performance shall be only as authorized by orders in accordance with the terms of this contract. The Contractor shall furnish to the County, when and if ordered, the goods and/or services up to and including the quantity designated in the schedule as the "Total Estimated Amount." The County shall order at least the quantity designated as the "Minimum" during the initial contract performance period. The County may issue orders requiring delivery to multiple destinations or performance at multiple locations.

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

E. This Contract is effective May 24, 2010 and shall remain effective through May 23, 2011.

F. This Contract may be unilaterally renewed as provided in the Contract Documents, Part F, Article 27, "Option to Extend the Term of the Contract". Any amendments to this Contract must be in writing.

G. This Contract may be cancelled or terminated as provided for in the Invitation for Bids.

H. Ordering against the Contract:

1. Unless otherwise specified in the Contract, the County will place orders by issuance of a numbered Delivery Order against this Contract. Each Delivery Order will specify the locations, description and completion time of the work.
2. The obligations of Orange County under this Contract are subject to need and availability of funds lawfully appropriated for its purpose by the Board of County Commissioners, or other specified funding source for this contract.

I. Taxes:

The County has the following tax exemption certificates assigned:

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

J. Invoicing:

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

Roads and Drainage Division
4200 S. John Young Parkway
Orlando, Florida 32839

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

V

TIME OF COMMENCEMENT AND FINAL COMPLETION:

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

VI

COMPLIANCE WITH M/WBE CONTRACT REQUIREMENTS:

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

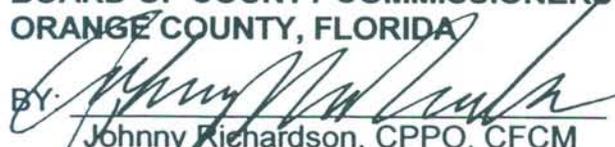
The County may take action up to and including termination for default if this condition is not remedied within the time period specified by the Manager, Purchasing and Contracts.

VII

MISCELLANEOUS PROVISIONS:

- A. Terms used in this Contract which are defined in the General Conditions shall have the meanings designated in those conditions.
- B. No price adjustments shall be made on this contract to the bid price of any products or materials including but not limited to gasoline, diesel or other fuels, and bituminous materials, including asphalt, due to fluctuations in market prices, changes in suppliers or any other reason.
- C. County and Contractor each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.
- D. This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the provisions of this Contract will be held in Orange County, Florida. Venue for any litigation involving this Contract shall be the Ninth Circuit Court in and for Orange County, Florida.

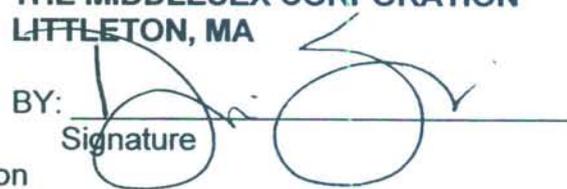
**BOARD OF COUNTY COMMISSIONERS
ORANGE COUNTY, FLORIDA**

BY: 
Johnny Richardson, CPPO, CFCM
Manager, Purchasing and Contracts Division

DATE: 7-9-10

(for County use only)

**THE MIDDLESEX CORPORATION
LITTLETON, MA**

BY: 
Signature
David Socci, Senior Vice President
Type or Print Name Estimating

PERFORMANCE BOND

BOND NUMBER 105433242

KNOW ALL MEN BY THESE PRESENTS that

Name of Contractor The Middlesex Corporation

Address One Spectacle Pond Road, Littleton, MA 01460

Phone Number 978-742-4400

Corporation, Partnership or Individual Corporation

hereinafter referred to as the Contractor, as Principal, and

Name of Surety Travelers Casualty and Surety Company of America

Address One Tower Square, Hartford, CT 06183

Phone Number 800-238-6225

hereinafter called SURETY, as SURETY, are held and firmly bound unto Orange County, 400 East South Street, Orlando, FL 32801, (407)836-5635 a Political Subdivision of the State of Florida as Obligee, hereinafter referred to as Owner, in the full and just sum of \$ 5,454,675, lawful money of the United States of America, to the payment of which sum, well and truly to be made, the Contractor and SURETY bind themselves, their representatives, and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Contractor has entered into **Contract No. Y10-195** with the "County", also referred to herein as the OWNER, for the project entitled: **ASPHALT RESURFACING AND SUPERPAVE, various locations throughout Orange County, Florida** with conditions and provisions as are further described in the aforementioned Contract, which Contract is by reference made a part hereof for the purpose of explaining this bond.

General description of the Work: Roadway asphalt milling and resurfacing.

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

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

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

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

Signed and sealed this the 24th day of May, 2010

WITNESS: *Stephanie Montemanti*

CONTRACTOR, AS PRINCIPAL

The Middlesex Corporation
Firm Name
BY: *[Signature]*
Signature
David Socet, Senior Vice President Estimating
Type Name and Title

Travelers Casualty and Surety Company
SURETY of America

[Signature]
BY: Susan M. Kedian, Attorney-in-Fact

SURETY ADDRESS: One Tower Square
Hartford, CT 06183

AON Risk Services
AGENT FOR SURETY
[Signature]
Signature

AGENCY ADDRESS: One Federal Street
Boston, MA 02110

PHONE 617-482-3100

Licensed Florida Insurance Agent? Yes No

License Number: E145169

STATE OF Massachusetts)

COUNTY OF Suffolk) SS

CITY OF Boston)

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

Susan M. Kedian

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

Travelers Casualty and Surety Company of America

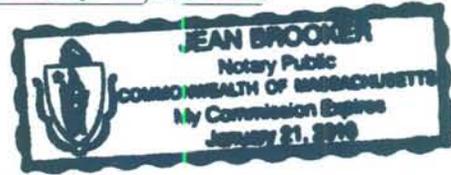
as Surety, and that he has been authorized by said Surety to execute the foregoing Performance Bond on behalf of the Principal (Contractor) named therein in favor of the owner.

Subscribed and sworn to before me this the 24th day of May, 20 10.

Jean Brooker
Notary Public

Jean Brooker

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



Personally Known or Produced Identification

Type of Identification: A License

Countersigned

By: Joseph Pietrangelo
Joseph Michael Pietrangelo
License #A207358

PAYMENT BOND

BOND NUMBER 105433242

KNOW ALL MEN BY THESE PRESENTS that

Name of Contractor The Middlesex Corporation

Address One Spectacle Pond Road, Littleton, MA 01460

Phone Number 978-742-4400

Corporation, Partnership or Individual Corporation

Thereinafter called Contractor, as Principal, and Name and Address of Surety Travelers Casualty and Surety Company of America, One Tower Square, Hartford, CT 06183 hereinafter called SURETY, as SURETY, are held and firmly bound unto Orange County, 400 East South Street, Orlando, FL 32801, (407) 836-5635 a Political Subdivision of the State of Florida as Obligee, in the full and just sum of \$ 5,454,675, lawful money of the United States of America, to the payment of which sum, well and truly to be made, the Contractor and SURETY bind themselves, their representatives, and each of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Contractor has entered into Contract No. Y10-195 with the "County", also referred to herein as the OWNER, for the project entitled: ASPHALT RESURFACING AND SUPERPAVE, various locations throughout Orange County Florida with conditions and provisions as are further described in the aforementioned Contract, which Contract is by reference made a part hereof for the purpose of explaining this bond.

General description of the Work: Roadway asphalt milling and resurfacing.

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

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

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

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

Signed and sealed this the 24th day of May, 20 10.

CONTRACTOR, AS PRINCIPAL:

WITNESS:

Stephanie Montanari
Signature

The Middlesex Corporation
Firm Name

By: [Signature]
Signature

David Socci, Senior Vice President Estimating
Type Name and Title

Travelers Casualty and Surety
SURETY: of America

AON Risk Services
AGENT FOR SURETY:

BY: Susan M. Kedian
Susan M. Kedian, Attorney-in-Fact

BY: [Signature]
Signature

AGENCY ADDRESS: One Federal Street,

SURETY ADDRESS One Tower Square Boston, MA 02110

Hartford, CT 06183 PHONE NO. 617-482-3100

Licensed Florida Insurance Agent? Yes No

License Number: E145169

STATE OF Massachusetts)

COUNTY OF Suffolk) SS

CITY OF Boston)

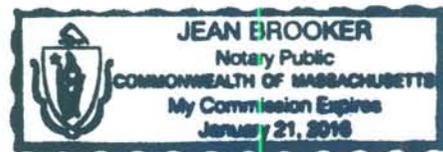
Before me, a Notary Public duly commissioned, qualified and acting personally, appeared:
Susan M. Kedian

to me well known, who being by me first duly sworn upon oath says that he is Attorney-in-Fact for
Travelers Casualty and Surety Company of America
as Surety, and that he has been authorized by said Surety to execute the foregoing Payment Bond on behalf of the
Principal (Contractor) named therein favor of the owner.

Subscribed and sworn to before me this the 24th day of May, 20 10.

[Signature]
Notary Public

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



Personally Known or Produced Identification (Type) _____

Countersigned
By: [Signature]
Joseph Michael Pietrangelo - License #A207358



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 222121

Certificate No. 003533375

KNOW ALL MEN BY THESE PRESENTS: That St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Jean Correia, Jean M. Feeney, John J. Gambino, Kevin A. White, Mark P. Herendeen, Michael J. Cusack, Natalie Coneys, Susan M. Kedian, Nicole Roy, Kathleen M. Flanagan, and Sandra C. Lopes

of the City of Boston, State of Massachusetts, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 19th day of March, 2010.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
George W. Thompson, Senior Vice President

On this the 19th day of March, 2010, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2011.



[Signature]
Marie C. Tetreault, Notary Public

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

FINAL RELEASE OF LIEN

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of monies, set out in the accompanying Estimate Statement No. _____, final, which quantity, the receipt of which is hereby acknowledged, is accepted as full and complete compensation for all work done, materials furnished and damages or claims arising under Orange County Contract No. Y10-195-J2, entitled: ASPHALT RESURFACING AND SUPERPAVE

By:

Contractor

(SEAL)

STATE OF _____

COUNTY OF _____

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

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

ACCOUNTING LINE CHANGE ONLY:

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

COMMODITY LINE NUMBER ADD:

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

COMMODITY LINE NUMBER INCREASE / DECREASE / DELETE:

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

CANCELLATION:

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

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

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

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

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

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

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

CHANGE ORDER REQUEST CONTINUATION SHEET Document No.: _____

PURCHASE ORDER / DELIVERY ORDER / CONTRACT

ACCOUNTING LINE CHANGE ONLY:

Accounting Line From: _____ Amount: _____

Accounting Line To: _____ Amount: _____

Accounting Line Add: _____ Amount: _____

Accounting Line From: _____ Amount: _____

Accounting Line To: _____ Amount: _____

Accounting Line Add: _____ Amount: _____

COMMODITY LINE NUMBER ADD:

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

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

Accounting Line: _____ Amount: _____

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

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

Accounting Line: _____ Amount: _____

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

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

Accounting Line: _____ Amount: _____

COMMODITY LINE NUMBER INCREASE / DECREASE / DELETE:

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

Decrease Unit Cost By: ____ Accounting Line: _____

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

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

Decrease Unit Cost By: ____ Accounting Line: _____

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

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

Decrease Unit Cost By: ____ Accounting Line: _____

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

DRUG-FREE WORKPLACE FORM

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

Name of Business

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

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

Bidder's Signature

Date

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**PART F
GENERAL CONDITIONS**

ARTICLE 1 - THE CONTRACT

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

ARTICLE 2 - DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"**Notice of Intent to Award**" shall mean the written notice given by the County to the successful Bidder.

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

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

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

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

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

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

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

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

ARTICLE 3 - NO ASSIGNMENT OF CONTRACT

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

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

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

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

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

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

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

ARTICLE 5 - INTERPRETATION AND INTENT OF THE CONTRACT DOCUMENTS

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

ARTICLE 6 - REFERENCE POINTS (If Applicable)

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

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

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

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

All **section corners** and **quarter section** corners falling within the limits of this project shall be perpetuated by a Florida registered land surveyor.

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

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

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

ARTICLE 7 - BONDS AND INSURANCE AND INDEMNIFICATION

Payment and Performance Bonds: The CONTRACTOR shall execute and deliver to the County the Payment and Performance Bonds (see Part C, 2-h) included herein as security for the faithful performance and completion of the Work and payment for all materials and labor furnished or supplied in connection with all Work included in the Contract Documents. These Bonds shall be in amounts at least equal to the Contract Amount, shall name the County as obligee and shall be in such form and by sureties of financial standing having a rating from A.M. Best Company (or other equivalent rating company) equal to or better than A- and must be included on the approved list of sureties issued by the United States Department of Treasury. Prior to execution of the Contract Documents the County may require the Contractor to furnish such other Bonds, in such form and with such sureties as it may require. If such Bonds are required by written instructions given prior to opening of Bids, the premium shall be paid by the Contractor. If the Contract Amount is increased by Change Order, it shall be the Contractor's responsibility to insure that the Payment and Performance Bonds be amended accordingly and a copy of the amendment is forwarded to the County.

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

Insurance Requirements:

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

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

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

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

Commercial General Liability – The Contractor shall maintain coverage **issued on an ISO form CG 00 01 or its equivalent**, with a limit of liability of not less than the limits indicated in the Schedule of Limits (see below). **Contractor further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Separation of Insureds.** The General Aggregate limit shall either apply separately to this Contract or shall be at least twice the required occurrence limit. **All projects with a Contract Amount greater than \$20,000,000 shall be written on a Designated Premises or Projects basis (Exhibit B).** Commercial umbrella and excess coverage shall include liability coverage for damage to the Contractor's completed work equivalent to that provided under ISO Form CG 00 01 12 04.

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

Schedule of Limits:

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

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

Builders' Risk - If this Contract includes: (1) construction of a new above-ground structure or structures, (2) any addition, improvement, alteration, or repair to an existing structure or structures, or (3) the installation of machinery or equipment into an existing structure or structures, the Contractor shall maintain builders' risk insurance providing coverage to equally protect the interests of the County, the Professional, the Contractor and subcontractors of any tier. **Coverage shall be written on a completed value form (Exhibit C) in an amount at least equal to 100% of the estimated completed value of the project plus any subsequent modifications of that sum. The coverage shall be written on an "all-risk" basis and shall, at a minimum cover the perils insured under the ISO CP 10 30 Special Causes of Loss Form (Exhibit D) and shall include property in transit and property stored on or off premises, which shall become part of the project. The Contractor agrees not to maintain a wind or flood sub-limit less than 25% of the estimated completed value of the project. The Contractor agrees any flat deductible(s) shall not exceed \$25,000, and any wind percentage deductible (when applicable) shall not exceed five-percent (5%). The coverage shall not be subject to automatic termination of coverage in the event the project/building is occupied in whole or in part, or put to its intended use, or partially accepted by the County. If such restriction exists the Contractor shall request that the carrier endorse the policy to amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, the County's interest in the project ceases, or the project is accepted and insured by the County.**

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

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

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

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

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

The Contractor agrees to specifically include the County as an Additional Insured on the Commercial General Liability policy with a CG 20 10 – Additional Insured - Owners, Lessees, Contractors (Exhibit E) or CG 20 26 – Additional Insured- Designated Persons or Organization endorsement, or their equivalent (Exhibit F). The Contractor shall also specifically include the County as an Additional Insured on any Commercial Umbrella or Excess policies unless the County is automatically defined under the policy as an Additional Protected Person. Additionally, the Contractor agrees to specifically include the County as an Additional Insured under the Contractor's Pollution Liability coverage (when applicable). The name of the organization identified in each Additional Insured endorsement's schedule shall read Orange County Board of County Commissioners.

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

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

Orange County Board of County Commissioners
Purchasing & Contracts Division
400 E. South Street
Orlando, Florida 32801

Prior to commencement of any Work performed by subcontractors (if any), the Contractor shall obtain certificates of insurance evidencing coverage from each of its subcontractors and shall furnish within five days, copies of said certificates upon request by the County. In addition to the certificate(s) of insurance the Contractor shall also provide a blanket or specific additional insured endorsement and all waivers of subrogation or transfer of rights of recovery endorsements for each policy. Failure of the County to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the County to identify a deficiency from evidence provided will not be construed as a waiver of the Contractor's obligation to maintain such insurance.

Indemnification:

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

is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from and,

is caused in whole or in part by any act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in whole or in part by a party indemnified hereunder.

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

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

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

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

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

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

ARTICLE 8 - CONTRACTOR'S RESPONSIBILITIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

http://www.orangecountyfl.net/cms/DEPT/countyadmin/risk/safety-health_manual.htm

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

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

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

ARTICLE 9 - WORK BY OTHERS

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

Water lines, gas lines, wire lines, service connections, water and gas meter boxes, water and gas valve boxes, light standards, cableways, signals, and all other utility appurtenance within the limits of the proposed construction which are to be relocated or adjusted are to be moved by the owners at their expense, unless otherwise provided in the Contract.

It is understood and agreed that the Contractor has considered in his Bid all of the permanent and temporary utility appurtenances in their present or relocated positions as shown on the plans and that no additional compensation will be allowed for any delays, inconvenience or damage sustained by him due to any interference from the said utility appurtenances or the operation of moving them.

If any part of the Contractor's work depends (for proper execution of results) upon work of any such other Contractor (or the County), the Contractor will inspect and promptly report to the Project Manager in writing any defects, deficiencies or delays in such work that render it unsuitable for such proper execution and results. His failure to report shall constitute an acceptance of the other work, except as to defects, deficiencies and delays which may appear in the other work after the execution of the Work.

The Contractor will do all cutting, fitting and patching of his Work that may be required to make its several parts come together properly, and fit it to receive or be received by such other Work.

The Contractor will not endanger any Work of others by cutting, excavating or otherwise altering such other Work and will only cut or alter such other Work with the written consent of the Project Manager.

If the performance of additional Work by other Contractors or the County is not noted in the Delivery Order prior to issuance, written notice thereof shall be given to the Contractor prior to starting any such additional Work. If the Contractor believes that the performance of such additional Work by the County or others involves him in additional expense or entitles him to an extension of the Performance Period, he may make a claim therefor as provided in Articles 12 and 13.

ARTICLE 10 - PROJECT MANAGER'S STATUS DURING CONSTRUCTION

County's Representatives - The Project Manager shall be the Board of County Commissioner's designated representative during the construction period. The designated Project Manager for this Contract shall be Manager, Roads And Drainage Division.

ARTICLE 11 - CHANGES IN THE WORK

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

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

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

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

ARTICLE 12 - CHANGE OF CONTRACT PRICE/DELIVERY ORDER

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

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

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

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

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

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

ARTICLE 13 - CHANGE OF CONTRACT PERFORMANCE PERIOD

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

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

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

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

ARTICLE 14 - WARRANTY AND GUARANTEE: ACCEPTANCE OF DEFECTIVE WORK

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

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

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

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

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

Access To The Work - The Project Manager and his representative, other representatives of the County and representatives of all Agencies having jurisdiction over the permitting, construction, occupancy, use, activation and operation of the Work will at all times have access to the Work. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

Uncovering Work - If any Work is covered contrary to the request of the Project Manager or contrary to the requirements of the Contract documents and applicable standards, it must, if requested by the Project Manager, be uncovered for observation and replaced at the Contractor's expense.

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

Notice to Cure - If the County determines the Work performed pursuant to issuance of a Delivery Order is defective or deficient; if the Contractor fails to supply sufficient skilled workers or suitable materials or equipment; if the Contractor fails to make prompt payments to Subcontractors for labor, materials or equipment; if the work is not progressing in a safe, orderly or well coordinated manner; or if the general progress and/or quality of the work is not adequate to ensure continuation or completion of the work in accordance with the Contract completion time requirements, then the Purchasing and Contracts Division Manager may issue a notice to cure, giving the Contractor a specific period of time (1) in which to submit to the Project Manager a written Plan of Action including a schedule setting forth a plan by which the deficiencies will be corrected, and (2) a specific period of time in which to correct the deficiencies. If the Contractor does not submit a Plan of Action to indicate how and when the deficiencies indicated in the notice to cure will be cured within the specified time frame that is acceptable to the Project Manager, and if those deficiencies are not corrected within that time frame, then the County may take further action, up to and including Contract termination. The Contractor shall not be entitled to any delay claims as a result of the County's issuance of the notice to cure.

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

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

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

Neglected Work By Contractor - If the Contractor should neglect to prosecute the Work in accordance with the Contract Documents, including any requirements of the progress schedule, the County may, after three (3) days written notice to the Contractor and without prejudice to any other remedy it may have, make good such deficiency and the cost thereof shall be charged against the Contractor. A Change Order shall be issued incorporating the necessary revision in the Contract documents including an appropriate reduction in the Contract Price. If the payments then or therefore due the Contractor are not sufficient to cover such amount, the Contractor will pay the difference to the County.

ARTICLE 15 - WARRANTY AND PAYMENT

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

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

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

Not later than 30 days following approval of an application for Payment, ninety percent (90%) of the portion of the Contract Amount properly allocable to labor, materials and equipment incorporated in the Work and ninety percent (90%) of the portion of the Contract Amount properly allocable to materials and equipment suitably stored at the site or at some other location agreed upon in writing, for the period covered by the application for payment, less the aggregate of previous payments made by the Owner. The Project Manager, shall reduce the retainage percentage withheld to 5% when the completion of the Work ascertained as payable exceeds fifty percent (50%) of the total contract amount.

Upon Final completion of the entire Work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract Amount, less such amounts as the Owner shall determine for all incomplete work and unsettled claims as provided in the Contract Documents.

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

Approval of Payments - The Project Manager will, within fifteen (15) days after receipt of each application for payment, either indicate his approval of payment or return the Application to the Contractor indicating in writing the reason for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and re-submit the Application. The County will pay the Contractor the amount approved within the time frame set forth in the Florida Prompt Payment Act.

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

The Project Manager's approval of any payment requested in an application for payment shall constitute a representation by him to the County, based on the Project Manager's on-site observations of the Work in progress and on his review of the application for payment and the supporting data, that the Work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in his approval); and that the Contractor is entitled to payment of the amount approved.

However, by approving any such payment, the Project Manager shall not thereby be deemed to have represented that he made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, that he has reviewed the means, methods, techniques, sequences and procedures of construction nor that he has made any examination to ascertain how or for what purpose the Contractor has used the moneys paid or to be paid to him on account of the Contract Amount.

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

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

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

Inspection - Upon written notice from the Contractor that all the Work is complete including the previously listed deficiencies and that the Work is complete in all respects, the Project Manager will make an inspection with the Contractor and will notify the Contractor in writing of any particulars in which this inspection reveals that the Work is incomplete or defective. The Contractor shall immediately make such correction as are necessary to remedy such defects and to complete all of the required Work.

Inspection For Payment - After the Contractor has completed any such corrections to the satisfaction of the Project Manager and delivered all documents as required by the Contract Documents, he may submit an invoice, following the procedure for payment. The invoice shall be accompanied by legally effective releases or waivers of liens from the Contractor and all Subcontractors and suppliers which performed services or supplied material or equipment for the Contractor pursuant to the Contract Documents and the consent of Surety, if applicable to payment.

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

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

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

ARTICLE 16 - SUSPENSION OF WORK AND TERMINATION

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

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

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

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

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

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

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

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

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

Termination for Convenience: Upon seven (7) days written notice to the Contractor and the Surety, or sooner if reasonable under the circumstances, the County may, without cause and without prejudice to any other right or remedy, elect to terminate any part of the Work, or the Contract in whole or in part, as the County may deem appropriate. In any termination for convenience, the Contractor shall be paid for Work completed by the Contractor, Subcontractors and suppliers at the time of termination provided the Work has been inspected and accepted by the County. However, the payment to the Contractor will exclude any and all anticipated supplemental costs, administrative expenses and profit for uncompleted Work. Upon termination for convenience, the County shall have full power and authority to take possession of the Work, assume any subcontracts with Subcontractors and suppliers that the County selects, and prosecute the Work to completion by Contract or as the County may deem expedient. A termination for convenience may apply to individual delivery orders, purchase orders or to the contract in its entirety.

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

ARTICLE 17 – VERBAL ORDERS

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

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

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

Board approval, as applicable, shall be obtained.

ARTICLE 18 - MAINTENANCE AND EXAMINATION OF RECORDS

The Contractor shall keep adequate records and supporting documents applicable to this Contract. Said records and documentation shall be retained by the Contractor for a minimum of five (5) years after the date of final payment on this contract. If any litigation, claim or audit is commenced prior to the expiration of the five (5) year period, the records shall be maintained until all litigation, claims or audit findings involving the records have been resolved.

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

Contractor's "records and supporting documents" as referred to in this Contract shall include any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, invoices, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in the County's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract document. Such records and documents shall included (hard copy, as well as computer readable data, written policies and procedures; time sheets; payroll registers; cancelled checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating worksheets; correspondence; change order files (including pricing data used to price change proposals and documentation covering negotiated settlements); back-charge logs and supporting documentation; general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends; and any other contractor records which may have a bearing on matters of interest to the County in connection with the Contractor's dealings with the County (all foregoing hereinafter referred to as "records and supporting documents") to the extent necessary to adequately permit evaluation and verification of:

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

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

The County and its authorized agents shall have the right to audit, inspect and copy records and documentation as often as the County deems necessary throughout the term of this contract and for a period of five (5) years after final payment. Such activity shall be conducted during normal business hours. The County, or any of its duly authorized representatives, shall have access within forty-eight (48) hours to such books, records, documents, and other evidence for inspection, audit and copying.

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

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

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

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

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

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

ARTICLE 19 - FEDERAL REQUIREMENTS

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

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

The Contractor will comply with all requirements of Orange County's Minority/Women Owned Business Enterprise Ordinance No. 94-01, as amended by Ordinance No. 2009-21. In summary, the ordinances establish a goal of 25% of the County's annual monetary value of contracts be awarded to minority/women owned-business enterprises meeting Contract specifications. The goals for work force employment levels are 18% minority and 6% women. Other provisions of the Ordinance as it pertains to construction projects may be found in Part C of this document.

To facilitate monitoring for compliance with the Ordinance, the Contractor shall:

- A. Provide to the County's Business Development Division all subcontracts and/or purchase orders, fully executed by both parties, with each Subcontractor and supplier listed on Attachment C-2 in the Prime Contractor's bid (M/WBE's and non-M/WBE's). **The prime Contract will not be executed by the County until these documents are on file in the Business Development Division.** Prime Contractor should include in the subcontract / purchase order a statement that makes the legality of the document contingent upon execution of the prime Contract by the County.
- B. The Contractor shall include a **Prompt Payment Clause** and payment schedule in all subcontracts and purchase orders (including those with non-M/WBE's) stating that payment will be made to the Subcontractor/suppliers within 72 hours of receipt of payment from the County. The Contractor shall pay each Subcontractor and supplier for all work covered under an Application for Payment within the 72 hour timeframe.

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

C. The Contractor shall submit:

- 1) A Monthly Workforce Report (Current Field Employment Data). Contractor shall also ensure that all Subcontractors/suppliers with contracts over \$50,000 supply a Monthly Workforce Report; and
- 2) A Monthly Prime Contractor's Report including M/WBE Utilization Reports

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

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

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

D. Contractor shall not substitute, replace or terminate any M/WBE firm without **prior written authorization of the County**, nor shall the Contractor reduce the scope of work or monetary value of a subcontract without prior written authorization of the County. All modifications, additions and deletions to any and all Contracts issued to said M/WBE's shall also have prior written authorization of the County.

E. The Contractor shall expeditiously advise all M/WBE's and the Business Development Division of all Change Orders, contract modifications, additions and deletions to any and all contracts issued to said M/WBE's.

F. Failure of the Contractor to adhere to the provisions of the Ordinance may subject the Contractor to penalties as outlined in Sec. 17-326 of the Ordinance. The penalties include:

- 1) Liquidated damages up to 10% of the Contract;
- 2) Suspension or permanent debarment from bidding;
- 3) Termination of any present contracts;
- 4) Withholding retainage;
- 5) A negative evaluation of good-faith effort on future bids;
- 6) Withholding of payments.

ARTICLE 21 - LIQUIDATED DAMAGES

Provisions for liquidated damages, should Contractor fail to substantially and/or finally complete the Work within the Contract times are included in the Contract.

ARTICLE 22 - ASBESTOS FREE MATERIALS

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

ARTICLE 23 - CONDITION OF MATERIALS AND PACKAGING

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

ARTICLE 24 - ASSIGNMENT OF AGREEMENT

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

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

ARTICLE 25 - CONSTRUCTION TERM CONTRACT

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

ARTICLE 26 - CONTRACT TERM/RENEWAL

The Contract resulting from this solicitation shall commence effective upon execution by both parties and extend for a period of twelve (12) months. The County may unilaterally renew the Contract for the periods specified on the Bid Proposal Form for twenty-four (24) months. An additional six (6) months extension may also be unilaterally exercised at the County's discretion. Refer to the clauses entitled "Option to Extend the Term of the Contractor" and "Interim Extension of Performance".

ARTICLE 27 - OPTION TO EXTEND THE TERM OF THE CONTRACT

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

ARTICLE 28 - INTERIM EXTENSION OF PERFORMANCE

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

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

ARTICLE 29 - MINIMUM/MAXIMUM DELIVERY ORDER AMOUNT

The Contractor is not obligated to accept Delivery Orders less than \$2500 or in excess of \$500,000. However, if the Contractor accepts any orders outside these parameters, they shall be performed in accordance with all requirements of the Contract.

ARTICLE 30 - ISSUANCE AND ADMINISTRATION OF ORDERS

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

ARTICLE 31 - VARIATION IN ESTIMATED QUANTITY

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

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

ARTICLE 32 - - MISCELLANEOUS

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

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

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

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

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

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

ARTICLE 33 – CONTRACT CLAIMS

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

Claims made by a Contractor against the County relating to a particular contract shall be submitted to the Purchasing and Contracts Manager in writing clearly labeled "Contract Claim" requesting a final decision. The Contractor also shall provide with the claim a certification as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the County is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

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

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

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

ARTICLE 34 - VALUE ENGINEERING

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

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

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

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

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

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

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

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

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

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

D. Processing Procedures: Two copies of each VECP shall be submitted to the County's Project Manager, or his/her duly authorized representative, VECPs will be processed expeditiously; however, the COUNTY will not be liable for any delay in acting upon a VECP submitted pursuant to this Section. The CONTRACTOR may withdraw, in whole or in part, a VECP not accepted by the COUNTY within the period specified in the VECP. The COUNTY shall not be liable for any VECP development cost in the case where a VECP is rejected or withdrawn. The COUNTY shall be the sole judge of the acceptability of a VECP and of the estimated net savings in construction and/or collateral costs from the adoption of all or any part of such proposal. In determining the estimated net savings, the right is reserved to disregard the Contract prices if, in the judgment of the COUNTY, such prices do not represent a fair measure of the value of Work to be performed or to be deleted. Prior to approval, the COUNTY may modify a VECP, with the concurrence of the CONTRACTOR, to make it acceptable.

If any modification increases or decreases the net savings resulting from the VECP, the CONTRACTOR'S fair share will be determined upon the basis of the VECP modified and upon determination of final quantities. The net savings shall be computed by subtracting the revised total cost of all bid items affected by the VECP design from the total cost of the same bid items as represented in the Contract Documents. Prior to approval of the VECP, which initiates the supplemental Contract, the CONTRACTOR shall provide acceptable contract quality Plan sheets revised to show all details consistent with the VECP design.

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

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

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

If the difference in the estimates as approved by the COUNTY indicate a savings, the CONTRACTOR shall divide the resultant amount by 20 to arrive at the average annual net collateral savings. The resultant savings shall be shared as stipulated in paragraph G below.

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

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

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

ARTICLE 35 - CONTRACT TYPE

This is an indefinite quantity contract for the goods and/or services specified. The quantities of goods and/or services specified are estimates only and are not purchased by this Contract.

Delivery or performance shall be only as authorized by orders in accordance with the terms of this contract. The Contractor shall furnish to the County, when and if ordered, the goods and/or services up to and including the quantity designated in the schedule as the "Total Estimated Amount." The County shall order at least the quantity designated as the "Minimum" during the initial contract performance period. The County may issue orders requiring delivery to multiple destinations or performance at multiple locations.

ARTICLE 36 – PATENTS AND ROYALTIES

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

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

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

EXHIBIT A

LEASED EMPLOYEE AFFIDAVIT

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

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

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

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

Name of Employee Leasing Company: _____

Workers' Compensation Carrier: _____

A.M. Best Rating of Carrier: _____

Inception Date of Leasing Arrangement: _____

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

Name of Contractor: _____

Signature of Owner/Officer: _____

Title: _____ Date: _____

EXHIBIT B

POLICY NUMBER:
LIABILITY

COMMERCIAL GENERAL

CG 25 03 03 97

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Construction Projects:

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

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

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

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

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

EXHIBIT C

**COMMERCIAL PROPERTY
CP 00 20 06 07**

BUILDERS RISK COVERAGE FORM

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

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

A. Coverage

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

1. Covered Property

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

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

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

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

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

scaffolding and construction forms.

2. Property Not Covered

Covered Property does not include:

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

3. Covered Causes of Loss

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

4. Additional Coverages

a. Debris Removal

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

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

Example #1

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

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

Example #2

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

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

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

b. Preservation Of Property

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

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

c. Fire Department Service Charge

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

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

No Deductible applies to this Additional Coverage.

d. Pollutant Clean-up And Removal

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

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

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

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

5. Coverage Extensions

a. Building Materials And Supplies Of Others

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

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

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

b. Sod, Trees, Shrubs And Plants

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

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

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

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

B. Exclusions And Limitations

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

C. Limits Of Insurance

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

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

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

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

D. Deductible

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

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

Example #1

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

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

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

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

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

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

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

Example #2

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

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

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

Total amount of loss payable:
\$140,000

E. Loss Conditions

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

1. Abandonment

There can be no abandonment of any property to us.

Appraisal

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

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

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

3. Duties In The Event Of Loss Or Damage

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

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

examination.

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

4. Loss Payment

- a. In the event of loss or damage covered by this Coverage Form, at our option, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) pay the cost of repairing or replacing the lost or damaged property, subject to **b.** below;
 - (3) Take all or any part of property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to **b.** below.We will determine the value of lost or damaged property, or the cost of its repair

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

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

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

5. Recovery Property

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

6. Valuation

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

F. Additional Conditions

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

1. Mortgageholders

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

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

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

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

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

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

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

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

g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

2. Need for Adequate Insurance

We will not pay a greater share of any loss than the portion that the Limit of

Insurance bears to the value on the date of completion of the building described in the Declarations.

EXAMPLE #1 (UNDERINSURANCE)

When: The value of the building on the date of completion is: \$200,000
 The Limit of Insurance for it is: \$100,000
 The Deductible is: \$ 500
 The amount of loss is: \$ 80,000

Step (1): $\$100,000 \div \$200,000 = .50$

Step (2): $\$80,000 \times .50 = \$40,000$

Step (3): $\$40,000 - \$500 = \$39,500$.

We will pay no more than \$39,500. The remaining \$40,500 is not covered.

EXAMPLE #2 (ADEQUATE INSURANCE)

When: The value of the building on the date of completion is: \$200,000
 The Limit of Insurance for it is: \$200,000
 The Deductible is: \$ 1,000
 The amount of loss is: \$ 80,000

The limit of Insurance in the example is adequate and therefore no penalty applies. We will pay no more than \$79,000 (\$80,000 amount of loss minus the deductible of \$1,000).

3. Restriction Of Additional Coverage – Collapse

If the Causes Of Loss – Broad Form is applicable to this Coverage Form, Paragraph C.2.f. of the Additional Coverage – Collapse does not apply to this Coverage Form.

If the Cause Of Loss – Special Form is applicable to this Coverage Form, Paragraphs D.2.c. and D.2.d of the Additional Coverage Collapse do not apply to this Coverage Form.

4. When Coverage Ceases

The insurance provided by this Coverage Form will end when one of the following first occurs:

- a. This policy expires or is cancelled.
- b. The property is accepted by the purchaser;
- c. Your interest in the property ceases;
- d. You abandon the construction with no intention to complete it;
- e. Unless we specify otherwise in writing.
 - (1) 90 days after construction is complete or;
 - (2) 60 days after any building described in the Declarations is:
 - (a) Occupied in whole or in part; or
 - (b) Put to its intended use.

G. Definitions

“Pollutants” means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

CAUSES OF LOSS – SPECIAL FORM

Words and phrases that appear in quotation marks have special meaning. Refer to Section **G.**, Definitions.

A. Covered Causes Of Loss

When Special is shown in the Declarations, Covered Causes of Loss means Risk of Direct Physical Loss unless the loss is:

1. Excluded in Section **B.**, Exclusions; or
2. Limited in Section **C.**, limitations; that follow.

B. Exclusions

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

a. Ordinance or Law

The enforcement of any ordinance or law:

- (1) Regulating the construction, use or repair of any property; or
- (2) Requiring the tearing down of any property, including the cost of removing its debris.

This exclusion, Ordinance Or Law applies whether the loss results from:

- (a) An ordinance or law that is enforced even if the property has not been damaged; or
- (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

b. Earth movement

- (1) Earthquake, including any earth sinking, rising or shifting related to such

event;

- (2) Landslide including any earth sinking, rising or shifting related to such event.
- (3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;
- (4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts or realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in **b.(1)** through **(4)** above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or Volcanic Action, we will pay for the loss or damage caused by that fire, building glass breakage or Volcanic Action.

Volcanic Action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust or particulate matter; or
- (c) Lava flow.

All volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic Action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the described property.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Coverage Part.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

- (1) Originates away from the described premises; or
- (2) Originates at the described premises but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply. Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in Covered Cause of loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are

not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

f. War And Military Action

(1) War, including undeclared or civil war;

(2) Warlike action by military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. Water

(1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water or their spray, all whether driven by wind or not;

(2) Mudslide or mudflow;

(3) Water that backs up or overflows from a sewer, drain or sump; or

(4) Water under the ground surface pressing on, or flowing or seeping through:

(a) Foundations, walls, floors or paved surfaces;

(b) Basements, whether paved or not; or

(c) Doors, windows or other openings.

But if Water, as described in **g.(1)**. Through **g.(4)**. above, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire explosion or sprinkler leakage.

h. "Fungus", Wet Rot, Dry Rot And Bacteria

Presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or bacteria.

But if "fungus", wet or dry rot or bacteria results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss". This exclusion does not apply:

1. When "fungus", wet or dry rot or bacteria results from fire or lightning; or
2. To the extent that coverage is provided in the Additional Coverage – Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria with respect to loss or damage by a cause of loss other than fire or lightning.

Exclusions **B.1.a.** through **B.1h.** apply whether or not the loss event results in widespread damage or affects a substantial area.

2. We will not pay for loss or damage caused by or resulting from any of the following:

a. Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (a) Electrical current, including arcing;
- (b) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (c) Pulse of electromagnetic energy; or
- (d) Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by the fire.

- b.** Delay, loss of use or loss of market.
- c.** Smoke, vapor or gas from agricultural smudging or industrial operations
- d.** (1) Wear and tear;
- (2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Setting, cracking, shrinking or expansion;

(5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.

(6) Mechanical breakdown, including rupture or bursting caused by centrifugal force. But if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by the elevator collision.

(7) The following causes of loss to personal property:

- (a) Dampness or dryness of atmosphere;
- (b) Changes in or extremes of temperature; or
- (c) Marring or scratching.

But if an excluded cause of loss that is listed in **2.d.(1).** through **(7)** results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

e. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines result in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

f. Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over period of 14 days or more.

g. Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.
- h.** Dishonest or criminal act by you, any of your partners, members, officers, managers, employees (including leased employees), directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose.
 - (1) Acting alone or in collusion with others; or
 - (2) You drain the equipment and shut off the supply if the heat is not maintained.
- This exclusion does not apply to acts of destruction by your employees (including leased employees); but theft by employees (including leased employees) is not covered.
- i.** Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
- j.** rain, snow, ice or sleet to personal property in the open.
- k.** Collapse, including any of the following conditions of property or any part of the property:
 - (1) An abrupt falling down or caving in;
 - (2) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
 - (3) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to (1) or (2) above.

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

The exclusion, **k.**, does not apply:

- (a) To the extent that coverage is provided under the Additional Coverage – Collapse; or
- (b) To collapse caused by one or more of the following:

- (i) The “specified cause of loss”;
- (ii) Breakage of building glass;
- (iii) Weight of rain that collects on a roof; or
- (iv) Weight of people or personal property.
- l.** Discharge, dispersal, seepage, migration, release or escape of “pollutants” unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the “specified causes of loss”. But if the discharge, dispersal, seepage, migration, release or escape of “pollutants” results in “specified cause of loss”, we will pay for the loss or damage caused by that “specified cause of loss”. The exclusion, **l.**, does not apply to damage to glass caused by chemicals applied to glass.
- m.** Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time loss.
- 3.** We will not pay for loss or damage caused by or resulting from any of the following, **3.a.** through **3.c.** But if an excluded cause of loss that is listed in **3.a.** through **3.c.** results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.
 - a.** Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph **1.** above to produce the loss or damage.
 - b.** Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.
 - c.** Faulty, inadequate or defective:
 - (1) Planning, zoning, development, surveying, siting;
 - (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
 - (3) Materials used in repair, construction renovation or remodeling; or
 - (4) Maintenance;

of part or all of any property on or off the described premises.

4. Special Exclusions

The following provisions apply only to the specified Coverage Forms.

a. Business Income (And Extra Expense) Coverage Form, Business Income (Without Extra Expense) Coverage Form, Or Extra Expense Coverage Form

We will not pay for:

- (1) Any loss caused by or resulting from:
 - (a) Damage or destruction of “finished stock”; or
 - (b) The time required to reproduce “finished stock”.

This exclusion does not apply to Extra Expense.

- (2) Any loss caused by or resulting from direct physical loss or damage to radio or television antennas (including satellite dishes) and their lead in-wiring, masts or towers.

- (3) Any increase of loss caused by or resulting from:

- (a) Delay in rebuilding, repairing or replacing the property or resuming “operations”, due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

- (b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the “suspension” of “operations”, we will cover such loss that affects your Business Income during the “period of restoration” and any extension of the “period of restoration” in accordance with the terms of the Extended business Income Additional Coverage and the Extended Periods Of Indemnity Optional Coverage or any variation of these.

- (4) Any Extra Expense caused by or resulting from suspension, lapse or cancellation of any license, lease or

contract beyond the “period of restoration”.

- (5) Any other consequential loss.

b. Leasehold interest Coverage Form

- (1) Paragraph **B.1.a.**, Ordinance Or Law, does not apply to insurance under this Coverage Form.

- (2) We will not pay for any loss caused by:
 - (a) Your cancelling the lease;
 - (b) The suspension lapse or cancellation of any license; or
 - (c) Any other consequential loss.

c. Legal liability Coverage Form

- (1) The following exclusions do not apply to insurance under this Coverage Form:

- (a) Paragraph **B.1.a.**, Ordinance Or Law;
 - (b) Paragraph **B.1.c.**, Governmental Action
 - (c) Paragraph **B.1.d.**, Nuclear Hazard;
 - (d) Paragraph **B.1.e.**, Utility Services; and
 - (e) Paragraph **B.1.f.**, War And Military Action

- (2) The following additional exclusions apply to insurance under this Coverage Form:

(a) Contractual Liability

We will not defend any claim or “suit”, or pay damages that you are legally liable to pay solely by reason of your assumption of liability in a contract or agreement. But this exclusion does not apply to a written lease agreement in which you have assumed liability for building damage resulting from an actual or attempted burglary or robbery, provided that:

- (i) Your assumption of liability was executed prior to accident; and
 - (ii) The building is Covered Property under this Coverage Form.

(b) Nuclear Hazard

We will not defend any claim or “suit”, or pay any damages, loss,

expense or obligation, resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

5. Additional Exclusion

The following provisions apply only to the specified property.

LOSS OR DAMAGE TO PRODUCTS

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

C. Limitations

The following limitations apply to all policy forms and endorsements, unless otherwise stated.

1. We will not pay for loss of or damage to property, as described and limited in the section. In addition, we will not pay for any loss that is a consequence of loss or damage as described and limited in this section.

a. Steam boilers, steam pipes steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

b. Hot water boilers or other water heating equipment caused by ore resulting from any condition or event

inside such boilers or equipment, other than an explosion.

c. The interior of any building or structure or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:

(1) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or

(2) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.

d. Building materials and supplies not attached as part of the building or structure caused by or resulting from theft.

However, this limitation does not apply to:

(1) Building materials and supplies held for sale by you, unless they are insured under the Builders Risk Coverage Form; or

(2) Business Income Coverage or Extra Expense Coverage.

e. Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property.

f. Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.

2. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:

a. Animals, and then only if they are killed or their destruction is made necessary.

b. Fragile articles such as statuary, marbles, chinaware and porcelains, if broken. This restriction does not apply to:

- (1) Glass; or
- (2) Containers of property held for sale.
- c. Builders' machinery, tools and equipment owned by you or entrusted to you, provided such property is Covered Property.
 - (1) If the property is located on or within 100 feet of the described premises, unless the premises is insured under the Builders Risk Coverage Form; or
 - (2) To Business Income Coverage or to Extra Expense Coverage.
- 3. The special limit shown for each category, a. through d., is the total limit for loss of or damage to all property in that category. The special limit applies to any one occurrence of theft, regardless of the types or number of articles that are lost or damaged in that occurrence. The special limits are:
 - a. \$2,500 for furs, fur garments and garments trimmed with fur.
 - b. \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum, and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
 - c. \$2,500 for patterns, dies, molds and forms.
 - d. \$250 for stamps, tickets, including lottery tickets held for sale, and letters for credit.
 These special limits are part of, not in addition to, the Limit of Insurance applicable to the Covered Property. This limitation, **C.3.**, does not apply to Business Income Coverage or Extra Expense Coverage.
- 4. We will not pay the cost to repair any defect to a system or appliance from which water, other liquid, powder or molten material escapes. But we will pay the cost to repair or replace damaged parts of fire-extinguishing equipment if the damage:
 - a. Results in discharge of any substance from an automatic fire protection system; or
 - b. Is directly caused by freezing.
 However, this limitation does not apply to

Business Income Coverage or to Extra Expense Coverage.

D. Additional Coverage – Collapse

The coverage provided under this Additional Coverage – Collapse applies only to an abrupt collapse as described and limited in **D.1.**, through **D.7.**,

- 1. For the purpose of this Additional Coverage –Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that building or part of the building cannot be occupied for its intended purpose.
- 2. We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of building or any part of a building that is insured under this Coverage Form or that contains Covered Property insured under this Coverage Form, if such collapse is caused by one or more of the following.
 - a. Building decay that is hidden from view unless the presence of such decay is known to an insured prior to collapse;
 - b. Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;
 - c. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.
 - d. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete but only if the collapse is caused in part by:
 - (1) A cause of loss listed in **2.a.** or **2.b.**;
 - (2) One or more of the “specified causes of loss”;
 - (3) Breakage of building glass;
 - (4) Weight of people or personal property; or
 - (5) Weight of rain that collects on a roof.

3. This Additional Coverage – Collapse does **not** apply to:

- a.** A building or any part of a building that is in danger of falling down or caving in;
- b.** A part of a building that is standing, even if it has a separated from another part of the building; or
- c.** A building that is standing or any part of a building that is standing even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

4. With respect to the following property:

- a.** Outdoor radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers;
- b.** Awnings, gutters and downspouts;
- c.** Yard fixtures;
- d.** Outdoor swimming pools;
- e.** Fences;
- f.** Piers, wharves and docks;
- g.** Beach or diving platforms or appurtenances;
- h.** Retaining walls; and
- i.** Walks, roadways and other paved surfaces;

if an abrupt collapse is caused by cause of loss listed in **2.a.** through **2.d.**, we will pay for loss or damage to that property only if:

- (1)** Such loss or damage is a direct result of the abrupt collapse of a building insured under this Coverage Form.
- (2)** The property is Covered Property under this Coverage Form.

5. If personal property abruptly falls down or caves in and such collapse is **not** the result of abrupt collapse of a building, we will pay for loss or damage to Covered property caused by such collapse of personal property only if:

- a.** The collapse of personal property was caused by a cause of loss listed in **2.a.** through **2.d.**;
- b.** The personal property which collapses is inside a building; and
- c.** The property which collapses is not of a kind listed in **4.**, regardless of whether

that kind of property is considered to be personal property or real property.

The coverage stated in the Paragraph **5.** does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

6. This Additional Coverage – Collapse does not apply to a personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

7. This Additional Coverage – Collapse will not increase the Limits of Insurance provided in this Coverage Part.

8. The term Covered Cause of Loss includes the Additional Coverage – Collapse as described and limited in **D.1.** through **D.7.**

E. Additional Coverage – Limited Coverage For “Fungus”, Wet Rot, Dry Rot And Bacteria

1. The coverage described in **E.2.** and **E.6.** only applies when the “fungus”, wet or dry rot or bacteria is the result of one or more of the following causes that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.

- a.** A “specified cause of loss” other than fire or lightning; or
- b.** Flood, if Flood Coverage Endorsement applies to the affected premises.

2. We will pay for loss or damage by “fungus” wet or dry rot or bacteria. As used in this Limited Coverage, the term loss or damage means:

- a.** Direct physical loss or damage to Covered Property caused by “fungus”, wet or dry rot or bacteria including the cost of removal of the “fungus”, wet or dry rot or bacteria;
- b.** The cost to tear out and replace any part of the building or other property as needed to gain access to the “fungus”, wet or dry rot or bacteria; and
- c.** The cost of testing performed after

removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that “fungus”, wet or dry rot or bacteria are present.

3. The coverage described under **E.2.** of this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of “specified cause of loss” (other than fire or lightning) and Flood which take place in a 12 month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in “fungus”, wet or dry rot or bacteria, we will not pay more than a total of \$15,000 even if the “fungus”, wet or dry rot or bacteria continues to be present or active, or recurs, in a later policy period.
4. The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by “fungus”, wet or dry rot or bacteria, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by “fungus”, wet or dry rot or bacteria, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that “fungus”, wet or dry rot or bacteria causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

5. The terms of this Limited Coverage do not increase or reduce the coverage provided under Paragraph **F.2.** (Water Damage, Other Liquids, Powder Or Molten Material Damage) of this Causes Of Loss Form or under the Additional Coverage – Collapse.
6. The following, **6.a** or **6.b.**, applies only if Business Income and/or Extra Expense

Coverage applies to the described premises and only if the “suspension” of “operations” satisfies all terms and conditions of the applicable Business Income and/or Extra Expense Coverage Form.

- a. If the loss which resulted in “fungus”, wet rot or dry rot or bacteria does not in itself necessitate a “suspension” of “operations”, but such “suspension” is necessary due to loss or damage to property caused by “fungus” wet or dry rot or bacteria, then our payment under Business Income and/or Extra Expense is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- b. If a covered “suspension” of “operations” was caused by loss or damage other than “fungus”, wet or dry rot or bacteria but remediation of “fungus”, wet or dry rot or bacteria but remediation of “fungus”, wet or dry rot or bacteria prolongs the “period of restoration”, we will pay for loss and/or expense sustained during the delay (regardless of when such delay occurs during the “period of restoration”), but such coverage is limited to 30 days. The days need not be consecutive.

F. Additional Coverage Extensions

1. Property In Transit

This Extension applies only to your personal property to which this form applies.

- a. You may extend the insurance provided by this Coverage Part to apply to your personal property (other than property in the care, custody or control of your salespersons) in transit more than 100 feet from the described premises. Property must be in or on a motor vehicle you own, lease or operate while between points in the coverage territory.
- b. Loss or damage must be caused by or result from one of the following causes of loss:

(1) Fire, lightning, explosion, windstorm or hail riot or civil commotion, or vandalism.

(2) Vehicle collision, upset or overturn. Collision means accidental contact of your vehicle with another vehicle or object. It does not mean your vehicle's contact with the roadbed.

(3) Theft of an entire bale, case or package by forced entry into a securely locked body or compartment of the vehicle. There must be visible marks of the forced entry.

c. The most we will pay for loss or damage under this Extension is \$5,000.

This Coverage Extension is additional insurance. The Additional Condition, Coinsurance, does not apply to this Extension.

2. Water Damage, Other Liquids, Powder Or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes. This Coverage Extension does not increase the Limit of Insurance.

3. Glass

a. We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.

b. We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

The Coverage Extension, **F.3.**, does not increase the Limit of Insurance.

G. Definitions

1. "Fungus" means type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.

2. "Specified cause of loss" means the following: fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire-extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

a. Sinkhole collapse means sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

(1) The cost of filling sinkholes; or

(2) Sinking or collapse of land into manmade underground cavities.

b. Falling objects does not include loss or damage to:

(1) Personal property in the open; or

(2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

c. Water damage means accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and system including its related equipment and parts), that is located on the described premises and contains water or steam.

EXHIBIT E

POLICY NUMBER: COMMERCIAL GENERAL LIABILITY
CG 20 10 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to incline as an additional insured the person(s) or organization(s) shown in the Schedule but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part by:

- 1. Your acts omissions; or
- 2. The acts or omissions of those acting on your behalf;

In the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

The insurance does not apply to “bodily injury” or “property damage” occurring after:

- 1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- 2. That portion of “your work” out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

EXHIBIT F

POLICY NUMBER: _____ COMMERCIAL GENERAL
LIABILITY

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
ADDITIONAL INSURED – DESIGNATED
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)

Orange County
201 S. ROSALIND AVE
ORLANDO, FL 32801

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for “bodily injury”, “property damage” or “personal and advertising injury” caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- A. In the performance of your ongoing operations; or
- B. In connection with you premises owned by or rented to you.

**PART G
SPECIAL CONDITIONS**

1. All work under this contract shall be performed under the supervision of the Manager of the Orange County Roads and Drainage Division or designee, 4200 South John Young Parkway, Orlando, Florida, 32839-9205; (407) 836-7874.
2. The Contractor shall coordinate all inspections with the County's Representative. The Contractor shall verify that all work schedule to be inspected is complete. The Contractor shall be responsible for the solution of any problems or discrepancies that may arise during the inspection process.
3. The Contractor shall institute a quality control plan for this contract, which will make available to the County for approval. The Contractor shall be responsible for and shall verify all quality control actions to the County's Representative as directed.
4. **Maintenance of Traffic (M.O.T.)** shall conform to F.D.O.T.'s most current editions of the "Roadway and Traffic Design Standards" for Design, Construction, and Maintenance Systems and the Federal Highway Administration (F.H.W.A.) "Manual on Uniform Traffic Control Devices (M.U.T.C.D.) for Streets and Highways". These documents can be ordered from F.D.O.T., Maps, and Publications Department, 605 Suwannee Street, Tallahassee, Florida, 32399-0450, Phone (904) 488-9220. A proposed traffic control plan will be submitted to the County's Representative for approval, at least two (2) working days prior to start of work. **IF THE CONTRACTOR DOES NOT COMPLY WITH F.H.W.A.'S M.U.T.C.D. (I.E. SIGNS, QUALIFIED FLAGGERS AND/OR BARRICADES), THE COUNTY RESERVES THE RIGHT TO DIRECT THE CONTRACTOR TO CEASE OPERATION UNTIL DEFECIENCIES ARE CORRECTED. IN ADDITION, NO ROAD CLOSURES WILL BE ALLOWED EXCEPT IN THE CASE OF EMERGENCIES.**
5. **THE USE OF PUBLIC ROADS AND STREETS BY THE CONTRACTOR WILL PROVIDE A MINIMUM INCONVINIENCE TO THE PUBLIC AND TRAFFIC.**
6. The Contractor shall comply with the most current edition of the Accident Prevention Manual pertaining to employee safety and applicable Occupational Safety and Health Administration (O.S.H.A.) and Orange County Standards. The Contractor will be responsible for obtaining copies of these publications by contacting the F.D.O.T. Maps and Publications Department in Tallahassee, O.S.H.A. Regional Office in Atlanta, Ga. and Orange County Public Works in Orlando, respectively.

7. **A mandatory Pre-work Conference will be conducted by the County's Representative to ensure understanding and cooperation of all parties.**
8. All work is to be ordered by the County's Representative in the form of Delivery Orders on an as needed basis. No work will begin until a Delivery Order has been issued to the Contractor. A Delivery Order will be issued for each project. The Delivery Order will contain a start date and completion date. The dates so specified on each individual delivery order will constitute the basis for the assessment of liquidated damages should the project be delayed or not finished in time due to fault or negligence of the Contractor. **If a project is not completed by the completion date (adjusted for County authorized delays such as adverse weather conditions) and/or the Contractor does not correct any defective area within seven (7) days after notification by the County, liquidated damages in the amount of two hundred (\$200) dollars will begin one day after the specified completion date and continue each calendar day thereafter until the project is completed and accepted by the County. The County will calculate the completion date taking into consideration a placement production rate of 7,272 square yards (approximately 400 tons) of asphalt per day.**

Any deficiencies not addressed by the contractor by the time required under this contract will be ground to deny payment for the location affected.

9. The County's Representative will be entitled at all times to be advised, at his/her request, as to the status and details of the work being completed by the Contractor in a format he/she requires. The Contractor will maintain coordination with the County's Representative at all times. Either party may request and be granted a conference upon request in a timely manner. **The Contractor will inform the County's Representative daily as to the locations to be worked and the areas completed the previous day.**
10. **The Contractor will submit a work schedule prior to beginning any work ordered. The work schedule will contain the route to be followed and the location of the work each day.** The Contractor will consult with the County's Representative prior to any schedule variance. The notification will occur the day before the day of the scheduled variance and must be agreed to by the County's Representative.
11. The Contractor will supervise and direct the work efficiently with due care, skill and attendance. The Contractor will be responsible to ensure that the finished work complies accurately with the specifications, County standards and all written orders. The Contractor shall immediately notify the County's Representative of any problems in the assigned project.

12. The Contractor will provide competent, suitable and qualified personnel to perform the work as required by the specifications. The Contractor will, at all times, maintain good discipline and order at the work site. The Contractor will provide a list of all foreman and supervisors who will perform the work. This list will also contain twenty-four (24) hour emergency telephone numbers.
13. The Contractor will designate a competent Contractor's Representative who will not be replaced without written notice to the County's Representative at least twenty-four (24) hours before or after the incident. The Contractor's Representative will be present at the job site and will have the authority to act on behalf of the Contractor. All communications given to the Contractor's Representative will be binding as if given to the Contractor.
14. The Contractor shall notify all residents within the work area as to when the work will take place and explain the level of inconvenience that will be involved. This notification shall take place five (5) days prior to commencement of any work in that area. The notification will be by an approved door hanger to be placed on each house and any vehicles parked on the roadways. All work performed, unless authorized by the County's Representative, will take place between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday. No work is to be performed on Saturdays, Sundays or Federal, State, and County holidays, unless authorized by the County's Representative. If the contractor desires to work on Saturdays, Sundays, or official County holidays (New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve Day and Christmas Day) he/she must obtain pre-approval from the Manager, Roads and Drainage Division.
15. Due to congested traffic or adverse weather conditions, the Contractor may be required to remove his/her operation from the right-of-way and County property at the discretion of the County's Representative. If the Contractor is required to remove his/her operation due to congested traffic or adverse weather conditions, and has worked less than five (5) hours, the County will consider allowing an additional one (1) day be added to the performance period. If the Contractor has worked more than five (5) hours, the County will consider allowing an additional one-half ($\frac{1}{2}$) day based on the progress of the project. The County's Representative will determine and authorize such award after the Contractor makes a written application for this. The County will modify the completion date, accordingly, for the project as required.

16. **Multiple Concurrent Projects** – At any given time during the contract term, the contractor(s) must have adequate resources to handle two or more Orange County projects at the same time. All bidders, as part of their equipment and resource submittal as specified herein (**see Part H, Paragraph 3**), shall define and submit a Management Plan and Resource List containing the minimum components (including personnel and equipment) for each work crew available for use on Orange County projects under this contract. Through the Management Plan and Resource List all bidders must describe in detail their capability to handle multiple concurrent projects under this contract. The multiple concurrent project capability is considered a minimum requirement in the consideration of award of a contract for this solicitation.

It is understood by all bidders that the quantities listed herein are estimates only and the County is obligated to purchase only the quantity designated as the “Minimum” during the initial contract performance period. In addition the County is not obligated to issue concurrent project work. All work will be ordered by the County’s Representative in the form of Delivery Orders on an as needed basis.

PART H TECHNICAL PROVISIONS

The Contractor will furnish all supervision, quality control, labor, materials, equipment, tools, transportation, supplies, manpower, and pay disposal fees necessary to complete work specified in this contract.

The Contractor shall institute a quality control plan for this contract, which he/she will make available to the County for approval. The Contractor shall be responsible for and shall verify all quality control actions to the County's Representative as directed.

Work performed under this contract and all products and asphalt mixes to be used during the performance of this contract shall conform and adhere to all applicable standards and specifications of the **Florida Department of Transportation Standards Specifications for Road and Bridge Construction, latest edition unless otherwise specified in writing on this contract.** The Contractor shall possess at time of contract award a Department of Transportation (FDOT) certification for the amount and type of work covered under this contract.

1. **QUANTITY AND FREQUENCY OF WORK** – The work specified in this contract represents the type of services to be accomplished. Areas have been inventoried and calculated as to quantities. Any discrepancies or disagreements concerning quantities, existing conditions (inclusive of possible base failures and water standing areas that may affect the paving operations), limits of work, etc. shall be immediately reported in writing (shall reflect the new measurements taken by the contractor and the contract measurements) to the County's Representative. Discrepancies or disagreements will be mutually resolved prior to beginning work in any area in question. The County will make the final determination on any unresolved matters.
2. The work performed shall consist of but not be limited to performance of the following:

- 2.1 **Resurfacing** – Most roads in this contract are to be resurfaced with a minimum one (1) inch overlay (after compaction). Specified thickness is across the new pavement mat. No under tolerances (i.e. FDOT tolerances) apply to this contract. No additional compensation will be provided to the contractor for excess material used to achieve minimum required thickness on this contract. Some roads will require grass be removed from the asphalt prior to overlay. Required minimum thickness will be specified for each area.

All mix designs shall be FDOT approved. The Type SP mix may be one traffic level higher than the traffic level specified in the Contract, at no cost to the County (i.e. Traffic Level B may be substituted for Traffic Level A, etc.). Where Type S Asphalt Concrete is specified in the Contract, the equivalent fine Type SP Asphalt Concrete mixture (Traffic Level C) may be selected as an alternate at the specified contract price.

Contractors may select the equivalent fine Type SP asphalt mix at no additional cost to the County as follows:

Type S-I - Type SP-12.5
Type S-III - Type SP-9.5

A certified asphalt mix design is to be provided to the County prior to starting operations on this contract. The contractor will be responsible to demonstrate via lab tests, density tests and coring, as specified herein, that all work has been completed as specified and in compliance with all applicable FDOT standards. The County may require additional documentation to be specified.

The contractor shall provide copy of all asphalt tickets used on any particular area to the County's Representative on a daily basis along with the Contractor's Daily Superintendent Worksheet (provided by Orange County Roads and Drainage). Daily average yield per street shall be specified on the daily worksheet. Asphalt tickets shall specify the name of the street the asphalt was used on. The County may require additional documentation to be specified.

Minimum Coring Test Requirements – When work is performed in subdivisions, core samples shall be taken every 200 feet staggered across the mat. On main/classified roadways, core samples shall be taken every 500 feet staggered across the mat. The cost for coring, lab and density tests shall be included on the unit price for asphalt.

The cost for resurfacing shall be inclusive all supervision, quality control, labor, materials, equipment, tools, transportation, supplies, manpower, clean up, tests, incidentals and pay disposal fees necessary to complete the work as specified herein.

- 2.2 Manholes, Valves etc.** – Existing manholes, valves or other structures located in the roadway must be adjusted to finish asphalt grade immediately before the resurfacing takes place, by the Contractor. The use of manhole risers and valve risers will be accepted. The price of such items will be a separate pay item.
- 2.3 Cleanup** – The Contractor shall keep the area free from accumulation of waste materials, rubbish and debris on a daily basis. All tools, construction equipment and machinery, and surplus materials shall be kept under control, and shall leave the worksite clean and ready for occupancy by the County. The Contractor shall restore to the original condition those portions of the work site not designated for alteration by the Contract Documents.

Inlet openings shall be kept free from debris generated during milling and resurfacing operations to prevent excessive accumulations and possible flooding in the affected areas during heavy cycles of rain. Millings will not be blown into drains or storm drain inlets at any time. Failure to adhere to this will result in a request to jet out affected pipes and drains at the contractor's expense or reimbursing the County for the clean up effort carried out by County personnel. The price for clean up shall be included in the unit price for asphalt.

- 2.4 Temporary Markings** – The contractor shall be responsible for all temporary pavement markings required on areas where the work is to be accomplished as needed. Pavement markings shall be restored in the same fashion that they were before the project began, **unless otherwise specified.**

The County will only allow the use of paint as temporary markings. All markings shall be in place before the end of the workday and shall be placed according to the **Florida Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition.** Temporary pavement markings shall be in place to protect traffic overnight if milled area is not paved.

The unit price for pavement markings will be a separate pay item and shall include all labor, materials, equipment, maintenance of traffic and incidentals associated to complete this task.

- 2.5 Milling** – When milling to improve rideability or cross slope, remove the existing pavement to the average depth specified, in a manner that will restore the pavement surface to a uniform cross-section and longitudinal profile. County's Representative may require the use of a string line to ensure maintaining the proper alignment.

Establish the longitudinal profile of the milled surface in accordance with the specifications. Ensure that the final cross slope of the milled surface parallels the surface cross slope shown on the plans, if provided, or as directed by the County's Representative. Establish the cross slope of the milled surface by a second sensing device near the outside edge of the cut or by an automatic cross slope control mechanism. If provided, the plans may waive the requirement of automatic grade or cross slope controls where the situation warrants such action.

Multiple cuts may be made to achieve the required pavement configuration or depth of cut. Include in the Quality Control Plan a system to control the cross slope of the milling surface with a minimum frequency of one cross slope measurement every 250 feet (75 m) during milling operations in order to ensure that the slopes are uniform and in compliance with the designed milling slope.

When the difference between the measured cross slope and the designed cross slope exceeds + or – 0.2% for travel lanes (including turn lanes) and = or – 0.5% for shoulders, make all corrections immediately to bring the cross slope into an acceptable range. The County's Representative may periodically verify the Contractor's measurements at the job site. During the milling operations, the County's Representative reserves the right to take ten cross slope measurements per day.

If the average cross slope of the ten measurements varies more than the permissible tolerance, the milling operations will be stopped until appropriate corrective actions are made to bring the cross slope into an acceptable range and the deficient sections shall be corrected accordingly. A detailed correction plan shall be immediately submitted to the County for review. The County's Representative may waive the corrections specified above if an engineering determination indicates that the deficiencies are sufficiently separated so as not to significantly affect the final cross slope. The Contractor will be responsible at his/her cost to provide supporting engineering data for review.

The milling machine shall be capable of maintaining a depth of cut and cross slope that achieves the results specified in the plans and specifications. The overall length of the machine (out to out measurements excluding the conveyor) shall be a minimum of 18 feet. The minimum cutting width shall be 6 feet.

The milling machine shall be equipped with a built-in automatic grade control system that controls the transverse slope and the longitudinal profile to produce the specified results.

Any commercially manufactured milling machine meeting the above requirements shall be accepted prior to starting the project. If after milling has started, the milling machine cannot consistently produce the specified results, the milling machine will be rejected for further use.

The use of a smaller milling machine could be permitted when milling adjacent to existing curbs or other areas where it is impractical to use the above-described equipment.. The equipment will be subject to the County's Representative's acceptance.

Milling equipment shall be equipped with means to effectively limit the amount of dust escaping the removal operation and shall be operated to minimize the amount of dust being emitted from the machine. Pre-wetting of the pavement may be required.

Where traffic will be maintained on the milled surface prior to placing the new asphaltic concrete, the striation patterns shall produce an acceptable riding surface. The County's Representative will accept the traveling speed of the milling machine to produce an acceptable riding surface.

Before opening a milled area to traffic, the pavement shall be thoroughly swept with power broom or other acceptable equipment to remove, to the greatest extent practicable, fine material, which will dust under traffic. This operation shall be conducted in such a manner that will minimize the potential of creating a traffic hazard and minimize air pollution.

Sweeping the milled surface with a power broom is required before placing asphaltic concrete and immediately after the milling to prevent milled material infiltrating into the storm sewer system when the milling operation is near a municipal curb and gutter or a closed drainage system.

The sweeping operation shall include thoroughly removing all milled material from the gutter to prevent it from being swept into inlet openings or grates. Curbs shall not be damaged during the removal operation; any damages shall be immediately repaired at no additional cost to the County. The County's Representative may require the equipment and/or methods be changed to achieve satisfactory results.

Milled surfaces shall have a reasonably uniform texture, shall be within $\frac{1}{4}$ inch of a true profile grade and shall have no deviation in excess of $\frac{1}{4}$ inch from a straightedge applied to the pavement perpendicular to the centerline. Variations of the longitudinal joint between multiple cut areas shall not exceed $\frac{1}{4}$ inch. Areas varying from a true surface in excess of the above stated tolerance may be accepted without correction if the County's Representative determines that they were caused by a pre-existing condition, which could not have reasonably been corrected by the milling operations. The County's Representative may require re-milling of any area where a surface lamination causes a non-uniform texture to occur. Any unsuitable texture or profile, as determined by the County's Representative, shall be corrected by the Contractor at no additional compensation.

Written assurance of Contractor taking responsibility of roadway shall be required if the Contractor elects not to repave immediately following the milling work. However, in no case resurfacing work shall be done more than 24 hours after milling and the Contractor shall be responsible for any damages to the road due to rain or inclement weather.

The Contractor shall not change or modify existing drainage configuration of roads to be paved under this contract. The Contractor will be responsible to restore any modified drainage/road profile to original condition at no additional cost to the County.

If the Contractor chooses to full mill areas designated to be curb-revealed as a convenience, the Contractor will be responsible for restoration of drainage/road profile as stated above. The Contractor will not receive additional compensation for this additional milling or for restoration of the areas to original condition.

Milled material becomes the property of the Contractor. Include the cost of removing existing pavement markers in the unit price for milling.

The unit price for milling shall be inclusive of all supervision, quality control, labor, materials, equipment, tools, transportation, supplies, manpower, incidentals and pay disposal fees necessary to complete the work as specified herein.

2.5.1 Curb-Reveal Milling – Per request, some areas require curb-reveal milling before paving. This will normally be accomplished by milling one (1) pass with a 6-foot milling machine to a depth of 1-inch below the curb line and tapering to 0-inch at the inside of the cut.

2.5.2 Complete Roadway Mill – Per request, remove existing asphalt concrete pavement by milling to improve the rideability and cross slope of the finished pavement, to lower the finished grade adjacent to existing curb prior to resurfacing, or to completely remove existing pavement, when milling to improve rideability, average depth of cut will be specified.

2.6 Base Repairs – When performing milling operations, the base upon resurfacing is to be made may be found to be unstable. The Contractor shall immediately notify the County's Representative of the possible base failure. The County's Representative will visit the site and will determine if the repairs are warranted. Should the area in question need improvement, the Contractor and the County's Representative will determine the extent to which the base is to be removed (area).

The existing road base shall be removed to a depth of four inches (4") below the existing finished asphalt grade and replaced with specified compacted asphalt (2 – 2-inch layers). The Contractor shall always take into consideration the proposed finished grade for the area as specified on the Delivery Order for the project.

The unit cost for base repair shall include all supervision, quality control, labor, materials, equipment, tools, transportation, supplies, manpower, and pay disposal fees necessary to complete the work as specified.

- 2.7 Leveling** – When leveling is required in any particular area, the asphalt will be paid per tonnage for the type of asphalt used in the project. The contractor shall keep separate asphalt tickets for the leveling. Leveling asphalt tickets are to be provided to the County’s Representative as required in **Section 2.1 - Resurfacing**.
3. **Equipment and Resources** – All equipment used in the performance of the contract on County property shall be properly maintained in order to protect the operator and the public. All equipment used by the contractor is subject to inspection by the County’s Representative. Any equipment deemed inoperable, unsafe, or improper for the desired use shall be removed from the work site.

The County does not provide staging areas. The Contractor will be responsible for the safe staging of the equipment used on any particular project.

The Contractor shall utilize equipment of a type and in sufficient quantity to perform the work in a satisfactory manner within the time specified herein. **List of equipment shall comply with minimum requirements for asphalt equipment as detailed on the Florida Department of Transportation Standard and Specifications for Road and Bridge Construction, latest edition.**

Paving equipment on site shall be in compliance with FDOT Section 320-5, latest edition.

Failure to submit a Management Plan and Resource List with the bid, or within 24 hours of the request, may be grounds for rejection of the bid due to non-responsiveness.

4. **Final Inspection** – Upon written notice from the Contractor that the project is complete, the County’s Representative will make a final inspection with the Contractor and will notify the Contractor in writing of any deficiencies in the project. The Contractor shall correct all deficiencies within seven (7) days of such notification before final acceptance and payment can be made. Areas determined to be defective or deficient shall be corrected following FDOT specifications for replacement of deficient pavement. The Contractor shall submit written certification, signed by a Licensed Professional Engineer, for areas considered as “cosmetic” by his/her personnel. This certification must include at least the thickness of affected areas and assurance of structural integrity for the areas in question. Failure to correct all deficiencies within specified completion timeframe shall result in the assessment of liquidated damages as previously specified.

Proposed request to extend the specified completion date shall be submitted in writing to the County no later than the time of the final inspection notification for approval.

The Contractor shall correct all deficiencies before final acceptance and payment is made. If a second re-inspection is required, the County will assess an eighty (80) dollar fee to the Contractor. The eighty (80) dollar fee will be assessed for every re-inspection after the first re-inspection. The fee is assessed to offset the additional County labor cost and vehicle usage required for the unnecessary inspections and the fee will be deducted from the final invoice for the delivery order for the project.

5. **Final inspection for payment** – After the Contractor has corrected all deficiencies to the satisfaction of the County's Representative and delivered all maintenance and operating instructions, schedules, guarantees, bonds, Certificates of Inspection and other documents as required by the contract, he/she might make application for final payment following the procedures for progress payment. The effective final release or waivers of lien from the Contractor and all subcontractors which performed services for the Contractor pursuant to the Contract Documents and the consent of surety, if applicable shall be attached to the final payment.

CONTRACT FOR ASPHALT PAVING

THIS CONTRACT FOR ASPHALT PAVING (herein this "CONTRACT") is entered into by and between CITY OF WINTER GARDEN, a Florida municipal corporation, whose address is 300 West Plant Street, Winter Garden, Florida 34787 (hereinafter referred to as "City"), and THE MIDDLESEX CORPORATION, whose address is One Spectacle Pond Road, Littleton, MA 01460 (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the City is in need of a asphalt paving contractor to pave and repair roads within the City of Winter Garden as more specifically described herein; and

WHEREAS, the Board of County Commissioners Orange County, Florida has previously selected Contractor through the competitive procurement process (IFB No. Y10-195-J2) to provide Orange County with asphalt resurfacing work in accordance with Contract No. Y10-195 between Orange County and Contractor dated February 18, 2010, Addendum No. 1 dated February 18, 2012, and Addendum No. 2 dated February 28, 2012, a true and accurate copy of which is attached hereto as Exhibit "A" (collectively herein referred to as the "OC Asphalt Resurfacing and Superpave Contract"); and

WHEREAS, the City has reviewed the solicitation, proposal, and evaluation related to the selection of the Contractor by the Orange County and agrees with the process and selection of said Contractor as the most responsive and responsible bidder; and

WHEREAS, the City has reviewed the OC Asphalt Resurfacing and Superpave Contract between the Orange County and Contractor and has found the scope of services, prices, and other terms and conditions as set out in the OC Asphalt Resurfacing and Superpave Contract to be reasonable, acceptable and of benefit to the City's citizens; and

WHEREAS, Contractor prices under the OC Asphalt Resurfacing and Superpave Contract were bid as unit prices; and

WHEREAS, the unit prices used in this CONTRACT are the same as quoted in the OC Asphalt Resurfacing and Superpave Contract; and

WHEREAS, the City Commission of the City of Winter Garden hereby approves this Contract as a piggyback contract in accordance with the City of Winter Garden Purchasing Manual and waives formal procurement in the best interest of the City; and

WHEREAS, the City has determined that the use and procurement of the Contractor's work/services pursuant to the prices, terms and conditions of the OC Asphalt Resurfacing and Superpave Contract between Contractor and Orange County, as modified by this CONTRACT is cost-effective and in the best interest of the City.

NOW THEREFORE, for good and valuable consideration, which the parties acknowledge, the City agrees to enter into and does hereby enter into this CONTRACT with Contractor, and Contractor agrees to enter and does hereby enter into this CONTRACT with the City for asphalt resurfacing work as set forth herein:

1. RECITALS. The foregoing Recitals are true and correct and are incorporated herein as material provisions of this Agreement by this reference.

2. INCORPORATION/SCOPE OF WORK. Contractor shall provide the City with asphalt paving and repair services within the jurisdictional limits of the City of Winter Garden in accordance with the scope of services, unit prices and other terms and conditions of the OC Asphalt Resurfacing and Superpave Contract (including the General Conditions) between the Board of County Commissioners Orange County, Florida ("Orange County") and the Contractor attached hereto as **Exhibit "A,"** except that the "City of Winter Garden" shall be substituted for "Orange County." The scope of services, prices and other terms and conditions of the OC Asphalt Resurfacing and Superpave Contract are hereby incorporated into this CONTRACT as material terms and conditions, except as modified by this CONTRACT or any Work Order issued under this CONTRACT. The Contractor shall provide asphalt paving and repair services for the City as required by the City on a task by task basis which may include, any of the work and services set forth in the OC Asphalt Resurfacing and Superpave Contract. The sites for work that may be performed under this CONTRACT may be anywhere within the City of Winter Garden. In the event the terms of this CONTRACT conflict with the terms of the OC Asphalt Resurfacing and Superpave Contract, the terms of this CONTRACT shall control. The City shall have no liability or responsibility for or concerning Contractor's work or services performed for Orange County.

3. WORK ORDER. The CITY may, from time to time at its sole discretion, authorize the Contractor in writing to provide work for a specific task or project ("Project") by issuing a Work Order. A Work Order shall, by mutual agreement of the parties, set forth, (1) the Project scope of services, (2) the time for performance of the Project, and (3) method and amount of compensation based on the Unit Prices of the OC Asphalt Resurfacing and Superpave Contract. The Contractor shall not be paid for any work performed without authorization by the City pursuant to a Work Order. The Contractor shall not be entitled to compensation for any services rendered in excess of those specifically requested by City. Any work performed by the Contractor without a Work Order shall be without liability to the City, and at the Contractor's own risk.

The City does not guarantee, warrant, or represent that any number of Projects or any particular type of Project will be assigned to the Contractor under the terms of this CONTRACT. Furthermore, the purpose of this CONTRACT is not to authorize a specific Project, but to set forth certain duties, obligations, rights, and responsibilities that shall be automatically incorporated into any Work Order that may be mutually agreed to by the parties. The City shall have the sole discretion to select the Project(s), if any, that may be given to the Contractor.

4. TERM/TERMINATION. The term of this CONTRACT shall commence upon the Effective Date of this CONTRACT and expire on May 23, 2013, which is the same date as

the expiration of the current Option Year No. 2 under the OC Asphalt Resurfacing and Superpave Contract, unless terminated earlier as provided herein. The term may be extended to complete work being rendered under a specific Work Order issued prior to the expiration of the CONTRACT.

In addition to other termination provisions incorporated by reference, either the City or Contractor shall have the right to terminate this CONTRACT at any time, for any reason, upon thirty (30) days written notice to the other party.

5. **PROJECT BONDS.** In accordance with the provisions of Section 255.05, Florida Statutes, unless specifically waived by the City when a Project is lower than the statutory threshold for providing bonds, the Contractor shall provide to the City, a 100% performance bond and a 100% labor and material payment bond for the Project assigned, each in an amount not less than the total construction cost for the Project and in a form acceptable to the City. The bonds shall be delivered to City prior to the commencement of any work in connection with the Project and shall not expire until payment of all claimants and claims and the expiration of the warranty period for the Project. The Contractor shall cause the recording of the payment bond and provide a certified copy to the City in accordance with Section 255.05, Fla. Stat. prior to commencement of work on a Project. Contractor acknowledges and agrees that the City is a Florida municipality and as such the City's public property and the Project(s) involved are not subject to construction liens pursuant to Chapter 713, Florida Statutes, or any other lien statute. Contractor shall not file or record claims of lien or any other liens against any Project or property owned by the City.

6. **NO DAMAGES AGAINST CITY FOR DELAY.** Notwithstanding any other provisions of the CONTRACT Documents, Contractor's exclusive remedy for delays, impacts, disruption, acceleration, resequencing, and interruptions in performance of any work or on any Project caused by events beyond Contractor's and its employees', materialmen's, subcontractors' and agents' control, including delays, impacts, disruption, acceleration, resequencing and interruptions claimed to be caused by or attributable to the City or the Project Engineer or their employees and agents (or any combination thereof), shall be a claim for and be limited to an equitable extension of the Work Order assigned time on a Project. Contractor expressly agrees that the foregoing constitutes its sole and exclusive remedy for delays in work and a Project, and Contractor expressly waives any and all other remedies for any claim for increase in the Contract Price and Work Order Price, damages, expenses, losses, or additional compensation.

7. **INSURANCE.** Within five (5) days from the Effective Date of this CONTRACT and prior to performing any work, the Contractor shall provide the City with certificates of insurance evidencing insurance coverage required by Article 7 of the General Conditions to the OC Asphalt Resurfacing and Superpave Contract including the City as an Additional Insured on its the Commercial General Liability and Commercial Umbrella/Excess policies. The Contractor shall maintain required insurance coverage during the term of this CONTRACT.

8. **INDEMNIFICATION.** The Contractor agrees to indemnify and hold harmless the City, its representatives, employees, agents, and elected and appointed officials, from all claims, judgments, damages, losses, injuries, and expense (including reasonable attorneys' fees,

experts' fees and litigation costs incurred whether at the trial level or on appeal) arising out of or resulting from the performance or nonperformance of Project(s) work or services to the extent caused in whole or part by the Contractor, its representatives, employees, agents, subcontractors, materialmen and other persons employed or utilized by the Contractor in the performance of any work rendered under this CONTRACT, or any combination thereof. For purposes of compliance with Florida law, Contractor acknowledges that this provision shall be deemed a part of the specifications and the procurement documents for the Work and Project(s). The indemnification and hold harmless provision of this paragraph 4 is in addition to and separate from other indemnification and hold harmless provisions incorporated into this CONTRACT by reference to the OC Asphalt Resurfacing and Superpave Contract. The maximum monetary limit of indemnification provided by the Contractor under this CONTRACT and other incorporated documents is five million dollars (\$5,000,000.00) per occurrence, which the City and the Contractor agree bears a commercially reasonable relationship to this Agreement and the Work. This paragraph 8 survives termination and expiration of this CONTRACT and completion of work.

9 EFFECTIVE DATE. The Effective Date of this CONTRACT shall be the date when approved by the City of Winter Garden City Commission.

10. NOTICE. Whenever in this CONTRACT it is necessary to give notice or demand by either party to the other, such notice or demand shall be given in writing and sent by certified or registered mail, return receipt requested, and addressed as follows:

To Contractor: The Middlesex Corporation
Robert W. Pereira, II
10801 Cosmonaut Blvd.
Orlando, Florida 32824

To City: City of Winter Garden
Attn: Michael Bollhoefer, City Manager
300 West Plant Street
Winter Garden, Florida 34787

Copy to: City of Winter Garden
Attn: Donald Cochran, Asst. to City Manager for Public Services
300 West Plant Street
Winter Garden, Florida 34787

11. GOVERNING LAW. This CONTRACT shall be governed by the laws of the State of Florida. Both parties agree that the courts of the State of Florida shall have jurisdiction of any claim arising in connection with this CONTRACT. In the event of litigation arising out of the CONTRACT or the work there under, each party shall bear their own attorney's fees and costs, except to extent otherwise required by the indemnity and hold harmless provisions of the CONTRACT documents. Venue for any litigation arising out of the CONTRACT or any work there under shall be in Ninth Circuit Court in and for Orange County, Florida.

IN WITNESS WHEREOF, the Contractor and the City have hereunto set their hands and seals the day and year above written.

Signed, sealed and delivered in the presence of:

“CITY”

CITY OF WINTER GARDEN

John Rees, Mayor-Commissioner

Attest: Kathy Golden, City Clerk

Date of Commission Approval: _____

“CONTRACTOR”

THE MIDDLESEX CORPORATION

Robert W. Pereira, II
President & COO

Date

Attest: _____
Robert L. Mabardy, Clerk

STREET PAVING PROJECTS 2012-2013

	CONDITION	WIDTH	LENGTH	YARDS	COMMENTS
PLANT ST. SIXTH ST TO DILLARD ST	HIGH	23	1780	4548	
STORY RD. AT BUSINESS PARK BLVD.	HIGH	37	595	2446	Includes turning lane
BROAD ST. DILLARD TO VINELAND RD.	HIGH	16	990	1760	
E. MAPLE ST. L/S 7 TO BETHUNE AVE.	HIGH	22	2050	5011	install ribbon curb
APOPKA ST. HIGHLAND TO CENTRAL	HIGH	19	402	849	
TEMPLE GROVE	HIGH	23	1865	4766	
LAKEVIEW RD PLANT ST. TO BIKE TRAIL	HIGH	23	1050	2683	1" over lay w/curb
W. VINING ST. SEMINOLE TO HIGHLAND	HIGH	23	314	802	
PARK AVE. PLANT TO JACKSON.	MED	24	3473	9261	
SMITH STREET TO 9TH STREET	LOW	21	2700	6300	
WEST VINING ST. PARK AVE. TO SEMINOLE ST.	LOW	22	425	1039	
2ND STREET FROM SMITH TO MAPLE	LOW	30	448	1493	
4TH STREET FROM SMITH TO MAPLE	LOW	30	448	1493	
FLORIDA AVE TO 9TH STREET	LOW	21	2700	6300	
PENNSYLVANIA AVE TO 9TH STREET	LOW	21	2700	6300	
CHARLOTTE STREET TO 9TH STREET	LOW	21	2700	6300	
WOODLAND ST. SURPRISE ST. TO DIVISION ST.	MED	22	676	1652	
MAIN ST. JOINER TO SMITH.	MED	30	488	1627	
MAIN ST. SMITH TO MAPLE.	MED	30	480	1600	
MAIN ST. MAPLE TO STORY.	MED	24	1285	3427	
VINELAND RD FROM PALMETTO ST. TO HWY 50	MED	24	1298	3461	

THE CITY OF WINTER GARDEN
CITY COMMISSION AGENDA ITEM

From: *Jay Conn, Director, Parks and Recreation Department*

Via: City Manager Mike Bollhoefer

Date: **Oct. 16, 2012**

Meeting Date: **Oct. 25 , 2012**

Subject: *Recommendation to enter in to an agreement with Tetra Tech Engineering for \$70,000 to complete services required for the engineering, design and permitting of the Tucker Ranch Community Park.*

Issue:

The Tucker Ranch property was purchased by the City of Winter Garden in January of 2011 to be utilized as a community park and nature preserve for the citizens of Winter Garden. Engineering design work and permitting for this site is anticipated to be fairly complex given the abundant wetlands on this property, the proximity to John's Lake, and the permitting requirements of the Florida Department of Environmental Protection, the St. Johns Water Management District, and others.

Tetra Tech is one of the City's approved engineering firms for continuing consulting contracts and is uniquely suited to handle such projects. City staff would like to enter in to an agreement with Tetra Tech Engineering to provide engineering, survey, design and permitting work that will allow this project to stay on track for the property to open by the deadline (as stipulated in property acquisition grants) of March, 2015.

Staff has negotiated with Tetra Tech and considering the fact that much of the cost is for survey and permitting work (which would be a large part of the cost with any selected firm) the \$70,000 cost is seen as reasonable for this type of project.

Recommended action:

Allow the City Manager to enter in to an agreement with Tetra Tech Engineering to provide engineering services for the design of the Tucker Ranch Community Park.

Attachments/References:

Tetra Tech Proposal



August 17, 2012

Revised: September 4, 2012

Revised: September 17, 2012

Mr. Jay Conn
Parks & Recreation Director
City of Winter Garden
310 N Dillard Street
Winter Garden, FL 34784

**Subject: Engineering and Development Services for the Tucker Ranch Heritage Park
(Phase 1) Parks & Recreation, City of Winter Garden Florida**

Tt #: BP General/Winter Garden

Dear Mr. Conn:

Tetra Tech is pleased to provide this revised proposal for professional services for Phase 1 of the Tucker Ranch Heritage Park.

The Tucker Ranch Recreation and Nature Complex was purchased by the City of Winter Garden in 2011 and annexed in October 2011. Enhancements for Phase 1 development will include a picnic pavilion, restrooms, a playground, a historic interpretive site, an Information Kiosk, benches, sidewalks and a crosswalk connection to the adjacent school.

Attached for review by the City is a statement of work. The terms and conditions of our June 2008 continuing engineering agreement with the City are in full effect for this proposal.

Tetra Tech looks forward to the opportunity to work with the City in providing these services. If you should have any questions or comments, please do not hesitate to contact us.

Very truly yours,

Tetra Tech

A handwritten signature in blue ink, appearing to read 'James Warner', written over the printed name and title.

James Warner, P.E.
Project Manager

Attachments

JRW/lsc/200BP-gen/WG/WG-Tucker Ranck-cvr-lt-revised-less USACE

C: Jon Fox, P.E., Tetra Tech
Rod Cashe, P.E., Tetra Tech
Sally Alfieri, Tetra Tech
Sandy Buchholz, Tetra Tech

Tetra Tech, Inc.

201 E. Pine Street, Suite 1000, Orlando, FL 32801
Tel 407.839.3955 Fax 407.839.3790 www.tetrattech.com

SCOPE OF SERVICES

ENGINEERING DEVELOPMENT SERVICES FOR THE TUCKER RANCH HERITAGE PARK (PHASE 1) PARKS & RECREATION, CITY OF WINTER GARDEN, FLORIDA

A. PROJECT DESCRIPTION

The new Tucker Ranch Recreation and Nature Complex was purchased by the City of Winter Garden in 2011 and annexed during October of 2011. The Recreation area will ultimately provide camping grounds, fishing docks, boardwalks and conservation areas. Plans include removing exotic (non-native) vegetation and restoring the site to “Old Florida”. The City’s plans include historical markers to educate visitors about the former site of the West Orange Country Club of the early 1900’s. The site for the new Nature Complex is roughly 200 acres extending from south of the Florida Turnpike to the north shore of Johns Lake.

Enhancements for Phase 1 improvements will include a Picnic Pavilion, a Restroom set, a Playground, an interpretive site of historic information, an Informational Kiosk, benches, sidewalks and a crosswalk connection to the [name] school.

The following information will be necessary to facilitate obtaining permits for this project.

- 1) Topographic and tree Survey of site
- 2) Geotechnical evaluation
- 3) Jurisdictional Wetland in the area of the proposed improvements,
- 4) Threatened and Endangered Species review.

B. SCOPE OF SERVICES

1) Preliminary Planning

Preliminary planning phase will involve gathering information regarding the project site from the City and coordination with the regulatory agencies to determine the permitting requirements for the proposed improvements. Detailed descriptions of the tasks associated with the various aspects of this task are summarized below:

- a) Attend a project kick-off meeting with City of Winter Garden Staff to establish lines of communication, contract requirements, and schedule.
- b) Collect and review available information on existing utilities maps, easements, aerials, soils publications, Environmental, threatened and endangered species that affect the implementation of the proposed improvements.
- c) Prepare preliminary site plan. We have estimated that no more than two (2) layouts or revisions will be required for development of the preliminary planning including the parking, playground, restrooms and nature trails.

- d) We understand that the City Staff will stake wooded trails through the site based on the Phase 1 concept drawings. These stakes are assumed to be installed at specific points along the path so that the surveyor will be able to map the trail. All stakes will be placed so that each is visible from the preceding stake. Each stake should be numbered and flagged for clear identification in the field. It is assumed that State Plain Coordinates will be provided by the City for each stake. It is also assumed that the trails will be staked prior to our survey crew meeting at the facility. The coordinates for the stakes should be provided to the surveyors prior to their arrival at the site.

2) Survey

- a) Boundary Survey
 - i. Copies of the existing boundary survey are anticipated to be provided by the City.
 - ii. Locate corners based on survey information provided by the City.
- b) Topographic Survey
 - i) Locate above ground improvements within the right-of-way adjacent to the property at proposed entrance road.
 - ii) Locate above ground improvement located within the limits of the project including fences, roads and other visible items.
 - iii) The survey shall be performed in accordance with the Minimum Technical Standards for Surveying in the State of Florida as per Chapter 61 G-17 Florida Administrative Code.
 - iv) Show easement and encumbrances as described in the Title commitment provided by owner.
 - v) Trees will be located that are adjacent to the proposed roadway and parking areas, other trees vegetation lines will be aerial interpreted form the latest available from the City or County web site (Cost for aerials will be paid by the City – if required).
 - vi) Establish topographic contours at 1-foot intervals. Tetra Tech will use of LiDAR information provided by the SJRWMD.
 - vii) Locate and identify above ground site improvements within the limited survey area.
 - viii) Locate the underground utilities along Avalon Road 545. Information provided under separate cover to the City of Winter Garden will be added to this survey.
 - ix) Survey Geotechnical boring locations (vertically and horizontally).
- c) Tetra Tech will utilize information provided by the City for the location of the proposed walking trails. Not all stakes will be located by field crew. The stakes that are located will be located on survey map by GPS coordinates provided by the City.
- d) Wetland flags will be surveyed and inserted into the base drawings for review and

coordination with the SJRWMD.

- e) The proposal has been based on the assumption that the site will be mowed and that excessive vegetation will be removed by the City prior to any surveying, Geotechnical and Ecological site visits.

3) Geotechnical Investigation

- a) Tetra Tech will provide a geotechnical evaluation as required for the preparation of the construction drawings within the limits of the project. Ardaman & Associates, Inc. is anticipated to be utilized as the geotechnical services provider.
- b) The geotechnical services are anticipated to include a total of twelve (12) standard penetration tests (SPT), six (6) auger borings, and two (2) percolation tests. Accessibility of the boring location by the geotechnical equipment has assumed to be cleared and that equipment will be able to access the sites without cutting vegetation and/or stabilizing roads. Road SPTs will be to a depth of ten (10) feet and structural borings to 15 feet. All auger borings will be a maximum of 20 feet deep.
- c) The geotechnical engineer will analyze all data obtained to evaluate general subsurface conditions and to develop recommendations to guide site preparation and design of building foundations and site improvements.
- d) Additionally, an estimate of the normal seasonal high groundwater table at boring locations within the area of the proposed stormwater pond will be evaluated.

4) Ecological Investigation

- a) Preliminary Wetland Determination through Aerial Interpretation

Tetra Tech will photo-delineate the approximate limits of the jurisdictional wetland boundaries on the entire Tucker Ranch Heritage Park property through the use of recent aerial photography, infrared aerial photography, National Wetland Inventory Maps, and soils maps. The approximate jurisdictional wetland boundaries on the property will be overlain and presented on a recent aerial photograph.

- b) Jurisdictional Wetland Determination and T&E Review

Tetra Tech will field-delineate the jurisdictional wetlands limits of the Phase 1 portion of the Tucker Ranch Heritage Park property pursuant to the current methodologies of the St. Johns River Water Management District (SJRWMD) [Florida Unified Wetland Delineation Methodology, Chapter 62-340, F.A.C.].

- c) Wetland Review

Upon submittal of the ERP application, Tetra Tech will coordinate with SJRWMD staff to field-verify the limits of the jurisdictional wetland boundary as established by us. If required, we will coordinate with you and/or your land surveyors if the wetland jurisdictional boundary line is adjusted during the agency wetland review.

d) SJRWMD Environmental Resource Permit Application Assistance

Tetra Tech's biologists will assist its engineers in the preparation and submittal of an Environmental Resource Permit (ERP) application to the SJRWMD. We will prepare responses to the applicable ecological and environmental portions of Sections 'A', 'C' and 'E' of the ERP application. This task includes one (1) Request for Additional Information (RAI) response to SJRWMD relating to any ecological or environmental questions.

5) Design

- a) Upon acceptance of the preliminary planning by the City, Tetra Tech will initiate the final design of the project. The final design will result in preparation of drawings, which will be submitted to the City for review at 60-percent completion level. A review meeting will be held following the submission with comments to incorporate into a final 100-percent submission or bid set of documents. Site furnishings and facilities will be coordinated with the Parks and Recreation Department who will provide the equipment.

A preliminary set of drawings will include the following sheets:

General

Cover Sheet
Index of Drawings, General Notes

Civil

Site Plan and Details (6 Sheets)
Cross Walk connection to school
Water Sewer Plans (connection to existing) (2 sheets)

Architectural

Picnic Pavilion – (1 Sheet)
Restroom Set (showers) – (1 Sheet)
Playground – (3 sheets)

(We assume that no site specific Architectural plans will be provided by Tetra Tech but that the City of Winter Garden Recreation department will provided standards for pavilion, restrooms and playground and will provide off the shelf structures and designs for these items.)

6) Permitting

- a) Tetra Tech will prepare an ERP application, stormwater calculations and permit drawings for submittal to SJRWMD.
- b) All permit application fees are to be paid by City of Winter Garden. Permit fees are not included in the fees herein. Within two (2) weeks of the estimated time to submit the ERP application to SJRWMD, Tetra Tech will provide the estimated application fee amounts to the City for processing to.
- c) Tetra Tech priced this task with the understanding that the permitting will be straight forward without controversial or difficult issues.
- d) City of Winter Garden Architectural and Structural review will require permitting by the City's building department. The site improvements are anticipated to be reviewed by the City's plans review process.

SERVICES NOT INCLUDED

- 1) Other Permits - This proposal does not include permitting services for any permits that are normally obtained by the Contractor and permits not described above.
- 2) Bid support, Bid Preparation or cost estimating.
- 3) Any application for variances or special exceptions, zoning changes or comprehensive planning.
- 4) Playground and park amenities will be pre-engineered facilities or standard structures typically used by the City. The coordination of these facilities will be by the City's Recreation Department.
- 5) Cost for permit application fees.

C. COMPENSATION SUMMARY

The time and material compensation for this Scope of Services is **\$70,000**. The fee includes an estimate of \$680 for travel expense and \$600 for reimbursable expenses (Survey equipment, copies and mailing).

Task #	Description	Compensation
Task 1	Preliminary Planning	\$ 4,400
Task 2	Survey	\$ 13,650
Task 3	Geotechnical Investigation	\$ 7,000
Task 4	Ecological Investigation	\$ 6,150
Task 5	Design	\$ 24,300
Task 6	Permitting	\$ 14,500
	Total (Lump Sum)	\$ 70,000

D. SCHEDULE

The anticipated delivery schedule in weeks for the project is presented below:

		Time from NTP
Task 1	Preliminary Planning	2 Weeks
Task 2	Survey	5 Weeks
Task 3	Geotechnical Investigation	8 Weeks
Task 4	Ecological Investigation	10 Weeks
Task 5	Design	18 Weeks
Task 6	Permitting	30 Weeks

THE CITY OF WINTER GARDEN
CITY COMMISSION AGENDA ITEM

From: Chief George Brennan 

Via: City Manager Mike Bollhoefer 

Date: October 19, 2012

Meeting Date: October 25, 2012

Subject: Request to dispose of four 2008 Harley-Davidson police motorcycles to Gator Harley-Davidson, Inc.

Issue: The Police Department wants to trade-in the four motorcycles in exchange for a two-year lease for four new Harley-Davidson police motorcycle.

Recommended action: Authorize the disposal of four 2008 Harley-Davidson motorcycles by trading them to Gator Harley-Davidson, Inc. in exchange for a two-year lease on four new police motorcycles.

Attachments/References: Proposal from Gator Harley-Davidson, Inc.

Gator Harley-Davidson, Inc.

1745 US Highway 441
Leesburg, FL 34748
(352) 787-8050
FAX (352) 787-4839
E-MAIL gatorbikes@aol.com
www.gatorharley.com

PROPOSAL

October 16, 2012

Winter Garden Police Dept.
Attn: Jason Pearson

Dear Jason,

We are pleased to submit a bid to Lease to Winter Garden Police Dept. Four (4) Blue&White 2013 Harley Davidson FLHTP Police Motorcycles with ABS:

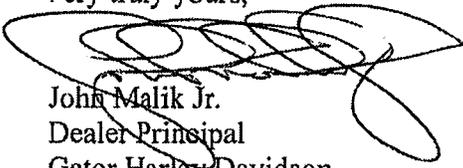
Lease for a Two (2) year term \$5,500.00 per bike for a total of \$22,000.00
Payment Option: \$3,000.00 per bike for the 1st year, and \$2,500.00 per bike for the second year.

*We will take on trade your (4) Four 2008 FLHP's and transfer your equipment to the 2013's at an even trade.

Radio transfer Not included. Any component that is damaged or needs repair will be additional.

Thank You for this opportunity to bid. We look forward to assisting you with any future needs. Please do not hesitate to call if you have any questions.

Very truly yours,



John Malik Jr.
Dealer Principal
Gator Harley Davidson

THE CITY OF WINTER GARDEN
CITY COMMISSION AGENDA ITEM

From: City Clerk Golden

VIA City Manager Bollhoefer

Date: October 16, 2012

Meeting Date: October 25, 2012

Subject: Expiring Term of Community Redevelopment Agency Member Cappleman

Issue: Agency Member Larry Cappleman's term is scheduled to expire November 30, 2012. Mr. Cappleman has indicated his desire to continue serving another 4-year term.

Reference:

City Code Section 98-121

(c) The city commission expressly appoints a board of commissioners of the community redevelopment agency, which shall consist of seven members. Five of the members shall be current members of the city commission. A sixth member may be appointed by the board of county commissioners, and the seventh member may be appointed by the city commission. The terms of office for the sixth and seventh members of the board of commissioners of the community redevelopment agency shall be four years.