

## **ORIGINATION FORM**

### **Proposed Revisions to the Specifications**

(Please provide all information - incomplete forms will be returned)

**Date:**

**Specification Section:**

**Originator:**

**Articles/Subarticles:**

**Telephone:**

**email:**

**Will the proposed revision involve Design Standard Index changes?**      Yes      No

**Roadway Design staff contacted (name):**

**Will the proposed revision involve PPM changes?**      Yes      No

**Roadway Design staff contacted (name):**

**Will the proposed revision involve CPAM changes?**      Yes      No

**Construction staff contacted (name):**

**Will the proposed revision involve Pay Item changes?**      Yes      No

**Estimates staff contacted (name):**

**Will the proposed revision involve SDG changes?**      Yes      No

**Structures staff contacted (name):**

**Will the proposed revision involve APL changes?**      Yes      No

**Product Evaluation staff contacted (name):**

**Will this revision necessitate any of the following:**

**Design Bulletin**

**Construction Bulletin**

**Estimates Bulletin**

**Are all references to external publications current?**      Yes      No

**If not, what references need to be updated (please include changes in the redline)?**

**Why does the existing language need to be changed?**

**Summary of the changes:**

**Are these changes applicable to all Department jobs?**      Yes      No

**If not, what are the restrictions?**

Contact the State Specifications Office for assistance in completing this form.

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## *Florida Department of Transportation*

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SECRETARY

### **M E M O R A N D U M**

**DATE:** July 2, 2015

**TO:** Specification Review Distribution List

**FROM:** Daniel Scheer, P.E., State Specifications Engineer

**SUBJECT:** Proposed Specification: **SP0071201FGT Legal Requirements and Responsibility to the Public - Responsibility for Damages, Claims, Etc. (FGT Encroachment Agreements) - REVISED.**

In accordance with Specification Development Procedures, we are sending you a copy of a proposed specification change.

The changes are proposed by Thomas Bane of the State Program Management Office to address Florida Gas Transmission Company indemnity and insurance requirements in accordance with their Encroachment Agreements with FDOT.

Please share this proposal with others within your responsibility. Review comments are due within four weeks and should be sent to Mail Station 75 or online at <http://www2.dot.state.fl.us/ProgramManagement/Development/IndustryReview.aspx> . Comments received after **July 22, 2015**, may not be considered. Your input is encouraged.

DS/ot  
Attachment

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC –  
RESPONSIBILITY FOR DAMAGES, CLAIMS, ETC. (FGT ENCROACHMENT  
AGREEMENTS).**

(REV ~~3-194-10295-16-197-2-15~~)

SUBARTICLE 7-12.1 is deleted and the following substituted:

**7-12.1 Contractor to Provide Indemnification:** The Contractor shall indemnify and hold harmless the Department, its officers and employees from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the ~~construction~~ Contract.

*The Contractor shall indemnify and hold harmless Florida Gas Transmission Company (FGT) from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract or caused by the violation of enforceable environmental statutes, ordinances, rules, orders, or regulations of any governmental entity or agency having jurisdiction resulting from the storage or generation of any hazardous or toxic wastes or substances. Include this provision in all subcontracts, and require all subcontractors to include it in their subcontracts with others.*

It is specifically agreed between the parties executing this Contract that it is not intended by any of the provisions of any part of the Contract to create in the public or any member thereof, a third party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract.

SUBARTICLE 7-13.2 is deleted and the following substituted:

**7-13.2 Commercial General Liability Insurance:** Carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Contract. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. Cause the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for ~~each any one occurrence person~~ and not less than ~~a~~ \$5,000,000 ~~annual general aggregate~~ *for each occurrence*, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Contract, and may not be shared with or diminished by claims unrelated to the contract. The policy/ies and coverage described herein may be subject to a deductible. Pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention. Prior to the

## Projects involving FGT with Encroachment Agreements.

execution of the Contract, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

SUBARTICLE 7-13.4 is deleted and the following substituted:

**7-13.4 Insurance for Protection of Utility Owners:** When the Contract involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the policy/ies procured pursuant to subsection 7-13.2 above.

*Prior to entering Florida Gas Transmission Company (FGT) property to conduct operations, provide FGT with a certificate of insurance evidencing the required insurance coverage pursuant to 7-13.2.*