



POLICY 7.065

5-B I recommend the Board approve development of the proposed revised Policy 7.065, entitled “Errors and Omissions of Construction-Related Professionals.”

[Contact: Joseph Sanches, PX 47573.]

Development

CONSENT ITEM

- The proposed revised policy was reviewed in conjunction with other construction-related policies and to meet the statutory requirement for Board review as provided in Sec. 120.74, FS.
- The revised policy has been reviewed by the Construction Oversight and Review Committee (CORC) and Audit Committee. CORC reviewed the proposed policy at its February 9, 2012 meeting, and the Audit Committee reviewed the policy at its February 10, 2012 meeting. During the reviews, the committees recommended better definitions be provided for errors and omissions and other words; a definition be provided for premium cost; and an explanation provided for what the 1% applies to as to Associated Costs related to errors and omissions. Other changes recommended by CORC are represented by blue underlinings for additions and blue strikeouts for deletions. Staff actions addressing the issues raised by CORC and the Audit Committee are represented in green underlinings.
- The proposed policy provides guidelines for the review of design-related change orders or construction contingency uses that may occur due to the errors or omissions of design professionals. The proposed policy provides:
 - A method to determine costs associated with errors and omissions. If the costs associated with errors and omissions of a project exceeds 1%, staff must review the project with the professional and issue a report to the Board with recommendations regarding the errors and omissions of the professional.

POLICY 7.065

1 ERRORS AND OMISSIONS OF CONSTRUCTION-RELATED PROFESSIONALS

2 3 1. Purpose

4 The purpose of this policy is to provide guidelines for the review of change orders
5 and construction contingency uses that cause the District to sustain costs and
6 potential damages attributed to design errors and omissions of construction-related
7 professionals, and to determine if action should be taken to recover any costs
8 and/or damages caused by the construction-related professionals.

9 2. Applicability

10 All construction projects are subject to a review for the Professional's errors and
11 omissions, and reported to the Board.

12 3. Definitions

13 a. Construction Contingency Use Authorizations (CCUA). CCUA shall have the
14 meaning as provided in [Policy 7.225](#).

15 b. Construction Contingency Use Directives (CCUD). CCUD shall have the
16 meaning as provided in [Policy 7.225](#).

17 c. Construction Change Directive (CCD). CCD shall have the meaning as
18 provided in [Policy 7.22](#).

19 d. Change Order Proposal Request (COPR). COPR shall have the meaning as
20 provided in [Policy 7.22](#).

21 e. Errors. A Design Error is when the plans and/or specifications created by the
22 design professional and used for bidding are shown incorrectly or contain one
23 or more mistakes. Design Errors in the plans and/or specifications must be
24 corrected in order for the project to function or be built as intended. Design
25 Errors will have a non-value added cost and may have a value-added cost to
26 the District.

27 f. Non-Value Added. Any part of the work that does not increase the value of
28 the project, such as rework or extra work required to correct the error or
29 omission.

30 g. Omissions. A Design Omission is when the plans and/or specifications created
31 by the design professional and used for bidding are missing work that should
32 have been included in the documents. Design Omissions may result in

33 Associated Costs to the District.

- 34 h. Premium Cost. The additional cost of a contract change that would not have
35 been incurred if the work had been included in the original contract. If that cost
36 cannot be clearly established, then ten percent (10%) of the construction cost,
37 including material costs, of the value of the work to construct to the corrected
38 plans and specifications will be assumed to be the premium cost.
- 39 i. Professional. A business concern or individual that enters into a contract with
40 the Board to furnish professional services such as, but not limited to, project
41 design and engineering.
- 42 j. Value-Added. Any part of the additional work that increases the value of the
43 project by adding items that would have been included if the error or omission
44 not had occurred.

45 4. Classification of Changes

46 All Construction Contingency Use Change Authorizations (CCUA), ~~Authorizations~~
47 ~~to Adjust Contingency (AAC).~~ Construction Contingency Use Directive (CCUD),
48 Construction Change Directives (CCD), and Change Order Request Proposals
49 (CORP), hereafter referred to as "changes," will be classified as to the cause for
50 the change. Classifications will include one for errors by the Professional and one
51 for omissions by the Professional. The following definitions will apply:

- 52 a. ~~Errors. Generally, an error would include the cost for "rework." This would be~~
53 ~~work that had been installed, fabricated, or otherwise created in accordance~~
54 ~~with plans and specifications; but the design was in error and the work needs~~
55 ~~to be removed or altered to achieve the required result. In such instances, the~~
56 ~~District had already paid for the design and the work, and the "rework"~~
57 ~~provides no "value added."~~
- 58 b. ~~Omissions. Generally, an omission is an item of work that the Professional~~
59 ~~should have, but did not, include in the plans and specifications. The District~~
60 ~~had no previous cost for this item and would have paid for it had it been~~
61 ~~included in the original plan and specifications. Thus, this change provides~~
62 ~~"value added."~~

63 5. Determination of Costs Associated with Errors and Omissions -- Associated
64 Costs

- 65 a. The Associated Costs, or the additional costs over and above the cost the
66 Board would have incurred had the error or omission not been made, will be
67 determined as follows:
- 68 i. Errors: The costs of the non-value-added work, the Premium cost to

69 construct the work in accordance with the corrected plans and
70 specifications, and the cost impact of work delays or inefficiencies. ~~The~~
71 ~~entire cost of all non value added work.~~

72 ~~ii. Omissions: The Premium cost to construct the work in accordance with~~
73 ~~the corrected plans and specifications and the cost impact of work delays~~
74 ~~or inefficiencies. The premium cost of performing the work the~~
75 ~~Professional failed to include. If that cost could not be clearly established,~~
76 ~~then ten percent (10%) of the value of the work added will be assumed to~~
77 ~~be the premium cost.~~

78 iii. In either case, the professional services needed to remedy an error or an
79 omission will be borne by the Professional.

80 b. If the combined Associated Costs of errors and omissions for a project
81 exceeds one percent (1%) of the construction cost, including materials cost,
82 staff shall review the project with participation by the design professional and
83 issue a report to the Board with recommendations regarding the errors and
84 omissions of the Professional.

85 **6. Availability of Project Associated Costs Information**

86 Information announcing the total Associated Costs of all errors and premium costs
87 of omissions for a completed project will be available to competitive selection
88 committees.

89 **7. District's Ability to Seek Reimbursement**

90 Nothing in this Policy will preclude the District from seeking reimbursement from
91 the Professional.

92 **8. Requirement for Changes Submitted by Professionals**

93 To document that the necessary review of changes has occurred, one of the
94 following statements will be included on all changes submitted by the Professional
95 to the District:

96 a. "The enclosed changes have been examined and found to be necessary and
97 DO NOT represent any additional cost to the School District other than value
98 added. The cost information for this work is complete and detailed. The cost
99 has been examined and is fair and reasonable. This being the case, the above
100 have been approved and are being recommended to the District;" OR

101 b. "The enclosed changes have been examined and found to be necessary and
102 DO represent additional cost to the District other than value added. The cost
103 information for this work is complete and detailed. The cost has been

104 examined and is fair and reasonable. This being the case, the above have
105 been approved and are being recommended to District."

106 9. **Changes Not Attributable to Professionals**

107 Changes which result from the following will not be considered to be the
108 responsibility of the Professional:

- 109 a. Unforeseen conditions such as unidentified soils or site conditions, or
110 uncharted utilities or structures which received reasonable investigation prior
111 to design completion;
- 112 b. Changes in applicable codes, ordinances or other regulations, or the
113 interpretations thereof after design has been permitted;
- 114 c. Design modifications offered to make improvements to the project exclusive of
115 modifications needed to accomplish the original design intent; or
- 116 d. Changes caused by the District which occur after the design has been
117 permitted.

118 10. **Administrative Procedures**

119 The Superintendent, or designee, shall establish procedures for implementation of
120 this policy.

121 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41(2), 1001.42(11)
122 LAWS IMPLEMENTED: Fla. Stat. §§ 287.055, 1013.45(4), 1013.48
123 HISTORY: /13/2004; __/__/2012

Legal Signoff:

The Legal Department has reviewed proposed Policy 7.065 and finds it legally sufficient for development by the Board.

Attorney

Date