



City of Sanibel

## ADDENDUM NO. 1 July 22, 2025

**RE:** HURRICANE IAN PATHWAY REPAIRS PHASE 1 (FDOT FPN: 452816-1-54-01; CONTRACT NO. 2Y52) (ITB-PW-6-2025/SK) Proposal due date: July 31, 2025 @ 2:30PM

**FROM:** City of Sanibel  
800 Dunlop Road  
Sanibel, FL 33957

**TO:** Prospective Bidders and Others Concerned

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 document.

### **A. Questions and Answers**

**Question No. 1:** The bid schedule on the ITB doesn't include the 425-11 "Modify Existing Drainage Structure – 14 Each" that is showing in the plan set for the base bid. Can you clarify if this is a bid item for the project or not?

**Response No. 1:** The quantity for "Modify Existing Drainage Structure (425-11)" identified on the Summary of Pay Items (Sheet 5) is to be deleted. The modification of drainage structures is to be considered incidental to the project and included in other unit prices as appropriate.

**Question No. 2:** In the bid documents under General Conditions, Section 2.4.02 - Comprehensive General Liability Insurance - the required limits require \$500,000 each occurrence, with a combined minimum limit of \$2,000,000. In the State Funded Grant Agreement, Item #14 - Indemnification and Insurance, section e - the required limits require \$1,000,000 each occurrence, with a combined minimum limit of \$5,000,000. Which comprehensive insurance limit should we use for bidding purposes, the Project Manual or the State Funded Grant Agreement?

**Response No. 2:** Insurance requirements need to comply with State Funded Grant Agreement (FDOT FPN: 452816-1-54-01). Revised General Conditions Section is attached to this addendum (see revised GC-1 to GC-27).

**Question No. 3** On Periwinkle Way, plan sheet 12-1, there is some trench drain and pavers along the pathway. The pathway is flush with this. Will this trench drain need to be elevated to the same height as the overlay?

**Response No. 3** This section is to be milled and then paved to match existing. Existing grades to be maintained in this area.

**Question No. 4** How many copies of the proposal are required for submission?

**Response No. 4** One complete copy is required to be submitted.

**GENERAL CONDITIONS OF THE CONTRACT****SECTION 2.1 - CONTRACT DOCUMENTS****2.1.01 GENERAL:**

The Contract Documents comprise the following general classifications of documents, including all additions, deletions, modifications, or other documents incorporated therein:

1. Bidding Documents
2. Contract
3. General Conditions of the Contract
4. Special Conditions
5. Specifications

**2.1.02 BIDDING DOCUMENTS:**

The Bidding Documents are issued by the OWNER to assist bidders in preparing their proposal include:

1. Advertisement
2. Information for Bidders
3. Proposal: The offer of a Bidder to perform the work described by the Contract Documents made out and submitted on the prescribed Proposal Form, properly signed and guaranteed.
4. Addenda to Contract Documents: Any addenda issued during the time of bidding, or forming a part of the Contract Documents loaned to the Bidder for the preparation of his Proposal, shall be covered in the Proposal, and shall be made a part of the Contract. Receipt of each Addendum shall be acknowledged in the Proposal.

**2.1.03 CONTRACT:**

The Contract defines the "Contract Documents" and covers the performance of the work described in the Contract Documents including all supplemental addenda thereto and all general and special provisions pertaining to the work or materials.

**2.1.04 GENERAL CONDITIONS OF THE CONTRACT:**

The General Conditions of the Contract outline certain general responsibilities of the OWNER and the CONTRACTOR (who are the parties to the Contract) and those responsibilities delegated by the OWNER to the Engineer who acts as the agent of the OWNER.

1. Definitions: Wherever the words hereinafter defined, or pronouns used in their stead, occur in these specifications and contract documents, they shall have the meanings herein given:
  - A. The word "OWNER" shall mean the municipality, person, firm, or corporation as specified in the Advertisement for Bids, for whom the work is to be done.

- B. The word "CONTRACTOR" shall mean the person, firm, or corporation entering into a contract with the OWNER to construct and complete the work as herein specified, set out and shown.
- C. The word "sub-contractor" shall mean a person, firm, or corporation, other than a CONTRACTOR, supplying labor and materials or labor for work at the site of the project.
- D. The word "Engineer" shall mean the project engineer as designated by the OWNER.

#### **2.1.05 SPECIAL CONDITIONS:**

Special Conditions are special provisions not included in the General Conditions of the Contract, which apply to this specific project.

#### **2.1.06 DRAWINGS AND SPECIFICATIONS:**

The intent of the Drawings and Specifications is that the CONTRACTOR shall furnish all labor, materials, equipment, and transportation necessary for the proper execution of the work, unless specifically noted otherwise. The CONTRACTOR shall do all the work outlined in the Contract Documents and all incidental work necessary to complete the project in a substantial and acceptable manner, and fully complete the work or improvement, operational and ready for occupancy by the OWNER.

1. Discrepancies: Any discrepancies found between the Drawings and Specifications and site conditions or any inconsistencies or ambiguities in the Drawings and Specifications shall be immediately reported to the Engineer, who shall promptly correct such inconsistencies or ambiguities in writing. Any work done by the CONTRACTOR after his discovery of such discrepancies, inconsistencies, or ambiguities shall be done at the CONTRACTOR'S risk.
2. Adequacy: Responsibility for adequacy of the design and for sufficiency of the Drawings and Specifications shall be borne by the OWNER. The complete requirements of the work to be performed under the Contract shall be set forth in Drawings and Specifications to be supplied by the OWNER through the Engineer or by the Engineer as representative of the OWNER. The Drawings and Specifications shall be considered inseparable documents; and in considering them, the CONTRACTOR shall rely upon both instruments in order to perform the work in accordance with their combined intent.
3. Additional Instructions: Further instructions may be issued by the Engineer during the progress of the work by means of Drawings, or otherwise to make more clear or specific the Drawings and Specifications or as may be necessary to explain or illustrate changes in the work to be done. Where said correction of errors or omissions, except as provided in the next two paragraphs below, adds to the amount of work to be done by the CONTRACTOR, compensation for said additional work shall be made under the item for Extra Work except where the additional work may be classed under some item of work for which a unit price is included in the proposal.
4. The fact that specific mention of the fixture, or of any part of work, is omitted in the specifications, whether intentionally or otherwise, when the same is clearly shown or indicated on the drawings, or is usually and customarily required to fully complete such work as is specified herein, will not entitle the CONTRACTOR to consideration in the matter

of any claim for extra compensation, but the said fixtures or work or both must be installed or done the same as if called for by both drawings and specifications.

5. All work indicated on the drawings and not mentioned in the specifications or vice versa, and all work and material usual and necessary to make work complete in all its parts, whether or not they are indicated on the drawings or mentioned in the specifications, shall be furnished and executed the same as if they were called for by both the drawings and specifications.
6. Plans and Specifications: The Engineer may furnish the CONTRACTOR up to 5 sets of plans and specifications covering this project at no cost to the CONTRACTOR. For each set of plans and specifications furnished to the CONTRACTOR, or any of his sub-contractor's, in excess of this number, the CONTRACTOR shall be billed at actual cost of printing and delivery.
7. Dimensions: Only figured dimensions on the Drawings will be used by the CONTRACTOR. Where the work of the CONTRACTOR is affected by finish dimensions, these shall be determined by the CONTRACTOR at the site, and he shall assume the responsibility, therefore.

#### **2.1.07 CONTRACT DOCUMENTS FOR THE USE OF THE ENGINEER:**

The CONTRACTOR shall maintain one complete set of the Contract Documents at the job site which shall always be available to the Engineer and upon which the CONTRACTOR shall record all changes and field adjustments. The CONTRACTOR shall keep one copy of plans, shop drawings, and supplemental drawings at the site in good order and annotated to show all changes made during construction. An as-built survey of the project shall be performed and submitted to OWNER prior to final acceptance. The survey shall be conducted in accordance with the standards set forth in Chapter 472 of the Florida Statutes and the Minimum Technical Standards for such survey as specified in Chapter 61G17 of the Florida Administrative Code. The cost of the survey shall be borne by the CONTRACTOR.

### **SECTION 2.2 - OWNER-CONTRACTOR-ENGINEER RELATIONS**

#### **2.2.01 OWNER'S RIGHTS AND RESPONSIBILITIES:**

1. Lands by OWNER: The OWNER will provide the lands shown on the Drawings or described in the Specifications upon which the work under the Contract is to be performed and to be used for right-of-way for access. Any delay in furnishing these lands by the OWNER will be deemed proper for adjustment in the Contract Amount and in the time of completion.
2. Base Lines and Bench Marks: Unless otherwise specified, the OWNER will establish base lines, and bench marks.
3. OWNER'S Right to Correct Deficiencies: Upon failure to perform the work in accordance with the Contract Documents, including any requirements with respect to the Schedule of Completion, and after five days' written notice to the CONTRACTOR, the OWNER may, without prejudice to any other remedy he may have, correct such deficiencies in work intended to become a permanent part of the project. The cost to correct such deficiencies may be deducted from the payment due the CONTRACTOR.

4. **Suspension of Work by OWNER:** The OWNER shall have the authority to suspend the work, wholly or in part, for such period or periods as he may deem necessary due to unsuitable weather or such other conditions as are considered unfavorable to carry out the provisions of the Contract, or to supply materials meeting the requirements of the Contract Documents.
  - A. **Notice:** The work or any portion thereof may be suspended at any time by the OWNER provided that he gives the CONTRACTOR five days' notice of suspension which shall set forth the date on which work is to be resumed. The CONTRACTOR shall resume the work upon written notice from the OWNER and within ten days after the date set forth in the notice of suspension. If the OWNER does not give written notice to resume work within ten days of the date fixed in the notice of suspension, the CONTRACTOR may abandon that portion of the work so suspended and shall be entitled to payment in accordance with Paragraph 2.6.09, Payment for Work Suspended by the OWNER.
  - B. In case of any suspensions, the time in which the CONTRACTOR is required to complete the work shall be extended as many working days as the same is suspended; provided, however, that if the work is suspended on account of failure on the part of the CONTRACTOR to comply with specifications, such extensions of time will not be allowed.
5. **OWNER'S Right to Terminate Agreement and Complete the Work:** The OWNER shall have the right to terminate his agreement with the CONTRACTOR after giving ten days' written notice of termination to the CONTRACTOR in the event of any default by the CONTRACTOR.
  - A. **Default by CONTRACTOR:** It shall be considered a default by the CONTRACTOR whenever he shall:
    - (i) Declare bankruptcy, become insolvent, or assign his assets for the benefit of his creditors.
    - (ii) Disregard or violate provisions of the Contract Documents or fail to prosecute the work according to the agreed Schedule of Completion, including extensions thereof.
    - (iii) Fail to provide a qualified superintendent, competent workmen or sub-contractor's, or proper materials, or fail to make prompt payment, therefore.
  - B. **Completion by the OWNER:** In the event of termination of the Agreement by the OWNER because of default by the CONTRACTOR, the OWNER may take possession of the work and of all materials and equipment thereon and may finish the work by whatever method and means he may select.

## **2.2.02 CONTRACTOR'S RIGHTS AND RESPONSIBILITIES:**

All work shall be done in strict accordance with the Contract Documents. Observations, construction reviews, tests, recommendations or approvals by the Engineer or persons other than the CONTRACTOR, shall in no way relieve the CONTRACTOR of his obligation to complete all work in accordance with the Contract Documents. All work shall be done under the direct supervision of the

CONTRACTOR. The CONTRACTOR shall be responsible for construction means, methods, techniques and procedures, and for providing a safe place for the performance of the work by the CONTRACTOR, Sub-contractor's, suppliers and their employees, and for access use, work or occupancy by all authorized persons. The CONTRACTOR shall be responsible for all obligations prescribed as employer obligations under Chapter XVII of Title 29, Code of Federal Regulations, Part 1926, otherwise known as "Safety and Health Regulations for Construction".

1. Lands by CONTRACTOR: Any land and access thereto not specifically shown to be furnished by the OWNER that may be required for temporary construction facilities or for storage of materials shall be provided by the CONTRACTOR with no liability to the OWNER. The CONTRACTOR shall confine his apparatus and storage to such additional areas as he may provide at his expense.
  - A. Private and Public Property: The CONTRACTOR shall not enter upon private property for any purpose without obtaining permission; and he shall be responsible for the preservation of all public property, trees, monuments, structures, and improvements, along and adjacent to the street and/or right-of-way and shall use every precaution necessary to prevent damage or injury thereto. He shall use suitable precautions to prevent damage to pipes, conduits, and other underground structures, and shall protect carefully from disturbance or damage all monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed.
2. Surveys: Based upon the information provided by the OWNER, the CONTRACTOR shall develop and make all detailed surveys necessary for construction, including slope stakes, batter boards, stakes for pile locations and other working point lines, and elevations. The CONTRACTOR shall carefully preserve bench marks, reference points and stakes; and, in the case of destruction thereof by the CONTRACTOR or resulting from his negligence, the CONTRACTOR shall be charged with the expense and damage resulting there from and shall be responsible for any mistakes that may be caused by the loss or disturbance of such bench marks, reference points, and stakes.
3. Public Utilities: The elevation and location of all public utilities shown on the Drawings were taken from existing public records. It shall be the duty of the CONTRACTOR to make final and exact determination of the location and extent of all utilities, and he will be liable for any expense resulting from damage to them.
4. Superintendent: A qualified superintendent, who is acceptable to the OWNER, shall be maintained on the work and give efficient supervision to the work until its completion. The superintendent shall have full authority to act in behalf of the CONTRACTOR, and all instruction given to the superintendent shall be considered as given to the CONTRACTOR. It shall be the responsibility of this CONTRACTOR's superintendent to coordinate the work of all the sub-contractor's. The superintendent shall be present on the site at all times required to perform adequate supervision and coordination.
5. Subcontracts: At the time set forth in the Contract Documents or when requested by the OWNER, the CONTRACTOR shall submit in writing for review of the OWNER the names of the sub-contractor's proposed for the work. Sub-contractor's may not be changed, except at the request or with the approval of the OWNER. The CONTRACTOR is responsible to the OWNER for the acts and deficiencies of his sub-contractor's, and of their direct and indirect employees, to the same extent as he is responsible for the acts and deficiencies of his employees. The Contract Documents shall not be construed as creating

any contractual relation between any sub-contractor and the OWNER. The CONTRACTOR shall bind every sub-contractor by the terms of the Contract Documents.

- A. For convenience of reference and to facilitate the letting of Contracts and Subcontracts, the Specifications are separated into titled sections. Such separation shall not, however, operate to make the OWNER or the Engineer an arbiter to establish limits to the contracts between CONTRACTOR and sub-contractor.
6. CONTRACTOR'S Right to Suspend Work or Terminate Agreement: CONTRACTOR may suspend work or terminate his Agreement with the OWNER upon ten days' written notice to the OWNER for any of the following reasons:
    - A. If an order of any court or other public authority caused the work to be stopped or suspended for a period of 90 days through no act or fault of the CONTRACTOR or his employees.
    - B. If the OWNER should fail to pay the CONTRACTOR any sum within 45 days after its award by arbitrators.
  7. Work During an Emergency: The CONTRACTOR shall perform any work and shall furnish and install any materials and equipment necessary during an emergency endangering life or property. In all cases, he shall notify the OWNER of the emergency as soon as practicable, but he shall not wait for instruction before proceeding to properly protect both life and property.

### **2.2.03 RESPONSIBILITY OF THE ENGINEER:**

The Engineer shall decide questions which may arise as to the quality and acceptability of materials furnished, work performed, rate of progress of work, interpretation of Drawings and Specifications, and all questions as to the acceptable fulfillment of the Agreement on the part of the CONTRACTOR. The duties and responsibilities of the Engineer as set forth herein shall not be extended, except through written consent of the Engineer and the OWNER.

1. Observation of the Work: All materials and each part or detail of the work shall always be subject to observation by the Engineer and the OWNER; and the CONTRACTOR will be held strictly to the intent of the Contract Documents in regard to quality of materials, workmanship, and the diligent execution of the Contract. Observations may be made at the site or at the source of material supply, whether mill, plant, or shop. The Engineer shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the CONTRACTOR as is required to make his observations and construction review.
2. Acceptability of Work: The Engineer's decision as to the acceptability or adequacy of the work shall be final and binding upon the CONTRACTOR. The CONTRACTOR agrees to abide by the Engineer's decision relative to the performance of the work.
3. Engineer's Decisions: All claims of the OWNER or the CONTRACTOR shall be presented to the Engineer for decision which shall be final, except in cases where time and/or financial considerations are involved, which shall be subject to arbitration.

**2.2.04 ORAL AGREEMENTS:**

No oral order, objection, claim, or notice by any party to the others shall affect or modify any of the terms or obligations contained in any of the Contract Documents; and none of the provisions of the Contract Documents shall be held to be waived or modified by reason of any act whatsoever, other than a definitely agreed waiver or modification thereof in writing; and no evidence shall be introduced in any proceeding of any other waiver or modification.

**2.2.05 OBSERVATION OF COMPLETED WORK**

The CONTRACTOR shall remove or uncover such portions of the completed work as may be directed by the OWNER at any time before acceptance of the work. After examination, the CONTRACTOR shall restore the work to the standard required by the Contract Documents. Should the work thus exposed or examined prove acceptable, the uncovering or removing and the restoring of the work shall be paid for as Extra Work; but should the work exposed or examined prove unacceptable, the uncovering, removing, and restoring of the work shall be at the CONTRACTOR'S expense.

**2.2.06 WORK BY OWNER OR OTHER CONTRACTOR'S:**

1. Separate Contracts: The OWNER may let other contracts in connection with the work of the CONTRACTOR. The CONTRACTOR shall cooperate with other CONTRACTOR'S regarding storage of materials and execution of their work. It shall be the CONTRACTOR'S responsibility to inspect all work by other CONTRACTOR'S affecting his work and to report to the OWNER any irregularities which will not permit him to complete his work in a satisfactory manner. His failure to notify the OWNER of such irregularities shall indicate the work of other CONTRACTOR'S has been satisfactorily completed to receive his work. The CONTRACTOR shall not be responsible for defects of which he could not have known, which develop in the work of others after the work is completed. It shall be the responsibility of the CONTRACTOR to measure the completed work in place and report to the OWNER immediately any difference between completed work by others and the provisions of the Contract Documents.
2. Written Agreement: Whenever work being done by the OWNER through his own employees or through other CONTRACTOR'S is contiguous to work covered by the Contract Documents, the respective rights of the various interests involved shall be established by written agreement to secure the completion of the various portions of the work in general harmony.

**2.2.07 SECTION DELETED****2.2.08 NIGHT AND SUNDAY WORK:**

No night or Sunday work requiring the presence of an Engineer or Inspector will be permitted, except in case of emergency and then only to such an extent as it is absolutely necessary and with written approval of the Engineer, provided that the clause shall not operate in case of a gang organized for regular and continuous night work, and on work which, in the opinion of the Engineer, can be performed satisfactorily at night or on Sunday.



**SECTION 2.3 - MATERIALS, EQUIPMENT, AND WORKMANSHIP****2.3.01 MATERIALS AND EQUIPMENT:**

The materials and equipment installed in the work shall meet the requirements of the Contract Documents, and no materials or equipment shall be ordered until reviewed by the Engineer. All materials and equipment not otherwise specifically indicated shall be furnished by the CONTRACTOR. The CONTRACTOR shall guarantee all materials and equipment he provides in accordance with Paragraph 2.3.08.

1. Substitutions: In order to establish standards of quality, the Engineer has, in the detailed Specifications, referred to certain products by name and catalog number. This procedure is not to be construed as eliminating from competition other products of equal or better quality by other manufacturers where fully suitable in design.
  - A. The CONTRACTOR shall furnish the complete list of proposed desired substitutions prior to signing of the Contract, together with such engineering and catalog data as the Engineer may require.
  - B. The CONTRACTOR shall abide by the Engineer's recommendation when proposed substitute materials or items of equipment are not recommended for installation and shall furnish the specified material or item of equipment in such case. All proposals for substitutions shall be submitted in writing by the General CONTRACTOR and not by individual trades or material suppliers. The Engineer will review proposed substitutions and make his recommendations in writing within a reasonable time.
2. Space Requirements: It shall be the responsibility of the CONTRACTOR to ensure that materials and equipment to be furnished fit the space available. He shall make necessary field measurements to ascertain space requirements, including those for connections and shall order such sizes and shapes of equipment that the final installation shall suit the true intent and meaning of the Contract Documents.
3. Arrangement: Where equipment requiring different arrangement of connections from those shown is approved, it shall be the responsibility of the CONTRACTOR to install the equipment to operate properly, and in harmony with the intent of the Contract Documents, and to make all changes in the work required by such arrangement.
4. Unacceptable Materials and Equipment: Materials and equipment which do not conform to the requirements of the Contract Documents, are not equal to samples reviewed by the Engineer, or are in any way unsatisfactory or unsuited to the purpose for which they are intended, shall not be furnished nor installed.
5. Storage: Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the work. When considered necessary, they shall be placed on wooden platforms or other hard, clean surfaces, and not on the ground, and/or they shall be placed under cover. Stored materials and equipment shall be located to facilitate prompt inspection. Private property shall not be used for storage purposes without the written permission of the OWNER or lessee.

6. Manufacturer's Directions: Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned as directed by the manufacturer.

### **2.3.02 SAMPLES:**

All samples called for in the Specifications or required by the Engineer shall be furnished by the CONTRACTOR and shall be submitted to the Engineer for his review. Samples shall be furnished so as not to delay fabrication, allowing the Engineer reasonable time for the consideration of the samples submitted.

1. Samples for Tests: CONTRACTOR shall furnish such samples of material as may be required for examination and test. All samples of materials for tests shall be taken according to standard methods or as provided in the Contract Documents.
2. CONTRACTOR'S Guaranty: All samples shall be submitted by the CONTRACTOR with a covering letter indicating that such samples are recommended by the CONTRACTOR for the service intended and that the CONTRACTOR'S Guaranty will fully apply.
3. All materials, equipment, and workmanship shall be in accordance with samples guaranteed by the CONTRACTOR and reviewed by the Engineer.

### **2.3.03 SHOP DRAWINGS:**

The CONTRACTOR shall provide shop drawings, setting schedules and such other drawings as may be necessary for the prosecution of the work in the shop and in the field as required by the Drawings, Specifications, or the Engineer's instructions. Deviations from the Drawings and Specifications shall be called to the attention of the Engineer at the time of the first submission of shop drawings and other drawings for consideration. The Engineer's review of any drawings shall not release the CONTRACTOR from responsibility for such deviations. Shop drawings shall be submitted according to a schedule prepared jointly by the CONTRACTOR and the Engineer.

1. CONTRACTOR'S Certification: When submitted for the Engineer's review, shop drawings shall bear the CONTRACTOR'S certification that he has reviewed, checked, and approved the shop drawings; that they are in harmony with the requirements of the Project and with the provisions of the Contract Documents; and that he has verified all field measurements and construction criteria, materials, catalog numbers, and similar data. CONTRACTOR shall also certify that the work represented by the shop drawings is recommended by the CONTRACTOR and the CONTRACTOR'S Guaranty will fully apply.

### **2.3.04 EQUIPMENT DATA:**

The CONTRACTOR shall submit for the Engineer's review complete catalog data for every manufactured item of equipment and all components to be used in the work, including specific performance data, material description, rating, capacity, working pressure, material gage or thickness, brand name, catalog number, and general type. This submission shall be compiled by the CONTRACTOR and reviewed by the Engineer before any of the equipment is ordered.

1. Index: Each data sheet or catalog in the submission shall be indexed according to specification section and paragraph for each reference.

2. Relation to Contract Documents: Catalog data for equipment reviewed by the Engineer shall not supersede the Engineer's Contract Documents. The review of the Engineer shall not relieve the CONTRACTOR from responsibility for deviations from Drawings or Specifications, unless he has in writing called the Engineer's attention to such deviations at the time of submission, nor shall it relieve him from responsibility for error of any sort in the items submitted. The CONTRACTOR shall check the work described by the catalog data with the Engineer's Contract Documents for deviations and errors.
3. CONTRACTOR'S Certification: Equipment data shall be submitted by the CONTRACTOR with a covering letter indicating that he has reviewed, checked and approved the data submitted; that they are in harmony with the requirements of the project and with the provisions of the Contract Documents; and that he has verified all field measurements and construction criteria, materials, catalog numbers, and similar data. CONTRACTOR shall also certify that the work represented by the shop drawings is recommended by the CONTRACTOR and that his Guaranty will fully apply.

### **2.3.05 REJECTED WORK AND MATERIALS:**

Any defective work whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause shall be removed within ten days after written notice is given by the OWNER, and the work shall be re-executed by the CONTRACTOR. The fact that the Engineer may have previously overlooked such defective work shall not constitute an acceptance of any part of it.

1. Should the CONTRACTOR fail to remove rejected work or materials within ten days after written notice to do so, the OWNER may remove them and may store the materials.
2. Correction of faulty work after final payment shall be in accordance with Paragraph 2.5.12.

### **2.3.06 CUTTING AND PATCHING:**

The CONTRACTOR shall do all necessary cutting and patching of the work that may be required to properly receive the work of the various trades or as required by the Drawings and Specifications to complete the structure. He shall restore all such cut or patched work as approved by the Engineer. Cutting of existing structure that may endanger the work, adjacent property, workmen, or the public shall not be done.

### **2.3.07 CHARACTER OF WORKMEN:**

The CONTRACTOR shall always be responsible for the conduct and discipline of his employees and/or any sub-contractor or persons employed by sub-contractor's. All workmen must have sufficient knowledge, skill, and experience to perform properly the work assigned to them. Any foreman or workman employed by the CONTRACTOR or sub-contractor who does not perform his work in a skillful manner or appears to be incompetent or to act in a disorderly or intemperate manner shall, at the written request of the OWNER, be discharged immediately and shall not be employed again in any portion of the work without the approval of the OWNER.

### **2.3.08 GUARANTY:**

The CONTRACTOR shall guarantee all materials and equipment furnished and work performed for a period of one year from the date of written acceptance of the work.

1. Correction of faulty work after final payment shall be as provided in Paragraph 2.5.12.

**2.3.09 A.S.T.M. DESIGNATION:**

Wherever the letters "A.S.T.M." are used in these specifications, it shall be understood as referring to the American Society for Testing Materials. When reference is made to a certain Designation Number of a specification or test as set out or given by the American Society of Testing Materials, it shall be understood to mean the current, up-to-date standard specification or tentative specification for that particular process, material, or test as currently published by that group.

**SECTION 2.4 – INSURANCE, LEGAL RESPONSIBILITY, AND SAFETY****2.4.01 INSURANCE:**

CONTRACTOR shall purchase and maintain such comprehensive general liability and other insurance as well as provide protection from claims set forth below which may arise out of or result from CONTRACTOR'S performance of the Work and CONTRACTOR'S other obligations under the Contract Documents, whether such performance is by CONTRACTOR, by any sub-contractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. All insurance policies shall be with insurers qualified to do business in the state of the Project location.

1. Types: The types of insurance the CONTRACTOR is required to obtain and maintain for the full period of the Contract will be: Workmen's Compensation and Employer's Liability, Comprehensive General Liability and Automobile Liability, U.S.L.& H. coverage (if applicable), Jones Act (if applicable) and an Excess Liability Umbrella Insurance as detailed in the following specifications.
2. Evidence: As evidence of specified insurance coverage, the OWNER may, in lieu of actual policies, accept a Certificate of Insurance on Accord Form 25 issued by the insurance carrier showing such policies in force for the specified period. Each policy or certificate will bear an endorsement or statement waiving right of cancellation or reduction in coverage without ten days notice in writing to be delivered by registered mail to the OWNER. Should any policy be canceled before final payment by the OWNER to the CONTRACTOR and the CONTRACTOR fails immediately to procure other insurance as specified, the OWNER reserves the right to procure such insurance and to deduct the cost thereof from any sum due the CONTRACTOR under this Contract.
3. Adequacy of Performance: Any insurance bearing on adequacy of performance shall be maintained after completion of the project for the full guaranty period. Should such insurance be canceled before the end of the guaranty period and the CONTRACTOR fails immediately to procure other insurance as specified, the OWNER reserves the right to procure such insurance and to charge the cost thereof to the CONTRACTOR.
4. Payment of Damages: Nothing contained in these insurance requirements is to be construed as limiting the extent of the CONTRACTOR'S responsibility for payment of damages resulting from his operations under this Contract.

**2.4.02 COMPREHENSIVE GENERAL LIABILITY INSURANCE:**

1. General liability insurance shall provide full comprehensive form coverage for both bodily injury and property damage. Such coverage shall include premises-operations, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, independent CONTRACTOR'S, and personal injury. The limits for bodily injury shall be \$1,000,000 each occurrence and \$5,000,000 aggregate. The limits for property damage shall be \$1,000,000 each occurrence and \$5,000,000 aggregate.
2. Automobile liability insurance shall provide full comprehensive form coverage for both bodily injury and property damage. Such coverage shall include owned, hired, and non-owned vehicles. The limits for bodily injury shall be \$500,000 each person and \$500,000 each accident. The limits for property damage shall be \$100,000.
3. Excess liability insurance shall provide an umbrella form coverage for both bodily injury and property damage combined with a minimum limit of \$2,000,000.
4. Indemnity: Included in such insurance will be contractual coverage sufficiently broad to insure the OWNER, the Engineer, their consultants and each of their officers, agents, and employees as additional insured under the General Liability Policy. See Paragraph 2.4.05 below for provisions of Indemnity.

**2.4.03 WORKMEN'S COMPENSATION INSURANCE:**

CONTRACTOR'S shall provide the statutory Workmen's Compensation and Employer's Liability Insurance requirements of the most current and applicable state Workmen's Compensation Insurance Laws.

**2.4.04 DELETED****2.4.05 INDEMNITY:**

The CONTRACTOR (sub-contractor) hereinafter "Indemnitor", hereby agrees to indemnify, save and hold harmless, and defend at its own expense the Engineer, OWNER, their respective partners, agents, employees, and anyone else acting for or on behalf of any of them, and any other person or entity for whom any of them may be legally responsible (herein collectively called "Indemnities") from all claims, losses, damages, suits, costs and expenses, including attorneys' fees, or actions of any nature whatsoever which arise out of or are connected with, or are alleged to arise out of or be connected with, the Work to be performed herein; including without limiting the generality of the foregoing, all liability for damages, loss, claims, demands, and actions arising or alleged to arise from injury including death, damage to property including the loss of use thereof and consequential damages therefrom, or damages arising out of economic loss, to any person or entity including any Indemnatee or Indemnitor or its employees, servants and agents whether based upon, or claimed to be based upon, statutory (including without limiting the generality of the foregoing, workmen's compensation), contractual, tort or other liability of any Indemnatee whether or not caused, or alleged to be caused, in whole or in part, by the joint, several or sole negligence, breach of contract, breach of warranty, strict liability, or other breach of duty by any Indemnatee, its partners, employees, agents, and anyone else for or on behalf of any of them, or any other person for whom any Indemnatee may be responsible.

In the event more than one Indemnitor is responsible or alleged to be responsible in respect to an accident or occurrence covered by this indemnification, then all of such Indemnitor shall be jointly and

severally responsible to the Indemnities for indemnification shall be settled by separate proceedings and without jeopardy to any Indemnatee.

The indemnity provided hereunder shall not include indemnification of the Engineer in respect to claims arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, or (2) the giving of or the failure to give directions or instructions by the Engineer, his agents or employees; provided that such giving or failure to give is a primary cause of the injuries and damages.

If any part of these indemnity provisions is adjudged to be contrary to law, the remaining parts of these provisions shall in all other respects be and remain legally effective and binding. Moreover, these indemnity provisions shall not be construed to eliminate or in any way reduce any other indemnification or right which the Engineer and OWNER has by law.

#### **2.4.06 WAIVER OF SUBROGATION:**

The OWNER and the CONTRACTOR waive all rights against (1) each other and other sub-contractor's, agents, and employees of each other, and (2) the Engineer and separate CONTRACTOR'S, if any, and their sub-contractor's, agents, and employees, for damages caused by fire or other perils to the extent covered by insurance obtained pursuant to this Section 2.4 or any other property insurance applicable to the work, except such rights as they may have to the proceeds of such insurance held by the OWNER as trustees. The OWNER or the CONTRACTOR, as appropriate, shall require of the Engineer, separate CONTRACTOR'S and sub-contractor's by appropriate agreements, written where legally required for validity, similar waivers each in favor of all other parties enumerated in this subparagraph 2.4.06.

#### **2.4.07 PATENTS AND ROYALTIES:**

If any design, device, material, or process covered by letters, patent or copyright is used by the CONTRACTOR, he shall provide for such use by legal agreement with the OWNER of the patent or a duly authorized licensee of such OWNER, and shall save harmless the OWNER and the Engineer from any and all loss or expense on account thereof, including its use by the OWNER.

#### **2.4.08 PERMITS:**

All permits and licenses (except as listed hereafter) necessary for the prosecution of the work shall be secured and paid for by the CONTRACTOR. The permits for construction within or across the property, rights-of-way, or easements of highways, railroads, gas lines, electric power transmission lines, water lines, telephone lines, telegraph lines, levees, or other utilities shall be secured and paid for by the OWNER. City of Sanibel Building Dept. permit fees shall be paid for by the OWNER.

#### **2.4.09 LAWS TO BE OBSERVED:**

The CONTRACTOR shall give all notices and comply with all Federal, State, and local laws, ordinances, and regulations in any manner affecting the conduct of the work, and all such orders and decrees as exist, or may be enacted by bodies or tribunals having any jurisdiction or authority over the work, and shall indemnify and save harmless the OWNER and the Engineer against any claim or liability arising from, or based on, the violation of any such law, ordinance, regulation, order or decree, whether by himself or his employees. If any discrepancy or inconsistency is discovered in the plans, drawings, specifications, or contract for this work in relation to any such law, ordinance, regulations, order or decree, the CONTRACTOR shall forthwith report the same to the Engineer in writing.

1. Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein; and the contract shall be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the contract shall forthwith be physically amended to make such insertion. This shall include but not be limited to the Occupational Safety and Health Act of 1970.

#### **2.4.10 WRITTEN NOTICE:**

Written notice shall be considered as served when delivered in person or sent by registered mail to the individual, firm, or corporation, or to the last business address of such known to him who serves the notice.

1. Change of Address: It shall be the duty of each party to advise the other parties to the Contract as to any change in his business address until completion of the Contract.

#### **2.4.11 ASSIGNMENT OF CONTRACT:**

Neither the CONTRACTOR nor the OWNER shall sublet, sell, transfer, assign, or otherwise dispose of the Contract or any portion thereof, or of his right, title, or interest therein, or his obligations thereunder, without written consent of the other party.

#### **2.4.12 ORAL AGREEMENTS:**

No oral order, objection, claim, or notice by any party to the others shall affect or modify any of the terms or obligations contained in any of the Contract Documents; and none of the provisions of the Contract Documents shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing, and no evidence shall be introduced in any proceeding of any other waiver or modification.

#### **2.4.13 WORK DURING AN EMERGENCY:**

The CONTRACTOR shall perform any work and shall furnish and install any materials and equipment necessary during an emergency endangering life or property. In all cases he shall not wait for instructions before proceeding to properly protect both life and property.

#### **2.4.14 WARNING SIGNS AND BARRICADES:**

The CONTRACTOR shall provide adequate signs, barricades, warning lights, and watchmen and take all necessary precautions for the protection of the work and the safety of the public. All barricades and obstructions shall be protected at night by suitable signal lights which shall be kept burning from sunset to sunrise. Barricades shall be of substantial construction and shall be painted such as to increase their visibility at night. Suitable warning signs shall be so placed and illuminated at night as to show in advance where construction, barricades, or detours exist.

#### **2.4.15 PUBLIC CONVENIENCE:**

The CONTRACTOR shall at all times so conduct his work as to insure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the work, and to insure the protection of persons and property. No road or street shall be closed to the public, except with the permission of the proper authorities. Fire hydrants on or adjacent to the work shall always be kept accessible to fire-fighting equipment. Temporary provisions shall be made by the CONTRACTOR to

ensure the use of sidewalks and the proper functioning of all gutters, sewer inlets, drainage ditches, and irrigation ditches, which shall not be obstructed.

#### **2.4.16 SAFETY:**

In accordance with general accepted construction practices, the CONTRACTOR shall be solely and completely responsible for conditions of the job site, including safety of all persons and property affected directly or indirectly by his operations during the performance of the work. This requirement will apply continuously 24 hours per day until acceptance of the work by the OWNER and shall not be limited to normal working hours.

1. The duty of the Engineer to conduct construction review of the CONTRACTOR'S performance is not intended to include review of the adequacy of the CONTRACTOR'S safety measures in, on, or near the construction site.

#### **2.4.17 EXISTING CONSTRUCTION:**

When new construction is adjacent to or crosses highways, railroads, streets, or utilities under the jurisdiction of State, County, City, or other public agency, public utility, or private entity, the OWNER shall secure written permission from the proper authority before executing such new construction. The CONTRACTOR shall satisfy himself that the OWNER has secured written permission before any work is done. The CONTRACTOR shall acquaint himself with and shall execute the work in accordance with any and all requirements of the written permit. The CONTRACTOR shall replace or repair all existing construction damaged in the execution of this Contract. The CONTRACTOR will be required to furnish a release from the proper authority before final acceptance of the work.

#### **2.4.18 SANITARY PROVISIONS:**

The CONTRACTOR shall provide and maintain such sanitary accommodations for the use of his employees and those of his sub-contractor's as may be necessary to comply with the requirements and regulations of the local and state departments of health.

#### **2.4.19 NONDISCRIMINATION IN EMPLOYMENT:**

The CONTRACTOR agrees:

1. That in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no CONTRACTOR, or sub-contractor, shall, by reason of race, religion, color, sex, national origin or ancestry, discriminate against any citizen who is qualified and available to perform the work to which the employment relates;
2. That no CONTRACTOR, sub-contractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, religion, color, sex, national origin or ancestry;
3. The CONTRACTOR agrees to comply with any Federal, State, or local law with respect to nondiscrimination in employment.

### **SECTION 2.5 - PROGRESS AND COMPLETION OF WORK**



**2.5.01 NOTICE TO PROCEED:**

Following the execution of the Contract by the OWNER and the CONTRACTOR, written Notice to Proceed with work shall be given by the OWNER to the CONTRACTOR. The CONTRACTOR shall begin and shall prosecute the work regularly and uninterruptedly thereafter and not before (except as provided for herein) with such force as to secure the completion of the work within the Contract Time.

**2.5.02 CONTRACT TIME:**

The CONTRACTOR shall complete, in an acceptable manner, all of the work contracted for in the time stated herein. Computation of Contract Time shall commence on the day specified in the Notice to Proceed and every calendar day following, except as herein provided, shall be counted as Contract Time.

**2.5.03 SCHEDULE OF COMPLETION:**

The CONTRACTOR shall submit, at such times as may reasonably be requested by the Engineer, schedules showing the order in which the CONTRACTOR proposes to carry on the work, with dates at which the CONTRACTOR will start the various parts of the work, and estimated date of completion of each part.

**2.5.04 CHANGES IN THE WORK:**

The OWNER may, as the need arises, order changes in the work through additions, deletions, or modifications to the extent of 25% of the original Contract Amount, without invalidating the Contract. Compensation and time of completion affected by the change shall be adjusted at the time of ordering such change.

**2.5.05 EXTRA WORK:**

New and unforeseen items of work found to be necessary and which cannot be covered by any item or combination of items for which there is a Contract price, shall be classed as Extra Work. The CONTRACTOR shall do such Extra Work and furnish such materials as may be required for the proper completion or construction of the whole work contemplated, upon written order from the OWNER as approved by the Engineer. In the absence of such written order, no claim for Extra Work shall be considered. Extra Work shall be performed in accordance with these Contract Documents where applicable and work not covered by such shall be done in accordance with the best construction practice and in a workmanlike manner. Extra Work required in an emergency to protect life and property shall be performed by the CONTRACTOR as required.

**2.5.06 EXTENSION OF CONTRACT TIME:**

A delay beyond the CONTRACTOR'S control occasioned by an Act of God, by act or omission on the part of the OWNER, or by strikes, lockouts, fire, etc., may entitle the CONTRACTOR to an extension of time in which to complete the work as agreed by the OWNER, provided, however, that the CONTRACTOR shall immediately give written notice to the OWNER of the cause of such delay.

1. Act of God shall mean an earthquake, flood, cyclone, or other cataclysmic phenomenon of nature. Rain, wind, flood, or other natural phenomenon of normal intensity for the locality shall not be construed as an Act of God, and no reparation shall be made to the CONTRACTOR for damages to the work resulting therefrom.

**2.5.07 USE OF COMPLETED PORTIONS:**

The OWNER shall have the right to take possession of and use any completed or partially completed portions of the work, notwithstanding that the time for completing the entire work or such portions may not have expired; but such taking possession and use shall not be deemed an acceptance of any work not completed in accordance with the Contract Documents. If such prior use increases the cost of or delays the completion of uncompleted work or causes refinishing of completed work, the CONTRACTOR shall be entitled to such extra compensation or extension of time or both, as agreed by the OWNER.

**2.5.08 REMOVAL OF CONSTRUCTION EQUIPMENT, TOOLS, AND SUPPLIES:**

At the termination of this Contract, before acceptance of the work by the OWNER, the CONTRACTOR shall remove all of his equipment, tools, and supplies from the property of the OWNER. Should the CONTRACTOR fail to remove such equipment, tools, and supplies, the OWNER shall have the right to remove them at the expense of the CONTRACTOR.

**2.5.09 CLEANING UP:**

The CONTRACTOR shall remove from the OWNER'S property, and from all public and private property, all temporary structures, rubbish, and waste materials resulting from his operation or caused by his employees, and shall remove all surplus materials leaving the site smooth, clean, and true to line and grade.

**2.5.10 ENGINEER'S CERTIFICATE OF SUBSTANTIAL COMPLETION:**

When the work to be performed under this Contract is substantially completed in accordance with the Contract Documents, the Engineer shall prepare an Engineer's Certificate of Substantial Completion to be acknowledged and accepted by the OWNER and the CONTRACTOR. The Certificate may list items to be completed or corrected, but such Certificate shall not relieve the CONTRACTOR of his obligation to complete all work, whether listed or not, in accordance with the Contract Documents nor will it preclude any right the OWNER may have for recourse in accordance with the Contract Documents.

**2.5.11 TERMINATION OF CONTRACTOR'S RESPONSIBILITY:**

The Contract will be considered complete when all work has been finished, the final review made up by the Engineer, and the project accepted in writing by the OWNER. The CONTRACTOR'S responsibility shall then cease, except as set forth in his Performance and Payment Bond, as provided in Paragraph 2.3.08 Guaranty, and as provided in Paragraph 2.5.12 Correction of Faulty Work After Final Payment.

**2.5.12 CORRECTION OF FAULTY WORK AFTER FINAL PAYMENT:**

The making of the final payment by the OWNER to the CONTRACTOR shall not relieve the CONTRACTOR of responsibility for faulty materials or workmanship. The CONTRACTOR shall promptly replace any such defects discovered within one year from the date of written acceptance of the work.

**2.5.13 LIQUIDATED DAMAGES:**

In the event the CONTRACTOR fails to complete satisfactorily the entire work contemplated and provided for under this contract on or before the date of completion determined as described elsewhere

herein, the OWNER shall deduct from the monies due to CONTRACTOR the sum of One Thousand Five Hundred Dollars (\$1,500.00) for each calendar day of delay, which sum is agreed upon not as a penalty but as a fixed and liquidated damage for each day of such delay, to be paid in full and subject to no deduction, it being understood and agreed that the time of completion is of the essence. If the monies due the CONTRACTOR are less than the amount of such liquidated damages, then the CONTRACTOR shall pay the balance to the OWNER.

#### **2.5.14 INCENTIVE CLAUSE:**

The City of Sanibel will pay the CONTRACTOR an "Incentive Bonus" in the sum of One Hundred Dollars (\$100.00) for each calendar day if the work in the Contract is completed in accordance with the Contract Documents, as determined by the Engineer, before the documented project completion date.

The parties anticipate that delays may be caused by or arise from any number of events during the course of the Contract, including, but not limited to, work performed, work deleted, change orders, supplemental agreements, delays, disruptions, differing site conditions, utility conflicts, design changes or defects, time extensions, extra work, right-of-way issues, permitting issues, actions of Suppliers, sub-contractor's or other CONTRACTOR'S, actions by third parties, shop drawing approval process delays, expansion of the physical limits of the project to make it functional, weather, weekends, holidays, suspension of CONTRACTOR'S operations, or other such events, forces or factors sometimes experienced in construction work. Such delays or events and their potential impacts on performance by the CONTRACTOR are specifically contemplated and acknowledged by the parties in entering into this Contract and shall not extend the "Incentive Bonus" Completion Date set forth above.

### **SECTION 2.6 – PAYMENTS TO CONTRACTOR**

#### **2.6.01 DETAILED BREAKDOWN OF CONTRACT AMOUNT:**

Except in cases where unit prices form the basis for payment under the Contract, the CONTRACTOR shall, within ten days of receipt of Notice to Proceed, submit a complete breakdown of the Contract Amount showing the value assigned to each part of the work, including an allowance for profit and overhead. Upon approval of the breakdown of the Contract Amount by the Engineer, it shall be used as the basis for all Requests for Payment.

#### **2.6.02 REQUESTS FOR PAYMENT:**

Progress Payments. OWNER may make progress payments on the project based on the CONTRACTOR'S Applications for Payment as recommended by the Engineer during construction as provided below.

1. Prior to Substantial Completion progress payments will be in an amount equal to 90% of the Work completed, and 90% of materials and equipment not incorporated in the Work but delivered and suitably stored, less in each case the aggregate of payments previously made.
2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price, less such amounts as Engineer shall determine in accordance with paragraph 2.6.05 of the General Conditions.

**2.6.03 DELETED****2.6.04 OWNER'S ACTION ON REQUEST FOR PAYMENT:**

Within 30 days after receipt of a Request for Payment from the CONTRACTOR, the OWNER shall:

1. Process the Request for Payment as recommended by the Engineer.
2. Pay such other amount, in accordance with Paragraph 2.6.05, as he shall decide is due the CONTRACTOR, informing the CONTRACTOR and the Engineer in writing of his reasons for paying the amended amount.
3. Withhold payment in accordance with Paragraph 2.6.05, informing the CONTRACTOR and the Engineer of his reasons for withholding payment.

**2.6.05 OWNER'S RIGHT TO WITHHOLD PAYMENT OF A REQUEST FOR PAYMENT:**

The OWNER may withhold payment, in whole or in part, of a Request for Payment to the extent necessary to protect himself from loss on account of any of the following:

1. Defective work.
2. Evidence indicating the probable filing of claims by other parties against the CONTRACTOR which may adversely affect the OWNER.
3. Failure of the CONTRACTOR to make payments due to sub-contractor's, material suppliers, or employees.
4. Damage to another CONTRACTOR.

**2.6.06 PAYMENT FOR UNCORRECTED WORK:**

Should the OWNER direct the CONTRACTOR not to correct work that has been damaged or that was not performed in accordance with the Contract Documents, an equitable deduction from the Contract Amount shall be made to compensate the OWNER for the Uncorrected work.

**2.6.07 PAYMENT FOR REMOVAL OF REJECTED WORK AND MATERIALS:**

The removal of work and materials rejected in accordance with Paragraph 2.3.05 and the re-execution of acceptable work by the CONTRACTOR shall be at the expense of the CONTRACTOR, and he shall pay the cost of replacing the work of other CONTRACTOR'S destroyed or damaged by the removal of the rejected work or materials and the subsequent replacement of acceptable work.

1. Removal by OWNER: Removal of rejected work or materials and storage of materials by the OWNER, in accordance with Paragraph 2.3.05, shall be paid by the CONTRACTOR within 30 days after written notice to pay is given by the OWNER. If the CONTRACTOR does not pay the expenses of such removal and after ten days written notice being given by the OWNER of his intent to sell the materials, the OWNER may sell the materials at auction or at private sale and will pay the CONTRACTOR the net proceeds therefrom after deducting all the costs and expenses that should have been borne by the CONTRACTOR.

**2.6.08 PAYMENT FOR EXTRA WORK:**

Written notice of claims for payment for Extra Work shall be given by the CONTRACTOR within ten days after receipt of instructions from the OWNER to proceed with the Extra Work and before any work is commenced, except in an emergency endangering life or property. No claim shall be valid unless so made. In all cases, the CONTRACTOR'S itemized estimate sheets showing all labor and material shall be submitted to the OWNER. The OWNER'S order for Extra Work shall specify any extension of the Contract Time and one of the following methods of payment.

1. Unit prices or combinations of unit prices which formed the basis of the original Contract.
2. A lump sum based on the CONTRACTOR'S estimate and accepted by the OWNER.
3. Actual cost plus 15% for overhead and profit. Actual costs are defined as follows:
  - A. Labor costs, including all allowances for holidays, vacation, sick leave, apprentice programs, hospitalization, or other "fringe benefits" and including time of foreman while engaged directly upon extra work.
  - B. Labor insurance and taxes.
  - C. Materials and supplies used on the work.
  - D. Associated General CONTRACTOR'S of America standard rental rates on each piece of equipment having a value in excess of \$50.00. Equipment and tools of lesser value are considered "small tools" and, as such, are considered to be part of overhead.

#### **2.6.09 PAYMENT FOR WORK SUSPENDED BY THE OWNER:**

If the work or any part thereof shall be suspended by the OWNER and abandoned by the CONTRACTOR as provided in Paragraph 2.2.01 d., Suspension of Work by OWNER, the CONTRACTOR will then be entitled to payment for all work done on the portions so abandoned, plus 15% of the value of the abandoned work to compensate for overhead, plant expense, and anticipated profit.

#### **2.6.10 PAYMENT FOR WORK BY THE OWNER:**

The cost of the work performed by the OWNER, in removing construction equipment, tools, and supplies in accordance with Paragraph 2.5.08, Removal of Construction Equipment, Tools, and Supplies, and in correcting deficiencies in accordance with Paragraph 2.2.01 e., OWNER'S Right to Terminate the Agreement and Complete the Work shall be paid by the CONTRACTOR.

#### **2.6.11 PAYMENT FOR WORK BY THE OWNER FOLLOWING HIS TERMINATION OF THE CONTRACT:**

Upon termination of the Contract by the OWNER in accordance with Paragraph 2.2.01 e., OWNER'S Right to Terminate Agreement and Complete the Work, no further payments shall be due the CONTRACTOR until the work is completed. If the unpaid balance of the Contract Amount shall exceed the cost of completing the work including all overhead costs, the excess shall be paid to the CONTRACTOR. If the cost of completing the work shall exceed the unpaid balance, the CONTRACTOR shall pay the difference to the OWNER. The cost incurred by the OWNER, as herein provided, and the damage incurred through the CONTRACTOR'S default, shall be certified by the OWNER.

1. Unpaid Balance: If the unpaid balance of the Contract Sum exceeds the cost of finishing the work, including compensation for the Engineer's additional services, such shall be paid to the CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR shall pay the difference to the OWNER. The cost incurred by the OWNER as herein provided shall be certified by the Engineer.

#### **2.6.12 PAYMENT FOR WORK TERMINATED BY THE CONTRACTOR:**

Upon suspension of the work or termination of the Contract by the CONTRACTOR in accordance with Paragraph 2.2.02f, CONTRACTOR'S Right to Suspend Work or Terminate Agreement, the CONTRACTOR shall recover payment from the OWNER for the work performed, plus loss on plant and materials, plus established profit and damages.

#### **2.6.13 PAYMENT FOR SAMPLES AND TESTING OF MATERIALS:**

Samples furnished in accordance with Paragraph 2.3.02, Samples, shall be furnished by the CONTRACTOR at his expense and may be used in the work, after acceptance.

1. Testing of samples and materials furnished in accordance with Paragraph 2.3.02, Samples, shall be arranged and paid for by the OWNER.

#### **2.6.14 ACCEPTANCE AND FINAL PAYMENT:**

When the CONTRACTOR shall have completed the work in accordance with the terms of the Contract Documents, he shall certify completion of the work to the OWNER and submit a final Request for Payment, which shall be the Contract Amount plus all approved additions, less all approved deductions and less previous payments made. The CONTRACTOR shall furnish evidence that he has fully paid all debts for labor, materials, and equipment incurred in connection with the work, and, upon acceptance by the OWNER, the OWNER will release the CONTRACTOR, except as to the conditions of the Performance and Payment Bond, any legal rights of the OWNER, required guaranties, and Correction of Faulty Work after Final Payment, and will pay the CONTRACTOR'S final Request for Payment. The CONTRACTOR shall allow sufficient time between the time of completion of the work and approval of the final Request for Payment for the Engineer to assemble and check the necessary data.

1. Release of Liens: The CONTRACTOR shall deliver to the OWNER a complete release of all liens arising out of this Contract before the final Request for Payment is paid. If any lien remains unsatisfied after all payments are made, the CONTRACTOR shall refund to the OWNER such amounts as the OWNER may have been compelled to pay in discharging such liens including all costs and a reasonable attorney's fee.
2. Final Payment: The CONTRACTOR shall be paid in full within 61 days after the date of substantial completion. If within 61 days after substantial completion there remains uncompleted minor items, an amount equal to 200% of the value of each item as determined by the Engineer shall be withheld and paid 61 days following completion of all such items. This payment shall constitute final settlement.

### **SECTION 2.7 - CONTROL OF THE WORK**

#### **2.7.01 GENERAL:**

The following general provisions have been taken verbatim from the Florida Department of Transportation Standard Specifications for Road and Bridge Construction with certain modifications to meet specific requirements of the City of Sanibel. The CONTRACTOR is advised to read these provisions very carefully and ensure that he fully understands all of the requirements.

## **2.7.02 PLANS AND WORKING DRAWINGS:**

### **1. Plans and Contract Documents:**

The CONTRACTOR will be furnished an appropriate number of copies of the plans and special provisions as required for the particular project. Copies of the Standard Specifications may be purchased from the Florida Department of Transportation. The CONTRACTOR shall have available on the work, at all times, one copy each of the plans, specifications and special provisions.

### **2. Plans:**

The plans furnished by the Engineer consist of general drawings showing such details as are necessary to give a comprehensive idea of the construction contemplated. Roadway plans will show in general, alignment, profile grades, typical cross sections and general cross sections. Structure plans, in general, will show in detail all dimensions of the work contemplated. When the structure plans do not show the dimensions in detail, they will show general features and such details as are necessary to give a comprehensive idea of the structure.

### **3. Alterations in Plans:**

All authorized alterations affecting the requirements and information given on the approved plans shall be in writing. No changes shall be made on any plan or drawing after its approval by the Engineer, except by direction of the Engineer.

### **4. Working Drawings (for Structures):**

#### **A. General:**

The CONTRACTOR shall furnish, on sheets not larger than 24 inches by 36 inches, such working and detail drawings as may be required for any part of the structure and which are not included in plans furnished by the Engineer.

#### **B. For Steel Structures:**

Working Drawings for steel structures shall consist of shop detail, erection details and other working plans, showing details, dimensions, sizes of material, and other information necessary for the complete fabrication and erection of the metal work.

#### **C. For Concrete Structures:**

Working drawings for concrete structures shall consist of such detailed plans as may reasonably be required for the effective prosecution of the work and which are not included in plans furnished by the Engineer. These may include details of falsework, bracing centering and formwork, masonry layout diagrams, and diagrams for bending reinforcing steel.

D. Submission of Working Drawings:

The CONTRACTOR shall submit to the Engineer for approval three (3) sets of any required detailed shop or working drawings. These drawings shall be submitted in sufficient time to allow adequate study and discussion and any necessary correction prior to beginning the work they cover. Prior to the approval of these drawings any work done, or materials ordered for the structures involved shall be at the CONTRACTOR'S risk. One set of these drawings will be returned to the CONTRACTOR, either approved or marked with corrections required. The other sets will be retained by the Engineer.

E. Responsibility of Accuracy of Working Drawings:

It is understood, however, that approval by the Engineer of the CONTRACTOR'S working drawings does not relieve the CONTRACTOR of any responsibility for accuracy of dimensions and details, or for conformity of dimensions and details. The CONTRACTOR shall be responsible for agreement and conformity of his working drawings with the approved plans and specifications.

F. Cost of Working Drawings:

The contract prices shall include the cost of furnishing all working drawings, and the CONTRACTOR will be allowed no extra compensation for such drawings.

### **2.7.03 COORDINATION OF PLANS, SPECIFICATIONS AND SPECIAL PROVISIONS:**

These Specifications, the plans, special provisions, and all supplementary documents are integral parts of the contract, and a requirement occurring in one is as binding as though occurring in all.

They are intended to be complementary and to describe and provide for a complete work. In addition to the work and materials specifically called for in the Specifications as being included in any specific pay item, additional incidental work, not specifically mentioned, will be included in such pay item when so shown in the plans, or if indicated, or obvious and apparent, as being necessary for the proper completion of the work under such pay item and not stipulated as being covered under other pay items. In case of discrepancy, computed dimensions shall govern over scaled dimensions, plans shall govern over Standard Specifications, and special provisions shall govern over both Standard Specifications and Plans.

### **2.7.04 CONFORMITY OF WORK WITH PLANS:**

All Work performed, and all materials furnished shall be in reasonably close conformity with the lines, grades, cross sections, dimensions, and material requirements, including tolerances, shown on the plans or indicated in the specifications.

In the event the Engineer finds the materials or the finished product in which the materials are used not within reasonable close conformity with the plans and specifications, but that reasonably acceptable work has been produced, he shall then make a determination if the work shall be accepted and remain in place. In this event, the Engineer will document the basis of acceptance by contract modification which will provide for an appropriate adjustment in the contract price for such work or materials as he deems necessary to conform to his determination based on engineering judgment.



In the event the Engineer finds the materials, or the finished product in which the materials are used, or the work performed are not in reasonably close conformity with the plans and specifications and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expense of the CONTRACTOR.

In the event the OWNER accepts the work that is not within these tolerances, appropriate deductions will be made from the actual amount used to cover the cost of the extra material. The amount will be computed based on the job mix formula and the unit price stated in the Contract.

#### **2.7.05 ERRORS OR OMISSIONS IN PLANS OR SPECIFICATIONS:**

The CONTRACTOR shall take no advantage of any apparent error or omission which he might discover in the plans or specifications but shall forthwith notify the Engineer of such discovery, who will then make such corrections and interpretations as he deems necessary for reflecting the actual spirit and intent of the plans and specifications.

#### **2.7.06 AUTHORITY OF THE ENGINEER:**

All work shall be available for inspection by the Engineer and performed to his satisfaction.

It is agreed by the parties hereto that the Engineer shall decide all questions, difficulties and disputes, of whatever nature, which may arise relative to the interpretation of the plans, construction, prosecution and fulfillment of the contract, and as to the character, quality, amount and value of any work done, and materials furnished, under or by reason of the contract.

#### **2.7.07 AUTHORITY AND DUTIES OF ENGINEER'S ASSISTANTS:**

The Engineer may appoint such assistants and representatives as he desires. They shall be authorized to inspect all work done and all materials furnished. Such inspection may extend to all or any part of the work and to the manufacture, preparation or fabrication of the materials to be used. Such assistants shall not be authorized to revoke, alter or waive any requirement of the specifications. They shall be authorized to call to the attention of the CONTRACTOR any failure of the work or materials to conform to the specifications and contract and shall have the authority to reject materials or suspend the work until any questions at issue can be referred to and decided by the Engineer. The CONTRACTOR shall be immediately notified in writing of any such suspension of the work and such notice shall state in detail the reasons for the suspension. The presence of the inspector or other assistant shall in no way lessen the responsibility of the CONTRACTOR.

#### **2.7.08 CONSTRUCTION STAKES AND MARKERS:**

##### **1. Stakes Furnished:**

The CONTRACTOR shall furnish and set, free of charge, slope stakes, grade stakes and all other stakes necessary for construction of the project. The CONTRACTOR shall furnish all templates and other materials necessary for making and maintaining points and lines given and shall furnish the Engineer such incidental labor as he may require in reestablishing points and lines necessary to the prosecution of the work.

##### **2. Special Requirements for Landscape Work:**

For landscape work, the OWNER will furnish all stakes in the size and quantity required and the CONTRACTOR shall set all such stakes with his own forces. The CONTRACTOR shall maintain such stakes in place until the layout is approved and the digging of the holes

for the plantings has begun; replacing any which may become destroyed or disturbed during such period.

#### **2.7.09 CONTRACTOR'S SUPERVISION:**

1. Prosecution of work:

The CONTRACTOR shall give the work the constant attention necessary to assure the scheduled progress and he shall cooperate fully with the Engineer and with other CONTRACTOR'S at work in the vicinity.

2. CONTRACTOR'S Superintendent:

The CONTRACTOR shall at all times have on the work as his agent, a competent superintendent capable of thoroughly interpreting the plans and specifications and thoroughly experienced in the type of work being performed, who shall receive the instructions from the Engineer or his authorized representatives. The superintendent shall have full authority to execute the orders or directions of the Engineer and to supply promptly any materials, tools, equipment, labor and incidentals which may be required. Such superintendence shall be furnished regardless of the amount of work sublet.

3. Supervision for Emergencies:

The CONTRACTOR shall have a responsible person available at or reasonably near the work site on a 24-hour basis, seven days a week, in order that he may be contacted in emergencies and in cases where immediate action must be taken to maintain traffic or to handle any other problem that might arise. For compliance with this requirement outside of working hours, the furnishing of the telephone number where such person can be reached will suffice.

#### **2.7.10 GENERAL INSPECTION REQUIREMENTS:**

1. Cooperation by CONTRACTOR:

No work shall be done, nor materials used, without suitable inspection by the Engineer or his representative, and the CONTRACTOR shall furnish the Engineer with every reasonable facility for ascertaining whether the work performed, and materials used are in accordance with the requirements and intent of the plans and specifications. If the Engineer so requests, the CONTRACTOR shall, at any time before final acceptance of the work, remove or uncover such portions of the finished work as may be directed. After examination, the CONTRACTOR shall restore the uncovered portions of the work to the standard required by the specifications. Should the work so exposed or examined prove unacceptable, the uncovering or removal, and the replacing of the covering or making good of the parts removed, shall be at the CONTRACTOR'S expense. However, should the work thus exposed or examined prove acceptable, the uncovering or removing, and the replacing of the covering or making good of the parts removed, shall be paid for as extra work.

2. Failure of Engineer to Reject Work During Construction:

If, during or prior to construction operations, the Engineer should fail to reject defective work or materials, whether from lack of discovery of such defect or for any other reason, such

initial failure to reject shall in no way prevent his later rejection when such defect is discovered, or obligate the Engineer to final acceptance, and the CONTRACTOR shall make no claim for losses suffered due to any necessary removals or repairs of such defects.

3. Failure to Remove and Renew Defective Materials and Work:

Should the CONTRACTOR fail or refuse to remove and renew any defective materials used or work performed, or to make any necessary repairs in an acceptable manner and in accordance with the requirements of the specifications, within the time indicated in writing, the Engineer shall have the authority to cause the unacceptable or defective materials or work to be repaired, removed and renewed, as may be necessary; all at the CONTRACTOR'S expense. Any expense incurred by the City in making these repairs, removals or renewals, which the CONTRACTOR has failed or refused to make, shall be paid for out of any moneys due or which may become due the CONTRACTOR, or may be charged against the contract bond. Continued failure or refusal on the part of the CONTRACTOR to make any or all necessary repairs promptly, fully and in an acceptable manner shall be sufficient cause for the City, at its option, to perform the work with its own organization, or to contract with any other individual, firm or corporation to perform the work. All costs and expenses incurred thereby shall be charged against the defaulting CONTRACTOR and the amount thereof deducted from any moneys due or which may become due to him or shall be charged against the contract bond. Any work performed, subsequent to forfeiture of the Contract, as described in this Article, shall not relieve the CONTRACTOR in any way of his responsibility for the work performed by him.

**2.7.11 FINAL CONSTRUCTION INSPECTION:**

1. Maintenance Until Final Acceptance:

The CONTRACTOR shall maintain all work in first-class condition until it has been completed as a whole and has been accepted by the Engineer under the provisions of 2.7.12.

2. Semifinal Inspections:

The Engineer will make a semifinal inspection within seven (7) days after notice from the CONTRACTOR of presumptive completion of the entire project. If, at the semifinal inspection, all construction provided for and contemplated by the contract is found completed to the Engineer's satisfaction, such inspection shall constitute the final inspection, as prescribed below. If, however, at any semifinal inspection any work is found unsatisfactory, in whole or in part, the Engineer shall give the CONTRACTOR the necessary instructions as to replacement of material and performance or re-performance of work necessary and prerequisite to final completion and acceptance, and the CONTRACTOR forthwith shall comply with and execute such instructions. Upon satisfactory replacement of material and performance or reperformance of such work, another inspection shall be made, which shall constitute the final inspection if the required material is found to have been replaced and the work completed satisfactorily.

3. Final Inspection:

Whenever all materials have been furnished, all work has been performed, and the construction contemplated by the contract has been satisfactorily completed, the Engineer will make the final inspection.

**2.7.12 FINAL ACCEPTANCE:**

When, upon completion of the final construction inspection, the work is found to be completed satisfactorily, the Engineer shall give the OWNER a written recommendation for acceptance of the work. The OWNER shall then satisfy himself as to the Engineer's recommendation and within five days of said recommendation notify the CONTRACTOR, in writing, of his acceptance of the work.

**2.7.13 CLAIMS BY CONTRACTOR:**

Where the CONTRACTOR deems that extra compensation is due him for work or materials not clearly covered in the contract or not ordered by the Engineer as extra work, as defined herein, the CONTRACTOR shall notify the Engineer in writing of his intentions to make claim for extra compensation, before he begins the work on which he bases the claim. If such notification is not given, and the Engineer is not afforded proper opportunity for keeping strict account of actual cost, as defined for force account, then the CONTRACTOR thereby agrees to waive the claim for such extra compensation. Such notice by the CONTRACTOR, and the fact that the Engineer has kept account of the cost as aforesaid, shall not in any way be construed as establishing the validity of the claim. In such case the claim after consideration by the Engineer, is found to be valid, it shall be allowed and paid for as extra as provided herein.