

BID NO. NC010-01

A G R E E M E N T

THIS AGREEMENT entered into this 12th day of December, 2001, by and between the **BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA**, a political subdivision of the State of Florida, hereinafter referred to as "Owner", and FGI, Inc., doing business as (a corporation, a partnership, or an individual), hereinafter referred to as "Contractor".

WITNESSETH: For and in consideration of the payments and agreements hereinafter mentioned, the parties agree as follows:

1. Contractor shall perform all work and furnish all necessary labor, equipment, material, and transportation for the BASE BID, ALTERNATE 3, ALTERNATE 4 AND ALTERNATE 5, OF THE SCOTT ROAD ROADWAY & DRAINAGE IMPROVEMENTS, NASSAU COUNTY, FLORIDA, BID NO. NC010-01, hereinafter referred to as the "Work".

2. The Work includes, but is not limited to, clearing & grubbing, fill, excavation, utility adjustment and construction, construction of curb & gutter, pavement, culverts, stormsewer system, drainage retention areas, signing & pavement marking, erosion control and maintenance of traffic. All Work is to be performed per Florida Department of Transportation Standard Specifications for Road and Bridge Construction, dated 2000, supplements thereto, when not specifically stated in the Special Provisions, or shown on the plans.

3. The Contractor will commence the Work required by the Contract Documents within fifteen (15) calendar days after the date of the Notice to Proceed and will **SUBSTANTIALLY** complete the same within two hundred sixty-three (263) consecutive calendar days, and fully complete the Project in a total of two hundred eighty-four (284) calendar days after the date of the Notice to Proceed unless the period for completion is extended otherwise by the Contract Documents.

Time is of the essence in the construction of this Project. The Owner will suffer financial damage if this Project is not substantially completed on the date set

forth in the Contract Documents. Therefore, the Owner and the Contractor specifically agree that the Contractor shall pay to the Owner the sum of Three Hundred and no/100 Dollars (\$300.00) per calendar day or any part thereof elapsing between the date established as provided in Section 16 of the General Conditions, and the actual date upon which substantial completion is achieved. Moreover, if after sixty (60) calendar days after the date of substantial completion of the Project is achieved, the Project is not fully and finally complete, then the sum of Three Hundred and no/100 Dollars (\$300.00) per calendar day of any part thereof elapsing between the established date of final completion and the actual date of final completion shall be paid to the Owner by the Contractor.

These amounts to be paid to the Owner by the Contractor shall, in no event, be considered as a penalty or otherwise than the consequential and adjusted damages of the Owner because of the delay. Furthermore, the sums per calendar day or any part thereof set forth hereinabove, may be at the sole option of the Owner and may be deducted and retained out of the sums payable to the Contractor. If not so deducted, the Contractor shall remain liable therefore.

4. The Owner has determined and declared the above-named Contractor to be the lowest responsible bidder on the above referenced Project, and has duly awarded this Contract to said Contractor, for the sum named in the proposal, to-wit:

\$1,149,416.25

(Amount of Bid)

The Owner shall pay the Contractor for the Work performed as follows: Payment for unit price items shall be at the unit price bid for actual construction quantities measured in place and approved by the Owner or its Resident Project Representative(s). Payment for lump-sum priced items shall be at the lump-sum price bid.

The Owner reserves the right to make additions or deletions to bid quantities and/or portions of the bid at the bid item prices.

5. The Owner will pay the Contractor in a manner and at such times as set forth in the General Conditions such amounts as required by the Contract Documents.

6. The term "Contract Documents" means and includes the following:

- a. Advertisement for Bids
- b. Information for Bidders
- c. Bid Form
- d. Sworn Statement
- e. Bid Bond
- f. Agreement
- g. Certificate of Owner's Attorney
- h. Notice of Award
- i. Notice to Proceed
- j. Change Order Request
- k. Performance Bond
- l. Payment Bond
- m. Hold Harmless Agreement
- n. General Conditions

7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

8. All facilities, programs, and services should be compliant with the Florida Accessibility Code and the Federal Americans with Disabilities Act (ADA).

9. Appropriations necessary for the funding of this Agreement shall be adopted annually by the Board of County Commissioners during the regular budget process. Non-appropriation by the Board of County Commissioners will cause this Agreement to terminate.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in three (3) copies, each of which shall be deemed an original on the date first above written.

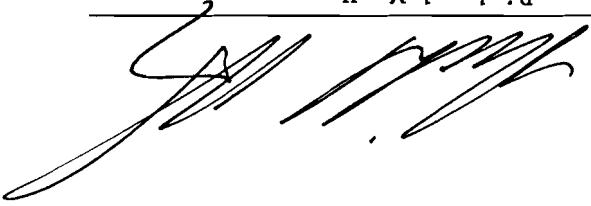
OWNER:

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA

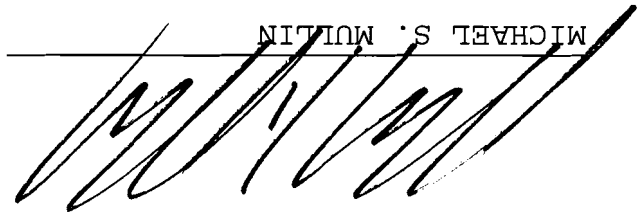


MARIANNE MARSHALL
Its: Chairman

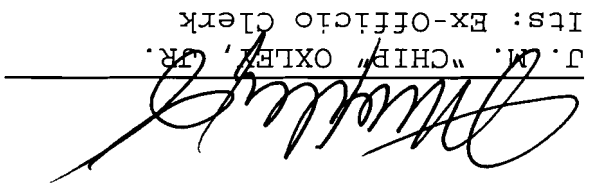
By: Richard M. Harvey
Its: Vice President



CONTRACTOR:

MICHAEL S. MULLIN


Approved as to form by the
Nassau County Attorney

J. M. "CHIP" OXLEY, JR.
Its: Ex-Officio Clerk


ATTEST:

ADDENDUM TO AGREEMENT
DATED December 12, 2001, BETWEEN
THE BOARD OF COUNTY COMMISSIONERS
OF NASSAU COUNTY, FLORIDA (“OWNER”)
AND
FLORIDA GROUNDS, INC., formerly known as FGI, INC.
(“CONTRACTOR”)

THIS ADDENDUM is made by and between Owner and Contractor.

Background Facts

Owner and Contractor have entered into that certain Agreement dated December 12, 2001 (the “Contract”), regarding construction of the Base Bid, Alternate 3, Alternate 4 and Alternate 5 of the Scott Road Roadway & Drainage Improvements, Nassau County, Florida, Bid No. NC010-01. Owner and Contractor desire to amend the Agreement as more specifically set forth herein.

Agreement

In consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Buyer and Seller hereby agree as follows:

1. **Background Facts.** The Background Facts as set forth above are agreed to be true and correct and are incorporated herein by this reference.

2. Contractor is a Florida corporation which was incorporated on April 1, 1999 (Charter number P99000030048). On October 8, 2001, Contractor changed its corporate name from FGI, Inc., to Florida Groundworks, Inc., as evidenced by the current certificate of status from the Florida Secretary of State which is attached to this Addendum as Exhibit A. Contractor further filed an application with the Florida Secretary of State for registration of the fictitious name “FGI” on November 9, 2001. The Contract was inadvertently executed in the former name of the Contractor. Contractor hereby confirms and agrees that Florida Groundworks, Inc., formerly known as FGI, Inc., is the Contractor under the Contract.

3. **Ratification.** The Contract remains in full force and effect as expressly modified by this Addendum and is ratified and confirmed by Contractor and Owner. If there is a conflict between the terms of the Contract and this Addendum, the terms of this Addendum control.

This Addendum has been executed by Contractor and Owner on the date first above written.

OWNER:

CONTRACTOR:

BOARD OF COUNTY COMMISSIONERS FLORIDA GROUNDWORKS, INC.,
NASSAU COUNTY, FLORIDA

FORMERLY KNOWN AS FGL INC.

By: 

By: 

Nick D. Deonas
[Print or Type Name]

Ray Harvey
[Print or Type Name]

Its Chairman

Its President

Date: 1-31-02

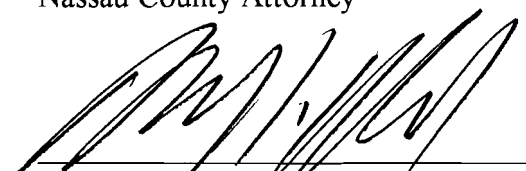
Date: 1/29/02

ATTEST:



J. M. "CHIP" OXLEY, JR.
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney



MICHAEL S. MULLIN

NOTICE OF AWARD

TO: FGI, Inc.
2804 Edison Avenue
Jacksonville, FL 32254

PROJECT DESCRIPTION:

SCOTT ROAD ROADWAY & DRAINAGE IMPROVEMENTS
NASSAU COUNTY, FLORIDA
NC010-01

The Owner has considered the Bid submitted by you for the above described Work in response to its Advertisement for Bids dated July 6, 2001, and Information for Bidders.

You are hereby notified that your Bid has been accepted in the amount of \$ 1,149,416.25.

You are required by the Information for Bidders to furnish the required Contractor's Performance Bond, Payment Bond, and certificates of insurance within ten (10) calendar days from the date of this Notice to you.

If you fail to furnish said Bonds and certificates of insurance within ten (10) days from the date of this Notice, said Owner will be entitled to consider all your rights arising out of the Owner's acceptance of your Bid as abandoned and as such you forfeit your Bid Bond. The Owner will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this Notice of Award to the Owner.

DATED this 12th day of December, 2001.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



MARIANNE MARSHALL
Its: Chairman

ATTEST:



J. M. "CHIP" OXLEY, JR.
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney

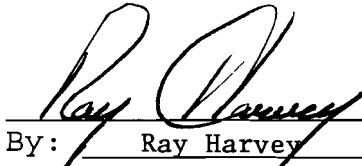


MICHAEL S. MULLIN

ACCEPTANCE OF NOTICE

Receipt of the above Notice of Award is hereby acknowledged
by:

F.G.I., Inc., this 14th day
of February, 2002.



By: Ray Harvey
Its: President

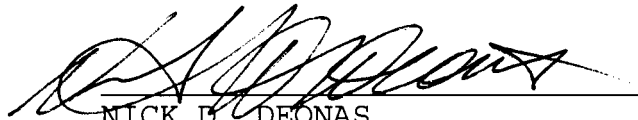
NOTICE TO PROCEED

To: FGI, INC. Date: February 11, 2002
2804 Edison Avenue Project: Bid No. NC010-01
Jacksonville, FL 32254

You are hereby notified to commence work in accordance with the Agreement dated the 12th day of December, 2001 on or before the 26th day of February 2002, and you are to substantially complete the Work within 263 consecutive calendar days, and fully complete the Project in a total of 284 days after the date of this Notice to Proceed. The Date of Completion of all Work is therefore November 22, 2002.

OWNER:

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



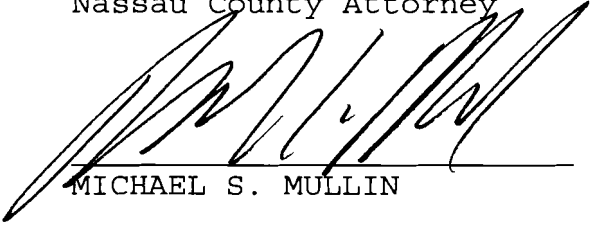
NICK E. DEONAS
Its: Chairman

ATTEST:



J. M. "CHIP" OXLEY, JR.
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney



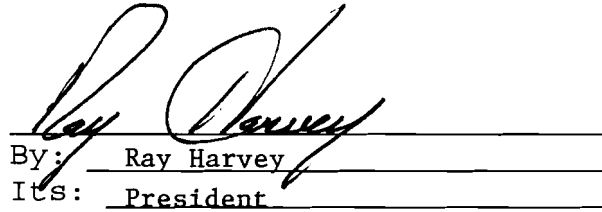
MICHAEL S. MULLIN

ACCEPTANCE OF NOTICE

Receipt of the above Notice to Proceed is hereby
acknowledged by:

FGI, Inc. _____, this 14th day of

February _____, 2002.



By: Ray Harvey
Its: President

Nassau County
Department of Public Works

County
Contractor
Field
Other

CHANGE ORDER REQUEST

PROJECT: _____ CHANGE ORDER NUMBER: _____

_____ DATE: _____

_____ CONTRACT NUMBER: _____

TO CONTRACTOR: _____

The Contract is changed as follows:

Original Contract Sum	\$ _____
Net change by Previous Change Order	\$ _____
Contract Sum Prior to This Change Order	\$ _____
Amount of This Change Order (Add/Deduct)	\$ _____
New Contract Sum, Including this Change Order	\$ _____

The Contract Time for substantial completion will be (increased) (decreased) (unchanged) by _____ days.

This document, when signed by all parties, shall become an amendment to the Contract and all provisions of the Contract shall apply hereto.

RECOMMENDED BY: _____ DATE: _____
Resident Project Representative

ACCEPTED BY: _____ DATE: _____
Contractor

Approved by: _____ DATE: _____
Director of Public Works

INSERT CERTIFICATE(S) OF INSURANCE

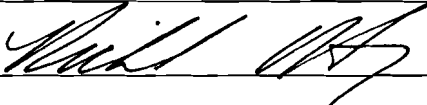
HOLD HARMLESS AGREEMENT

F.G.I., Inc. (Contractor),
its officers and members shall, through the signing of this document by an authorized party or agent, covenant and agree that it will indemnify, hold harmless, and defend the Board of County Commissioners of Nassau County, Florida, and the damage, cost, charge, expense, suit and/or action, including attorney's fees and all costs of litigations and judgment of every name and description brought against the Owner as a result of any act, action, neglect, loss, damage or injury to person or property by reason of any act or failure to act by the Contractor, its agents, servants, or employees during and as a result of the performance under this Contract whether direct or indirect, and whether to any person or property to which the Owner or said parties may be subject.

Name of Firm: F.G.I., Inc.

Name of Agent: Richard M. Harvey

Title of Agent: Vice President

Signature of Agent: 

Date: 12-10-01

GENERAL CONDITIONS

SECTION:

1. Definitions
2. Additional Instructions and Detail Drawings
3. Schedules, Reports and Records
4. Drawings and Specifications
5. Shop Drawings
6. Materials, Services, and Facilities
7. Inspection and Testing
8. Substitutions
9. Patents
10. Surveys, Permits, Regulations
11. Protection of Work, Property, Persons
12. Supervision by Contractor
13. Unit Price Work
14. Changes in the Work
15. Changes in Contract Price
16. Time for Completion and Liquidated Damages
17. Correction of Work
18. Subsurface Conditions
19. Suspension of Work, Termination, and Delay
20. Payments to Contractor
21. Acceptance of Final Payment as Release
22. Insurance
23. Contract Security
24. Assignments
25. Indemnification
26. Separate Contracts
27. Subcontracting
28. Engineer's Authority
29. Land and Right-of-Way
30. Guaranty
31. Arbitration
32. Taxes
33. Determination of Lowest Qualified Bidder
34. Acceptance and Rejections of Proposals
35. Pre-Construction Conference
36. Experience-Process Equipment Manufacturers
37. As-Built Records
38. Operating, Maintenance, and Service Manuals
39. Operating Instructions
40. Examination of Plans, Sites, Etc.
41. Florida Deceptive and Unfair Trade Practices Act

1. **Definitions:**

Wherever used in the Contract Documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof.

(a) **Addenda** - written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Contract Documents, Drawings, and Specifications, by additions, deletions, clarifications, or corrections; a change made prior to bid opening.

(b) **Application for Payment** - the form accepted by the Owner which is to be used by Contractor in requesting progress or final payments and which is to include such supporting documentation as is required by the Contract Documents.

(c) **Bid** - the offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

(d) **Bidder** - any person, firm, or corporation submitting a Bid for the Work.

(e) **Bonds** - Bid, Performance, and Payment Bonds and other instruments of security, furnished by the Contractor and his Surety in accordance with the Contract Documents.

(f) **Change Order** - a written order to the Contractor, which is signed by the Contractor and the Owner, authorizing an addition, deletion, or revision to the Work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price or Contract Time.

(g) **Contract Documents** - the Contract Documents are defined as those listed in the Agreement and together, comprise the entire Agreement between Owner and Contractor.

(h) **Contract Price** - the total monies payable to the Contractor under the terms and conditions of the Contract Documents subject to the provisions of General Condition, Section 15.

(i) **Contract Time** - the number of calendar days stated in the Contract Documents for substantial or full completion of the Work.

(j) **Contractor** - the person, firm, or corporation with whom the Owner has executed the Agreement.

(k) **Drawings** - the part of the Contract Documents which show the characteristics and scope of the Work to be performed and which have been prepared or approved by the Engineer.

(l) **Field Order** - a written order effecting a change in the Work not involving an adjustment in the Contract Price or an extension of the Contract Time, issued by the Owner or its Resident Project Representative(s) to the Contractor during construction.

(m) **Engineer** - the person, firm, or corporation with whom the Owner has contracted for this Project for engineering services.

(m) **Notice of Award** - written notice of acceptance of the Bid from the Owner to the successful Bidder.

(n) **Notice to Proceed** - Written communication issued by the Owner to the Contractor authorizing him to proceed with the Work and establishing the date of commencement of the Work.

(o) **Owner** - Board of County Commissioners of Nassau County, Florida.

(p) **Project** - the undertaking to be performed as provided in the Contract Documents.

(q) **Resident Project Representative(s)** - the authorized representative(s) of the Owner who is/are assigned to the Project site or any part thereof.

(r) **Shop Drawings** - all drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by the Contractor, a subcontractor, manufacturer, supplier, or distributor, which illustrate how specific portions of the Work shall be fabricated or installed.

(s) **Specifications** - a part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards, and workmanship.

(t) **Subcontractors** - an individual, firm, or corporation having a direct contract with the Contractor or with any other subcontractor for the performance of a part of the Work at the site.

(u) **Substantial Completion** - that date as certified by the Owner or its Resident Project Representative(s) when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part thereof can be utilized for the purposes for which it is intended.

(v) **Supplemental General Conditions** - modifications to General Conditions required by a Federal Agency for participation in the Project and approved by the Agency in writing prior to inclusion in the Contract Documents.

(w) **Suppliers** - any person, supplier, or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.

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

(y) **Work** - all labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in the project.

(z) **Written Notice** - any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said

party at his last given address, or delivered in person to said party or his authorized representative on the Work.

2. **Additional Instruction and Detail Drawings:**

The Contractor may be furnished additional instruction and detail drawings by the Owner or its Resident Project Representative(s), as necessary to carry out the Work required by the Contract Documents.

The additional drawings and instruction thus supplied will become a part of the Contract Documents. The Contractor shall carry out the Work in accordance with the additional detail drawings and instructions.

3. **Schedules, Reports, and Records:**

The Contractor shall submit to the Owner or its Resident Project Representative(s) such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records, and other data as the Owner or its Resident Project Representative(s) may request concerning Work performed or to be performed.

Prior to the first partial payment estimate the Contractor shall submit schedules showing the order in which he proposes to carry on the Work, including dates of which he will start the various parts of the Work, estimated date of completion of each part, and, as applicable, the dates at which special detail drawings will be required; and respective dates for submission of Shop Drawings, the beginning of manufacture; the testing and the installation of materials, supplies, and equipment.

The Contractor shall also submit a schedule of payments that he anticipates he will earn during the course of the Work. The schedule shall consist of a detailed breakdown of the contract price, giving the quantities of various kinds of work and the unit prices for materials and labor and total prices thereof.

4. **Drawings and Specifications:**

Unless otherwise specifically stated herein, or shown on the plans, the 2000 edition of Standard Specifications for Road and Bridge Construction and supplements thereto,

as prepared by the Florida Department of Transportation, in its entirety, shall govern this project.

The intent of the Drawings and Specifications is that the Contractor shall furnish all labor, materials (not furnished by the Owner), tools, equipment, and transportation necessary for the proper execution of the Work in accordance with the Contract Documents and all incidental work necessary to complete the Project in an acceptable manner, ready for use, occupancy or operation by the Owner.

In case of discrepancy, the governing order of documents shall be as follows:

1. Plans
2. Special Provisions
3. Technical Special Provision
4. Road Design, Structures, and Traffic Operations Standards
5. Supplemental Specifications
6. Standard Specifications

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 Owner or its Resident Project Representative(s), in writing, who shall promptly correct such inconsistencies or ambiguities in writing after consultation with the Engineer. Work done by the Contractor after his discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's risk.

5. **Shop Drawings:**

The Contractor shall provide the Owner with Shop Drawings as may be necessary for the prosecution of the Work as required by the Contract Documents. The Engineer will then promptly review all Shop Drawings. The Engineer's approval of any Shop Drawings shall not release the Contractor from responsibility for deviations from the Contract Documents. The approval of the Shop Drawings which substantially deviates from the requirement of the Contract Documents shall be evidenced by a Change Order.

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 and that they are in conformance with the requirements of the Contract Documents. Three (3) copies of each shop drawing will be required for submission.

Portions of the Work requiring a Shop Drawing or sample submission shall not begin until the Shop Drawing or submission has been approved by the Engineer and the Owner. A copy of each approved Shop Drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to the Engineer and the Owner.

6. **Materials, Services, and Facilities:**

It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the Work within the specified time.

Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work shall be located so as to facilitate prompt inspection.

Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as inspected by the manufacturer.

Materials, supplies, or equipment shall be in accordance with samples submitted by the Contractor and approved by the Engineer and the Owner.

Materials, supplies, or equipment to be incorporated into the Work shall not be purchased by the Contractor or the Subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

7. **Inspection and Testing:**

All materials and equipment used in the construction of the Project shall be subject to adequate inspection and testing in accordance with generally accepted standards.

The Contractor shall provide, at his expense, the necessary testing and inspection services required by the Contract Documents, unless otherwise provided.

The Owner shall provide all other inspection and testing services not required by the Contract Documents.

If the Contract Documents, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any work to specifically be inspected, tested, or approved by someone other than the Contractor, the Contractor will give the Owner or its Resident Project Representative(s) timely notice of readiness. The Contractor will then furnish the Owner or its Resident Project Representative(s) the required certificates of inspection, testing, or approval.

Neither observations by the Engineer nor inspections, tests, or approval 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.

The Owner or its Resident Project Representative(s) will at all times have access to the Work. In addition, authorized representatives and agents of any participating Federal and State agency shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection, or testing thereof.

If any Work is covered prior to acceptance by the Owner or its Resident Project Representative(s) or contrary to the written request of the Owner or its Resident Project Representative(s), it must, if required by the Engineer, be uncovered for his observation and replaced at the Contractor's expense.

If any Work has been covered which the Owner or its Resident Project Representative(s) has not specifically requested to observe prior to its being covered, or if the

Owner or its Resident Project Representative(s) considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the Owner or its Resident Project Representative(s)' request, will uncover, expose, or otherwise make available for observation, inspection, or testing as the Owner or its Resident Project Representative(s) may require, that portion of the Work in question, furnishing all necessary labor, materials, tools, 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 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 reconstruction and an appropriate Change Order will be issued.

8. **Substitutions:**

Whenever shown or specified in the Contract Documents, the brands, make of materials, devices or equipment shall be regarded as the design standard. If the Contractor wishes to submit alternate brands, makes of materials, devices or equipment he shall submit to the Owner or its Resident Project Representative(s) supportive data from the manufacturer with his Bid. The alternate items are to be of equal quality, workmanship, durability, performance and economy of operation.

The Contractor shall be, in the event that the alternates are approved by the Owner or its Resident Project Representative(s), responsible for any and all changes in construction at no additional cost to the Owner.

Alternate items which require major design or construction alterations shall not be approved by the Engineer and the Owner or its Resident Project Representative(s).

In all cases, new materials shall be used unless this provision is waived by written notice from the Owner and Engineer.

9. **Patents:**

The Contractor shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer is specified, but if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner or its Resident Project Representative(s).

10. **Surveys, Permits, Regulations:**

From the information provided by the Owner, unless otherwise specified in the Contract Documents, the Contractor shall make all detail surveys needed for construction, such as slope stakes, batter boards, stakes for pipe locations and other working points, lines, elevations, and cut sheets.

The Contractor shall carefully preserve bench marks, reference points, and stakes and, in case of willful or careless destruction, he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.

Permits and licenses of a temporary nature necessary for the prosecution of the Work shall be secured and paid for by the Contractor. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Owner, unless otherwise specified.

The Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the Work as drawn and specified.

If the Contractor observes that the Contract Documents are at variance therewith, he shall promptly notify the Owner or its Resident Project Representative(s) in writing and any necessary changes shall be adjusted as provided in Section 13, Changes in Work.

11. **Protection of Work, Property, and Persons:**

The Contractor will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. The Contractor will be exclusively responsible for safety. He will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the Work and other persons who may be affected thereby, all the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawn, 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. He will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. He will notify owners of adjacent utilities when prosecution of the Work may affect them.

The Contractor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them is liable, except damage or loss attributable to the fault of the Contract Documents or to the acts or omissions of the Owner or the Engineer or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable directly or indirectly, in whole or in part, to the fault or negligence of the Contractor.

In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Owner or its Resident Project Representative(s), shall act to prevent threatened damage, injury, or loss. He will give the Owner or its Resident Project Representative(s) 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.

12. **Supervision by Contractor:**

The Contractor will supervise and direct the Work. He will be solely responsible for the means, methods, techniques, sequences, and safety of construction. The Contractor will employ and maintain on the Work a qualified supervisor or superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site.

The Supervisor shall have full authority to act on behalf of the Contractor and all communications given to the Supervisor shall be as binding as if given to the Contractor. The Supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the Work.

13. **Changes in the Work:**

The Owner or its Resident Project Representative(s) may at any time, as the need arises, order changes within the scope of the Work without invalidating the Agreement. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the Work, an equitable adjustment shall be authorized by Change Order.

The Owner or its Resident Project Representative(s) Owner or its Resident Project Representative(s), also, may at any time, by issuing a Field Order, make changes in the details of the Work. The Contractor shall proceed with the performance of any changes in the Work so ordered by the Owner or its Resident Project Representative(s) unless the Contractor believes that such Field Order entitles him to a change in Contract Price or Time, or both, in which event he shall give the Owner or its Resident Project Representative(s) Written Notice thereof within fifteen (15) days after the receipt of the ordered change, and the Contractor shall not execute such changes pending the receipt of an executed Change Order or further instruction from the Owner or its Resident Project Representative(s).

14. **Unit Price Work:**

Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purposes of comparison of Bids and determining an initial Contract Price. Actual quantities will be determined by the Owner or its Resident Project Representative(s) as required to complete the Work.

Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.

15. **Changes in Contract Price:**

The Contract Price may be changed only by a Change Order. The value of any work covered by a Change Order or of any claim for increase or decrease in the Contract Price shall be determined by one or more of the following methods in the order of precedence listed below:

- (a) Unit Prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost for labor, materials, supplies, equipment, and other services necessary to complete the work. In addition, there shall be added an amount to be agreed upon but not to exceed ten percent (10%) of the actual cost of the Work to cover the cost of general overhead and profit.

16. **Time for Completion and Liquidated Damages:**

The date of beginning and the time of completion of the Work are essential conditions of the Contract Documents and the Work embraced shall be commenced on a date specified in the Notice to Proceed.

The Contractor will proceed with the Work at such rate of progress to insure full completion within the Contract Time.

It is expressly understood and agreed, by and between the Contractor and the Owner, that the Contract Time for the completion of the Work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the Work.

If the Contractor shall fail to substantially or fully complete the Work within the Contract Time, or extension of time granted by the Owner, then the Contractor will pay to the Owner the amount for consequential damages as specified in the Bid for each calendar day that the Contractor shall be in default after the time stipulated in the Contract Documents.

The Contractor shall not be charged with damages or any excess cost when the delay in the completion of the Work is due to the following, and the Contractor has promptly given Written Notice of such delay to the Owner or Engineer:

(a) To any preference, priority, or allocation order duly issued by the Owner.

(b) To unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather; and

(c) To any delays of Subcontractor occasioned by any of the causes specified in Paragraphs 16 (a) and 16 (b) of this Article.

17. **Correction of Work:**

The Contractor shall promptly remove from the premises all Work rejected by the Owner or its Resident Project Representative(s) for failure to comply with the Contract

Documents, whether incorporated in the construction or not, and the Contractor shall promptly replace and re-execute the Work in accordance with the Contract Documents and without expense to the Owner and shall bear the expense of making good all Work of other Contractors destroyed or damaged by such removal or replacement. All removal and replacement Work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected Work within ten (10) days after receipt of Written Notice, the Owner may remove such Work and store the materials at the expense of the Contractor.

18. **Subsurface Conditions:**

The Contractor shall promptly, and before such conditions are disturbed, except in the event of any emergency, notify the Owner or its Resident Project Representative(s) by Written Notice of:

(a) Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents; or

(b) Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract Documents.

The Owner or its Resident Project Representative(s) shall promptly investigate the conditions, and if it finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the Work, an equitable adjustment shall be made, and the Contract Documents shall be modified by a Change Order.

Any claim of the Contractor for adjustment hereunder shall not be allowed unless he has given the required Written Notice; provided that the Owner or its Resident Project Representative(s) may, if it determines the facts so justify, consider and adjust such claims asserted before the date of final payment.

19. **Suspension of Work, Termination, and Delay:**

The Owner may, at any time and without cause, suspend the Work on any portion thereof for a period of not more

than ninety (90) days or until such time as agreed upon by the Contractor, by Written Notice to the Contractor and the Engineer, which Notice shall fix the date on which Work shall be resumed. The Contractor will resume the Work on the date so fixed. The Contractor will be allowed an extension of the contract Time directly attributable to any suspension.

If the Contractor is adjudged as bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for the Contractor or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if he repeatedly fails to make prompt payments to Subcontractors for labor, regulations or orders of any public body having jurisdiction of the Work, or if he disregards the authority of the Owner or its Resident Project Representative(s), or if he otherwise violates any provision of the Contract Documents, then the Owner may, without prejudice to any other right or remedy and after giving the Contractor and his Surety a minimum of ten (10) days from delivery of a Written Notice, terminate the services of the Contractor and take possession of the Project and of all materials, equipment, tools, construction equipment, and machinery therein owned by the Contractor, and finish the Work by whatever method the Owner may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to the Owner. Such costs incurred by the Owner will be determined and incorporated in a Change Order.

Where the Contractor's services have been so terminated by the Owner, said termination shall not affect any right of the Owner against the Contractor whether existing or which may thereafter accrue. Any retention or payment of monies by the Owner due the Contractor will not release the Contractor from compliance with the Contract Documents.

After ten (10) days from delivery of a Written Notice to the Contractor, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Contract. In such case, the Contractor shall be paid for all Work executed and any expense sustained plus reasonable profit.

If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety (90) days by the Owner or under an order of Court or other public authority, or the Owner or its Resident Project Representative(s) fails to act on any request for payment within forty-five (45) days after it is submitted, or the Owner fails to pay the Contractor substantially the sum awarded by a mediator within thirty (30) days of its approval and presentation, the Contractor may after ten (10) days from delivery of a Written Notice to the Owner, terminate the Contract and recover from the Owner payment for all Work executed and all expenses sustained. In addition to and in lieu of terminating the Contract, if the Owner has failed to act on a request for payment, or if the Owner has failed to make any payment as aforesaid, the Contractor may, upon ten (10) days Written Notice to the Owner, stop the Work until he has been paid all amounts then due, in which event and upon resumption of the Work, a Change Order shall be issued for adjusting the Contract Price or extending the Contract Time, or both, to compensate for the costs and delays attributable to the stoppage of the Work.

If the performance of all or any portion of the Work is suspended, delayed, or interrupted as a result of a failure of the Owner to act within the time specified in the Contract Documents, or if no time is specified, within a reasonable time, an adjustment in the Contract Price or an extension of the Contract Time, or both, shall be made by Change Order to compensate the Contractor for the costs and delays necessarily caused by the failure of the Owner.

20. **Payment to Contractor:**

At least ten (10) days before each progress payment falls due (but no more often than once a month), the Contractor will submit to the Owner or its Resident Project Representative(s) a partial payment estimate filled out and signed by the Contractor covering the Work performed during

the period covered by the partial payment estimate and supported by such data as the Owner or its Resident Project Representative(s) may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at or near the site, the partial estimate shall also be accompanied by such supporting data, satisfactory to the Owner or its Resident Project Representative(s), as will establish the Owner's title to the material and equipment and protect its interest therein, including applicable insurance. The application for payment shall include a list of Subcontractors employed by the Contractor that provided or performed work included in the application and the Subcontractors' partial release of lien from the previous payment.

The Owner or its Resident Project Representative(s) will, within ten (10) days after receipt of each partial payment estimate, either indicate in writing his approval of payment or return the partial payment estimate to the Contractor indicating in writing his reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial payment estimate.

The Owner will, within forty-five (45) days of presentation to it of an approved partial payment estimate, pay the Contractor a progress payment on the basis of the approved partial payment estimate.

The Owner shall retain ten percent (10%) of the amount of each payment until final completion and acceptance of all Work covered by the Contract documents. The Owner at any time, however, after fifty percent (50%) of the Work has been completed may reduce the retainage to five percent (5%) on the current and remaining estimates. The Owner may reinstate up to ten percent (10%) retainage if the Owner determines, at its sole discretion, that the Contractor is not making satisfactory progress or there is other specific cause for such retainage. The Owner may accept securities negotiable without recourse, condition, or restriction, a release of retainage bond, or an irrevocable letter of credit provided by the Contractor in lieu of all or part of the cash retainage.

On completion and acceptance of a part of the Work on which the price is stated separately in the Contract

Documents, payment may be made in full, including retained percentages, less authorized deductions.

The request for payment may also include an allowance for the cost of such major materials and equipment which are suitably stored either at or near the site.

Upon completion and acceptance of the Work, the Owner shall issue a certificate attached to the final payment request that the Work has been accepted by him under the conditions of the Contract Documents.

The entire balance found to be due the Contractor, including the retained percentages, but except such sums as may be lawfully retained by the Owner, shall be paid to the Contractor within forty-five (45) days of completion and acceptance of the Work.

The Contractor will indemnify and save the Owner or the Owner's agents harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the Work. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the Contractor fails to do so, the Owner may, after having notified the Contractor, either pay the unpaid bills or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged, whereupon payment to the Contractor shall be resumed in accordance with the terms of the Contract Documents, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor, his Surety, or any third party.

In paying any unpaid bills of the Contractor, any payment so made by the Owner shall be considered as a payment made under the Contract Documents by the Owner to the Contractor, and the Owner shall not be liable to the Contractor for any such payments made in good faith.

Contractor shall follow the following procedure:
Contractor shall provide to Owner, with the application for

payment, an updated accounts payable aging report for the Project. In addition, Contractor shall provide Owner the payment checks for all materials, equipment, subcontractors, and other expenses related to the Project for review. Each payment shall include a request for written release of lien. The above conditions being met and approval of the pay request by the Engineer being received, Owner will pay the Contractor at the next scheduled pay date.

In order for Owner to approve subsequent pay requests, Contractor shall provide Owner with release of lien statements for payments made on the previous pay request.

21. **Acceptance of Final Payment as Release:**

Whenever the Contractor has completely performed the Work provided for under the Contract and the Owner has performed a final inspection and made final acceptance, the Contractor will prepare a final estimate showing the value of the Work as soon as the Contractor makes the necessary measurements and computations. The Contractor will correct all prior estimates and payments in the final estimate and payment. The Owner will pay the amount in the estimate, less any sums that the Owner retained under the provisions of the Contract, as soon as practicable after final acceptance of the Work.

The acceptance by the Contractor of final payment shall be and shall operate as release to the Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this Work and for every act and neglect of the Contractor and other relating to or arising out of this Work.

Any payment, however, final or otherwise, shall not release the Contractor or his sureties from any obligations under the Contract Documents or the Performance Bond and Payment Bonds.

22. **Insurance:**

The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor's

execution of the Work, whether such execution be by himself or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(a) Claims under workmen's compensation, disability benefit, and other similar employee benefit acts;

(b) Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees;

(c) Claims for damages because of bodily injury, occupational sickness or disease, or death of any person other than his employees;

(d) Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person; and

(e) Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom.

Certificate(s) of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These Certificate(s) shall contain a provision that coverages afforded under the policies will not be cancelled unless at least fifteen (15) days prior Written Notice be given to the Owner.

The Contractor shall procure and maintain, at his expense, during the Contract Time, liability insurance as hereinafter specified:

(1) Contractor's General Public Liability and Property Damage Insurance including vehicle coverage issued to the Contractor and protecting him from all claims for destruction of or damage to property, arising out of or in connection with any operations under the Contract Documents, whether such operations be by any subcontractor under him, or anyone directly or indirectly employed by the Contractor or by a Subcontractor under him. Insurance shall be written with a limit of liability of not less than \$1,000,000.00 for all damages arising out of bodily injury,

including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$3,000,000.00 for any such damages sustained by two or more persons in any one accident.

Insurance shall be written with a limit of liability of not less than \$1,000,000.00 for all property damage sustained by any one person in any one accident; and a limit of not less than \$1,000,000.00 for any such damage sustained by two or more persons in any one accident.

The Contractor must procure a contractual liability endorsement to the comprehensive general liability insurance policy to indemnify (hold harmless) the Owner and Engineer for claims arising out of the Contractor's negligence.

(2) The contractor shall acquire and maintain, if applicable, Fire and Extended Coverage insurance upon the Project to the full insurable value thereof for the benefit of the Owner, the Contractor, and Subcontractors as their interest(s) may appear. This provision shall in no way release the Contractor or Contractor's Surety from obligations under the Contract Documents to fully complete the Project.

The Contractor shall procure and maintain, at his own expense, during the Contract Time, in accordance with the provisions of the laws of the State of Florida, Workmen's Compensation Insurance, including occupational disease provisions, for all his employees at the site of the Project and, in case any work is sublet, the Contractor shall require such Subcontractor similarly to provide Workmen's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this Contract at the site of the Project is not protected under the Workmen's Compensation Statute, the Contractor shall provide, and shall cause each Subcontractor to provide, adequate and suitable insurance for the protection of his employees not otherwise protected.

The Contractor shall secure, if applicable, "All Risk" type Builder's Risk Insurance for Work to be performed.

Unless specifically authorized by the Owner, the amount of such insurance shall not be less than the Contract Price totaled in the Bid. The policy shall cover not less than the losses due to fire, explosion, hail, lightening, vandalism, malicious mischief, wind, collapse, riot, aircraft, and smoke during the Contract Time, and until the Work is accepted by the Owner.

23. **Contract Security:**

The Contractor shall, within ten (10) days after the receipt of the Notice of Award, furnish the Owner with a Performance Bond and a Payment Bond in penal sums equal to the amount of the Contract Price, conditioned upon the performance by the Contractor of all undertakings, covenants, terms, conditions, and agreements of the Contract to all persons supplying labor and materials in the prosecution of the Work provided by the Contract Documents.

Such Bonds shall be executed by the Contractor and a corporate bonding company licensed in the State of Florida and named on the current list of "Surety Companies Acceptable on Federal Bonds, as published in the Treasury Department Circular number 570. The expense of these Bonds shall be borne by the Contractor.

If at any time a surety on such Bond is declared a bankrupt or loses its right to do business in the State of Florida or is removed from the list of Surety Companies accepted on Federal Bonds, the Contractor shall within ten (10) days after Notice from Owner to do so, substitute an acceptable Bond (or Bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums on such Bond(s) shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable Bond to the Owner.

24. **Assignments:**

Neither the Contractor nor the Owner shall 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.

25. **Indemnification:**

The Contractor will indemnify and hold harmless the Owner and its agents and employees from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the Work, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to loss to or destruction of tangible property, including loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the Contractor and/or Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

In any and all claims against the Owner or any of its agents or employees, by any employee 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, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any Subcontractor under Workman's Compensation acts, disability benefit acts, or other employee benefits act.

The obligation of the Contractor under this Paragraph shall not extend to the liability of the Engineer, his agents or employees arising out of the preparation or approval of maps, drawings, options, reports, surveys, Change Orders; designs, or Specifications.

26. **Separate Contracts:**

The Owner reserves the right to let other contracts in connection with the Project. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their Work with the Contractor's. If the proper execution or results of any part of the Contractor's work depends upon the Work of any other Contractor, the Contractor shall inspect and promptly report to the Owner or its Resident Project Representative(s) any defects in such Work that render it unsuitable for such proper execution and results.

The Owner may perform additional Work related to the Project by itself, or it may let other contracts containing provisions similar to these. The Contractor will afford the other contractors who are parties to such Contracts (or the Owner, 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 the Owner's.

If the performance of additional Work by other contractors or the Owner is not noted in the Contract Documents prior to the execution of the Contract, 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 Owner or others involves him in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Sections 15 and 16.

27. **Subcontracting:**

The Contractor may utilize the services of specialty subcontractors on those parts of the Work which, under normal contracting practices, are performed by specialty Subcontractors.

The Contractor shall not award Work to Subcontractors, in excess of fifty percent (50%) of the Contract Price, without prior written approval of the Owner.

The Contractor shall be fully responsible to the Owner for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the Work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the Contract Documents.

28. **Engineer's Authority:**

The Engineer will make visits to the site at the Owner's request and determine if the Work is proceeding in accordance with the Contract Documents.

The Contractor will be held strictly to the intent of the Contract Documents in regard to the quality of materials, workmanship, and execution of the Work. Inspections may be made at the factory or fabrication plant of the source of material supply.

The Engineer and the Owner will not be responsible for the construction's means, controls, techniques, sequences, procedures, or construction safety.

29. **Land and Right-of-Way:**

The Contractor shall provide at his own expense and without liability to the Owner any additional land and access thereto that the Contractor may desire for temporary construction facilities, or for storage of materials.

The Owner shall provide to the Contractor information which delineates and describes the lands owned and rights-of-way acquired.

30. **Guaranty:**

The Contractor shall guarantee all materials and equipment furnished and the Work performed for a period of one (1) year from the date of final acceptance. The Contractor warrants and guarantees for a period of one (1) year from the date of Substantial Completion of the system that the completed system is free from all defects due to faulty materials or workmanship, and the Contractor shall promptly make such corrections as may be necessary by reason of such defects, including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other Work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred. The Performance Bond shall remain in full force and effect throughout the guaranty period.

31. **Disputes:**

Any dispute arising under this contract, which is not disposed of by agreement, shall be decided by a mediator, who shall reduce his/her decision to writing and furnish a copy to both parties. Claims disputes, or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof, shall be submitted to mediation in accordance with mediation rules as established by the Florida Supreme Court. Mediators shall be chosen from the Supreme Court approved list of mediators in the Fourth Judicial Circuit and the cost of mediation shall be borne by the Contractor. The decision of the mediator shall be final and conclusive unless determined by a court of competent jurisdiction to be fraudulent, capricious, arbitrary, or so grossly erroneous as to necessarily imply bad faith or not supported by substantial evidence.

32. **Taxes:**

The Contractor will pay all sales, consumer, use, and other similar taxes required by the State of Florida.

33. **Determination of Lowest Qualified Bidder:**

The Owner may make such investigations as it deems necessary to determine the ability of the Bidder to perform the Work, and the Bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by or investigation of such Bidder fails to satisfy the Owner that such Bidder is properly outfitted to carry out the obligations of the Contract and to complete the Work contemplated therein. Responsibility of the Bidder will be based on whether a permanent place of business is maintained, has adequate plant equipment to do the Work properly and within the established time limit, and has the financial status to meet his obligations contingent to the Work.

Only qualified Bidders who have adequate experience, finances, equipment, and personnel will be considered in making awards. The Owner also reserves the right to make award for an amount of work less than the total indicated, in order to come within proposed funds for the Project. Except where the Owner exercises the right reserved herein to reject any or all proposals, the Contract will be

awarded by the Owner to both a qualified and responsible Bidder who has submitted the lowest bid.

34. **Acceptance or Rejection of Proposals:**

The Owner reserves the right to waive informalities in or to reject any or all Bids. Bid envelopes must, however, bear on the outside the name of the Bidder and his address. Otherwise the Bid shall not be opened.

Any proposal which is incomplete, obscure, or irregular may be rejected; any proposal having erasures or corrections in the Bid Proposal may be rejected; any proposal which omits a bid price may be rejected; any Proposal in which manufacturers of equipment or subcontractors are not listed may be rejected; any Proposal accompanied by an insufficient or irregular certified check of Bid Bond may be rejected. Conditional bids will be not accepted. Any proposals may be withdrawn prior to the scheduled time for opening of such or authorized postponement thereof.

Any Proposal received after the time and date specified shall not be considered. No Bidder may withdraw a Proposal within thirty (30) days after the actual date of the opening thereof. Should there be any reason why the Contract cannot be awarded within thirty (30) days after the opening of the Proposals, the time may be extended by mutual agreement between the Owner and the Bidder.

35. **Pre-Construction Conference:**

Shortly after the Notice of Award and the signing of the Contract forms, the Owner shall notify the Contractor(s) of the date for a Pre-Construction conference.

The Contractor(s) shall attend this conference and be prepared to discuss organization, start dates, construction schedules, supervision, communication, safety, and various other pertinent items. Minutes of the meeting will be recorded by the Owner, and a written summary will be available upon request.

36. **Experience-Process Equipment Manufacturers:**

Process equipment manufacturers shall have a minimum of five (5) years experience in the design and manufacturing of their product. The manufacturer of each item of equipment shall, in writing, provide to the Owner a list of installations of their equipment and operational data from a similar type installation. Test data or pilot plan data is NOT acceptable.

In lieu of the above, the Owner shall require a Performance Bond or Cash Bond of not less than one hundred fifty percent (150%) of the cost of the equipment, including installation, and also a five (5) year warranty guarantee on the piece of equipment, unless otherwise stipulated under other specific items in these specifications.

37. **As-Built Records:**

As-built records shall be kept by each Contractor showing any items of construction and equipment for which he is responsible. These records shall also show any additional work, existing features, or utilities revealed by construction work which are not shown on the Contract Drawings. These records shall be kept up-to-date daily. They may be kept on a marked set of Contract Documents to be furnished prior to the beginning of the Work. They shall be available at all times during construction for reference by the Engineer and the Owner, and shall be delivered to the Owner upon completion of the Work prior to final payment.

38. **Operating, Maintenance, and Service Manuals:**

If applicable, each Contractor is required to provide three (3) complete Operating, Maintenance, and Service Manuals for all equipment for the entire system as furnished under his contract. The manual shall be indexed and bound in hard cover binders containing full information for each system, piece of equipment, and all controls.

Material submitted shall include, but not be limited to, the following:

- (a) Manufacturer's descriptive literature
- (b) Normal equipment operating characteristics
- (c) Performance data, curves, ratings, etc.
- (d) Wiring diagrams

- (e) Control diagrams with written descriptions of operations
- (f) Manufacturer's maintenance and service manuals
- (g) Spare parts and replacement parts lists
- (h) Name, address, and telephone number of local or nearest manufacturer's service organization.

All items shall be identified with the same identification, name, mark, number, etc., as indicated on drawings. All material must be submitted to the Owner or its representative(s) within six (6) months after award of the Contract.

39. **Operating Instructions:**

Unless otherwise specified in the Project Specifications, the following requirements shall be met:

(a) Contractors shall make available to the Owner, after all equipment is in operation and at a time agreed upon by Owner and Contractor, competent instructors well versed in the operation of the process, mechanical and electrical systems for the purpose of training Owner's personnel in all phases of operation of the equipment and systems.

(b) Instructions shall be conducted during consecutive normal working days, for a period satisfactory to the Owner.

(c) When deemed necessary by the Owner, these instructions shall include the services of factory-approved representatives for all major equipment, including controls.

40. **Examination of Plans, Site, Etc.:**

The Bidder(s) must examine for themselves the Specifications, Plans, profiles, etc., the location of the proposed Work, and exercise their own judgment as to the extent of the Work to be done, and difficulties attending the erection of the Work; and the Contractor must assume all risks of variance in any computations, by whosoever made, of statements of amounts or quantities necessary to complete the Work required by the Contract, and agree to fully complete said Work in accordance with all plans and Specifications for the price bid. Any item or quantities

contained either in the Specifications, or on profiles or Drawings, but omitted from the others respectively, will be considered part of the Work. Insofar as possible, the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the Work of any other contractor of services.

41. **Florida Deceptive and Unfair Trade Practices Act:**

CS/SB 1066 by the Committee on Judiciary, relating to the Florida Deceptive and Unfair Practices Act: Deletes the definitions of "consumer transaction" and "supplier", substituting instead a definition for "trade or commerce" and "thing of value". Amends the definition of "violation" to include a violation of any rules promulgated pursuant to the Federal Trade Commission of the Federal Courts, any law statute, rule, regulation, or ordinance, which proscribes unfair methods of competition, unfair, deceptive, or unconscionable acts or practices. Reduces the time period during which a petition for an order modifying or setting aside a subpoena may be made. Provides for penalties, fees, and costs for intentional noncompliance with a subpoena. Exempts an act or practice involving the sale, lease, rental, or appraisal of real estate by a person licensed under Chapter 475, Florida Statutes, if the act or practices violates the provisions of that Chapter. Provides a misdemeanor penalty to persons who see used goods as new. Effective Date: June 30, 1993.



NASSAU COUNTY
BOARD OF COUNTY COMMISSIONERS
P. O. Box 1010
Fernandina Beach, Florida 32035-1010

Nick Deonas
David C. Howard
Vickie Samus
Floyd L. Vanzant
Marianne Marshall

Dist. No. 1 Fernandina Beach
Dist. No. 2 Fernandina Beach
Dist. No. 3 Yulee
Dist. No. 4 Hilliard
Dist. No. 5 Callahan

February 11, 2002

JOSEPH M. "Chip" OXLEY, JR.
Ex-Officio Clerk

MICHAEL S. MULLIN
County Attorney

WALTER D. GOSSETT
County Coordinator

Mr. Ray Harvey, President
Florida Groundworks, Inc.
2804 Edison Avenue
Jacksonville, FL 32254

Re: Scott Road Roadway and Drainage Improvements Project
Nassau County, Florida
Project No. NC010-01

Dear Mr. Harvey:

Enclosed for your files is an original agreement for the referenced project.

Also enclosed are three original Notices of Award and three original Notices to Proceed that should all be executed by a representative of your firm. Please retain one copy of each Notice and return two original Notices of Award and two original Notices to Proceed to my office in the enclosed self-addressed envelope.

We look forward to working with your firm on this project, and if we may be of any assistance, please let us know.

Sincerely,

J. M. "Chip" Oxley, Jr.
Ex-Officio Clerk

jgb

Enclosures

Florida Groundworks, Inc.

P.O. Box 37228

Jacksonville, FL 32236

Phone: 904-384-5559 Fax: 904-384-8840

LETTER OF TRANSMITTAL

TO:

Name: J.M. "Chip" Oxley, Jr.

Address: P.O. Box 456

City: Fernandina Bch. St FL ZIP 32035

Attn.: Joyce Bradley

Scott Rd. Drainage Improvements

Project Name

Transmittal Type:

Shop Drawing

Administrative

Plans/Specs

Sample

Contract Closeout

Quality Control

The Following Items are hereby Submitted:

Number of Copies	Description
2	Fully executed Notice of Award for above referenced project
2	Fully executed Notice to Proceed for above referenced project

Date: 2/15/2002


Steve Jordan - Estimator/Project Manager

Name and Title

Notes/Remarks

If you have any questions or concerns, please call me @ 384-5559.

Thank You.

BOND RIDER

To be attached to and form a part of Bond No **C790801** in the amount of **One Million One Hundred Forty Nine Thousand Four Hundred Sixteen and no/100 Dollars (\$1,149,416.00)** and issued on behalf of **Florida Groundworks, Inc. DBA FGI** as Principal by **Capitol Indemnity Corporation**, as Surety, to **Nassau County Board of County Commissioners**, as obligee.

It is hereby understood and agreed that the bond is changed or revised in the particular manner as checked below:

(X) Contract and Bond Date are changed as follows:


From: **December 12, 2001**

To: **January 31, 2002**

This rider shall become effective as of December 12, 2001

IN WITNESS WHEREOF, CAPITOL INDEMNITY CORPORATION HAS CAUSED ITS CORPORATE SEAL TO BE HEREUNTO AFFIXED THIS 31ST DAY OF January, 2002.

Capitol Indemnity Corporation

By: 

Robert T. Theus, Attorney-In-Fact

2-20-02
Original sent to Ted
in Suwanee to be filed
in safe deposit box.



Capitol INDEMNITY CORPORATION

4610 UNIVERSITY AVENUE, SUITE 1400, MADISON, WISCONSIN 53705-0900
PLEASE ADDRESS REPLY TO P.O. BOX 5900, MADISON, WI 53705-0900
PHONE (608) 231-4450 • FAX (608) 231-2029

POWER OF ATTORNEY

No: 603876

Know all men by these Presents, That the **CAPITOL INDEMNITY CORPORATION**, a corporation of the State of Wisconsin, having its principal offices in the City of Madison, Wisconsin, does make, constitute and appoint

-----ROBERT T. THEUS, FITZHUGH K. POWELL, JR., MARY P. MULCAHEY, -----
----- BENNY L. CLEHORN, JR. -----

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

----- **NOT TO EXCEED \$2,000,000.00** -----

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **CAPITOL INDEMNITY CORPORATION** at a meeting duly called and held on the 5th day of May 1960:

"RESOLVED, that the President, and Vice-President, the Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

IN WITNESS WHEREOF, the **CAPITOL INDEMNITY CORPORATION** has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested by its Secretary, this 1st day of June, 1999.

CAPITOL INDEMNITY CORPORATION

Attest:

Virgiline M. Schulte
Virgiline M. Schulte, Secretary

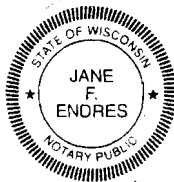


George A. Fait
George A. Fait, President

STATE OF WISCONSIN }
COUNTY OF DANE }

On the 1st day of June, A.D., 1999, before me personally came George A Fait, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Dane, State of Wisconsin; that he is the President of **CAPITOL INDEMNITY CORPORATION**, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

STATE OF WISCONSIN }
COUNTY OF DANE }



Jane F. Endres
Jane F. Endres
Notary Public, Dane Co., WI
My Commission Expires March 23, 2003

CERTIFICATE

I, the undersigned, duly elected to the office stated below, now the incumbent in **CAPITOL INDEMNITY CORPORATION**, a Wisconsin Corporation, authorized to make this certificate, **DO HEREBY CERTIFY** that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Madison. Dated the **31ST** day of **JANUARY**, 2002.



Paul J. Breithauer
Paul J. Breithauer, Treasurer

This power is valid only if the power of attorney number printed in the upper right hand corner appears in red. Photocopies, carbon copies or other reproductions are not binding on the company. Inquiries concerning this power of attorney may be directed to the Bond Manager at the Home Office of the Capitol Indemnity Corporation.

CHANGE ORDER APPROVAL FORM

PROJECT: Scott Road Roadway & Drainage
Improvements Project

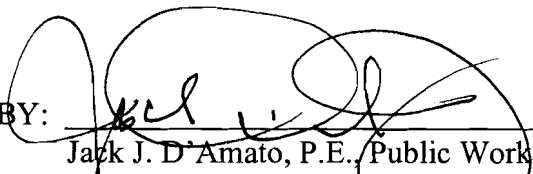
CHANGE ORDER NUMBER: 01

DATE: April 22, 2002

CONTRACT NUMBER: NC010-01

TO CONTRACTOR: Florida Groundworks, Inc.

Original Contract Sum.....	\$	<u>1,149,416.25</u>
Net Change by Previous Change Order.....	\$	<u>0.00</u>
Contract Sum Prior to This Change Order.....	\$	<u>1,149,416.25</u>
Amount of This Change Order (Add/Deduct).....	\$	<u>585.00</u>
New Contract Sum Including this Change Order.....	\$	<u>1,150,001.25</u>

APPROVED BY: 
Jack J. D'Amato, P.E., Public Works Director


DATE: 4.23.02

APPROVED BY: N/A
Michael Mullin, County Attorney

DATE: _____

APPROVED BY: N/A
Nick Deonas, Chairman

DATE: _____

APPROVED BY: 
J.M. "Chip" Oxley, Jr., Clerk of Courts

DATE: 4.25.02

County
Contractor
Field
Other

CHANGE ORDER REQUEST

PROJECT: Scott Road Roadway & Drainage
Improvements Project

CHANGE ORDER NUMBER: 01

DATE: March 26, 2002

CONTRACT NUMBER: NC010-01

TO CONTRACTOR: Florida Groundworks, Inc.

The contract is changed as follows:

Additional compensation for remobilization of clearing contractor due to shut down of project by the County on March 5, 2002.

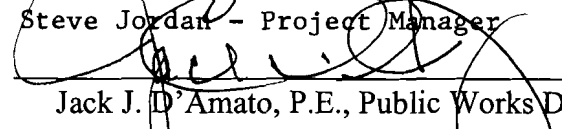
Original Contract Sum.....	\$	<u>1,149,416.25</u>
Net Change by Previous Change Order.....	\$	<u>0.00</u>
Contract Sum Prior to This Change Order.....	\$	<u>1,149,416.25</u>
Amount of This Change Order (Add/Deduct).....	\$	<u>585.00</u>
New Contract Sum Including this Change Order.....	\$	<u>1,150,001.25</u>

The Contract Time for substantial completion will be (increased) (decreased) (unchanged) by 2 days.

This document, when signed by all parties, shall become an amendment to the Contract and all provisions of the Contract shall apply hereto.

ACCEPTED BY: 
Contractor

DATE: April 11, 2002

APPROVED BY: 
Jack J. D'Amato, P.E., Public Works Director


DATE: 4-23-02

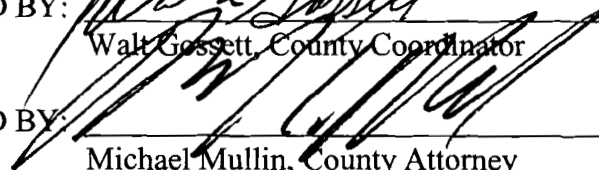
received
4-15-02

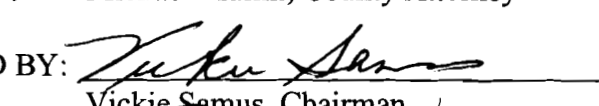
SUPPLEMENTAL AGREEMENT
APPROVAL FORM

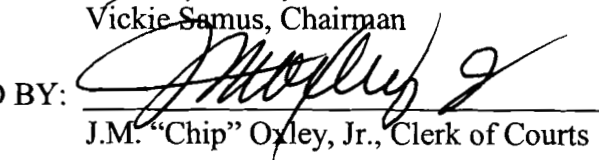
PROJECT: Scott Road Roadway & Drainage SUPP. AGREEMENT NUMBER: SA 002
DATE: February 27, 2003 CONTRACT NUMBER: NC010-01
CONTRACTOR: Florida Groundworks, Inc.

Original Contract Sum.....	\$	<u>1,149,416.25</u>
Net Change by Previous Supplemental Agreement/Change Order..	\$	<u>59,185.53</u>
Contract Sum Prior to This Supplemental Agreement.....	\$	<u>1,208,601.78</u>
Amount of This Agreement (Add/Deduct).....	\$	<u>136,575.49</u>
New Contract Sum Including this Agreement.....	\$	<u>1,345,177.27</u>

APPROVED BY:  DATE: 2/27/03
Walt Gossett, County Coordinator

APPROVED BY:  DATE: 3/3/03
Michael Mullin, County Attorney

APPROVED BY:  DATE: 3-4-03
Vickie Samus, Chairman

APPROVED BY:  DATE: 3/5/03
J.M. "Chip" Oxley, Jr., Clerk of Courts

SUPPLEMENTAL AGREEMENT

Project No. NC010-01
Project Name Scott Road Roadway and Drainage Improvements

Supplemental Agreement No. SA002

This agreement entered into this day of 20 by and between Nassau County, and Florida Groundworks, Inc. "Contractor", and Capital Indemnity Corporation "Surety", the same being supplementary to Contract No. NC010-01 by and between the parties aforesaid, dated December 12, 2001 for the construction or improvement of the road(s) assigned the project number(s) above, in Nassau County, Florida.

Description of proposed change:

Incorporate alternate bid items 1 & 2 into the existing contract between Florida Groundworks, Inc. and Nassau County at the alternate bid item prices as originally submitted by Florida Groundworks, Inc.

Alternate Bid Item No. 1: \$90,854.63

Alternate Bid Item No. 2: \$39,936.86

Additional 445 LF of clearing and grading of the existing drainage ditch just north of work being performed under alternate bid items 1 & 2. This 445 LF of ditch was to be piped per the original plan but was deleted under SA001.

Additional Ditch Work: \$5,784.00

Revised plan sheet No. N/A

It is agreed that this supplemental agreement shall not alter or change in any manner the force and effect of the original Contract No. NC010-01, including any previous amendments thereto, except insofar as the same is altered and amended by this Supplemental Agreement.

The County and the Contractor agrees that the contract time adjustment and sum agreed to in this Supplemental Agreement constitute a full and complete settlement of the matters set forth herein, including all direct and indirect costs for equipment, manpower, materials, overhead, profit and delay relating to the issues set forth in the Supplemental Agreement. This settlement is limited to and applies to any claims arising out of or on account of the matters described and set forth in this Supplemental Agreement.

Granted Time This Agreement: 70 Days

Net Change in Contract Amount This Agreement:

Increase \$ 136,575.49

Decrease \$

Executed By:

[Signature] 2/27/03
County Coordinator Date

Florida Groundworks, Inc.
Contractor

By *[Signature]* 2-24-03
Title *[Signature]* Date

ATTEST *[Signature]* 2-24-03
Title Secretary Date

Capitol Indemnity Corp. 2/24/2003
Surety *[Signature]* Date

Title Robert T. Theus Attorney- Date
In-Fact



Capitol INDEMNITY CORPORATION

4610 UNIVERSITY AVENUE, SUITE 1400, MADISON, WISCONSIN 53705-0900
PLEASE ADDRESS REPLY TO P.O. BOX 5900, MADISON, WI 53705-0900
PHONE (608) 231-4450 • FAX (608) 231-2029

POWER OF ATTORNEY

No: 641921

Know all men by these Presents, That the **CAPITOL INDEMNITY CORPORATION**, a corporation of the State of Wisconsin, having its principal offices in the City of Madison, Wisconsin, does make, constitute and appoint

----- ROBERT T. THEUS, FITZHUGH K. POWELL, JR., MARY P. MULCAHEY OR ROGER R. HURST -----

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

NOT TO EXCEED \$2,000,000.00 Any and all bonds, undertakings, recognizances and other written obligations, in the nature thereof; and any and all consents required by the Department of Transportation, State of Florida, incident to the release of retained percentages and/or final estimates.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **CAPITOL INDEMNITY CORPORATION** at a meeting duly called and held on the 15th day of May 2002:

*RESOLVED, that the President, and Executive Vice-President, the Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time.

IN WITNESS WHEREOF, the **CAPITOL INDEMNITY CORPORATION** has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested by its Treasurer, this 15th day of May, 2002.

CAPITOL INDEMNITY CORPORATION

Attest:

Thomas K. Manion
Thomas K. Manion, Treasurer

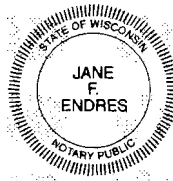


David F. Pauly
David F. Pauly, Secretary

STATE OF WISCONSIN }
COUNTY OF DANE }

On the 15th day of May, A.D., 2002 before me personally came David F. Pauly, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Dane, State of Wisconsin; that he is the Secretary of **CAPITOL INDEMNITY CORPORATION**, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

STATE OF WISCONSIN }
COUNTY OF DANE }



Jane F. Endres
Jane F. Endres
Notary Public, Dane Co., WI
My Commission Expires 3-23-2003

CERTIFICATE

I, the undersigned, duly elected to the office stated below, now the incumbent in **CAPITOL INDEMNITY CORPORATION**, a Wisconsin Corporation, authorized to make this certificate, **DO HEREBY CERTIFY** that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed this 24th Day of February, 2003



James W. Smirz
James W. Smirz, Assistant Secretary

This power is valid only if the power of attorney number printed in the upper right hand corner appears in red. Photocopies, carbon copies or other reproductions are not binding on the company. Inquiries concerning this power of attorney may be directed to the Bond Manager at the Home Office of the Capitol Indemnity Corporation.



NASSAU COUNTY
BOARD OF COUNTY COMMISSIONERS
P. O. Box 1010
Fernandina Beach, Florida 32035-1010

Nick Deonas
Ansley Acree
Vickie Samus
Floyd L. Vanzant
Marianne Marshall

Dist. No. 1 Fernandina Beach
Dist. No. 2 Fernandina Beach
Dist. No. 3 Yulee
Dist. No. 4 Hilliard
Dist. No. 5 Callahan

March 13, 2003

J. M. "Chip" OXLEY, JR.
Ex-Officio Clerk

MICHAEL S. MULLIN
County Attorney

WALTER D. GOSSETT
County Coordinator

Florida Groundworks, Inc.
2804 Edison Avenue
Jacksonville, FL 32254

Re: Scott Road Roadway Improvement Project
Contract No. NC010-01

Gentlemen:

Enclosed is an original, fully executed Supplemental Agreement No. SA002 to the referenced contract as approved by the Board of County Commissioners on October 9, 2002.

Please let us know if we may be of any further assistance.

Sincerely,

J. M. "Chip" Oxley, Jr.
Ex-Officio Clerk

Enclosure

Cc: Dawn Stevenson, Contracts Manager (w/enclosure)
Financial Services Department (w/enclosure)

He further stated that there is not enough pavement to mill. Mr. Gossett reported that the County has an annual contract with Duval Asphalt, and requested that Mr. Ferrin contact that firm to obtain a price for this project with a report back to the Board on October 14, 2002.

10:50 Mr. Gossett addressed Alternate Bid Item Nos. 1 and 2 to the Scott Road Roadway and Drainage Improvements project as recommended by the staff. Due to the current workload of the Road and Bridge Department and the complexity of the work to be performed, staff is requesting to incorporate this work into the Florida Groundworks, Inc. current contract. He further explained that this work must be completed in a timely manner in order for all upstream improvements currently in place to function correctly. Upon the request and recommendation of the County Coordinator, it was moved by Commissioner Howard and seconded by Commissioner Vanzant to approve Alternate Bid Item Nos. 1 and 2 to the Florida Groundworks, Inc. contract as listed and to authorize the funds from the 361 Reserve Account to be utilized in order to cover said additional costs and to authorize whatever the County Attorney, Clerk, and staff finds necessary to ensure that the County has the appropriate easements.

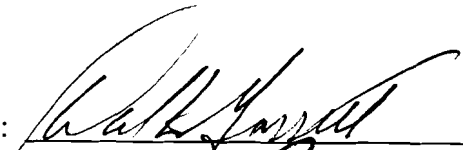
SUPPLEMENTAL AGREEMENT
APPROVAL FORM

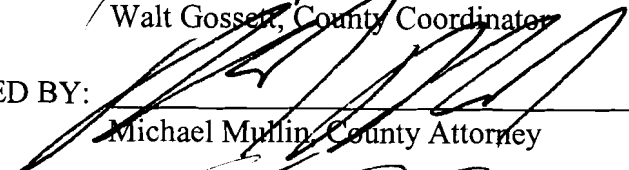
PROJECT: Scott Road Roadway & Drainage SUPP. AGREEMENT NUMBER: SA 001

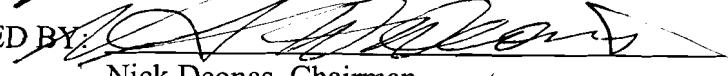
DATE: August 12, 2002 CONTRACT NUMBER: NC010-01

CONTRACTOR: Florida Groundworks, Inc.

Original Contract Sum.....	\$	<u>1,149,416.25</u>
Net Change by Previous Supplemental Agreement Change Order..	\$	<u>4,143.93</u>
Contract Sum Prior to This Supplemental Agreement.....	\$	<u>1,153,560.18</u>
Amount of This Agreement (Add/Deduct).....	\$	<u>55,041.60</u>
New Contract Sum Including this Agreement.....	\$	<u>1,208,601.78</u>

APPROVED BY:  DATE: 8/20/02
Walt Gossett, County Coordinator

APPROVED BY:  DATE: 8/20/02
Michael Mullin, County Attorney

APPROVED BY:  DATE: 8/19/02
Nick Deonas, Chairman

APPROVED BY:  DATE: 9/5/02
J.M. "Chip" Oxley, Jr., Clerk of Courts



Nassau County Public Works
 213 Nassau Place
 Yulee, FL 32097

Jack D'Amato, Jr., PE
 Director of Public Works

MEMORANDUM

TO : Nick Deonas, Chairman

FROM : Dawn Stevenson, Contract Manager

DATE : August 12, 2002

**SUBJECT : Scott Road Roadway & Drainage Improvements
 Change Order Approval Request**

02 AUG 14 AM 9:42
 RECEIVED
 COUNTY COORDINATORS
 OFFICE

Upon a request made by the Public Works Director, Florida Groundworks, Inc. submitted a proposal to pipe and cover an abandoned mosquito control ditch which divides Winward Cove Subdivision and Ocean Forest Subdivision. There has been a history of citizen complaints with lots in both subdivisions adjacent to the drainage ditch. The stormwater carried within the drainage ditch has caused erosion to the adjacent lots and on occasion during a storm event has flooded causing rising water to rise into the adjacent lots. The cost associated with the piping and covering of the ditch is \$50,600.90. According to the Public Works Director, there was a letter submitted by the Mosquito Control contributing \$3,000.00 to the project. As of the date of this memo staff has been unable to locate the letter from Mosquito Control, but is still pursuing the letter.

Also included in the supplemental agreement is an additional \$4,440.79 which is attributable to FDOT and County roadway requirements. The necessary changes were identified in the field while during construction. Due to field conditions an additional 16 LF of 48" pipe was required at the culvert crossing SR A1A (Buccaneer Trail). Also required by FDOT was additional Maintenance of Traffic, a different asphalt mix, additional limerock and additional signage and striping. Additional signage and striping was required by County standards at the intersection of Scott Road & Amelia Island Parkway.

Staff respectfully requests and recommends that the Board of County Commissioners approve Supplemental Agreement No. 1 to Florida Groundworks, Inc. in the amount of \$55,041.60 in order to prevent any further eroding of adjacent properties and potential flooding of lots in the future and to comply with FDOT and County standards. Staff also requests and recommends that the Board authorize the utilization of 361 Reserve funds for said supplemental agreement.

FERNANDINA
 (904) 491-3606
 FAX (904) 491-3611

TOLL FREE
 1-800-264-2065 1-800-948-3364

ROAD & BRIDGE
 (904) 491-3626 or (904) 845-3610
 FAX (904) 845-1230

Agenda Request For: August 19, 2002

Department: Public Works - Engineering

Fund: 361 Capital Projects – Road Projects

Action Requested and Recommended:

Staff requests that the Board approve supplemental agreement no. SA001 to Florida Groundworks, Inc. in the amount of \$55,041.60. The purpose of the supplemental agreement is to cover an abandoned mosquito control drainage ditch between Winward Cove and Plantation Oaks subdivisions.

*See memo from
to Segon*

Funding Source: Transfer from 61999599-599410 Reserve For Road Paving – Bond to 61439541-563100 Road Construction Improvements

Financial/Economic Impact to Future Years Budgeting Process or Effect on Citizens: Could have a potential impact on future County roadway projects.

Is this action consistent with the Nassau County Comprehensive Land Use Plan?
Yes

Reviewed By:

Legal:

Finance:

Coordinator:



APPROVED

DATE 8/19/02

CS

RECEIVED
COUNTY COORDINATORS
OFFICE
02 AUG 15 AM 10:49

SUPPLEMENTAL AGREEMENT

Project No. NC010-01 **Supplemental Agreement No.** SA001
Project Name Scott Road Roadway & Drainage Improvements Project

This agreement entered into this _____ day of _____ 20____ by and between Nassau County, and Florida Groundworks, Inc. "Contractor", and Capital Indemnity Corporation "Surety", the same being supplementary to Contract No. NC010-01 by and between the parties aforesaid, dated December 12, 2001 for the construction or improvement of the road(s) assigned the project number(s) above, in Nassau County, Florida.

Description of proposed change:

Deletion of double run of 48 inch HDPE pipe parallel to Scott Road and the addition of 36" x 60" ERCP which facilitates the connection of storm drainage from Scott Road to the adjacent subdivision, Winward Cove. See attached sheet for breakdown of quantities.

Reason:

To improve the stormwater drainage within Winward Cove and Plantation Oaks subdivision, in addition to closing open drainage ditch which runs through the back yards within the Winward Cove subdivision.

Revised plan sheet No. PP-1, PP-3, DI-1 & DI-2

It is agreed that this supplemental agreement shall not alter or change in any manner the force and effect of the original Contract No. NC010-01, including any previous amendments thereto, except insofar as the same is altered and amended by this Supplemental Agreement.

The County and the Contractor agrees that the contract time adjustment and sum agreed to in this Supplemental Agreement constitute a full and complete settlement of the matters set forth herein, including all direct and indirect costs for equipment, manpower, materials, overhead, profit and delay relating to the issues set forth in the Supplemental Agreement. This settlement is limited to and applies to any claims arising out of or on account of the matters described and set forth in this Supplemental Agreement.

Granted Time This Agreement: 0 Days

Net Change in Contract Amount This Agreement:

Increase \$ 55,041.60

Decrease \$ _____

Executed By:

[Signature] 8/23/02
Date
Public Works Director
County Coordinator

[Signature] 9/5/02
Date
Construction Engineer Inspector

Florida Groundworks, Inc.
Contractor

By [Signature] 8-12-02
Date
Title [Signature]

ATTEST [Signature] 8/12/02
Date
Title Secretary

Capital Indemnity Corporation

Surety [Signature] Date 8/12/02

Title Attorney In Fact Date 8/12/02

<u>Item No.</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Extended Price</u>
25	Delete 48" HDPE	870 LF	\$ 64.74	\$(56,323.80)
35	Delete Ditch Fill	1640 CY	\$ 2.47	\$(4,050.80)
48	Delete 36" RCP	80 LF	\$ 82.14	\$(6,571.20)
49	Delete 36" Headwall	1 EA	\$2,205.17	\$(2,205.17)
CO2A	Install 38"x60" ERCP	826 LF	\$ 144.97	\$119,751.78
CO2B	DOT Requirements @ A1A & Scott Road	1 LS	\$3,965.77	\$ 3,965.77
CO2C	County Requirements @ Scott Road & Am. Isl. Parkway	1 LS	\$ 475.02	\$ 475.02

Total Increase to Contract

\$55,041.60



Capitol INDEMNITY CORPORATION

4610 UNIVERSITY AVENUE, SUITE 1400, MADISON, WISCONSIN 53705-0900
PLEASE ADDRESS REPLY TO P.O. BOX 5900, MADISON, WI 53705-0900
PHONE (608) 231-4450 • FAX (608) 231-2029

POWER OF ATTORNEY

No: 632775

Know all men by these Presents, That the **CAPITOL INDEMNITY CORPORATION**, a corporation of the State of Wisconsin, having its principal offices in the City of Madison, Wisconsin, does make, constitute and appoint

----- ROBERT T. THEUS, FITZHUGH K. POWELL, JR., MARY P. MULCAHEY OR BENNY L. CLEGHORN, JR. -----

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

----- NOT TO EXCEED \$2,000,000.00 -----

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of **CAPITOL INDEMNITY CORPORATION** at a meeting duly called and held on the 15th day of May 2002:

"RESOLVED, that the President, and Executive Vice-President, the Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

IN WITNESS WHEREOF, the **CAPITOL INDEMNITY CORPORATION** has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested by its Treasurer, this 15th day of May, 2002.

CAPITOL INDEMNITY CORPORATION

Attest:

Thomas K. Manion
Thomas K. Manion, Treasurer

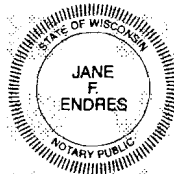


David F. Pauly
David F. Pauly, Secretary

STATE OF WISCONSIN }
COUNTY OF DANE }

On the 15th day of May, A.D., 2002 before me personally came David F. Pauly, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Dane, State of Wisconsin; that he is the Secretary of **CAPITOL INDEMNITY CORPORATION**, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

STATE OF WISCONSIN }
COUNTY OF DANE }

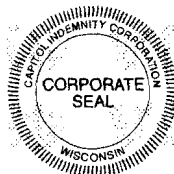


Jane F. Endres
Jane F. Endres
Notary Public, Dane Co., WI
My Commission Expires 3-23-2003

CERTIFICATE

I, the undersigned, duly elected to the office stated below, now the incumbent in **CAPITOL INDEMNITY CORPORATION**, a Wisconsin Corporation, authorized to make this certificate, **DO HEREBY CERTIFY** that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed this 12 Day of August, 2002



James W. Smirz
James W. Smirz, Assistant Secretary

This power is valid only if the power of attorney number printed in the upper right hand corner appears in red. Photocopies, carbon copies or other reproductions are not binding on the company. Inquiries concerning this power of attorney may be directed to the Bond Manager at the Home Office of the Capitol Indemnity Corporation.



NASSAU COUNTY
BOARD OF COUNTY COMMISSIONERS
P. O. Box 1010
Fernandina Beach, Florida 32035-1010

Nick Deonas
David C. Howard
Vickie Samus
Floyd L. Vanzant
Marianne Marshall

Dist. No. 1 Fernandina Beach
Dist. No. 2 Fernandina Beach
Dist. No. 3 Yulee
Dist. No. 4 Hilliard
Dist. No. 5 Callahan

September 5, 2002

JOSEPH M. "Chip" OXLEY, JR.
Ex-Officio Clerk

MICHAEL S. MULLIN
County Attorney

WALTER D. GOSSETT
County Coordinator

Florida Groundworks, Inc.
2804 Edison Avenue
Jacksonville, FL 32254

RE: Scott Road Roadway Improvement Project
Contract No. NC010-01

Gentlemen:

During a regular session of the Nassau County Board of County Commissioners held August 19, 2002, the Board approved and authorized the Chairman to sign Supplemental Agreement No. 1 to the referenced contract. An original executed document is enclosed for your records.

Should you have any questions, please let me know.

Sincerely,

J.M. "Chip" Oxley, Jr.
Ex-Officio Clerk

Enclosure

Xc: Dawn Stevenson, Contracts Manager (w/copies)
Financial Services Department (w/copies)