

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY BOARD MEETING September 11, 2014

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### Board Members Present:

Commissioner S. Scott Boyd, Orange County  
Commissioner Welton G. Cadwell, Lake County  
Commissioner Brenda Carey, Seminole County  
Mayor Buddy Dyer, City of Orlando  
Commissioner Fred Hawkins, Jr., Osceola County  
Walter A. Ketcham, Jr.

### Board Member Not Present:

Mayor Teresa Jacobs, Orange County

### Non-Voting Advisor Present:

Diane Gutierrez-Scaccetti, Florida's Turnpike Enterprise

### Staff Present at Dais:

Joseph A. Berenis, Deputy Executive Director  
Joseph L. Passiatore, General Counsel  
Darleen Mazzillo, Recording Secretary/Executive Assistant

## CALL TO ORDER

The meeting was called to order at 9:00 a.m. by Chairman Welton Cadwell.

## PUBLIC COMMENT

Mr. Chuck Graham voiced his support for dedicated funding of public transportation for disabled and senior citizens. He believes that a percentage of tolls should be put into public transportation.

## APPROVAL OF MINUTES

A motion was made by Commissioner Carey and seconded by Mayor Dyer to approve the minutes of the August 14, 2014 Board Workshop as presented. The motion carried with five members of the Board present and voting AYE by voice vote; Mayor Jacobs and Commissioner Boyd were not present.

**A motion was made by Mr. Ketcham and seconded by Commissioner Hawkins to approve the minutes of the August 14, 2014 Board Meeting as presented. The motion carried with five members of the Board present and voting AYE by voice vote; Mayor Jacobs and Commissioner Boyd were not present.**

(Commissioner Boyd arrived at this time.)

### **APPROVAL OF CONSENT AGENDA**

The Consent Agenda was presented for approval (Exhibit A):

### **EXECUTIVE**

1. Authorization to award contract to Colin Baenziger & Associates to provide executive search consultant services for the new Executive Director position (Contract amount: \$26,000)

### **LEGAL**

2. Approval of Memorandum of Agreement with the Florida Department of Transportation and the State of Florida, Department of Financial Services, Division of Treasury concerning the establishment and terms of an interest bearing escrow account for deposit of the Authority's \$230,000,000 funding contribution to the I-4/S.R. 408 Interchange Project pursuant to the Interlocal Agreement dated June 16, 2014
3. Approval of Real Estate Purchase Agreement with Yong Sun Pak and Byung Sook Pak for the acquisition of Parcels 104 and 804 for construction of Wekiva Parkway, Project 429-201 (Purchase price: \$150,000)
4. Approval of Real Estate Purchase Agreement with Patrick R. Connelly for the acquisition of Parcel 801 for construction of Wekiva Parkway, Project 429-201 (Purchase price: \$5,000)
5. Approval of Agreement for Business Damage Claims Accounting Services between Gerson, Preston, Robinson, Klein, Lips & Eisenberg, P.A. and Shutts & Bowen, LLP to provide consulting services related to evaluation of business owners' business damage claims for the Wekiva Parkway Project Nos. 429-203, 429-204, 429-205 and 429-206 (Contract amount: Not-to-exceed \$100,000)
6. Approval of Addendum to Agreement for Engineering Expert Witness Consulting Services between Donald W. McIntosh Associates, Inc. and Shutts & Bowen, LLP for Wekiva Parkway Project Nos. 429-203, 429-204, 429-205 and 429-206 (Addendum amount: \$100,000)

### **CONSTRUCTION & MAINTENANCE**

7. Authorization to Award Contract to Preferred Materials, Inc. for Goldenrod Road Milling and Resurfacing - Project 800-903D (Contract amount: \$3,947,769.18)
8. Approval of Final Ranking and Authorization to enter into Fee Negotiations with Rummel, Klepper & Kahl, Inc. for Construction Engineering and Inspection Services for Wekiva Parkway Project 429-202
9. Authorization to execute Construction Contract Modifications on the following contracts:

a) Contract No. 599-616	Traffic Control Products of FL	(\$38,684.37)
b) Contract No. 429-621	United Signs & Signals	\$10,583.89
c) Contract No. 599-520	United Signs & Signals	\$60,612.00

### **EXPRESSWAY OPERATIONS**

10. Approval for renewal of contract with TransCore, LP for Maintenance of ITS Infrastructure – Contract No. 000720 (Contract amount: \$698,146.25)

### **BUSINESS DEVELOPMENT**

11. Approval for renewal of contract with The W Group Consulting Firm, LLC for Business Development Management Consultant Services – Contract No. 001009 (Contract amount: \$68,000)

### **FINANCE/ACCOUNTING**

12. Approval of Insurance Proposal with Florida Municipal Insurance Trust (Premium not-to-exceed \$125,000)
13. Approval for disposal of inventory items

### **MISCELLANEOUS**

14. Approval of Amendment to the Interlocal Agreement Creating the Orlando Urban Area Metropolitan Planning Organization (d/b/a MetroPlan) Orlando to remove the OOCEA and add the Central Florida Expressway Authority

The following item is for information only:

15. Pursuant to Section 6-7.01(d) of the Expressway Authority's Ethics Policy, Harold W. Worrall has filed disclosure of a contribution to the re-election campaign of Board Member and Orange County Mayor Teresa Jacobs



Consent Agenda item #12 was pulled for discussion. It was taken up after the Resolutions of Appreciation.

**A motion was made by Mayor Dyer and seconded by Commissioner Carey to approve the Consent Agenda with the exception of item #12. The motion carried unanimously with six members present and voting AYE by voice vote; Mayor Jacobs was not present.**

#### **CHAIRMAN'S REPORT**

Chairman Cadwell reported that the construction of the first two sections of the Wekiva Parkway will begin in early 2015. A pre-construction community open house will be held on September 25 at Apopka High School.

#### **TREASURER'S REPORT**

Commissioner Carey reported that toll revenues for July were \$27,075,671 which is 5.63% above projections and 7.93% above prior year. The Authority's total revenues were \$28.4 million for the month.

Total OM&A expenses were \$1.9 million for the month, which is 9.3% under budget.

After debt service the total net revenue was \$14.6 million for the month.

#### **STAFF'S REPORT**

Deputy Executive Director Joseph Berenis provided the Staff Report in written form (Exhibit "B").

#### **ADOPTION OF RESOLUTIONS OF APPRECIATION FOR COMMUNITY SERVICE ON OOCEA COMMITTEES**

**A motion was made by Commissioner Hawkins and seconded by Mayor Dyer to adopt Resolutions of Appreciation for Ms. Sandy Hostetter, Mr. Bill Merck, Ms. Jacqui Bradley and Mr. George Hart. The motion carried with six members of the Board present and voting AYE by voice vote; Mayor Jacobs was not present.**

Ms. Hostetter and Mr. Merck were in attendance to receive their Resolutions of Appreciation.

#### **CONSENT AGENDA ITEM #12**

(This item was taken out of agenda order.)

General Counsel Joseph Passiatore reported that Lake County staff requested that we look at the insurance coverages for comprehensive general liability and errors & omissions. In light of CFX's increased responsibilities and jurisdictions, CFX staff feels it is advisable to bump those coverages from \$2 million



each to \$5 million each. The premium increase would be \$3,605, which brings the revised total to \$124,659. Staff's recommendation is to approve the item with the increased coverages.

**A motion was made by Commissioner Carey and seconded by Commissioner Boyd to approve Consent Agenda item #12 with the coverage of \$5 million for comprehensive general liability and errors & omissions. The motion carried unanimously with six members present and voting AYE by voice vote; Mayor Jacobs was not present.**

**APPROVAL OF REAL ESTATE AND PURCHASE AGREEMENT FOR THE SALE OF SURPLUS  
PARCEL NOS. 148, 149 & 150 (PARTIAL) TO ASBURY THEOLOGICAL SEMINARY**

Attorney Jere Daniels of Winderweede, Haines, Ward & Woodman stated that Asbury Theological Seminary has concerns with the Board's suggestion last month that a deed restriction be implemented for the sale of this surplus property. Asbury's legal counsel, Kevin Kelly, has submitted a letter dated August 21, 2014 outlining those concerns.

Mr. Daniels and Mr. Passiatore recommend the following options:

- 1) Proceed with the original contract as is; or
- 2) Place the property out to bid.

Mr. Kelly requested that the Board vote in favor of the contract as is, without the deed restriction. His client has invested a significant amount of time and money and the only fair way is to follow the procedures that were originally set out. To put the property out to bid now would be unfair to his client. He also requested that the Authority have the property re-appraised with the deed restriction provisions.

There was some discussion regarding the appraisal process. Asbury chose the appraiser from a list of eight appraisers supplied by CFX.

Commissioner Carey suggested adding contract language for a five-year deed restriction that provides that if Asbury sells the property before the five years they split the profit with CFX. She also suggested the option of a straight ten-year deed restriction. She stressed that we must be accountable to the public in using public funds.

Commissioner Boyd is also in favor of the five-year deed restriction. He is not in favor of letting the buyer choose the appraiser. He suggested that in the future CFX provide the name of the appraiser and, if the buyer is not happy with the appraisal, they obtain their own appraisal.

Commissioner Hawkins is not in favor of restrictions that were not part of the original negotiations.

When Mr. Kelly was asked if his client would accept the contract with either the five-year or ten-year deed restriction, he stated that his client will accept the five-year deed restriction with a new appraisal.

**A motion was made by Commissioner Carey and seconded by Commissioner Boyd to approve the contract with Asbury Theological Seminary with the modification of a five-year deed restriction which provides that if the property is sold prior to five years and if there is a profit gain it be shared 50/50 with the Authority. The motion carried 5 to 1 with Commissioner Boyd, Commissioner Cadwell, Commissioner Carey, Mayor Dyer and Mr. Ketcham voting AYE by voice vote and Commissioner Hawkins voting NAY. Mayor Jacobs was not present.**

#### **APPROVAL OF AMENDMENTS TO PROPERTY ACQUISITION & DISPOSITION PROCEDURES MANUAL**

As requested at the last Board meeting, General Counsel Joseph Passiatore has looked into the Policy Regarding Disposition of Excess Lands, in particular the section relating to the sale of surplus property to non-profit organizations, and has made recommendations for amendments. The amendments have been reviewed and approved by the Right of Way Committee.

Chairman Cadwell proposed that we have a full review of the Policy at a Board workshop.

**A motion was made by Mayor Dyer and seconded by Commissioner Carey to refer the entire Property Acquisition & Disposition Procedures Manual to the newly formed Right of Way Committee for review and that the Committee provide their recommendations at a future Board workshop. The motion carried unanimously with six members of the Board present and voting AYE by voice vote; Mayor Jacobs was not present.**

#### **DISCUSSION REGARDING CHANGING BOARD MEETING DATES TO THE THIRD THURSDAY OF THE MONTH**

As directed last month, staff has evaluated moving the Board meetings to the third Thursday of the month so the latest financial data will be available. The Board was provided with a table showing the Board members' availability on the third Thursdays.

Non-voting Advisor Diane Gutierrez-Scaccetti stated that she will not be able to attend Board meetings on the third Thursday of the month due to a conflict with a recurring FDOT meeting.

**By consensus, the Board members decided to continue to hold the Board meetings on the second Thursday of the month.**

#### **APPROVAL OF RESOLUTION AMENDING THE POLICY RELATING TO THE POSITION OF EXECUTIVE DIRECTOR**

The Board members were provided with a Resolution (Exhibit "C") which updates the required education and experience sections of the Policy relating to the Executive Director Position, in accordance with the direction provided at the August 14 Board Workshop.



**A motion was made by Commissioner Carey and seconded by Commissioner Boyd to approve the Resolution Amending the Policy Relating to the Position of Executive Director. The motion carried unanimously with six members of the Board present and voting AYE by voice vote; Mayor Jacobs was not present.**

#### **APPROVAL OF ADVERTISEMENT FOR EXECUTIVE DIRECTOR POSITION**

Deputy Executive Director Laura Kelley requested approval to advertise for the Executive Director position and asked for direction on the shortlist/selection process.

Ms. Kelley's recommendation is to have the search firm shortlist to approximately five candidates and then have the Board members individually interview those candidates. The Board members were in agreement with Ms. Kelley's recommendation. In addition, they would like the Chairman to work with the search firm and CFX staff in the shortlisting process.

When questioned about the advertising time, Ms. Kelley answered that in the past we have advertised from 6 weeks to 2 months. Commissioner Hawkins asked that a schedule be developed so the Board members can calendar the interviews.

Chairman Cadwell requested that we advertise in all transportation related publications.

General Counsel Joseph Passiatore asked for the Board's confirmation that we are not creating a committee that would fall under the Sunshine Law and that the ultimate recommendation for a shortlist would come from the search consultant, with coordination from the Chairman and Ms. Kelley. The Board members agreed.

Chairman Cadwell will give regular updates to the Board under his Chairman's Report.

**A motion was made by Mayor Dyer and seconded by Commissioner Boyd for approval to advertise for the position of Executive Director. The motion carried unanimously with six members of the Board present and voting AYE by voice vote; Mayor Jacobs was not present.**

(Ms. Gutierrez-Scaccetti left the meeting at this time.)

#### **APPROVAL OF FY 2015 OPERATIONS, MAINTENANCE & ADMINISTRATION BUDGET**

Interim CFO Lisa Lumbarb presented the proposed FY 2015 Operations, Maintenance & Administration Budget, totaling \$63,431,568. No changes were made to the Budget since last month's presentation. She requested Board approval of the FY 2015 Operations, Maintenance & Administration Budget.



Budget Summary:

	FY 2014 Budget	FY 2015 Budget	Change	%
Operations	\$36,687,560	\$38,051,900	\$1,364,340	3.7%
Maintenance	14,814,685	15,487,997	673,312	4.5%
Administration	6,745,779	7,091,671	345,892	5.1%
Other Operating	3,381,684	2,800,000	(581,684)	-17.2%
<b>Total Budget</b>	<b>\$61,629,708</b>	<b>\$63,431,568</b>	<b>\$1,801,860</b>	<b>2.9%</b>
Capital Expenditures	353,400	402,470	49,070	13.9%
OM&A Projects	134,000	716,200	582,200	434.5%
Total Capital & Projects	\$487,400	\$1,118,670	\$631,270	129.5%

Commissioner Carey brought up the salary adjustment for CFX employees. She does not support the proposed 3% salary adjustment. She will support a 1.8 COLA tied to the CPI. She referred to a spreadsheet showing the City/County Historical Compensation. Seminole County is discussing a \$500 flat adjustment and 1.8% COLA.

Commissioner Cadwell stated that Lake County is proposing a 3% salary adjustment in their budget. It is basically to catch up from recent years when no salary adjustment was given. He supports the 3% salary adjustment for CFX employees.

Commissioner Hawkins does not support a 3% salary adjustment.

Commissioner Boyd supports a 3% salary adjustment.

A motion made by Mayor Dyer and seconded by Commissioner Boyd to approve the budget with the 3% salary adjustment failed 4 to 2 with Mayor Dyer, Commissioner Cadwell, Commissioner Boyd and Mr. Ketcham voting AYE by voice vote and Commissioner Carey and Commissioner Hawkins voting NAY. Mayor Jacobs was not present.

A motion made by Commissioner Carey and seconded by Commissioner Hawkins to approve the budget with a 2% salary adjustment retroactive to July 1 failed 2 to 4 with Commissioner Carey and Commissioner Hawkins voting AYE by voice vote and Commissioner Boyd, Commissioner Cadwell, Mayor Dyer and Mr. Ketcham voting NAY. Mayor Jacobs was not present.

**A motion was made by Mayor Dyer and seconded by Commissioner Boyd to approve the Operations, Maintenance & Administration Budget without the salary adjustment and to address the salary adjustment at the next Board meeting. The 3% will be held in reserve until a decision is made regarding salary adjustments. The motion carried unanimously with six members of the Board present and voting AYE by voice vote; Mayor Jacobs was not present.**

### **APPROVAL OF FIVE-YEAR WORK PLAN (FY 2015- 2019)**

Director of Engineering Glenn Pressimone presented the Draft Five-Year Work Plan for Fiscal Years 2015 to 2019. No changes have been made to the total dollar amount since the Work Plan was presented at the August 14 Board workshop. There have been some schedule changes that do not affect the bottom line. The proposed Work Plan totals \$1.1 billion dollars.

<u>Category</u>	<u>FY</u> <u>2014/2015</u>	<u>FY</u> <u>2015/2016</u>	<u>FY</u> <u>2016/2017</u>	<u>FY</u> <u>2017/2018</u>	<u>FY</u> <u>2018/2019</u>	<u>Totals</u>
Existing System Improve.	12,706	14,061	12,188	811	18,183	57,949
System Expansion Projects	115,323	115,212	42,773	107,593	153,222	543,123
Interchange Projects	84,205	81,575	2,051	75,500	75,500	318,831
Toll Facilities Projects	22,399	32,643	27,930	29,738	8,891	121,601
ITS Projects	6,752	5,458	2,579	171	513	15,473
Signing & Pavement Mark.	7,107	4,749	3,007	1,247	2,289	18,399
Renewal & Replacement	26,085	28,438	2,538	3,572	49,310	109,943
Landscape Projects	1,266	720	750	750	800	4,286
Non-System Projects	4,353	0	0	1,002	0	5,355
Subtotals	280,196	282,856	93,816	220,384	308,709	1,185,960
Expected Credits	-30,250					-30,250
<b>GRAND TOTALS</b>	<b>249,946</b>	<b>282,856</b>	<b>93,816</b>	<b>220,384</b>	<b>308,709</b>	<b>1,155,710</b>

Interim CFO Lisa Lumbard explained the Integrated Financial Planning Model and Capital Planning Model Assumptions in the Work Plan.

**A motion was made by Commissioner Carey and seconded by Mayor Dyer to approve the Five Year Work Plan as presented. The motion carried unanimously with six members of the Board present and voting AYE by voice vote; Mayor Jacobs was not present.**

### **INTERNAL AUDIT MATTERS**

Phil Fretwell of Protiviti requested the Board's acceptance of the following audit reports:

- ~ Fiscal 2015 Internal Audit Plan
- ~ Sensitive Data Audit Report
- ~ Business Impact Analysis Report

Mr. Fretwell went over highlights of the Internal Audit Report. Mr. David Taylor of Protiviti reviewed the IT portion of the Internal Audit Plan.

The Sensitive Data Report and Business Impact Analysis Report are marked exempt from public disclosure.

**A motion was made by Commissioner Boyd and seconded by Commissioner Hawkins to accept the Fiscal Year 2015 Internal Audit Plan, Sensitive Data Audit Report and Business Impact Analysis**



**Report. The motion carried unanimously with six members of the Board present and voting AYE by voice vote; Mayor Jacobs was not present.**

**ADOPTION OF RESOLUTIONS AMENDING CHARTERS FOR AUDIT, FINANCE, OPERATIONS AND RIGHT OF WAY COMMITTEES**

The Resolutions amending Charters for the Audit, Finance, Operations and Right of Way Committees were presented for the Board's approval (Exhibit "D").

General Counsel Joseph Passiatore suggested a revision to the Right of Way Committee Charter to designate a substitute to serve in the committee members' absence. Because of the frequency of the Right of Way Committee meetings, there may be times when the regular committee members may not be available.

Mr. Ketcham commented that it is important to have community members from the public serve on these committees, as we have in the past. Chairman Cadwell stated that we may look into that after the gubernatorial appointments are made.

**A motion was made by Commissioner Carey and seconded by Commissioner Boyd to adopt the Resolutions amending Charters for the Audit, Finance, Operations and Right of Way Committees, with the amended language regarding substitute members for the Right of Way Committee. The motion carried unanimously with six members of the Board present and voting AYE by voice vote; Mayor Jacobs was not present.**

**APPOINTMENT OF COMMITTEE MEMBERS FOR AUDIT, FINANCE, OPERATIONS AND RIGHT OF WAY COMMITTEES**

The following committee appointments were presented for Board approval:

**AUDIT COMMITTEE**

Eric Gassman (Orange County representative)  
Ray Elwell (City of Orlando representative)  
Kaye Dover (Osceola County representative)  
Bruce McMenemy (Seminole County representative)  
Barbara Lehman (Lake County representative)

**FINANCE COMMITTEE**

Fred Winterkamp (Orange County representative)  
Chris McCullion (City of Orlando representative)  
Michael Kurek (Osceola County representative)  
Joseph Pennisi (Seminole County representative)  
Steve Koontz ( Lake County representative)



**OPERATIONS COMMITTEE**

James Harrison (Orange County representative)  
Charles Ramdatt (City of Orlando representative)  
Hector Lizasuain (Osceola County representative)  
Steve Fussell (Seminole County representative)  
Fred Schneider (Lake County representative)

**RIGHT OF WAY COMMITTEE**

John Terwilliger (Orange County representative)  
Laurie Botts (City of Orlando representative)  
David May (Osceola County representative)  
Brett Blackadar (Seminole County representative)  
Sandy Minkoff (Lake County representative)

**A motion was made by Mayor Dyer and seconded by Commissioner Boyd to accept the committee appointments for the Audit, Finance, Operations and Right of Way Committees as presented. The motion carried unanimously with six members of the Board present and voting AYE by voice vote; Mayor Jacobs was not present.**

**BOARD MEMBER COMMENT**

There were no comments received from the Board members.

**ADJOURNMENT**

There being no further business to come before the Board, the Chairman adjourned the meeting at 10:24 a.m.



Commissioner Welton G. Cadwell  
Chairman  
Central Florida Expressway Authority



Darleen Mazzillo  
Recording Secretary/Executive Assistant  
Central Florida Expressway Authority

Minutes approved on October 9, 2014.

*Pursuant to the Florida Public Records Law and CFX Records Management Policy, audio tapes of all Board and applicable Committee meetings are maintained and available upon request to the Records Management Liaison Officer at [publicrecords@CFXWay.com](mailto:publicrecords@CFXWay.com) or 4974 ORL Tower Road, Orlando, FL 32807. Additionally, video tapes of Board meetings commencing July 25, 2012 are available at the CFX website, [www.expresswayauthority.com](http://www.expresswayauthority.com)*

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**AGENDA**  
**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**BOARD MEETING**  
**September 11, 2014**  
**9:00 a.m.**

Meeting Location: CFX Boardroom  
4974 ORL Tower Road, Orlando, FL 32807

- A. CALL TO ORDER / PLEDGE OF ALLEGIANCE**
- B. PUBLIC COMMENT**  
Pursuant to Rule 1-1.011, the governing Board for CFX has set aside at least 15 minutes at the beginning of each regular meeting for citizens to speak to the Board on any matter of public interest under the Board's authority and jurisdiction, regardless of whether the public interest is on the Board's agenda, but excluding pending procurement issues. Each speaker shall be limited to 3 minutes.
- C. REVIEW AND APPROVAL OF MINUTES** Action Items  
    1. August 14, 2014 Board Workshop  
    2. August 14, 2014 Board Meeting
- D. APPROVAL OF CONSENT AGENDA (attached)** Action Item
- E. REPORTS** Info. Items  
    1. Chairman's Report  
    2. Treasurer's Report  
    3. Staff's Report
- F. REGULAR AGENDA ITEMS**
- 1. ADOPTION OF RESOLUTIONS OF APPRECIATION FOR COMMUNITY SERVICE ON CFX COMMITTEES - Welton Cadwell, Chairman** Action Item
- 2. APPROVAL OF REAL ESTATE AND PURCHASE AGREEMENT FOR THE SALE OF SURPLUS PARCEL NOS. 148, 149 & 150 (PARTIAL) TO ASBURY THEOLOGICAL SEMINARY – Jere Daniels, Esq., Winderweedle, Haines, Ward & Woodman** Action Item
- 3. APPROVAL OF AMENDMENTS TO PROPERTY ACQUISITION & DISPOSITION PROCEDURES MANUAL – Joseph Passiatore, General Counsel** Action Item
- 4. DISCUSSION REGARDING CHANGING BOARD MEETING DATES TO THE THIRD THURSDAY OF THE MONTH – Welton Cadwell, Chairman** Action Item
- 5. APPROVAL OF RESOLUTION AMENDING THE POLICY RELATING TO THE POSITION OF EXECUTIVE DIRECTOR – Laura Kelley, Deputy Executive Director** Action Item
- 6. APPROVAL OF ADVERTISEMENT FOR EXECUTIVE DIRECTOR POSITION – Welton Cadwell, Chairman** Action Item

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**7. APPROVAL OF FY 2015 OPERATIONS, MAINTENANCE & ADMINISTRATION BUDGET** – *Lisa Lombard, Interim CFO* Action Item

**8. APPROVAL OF FIVE-YEAR WORK PLAN (FY 2015 - 2019)** – *Glenn Pressimone, Director of Engineering & Lisa Lombard, Interim CFO* Action Item

**9. INTERNAL AUDIT MATTERS** – *Phil Fretwell and David Taylor, Protiviti* Action Items

- a. Acceptance of Fiscal 2015 Internal Audit Plan
- b. Acceptance of Sensitive Data Audit Report
- c. Acceptance of Business Impact Analysis Report

**10. ADOPTION OF RESOLUTIONS AMENDING CHARTERS FOR AUDIT, FINANCE, OPERATIONS AND RIGHT OF WAY COMMITTEES** – *Laura Kelley, Deputy Executive Director & Joseph Passiatore, General Counsel* Action Item

**11. APPOINTMENT OF COMMITTEE MEMBERS FOR AUDIT, FINANCE, OPERATIONS AND RIGHT OF WAY COMMITTEES** – *Welton Cadwell, Chairman* Action Item

**G. BOARD MEMBER COMMENT**

**H. ADJOURNMENT**

This meeting is open to the public.

Note: Any person who decides to appeal any decision made at this meeting will need record of the proceedings and for that purpose, may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is to be based, per Florida Statutes 286.0105.



**CONSENT AGENDA**  
**September 11, 2014**

**EXECUTIVE**

1. Authorization to award contract to Colin Baenziger & Associates to provide executive search consultant services for the new Executive Director position (Contract amount: \$26,000)

**LEGAL**

2. Approval of Memorandum of Agreement with the Florida Department of Transportation and the State of Florida, Department of Financial Services, Division of Treasury concerning the establishment and terms of an interest bearing escrow account for deposit of the Authority's \$230,000,000 funding contribution to the I-4/S.R. 408 Interchange Project pursuant to the Interlocal Agreement dated June 16, 2014
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## **BUSINESS DEVELOPMENT**

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## **FINANCE/ACCOUNTING**

12. Approval of Insurance Proposal with Florida Municipal Insurance Trust (Premium not-to-exceed \$125,000)
13. Approval for disposal of inventory items

## **MISCELLANEOUS**

14. Approval of Amendment to the Interlocal Agreement Creating the Orlando Urban Area Metropolitan Planning Organization (d/b/a MetroPlan) Orlando to remove the OOCEA and add the Central Florida Expressway Authority

The following item is for information only:

15. Pursuant to Section 6-7.01(d) of the Expressway Authority's Ethics Policy, Harold W. Worrall has filed disclosure of a contribution to the re-election campaign of Board Member and Orange County Mayor Teresa Jacobs

## EXHIBIT "A"



# **CONSENT AGENDA ITEM**

**#1**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: August 23, 2014

RE: Award of Contract  
Executive Search Consultant Services  
Contract No. 001053

Board approval is requested to award the referenced contract to Colin Baenziger & Associates in the amount of \$26,000.00 to provide executive search consultant services for the new Executive Director. Staff is recommending a contract term of one year for additional services that would be required if we choose to fill upper management positions (e.g. Chief Financial Officer) using these services. Fees for any additional services would be negotiated.

In accordance with the approved Procurement Policy and Procurement Procedures Manual, a Request for Proposals (RFP) from executive search firms ran in the Orlando Sentinel on July 27, 2014. Responses were received from two (2) firms by the August 11, 2014, deadline for submittal of technical and price proposals. Those firms were Baenziger & Associates and Harris Rand Lusk.

As required by the Procurement Procedures Manual when less than three proposal are received, the Procurement Manager (acting on behalf of the Director of Procurement) and the Deputy Executive Director, Finance and Administration, met on August 11, 2014, to discuss the two options available in that situation. Those options are 1) reject the proposals submitted without consideration and re-advertise for the services, or 2) proceed with the evaluation and scoring of the proposals received retaining the right to subsequently reject one of both of the proposals in the best interest of the Authority. The option to reject the proposals would typically be exercised if there was sufficient evidence to support a conclusion that the submittal requirements or other factors had inadvertently limited the pool of companies who might have otherwise submitted a response. After reviewing the submittal requirements, it was agreed that they were not restrictive and did not limit the pool of possible respondents. The Manager of Procurement reported that he had sent notifications of the project to six (6) firms listed by Bloomberg/Business Week as among the most influential search firms worldwide. Additionally, eleven (11) firms downloaded the RFP documents from our web site. Based on this information, the Deputy Executive Director and Manager of Procurement agreed that re-advertising for the services would likely not result in more responses and that the two responses received should be evaluated and scored.

As part of the technical review process, interviews were held with both firms on August 20, 2014. At the conclusion of the interviews the Price Proposals were opened and scored. The combined scores for the Technical Proposals and Price Proposals were calculated and resulted in Colin Baenziger & Associates being ranked number 1 and Harris Rand Lusk ranked number 2.

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations, Construction and Maintenance  
Laura Kelley, Deputy Executive Director, Finance and Administration  
Joe Passiatore, General Counsel

**PROPOSAL SUBMITTAL REQUIREMENTS**

**EXECUTIVE SEARCH CONSULTANT SERVICES**

**CONTRACT NO. 001053**

**PROPOSAL DUE DATE: August 11, 2014**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**



**PROPOSAL SUBMITTAL REQUIREMENTS  
FOR  
EXECUTIVE SEARCH CONSULTANT**

**CONTRACT NO. 001053**

**JULY 2014**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**Members of the Board**

**Welton G. Cadwell, Chairman  
S. Scott Boyd, Vice Chairman  
Brenda Carey, Secretary/Treasurer  
Fred Hawkins, Jr., Board Member  
Teresa Jacobs, Orange County Mayor  
Buddy Dyer, City of Orlando Mayor  
Walter A. Ketcham, Jr., Board Member**

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**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
NOTICE OF REQUEST FOR PROPOSALS FOR  
EXECUTIVE SEARCH CONSULTANT SERVICES  
CONTRACT NO. 001053**

The Central Florida Expressway Authority (Authority) requires the services of a qualified consultant to provide Executive Search Consultant services. Consideration will be given to only those respondents who are qualified to perform the work as determined by the Authority. Proposal documents are available for download at the Authority's web site located at [www.expresswayauthority.com/DoingBusinessWithUs/Procurement/ProcurementAccountLoginProcurementRegistration.aspx](http://www.expresswayauthority.com/DoingBusinessWithUs/Procurement/ProcurementAccountLoginProcurementRegistration.aspx). Proposer registration is required to access and download documents. Instructions for registration are provided on the website.

**DESCRIPTION OF SERVICES:** Services shall be as detailed in the Scope of Services and includes the recruitment of the Executive Director for the Central Florida Expressway Authority.

**QUALIFICATION REQUIREMENTS:** Respondents must have experience providing similar services and must demonstrate they have the ability to provide the services necessary throughout the duration of the contract and are willing to meet the requirements of the Authority as stated in the Scope of Services.

The Authority will evaluate and determine the relative ability of each firm to perform the required services based upon the information provided by the firm in response to the RFP.

**NON-SOLICITATION PROVISION:** From the first date of publication of this Notice, no person may contact any Authority Member, Officer, Employee, or any selection committee member, with respect to this Notice or the services to be provided, except as related to the submittal requirements detailed in the RFP. Reference is made to the lobbying guidelines of the Authority for further information regarding this Non-Solicitation Provision.

**SUBMITTAL DUE DATE:** Proposals for the work generally described above will be received on August 11, 2014, in the headquarters office of the Central Florida Expressway Authority, 4974 ORL Tower Road Orlando, Florida 32807 until 1:30 p.m., Orlando local time, as shown on the time/date stamp clock at the receptionist's desk in the lobby. The clock will serve as the official instrument to determine when a proposal is received. A proposal that is received after the date/time specified will be rejected. The Proposer acknowledges that rejection of its proposal under those circumstances shall not be the basis of a protest pursuant to the Authority's Procedure for Resolution of Protests.

**CODE OF ETHICS:** All contractors/consultants selected to work with the Authority are required to comply with the Authority's Code of Ethics, a copy of which is available on the Authority's web site at [www.expresswayauthority.com](http://www.expresswayauthority.com).

**EQUAL OPPORTUNITY STATEMENT:** The Central Florida Expressway Authority, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color, sex, national origin, age, religion

and disability. The Authority hereby notifies all firms and individuals that it requires and encourages equal employment opportunity for minority and women as employees in the workforce.

**MINORITY/WOMEN/DISADVANTAGED BUSINESS ENTERPRISE**

**PARTICIPATION:** The Central Florida Expressway Authority hereby notifies all firms and individuals that it will require affirmative efforts be made to ensure participation of local minority and women business enterprises on contracts awarded by the Authority.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Claude Miller  
Director of Procurement

**PROPOSAL SUBMITTAL REQUIREMENTS  
FOR  
EXECUTIVE SEARCH CONSULTANT  
CONTRACT NO. 001053  
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**PROPOSAL SUBMITTAL REQUIREMENTS  
EXECUTIVE SEARCH CONSULTANT  
CONTRACT NO. 001053**

**1.0 REQUEST FOR PROPOSAL (RFP)**

**1.1 INVITATION**

The Central Florida Expressway Authority invites responses to this Request for Proposals from qualified consultants to provide Executive Search Consultant services. The full description of the scope of services is attached as Exhibit "A", Scope of Services.

For the purpose of this RFP, the term "Proposer" means the prime consultant acting for itself. The term "proposal" means the complete response of the Proposer to the request for proposals, including properly completed forms and supporting documentation.

**1.2 PROJECT IDENTIFICATION**

The project is identified as Authority Contract No. 001053

**1.3 CONTRACTING AGENCY**

The contracting agency is the Central Florida Expressway Authority referred to herein as the "Authority".

**1.4 VERBAL INSTRUCTIONS AND ADDENDA**

All questions relative to interpretation of the proposal documents or the procurement process shall be addressed in writing as indicated below. At the Authority's discretion, inquiries received within seven (7) days of the date set for the receipt of proposals may not be given any consideration. Any interpretation made to prospective proposers will be expressed in the form of an addendum which, if issued, will be provided to proposers no later than five (5) days before the date set for receipt of proposals. Oral answers will not be authoritative.

It will be the responsibility of the prospective proposer prior to submitting proposals to ascertain if any addenda have been issued, to obtain all such addenda, and to acknowledge receipt of addenda on the Acknowledgement of Addendum form (page PSR-14). All addenda will be sent directly to proposers.

Questions may be submitted via e-mail at [RFP001053@cfxway.com](mailto:RFP001053@cfxway.com). The Authority prefers questions be sent via e-mail; however, they can be faxed to the Manager of Procurement at the number indicated below. The contract number must be referenced in the subject line. All requests or questions should be clearly marked and must be received no later than 4:00 p.m., Orlando local time, on August 4, 2014.

Central Florida Expressway Authority  
Procurement Department Attn: Robert Johnson, Manager of Procurement  
4974 ORL Tower Road, Orlando FL 32807  
407-690-5000 Office, 407-690-5032 Fax  
RFP001053@cfxway.com E-mail

No negotiations, decisions, or actions shall be initiated or executed by a Proposer as a result of any verbal discussions with an employee of the Authority. Only those communications, which are in writing from the Authority, may be considered as a duly authorized expression on behalf of the Authority. Also, the Authority will recognize only written communications from Proposers, which are signed by persons who are authorized to contractually bind the Proposers, as duly authorized expressions on behalf of the Proposers.

The Authority will make available to all Proposers in receipt of the Request for Proposal, the Authority's written responses to a Proposer's question(s) in the form of an addendum.

## **1.5 QUALIFICATIONS FOR SERVICES**

### **1.5.1 GENERAL**

The Proposer shall include the necessary experienced personnel and facilities to support the activities required by the Contract.

### **1.5.2 QUALIFICATIONS OF PERSONNEL**

Those key individuals who will be directly providing contract services must have demonstrated specific experience as detailed herein. Individuals whose qualifications are presented shall be committed to the project for its duration.

## **1.6 RESERVATIONS AND RESPONSIVENESS OF PROPOSALS**

### **1.6.1 RESERVATIONS**

The Authority reserves the right to accept or reject any or all proposals received and reserves the right to make an award without further discussion of the proposals submitted. Therefore, the proposals should be submitted initially in the most favorable manner. It is understood that the proposal will become a part of the Authority's official file on this matter without obligation on behalf of the Authority. The contents of the proposals are subject to the Florida Public Records Act.

### **1.6.2 RESPONSIVENESS OF PROPOSALS**

All proposals shall be in writing. A responsive proposal is one which conforms in all-material respects to the requirements contained herein. Proposals may be rejected if found to

be irregular or not in conformance with these requirements and instructions. A proposal may be found to be irregular or non-responsive by reasons including, but not limited to, failure to use or complete prescribed forms, conditional proposals, incomplete proposals, indefinite or ambiguous proposals, and improper or undated signatures.

Other conditions which may cause rejection of proposals include: evidence of collusion among Proposers; lack of experience or expertise to perform the required work; failure to perform or meet financial obligations on previous contracts; an individual, firm, partnership, or corporation is on the United States Comptroller General's List of Parties Excluded from Federal Procurement and Non-Procurement Programs.

Proposals will be disqualified if delivered or received after the date and time specified as the due date for submission. Disqualified Proposers will be notified in writing. Although these proposals will not be considered for evaluation they will be kept on file as disqualified.

### **1.6.3 MULTIPLE PROPOSALS**

Proposals may be rejected if more than one proposal is received from an individual, firm, partnership, corporation, or combination thereof, (furnished as the prime Proposer) under the same or different names. Such duplicate interest may cause the rejection of all proposals in which such Proposer has participated.

### **1.6.4 WAIVERS**

The Authority may waive minor informalities or irregularities in proposals received where such is merely a matter of form and not substance, and the correction or waiver of which is not prejudicial to other Proposers. Minor irregularities are defined as those that will not have an adverse effect on the Authority's interest and will not give a Proposer an advantage or benefit not enjoyed by other Proposers.

### **1.6.5 CONTRACTUAL OBLIGATIONS**

Each individual, partnership, firm, or corporation that is part of the successful Proposer's team, either by joint venture or subcontract, will be subject to, and comply with, the contractual requirements.

## **1.7 COST INCURRED IN RESPONDING**

Neither the Authority nor any other public agency shall be committed to pay any costs incurred by an individual, firm, partnership, or corporation in the submission of a proposal.



## **1.8 EQUAL OPPORTUNITY STATEMENT**

The Central Florida Expressway Authority, in accordance with the Provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., the Florida Civil Rights Act of 1992, as amended, § 760.10 et seq., Fla. Stat. (1996), and other federal and state discrimination statutes, prohibits discrimination on the basis of race, color, sex, age, national origin, religion, and disability or handicap. The Authority requires and encourages equal employment opportunity for minority and women as employees in the work force.

## **1.9 CANCELLATION PRIVILEGES**

The performance by the Authority of any of its obligations under this RFP and subsequent Contract will be subject to and contingent upon the availability of monies lawfully appropriated for such purposes. If the Authority deems at any time during the term of the Contract that monies lawfully applicable to the Contract are unavailable for the remainder of the Contract term, the Authority will notify the Contractor in writing, whereupon the obligations of the parties herein shall end within thirty (30) days upon giving of such notice and the Contract shall be considered canceled by mutual consent.

## **2.0 PROPOSAL SUBMISSION**

### **2.1 GENERAL**

By submitting a proposal, the Proposer represents that he/she understands and accepts the terms and conditions to be met and the character, quality, and scope of services to be provided. All proposals and associated forms shall be signed and dated in ink by a duly authorized representative for the Proposer.

### **2.2 SUBMITTAL REQUIREMENTS**

The original and five (5) copies of the Technical Proposal, and one (1) compact disk with an electronic version in pdf format with a resolution of 300 dots per inch (dpi), shall be submitted in a sealed envelope(s), identified as the Technical Proposal, and bearing on the outside the following:

Proposal For: EXECUTIVE SEARCH CONSULTANT SERVICES  
Contract No.: 001053  
Submitted To: CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
Submitted By: PROPOSER'S NAME  
                  PROPOSER'S ADDRESS  
                  CITY, STATE, ZIP CODE  
                  PROPOSER'S PHONE NUMBER

**PROPOSER'S CONTACT NUMBER AND E-MAIL ADDRESS  
DATE SUBMITTED**

An original and one (1) copy of the Price Proposal (Exhibit C) shall be submitted in a sealed envelope, separate from the Technical Proposal. The envelope shall be identified as the Price Proposal and shall include the same information on the outside as shown for the Technical Proposal. Price Proposals will be opened after evaluation of the Technical Proposals has been completed.

The contents of the Technical Proposals and Price Proposals will not be disclosed to the public until after the evaluation and final selection, at which time, under the Florida Public Records Act and the Florida Sunshine laws, materials submitted by a Proposer and the results of the Authority's evaluation will be available for public inspection. Proposers should take note of this as it relates to any proprietary information that might be included in the proposal package. The Authority assumes no liability for disclosure or use of data submitted in response to this RFP for any purpose and may consider that the proposal was not submitted in confidence and, therefore, can be released under the Florida Sunshine laws and the Freedom of Information Act (5 U.S.C. 522).

### **2.3 TIME AND PLACE OF SUBMITTAL**

The original and the required number of copies of the Technical Proposal and Price Proposal shall be submitted to:

Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: Claude Miller  
Director of Procurement

Proposals will be received until 1:30 p.m., Orlando local time, on August 11, 2014. Proposals delivered or received after that time and date will be marked as disqualified and will be set aside unopened until after the selection process is complete. Once the selection process has been completed these will be filed as rejected proposals because of a late submittal.

### **2.4 MODIFICATIONS, RE-SUBMITTAL AND WITHDRAWAL**

Proposers may modify previously submitted proposals at any time prior to the proposal due date. Requests for modification of a submitted proposal shall be in writing and shall be signed in the same manner as the proposal. Upon receipt and acceptance of such a request, the entire proposal will be returned to the Proposer and not considered unless resubmitted by the due date and time.

### **2.5 PROPOSAL REVIEW PROCESS**

An Evaluation Committee, hereinafter referred to as the Committee, will be established by the Authority to review and evaluate each Technical Proposal. The Committee will be comprised of at least four persons with background, experience, and/or professional credentials in the service area.

Each member of the Committee will receive a copy of each Technical Proposal and will base his/her evaluation of each proposal on the same criteria in order to assure that value is uniformly established. The Committee will evaluate each Technical Proposal on its own merit without comparison to other proposals submitted. The Committee will assign rating factors based upon the evaluation criteria identified herein.

### **3.0 PROPOSAL FORMAT**

#### **3.1 TECHNICAL PROPOSALS**

Proposals shall address each of the sections described below and how the Proposer intends to achieve the desired performance levels. The required information shall be clear, concise and understandable.

No cost information or prices shall be included in the Technical Proposal. Inclusion of cost information or prices in the Technical Proposal may be sufficient cause for rejection of the submittal. The Technical Proposal shall include the following sections:

A. Executive Summary

The Executive Summary shall be written in non-technical language to summarize the Proposer's overall capabilities and approaches for accomplishing the services specified herein. The Executive Summary shall be limited to no more than one (1) page.

B. Understanding and Approach

The Proposer shall demonstrate its understanding of the project objectives and shall discuss the means by which these objectives will be attained. Time required to complete the project including time frames required to complete each process and target dates for each phase/component shall be included.

The Proposer shall demonstrate the soundness and clarity of its approach to the attainment of project objectives presented in the Scope of Services, making specific references to work encompassed, including a discussion of potential difficulties and methods for solution and probable effectiveness of the approach with respect to objectives.

C. Experience of Firm and Ability of Staff

The Proposer shall demonstrate adequacy of experience of its firm and staff in projects of similar scope and requirements; proven ability of Proposer's staff to provide required services; time commitment of Proposer's staff to the project.



Proposer shall furnish resumes of Proposer's Project Recruiter and other key personnel presently employed by the Proposer who will be assigned to the project. Project Recruiter shall have a minimum of five (5) years' of specific experience in the services required by the Scope of Services. Other key personnel shall have a minimum of three (3) years of specific experience in the services required by the Scope of Services. The Proposer's staff shall be identified and past experience of each, as it specifically relates to services required, shall be discussed. Experience outlined shall include recruitment of senior executives in Government and/or the Transportation Industry.

The Proposer shall submit a staffing plan which clearly illustrates the key elements of the organizational structure proposed to accomplish the services required. Project management and key staff shall be identified and past experience of each, as it relates to this project, shall be discussed.

Details of specific experience for at least five (5) recruitments, similar to those described in the scope of services that have been completed by the Proposer within the last five (5) years including the name of client contact person, telephone number, physical address and a brief description of the compensation/classification services provided.

D. Organization and Management

The Proposer shall describe its organization and management policies and their application, to ensure accomplishment of the Project requirements. The Proposer shall describe the firm including the size, range of activities, etc. Particular emphasis should be given as to how the firm-wide experience and expertise in the areas addressed by this Request for Proposal will be brought to bear on the proposed work.

Provide the address of the office location that will service the account.

The Proposer shall provide a definition of responsibility and accountability for specific tasks and functions of key individuals within the Proposer's organization.

E. Required Attachments to Proposal

The Proposer shall submit with the Technical Proposal the completed Conflict/Non-Conflict of Interest Statement and Litigation Statement form, the completed Drug-Free Workforce form, and the completed Code of Ethics form

F. Presenting the Proposal

Type size shall not be less than 10 point for software generated proposals. The

and cover for the hard copy original will be at the Proposer's option. The Proposal shall be limited to ten (10) pages, single-sided, exclusive of the following:

- Cover Letter
- Front and back cover and divider sections
- Required forms to be completed
- Resumes
- Project List

It is recognized that existing documents or brochures, such as those that delineate the Proposer's general capabilities and past experience, may not comply with the prescribed format. It is not the intent to have these documents reformatted and they will be acceptable in their existing form.

### **3.2 INTERVIEW**

The three (3) firms with the highest point total after evaluation of the first three criteria in 4.2 below will be shortlisted and requested to sit for an interview with the Committee. The interview will last approximately 30 minutes. Shortlisted firms who fail to participate in the interview will be considered non-responsive and eliminated from further consideration by the Committee. More than 3 firms may be shortlisted at the Committee's option. If less than 3 firms submit responses, the Authority, at its sole discretion, may elect to continue the selection process or re-advertise the project.

The standing of the firms will not be disclosed by the Committee. During the interview, the Committee will ask questions that will assist the Committee in evaluating the technical capability of the Proposer and key staff to provide the desired services. No audio/visual presentations will be allowed.

Interviews are tentatively scheduled for August 20, 2014, at the Authority's office. Interviews may be conducted by teleconference if requested by the Proposer. Proposers will be notified by the Authority of the time that the Proposer will be required to appear. The order of the interviews will be determined alphabetically by company name.

## **4.0 PROPOSAL SCORING**

### **4.1 CRITERIA**

Submittals shall demonstrate the firm's understanding of the required services. The submittal shall be sufficiently detailed to enable the Committee to ascertain that the firm understands the requirements and is able to furnish services of the scope and complexity specified. Responses that are limited to a statement of "will comply" or a similar statement, which does not describe how each requirement will be met, will receive no technical credit. Responses which are merely a copy of the stated requirements are not desired and will receive no credit. Discussion of the firm's past experience that is not germane to the specified services should not be included.

## 4.2 SCORING BY THE COMMITTEE

### TECHNICAL PROPOSAL

<u>Criteria</u>	<u>Point Value</u>
1. Understanding and Approach	15
2. Experience of Firm and Ability of Staff	25
3. Organization and Management	25
4. Interview	<u>25</u>
Total Points	90

### PRICE PROPOSAL

<u>Criteria</u>	
1. Total Price	<u>10</u>

To be considered responsive to the requirements for the Price Proposal, all required cost items must be entered on the Price Proposal and the summation of these cost items will represent the Proposal amount.

The lowest responsive and responsible Price Proposal will receive the maximum of 10 points. The other Price Proposals will receive scores based on the following formula:  $\text{Low Price}/\text{Subject Price} \times 10 = \text{Score}$ . Example: If ABC, Inc., is the low price at \$100,000 and XYZ, Inc., has a price of \$110,000, the calculation would be:  $100,000/110,000 \times 10 = 9.09$  points for XYZ, Inc. ABC, Inc., would receive the full 10 points for being the low price.

TOTAL MAXIMUM POINTS 100

## 5.0 AWARD OF THE CONTRACT

The Authority intends to award the Contract to the responsible and responsive Proposer whose proposal is determined to be the most advantageous to the Authority taking into consideration the criteria stated herein.

### 5.1 PROTEST PROCEDURE

Any person who is adversely affected by: (i) the requirements or scope of services contained in this RFP, (ii) a notice of an intended decision, or (iii) a notice of decision or decisions by the Authority, and who wants to protest the requirements or scope of services, the intended decision or decisions must comply with the proper procedures in the Central Florida Expressway Authority's Procedure for Resolution of Protests, Rule Chapter 3-1. Failure to comply with Rule Chapter 3-1 shall



constitute a waiver of any protest proceedings. Rule Chapter 3-1 is available for review upon request at the Authority's Office, 4974 ORL Tower Road, Orlando, Florida. A protest bond in the amount of \$5,000.00 will be required to protest the RFP package and the requirements of the Scope of Services. A protest bond in the amount of \$5,000.00, or 1% of the lowest Price Proposal submitted, whichever is greater, will be required to protest a Notice of Intent to Award or Notice of Intent to Reject.

## **5.2 CONTRACT EXECUTION**

Following the protest period, the Authority and the successful Proposer will enter into a Contract establishing the obligations of both parties. The successful Proposer shall execute the Contract within 14 calendar days and return it to the Authority.

## **6.0 PUBLIC ENTITY CRIME INFORMATION STATEMENT**

The following provisions of Section 287.133 (2)(a), Florida Statutes, are applicable to this project:

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

## **7.0 CONFLICT/NON-CONFLICT OF INTEREST STATEMENT AND LITIGATION STATEMENT**

The Proposer shall complete and submit with the Technical Proposal the Conflict/Non-Conflict of Interest Statement and Litigation Statement form included at the end of this section. Failure to submit the completed form may result in rejection of the Proposal as non-responsive.

## **8.0 DRUG-FREE WORKPLACE POLICY**

The Proposer shall have a Drug Free Workplace Policy. A copy of the Drug-Free Workplace Form included at the end of this section shall be completed and submitted with the Technical Proposal. Failure to submit the completed form may result in rejection of the Proposal as non-responsive.

## **9.0 CODE OF ETHICS**

All firms selected to work with the Authority are required to comply with the Authority's Code of Ethics, a copy of which is available on the Authority's web site at [www.expresswayauthority.com](http://www.expresswayauthority.com). A copy of the Acknowledgement of Standard of Conduct and Code of Ethics Form included at the end of this section shall be completed and submitted with the Technical Proposal. Failure to submit the completed form may result in rejection of the Proposal as non-responsive.

## **10.0 EXHIBITS**

Attached exhibits are:

- A. Scope of Services
- B. Method of Compensation
- C. Price Proposal

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
EXECUTIVE SEARCH CONSULTANT  
CONTRACT NO. 001053**

**ACKNOWLEDGMENT OF STANDARD OF CONDUCT AND  
CODE OF ETHICS**

If awarded the Contract, the undersigned covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under the Contract, which standards will by reference be made a part of the Contract as though set forth in full. The undersigned agrees to incorporate the provisions of this requirement in any subcontract into which it might enter with reference to the work performed or services provided.

The undersigned further acknowledges that it has read the Authority's Code of Ethics and, to the extent applicable to the undersigned, agrees to abide with such policy.

\_\_\_\_\_  
Company Name

By: \_\_\_\_\_

Title: \_\_\_\_\_

(Note: Failure to execute and submit this form may be cause for rejection of the submittal as non-responsive.)

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
ACKNOWLEDGMENT OF ADDENDUM  
EXECUTIVE SEARCH CONSULTANT  
CONTRACT NO. 001053**

I (we) hereby acknowledge receipt of the following Addenda issued during the proposal period for the project:

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Proposer Initial \_\_\_\_\_  
Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Proposer Initial \_\_\_\_\_  
Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Proposer Initial \_\_\_\_\_  
Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Proposer Initial \_\_\_\_\_  
Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Proposer Initial \_\_\_\_\_

(Note: If addenda are issued, failure by the Proposer to submit this form with the Technical Proposal may be cause for rejection of the proposal as non-responsive.)



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**CONFLICT/NONCONFLICT OF INTEREST STATEMENT**

**CHECK ONE**

- ☐ To the best of our knowledge, the undersigned firm has no potential conflict of interest due to any other clients, contracts, or property interest for this project.

**OR**

- ☐ The undersigned firm, by attachment to this form, submits information which may be a potential conflict of interest due to other clients, contracts or property interest for this project.

**LITIGATION SUMMARY**

**PLEASE DISCLOSE AND PROVIDE A SHORT SUMMARY AND DISPOSITION OF ANY CIVIL LITIGATION IN FLORIDA INVOLVING THE FIRM AS A NAMED PARTY WITHIN THE LAST FIVE (5) YEARS.**

**ALSO DISCLOSE ANY ACTIONS AGAINST THE FIRM BY THE FLORIDA BAR, THE DEPARTMENT OF PROFESSIONAL REGULATION AND/OR ANY OTHER FEDERAL, STATE OR LOCAL REGULATORY AGENCY INCLUDING DISPOSITION OF SAME.**

**CHECK ONE**

- ☐ The undersigned firm has had no litigation or any projects in the last five (5) years.

**OR**

- ☐ The undersigned firm, **BY ATTACHMENT TO THIS FORM**, submits a summary and disposition of individual cases of litigation in Florida during the past five (5) years; and actions by any Federal, State, and local agency.

\_\_\_\_\_  
COMPANY NAME

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
NAME (PRINT OR TYPE)

\_\_\_\_\_  
TITLE

Failure to check the appropriate blocks above may result in disqualification of your proposal. Likewise, failure to provide documentation of a possible conflict of interest, or a summary of past litigation, may result in disqualification of your proposal.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
DRUG-FREE WORKPLACE FORM**

The undersigned, in accordance with Florida Statue 287.087 hereby certifies that

\_\_\_\_\_ does:

Name of Business

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

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

\_\_\_\_\_  
Proposer's Signature

\_\_\_\_\_  
Date

**EXHIBIT "A"**

**SCOPE OF SERVICES**

**EXECUTIVE SEARCH CONSULTANT**

The executive search consultant shall provide the following services as a minimum but not limited to:

1. Conduct a national search for highly qualified candidates for the position of Central Florida Expressway Authority Executive Director, including outreach to encourage qualified applicants to apply.
2. Assist the Authority in preparing and placing advertisements for the position in appropriate publications.
3. Send out and receive all application materials and documents.
4. Review resumes for education, experience and qualifications followed by telephone interviews to clarify each applicant's experience and to prepare a written summary of the most promising candidates.
5. Conduct educational and criminal background checks on the most qualified candidates.
6. Evaluate candidates for serious consideration by conducting in-depth reference checks with individuals who are or have been in a position to evaluate the candidate's performance on the job. Through these reference checks, ascertain the candidate's strength in relation to the job description prepared by the Authority.
7. Finalize a process with the Authority for interviews and coordinate candidate's participation in interviews.
8. Assist the Authority in developing a set of interview questions that reflect identified criteria and characteristics.
9. Notify rejected applicants.
10. Assist the Authority with contract negotiations with the top candidate.
11. Present updates in person to the Authority Board on a monthly basis.
12. If requested by the Authority, conduct an executive search for a Chief Financial Officer utilizing the scope of services herein at a negotiated fee.

**EXHIBIT "B"**  
**METHOD OF COMPENSATION**  
**EXECUTIVE SEARCH CONSULTANT**

**1.0 PURPOSE**

This document describes the limits and method of compensation to be made to the Consultant for the services set forth in the Scope of Services. The services shall be provided over the duration of the work specified in the Contract.

**2.0 COMPENSATION**

For the satisfactory completion of the services detailed in the Scope of Services, the Consultant will be paid at the rates shown in the Price Proposal for all work completed and accepted by the Authority.

**3.0 METHOD OF COMPENSATION**

- 3.1 Payment will be made to the Consultant not more than once monthly. The Consultant shall prepare and forward two (2) copies of each monthly invoice (in a format acceptable to the Authority) to the Authority's Deputy Executive Director of Finance and Administration. The invoice shall include a breakdown of the work performed by the Consultant to verify the amount being requested for payment.
- 3.2 The Authority does not guarantee that all of the services described in the Scope of Services will be assigned during the term of the Contract. Further, the Consultant is providing these services on a non-exclusive basis. The Authority, at its option, may elect to have any of the services set forth herein performed by other consultants or Authority staff.
- 3.3 Consultant shall receive and accept the compensation and payment provided in its Price Proposal and the Contract as full payment for all labor, materials, expenses (including local travel costs defined as within 50 miles of the Authority's Headquarters Building), supplies and incidentals required to be provided by the Consultant in the Scope of Services.
- 3.4 The Consultant shall promptly pay all subconsultants/subcontractors and suppliers their proportionate share of payments received from the Authority.
- 3.5 Invoices may be submitted via email to [billing@cfxway.com](mailto:billing@cfxway.com). Direct deposit of payment to the Consultant is available. If the Consultant elects to receive direct deposit of payments from the Authority, the Authority will provide the Consultant with the necessary Automatic Deposit Authorization Agreement form.

- 3.6 The Authority reserves the right to withhold payment or payments in whole or in part, and to continue to withhold any such payments for work not completed, completed unsatisfactorily, work that is behind schedule or work that is otherwise performed in an inadequate or untimely fashion as determined by the Authority or its designated representative. Any and all such payments previously withheld shall be released and paid to Consultant promptly when the work is subsequently satisfactorily performed. If any defined action, duty or service or part required by the Contract is not performed by the Consultant, the value of such action, duty or service or part thereof will be determined by the Authority and deducted from any invoice or monthly billing period claiming such items for payment. In order to expedite the review, processing, and delivery of each month's invoice to the Authority, the Deputy Executive Director of Finance and Administration, with the approval of the Consultant, may elect to apply any deducted amounts to the following month's invoice total.

#### 4.0 ADDITIONAL SERVICES

Additional services outside the scope of the Contract and the resulting compensation for such services shall be implemented by a written Supplemental Agreement in accordance with the Contract. Such work shall not be performed until a Supplemental Agreement has been executed by the Authority and the Consultant.

#### 5.0 PROJECT CLOSEOUT

Final Audit: The Consultant shall permit the Authority, at the Authority's option, to perform or have performed, an audit of the records of the Consultant and any or all subcontractors to support the compensation paid the Consultant. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the Consultant under the Contract are subsequently determined to have been inadvertently paid by the Authority because of accounting errors or charges not in conformity with the Contract, the Consultant agrees that such amounts are due to the Authority upon demand. Final payment to the Consultant shall be adjusted for audit results.

END OF SECTION



**Exhibit C**  
**PRICE PROPOSAL**  
**EXECUTIVE SEARCH CONSULTANT SERVICES**  
**CONTRACT NO. 001053**

The Proposer shall complete the attached pages filling in the required information as follows.

The Proposer shall insert its name, address, telephone number, and submittal date on page C-2.

The Proposer shall complete page C-3 as required by signing under the appropriate category.

The Proposer shall insert its rates for Executive Search Consultant services, and insert the Total Proposal Amount on page C-4. The rates shall include all labor, materials, equipment, expenses (including local travel costs defined as within 50 miles of the Authority's Headquarters Building) and incidentals to perform the work as detailed in the Scope of Services.

Proposals shall be submitted only on the forms included in this Exhibit C. Any Proposal in which these forms are not used or are improperly executed will be considered non-responsive and the Proposal will be subject to rejection.

The Proposer expressly acknowledges and agrees that its submittal of a Price Proposal constitutes an irrevocable offer to contract with the Authority, creating an agreement upon the Authority's acceptance of the Price Proposal as meeting the requirements of the Proposal Submittal Requirements.

An original and one (1) copy of this Price Proposal shall be submitted in a sealed envelope, separate from the Technical Proposal. The envelope shall be identified as the Price Proposal and shall include the same information on the outside as shown for the Technical Proposal. Only one copy of the Price Proposal is required to have "original" signatures and unit prices. The "original" Price Proposal shall be so marked. The remaining copy of the Price Proposal can be exact photocopies of the "original".

Price Proposals of shortlisted firms will be opened after evaluation of the Technical Proposals has been completed.

PRICE PROPOSAL  
**EXECUTIVE SEARCH CONSULTANT SERVICES**  
CONTRACT NO. 001053

PRICE PROPOSAL OF

---

(NAME)

---

(ADDRESS)

---

(TELEPHONE NUMBER)

Submitted \_\_\_\_\_

Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

We, the undersigned, hereby declare that no person or persons, firm or corporation, other than the undersigned, are interested in this Price Proposal as principals, and that this Price Proposal is made without collusion with any person, firm or corporation. We have carefully and to our full satisfaction examined the Scope of Services and Method of Compensation included in the RFP package. We have made a full examination of the location of the proposed work and the sources of supply of materials. We hereby agree to furnish all labor, equipment, and materials, as specified in the Scope of Services. We will fully complete all necessary work in accordance with the Scope of Services, Method of Compensation, and addenda, if any, and the requirements under them for the unit prices shown on the Price Proposal Sheet.

I (We), the undersigned, hereby certify that I (we) have carefully examined this Price Proposal after the same was completed, and have verified each item placed thereon; and I (we) agree to indemnify, defend, and hold harmless the Authority against any cost, damage, or expense which it may incur or be caused by any error in my (our) preparation of same.

CORPORATION:

\_\_\_\_\_  
Principal (Proposer)

By: \_\_\_\_\_  
President or Vice President

Attest: \_\_\_\_\_  
Secretary or Assistant Secretary  
(Affix  
Corporate  
Seal)

INDIVIDUAL OR FIRM TRADING AS:

\_\_\_\_\_  
Principal (Proposer)

Signature: \_\_\_\_\_  
Individual or Owner

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

PARTNERSHIP:

\_\_\_\_\_  
Principal (Proposer)

Signature: (1) Co-Partner or General Partner

Signature: (2) Co-Partner or General Partner

Witness: (1) \_\_\_\_\_

Witness: (1) \_\_\_\_\_

Witness: (2) \_\_\_\_\_

Witness: (2) \_\_\_\_\_

(If Partnership, list names and addresses of each partner on separate sheet and attach.)

**EXHIBIT "C"**  
**EXECUTIVE SEARCH CONSULTANT**  
**PRICE PROPOSAL SHEET**

<u>Services</u>	<u>Price*</u>
A. Preliminary Services	\$ _____
Includes the cost to provide items 1, 2 and 3 in the Scope of Services.	
B. Screening Services	\$ _____
Includes the cost to provide items 4, 5 and 6 in the Scope of Services.	
C. Interview Services	\$ _____
Includes the cost to provide items 7 and 8 in the Scope of Services.	
D. Post-Interview Services	\$ _____
Includes the cost to provide items 9 and 10 in the Scope of Services	
E. Monthly Updates	\$ _____
Includes the cost to provide item 11 in the Scope of Services (Based on four (4) meetings)	
Total Price Proposal Amount	\$ _____

\*Price shall include all labor, materials, equipment, incidentals and expenses necessary to perform the work as detailed in the Scope of Services. (All travel must be pre-approved by the Authority and will be reimbursed in accordance with Florida State Statute 112.061. Travel expenses incurred by candidates, if any, will be paid separately by the Authority and shall not be included in the Price Proposal.)

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

<b>TO:</b>	All Planholders of Record
<b>FROM:</b>	Claude Miller, Director of Procurement
<b>DATE:</b>	August 7, 2014
<b>SUBJECT:</b>	RFP-001053, EXECUTIVE SEARCH CONSULTANT – Addendum No. 1

This Addendum forms a part of the Contract Documents and modifies the original proposal documents dated July 2014, as noted below. Acknowledge receipt of this Addendum in the space provided on the Proposal form. Failure to do so may subject the proposer to disqualification. This Addendum consists of 1 page and the following attachment: CFX Executive Director Position Description.

## **RESPONSE TO QUESTION RECEIVED**

- I. The following questions were received from a potential proposer of record. The Authority's response follows the questions.

**Q001: Is a position description available for the role of Executive Director? Are the role requirements and candidate background requirements listed anywhere?**

- R: Yes, see attached position description. This position description is currently being reviewed and updated. The updated version will be available prior to the beginning of the executive search.

END OF ADDENDUM NO. 1



## **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

DATE: February 8, 2010 (Revised February 22, 2012)

POSITION: Executive Director

DEPARTMENT: Executive

### **JOB SUMMARY**

The Executive Director is the chief administrative and technical officer of the Agency and reports directly to the Authority Board. The Executive Director oversees all of the activities of the Agency and shall:

1. Provide the most convenient, safest and economical expressway possible with the limited resources allocated;
2. Establish and maintain effective communications with customers, Board members, employees, consultants and coordinating agencies;
3. Complete approved plans, programs and contracts as scheduled and budgeted;
4. Maximize benefits from funds expended; and
5. Fully implement the policies, systems, standards, and specifications adopted by the Authority.

### **PRINCIPAL DUTIES AND RESPONSIBILITIES**

1. Identify policy and planning issues and make recommendations for Board consideration.
2. Prepare and recommend programs and finance plans for expressway expansions and improvements.
3. Prepare and recommend programs and budgets for the operation and maintenance of existing facilities.
4. Direct and control Authority operations in accordance with approved policies, plans, programs and budgets.
5. Prepare and distribute periodic status reports comparing planned and actual accomplishments to the Board.
6. Report problems and corrective actions taken to the Board.
7. Provide public information programs to communicate expressway activities to customers.
8. Establish and maintain communication and coordination with appropriate local, state and federal agencies.
9. Provide employees with work plans, programs, budgets, and contracts.
10. Provide staff with timely decisions on policy, program and budget matters.
11. Provide adequate descriptions of staff responsibilities, authorities and scope of operations.
12. Approve contracts within the limits established by the Procurement Policy.
13. Provide the facilities and equipment needed for the effective day-to-day operation of the Authority's business.

### **MINIMUM EDUCATION, CERTIFICATION AND EXPERIENCE REQUIREMENTS**

Education: Graduation from an accredited college or university with a Bachelor's Degree is required.

Experience: The Executive Director must have at least eight (8) years of experience in the effective financial and operational management of a highway system which experience preferably includes oversight of most or all of the following areas, planning, design, construction, maintenance, operations

and toll roads operations. This experience should include managing services provided directly by Authority employees as well as by employees of contractors.

**REQUIRED SPECIAL STRENGTHS**

- Proven executive level manager with a strength in finance (both capital and operations),
- Critical path project management,
- Effective operations and project management with both direct employees and consultants,
- An effective agent on behalf of the Authority with a variety of critical stakeholders including other governmental agencies, businesses, community leaders, customers and the media,
- Politically astute and sensitive,
- A visionary who is creative, innovative and proactive,
- A strong customer focus,
- Impeccable professional and personal ethics with a commitment to full transparency,
- Excellent verbal and written communications skills, including public speaking,
- A skillful negotiator.

**License or Certificate:** None required, however, a license by the State of Florida as a Professional Engineer would be a plus.

Required to provide and maintain proof of a valid Florida's driver's license and car insurance

**TECHNICAL PROPOSALS  
FOR  
EXECUTIVE SEARCH CONSULTANT**

**CONTRACT 001053**

**DUE: AUGUST 11, 2014**

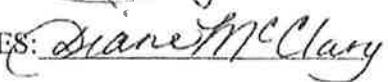
**COMPANY NAME**

1.	Colin, BAENZIGER & Associates
2.	HARRIS, RAND & LUSK
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	

OPENED BY:



WITNESSES:



DATE:

8-11-14

TIME:

1:50

**Note for the File**

At the July 10<sup>th</sup> CFX Board meeting, Deputy Executive Director, Laura Kelley, briefed the board on identifying an Executive Search Consultant to assist in the recruitment of an Executive Director. A verbal authorization was provided by the Board to move forward with the process of hiring an Executive Search Consultant.

Robert Johnson

Manager of Procurement

### **Note for the File (2)**

August 11, 2014

CFX Procurement department received two (2) proposals today; Colin Baenzigier & Associates, and Harris, Rand & Lusk in response to the solicitation for Executive Search Consultant Services; RFP-001053.

The solicitation was advertised in the Orlando Sentinel on July 27, 2014. The notification was also provided to all CFX procurement notification subscribers (approx. 600). Two of the procurement notification subscribers; Vendorlink and Prime Vendor, also became planholders of this solicitation. The significance of these two subscribers as planholders is that they are 3<sup>rd</sup> party providers utilized for the promulgation of solicitations to their subscribers.

Additionally, I sent out emails on July 25, 2014, notifying the following firms of the upcoming solicitation. These firms were obtained from Bloomberg/Business Week list of the world's most influential headhunters:

Russell, Reynolds Associates  
Jay Gaines  
Crist Associates  
Korn/Ferry International  
Savoy Partners  
White, Roberts & Stratton

Upon the solicitation closing there were a total of 28 planholders.

As per the CFX procurement procedures manual, acting on behalf of the Procurement Director, I spoke with Deputy Executive Director, Laura Kelley and informed her that we had only received two (2) proposals.

A cancellation of the solicitation and rebidding for the purposes of obtaining further solicitations for this service would likely have a negative effect as this solicitation was initially solicited as a RFQ which two (2) responses were received. This RFP solicitation garnered a new proposer and one from the initial RFQ. The second respondent to the RFQ; 4Corners, chose not to submit a proposal for the RFP.

Based upon the wide spread notifications issued for this solicitation, the size of the services being requested, the monetary amount, and the need to fill the Executive Director position as quickly as the Board deems appropriate, I recommend the RFP continue with the evaluation and recommendation to the Board.

Deputy Executive Director, Laura Kelley concurred.

Robert Johnson  
Manager of Procurement



**Note for the File (3)**

August 15, 2014

CFX Procurement department received two (2) proposals on August 11, 2014; Colin Baenzigier & Associates, and Harris, Rand & Lusk in response to the solicitation for Executive Search Consultant Services; RFP-001053.

Based on two (2) proposers submitting, and the policy requirement of shortlisting both firms, the shortlisting meeting scheduled for today will not be required.

Committee members will present their scores at the interview / evaluation meeting to be held August 20, 2014 commencing at 9:00a.m.

Robert Johnson  
Manager of Procurement

### **RFP-001053 Committee Meeting August 20, 2014 Minutes**

Evaluation Committee for **Executive Search Firm; Contract No. 001053**, held a duly noticed meeting on Wednesday, August 20, 2014, commencing at 10:00A.M. in the Pelican Conference Room at the CFX Administrative Bldg., Orlando, Florida.

#### **Committee Members Present:**

Laura Kelley, Deputy Executive Director of Finance and Administration  
Joe Berenis, Deputy Executive Director of Engineering, Operations, Construction & Maintenance  
Joe Passiatore, General Counsel  
Mimi Mederos-Lamaute, Paralegal

#### **Other Attendees:**

Robert Johnson, Manager of Procurement

#### **Discussion**

Robert commenced the meeting collecting the Evaluation Committee Member Disclosure forms that the Committee members received and executed. Robert continued explaining the RFP process and the purpose of today's meeting was to conduct an evaluation of the technical proposals, interviews, evaluate the price proposals, and make a final recommendation.

General discussion ensued about the proposal submittals. Upon completion of the discussion, Committee members submitted their individual evaluation sheets for input into the final summary scoring sheet with the following results:

<b><u>Firm</u></b>	<b><u>Score</u></b>
Colin Baenziger & Associate	59.50
Harris Rand Lusk	60.25

#### **Interviews:**

Robert commenced each of interviews with an outline of the interview process. Robert stated the interview portion of the meeting is closed to the public and is being recorded in accordance with Florida Statute. Laura Kelley provided an overview of Central Florida Expressway Authority (CFX) prior to each interview.

Colin Baenziger & Associate	10:23 – 10:52 a.m.
Harris Rand Lusk	11:03 – 11:33 a.m.

Upon completion of the last interview the recorder was stopped and the meeting was considered no longer closed to the public.

#### **Evaluation Portion:**

The committee members were given the opportunity to discuss the technical and interviews prior to submitting their evaluation forms. At 11:40 a.m., the committee members individually scored the interviews and submitted them to Robert for tallying. Robert Johnson tallied the score sheets

utilizing the raw scores assigned by each committee member and averaged the raw scores for each Proposal received. Attached are the individual score results.


**Pricing, Total Points and Rankings**

Upon completion of the evaluation of the technical portion, Robert opened the pricing proposals and scored the pricing proposals in accordance with the RFP requirements. See attached final summary sheet for pricing, total points and ranking results.

The Committee recommends the Board approve ranking and recommend award of the Agreement to the top ranked Proposer, Colin Baenziger & Associate.

There being no further business to come before the Committee, the meeting was adjourned at 11:52a.m. These minutes are considered to be the official minutes of the interview, opening of the Price Proposals and final evaluation by the Evaluation Committee at its meeting held Wednesday, August 20, 2014.

Submitted by:

  
Robert Johnson, Manager of Procurement

On behalf of the Evaluation Committee these minutes have been review and approved by:

  
Laura Kelley, Deputy Executive Director of Administration and Finance

**Note for the File (4)**

August 20, 2014

Upon opening and reviewing the Price proposal for Harris, Rand & Lusk, their price proposal was found to be submitted with flat fee's based on Executive salary ranges.

Joe Passiatore recommended we go ahead and utilize the applicable flat fee for scoring purposes.

Important to note that no matter which of the three (3) flat fees used, the final outcome would remain the same.

Accepting this price proposal as a minor irregularity or rejecting their bid due to a major irregularity, would not have affected the outcome.

Robert Johnson  
Manager of Procurement





ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

TECHNICAL AND PRICE PROPOSAL INDIVIDUAL SCORING

EXECUTIVE SEARCH CONSULTANT SERVICES, RFP-01053

Colon Baezinger & Associates	Laura Kelley	Joe Berenis	Joe Passiatore	Mimi Mederos-Lamaute
Understanding and Approach (15 points max.)	10	15	15	10
Experience of Firm and Ability of Staff (25 points max.)	20	25	25	23
Organization and Management (25 points max.)	25	25	23	23
Interview (25 points max.)	25	20	24	25
Total (Not to exceed 90)	80	85	86	81

Harris Rand Lusk	Laura Kelley	Joe Berenis	Joe Passiatore	Mimi Mederos-Lamaute
Understanding and Approach (15 points max.)	13	15	15	12
Experience of Firm and Ability of Staff (25 points max.)	25	25	25	22
Organization and Management (25 points max.)	25	20	22	24
Interview (25 points max.)	25	25	20	25
Total (Not to exceed 90)	88	85	80	83

 Wednesday, August 20, 2014  
 Wednesday, August 20, 2014  
 Wednesday, August 20, 2014  
 Wednesday, August 20, 2014

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
 TECHNICAL AND PRICE PROPOSAL SCORING SUMMARY  
 EXECUTIVE SEARCH CONSULTANT SERVICES, RFP-01053

EVALUATOR	Colin Baetzinger & Associates		Harris Rand Lusk		PRICE	TECHNICAL	PRICE	TECHNICAL	PRICE	TECHNICAL	PRICE
	TECHNICAL	PRICE	TECHNICAL	PRICE							
Laura Kelley	80		88								
Joe Beranis	85		85								
Joe Passalungra	86		80								
Mimi Mederos-Lamouche	81		83								
TOTAL	332		336								
AVG. TECH. POINTS	83.00		84.00								

PRICE PROPOSAL SUMMARY					
PROPOSER	PROPOSAL AMOUNT	POINT VALUE			
Colin Baetzinger & Associates	\$26,000.00	10.00			
Harris Rand Lusk	\$55,000.00	4.73			

POINT TOTALS AND FINAL RANKING					
PROPOSER	TECHNICAL POINTS	PRICE POINTS	TOTAL POINTS	FINAL RANKING	
Colin Baetzinger & Associates	83.00	10.00	93.00	1	
Harris Rand Lusk	84.00	4.73	88.73	2	

Committee Members:

*M. L. Mante* Wednesday, August 20, 2014

*J. P. P. P.* Wednesday, August 20, 2014

*J. B. B.* Wednesday, August 20, 2014

*J. B. B.* Wednesday, August 20, 2014



**Disclosure Form for Evaluation Committee Members**

For this purpose, the term "relative" includes the following: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister or any person having the same legal residence as the employee.

The term "principal" means anyone who shares in the profits of the entity or whose compensation might vary based on the award or performance of the project.

The term "employed by" includes any receipt of compensation for services.

"May submit a proposal," means planning to submit, or considering submission. If you don't know, ask.

Persons serving on a selection committee in a solicitation process should be able to answer all the following questions in the negative. If the answer is affirmative, please explain below:

- |   | Yes                      | No                                  |
|---|--------------------------|-------------------------------------|
| 1. Are you, your spouse, child or anyone living in your household currently Employed by any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Are you, or any relative, an officer, director, principal, or project team participant of, any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Do you, or does any relative, own more than 5% of any entity that may submit a proposal?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Within the preceding 12 months have you, your spouse, child or anyone living in your household been offered employment or future employment or, had any discussion involving future employment with any entity that may submit a proposal? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. Within the preceding 12 months, have you, your spouse, child or anyone living in your household accepted a gift valued at over \$100 from any entity, or a principal of any entity that may submit a proposal?                             | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Could the award of this contract result in any pecuniary gain to you, any relative, any business associate, or any entity that has employed or retained you within the past 12 months?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Do you know of any reason that would impact your impartiality with respect to this solicitation?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If you answer yes to any of these questions, please explain below

Additional comments \_\_\_\_\_

If the answer to any of the foregoing questions is "yes," then your participation on the selection committee must be approved by the Executive Director after a review of all relevant facts.

I, Joseph L. Cassiatare, hereby certify that I have read and understand the Central Florida Expressway Authority Ethics Policy and I agree to be bound by the applicable laws and policies.

(Name)

Joseph L. Cassiatare  
(Signature)

**Disclosure Form for Evaluation Committee Members**

For this purpose, the term "relative" includes the following: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister or any person having the same legal residence as the employee.

The term "principal" means anyone who shares in the profits of the entity or whose compensation might vary based on the award or performance of the project.

The term "employed by" includes any receipt of compensation for services.

"May submit a proposal," means planning to submit, or considering submission. If you don't know, ask.

Persons serving on a selection committee in a solicitation process should be able to answer all the following questions in the negative. If the answer is affirmative, please explain below:

- |   | Yes                      | No                                  |
|---|--------------------------|-------------------------------------|
| 1. Are you, your spouse, child or anyone living in your household currently Employed by any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Are you, or any relative, an officer, director, principal, or project team participant of, any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Do you, or does any relative, own more than 5% of any entity that may submit a proposal?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Within the preceding 12 months have you, your spouse, child or anyone living in your household been offered employment or future employment or, had any discussion involving future employment with any entity that may submit a proposal? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. Within the preceding 12 months, have you, your spouse, child or anyone living in your household accepted a gift valued at over \$100 from any entity, or a principal of any entity that may submit a proposal?                             | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Could the award of this contract result in any pecuniary gain to you, any relative, any business associate, or any entity that has employed or retained you within the past 12 months?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Do you know of any reason that would impact your impartiality with respect to this solicitation?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If you answer yes to any of these questions, please explain below

Additional comments \_\_\_\_\_

If the answer to any of the foregoing questions is "yes," then your participation on the selection committee must be approved by the Executive Director after a review of all relevant facts.

I, J. A. Berenis, hereby certify that I have read and understand the Central Florida  
(Name)

Expressway Authority Ethics Policy and I agree to be bound by the applicable laws and policies.

J. A. Berenis  
(Signature)

**Disclosure Form for Evaluation Committee Members**

For this purpose, the term "relative" includes the following: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister or any person having the same legal residence as the employee.

The term "principal" means anyone who shares in the profits of the entity or whose compensation might vary based on the award or performance of the project.

The term "employed by" includes any receipt of compensation for services.

"May submit a proposal," means planning to submit, or considering submission. If you don't know, ask.

Persons serving on a selection committee in a solicitation process should be able to answer all the following questions in the negative. If the answer is affirmative, please explain below:

- |   | Yes                      | No                                  |
|---|--------------------------|-------------------------------------|
| 1. Are you, your spouse, child or anyone living in your household currently Employed by any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Are you, or any relative, an officer, director, principal, or project team participant of, any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Do you, or does any relative, own more than 5% of any entity that may submit a proposal?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Within the preceding 12 months have you, your spouse, child or anyone living in your household been offered employment or future employment or, had any discussion involving future employment with any entity that may submit a proposal? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. Within the preceding 12 months, have you, your spouse, child or anyone living in your household accepted a gift valued at over \$100 from any entity, or a principal of any entity that may submit a proposal?                             | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Could the award of this contract result in any pecuniary gain to you, any relative, any business associate, or any entity that has employed or retained you within the past 12 months?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Do you know of any reason that would impact your impartiality with respect to this solicitation?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

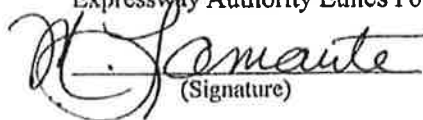
If you answer yes to any of these questions, please explain below

Additional comments \_\_\_\_\_

If the answer to any of the foregoing questions is "yes," then your participation on the selection committee must be approved by the Executive Director after a review of all relevant facts.

I, Nini Lamante, hereby certify that I have read and understand the Central Florida  
(Name)

Expressway Authority Ethics Policy and I agree to be bound by the applicable laws and policies.

  
(Signature)

**Disclosure Form for Evaluation Committee Members**

For this purpose, the term "relative" includes the following: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister or any person having the same legal residence as the employee.

The term "principal" means anyone who shares in the profits of the entity or whose compensation might vary based on the award or performance of the project.

The term "employed by" includes any receipt of compensation for services.

"May submit a proposal," means planning to submit, or considering submission. If you don't know, ask.

Persons serving on a selection committee in a solicitation process should be able to answer all the following questions in the negative. If the answer is affirmative, please explain below:

- |   | Yes                      | No                                  |
|---|--------------------------|-------------------------------------|
| 1. Are you, your spouse, child or anyone living in your household currently Employed by any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Are you, or any relative, an officer, director, principal, or project team participant of, any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Do you, or does any relative, own more than 5% of any entity that may submit a proposal?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Within the preceding 12 months have you, your spouse, child or anyone living in your household been offered employment or future employment or, had any discussion involving future employment with any entity that may submit a proposal? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. Within the preceding 12 months, have you, your spouse, child or anyone living in your household accepted a gift valued at over \$100 from any entity, or a principal of any entity that may submit a proposal?                             | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Could the award of this contract result in any pecuniary gain to you, any relative, any business associate, or any entity that has employed or retained you within the past 12 months?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Do you know of any reason that would impact your impartiality with respect to this solicitation?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If you answer yes to any of these questions, please explain below  
Additional comments \_\_\_\_\_

If the answer to any of the foregoing questions is "yes," then your participation on the selection committee must be approved by the Executive Director after a review of all relevant facts.

I, Laura Kelley, hereby certify that I have read and understand the Orlando-Orange County Expressway Authority Ethics Policy and I agree to be bound by the applicable laws and policies.

(Signature)

# Interview - Harris, Rand & Lusk

**Project Title: Executive Search Consultant Services**  
**Contract #001053**

**Date: August 20, 2014**  
**Time: 11:00 am - 11:30 am**  
**Pelican Conference Room**

[illegible]

**Interview - Colin Baenziger & Associates**

**Project Title: Executive Search Consultant Services**  
**Contract #001053**

**Date: August 20, 2014**  
**Time: 10:15 am - 10:45 am**  
**Pelican Conference Room**

[illegible]

(Contract form currently under review by General Counsel.)

## SERVICES CONTRACT

THIS CONTRACT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014 by and between the Central Florida Expressway Authority, Florida (herein after, the "**AUTHORITY**"), and **COLIN BAENZIGER & ASSOCIATES**, doing business as a CONTRACTOR, hereinafter the "**CONTRACTOR**" OR '**CB&A**'.

WITNESSETH: For and in consideration of the payments and agreements mentioned hereinafter:

1. The CONTRACTOR will provide EXECUTIVE SEARCH SERVICES FOR THE SELECTION OF THE EXECUTIVE DIRECTOR in accordance with the Contract Documents.
2. The CONTRACTOR will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the completion of the services described in the Contract Documents. Time is of the essence in the performance of this Contract.
3. The CONTRACTOR will commence work as required by the CONTRACT DOCUMENTS within 10 calendar days after the receipt of the written Notice to Proceed and will complete the same in 120 days unless an extension is granted by Authority
4. **SCOPE OF SERVICES:** The services to be performed will include but not be limited to the following:
  - a. Assist the Authority to develop a strategy and process for carrying out the recruitment of a Executive Director, including outreach to encourage applicants from diverse backgrounds to apply.
  - b. Identify potential contacts and conduct personal outreach recruiting to include posting the position through national channels. Preparing and placing advertisements for the position in appropriate publications
  - c. Review resumes for background and qualifications followed by telephone and/or video interviews to clarify each applicant's experience and to prepare a written summary of candidates with the most promising qualifications for the position.
  - d. Evaluate candidates for serious consideration by conducting in depth reference checks with individuals who are or have been in a position to evaluate the candidate's performance on the job. Through these reference checks, ascertain the candidate's strength in personal dimensions identified by the job description as well as the contractor's interviews with stakeholders.
  - e. Finalize and participate in a process with the Authority for interviews and coordinate candidates' participation in interviews.
  - f. Debrief with the Authority following interviews and identify additional candidates if necessary.
  - g. Verify selected candidates' educational background, and conduct criminal, financial, media and civil litigation checks.



- h. In the event politically sensitive or potentially embarrassing issues arise from the candidates' background, conduct in-depth interviews with the principle parties to clarify and to provide adequate background and explanation of the event to the Authority.
- i. Notify rejected applicants.

The Scope of Services set forth in Contractor's Proposal is attached as Attachment A and made a part of Contract Documents and is incorporated as if fully set forth herein.

- 5. The Contractor **agrees** to perform all of the work described in the contractor's documents for the following prices:

Phase I: Needs Analysis / Information Gathering	\$4,000
Phase II: Recruiting	\$10,000
Phase III: Full Background Checks	\$9,000
Phase IV: Interview Process Coordination / Director Selection	\$1,500
Phase V: Negotiation and Continuing Assistance	\$1,500
Total	\$26,000

Cost of each phase is inclusive of all the Contractor's expenses and costs.

Additional services outside Phase I - V will be charged at \$125 per hour. No such services are anticipated and none will be performed without prior approval from the Authority.

- 6. **WARRANTY:** Provided the Contractor conducts the full search (Phases I-V – see the preceding section, Section 5) and the Authority selects from among the candidates recommended by the Contractor, the Contractor will warrant the following:
  - a. The Contractor will not approach the selected candidate concerning any other position as long as the individual is employed by the Authority
  - b. If the selected individual leaves for any reason other than an act of God (for example, total incapacitation or death) within the first year, Contractor will repeat the search at no charge. If selected individual departs during the second year for any reason other than an act of God, Contractor will repeat the search for the reimbursement of expenses only.
  - c. If Authority is not satisfied with any of the candidates Contractor presents, Contractor will repeat the search until the Authority is satisfied.
  - d. The price is guaranteed and will be not be exceeded for any reasons, even if conditions change after the contract is executed.

Should the Authority desire to have the warranty for the selected candidate, it must notify the CONTRACTOR prior to the selected candidate beginning work for the Authority.

- 7. This Contract **may be terminated** by the Authority for its convenience upon thirty (30) days prior written notice to the Contractor. In the event of termination, the Contractor shall be paid as compensation in full for work performed to the day of such termination, an amount prorated in accordance with the work substantially performed under this Contract as determined by the Authority. Such amount shall be paid by the Authority after inspection of the work to determine the extent of performance under this Contract, whether completed or in progress.
- 8. The Term "**Contract Documents**" shall include this Contract, the Contractor's formal presentation submitted to the Authority (included as Attachment A) and the Project Schedule

(included as Attachment B). In the event of conflict between any provision of any other document referenced herein as part of the contract and this Contract, the terms of this Contract shall control.

9. **Assignment:** This Contract may not be assigned except with the written consent of the Authority, and if so assigned, shall extend and be binding upon the successors and assigns of the Contractor.
10. **Disclosure:** The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or Contractor, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or other compensation contingent upon or resulting from the award or making of the Contract.
11. **Administration of Contract:** The \_\_\_\_\_ shall administer this Contract for the Authority.
12. **Governing Law:** The validity, construction and effect of this Contract shall be governed by the laws of the state wherein the Authority is located. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in the county where the client is located. In the event of any litigation arising out of this Contract, the prevailing party shall be entitled to recover from the non-prevailing party reasonable costs and attorney's fees.
13. **Amendments:** No Amendments or variation of the terms or conditions of this Contract shall be valid unless in writing and signed by the parties.
14. **Payments:** Authority shall make payment within ten (10) days of the Authority's receipt of an invoice from the Contractor unless, within the Authority notifies Contractor in writing of its objection to the amount of such invoice, together with Authority's determination of the proper amount of such invoice. The Parties shall resolve undertake to resolve any disputed portion of such invoice within such thirty (30) day period. If after thirty (30) days there is no resolution between the parties, the Authority's determination shall be final.
15. **Contractor's Representations:** In order to induce Authority to enter into the Contract, the Contractor represents that it has demonstrated knowledge and experiences in the performing executive searches for key personnel for local governments.
16. **Indemnity:** To the extent permitted by law, the Contractor shall indemnify and hold harmless the Authority, 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 any persons employed or utilized by Contractor in the performance of this Contract.
17. **Invalid Provision:** The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
18. **Project Records:** The Contractor shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting

principles, and the Authority reserves the right to determine the record-keeping method in the event of non-conformity. These records shall be maintained for five (5) years after final payment has been made, and shall be readily available to Authority personnel with reasonable notice, and to other persons in accordance with the applicable state statutes.

19. **Insurance:** Unless otherwise specified, Contractor shall, at its own expense, carry and maintain the following minimum insurance coverage, as well as any insurance coverage required by law:
- a. These insurance requirements shall not limit the liability of the Contractor. The Authority does not represent these types or amounts of insurance to be sufficient or adequate to protect the Contractor's interests or liabilities, but are merely minimums.
  - b. Except for professional liability, the Contractor's insurance policies shall be endorsed to name the Authority as an additional insured to the extent of the Authority's interests arising from this Contract.
  - c. The Contractor waives its rights of recovery against the Authority, to the extent permitted by its insurance policies. The Contractor's deductibles/self-insured retention shall be disclosed and may be disapproved by the Authority. They shall be reduced or eliminated at the option of the Authority. The Contractor is responsible for the amount of any deductible or self-insured retention.
  - d. The Authority recognizes that under Florida law the Contractor is not required to carry Workers' Compensation Insurance since it has less than three employees.
  - e. Broad Form Commercial General Liability Insurance (on an occurrence basis), with a minimum combined single limit for Bodily Injury, including Death of \$1,000,000 per occurrence and for Property Damage of at least \$1,000,000 per occurrence.
  - f. Business Auto Liability Insurance with minimum Bodily Injury and Death Limit per accident of \$1,000,000 and a minimum Property Damage Limit per accident of \$1,000,000.
  - g. Within ten days of commencing any Work under this Agreement, Contractor shall submit a Authority certificate or certificates of insurance evidencing that such benefits have been provided, and that such insurance is being carried and maintained. Such certificates shall stipulate that the insurance will not be cancelled or materially changed without thirty (30) days prior written notice by certified mail to Authority, and shall also specify the date such benefits and insurance expire. Contractor agrees that such benefits shall be provided and such insurance carried and maintained until the Work has been completed and accepted by Authority.
  - h. Such benefits and such coverage as are required herein, or in any other document to be considered a part hereof, shall not be deemed to limit Contractor's liability under this Agreement.
20. **Unauthorized Aliens:** The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any

contract resulting from this solicitation. This applies to any sub-contractors used by the Contractor as well.

21. **Entire Agreement:** This Contract and Contract Documents constitute the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed, by their duly authorized officials this Contract in **two** counterparts which shall be deemed an original on the date last signed as below written:

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY, FL**

Signature:

\_\_\_\_\_


Typed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

**CONTRACTOR:** Colin Baenziger & Associates

Signature:

\_\_\_\_\_

Typed Name: Colin Baenziger

Date: August 25, 2014

Title: Owner and Principal

## **CONSENT AGENDA ITEM**


**#2**



*Founded 1910*

MEMORANDUM

TO: Members of the Board  
Central Florida Expressway Authority

FROM: Issuer's Counsel  
Shutts & Bowen LLP 

DATE: August 25, 2014

RE: Memorandum of Agreement with the Florida Department of Transportation and the Florida Department of Financial Services Providing for the Central Florida Expressway Authority's \$230,000,000 Contribution to the Interstate-4/State Road 408 Interchange Project to be held in an Interest-Bearing Escrow Account

The Board of the Orlando-Orange County Expressway Authority ("OOCEA" or "Authority"), on August 29, 2012, passed a motion to appropriate \$230,000,000 as its funding contribution to the I-4/S.R. 408 Interchange Project, with a payment schedule of: \$75,000,000 in July 2017, \$75,000,000 in July 2018 and \$80,000,000 in July 2019.

Management and legal counsel for OOCEA and the Florida Department of Transportation ("FDOT") negotiated an Interlocal Agreement to memorialize the terms and conditions for the \$230,000,000 funding contribution. The Interlocal Agreement, attached hereto as Attachment 2, was approved by the OOCEA Board on June 9, 2014, and entered into by the parties on June 16, 2014. Some of the key elements of that Interlocal Agreement included: (1) FDOT's certification that the estimated remaining cost of constructing OOCEA's portion of the I-4/S.R. 408 Interchange Project exceeds the \$230,000,000 in contribution payments; (2) FDOT's agreement to share with the Authority ten percent of the availability payment savings, if any, realized from the awarded Concession Agreement on the I-4 Ultimate Project over a projected 35-year period; (3) the Authority not being responsible for, nor FDOT being allowed to request, additional funding contributions for any costs of the I-4/S.R. 408 Interchange Project or the I-4 Ultimate Project, including change orders or other cost overruns, (4) the Authority agreement to include the contribution payments in the current and all future annually adopted Five-Year Work Plans until all contribution payments have been made.

Pursuant to the Interlocal Agreement, the contribution payments by the Authority are to be made directly to the State of Florida, Department of Financial Services, Division of Treasury ("DFS") for deposit into an interest bearing escrow account under which DFS will hold the funds and disburse them to FDOT as directed. FDOT and the Authority agreed to negotiate in good faith the terms of a mutually agreeable Memorandum of Agreement to be entered into with DFS for the establishment of the interest bearing escrow account and its responsibilities as escrow agent.

Memorandum to CFX Board

August 25, 2014

Page 2

The parties have negotiated the form of the Memorandum of Agreement ("MOA") attached hereto as Attachment 1. The MOA provides: for the establishment of an interest bearing escrow account with DFS; that FDOT's comptroller is the sole signatory on the account and will provide instructions to DFS for withdrawals in accordance with the terms of the Interlocal Agreement; that the account will be invested in accordance with Section 17.61(1), Florida Statutes; that the investments will be assessed a fee in accordance with Section 17.61(4)(b), Florida Statutes; that all interest will accumulate to the account for the purposes the I-4/S.R. 408 Interchange Project; if there is a deficiency in the account for purposes of making any refund to the Authority of any contribution payments in accordance with the Interlocal Agreement, which deficiency resulted from fees assessed by DFS, that FDOT is responsible for covering the difference (which if greater than \$25,000, will be subject to the provisions of Section 339.135(6)(a), Florida Statutes).

It is recommended the Board approve the form of the Memorandum of Agreement attached hereto as Attachment 1 and authorize its execution by the Chairman.

cc: Joseph Passiatore, General Counsel

Joseph Berenis, Deputy Executive Director, Engineering, Operations, Construction and Maintenance

Laura Kelley, Deputy Executive Director, Administration and Finance

Consent Agenda 09/11/14

ORLDOCS 13594261 J

## MEMORANDUM OF AGREEMENT

THIS AGREEMENT is made and entered into by and between the State of Florida, Department of Transportation, hereinafter referred to as "FDOT", the Central Florida Expressway Authority (formerly the Orlando-Orange County Expressway Authority), hereinafter referred to as "Participant", and the State of Florida, Department of Financial Services, Division of Treasury, hereinafter referred to as "Escrow Agent", and shall become effective upon the agreement's execution by Escrow Agent.

### WITNESSETH

WHEREAS, "FDOT" is to construct the following project:

Main Financial Project #:	432193-1-52-01
Project Description:	I-4/S.R. 408 Interchange Project
County:	Orange

hereinafter referred to as the "Project"; and

WHEREAS, FDOT and the Orlando-Orange County Expressway Authority entered into an Interlocal Agreement dated June 16, 2014 (the "Interlocal Agreement") providing, in part, for the Participant to make a monetary contribution of \$230 million to fund a portion of the Project, the installment payments of which are to be deposited into an interest bearing escrow account; and

WHEREAS, pursuant to Section 348.753(2)(a), Florida Statutes, the Central Florida Expressway Authority has assumed the governance and control of the Orlando-Orange County Expressway Authority System and has immediately succeeded to and assumed the powers, responsibilities, and obligations of the Orlando-Orange County Expressway Authority, which would include those under the Interlocal Agreement; and

WHEREAS, FDOT and Participant desire to establish such escrow account for the Project.

NOW THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. Participant will make deposits of the contribution payments into the interest bearing escrow account established hereunder for the purposes of the Project. Said escrow account will be opened with the Escrow Agent on behalf of FDOT upon Escrow Agent's receipt and execution of this Agreement.
2. The contribution payments will be delivered in accordance with instructions provided by the Escrow Agent to the Participant for deposit into the escrow account.
3. FDOT's Comptroller or designee shall be the sole signatories on the escrow account with the Escrow Agent and shall have sole authority to authorize withdrawals from said account. Withdrawals will only be made to FDOT or the Participant in accordance with the instructions provided by FDOT's Comptroller or designee. FDOT agrees that all such instructions provided by FDOT's Comptroller or designee to the Escrow Agent shall be in accordance with and for the purposes set forth in the Interlocal Agreement, including with respect to any refund of contribution payments made by the Participant as described in Sections



9, 13 and 25 of the Interlocal Agreement.

4. Moneys in the escrow account will be invested in accordance with Section 17.61(1), Florida Statutes. The Escrow Agent will invest the moneys expeditiously. Income is only earned on the moneys while they are invested. There is no guaranteed rate of return. Investments will be assessed a fee in accordance with Section 17.61(4)(b), Florida Statutes. All income of such investments shall accrue to the escrow account. Subject to paragraph 10 herein, FDOT agrees that in the unlikely event of having to refund the contribution payments made by the Participant as described in Sections 9, 13 and 25 of the Interlocal Agreement, FDOT will be responsible to cover the difference between (a) the required refund amount and (b) the balance in the escrow account at the time of such refund, the difference resulting from the fees assessed to the escrow account in accordance with Section 17.61(4)(b), Florida Statutes (such amount hereafter referred to as the "Deficiency").
5. Unless instructed otherwise by FDOT, all interest accumulated in the escrow account shall remain in the account for the purposes of the Project.
6. The Escrow Agent agrees to provide written confirmation of receipt of funds to FDOT. FDOT agrees to provide a copy of such written confirmation to Participant upon receipt.
7. The Escrow Agent further agrees to provide quarterly reports to FDOT. FDOT agrees to provide a copy of such quarterly reports to Participant within fifteen (15) days of receipt from the Escrow Agent.
8. The Escrow Agent shall not be liable for any error of judgment or for any act done or omitted by it in good faith, or for anything which it may in good faith do or refrain from doing in connection herewith.
9. Escrow Agent shall have no liability for any claim, cost, expense, damage or loss due to the acts or omissions of FDOT and Participant, nor from any separate agreements, including the Interlocal Agreement, between FDOT and Participant and shall have no responsibility to monitor or enforce any responsibilities herein or in any separate agreements associated with this Agreement between FDOT and Participant.
10. To the extent the Deficiency as defined in paragraph 4 above is in excess of twenty-five thousand dollars (\$25,000.00) or has a term for a period of more than one (1) year, the provisions of Chapter 339.135(6)(a), Florida Statutes, are hereby incorporated as follows with the term "department" meaning FDOT:

"The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the comptroller of the department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be

executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year."

11. Paragraph 10 herein only applies to the Deficiency and to the extent the Deficiency exceeds \$25,000.00 and does not affect, impede or restrict the obligations or authority of FDOT or the Escrow Agent as and when instructed by FDOT's Comptroller or designee, in making a refund directly to the Participant of the balance of the contribution payments on deposit in the escrow account as required by the provisions of the Interlocal Agreement.
12. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida.
13. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
14. This Agreement shall terminate upon disbursement by the Escrow Agent of all moneys held by it in the escrow account in accordance with the instructions given by FDOT's Comptroller or designee and notification from FDOT to Escrow Agent and Participant that the account is to be closed.

*The remainder of this page is blank.*

IN WITNESS WHEREOF, the parties have duly executed the Agreement on the date(s) below.

\_\_\_\_\_  
For FDOT (signature)

\_\_\_\_\_  
For PARTICIPANT (signature)

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Federal Employer I.D. Number

\_\_\_\_\_  
Federal Employer I.D. Number

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Legal Review:

\_\_\_\_\_

APPROVED AS TO FINANCIAL TERMS  
AND FUNDS ARE PROGRAMMED

\_\_\_\_\_  
Office of the Comptroller

\_\_\_\_\_  
For Escrow Agent (signature)

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Date

**INTERLOCAL AGREEMENT BETWEEN  
THE FLORIDA DEPARTMENT OF TRANSPORTATION AND  
THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY FOR  
THE LOCAL FUNDING CONTRIBUTION TO THE INTERCHANGE PROJECT AT  
INTERSTATE HIGHWAY 4 AND STATE ROAD 408**

This **INTERLOCAL AGREEMENT** ("Agreement"), entered into this 16<sup>th</sup> day of June, 2014, between the **FLORIDA DEPARTMENT OF TRANSPORTATION**, an agency of the State of Florida ("DEPARTMENT") and the **ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY**, a body politic and corporate, and an agency of the State of Florida, created pursuant to Chapter 348, Part III, Florida Statutes ("AGENCY").

**RECITALS:**

A. On July 27, 2012, DEPARTMENT staff presented to the governing board of the AGENCY an analysis of the DEPARTMENT's proposed cost sharing for the reconstruction of the Interchange at Interstate Highway 4 ("I-4") and State Road 408 ("SR 408"), including without limitation the mainline, ramps, widened (or replaced) viaduct, right-of-way, landscaping and the scope of services set forth in Exhibit "A" hereto (collectively, the "Interchange Project"), necessitated by the DEPARTMENT's undertaking of the overall Financial Management ("FM") Number 432193-1-52-01 project ("I-4 Ultimate Project") to accommodate the bridging of I-4, the new width, and express lanes of I-4; and

B. The AGENCY contributed over \$57,000,000 toward the cost of the Interim I-4 Interchange at SR 408 (FM Numbers 242484-2-43-01, 242484-2-52-01, 242484-2-62-01 and 242484-2-56-01 (the "Interim Project")) which the DEPARTMENT completed in 2009. The DEPARTMENT has requested an additional contribution of \$230,000,000 from the AGENCY to complete the Interchange Project based on the DEPARTMENT's 2012 total estimated cost of \$626,503,374; and

C. On August 29, 2012, the AGENCY's governing board unanimously passed a motion to contribute an upset limit of \$230 million toward the Interchange Project to be appropriated as payments of \$75 million in the Fiscal Year beginning July 1, 2017, \$75 million in the Fiscal Year beginning July 1, 2018, and \$80 million in the Fiscal Year beginning July 1, 2019, with any availability payment savings resulting from the DEPARTMENT's final Concession Agreement for the I-4 Ultimate Project being shared on an equal percent basis with the AGENCY; and

TO: TIA OENAC

1

DOC# 20140307611 B: 10782 P: 4912  
06/20/2014 01:21:12 PM Page 1 of 20  
Rec Fee: \$171.50  
Deed Doc Tax: \$0.00  
DOR Admin Fee: \$0.00  
Intangible Tax: \$0.00  
Mortgage Stamp: \$0.00  
Martha O. Haynie, Comptroller  
Orange County, FL  
MB - Ret To: CENTRAL FL EXPRESSWAY AUTH

D. The DEPARTMENT is now prepared, in accordance with its Adopted Five Year Work Program, to undertake the I-4 Ultimate Project, including the Interchange Project and intends to enter into that certain Concession Agreement, Contract #E5W13 ("Concession Agreement"), with I-4 Mobility Partners ("Concessionaire"), expecting to commence construction of the I-4 Ultimate Project in early 2015; and

E. The DEPARTMENT has now requested that the terms and conditions of the AGENCY contribution to the Interchange Project be memorialized into this Agreement; and

F. The AGENCY, understanding that the availability of the contribution payments is predicated on the current adopted toll policy and toll schedule identified in Chapter 2-9, Section 2-9.001 of the AGENCY's Policies and Procedures, is willing to make the commitments set forth herein and has determined that such contribution toward the Interchange Project will serve the public's interest and the best interests of the AGENCY.

NOW, THEREFORE, in consideration of the mutual benefits contained in this Agreement, the parties agree as follows:

1. This Agreement is entered into by the DEPARTMENT and the AGENCY under the authority of Section 163.01, Florida Statutes. The parties hereto find the Recitals set forth above to be true and correct and agree they are incorporated herein by this reference.

2. The DEPARTMENT hereby certifies that the estimated remaining costs of constructing the "AGENCY's portion of the Interchange Project" (meaning the Interchange Project excluding the I-4 mainline and the I-4 eastbound and westbound ramps to SR 408 eastbound and westbound) exceeds the \$230,000,000 in contribution payments to come from the AGENCY.

3. The DEPARTMENT agrees to share with the AGENCY ten percent (10%) of the availability payment savings, if any, realized from the awarded Concession Agreement on the I-4 Ultimate Project over a projected 35 year period. The availability payments will commence on substantial completion of the I-4 Ultimate Project. The availability payment savings will be those savings, if any, realized in comparison to the DEPARTMENT's upset limit detailed in Exhibit "B" hereto. The DEPARTMENT and the AGENCY will reconcile the payments with respect to any availability payments savings realized every ten (10) years and make payment of said savings, commencing with the tenth anniversary of the date of substantial completion of the I-4 Ultimate Project, and with a final reconciliation on the date of the payment of the final availability payment for the I-4 Ultimate Project.

4. The term of this Agreement shall begin upon the date of signature of the last party to sign and shall remain in full force and effect through completion of all obligations of the parties hereto, unless otherwise expressly provided herein. Subject to the provisions of this Agreement, the DEPARTMENT agrees to construct the Interchange Project. The DEPARTMENT agrees not to amend the Interchange Project without the prior written consent of the AGENCY.

5. The AGENCY previously provided concept drawings ("OOCEA Concepts") of the Interchange Project to the DEPARTMENT for review and consideration. The DEPARTMENT has determined that the OOCEA Concepts and the I-4 Ultimate Project design plans are consistent and has agreed to incorporate the OOCEA Concepts into its plans for the I-4 Ultimate Project and the Request for Proposals therefor. As outlined in Paragraph 19 of this Agreement, the AGENCY agrees to retain consultant representatives to be used throughout the construction duration of the Interchange Project and for a sufficient time after completion of construction to provide consultation to the DEPARTMENT concerning any design and construction issues involving the Interchange Project. Any and all costs associated with the AGENCY's consultant representatives shall be the sole responsibility of the AGENCY.

6. The AGENCY previously provided design and construction specifications for the AGENCY's portion of the Interchange Project ("OOCEA Design Criteria") to the DEPARTMENT for review and consideration. The DEPARTMENT reviewed the OOCEA Design Criteria and determined them to be in conformance with the DEPARTMENT's requirements and feasible for incorporation into the I-4 Ultimate Project. The DEPARTMENT has incorporated the OOCEA Concepts and the OOCEA Design Criteria into the Request for Proposals dated January 10, 2014 for the I-4 Ultimate Project ("RFP"). The DEPARTMENT and the AGENCY acknowledge and agree that the Interchange Project will be constructed pursuant to the requirements of the Concession Agreement, including the OOCEA Concepts and the OOCEA Design Criteria made part of Volume III of Addendum #2 of the RFP. In addition, on January 28, 2014, the AGENCY sent a letter to the DEPARTMENT requesting approval for the exclusive use of certain sole source procurement materials and/or products to be utilized as part of the Interchange Project. By letter dated May 21, 2014 (which letter is attached hereto as Exhibit "C"), FHWA has approved the request. The DEPARTMENT agrees to utilize such materials and products as part of the Interchange Project as approved by FHWA in Exhibit "C."

7. The DEPARTMENT's Concessionaire shall perform the construction, provide all necessary engineering supervision, and otherwise perform all other necessary work, all as may

be applicable, as related to the Interchange Project. Except as specifically stated otherwise in this Agreement, all such activities shall be performed by Concessionaire, at such times, in such manner, under such conditions, and pursuant to such requirements, specifications and standards as are made part of the Concession Agreement. The AGENCY shall not have any jurisdiction or control over the DEPARTMENT's activities, except as specifically stated in Paragraph 8 of this Agreement. In addition to the terms outlined in Paragraph 19 of this Agreement, the AGENCY shall be entitled to be advised of the progress of the Project at reasonable intervals upon request.

8. Upon completion of the Interchange Project and subject to the AGENCY's inspection and final acceptance, the AGENCY shall have ownership and be immediately responsible for the perpetual maintenance of the SR 408 mainline portion of the Interchange Project, while the DEPARTMENT shall remain responsible for the perpetual maintenance of all ramps to and from the SR 408 portion of the Interchange Project. The perpetual maintenance of the ramps may, at the DEPARTMENT's sole discretion, be performed by the Concessionaire during the term of the Concession Agreement and, thereafter, shall be performed by the DEPARTMENT. The level of maintenance of the ramps shall be to the standards set forth in the Concession Agreement. If the AGENCY determines that the DEPARTMENT, or the Concessionaire, does not maintain the ramps at the AGENCY's level of maintenance standards, the AGENCY will notify the DEPARTMENT in writing specifying the maintenance deficiency. The DEPARTMENT will meet with the AGENCY regarding the notice and shall develop and implement a corrective action plan acceptable to the AGENCY in a timely manner. The perpetual maintenance by the AGENCY of the SR 408 mainline portion of the Interchange Project will be in coordination with and in accordance with the mainline maintenance specified in the Master Highway Maintenance Agreement (Department Contract ANT-85) dated January 1, 2005, as amended or supplemented from time to time ("Master Agreement"), and the parties hereby agree to amend the Master Agreement to, among other things, add the SR 408 mainline portion of the Interchange Project as a "Subject Road" thereunder. The DEPARTMENT agrees to require the Concessionaire to provide representations, warranties and guarantees as provided in Volume I, Section 4.14 of the RFP for all portions of the Interchange Project conveyed or otherwise transferred to the AGENCY upon completion. Additionally, in each event where the AGENCY so directs the DEPARTMENT in writing from time to time, the DEPARTMENT shall exercise and enforce its rights under the Concession Agreement with respect to the "value-added" specifications concerning the Interchange Project. This Paragraph 8 shall survive the expiration or termination of this Agreement.

9. Contribution payments by the AGENCY toward the Interchange Project will be made in accordance with and subject to the following:

(A) The AGENCY will make a total contribution to the DEPARTMENT in the amount of \$230,000,000 over a period of three consecutive Fiscal Years as specified in the Schedule of Agency Contribution of Funding, Exhibit "D;" provided, however, that the timing of the first scheduled payment by the AGENCY is contingent upon the actual physical construction of the Interchange Project having commenced beyond mere site clearing and grading ("Commencement of Construction"). If Commencement of Construction has not occurred at the time of the first scheduled payment under the Schedule of Agency Contribution of Funding, the first scheduled payment shall not be due until thirty (30) days following the date the DEPARTMENT has certified the Commencement of Construction. For purposes of this Agreement, "Fiscal Year" shall mean July 1 through and including June 30 of the following calendar year.

(B) The payment of funds by the AGENCY pursuant to this Agreement will be made directly to the State of Florida, Department of Financial Services, Division of Treasury ("DFS") for deposit into an interest bearing escrow account under which DFS will hold the funds and disburse them to the DEPARTMENT or at the DEPARTMENT's direction as provided in this Agreement. The DEPARTMENT and the AGENCY agree to work in good faith to negotiate the terms of a mutually agreeable Memorandum of Agreement to be entered into with DFS to provide for, among other things, the establishment of the interest bearing escrow account (the "MOA"). The DEPARTMENT agrees that the \$230,000,000 contribution from the AGENCY is a reasonable cost estimate of the AGENCY's portion of the Interchange Project and that the AGENCY shall not be responsible for, nor shall the DEPARTMENT request, additional funding contributions from the AGENCY for any costs of the Interchange Project or the I-4 Ultimate Project, including change orders or other cost overruns.

(C) The DEPARTMENT may, at any time and at any stage, terminate the Interchange Project if the DEPARTMENT determines that such action is in the best interest of the public. If the Interchange Project is terminated, the DEPARTMENT shall promptly, but in no event later than fifteen (15) days following the termination of the Interchange Project, give notice of its action to the AGENCY and within ten (10) days of written request from the AGENCY instruct the DFS to draw from the interest bearing escrow account established pursuant to the MOA and refund directly by wire transfer to



the AGENCY, within forty-five (45) days from the date of such instruction by the DEPARTMENT, the contribution payments made by the AGENCY or the applicable portion thereof for which the DEPARTMENT has not incurred any construction costs for the AGENCY's portion of the Interchange Project as of the date of the termination of the Interchange Project, plus all accrued interest in the escrow account, and the AGENCY shall be discharged and released of any obligations to make any future contribution payments toward the Interchange Project.

(D) The DEPARTMENT and the AGENCY agree that the contribution payments deposited into the interest bearing escrow account established pursuant to the MOA, plus all accrued interest in the escrow account, shall be an asset of the DEPARTMENT for the cost of the work on the Interchange Project; provided, however, upon DFS's receipt of an instruction from the DEPARTMENT to refund directly by wire transfer to the AGENCY the contribution payments or applicable portion thereof, plus all accrued interest in the escrow account, that are subject to refund as provided in Subparagraph 9(C) herein shall be considered an asset of the DEPARTMENT only for purposes of DFS acting on such instruction from the DEPARTMENT and the contribution payments or applicable portion thereof, plus all accrued interest in the escrow account, to be refunded shall be considered held for the benefit of the AGENCY (as the PARTICIPANT under the MOA) until refunded.

(E) The AGENCY agrees to include all of the contribution payments as set forth in Subparagraph 9(A) in current and future AGENCY annually adopted Five-Year Work Plans until all contribution payments have been made in accordance with the terms and conditions hereunder. To the extent that the contribution payments are not made from proceeds of any bonds, notes or other form of indebtedness issued by the AGENCY under and pursuant to any resolution authorizing the issuance thereof for purposes authorized in Chapter 348, Florida Statutes, the AGENCY's obligations with respect to the \$230,000,000 in contribution payments shall at all times be subordinate to any payment obligations of the AGENCY with respect to such bonds, notes or other form of indebtedness.

10. The AGENCY is entitled to Construction Closure Adjustments assessed to the Concessionaire, as set forth in the DEPARTMENT's Concession Agreement, due to SR 408 mainline and ramp closures resulting from the construction of the Project. The AGENCY may deduct these assessed Construction Closure Adjustments for FY 2015 and 2016 from its July 1,

2017 payment, and the assessed Construction Closure Adjustments for FY 2017 from its July 1, 2018 payment, and the assessed Construction Closure Adjustments for FY 2018 from its July 1, 2019 payment to the DEPARTMENT. Any SR 408 mainline Construction Closure Adjustments occurring after the final payment made by the AGENCY under this Agreement will be remitted to the AGENCY upon the DEPARTMENT's payment of its First Final Acceptance Payment to the Concessionaire.

Pursuant to Volume II, Section 2, T.3 of the RFP, if the AGENCY's Intelligent Transportation System (ITS) is damaged by the Concessionaire, the DEPARTMENT will direct its Concessionaire to repair the AGENCY's ITS. The DEPARTMENT is not responsible for any costs associated with damage to the AGENCY's ITS.

11. Additionally, the DEPARTMENT will remit to the AGENCY any fine assessed against the Concessionaire and received by the DEPARTMENT under the Concession Agreement arising from the construction of the Interchange Project, including, without limitation, fines with respect to any special provisions set forth in Volume III of the RFP.

12. All tracings, plans, specifications, maps, models, reports, or other work product prepared or obtained under this Agreement shall be considered works made for hire for the DEPARTMENT and shall at all times be and remain the property of the DEPARTMENT without restriction or limitation on their use. The AGENCY may, however, inspect those materials upon providing reasonable advance notice to the DEPARTMENT. Upon completion of the Interchange Project, the DEPARTMENT shall provide to the AGENCY for its records copies of all shop drawings, final design and construction plans, product specifications, final engineering reports, record drawings and as-builts for the Interchange Project. Upon completion, the DEPARTMENT shall convey to the AGENCY title to all property within the limited access right-of-way associated with the AGENCY's portion of the Interchange Project.

13. The parties agree that in the event funds are not appropriated by the Florida Legislature to the DEPARTMENT for the Interchange Project, this Agreement may be terminated by the DEPARTMENT, which shall be effective upon the DEPARTMENT giving written notice to the AGENCY to that effect. In such event, the AGENCY shall be entitled to a refund in accordance with Subparagraph 9(C) herein.

14. The DEPARTMENT agrees to require the Concessionaire to release, indemnify and hold harmless the AGENCY as provided in Volume I, Section 17.4 of the RFP.

15. The DEPARTMENT and the AGENCY each expressly reserve, and specifically do not waive by this Agreement, any and all rights of action, in law or in equity, for any claim or cause of action whatsoever that either may have against the other, or against any person or entity not a party to this Agreement.

16. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof, and incorporates and includes all proper negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein. The parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements, whether oral or written.

17. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. If any provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement will remain in full force and effect. The DEPARTMENT and the AGENCY shall endeavor in good-faith negotiations to replace the invalid, illegal, or unenforceable provision with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal, or unenforceable provision.

18. The DEPARTMENT shall file a complete executed copy of this Agreement with the clerk of the circuit court of Leon County, Florida. The AGENCY shall file a complete executed copy of this Agreement with the clerk of the circuit court of Orange County, Florida.

19. The DEPARTMENT is responsible for all direction of its Concessionaire through its construction oversight services ("COS") consultant. The AGENCY shall be entitled to have two (2) representatives stationed at the main office for the project, co-located with the COS. Relating specifically to the Interchange Project, the AGENCY representative(s) shall at a minimum be invited to all regularly scheduled progress meetings, provide input to the DEPARTMENT on shop drawing submittals, be consulted on requests for information, be authorized to perform reasonable independent assurance testing as coordinated with the DEPARTMENT and remain informed of the day to day operations of the Concessionaire. The AGENCY shall not directly communicate with the DEPARTMENT's Concessionaire unless the DEPARTMENT or its COS is present. All communications between the AGENCY and the DEPARTMENT's Concessionaire shall be conducted through the DEPARTMENT's COS. Nothing in this Paragraph 19 shall be construed to authorize the AGENCY to give any instructions to the DEPARTMENT's Concessionaire.

20. Notices under this Agreement shall be in writing and: (a) delivered personally; (b) sent by certified mail, return receipt requested; (c) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (d) sent by email communication (immediately followed by a confirmation of receipt to be effective) to the following addresses (or to such other address as may from time to time be specified in writing by such person):

**DEPARTMENT**

State of Florida, Department of Transportation  
605 Suwannee Street  
Tallahassee, FL 32399  
Attn: Secretary  
PH: (850) 414-5216

**With a copy to:**

State of Florida, Department of Transportation  
605 Suwannee Street  
Tallahassee, FL 32399  
Attn: General Counsel

**AGENCY**

Orlando-Orange County Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: Executive Director  
PH: (407) 690-5000

**With a copy to:**

Orlando-Orange County Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: General Counsel  
PH: (407) 690-5000

21. This Agreement is binding on the parties' successors and/or assigns.

22. This Agreement may only be modified in writing and duly executed by the parties or their respective successors or assigns.

23. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

24. In the event this Agreement is in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) or has a term for a period of more than one (1) year, the provisions of Chapter 339.135(6)(a), Florida Statutes, are hereby incorporated as follows:

"The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year."

25. Paragraph 24 does not, and shall not be construed to, in any way affect, impede or restrict the obligations or authority of the State of Florida, Department of Financial Services, Division of Treasury in making a refund directly to the AGENCY when required by the provisions of this Agreement and/or the MOA.

26. Attached as Exhibit "E" is a graphic depiction of the Interchange Project.

*The remainder of this page intentionally left blank.*

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) below.

**ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY**

By: Walter A. Ketcham, Jr.

Name: Walter A. Ketcham, Jr.

Title: Chairman

Date: 6/11/14

Attest:  
Charles Manzella  
Executive Secretary

Legal Review:  
Joseph J. Spavone  
General Counsel

**FLORIDA DEPARTMENT  
OF TRANSPORTATION**

By: Ananth Prasad

Name: Ananth Prasad, P.E.

Title: Secretary

Date: 6/16/14

Legal Review:  
Roger Wood  
Special Counsel

Financial Provision Approval by Office of  
Comptroller:  
Robin M. Dantress

## Exhibit "A"

### SCOPE OF SERVICES

FM#: 432193-1-52-01

FDOT's I-4 Ultimate Project encompasses reconstruction of approximately 21 miles of Interstate 4 [State Road 400] (I-4) from Kirkman Road in Orange County to SR 434 in Seminole County and will add Managed Lanes (Express Lanes) in the I-4 corridor. In the middle of the project lies the I-4 at State Road (SR) 408 interchange. During the I-4/408 Interim Interchange Project FDOT and OOCEA partnered to reconstruct part of this major interchange, most of the work done at this time was to rebuild the ramps from SR 408 to I-4. The I-4 Ultimate Project completes the reconstruction of this interchange. A cost estimate was done to determine the work remaining within the interchange; a logical split between OOCEA and FDOT was developed and agreed upon. This Agreement sets forth the terms and conditions associated with OOCEA's contribution to the I-4 Ultimate Project. Specifically, the work outlined below is known as the Interchange Project in the Agreement.

#### **Mainline SR 408 Improvements**

- Improvements are being made to the mainline of SR 408. These improvements include the reconstruction of the SR 408 bridges over I-4 (commonly called the viaduct). The bridges are being constructed to accommodate the new width of I-4 as well as to facilitate the improved geometry and movements between the two major roadways.
- There are widening and access improvements being made to the SR 408 mainline east and west of the interchange proper. These improvements are being made to better facilitate access (traffic and weaving movements) for the ramps off of and onto SR 408.
- All existing hardscape and landscaping disturbed by the Interchange Project will be replaced in kind.

#### **Ramps from I-4 to and from SR 408**

- This project will update and improve the geometry of the ramp connections between Interstate 4 (State Road 400) and SR 408.
- The project will reconstruct the I-4 eastbound and westbound ramps to SR 408 eastbound and westbound as well as finish construction of the SR 408 eastbound and westbound ramps to I-4 westbound.
  - During the Interim project (completed in 2009), the DEPARTMENT reconstructed the SR 408 eastbound and westbound ramp movements to I-4 eastbound and started the SR 408 eastbound and westbound ramps to I-4 westbound.
- The existing ramps that are being replaced will be removed where their configurations have changed. These areas will be cleaned up and their final disposition will likely be sodded or in some areas, ponds will be constructed.

EXHIBIT B

FDOT BUDGETED AVAILABILITY PAYMENTS FOR I-4 PROJECT

<b>FY Ending June 30</b>	<b>FDOT Upset Limit</b>
2021	60,755,697
2022	99,887,594
2023	100,334,075
2024	100,791,717
2025	101,247,173
2026	101,742,946
2027	102,235,810
2028	102,740,996
2029	103,238,040
2030	103,791,046
2031	104,335,113
2032	104,892,781
2033	105,435,139
2034	106,051,918
2035	106,652,506
2036	107,268,110
2037	107,859,836
2038	108,547,666
2039	109,210,648
2040	109,890,206
2041	110,535,705
2042	111,302,692
2043	112,034,550
2044	112,784,704
2045	113,488,766
2046	114,343,930
2047	115,151,819
2048	115,979,906
2049	116,747,733
2050	117,701,116
2051	118,592,934
2052	119,507,048
2053	120,344,295
2054	121,407,071
2055	8,388,988
Total	3,675,220,274



Exhibit "C"



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

Florida Division

May 21, 2014

545 John Knox Road, Suite 200  
Tallahassee, Florida 32303

Phone: (850) 553-2200  
Fax: (850) 942-9691 / 942-8308

[www.fhwa.dot.gov/fldiv](http://www.fhwa.dot.gov/fldiv)

In Reply Refer To:  
HDA-FL

Ms. Noranne Downs, P.E.  
District Five Secretary  
Florida Department of Transportation  
719 S. Woodland Boulevard (MS-503)  
Deland, FL 32720

Attn: Ms. Loreen Bobo

Subject: No. 0041(228) I, from SR-435 (Kirkman Rd) in Orange County to SR 434 in Seminole County

Dear Ms. Downs:

The Federal Highway Administration (FHWA) received a letter from your office dated April 27, 2014 and the letters addressed to your office from the Orlando Orange County Expressway Authority (OOCEA) dated November 5, 2013 and January 28, 2014 requesting the use of Proprietary Products on the section of SR-408 that will be impacted by the I-4 Ultimate with Managed Lanes project; FPID No. 432193-I-52-01. The letters request items on the proposed Proprietary Products list attached be used for work only on the SR-408 mainline, SR-408 frontage roads and ramp connections with local streets within the reference project construction limits. The proposed Proprietary Products are not authorized for used on I-4/SR-408 interchange ramps, I-4 mainline, I-4 frontage roads or I-4 ramp connections with local streets under this request. The Ultimate improvements will be operated and maintained by the successful bidder of the I-4 Ultimate Project with Managed Lanes.

The OOCEA and Florida Department of Transportation (FDOT) certify that this request is for a combination of synchronization needs with existing SR-408 facility features described in their January 28, 2014 letter. The use of these proprietary items on SR-408 will allow for interchangeable devices, equipment, materials and reduced inventory. The FDOT will monitor and track the design and installation of the attached proprietary items on SR-408 within the construction limits of the I-4 Ultimate Project with Managed Lanes project.

Based on the information provided and in accordance with 23 CFR 635.411 (a) (2), the FHWA accepts FDOT's and OOCEA's request certifications that the devices and equipment listed in the attachment are essential for synchronization needs with the existing SR-408 facility features deployed by the OOCEA. The FHWA finds that maintaining the synchronization of existing system components is in the public interest, and therefore approves the use of the proprietary devices and equipment as listed in the attachment on the referenced project. This approval does not extend to facilities, devices and equipment or projects, other than those described in this letter.

If you have any questions or need assistance, please contact Marvin Williams at (850) 553-2241.

Attachment

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicholas C. Paul".

For: James Christian, P.E.  
Division Administrator



**Exhibit "C"**  
**ORLANDO-ORANGE COUNTY EXPRESSWAY**  
**EXISTING DEVICES/EQUIPMENT**

Item Description	Brand - Part/Serial Number	Reference Location
<b>GENERAL SYSTEM, SIGNING AND PAVEMENT MARKINGS</b>		
Retroreflective Pavement Markers	3M Series 290	OOCEA SPM
Delineation	3M Series 340	OOCEA SPM
Preformed Patterned Retroreflective Tape (PPRT)	3M Stamark Series 380IES. Concrete Surface Adhesive SPA-60	712
Temporary Preformed Removable Markings	3M Series 710 Wet-Reflective Removable Tape	SR 408 Traffic Control Notes
Reflective Sheeting	Diamond Grade Cubed (DG3). Purple - 3M Company EC Film #1170-13	Special Provisions
Roadside Mounted flexible Tube Delineators	Safe Hit Corporation, Type 2 Guide Post (48" with Flattened Top), Single units shall be Flexstake 48" Flat, Low Profile Surface Mount Model HD	OOCEA SPM
Removable Markings	3M Wet reflective removable tape, series 710/715	OOCEA SPM
MOT Blacking out Existing Pavement Markings	3M Brand Scotch Lane Removable Tape Black Mask Tape, Series 715	SR 408 Traffic Control Notes
MOT Temporary Pavement Markings	Temp. Pavement Markings use 3M Scotch Lane removable Tape Series 710, 711, 715	SR 408 Traffic Control Notes
Route Confirmation Markers	3M DG3 sheeting. Top Layer EC Film 1170 Clear on OOCEA designated Orange	OOCEA SPM
Toll Logo Colors	Purple - 3M DG3 sheeting matching 3M 1170-13 Violet EC Film Orange - 3M DG3 Sheeting No. 1174	OOCEA SPM
Painting of Support Columns for Overhead Sign Structures	Sherwin Williams Procril Waterborne Acrylic Primer, DTM Waterborne Acrylic Finish Paint, Zinc-Clad 5 B69 A 45 or ZRC Cold Galvanizing Compound	Special Provisions
Aesthetics/Finishes & Coatings for Concrete Finishes	Sherwin Williams Coating Series B97, DTM Acrylic Semi-gloss coating BGG-200 Series, Zolotone 20	OOCEA Aesthetics Criteria
Lighting Assemblies	Hapco Series 40 Aluminum with 8' Radius	OOCEA Aesthetics Criteria
Luminaires	Holophane Sign Vue, 2 or 3 Module LED (700Ma Driver) 480 volts, 4,500K.	OOCEA SPM
Sign Luminaires	GE Model M-400A POWR/DOOR Luminaire w/ cutoff optics. GE photometric curve 35.451002.	OOCEA Lighting Criteria
Ground Mount Signs	3M Company VHB (Very High Bond) Acrylic Foam Tape Number 4950	Special Provisions
Bridge Deck Joint Sealant	Type D Silicone Dow Corning (DOW 902 RCS)	458-2.2
Building Sealant	DOW Corning 790 Silicone	Special Provisions
Anti-Theft Wire Devices	Copper Keeper™	Special Provisions
<b>INTELLIGENT TRANSPORTATION SYSTEM</b>		
Pole Cable Distribution System	Duraline/[MG]2	OOCEA Lighting Requirements
FON Route Marker	Vulcan Utility Signs Products PN 0550145, 0300876, 0900466, Vulcan H-41-Rf, Polyvinyl file by Avery XL1000 series S-652/78B	ITS D. Standards A-8, 631-2 4.5
Interduct Installation	Polywater Front End Packs PN J-27, J-55	ITS D. Standards B-1
Bridge Hanger Detail - BRFC	Opti-Com Manf. Network Inc. PN 309602110, CH0472AII	ITS D. Standards C-2
FON Manhole Ladders	Inwesco Series I-3600	D-2
Fiber Optic Cable	Corning® 12 count Single-Mode Altos® stranded loose tube fiber optic cable (PN: 012EU4-64101D20)	E-3, TS 631-2.4.4
	Corning® 24 count Single-Mode Altos® stranded loose tube fiber optic cable (PN: 024EU4-T4101D20)	
	Corning® 72 count Single-Mode Altos® stranded loose tube fiber optic cable (PN: 072EU4-T4101D20)	
	Corning® 144 count Single-Mode Altos® stranded loose tube fiber optic cable (PN: 144EU4-T4101D20)	
	Corning splice closures:	
FON splices	SCF-6C27-01 (72 count)	633
	SCF-6C28-01 (144 count)	
	SCF-6C28-02 (288 count)	
	Corning splice trays:	
CCTV	PN: SCF-ST-099 for 72 splice closure	686
	PN: SCF-ST-112 for 144 to 288 splice closure	
	Corning Unicam Single-Mode Connectors (PN: 95-200-42) CCTV Field Assemblies shall be COHU 3925-5100-PEND	



**Exhibit "C"**  
**ORLANDO-ORANGE COUNTY EXPRESSWAY**  
**EXISTING DEVICES/EQUIPMENT**

Item Description	Brand - Part/Serial Number	Reference Location
Camera Lowering Device	For 25 foot poles, Model CLDMG2@-HYP-025-ST (DOM) For 50 foot poles, Model CLDMG2@-HYP-050-ST (DOM) For 60 foot poles, Model CLDMG2@-HYP-060-ST (DOM) For 80 foot poles, Model CLDMG2@-HYP-080-ST (DOM) For 130 foot poles, Model CLDMG2@-HYP-130-ST (DOM) (DUAL)	686-2.3
TVSS Devices	APT XDS series Model #'s: TE01XDS154XA, TE01XDS204XA, TE11XDS154XA or TE11XDS204XA, TE01XCS104XA or TE11XCS104XA, APT XCS Series, Model TE11XCS104XA APT SPDee S50A120V1PN w/SKIT1 APT RS422/D1 APT BNCA10kA	F-1A
CCTV Camera Steel Pole Detail	Band-It Band Band-Fast Color-it	G-1
Data Collection Sensors	DCS Shall Read CALTRANS Title-21,ISO 18000-6B and the PS111(IAG) Identification numbers stored in the E-PASS System	663.1
DCS Sign Structure Mounting Detail	Astro-Bracket Pelico Liquatite Flexible Steel Conduit JIC, 2" PN 16102, 13102 Minerallic 1" stainless steel conduit hangers catalog number 25B	K-1
DCS Steel structure notes and elevations	Weather perfect acrylic, latex flat, color no SW2333 Impressive ivory	K-9
DCS Maint. Port	DB-9 B&B electronic part no. DR9MTB	663-2.4.5
DMS	470IB PROM Module	
DMS Rack	Type 170E	
CCTV Cabinet Detail - Surge Protection	APT XDS series, Model TE01XDS154XA TE01XDS204XA, APT XCS TE01XCS104XA, TE11XCS104XA	L 1
DCS Cabinet Detail - DCS Reader Maint. Port	RS-232 B&B electronic DR9 MTB	L-2
DMS LED	Daktronics Vanguard DMS model Vt-2320-48x 128-20 RGB	728-2
DMS Service Point	Mineral 1.5 stainless steel conduit catalog no 45b	M-1
3-Line DMS Backwall Detail Sheet - Surge Protection	APT XDS series, Model TE01XDS154XA, TE01XDS204XA, TE11XDS154XA, TE11XDS204XA, APT XCS SERIES TE01XCS104XA, TE11XCS104XA APT XDS series, Model TE01XDS154XA, TE01XDS204XA, TE11XDS154XA, TE11XDS204XA, APT XCS SERIES TE01XCS104XA, TE11XCS104XA	M-4
Power Pedestal	APT RS232/D1 APT RS423/D1 APT SCATS APT 803B (DIN RAIL)	M-5
TMS Sign details - Conduit	Minerallic 1" Stainless Steel Catalog no 25B	611A 4.3.1
Software	360 Systems Cameleon Software	620A-4.1
Mechanical bonding	Burndy L125-2 lugs, No-ox compound	631-2.4.1
HDPE Conduit	CSR/Polypipe	631-2.4.1.3
Conduit couplers	electrofusio couplers by Central Plastics Company	
Tone Wire	Radiodetection LMS, Burton Wire & Cable 12 AWG soft annealed bare copper high density polyethylene, weather resistant polyolefin, pn 10/444150322	631-2.4.2
Fiber Optic Warning Tape	Carlson Telecom Systems, PN MAT3051	631-3
Proofing Dart	Innerduct Cup Projectile PN 2120-010 by Cal Am Manf.	633
FON Heat Shrinks	Corning PN 2806031.01	636
FON Manholes Cable Racks	Invesco Cat. No. 10A09	638-2.6.3.1
Black Steel Pipe Conduit	Pittsburgh Pipe	638
Pipe Sleeve Conduit	Grinnell	638
Bullet-Resistive Fiberglass Conduit ( BRFG)	Omni	638-3.2.15.3
Tone Wire Splices	3M DBR-6 or DBY-6	663-2.4.2
RF/Reader Module	Sirit Identity 6204	664.1.1.1
TMS Equipment	Wavetronix Smartsensor SS125 HD Click! 201, 202 units	



**Exhibit "C"**  
**ORLANDO-ORANGE COUNTY EXPRESSWAY**  
**EXISTING DEVICES/EQUIPMENT**

Item Description	Brand - Part/Serial Number	Reference Location
TMS Cable	Wavetronix TMS Cable	664-2.1
Gigabit Ethernet Field Switch	RuggedCom RS900G fully managed Layer 2 Hardened ethernet	683-2.1
Factory Terminated Pigtail Modules	Corning PN CCH-RM12-59-P03RH	683-2.5.2
Closet Splice Housing	Corning PN CSH-03U	683-2.5.3
Uninterruptable Power Supply	Alpha FXM series w/ batteries Alphacell 85GXL HP. TRIPP-LITE SMART1000RM1U	685-3
Communication Rack Installation	Chatsworth Products Inc CPI-55053-703, CPI-40604-001, CPI-40607-001, CPI-10629-119, CPI-12816-707	685-4
MPEG-2 Encoders	Vbrick VBSSM PN 9170-4200-0002	686-2.2
FOV Software	OSPInSight Edit for MapInfo 7x Bundle	783F
Guidesign Software	TRANSOFT GuidSIGN	OOCEA Signing & Pavement Marking

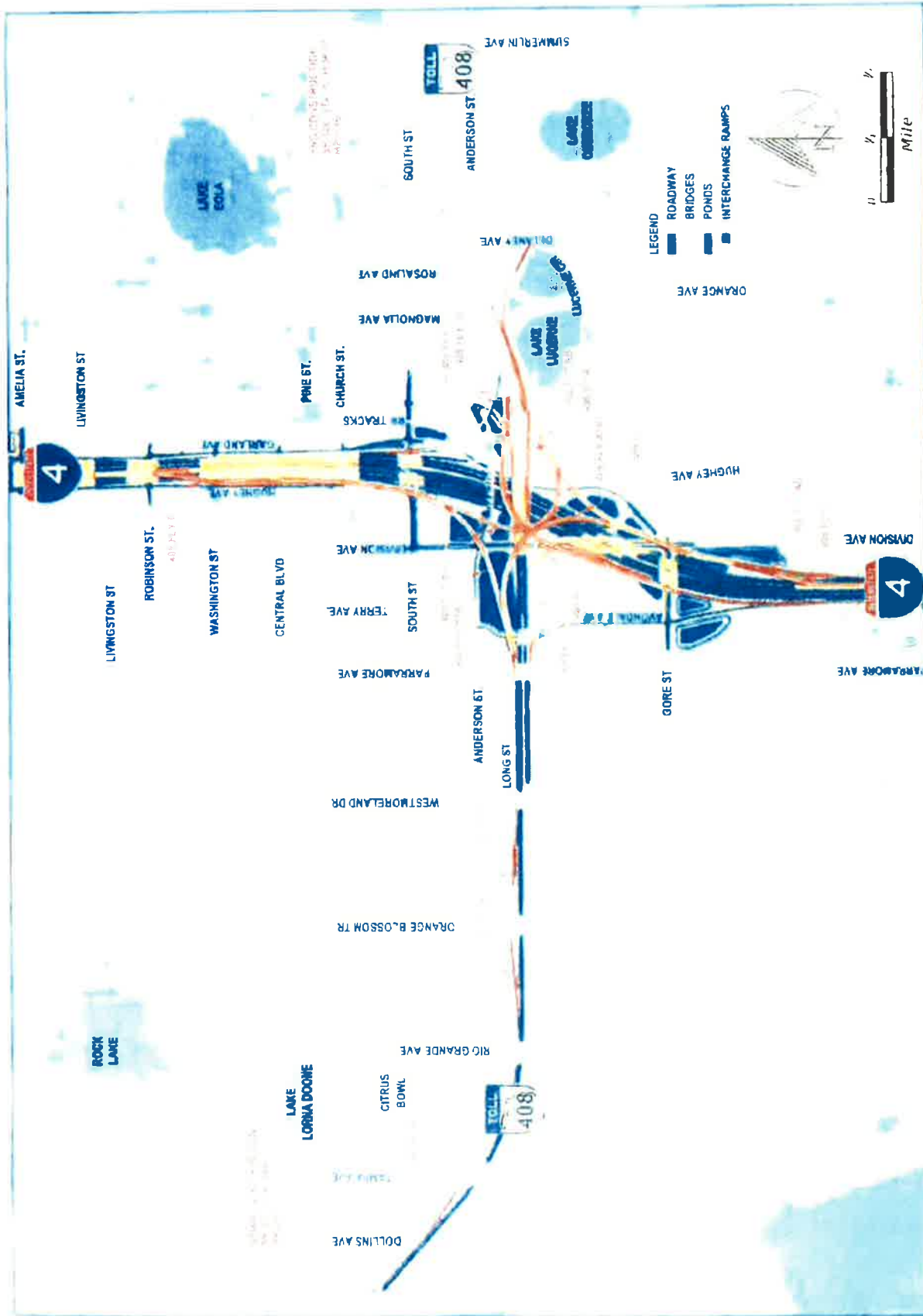
Exhibit "D"

SCHEDULE OF AGENCY CONTRIBUTION OF FUNDING

FM#: 432193-1-52-01

<b>Due no later than:*</b>	<b>Amount Due:</b>
<b><u>July 31, 2017</u></b>	<b><u>\$75,000,000.00</u></b>
<b><u>July 31, 2018</u></b>	<b><u>\$75,000,000.00</u></b>
<b><u>July 31, 2019</u></b>	<b><u>\$80,000,000.00</u></b>
<b><u>Total</u></b>	<b><u>\$230,000,000.00</u></b>

\* Subject to Subparagraph 9(A) of this Agreement



## **CONSENT AGENDA ITEM**

**#3**




**WINDERWEEDLE, HAINES, WARD & WOODMAN, P.A.**

**329 Park Avenue North  
Second Floor  
Post Office Box 880  
Winter Park, Florida 32790-0880  
Telephone (407) 423-4246  
Facsimile (407) 645-3728**

**MEMORANDUM**

**TO: Central Florida Expressway Authority Board Members**

**FROM: Robert L. Simon, Jr., Right of Way Counsel**   
**Winderweedle, Haines, Ward & Woodman, P.A.**

**DATE: August 25, 2014**

**RE: S.R. 429 Wekiva Parkway, Project 429-201; Parcels 104 (Part C) and 804 (Pak)  
Real Estate Purchase Agreement**

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Winderweedle, Haines, Ward & Woodman, P.A., right of way counsel, seeks the Board's approval of a Real Estate Purchase Agreement between Yong Sun Pak and Byung Sook Pak (the "Owners") and the Central Florida Expressway Authority ("CFX") for the acquisition of Parcels 104 (Part C) and 804 (the "Taking" or "Property") for the construction of the S.R. 429 Wekiva Parkway, Project 429-201.

**DESCRIPTION and BACKGROUND:**

Parcel 104 (Part C) is a vacant, hiatus tract that consists of approximately 0.137 acres of land located along the western side of Plymouth Sorrento Road, approximately 15 feet south of Southfork Drive in unincorporated Orange County, Florida. Parcel 804 is a vacant tract that consists of approximately 0.523 acres of land located at the northwest corner of Plymouth Sorrento Road and Connector Drive in unincorporated Orange County, Florida. The Taking includes perpetual easement rights. The Property is zoned A-1, Agricultural by Orange County. The future land use designation is Rural/Agricultural and is within the Rural Service Area and Joint Planning Area with the City of Apopka. There are no improvements located within the Taking. See attached Composite Exhibit "A."

CFX's appraisal of Parcel 104 (Part C) was prepared by Mr. Richard MacMillan of The Appraisal Group of Central Florida, Inc. with a date of value of September 28, 2008. Parcel 104 (Part C) is a hiatus tract that resulted from a previous acquisition by CFX in 2009 for the John Land Apopka Expressway (Phase II) Project. For purposes of this appraisal, Mr. MacMillan based the date of value on the appraisal prepared in 2008 for the original acquisition. Mr. MacMillan estimated the value of Parcel 104 (Part C) to be \$10,900.00 inclusive of damages to the remainder, if any. Mr. MacMillan concluded that the Property's highest and best use as vacant is for commercial use. A copy of the appraisal was provided to the Owners.

Central Florida Expressway Authority Board Members  
S.R. 429 Wekiva Parkway, Project 429-202; Parcels 104 (Part C) & 804 (Pak)  
August 25, 2014  
Page 2 of 2

CFX's appraisal of Parcel 804 was prepared by Mr. Richard MacMillan of The Appraisal Group of Central Florida, Inc. with a date of value of June 5, 2014. Mr. MacMillan estimated the value of Parcel 804 to be \$108,300.00 inclusive of damages to the remainder, if any. Mr. MacMillan concluded that the Property's highest and best use as vacant is for commercial use. A copy of the appraisal was provided to the Owners.

The parties have been participating in negotiations and have reached a proposed agreement on the purchase price for the acquisition of Parcels 104 (Part C) and 804. The parties have conditionally accepted a Real Estate Purchase Agreement ("Purchase Agreement"), subject to Right of Way Committee recommendation and final CFX Board approval. Under the Purchase Agreement, CFX would pay the Owners the sum of \$150,000.00 in full settlement of all claims for compensation for the acquisition of Parcels 104 (Part C) and 804. A copy of the Purchase Agreement is attached hereto as Exhibit "B."

Acceptance of the proposed Real Estate Purchase Agreement is recommended and is in CFX's best interest. It will eliminate further risk and unnecessary expenses that CFX will ultimately incur if it is required to file a condemnation action to acquire Parcels 104 (Part C) and 804. Filing a condemnation action will subject CFX to additional attorneys' fees and costs as well as additional expert fees and costs, which CFX would be responsible for as part of the landowners' compensation as provided by Florida Statutes §73.091 and §73.092.

#### **RECOMMENDATION:**

The proposed settlement was recommended for Board approval by the Right of Way Committee at the September 4, 2014 meeting. We respectfully request the Board's approval of the proposed Real Estate Purchase Agreement with a purchase price of \$150,000.00 in full settlement of all claims for compensation for the acquisition of Parcels 104 (Part C) and 804.

#### **ATTACHMENTS:**

Composite Exhibit A - Aerial of Parcels 104 (Part C) and 804  
Exhibit B - Purchase Agreement

Parcel: 1040  
Project: 429-201

2008 Aerial of Subject with Property Dimensions



Parcel: 804  
Project: 429-201

Aerial of Subject with Property Dimensions





**PURCHASE AGREEMENT**

PROJECT: 429 – 201  
 STATE ROAD NO.: 429  
 PROJECT NAME: Wekiva Parkway  
 COUNTY: Orange  
 PARCEL NO.: 104(Part C) and 804

**Seller: Yong Sun Pak and Byung Sook Pak**

**Buyer: The Central Florida Expressway Authority ("Expressway Authority")**

Expressway Authority and Seller hereby agree that Seller shall sell and Expressway Authority shall buy the following described property pursuant to the following terms and conditions:

**I. Description of Property**

(a) Estate being purchased: ☒ Fee Simple ☐ Permanent Easement ☐ Temporary Easement ☐ Leasehold

(b) Real property described as: See Attached Exhibit "A"

(c) Personal property: None

(d) Outdoor advertising structure(s) permit number(s): N/A

Buildings, structures, fixtures and other improvements owned by others: N/A

These items are **NOT** included in this agreement. A separate offer is being, or has been, made for these items

**II. PURCHASE PRICE**

**(a) Real Property**

Land	1.	\$	150,000.00
Improvements	2.	\$	0.00
Real Estate Damages	3.	\$	0.00
(Severance/Cost-to-Cure)			

<b>Total Real Property</b>	4.	\$	0.00
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<b>(b) Total Personal Property</b>	5.	\$	0.00
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**(c) Fees and Costs**

Attorney Fees	6.	\$	0.00
Appraiser Fees	7.	\$	0.00

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<b>Total Fees and Costs</b>	9.	\$	0.00
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<b>(d) Total Business Damages</b>	10.	\$	0.00
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<b>(e) Total of Other Costs</b>	11.	\$	0.00
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List: \_\_\_\_\_

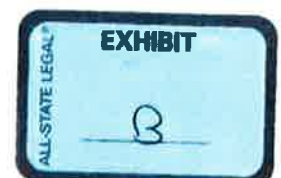
<b>Total Purchase Price (Add Lines 4, 5, 9, 10 and 11)</b>		\$	150,000.00
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(f) Portion of Total Purchase Price to be paid to		\$	0.00
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Seller by Expressway Authority at Closing

(g) Portion of Total Purchase Price to be paid to Seller		\$	0.00
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by Expressway Authority upon surrender of possession



**III. Conditions and Limitations**

- (a) Seller is responsible for all taxes due on the property up to, but not including, the day of closing.
- (b) Seller is responsible for delivering marketable title to Expressway Authority. Marketable title shall be determined according to applicable title standards adopted by the Florida Bar in accordance with Florida Law subject only to those exceptions that are acceptable to Expressway Authority. Seller shall be liable for any encumbrances not disclosed in the public records or arising after closing as a result of actions of the Seller.
- (c) Seller shall maintain the property described in **Section I** of this agreement until the day of closing. The property shall be maintained in the same condition existing on the date of this agreement, except for reasonable wear and tear.
- (d) Any occupancy of the property described in **Section I** of this agreement by Seller extending beyond the day of closing must be pursuant to a lease from Expressway Authority to Seller.
- (e) The property described in **Section I** of this agreement is being acquired by Expressway Authority for transportation purposes under threat of condemnation pursuant to **Section 337.25 Florida Statutes**
- (f) Pursuant to **Rule 14-10.004, Florida Administrative Code**, Seller shall deliver completed **Outdoor Advertising Permit Cancellation Form(s), Form Number 575-070-12**, executed by the outdoor advertising permit holder(s) for any outdoor advertising structure(s) described in **Section I** of this agreement and shall surrender, or account for, the outdoor advertising permit tag(s) at closing.
- (g) Seller agrees that the real property described in **Section I** of this agreement shall be conveyed to Expressway Authority by conveyance instrument(s) acceptable to Expressway Authority
- (h) Seller and Expressway Authority agree that this agreement represents the full and final agreement for the herein described sale and purchase and no other agreements or representations, unless incorporated into this agreement, shall be binding on the parties
- (i) Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- (j) Seller and Expressway Authority agree that a real estate closing pursuant to the terms of this agreement shall be contingent on delivery by Seller of an executed Public Disclosure affidavit in accordance with **Section 286.23, Florida Statutes**, if applicable.

**IV. Closing Date**

The closing will occur no later than sixty (60) days after Final Agency Acceptance

**V. Typewritten or Handwritten Provisions**

Any typewritten or handwritten provisions inserted into or attached to this agreement as addenda must be initialed by both Seller and Expressway Authority.

- ☒ There is an addendum to this agreement. Page 4 is made a part of this agreement
- ☐ There is not an addendum to this agreement

**VI.** Seller and Expressway Authority hereby acknowledge and agree that their signatures as Seller and Expressway Authority below constitute their acceptance of this agreement as a binding real estate contract

This Agreement is subject to final agency acceptance by Expressway Authority pursuant to Section 119.0711, *Florida Statutes* (2013) ("Final Agency Acceptance") after Right of Way Committee and Expressway Authority Board Approval. Notwithstanding anything in this Agreement to the contrary, the Closing shall not occur prior to thirty (30) days from the date this Agreement is executed and delivered by Owners and Expressway Authority to allow public review of the transaction contemplated by this Agreement. Final Agency Acceptance shall be evidenced by the signature of Expressway Authority in **Section VII** of this agreement.

**Seller: Yong Sun Pak and Byung Sook Pak**

**Buyer: Central Florida Expressway Authority**

Signature  Date 8-8-2014

BY  Date 8/11/14

Yong Sun Pak  
Type or Print Name

JOSEPH A. BERENS, P.E.  
Type or print name

Signature  Date 8-8-2014

Byung Sook Pak  
Type or Print Name

## **VII. FINAL AGENCY ACCEPTANCE**

The Expressway Authority has granted Final Agency Acceptance this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

### **WITNESSES:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

APPROVED AS TO FORM FOR EXECUTION BY A  
SIGNATORY OF THE CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY  
Legal Counsel:

By \_\_\_\_\_

Date: \_\_\_\_\_

### **"EXPRESSWAY AUTHORITY"**

#### **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

A body politic and corporate, and an agency of the state,  
under the laws of the State of Florida,

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Central Florida Expressway Authority

**ADDENDUM TO PURCHASE AGREEMENT**

PROJECT: 429 - 201  
STATE ROAD NO.: 429  
PROJECT NAME: Wekiva Parkway  
COUNTY: Orange  
PARCEL NO.: 104 (Part C) and 804

This is an addendum to the Purchase Agreement attached hereto and made a part hereof between, **Yong Sun Pak and Byung Sook Pak**, Seller, and **The Central Florida Expressway Authority ("Expressway Authority")**, Buyer, for the use and benefit of the Expressway Authority, for the above-referenced project.


1. Buyer and Seller agree all fees, costs and/or business damage claims are included in this Purchase Agreement.

Funds shall be made payable and will be issued according to the Seller and/or their representatives:

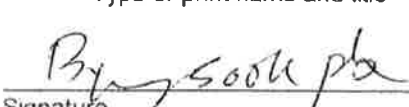
1. Funds in the amount of \$150,000 shall be made payable to Yong Sun Pak and Byung Sook Pak.


IN WITNESS WHEREOF, the parties have caused these present to be executed in their respective names

**Seller(s): Yong Sun Pak and Byung Sook Pak**

  
\_\_\_\_\_  
Signature  
By: Yong Sun Pak  
Type or print name and title

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature  
By: Byung Sook Pak  
Type or print name and title

  
\_\_\_\_\_  
Date

**Buyer: The Central Florida Expressway Authority**

\_\_\_\_\_  
Signature  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date



ORLANDO ORANGE COUNTY  
EXPRESSWAY AUTHORITY  
STATE ROAD 429  
PROJECT NO. 429-201

PARCEL NO. 104 PART C  
PURPOSE: LIMITED ACCESS RIGHT OF WAY  
ESTATE: FEE SIMPLE

### LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 20 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; BEING A PORTION OF T.L. SMITH ROAD (PLATTED SORRENTO AVENUE)(VACATED PER DEED BOOK 596, PAGE 467 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA) AS SHOWN ON THE MAP OF PLYMOUTH, AS RECORDED IN PLAT BOOK B, PAGES 17 THROUGH 18 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 20 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A FOUND BROKEN 6"X6" CONCRETE MONUMENT WITH A 3/4" IRON PIPE, NO IDENTIFICATION; THENCE SOUTH 89°54'05" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 31, A DISTANCE OF 15.01 FEET TO A POINT ON THE EAST LINE OF THE WEST 40 FEET OF T.L. SMITH RIGHT OF WAY (VACATED PER DEED BOOK 596, PAGE 467 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA) AND THE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTH LINE, RUN NORTH 02°14'21" WEST ALONG SAID EAST LINE, A DISTANCE OF 594.64 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 730 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID EAST LINE, RUN NORTH 89°36'47" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 10.01 FEET TO A POINT ON THE FORMER EAST RIGHT OF WAY LINE OF THE AFORESAID T.L. SMITH ROAD; THENCE DEPARTING SAID SOUTH LINE, RUN SOUTH 02°14'21" EAST ALONG SAID FORMER EAST RIGHT OF WAY LINE, A DISTANCE OF 594.72 FEET TO A POINT ON THE AFORESAID SOUTH LINE OF SOUTHWEST 1/4; THENCE DEPARTING SAID EAST LINE, RUN NORTH 89°54'05" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 10.01 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

CONTAINING 5,947 SQUARE FEET, MORE OR LESS.

SEE SHEET 3 FOR SKETCH OF DESCRIPTION  
SEE SHEET 4 FOR GENERAL NOTES AND LEGEND

SHEET 1 OF 4

FOR: ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY

DATE: MAY 16, 2013

PROJECT NO.: H20-01

DRAWN: PMM CHECKED: JMS

STATE ROAD 429  
OOCEA PROJECT NO. 429-201  
PARCEL NO. 104 & 804



GEODATA CONSULTANTS, INC.  
SURVEYING & MAPPING  
1349 SOUTH INTERNATIONAL PARKWAY  
SUITE 2401  
LAKE MARY, FLORIDA 32746  
VOICE: (407) 732-6965  
LAND SURVEYOR BUSINESS LICENSE NO. 6556

ORLANDO ORANGE COUNTY  
EXPRESSWAY AUTHORITY  
STATE ROAD 429  
PROJECT NO. 429-201

PARCEL NO. 804  
PURPOSE: LIMITED ACCESS RIGHT OF WAY  
ESTATE: FEE SIMPLE

### LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 20 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; BEING A PORTION OF LOTS 6 AND 7, BLOCK D, MAP OF PLYMOUTH, AS RECORDED IN PLAT BOOK B, PAGES 17 THROUGH 18 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 20 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA, BEING A FOUND BROKEN 6"X6" CONCRETE MONUMENT WITH A 3/4" IRON PIPE, NO IDENTIFICATION; THENCE NORTH 02°14'21" WEST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 31, A DISTANCE OF 615.98 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 60 FEET OF THE SOUTH 675.45 FEET OF THE SOUTHWEST 1/4 OF SAID SECTION 31; THENCE DEPARTING SAID WEST LINE, RUN SOUTH 89°52'35" EAST ALONG SAID SOUTH LINE, A DISTANCE OF 82.01 FEET TO A POINT ON THE EXISTING LIMITED ACCESS RIGHT OF WAY LINE OF STATE ROAD 429 AS RECORDED IN OFFICIAL RECORDS BOOK 9982, PAGE 2019 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE DEPARTING SAID SOUTH LINE, RUN SOUTH 00°07'25" WEST ALONG SAID EXISTING LIMITED ACCESS RIGHT OF WAY LINE, A DISTANCE OF 20.73 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 730 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 31 AND THE POINT OF BEGINNING; THENCE DEPARTING SAID EXISTING LIMITED ACCESS RIGHT OF WAY LINE, RUN NORTH 89°36'47" EAST ALONG SAID SOUTH LINE OF THE NORTH 730 FEET, A DISTANCE OF 50.00 FEET TO A POINT; THENCE DEPARTING SAID SOUTH LINE OF THE NORTH 730 FEET, RUN SOUTH 00°07'25" WEST, A DISTANCE OF 476.26 FEET TO A POINT ON AFORESAID EXISTING LIMITED ACCESS RIGHT OF WAY LINE; THENCE RUN THE FOLLOWING THREE COURSES ALONG SAID EXISTING LIMITED ACCESS RIGHT OF WAY LINE; THENCE NORTH 88°09'58" WEST, A DISTANCE OF 8.52 FEET TO A POINT; THENCE NORTH 40°24'00" WEST, A DISTANCE OF 63.85 FEET TO A POINT; THENCE NORTH 00°07'25" EAST, A DISTANCE OF 427.02 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.523 ACRES, MORE OR LESS

SEE SHEET 3 FOR SKETCH OF DESCRIPTION  
SEE SHEET 4 FOR GENERAL NOTES AND LEGEND

SHEET 2 OF 4

FOR: ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY

DATE: MAY 16, 2013

PROJECT NO.: H20-01

DRAWN: PMM CHECKED: JMS

STATE ROAD 429  
OOCEA PROJECT NO. 429-201  
PARCEL NO. 104 & 804



GEODATA CONSULTANTS, INC.

SURVEYING & MAPPING

1349 SOUTH INTERNATIONAL PARKWAY  
SUITE 2401

LAKE MARY, FLORIDA 32746

VOICE: (407) 732-6965

LAND SURVEYOR BUSINESS LICENSE NO. 6556

### SKETCH OF DESCRIPTION

SECTION 36,  
TOWNSHIP 20 SOUTH,  
RANGE 27 EAST

P.O.C.  
PARCEL 104 PART C  
PARCEL 804  
SW CORNER OF  
SECTION 3; 20-28  
1"ND 6 X 6" CM  
WITH 3/4" IP BROKEN  
NO IDENTIFICATION  
CCR 41737

E LINE WEST 40  
OF T.L. SMITH R/W  
(VACATED P-R  
DB 596, PG 457)  
ORIGINAL LOT LINE

VACATED R/W  
(DEED BOOK 596 PAGE 467)

E LINE OF SE 1/4  
APPROXIMATE  
CITY LIMITS  
LINE

NE CORNER OF  
THE SE 1/4 OF  
SECTION 36-20-27  
AND 6'X6' CM  
NO IDENTIFICATION  
CCR 85451

RANGE 27 E

T.L. SMITH ROAD  
(PLATTED SORRENTO AVENUE)

N02°14'21"W 615.98'(C) 594.64'(C)

RANGE 28 E S02°14'21"E S94.72'(C)

WHOLE TAKE = 5,947 SQ FEET±

P.O.B.  
PARCEL 804

PERMANENT  
EASEMENT

EXISTING : A ROW LINE OF SR 429  
PER ORD 9982 PG 2019

EASEMENT AREA = 0.523 ACRES±

LOT 7

LOT 6

SOUTHFORK DRIVE - PRIVATE

SECTION 31,  
TOWNSHIP 20 SOUTH,  
RANGE 28 EAST

MAP OF PLYMOUTH  
PB B, PGS 17-18

Response	Percentage
U.S. should take action	80%
U.S. should not take action	20%

Scale: 1" = 100'

SEE SHEET 1 & 2 FOR LEGAL DESCRIPTIONS  
SEE SHEET 4 FOR GENERAL NOTES AND LEGEND

FOR: ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY

DATE: MAY 16, 2013  
PROJECT NO.: H20-01  
DRAWN: PMM CHECKED: JMS

STATE ROAD 429  
OOCEA PROJECT NO. 429-201  
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## SURVEYING & MAPPING

1349 SOUTH INTERNATIONAL PARKWAY  
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# SKETCH OF DESCRIPTION

Exhibit "A"

Page 4 of 4

## LEGEND AND ABBREVIATIONS



(C)	= CALCULATED	NO.	= NUMBER
(F)	= FIELD	ORB	= OFFICIAL RECORDS BOOK
CCR	= CERTIFIED CORNER RECORD	PB	= PLAT BOOK
CM	= CONCRETE MONUMENT	PG	= PAGE
DB	= DEED BOOK	PGS	= PAGES
FND	= FOUND	P.O.B.	= POINT OF BEGINNING
IP	= IRON PIPE	P.O.C.	= POINT OF COMMENCEMENT
LA	= LIMITED ACCESS	R/W	= RIGHT OF WAY
		SQ	= SQUARE
		SR	= STATE ROAD

## GENERAL NOTES:

1. THE PURPOSE OF THIS SKETCH IS TO DELINEATE THE DESCRIPTION ATTACHED HERETO. THIS DOES NOT REPRESENT A BOUNDARY SURVEY.
2. THE BEARINGS SHOWN HEREON ARE RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983/2007 ADJUSTMENT (NAD83/07), EAST ZONE, WITH THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 36, TOWNSHIP 20 SOUTH, RANGE 27 EAST, HAVING A BEARING OF NORTH 02°14'21" WEST.
3. UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS SKETCH IS FOR INFORMATIONAL PURPOSES ONLY.
4. THIS SKETCH MAY HAVE BEEN REDUCED IN SIZE BY REPRODUCTION, THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.
5. PARCEL 104 PART C - A CERTIFICATE OF TITLE INFORMATION PREPARED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY DATED MAY 16, 2013 (REVISED JUNE 7, 2013), ORDER NO. 4395477, WAS REVIEWED BY THE SURVEYOR. EXCEPTIONS LISTED THEREIN (IF ANY) WHICH AFFECT THE PARCEL DESCRIBED HEREON, WHICH CAN BE DELINEATED OR NOTED, ARE SHOWN HEREON.  
  
PARCEL 804 - THE SURVEYOR HAS NOT ABSTRACTED THE LANDS SHOWN HEREON FOR EASEMENTS AND/OR RIGHT-OF-WAY RECORDS. THE SKETCH WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
6. CITY LIMITS SHOWN HEREON ARE TAKEN FROM THE ORANGE COUNTY GEOGRAPHIC INFORMATION SYSTEM SITE AND ARE APPROXIMATE.
7. ALL RECORDING REFERENCES SHOWN ON THIS SKETCH REFER TO THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, UNLESS OTHERWISE NOTED.
8. THIS SKETCH IS NOT A SURVEY.

SEE SHEET 1 & 2 FOR LEGAL DESCRIPTIONS  
SEE SHEET 3 FOR SKETCH OF DESCRIPTION

SHEET 4 OF 4

REVISED PER COMMENTS		PMM	02/05/2014	I HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION AND SKETCH IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS LEGAL DESCRIPTION AND SKETCH MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 31-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES, SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.   2-5-2014 Paul DeVore, Professional Land Surveyor No. 1590 DATE
REVISED PER COMMENTS		PMM	01/27/2014	
REVISED PER COMMENTS		PMM	06/13/2013	
REVISION		BY	DATE	
FOR: ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY		STATE ROAD 429 OOCEA PROJECT NO. 429-201 PARCEL NO. 104 & 804		 <b>GEODATA CONSULTANTS, INC.</b> SURVEYING & MAPPING 1349 SOUTH INTERNATIONAL PARKWAY SUITE 2401 LAKE MARY, FLORIDA 32746 VOICE: (407) 332-6965 LAND SURVEYOR BUSINESS LICENSE NO. 6556
DATE: MAY 16, 2013				
PROJECT NO.: H20-01				
DRAWN: PMM CHECKED: JMS				

## **CONSENT AGENDA ITEM**


**#4**

**WINDERWEEDLE, HAINES, WARD & WOODMAN, P.A.**

**329 Park Avenue North  
Second Floor  
Post Office Box 880  
Winter Park, Florida 32790-0880  
Telephone (407) 423-4246  
Facsimile (407) 645-3728**

**MEMORANDUM**

**TO: Central Florida Expressway Authority Board Members**

**FROM: Robert L. Simon, Jr., Right of Way Counsel**   
**Winderweedle, Haines, Ward & Woodman, P.A.**

**DATE: August 25, 2014**

**RE: S.R. 429 Wekiva Parkway, Project 429-201; Parcel 801 (Connelly)  
Real Estate Purchase Agreement**

---

Winderweedle, Haines, Ward & Woodman, P.A., right of way counsel, seeks the Board's approval of a Real Estate Purchase Agreement between Patrick R. Connelly (the "Owner") and the Central Florida Expressway Authority ("CFX") for the acquisition of Parcel 801 (the "Taking" or "Property") for the construction of the S.R. 429 Wekiva Parkway, Project 429-201.

**DESCRIPTION and BACKGROUND:**

Parcel 801 is a vacant tract that consists of approximately 1,025 square feet of land located at the southwest corner of Plymouth Sorrento Road and Southfork Drive in unincorporated Orange County, Florida. The Taking is for perpetual easement rights. The Property is zoned A-1, Agricultural by Orange County. The future land use designation is Rural/Agricultural and is within the Rural Service Area and Joint Planning Area with the City of Apopka. There are no improvements located within the Taking. See attached Exhibit "A."

CFX's appraisal of Parcel 801 was prepared by Mr. Richard MacMillan of The Appraisal Group of Central Florida, Inc. with a date of value of June 5, 2014. Mr. MacMillan estimated the value of Parcel 801 to be \$4,900.00 inclusive of damages to the remainder, if any. Mr. MacMillan concluded that the Property's highest and best use as vacant is for assemblage with the adjacent 5.920 acre tract of land to the south. A copy of the appraisal was provided to the Owner.

The parties have been participating in negotiations and have reached a proposed agreement on the purchase price for the acquisition of Parcel 801. The parties have conditionally accepted a Real Estate Purchase Agreement ("Purchase Agreement"), subject to Right of Way Committee recommendation and final CFX Board approval. Under the Purchase Agreement, CFX would pay the Owner the sum of \$5,000.00 in full settlement of all claims for compensation for the acquisition of Parcel 801. A copy of the Purchase Agreement is attached hereto as Exhibit "B."

Central Florida Expressway Authority Board Members  
S.R. 429 Wekiva Parkway, Project 429-202; Parcel 801 (Connelly)  
August 25, 2014  
Page 2 of 2

Acceptance of the proposed Real Estate Purchase Agreement is recommended and is in CFX's best interest. It will eliminate further risk and unnecessary expenses that CFX will ultimately incur if it is required to file a condemnation action to acquire Parcel 801. Filing a condemnation action will subject CFX to additional attorneys' fees and costs as well as additional expert fees and costs, which CFX would be responsible for as part of the landowner's compensation as provided by Florida Statutes §73.091 and §73.092.

**RECOMMENDATION:**

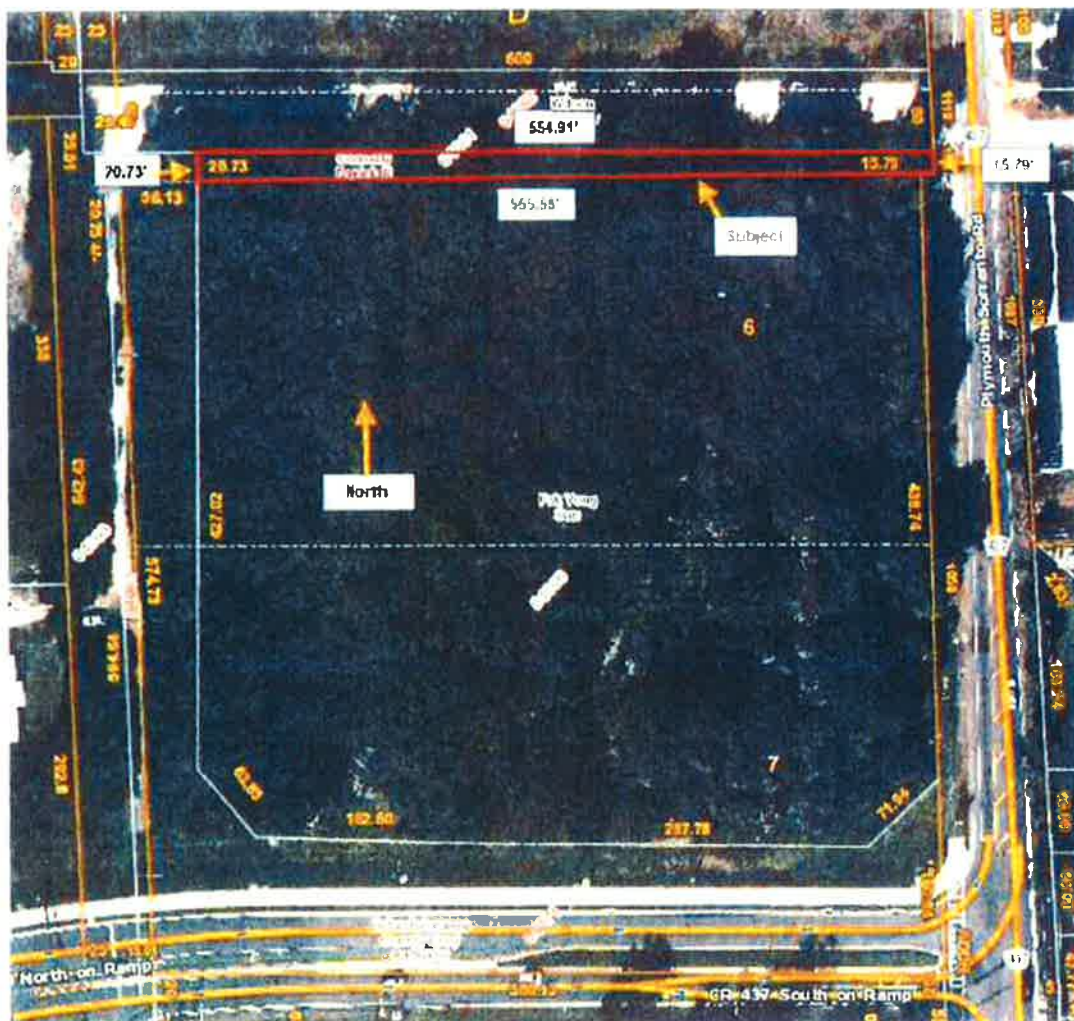
The proposed settlement was recommended for Board approval by the Right of Way Committee at the September 4, 2014 meeting. We respectfully request the Board's approval of the proposed Real Estate Purchase Agreement with a purchase price of \$5,000.00 in full settlement of all claims for compensation for the acquisition of Parcel 801.

**ATTACHMENTS:**

Exhibit A - Aerial of Parcel 801  
Exhibit B - Purchase Agreement

Parcel: 801  
Project: 429-201

Aerial of Subject with Property Dimension





**PURCHASE AGREEMENT**

PROJECT 429 - 201  
 STATE ROAD NO 429  
 PROJECT NAME: Wekiva Parkway  
 COUNTY: Orange  
 PARCEL NO 801

**Seller: Patrick R. Connelly**

**Buyer: The Central Florida Expressway Authority ("Expressway Authority")**

Expressway Authority and Seller hereby agree that Seller shall sell and Expressway Authority shall buy the following described property pursuant to the following terms and conditions:

**I. Description of Property**

(a) Estate being purchased: ☐ Fee Simple ☒ Permanent Easement ☐ Temporary Easement ☐ Leasehold

(b) Real property described as See Attached Exhibit "A"

(c) Personal property. None.

(d) Outdoor advertising structure(s) permit number(s): N/A

Buildings, structures, fixtures and other improvements owned by others N/A  
 These items are **NOT** included in this agreement. A separate offer is being, or has been, made for these items

**II. PURCHASE PRICE**

**(a) Real Property**

Land	1	\$	5,000.00
Improvements	2	\$	0.00
Real Estate Damages	3	\$	0.00
(Severance/Cost-to-Cure)			

<b>Total Real Property</b>	<b>4.</b>	<b>\$</b>	<b>5,000.00</b>
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<b>(b) Total Personal Property</b>	<b>5.</b>	<b>\$</b>	<b>0.00</b>
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**(c) Fees and Costs**

Attorney Fees	6.	\$	0.00
Appraiser Fees	7.	\$	0.00

<b>Total Fees and Costs</b>	<b>9.</b>	<b>\$</b>	<b>0.00</b>
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<b>(d) Total Business Damages</b>	<b>10.</b>	<b>\$</b>	<b>0.00</b>
-----------------------------------	------------	-----------	-------------

<b>(e) Total of Other Costs</b>	<b>11.</b>	<b>\$</b>	<b>0.00</b>
---------------------------------	------------	-----------	-------------

List:

<b>Total Purchase Price (Add Lines 4, 5, 9, 10 and 11)</b>		<b>\$</b>	<b>5,000.00</b>
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(f) Portion of Total Purchase Price to be paid to Seller by Expressway Authority at Closing		\$	0.00
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(g) Portion of Total Purchase Price to be paid to Seller by Expressway Authority upon surrender of possession		\$	0.00
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**III. Conditions and Limitations**

- (a) Seller is responsible for all taxes due on the property up to, but not including the day of closing
- (b) Seller is responsible for delivering marketable title to Expressway Authority. Marketable title shall be determined according to applicable title standards adopted by the Florida Bar in accordance with Florida Law subject only to those exceptions that are acceptable to Expressway Authority. Seller shall be liable for any encumbrances not disclosed in the public records or arising after closing as a result of actions of the Seller
- (c) Seller shall maintain the property described in **Section I** of this agreement until the day of closing. The property shall be maintained in the same condition existing on the date of this agreement, except for reasonable wear and tear
- (d) Any occupancy of the property described in **Section I** of this agreement by Seller extending beyond the day of closing must be pursuant to a lease from Expressway Authority to Seller
- (e) The property described in **Section I** of this agreement is being acquired by Expressway Authority for transportation purposes under threat of condemnation pursuant to **Section 337.25 Florida Statutes**
- (f) Pursuant to **Rule 14-10.004, Florida Administrative Code**, Seller shall deliver completed **Outdoor Advertising Permit Cancellation Form(s), Form Number 575-070-12**, executed by the outdoor advertising permit holder(s) for any outdoor advertising structure(s) described in **Section I** of this agreement and shall surrender or account for the outdoor advertising permit tag(s) at closing
- (g) Seller agrees that the real property described in **Section I** of this agreement shall be conveyed to Expressway Authority by conveyance instrument(s) acceptable to Expressway Authority
- (h) Seller and Expressway Authority agree that this agreement represents the full and final agreement for the herein described sale and purchase and no other agreements or representations, unless incorporated into this agreement, shall be binding on the parties
- (i) Other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (j) Seller and Expressway Authority agree that a real estate closing pursuant to the terms of this agreement shall be contingent on delivery by Seller of an executed Public Disclosure affidavit in accordance with **Section 286.23, Florida Statutes**, if applicable

**IV. Closing Date**

The closing will occur no later than sixty (60) days after Final Agency Acceptance

**V. Typewritten or Handwritten Provisions**

Any typewritten or handwritten provisions inserted into or attached to this agreement as addenda must be initialed by both Seller and Expressway Authority

- ☒ There is an addendum to this agreement. Page 4 is made a part of this agreement
- ☐ There is not an addendum to this agreement

VI. Seller and Expressway Authority hereby acknowledge and agree that their signatures as Seller and Expressway Authority below constitute their acceptance of this agreement as a binding real estate contract

This Agreement is subject to final agency acceptance by Expressway Authority pursuant to Section 119.0711 Florida Statutes (2013) ("Final Agency Acceptance") after Right of Way Committee and Expressway Authority Board Approval. Notwithstanding anything in this Agreement to the contrary, the Closing shall not occur prior to thirty (30) days from the date this Agreement is executed and delivered by Owners and Expressway Authority to allow public review of the transaction contemplated by this Agreement. Final Agency Acceptance shall be evidenced by the signature of Expressway Authority in Section VII of this agreement

Seller: Patrick R. Connelly

Buyer: Central Florida Expressway Authority

Patrick R Connelly 8/22/14  
Signature Date

BY [Signature] 8/22/14  
Signature Date

Patrick R Connelly  
Type or print name

[Signature]  
Type or print name

## VII. FINAL AGENCY ACCEPTANCE

The Expressway Authority has granted Final Agency Acceptance this \_\_\_\_ day of \_\_\_\_\_ 20\_\_

### WITNESSES:

### "EXPRESSWAY AUTHORITY"

\_\_\_\_\_  
Print Name

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
A body politic and corporate and an agency of the state,  
under the laws of the State of Florida.

\_\_\_\_\_  
Print Name

By \_\_\_\_\_

Print Name \_\_\_\_\_

APPROVED AS TO FORM FOR EXECUTION BY A  
SIGNATORY OF THE CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY  
Legal Counsel

Title \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

Central Florida Expressway Authority

**ADDENDUM TO PURCHASE AGREEMENT**

PROJECT: 429 - 201  
STATE ROAD NO 429  
PROJECT NAME Wekiva Parkway  
COUNTY Orange  
PARCEL NO 801

This is an addendum to the Purchase Agreement attached hereto and made a part hereof between, **Patrick R. Connelly**, Seller, and **The Central Florida Expressway Authority ("Expressway Authority")**, Buyer for the use and benefit of the Expressway Authority, for the above-referenced project

1 Buyer and Seller agree all fees, costs and/or business damage claims are included in this Purchase Agreement.

Funds shall be made payable and will be issued according to the Seller and/or their representatives

1 Funds in the amount of \$5,000.00 shall be made payable to Patrick R. Connelly

IN WITNESS WHEREOF, the parties have caused these present to be executed in their respective names

**Seller(s): Patrick R. Connelly**

Patrick R Connelly  
Signature  
By Patrick R. Connelly  
Type or print name and title

8/22/14  
Date

**Buyer: The Central Florida Expressway Authority**

[Signature]  
Signature  
Print Name [Print Name]  
Title [Title]

[Date]  
Date

ORLANDO ORANGE COUNTY  
EXPRESSWAY AUTHORITY  
STATE ROAD 429  
PROJECT NO. 429-201

PARCEL NO. 801  
PURPOSE: PERMANENT EASEMENT  
ESTATE: PERMANENT EASEMENT

### LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 20 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; BEING A PORTION OF LOT 6, BLOCK D, MAP OF PLYMOUTH, AS RECORDED IN PLAT BOOK B, PAGES 17 THROUGH 18 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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CONTAINING 1 025 SQUARE FEET, MORE OR LESS.

SEE SHEET 2 FOR SKETCH OF DESCRIPTION  
SEE SHEET 3 FOR GENERAL NOTES AND LEGEND

SHEET 1 OF 3

FOR: ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY

DATE: DECEMBER 12, 2013

PROJECT NO.: H20-01

DRAWN: PMM CHECKED: JMS

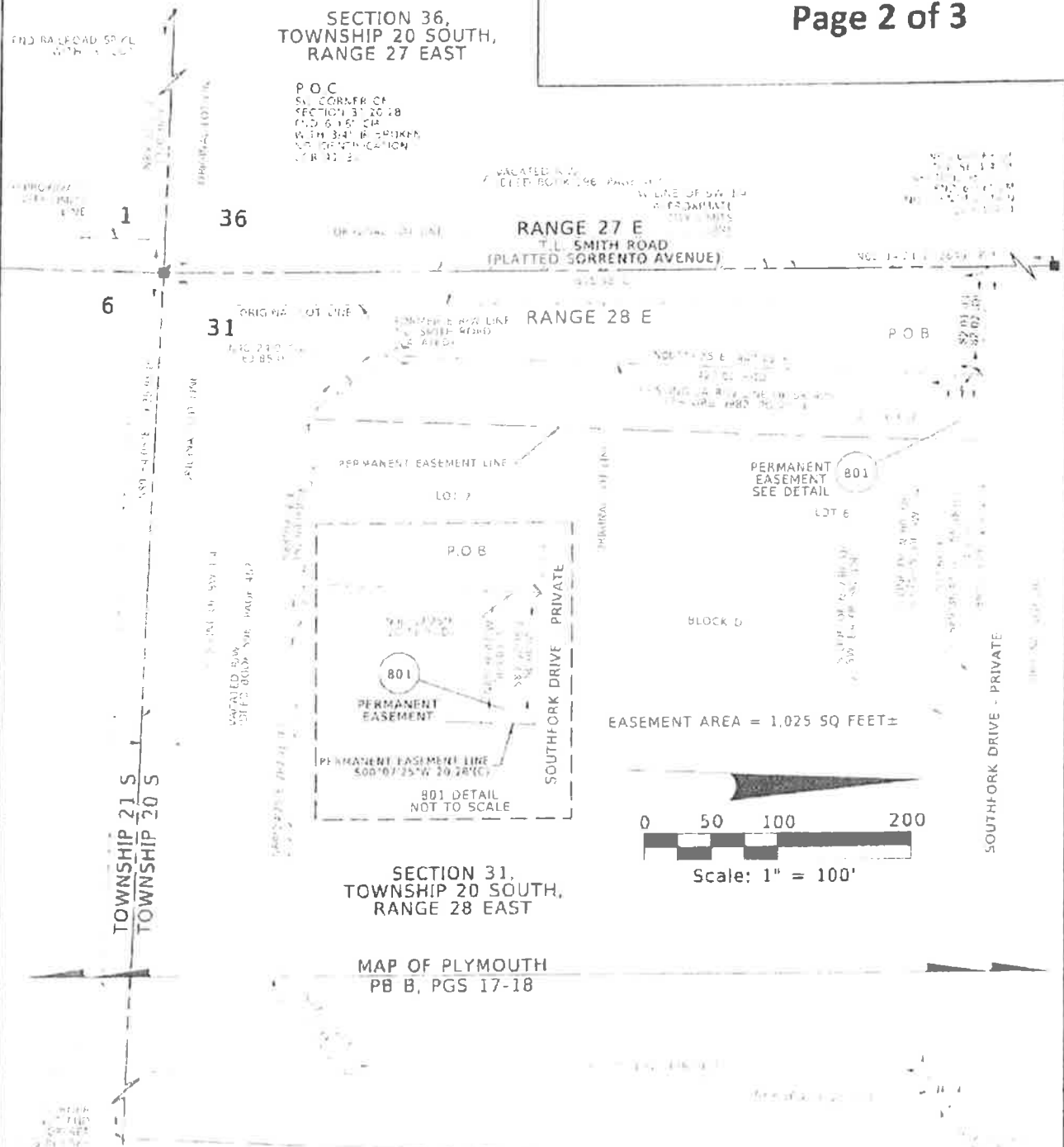
STATE ROAD 429  
OOCEA PROJECT NO. 429-201  
PARCEL NO. 801

GEODATA CONSULTANTS, INC.  
SURVEYING & MAPPING  
1339 SOUTH INTERNATIONAL PARKWAY  
SUITE 9401  
LAKE MARY, FLORIDA 32746  
PHONE (407) 732-6940  
LAND SURVEYOR BUSINESS LICENSE NO. 9509

# EXHIBIT "A"

Page 2 of 3

## SKETCH OF DESCRIPTION



SEE SHEET 1 FOR LEGAL DESCRIPTION  
SEE SHEET 3 FOR GENERAL NOTES AND LEGEND

SHEET 2 OF 3

FOR: ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY

DATE: DECEMBER 12, 2013

PROJECT NO. H20-01

DRAWN: PMM CHECKED: JMS

STATE ROAD 429  
OOCEA PROJECT NO. 429-201  
PARCEL NO. 801



GEODATA CONSULTANTS, INC.

SURVEYING & MAPPING

1349 SOUTH INTERNATIONAL PARKWAY

SUITE 2401

LAKE MARY, FLORIDA 32746

VOICE (407) 732-6965

LAND SURVEYOR BUSINESS LICENSE NO. 6356

# SKETCH OF DESCRIPTION

EXHIBIT "A"

Page 3 of 3

## LEGEND AND ABBREVIATIONS

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## GENERAL NOTES:

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- 6 CITY LIMITS SHOWN HEREON ARE TAKEN FROM THE ORANGE COUNTY GEOGRAPHIC INFORMATION SYSTEM SHEET AND ARE APPROXIMATE.
- 7 ALL RECORDING REFERENCES SHOWN ON THIS SKETCH REFER TO THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, UNLESS OTHERWISE NOTED.
- 8 THIS SKETCH IS NOT A SURVEY.

SEE SHEET 1 FOR LEGAL DESCRIPTION  
SEE SHEET 2 FOR SKETCH OF DESCRIPTION

SHEET 3 OF 3

REVISED PER COMMENTS	PMM	02/05/2014	I HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION AND MAP WAS PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED SURVEYOR AND MAPPER IN THE STATE OF FLORIDA. I HAVE READ THE ENTIRE DESCRIPTION AND MAP AND I CERTIFY THAT THIS IS A TRUE AND CORRECT REPRESENTATION OF THE SAME. I HAVE ALSO READ THE ENTIRE DESCRIPTION AND MAP AND I CERTIFY THAT THIS IS A TRUE AND CORRECT REPRESENTATION OF THE SAME. I HAVE ALSO READ THE ENTIRE DESCRIPTION AND MAP AND I CERTIFY THAT THIS IS A TRUE AND CORRECT REPRESENTATION OF THE SAME.
REVISED PER COMMENTS	PMM	01/27/2014	
REVISION	BY	DATE	
FOR ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY DATE: DECEMBER 17, 2013 PROJECT NO: H20-01 DRAWN: PMM CHECKED: JMS			STATE ROAD 429 OOCEA PROJECT NO. 429-201 PARCEL NO. 801
			GEODATA CONSULTANTS, INC. SURVEYING & MAPPING 1349 SOUTH INTERNATIONAL PARKWAY SUITE 2401 LAKE MARY, FLORIDA 32746 PHONE: (407) 232-6955 LAND SURVEYOR BUSINESS LICENSE NO. 0449

## **CONSENT AGENDA ITEM**

**#5**




**SHUTTS  
&  
BOWEN  
LLP**

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

TO: Central Florida Expressway Authority Board Members  
FROM: David A. Shontz, Esq., Right-of-Way Counsel  
DATE: August 25, 2014  
RE: Agreement for Business Damage Claims Accounting Services for Wekiva Parkway  
Project Numbers 429-203, 429-204, 429-205, and 429-206



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Approval of an Agreement for Business Damage Claims Accounting Services by Gerson, Preston, Robinson, Klein, Lips & Eisenberg, P.A. ("Accountant") to provide consulting services related to evaluation of business owners' business damage claims for the Wekiva Parkway Project Numbers 429-203-, 429-204, 429-205, and 429-206 is sought from the Central Florida Expressway Authority Board ("Board"). A copy of the proposed Agreement for Business Damage Claims Accounting Services is attached for your review.

**BACKGROUND/DESCRIPTION**

The contract price is limited to \$100,000.00 or less. Services shall commence upon the execution of the Agreement and shall be provided on a continuous basis until each assigned parcel is completed. The services to be provided by the Accountant are evaluation of owners' business damage claims and advice to Shutts & Bowen regarding valuation of submitted business damage claims in the acquisition of properties for construction of the Wekiva Parkway project and any such other advice, as requested. If requested by Shutts & Bowen, litigation support services to be provided by the Accountant include testimony under oath as an expert witness on behalf of the Central Florida Expressway Authority in any judicial proceeding involving any work performed under the Agreement. All invoices submitted pursuant to the agreement shall be reviewed for accuracy by Shutts & Bowen LLP.

## **REQUESTED ACTION**

It is respectfully requested that the Board approve the terms of the Agreement for Business Damage Claims Accounting Services and authorize execution of the Agreement. Agreement Value: \$100,000.00

## **ATTACHMENT**

Agreement for Business Damage Claims Accounting Services for Wekiva Parkway Project Numbers 429-203, 429-204, 429-205, and 429-206.

**AGREEMENT FOR BUSINESS DAMAGE CLAIMS ACCOUNTING SERVICES  
FOR WEKIVA PARKWAY PROJECTS 429-203, 429-204, 429-205, AND 429-206**

**THIS AGREEMENT** is effective this \_\_\_\_ day of September, 2014, by and between Shutts & Bowen LLP ("Client"), whose business address is 300 South Orange Avenue, Suite 1000, Orlando, Florida 32801 and Gerson, Preston, Robinson, Klein, Lips & Eisenberg, P.A. ("Accountant"), whose business address is 666 Seventy-First Street, Miami Beach, Florida 33141.

**WITNESSETH:**

**WHEREAS**, the Client, in its capacity as Right-of-Way Counsel to the Central Florida Expressway Authority, desires to employ the Accountant to provide business damage claims accounting services as described herein; and

**WHEREAS**, the Accountant is licensed, qualified, willing and able to perform the business damage claims accounting services required on the terms and conditions hereinafter set forth.

**WHEREAS**, the Central Florida Expressway Authority has given public notice of the business damage claims accounting services to be rendered pursuant to this Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the Client and the Accountant do hereby agree as follows:

**ARTICLE 1- SERVICES TO BE PROVIDED BY THE ACCOUNTANT**

**1.1 Pre-Condemnation Consultation Services**

If requested by the Client, the Accountant agrees to provide pre-condemnation consultation services and advice regarding business damage claims resulting from any proposed taking and any such other advice, as requested. Payment for such pre-condemnation consultation services shall be made in accordance with the compensation schedule set forth in **Exhibit A**.

**1.2 Accounting Services**

The Accountant agrees to perform business damage claims accounting services for each parcel of property as assigned by the Client. Each assignment shall commenced with a notice to proceed letter to the Accounting which shall set forth the street address (or other description) of the property affected and the Due Date for each business damages report(s). It is understood and agreed that the Principal is Gary R. Gerson, CPA, MBA. It is further understood and agreed that the performance of the business damage claims requires the expertise of an individual accountant and the exercise of his or her independent judgment and that the continued and uninterrupted performance of the services is essential, and, therefore, if the Principal leaves the Accountant's employ, for

any reason, the Client shall have the option, in its sole discretion, of assigning this Agreement, and any Addenda hereto, to another Accountant within the firm so that the services shall be rendered without interruption or to appoint a different accounting firm. If the Agreement is assigned to another accounting firm, payment shall be made to the Accountant for all services rendered.

The Principal shall personally review and analyze the business damage claims for each affected parcel assigned by the Client and prepare and deliver two (2) color copies of the business damage claims report(s) to David A. Shontz, Esq. at Shutts & Bowen LLP, 300 South Orange Avenue, Suite 1000, Orlando, Florida 32801, within the timeframe set forth by the Client.

The Accountant shall commence work on the business damage claims report(s) immediately upon assignment and receipt of the notice to proceed letter, shall perform the work in the most expeditious manner and shall complete the business damage claims report(s) within the timeframe set forth in the notice to proceed letter, which the Accountant acknowledges is reasonable. Upon the request from the Client, the Accountant shall provide a progress report which shall advise as to the status of the services to be performed by the Accountant. Any business damage claims report provided hereunder shall be considered a draft report until such time as all business damages claims documents are provided to the Client by the business owner and subsequently provided to the Accountant. The Accountant agrees and understands that it is to provide a draft business damage claims report by the Due Date set forth in the assignment, regardless of whether all requested documentation regarding the business damages claim has been provided.

**It is agreed and understood that all services rendered under this Agreement and Addenda hereto are at the direction of the Client, and, as such, all communications and documents of any kind are privileged work product and shall not be provided to any person unless directed by the Client.**

The Accountant shall consult with the Client regarding services to be performed by the Accountant, at such time(s) as may be mutually convenient for the parties to this agreement. The Accountant shall initiate such consultations whenever the Accountant legal advice on any aspect of the business damage claims services to be furnished under this Agreement.

### **1.3 Litigation Support Services**

If requested by the Client, the Principal of the Accountant shall personally testify under oath as an expert witness on behalf of the Central Florida Expressway Authority in any judicial proceeding involving any business damage claims reviewed under this Agreement. Payment for such litigation support services shall be in accordance with the compensation schedule attached hereto as **Exhibit A** and shall include such reasonable time as may be required for re-analysis of the business damage claim, updating the

Accountant's report, participation in pretrial conferences with the Client, and preparation for and testifying at depositions, trial, or other judicial proceedings as requested.

#### **1.4 Sub-consultants**

The Accountant shall have the right, with the prior written consent of the Client, to employ other firms or individuals to serve as sub-consultants in connection with the Accountant's performance of any services. Upon the written request of the Client, which may be made with or without cause, the Accountant agrees to terminate promptly the services of any sub-consultant and to replace promptly each such terminated sub-consultant with a qualified firm or individual approved by the Client.

The Client shall have no liability or obligation to the sub-consultants hereunder. The Central Florida Expressway Authority shall have the right, but not the obligation, based upon sworn statements of accounts from the sub-consultants, to pay a specific amount directly to a sub-consultant. In such event, the Accountant agrees any such payments shall be treated as a direct payment to the Accountant's account. Sub-consultant fees shall be invoiced at cost with no additional markup applied by the Accountant.

#### **1.5 Accountant's Standards of Performance**

The Accountant shall follow all professional standards to the extent such standards are consistent with the rules on the admissibility of evidence of business damage claims value under the eminent domain laws of Florida. The Accountant shall use professional standards of performance to perform all services in such sequence, and in accordance with such reasonable time requirements and reasonable written instructions, as may be requested or provided by the Client. The Accountant has represented that it is possessed of that level of skill, knowledge, experience and expertise that is commensurate with firms of national repute and acknowledges that the Client has relied on such representations. By executing this Agreement, the Accountant agrees that the Accountant will exercise that degree of care, knowledge, skill and ability and agrees to perform the services in an efficient and economical manner.

#### **1.6 Accountant's Obligation to Correct Errors or Omissions**

The Accountant shall be responsible for the professional quality, technical adequacy and accuracy, timely completion, and coordination of all data, designs, specifications, calculations, estimates, plans, drawings, photographs, reports, memoranda, other documents and instruments, and other services furnished by the Accountant. The Accountant shall, without additional cost or expense to the Client, correct or revise any errors, omissions, or other deficiencies in the services performed by the Accountant.

### **1.7 Non-Exclusive Rights**

The rights granted to the Accountant hereunder are non-exclusive, and the Client reserves the right to enter into agreements with other Accountants to perform business damage claims services, including without limitation, any of the services provided for herein.

### **1.8 Accountant's Compliance with Laws and Regulations**

The Accountant and its employees and sub-consultants shall promptly observe and comply with all applicable federal, state and local laws, regulations, rules and ordinances then in effect or as amended ("laws"). The Accountant shall procure and keep in force during the term of this Agreement all necessary licenses, registrations, certificates, permits and other authorizations as are required by law in order for the Accountant to render its services hereunder.

### **1.9 Accountant is not Client's Agent**

The Accountant is not authorized to act as the Client's agent and shall have no authority, expressed or implied, to act for or bind the Client. The Accountant is not authorized to act as the agent of the Central Florida Expressway Authority and shall have no authority, expressed or implied, to act for or bind the Central Florida Expressway Authority.

### **1.10 Reduced Scope of Services**

The Client shall have the right, by written notice to the Accountant, to reduce the scope of services to be rendered hereunder. If the Client reduces the services to be rendered, the Accountant will be paid in accordance with the compensation schedule set forth in the attached **Exhibit A** for any time spent in connection with the reduced services. The Accountant shall not be entitled to any anticipated profit as a result of the reduced scope of services.

## **ARTICLE 2 – TIME**

**2.1** The date for commencement of the Pre-condemnation Consultation Services (described in Article 1.1) is the effective date of this Agreement. The date for commencement of the Accounting Services (described in Article 1.2) is the effective date of each assignment for service. The date for commencement of the Litigation Support Services (described in Article 1.3) is the date such services are required by the Client.

**2.2** The Due Date for the delivery of the business damage claims report(s) shall be included in the notice to proceed letter for each assignment. By accepting the assignment, the Accountant acknowledges that the Due Date is both realistic and achievable, and that the report(s) will be completed by that time.

**2.3** If, at any time prior to completion of the services, the Accountant determines that the services are not progressing sufficiently to meet the Due Date, the Accountant shall immediately notify the Client's Representative in writing and shall provide a description of the cause of the delay, the effect on the scheduled Due Date and the recommended action to meet the Due Date.

**2.4** No extensions of time shall be granted unless in writing and approved by the Client's Representative. Any requests for extensions shall be in writing explaining in detail why such extension is necessary and shall be made at least seven (7) days prior to the Due Date to be extended.

### **ARTICLE 3-- PAYMENT**

#### **3.1 When Payment is to be made by the Client**

All payments made pursuant to this Agreement will be paid to the Accountant by the Client only after payment by the Central Florida Expressway Authority is received by the Client. Payment for services rendered by any sub-consultants shall be paid to the Accountant and the Accountant shall be fully responsible for making payment to any sub-consultant retained by the Accountant. The Accountant acknowledges and understands that the Client shall not be responsible for making any payment for any services rendered hereunder unless reimbursed by the Central Florida Expressway Authority.

It is expressly agreed and understood that the Client is obtaining Accountant's services on behalf of the Central Florida Expressway Authority and, although the Client will direct the services hereunder, including making payment for the services, it shall assume no liability or responsibility for any payment due hereunder.

#### **3.2 Compensation for Pre-Condemnation Consultation Services**

It is expressly agreed and understood that the Accountant shall be paid for all pre-condemnation consultation services in accordance with the compensation schedule set forth in **Exhibit A** within thirty (30) days after receipt of each monthly invoice provided that the invoice is received by the third (3<sup>rd</sup>) of each month, and upon Client's receipt of funds from the Central Florida Expressway Authority. It is expressly agreed and understood that although the Client will direct the services hereunder, it shall assume no liability or responsibility for any payment due hereunder.

#### **3.3 Compensation Business Damages Claim Services**

It is expressly agreed and understood that the Accountant shall be paid for satisfactorily performed business damages claim services set forth in each assignment to this Agreement, for business damages claims for each parcel reviewed hereunder in accordance with the compensation schedule set forth on **Exhibit A**. No payment shall be made for business damages claims accounting services until after the receipt of the business damages report(s) by the Client. Once a final business damages report(s) has been provided to the Client, invoices for accounting services shall be paid within forty-

five (45) days after receipt of the invoice, upon receipt of funds from the Central Florida Expressway Authority.

The Accountant shall receive compensation in accordance with Exhibit A for services performed in connection with the modification or preparation of any supplement or update to any business damages report furnished under this agreement if requested by the Client for any other reason not the fault of the Accountant.

The Accountant shall not receive compensation for services performed in connection with the modification or preparation of any supplement or update to any business damages report furnished under this agreement if (1) applicable principles of law with respect to the valuation of the business damages claim require the modification on or supplementing of such business damages report, (2) material omissions, inaccuracies, or defects in the business damages report are discovered, or (3) the Accountant receives or becomes aware of relevant additional business damages claim information in existence prior to the date the Accountant signed the report.

### **3.4 Compensation for Litigation/Consultation Services**

It is expressly agreed and understood that the Accountant shall be paid for all litigation support services in accordance with the compensation schedule set forth in Exhibit A within thirty (30) days after receipt of each monthly invoice, provided that the invoice is received by the third (3<sup>rd</sup>) of each month, and funds are received by the Client from the Central Florida Expressway Authority. It is expressly agreed and understood that although the Client will direct the services hereunder, it shall assume no liability or responsibility for any payment due hereunder.

### **3.5 Invoices**

The Accountant shall submit detailed invoices to the Client for all services rendered. The Accountant represents and warrants that all billable hours and rates furnished by the Accountant to the Client shall be accurate, complete and current as of the date of this Agreement or any Addendum. The Client shall forward such invoices to the Central Florida Expressway Authority for payment to the Client, and then Client shall forward the payment to the Accountant as provided herein.

The Client shall notify the Accountant in writing of any objection to the amount of such invoice, together with the Client's determination of the proper amount of such invoice. Any dispute over the proper amount of such monthly invoice shall be resolved by mutual agreement of the parties, and after final resolution of such dispute, the Central Florida Expressway Authority shall promptly pay the Client for the Accountant the amount so determined, less any amounts previously paid with respect to such monthly invoice.



### **3.6 Right to Withhold Payment**

The Client or the Central Florida Expressway Authority shall have the right to withhold payment on any invoice in the event that the Accountant is in default under any provision of this Agreement (including any Addenda) or if liquidated damages are assessed against the Accountant.

### **3.7 Total Payments not to Exceed**

All payments made pursuant to this Agreement shall not exceed a total of One Hundred Thousand Dollars (\$100,000.00), without an Addendum to this Agreement that shall be approved by the Central Florida Expressway Authority. It shall be the responsibility of the Accountant to monitor the total of all payments made pursuant to this Agreement and notify the client prior to reaching the One Hundred Thousand Dollars (\$100,000.00) upset limit so that Client may timely present the necessary Addendum to the Central Florida Expressway Authority.

## **ARTICLE 4 – LIQUIDATED DAMAGES**

### **4.1 Business Damages Claim Reports**

If the Accountant fails to submit any business damages report by the Due Date, the Accountant will be assessed one percent (1%) of the lump sum amount for such report per calendar day for the first seven (7) calendar days the business damages report is delayed. If the Accountant submits the draft or final business damages report more than seven (7) calendar days after the Due Date, the Accountant will be assessed two percent (2%) of the lump sum for such report per calendar day thereafter, until the business damages report is received by the Client.

### **4.2 Responses, Modifications, or Corrections**

The Client will notify the Accountant of any modifications, corrections or additional services that, in the sole discretion of the Client, are determined to be necessary. All modifications, corrections, or additional services shall be completed within five (5) calendar days after the request is made by the Client. Once the Accountant completes the requested modifications, corrections or additional services, the Accountant shall submit a revised business damages report to the Client.

The revised business damages report shall be reviewed within five (5) calendar days for compliance with the requested modifications, corrections or additional services and a final business damages report submitted to the Client within three (3) calendar days of such review.

## **ARTICLE 5 - RECORDS**

### **5.1 Maintenance of Records**

The Accountant shall maintain complete and accurate records relating to all services rendered by Accountant and any sub-consultants pursuant to this Agreement.

Records shall be kept in a form reasonably acceptable to the Client. Records and invoices for services shall include all of the information required in order to determine the Accountant's monthly hours for each employee rendering services hereunder, and shall identify the services rendered by each employee in a manner acceptable to the Client.

## **5.2 Records Availability and Audit**

All of the Accountant's records relating to services shall, upon reasonable notice by the Client, be made available to the Client, and the Client shall have the right from time to time, through its respective duly authorized representatives, at all reasonable times, to review, inspect, audit or copy the Accountant's records. Production of such records by the Accountant shall not constitute promulgation and shall retain in the Accountant all rights and privileges of workmanship, confidentiality and any other vested interests. If, as a result of an audit, it is established that the Accountant has overstated its hours of service, per diem or hourly rates for any month, the amount of any overcharge paid as a result of an overstatement shall forthwith be refunded by the Accountant to the Central Florida Expressway Authority with interest thereon, if any, at a rate of six percent (6%) per annum on the overstated amount accrued from forty-five (45) days after the Client's notice to the Accountant of the overstatement. If the amount of an overstatement in any month exceeds five percent (5%) of the amount of the Accountant's statement for that month, the entire reasonable expense of the audit shall be borne by the Accountant. The Accountant shall retain all records and shall make same available to the requesting party for a period of five (5) years from the date of payment by the Client of the final invoice for the services to which the records relate.

## **ARTICLE 6 – TERM OF AGREEMENT AND TERMINATION**

### **6.1 Term of Agreement**

Services shall commence upon the execution of the Agreement and shall be provided on a continuous basis until each assignment is completed. No Addenda shall be issued after two (2) years from the effective date of this Agreement. The Client can elect to extend the Agreement by exercising up to three additional extensions of one year each.

### **6.2 Termination**

This Agreement and/or any exhibit hereto may be terminated in whole or in part by either party by written notification at any time. Upon notification, Accountant will immediately discontinue all services and submit a final invoice to the Client within thirty (30) days of Client's notice of termination to Accountant. The Accountant shall be paid for the services satisfactorily performed by the Accountant if the business damages report(s) has been provided to the Client. If the business damages report(s) has not been provided to the Client, the Accountant shall receive no compensation for any services rendered under this agreement or any Addenda hereto.

Upon termination, the Accountant shall deliver or otherwise make available to the Client all data, designs, specifications, calculations, estimates, plans, drawings, photographs, reports, memoranda, other documents and instruments, and such other information and materials as may have been prepared or accumulated by the Accountant or its sub-consultants in performing services under this Agreement, whether completed or in process. The Accountant shall have no entitlement to recover anticipated profit for services or other work not performed.

## **ARTICLE 7 - CONFIDENTIALITY**

Unless otherwise required by law, the Accountant shall not, without the prior written consent of the Client, knowingly divulge, furnish or make available to any third person, firm or organization, any information generated by the Accountant or received from the Client, concerning the services rendered by the Accountant or any sub-consultant pursuant to this Agreement.

## **ARTICLE 8 - MISCELLANEOUS PROVISIONS**

### **8.1 Notices**

All notices required to be given hereunder shall be in writing and shall be given by United States mail, postage prepaid addressed to the parties' representatives at the address set forth in Exhibit A. Electronic mail, instant messaging or facsimile shall not be considered notice as required hereunder.

### **8.2 Change of Address**

Any party may change its address for purposes of this Article by written notice to the other party given in accordance with the requirements of this Article.

### **8.3 Jurisdiction**

Any claim, dispute or other matter in question arising out of or relating to this Agreement or the breach thereof, except for claims which have been waived pursuant to this Agreement, shall be brought only in the Circuit Court of the Ninth Judicial District in and for Orange County, Florida. Such claims, disputes or other matters shall not be subject to arbitration without the prior written consent of both the Client and the Accountant. The parties hereby agree that process may be served by United States Mail, postage prepaid, addressed to the Client's Representative, with a copy to the Client, or the Accountant's Representative as defined in Exhibit A. The parties hereby consent to the jurisdiction the Circuit Court of the Ninth Judicial District in and for Orange County, Florida.

### **8.4 Governing Law**

The Agreement shall be governed by the laws of Florida.

## **8.5 Transfers and Assignments**

The Accountant shall not transfer or assign any of its rights hereunder (except for transfers that result from the merger or consolidation of the Accountant with a third party) or (except as otherwise authorized in this Agreement or in an exhibit hereto) subcontract any of its obligations hereunder to third parties without the prior written approval of the Client. The Client shall be entitled to withhold such approval for any reason or for no reason. Except as limited by the provisions of this paragraph, this Agreement shall inure to the benefit of and be binding upon the Client and the Accountant, and their respective successors and assigns.

## **8.6 Member Protection**

No recourse shall be had against any member, officer, employee or agent, as such, past, present or future, of the Client or the Central Florida Expressway Authority, either directly or indirectly, for any claim arising out of this Agreement or the services rendered pursuant to it, or for any sum that may be due and unpaid. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any Client or the Central Florida Expressway Authority member, officer, employee or agent as such, to respond by reason of any act or omission on his or her part or otherwise for any claim arising out of this Agreement for the services rendered pursuant to it, or for the payment for or to the Client or the or the Central Florida Expressway Authority, or any receiver therefore or otherwise, of any sum that may remain due and unpaid, is hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement.

## **8.7 Conflict of Interest**

Except with the Client's knowledge and consent, the Accountant and Sub-consultants shall not undertake services when it would reasonably appear that such services could compromise the Accountant's judgment or prevent the Accountant from serving the best interests of the Client. Except with the Client's knowledge and consent, the Accountant shall not perform any services for any property-owners from whom property has been, will be, or is contemplated to be condemned by the Central Florida Expressway Authority for the projects which are collectively known as the S.R. 429 Wekiva Parkway Project, which for the purpose of this Agreement shall be defined by the Client at a later date and as such roadway is modified from time to time. Client reserves the right to raise such conflict unless that right is specifically waived by the Central Florida Expressway Authority.

### **8.8 Entire Agreement**

This Agreement, including the exhibits hereto, constitutes the entire agreement between the parties and shall supersede and replace all prior agreements or understandings, written or oral, relating to the matters set forth herein.

### **8.9 Amendment**

This Agreement and its exhibits shall not be amended, supplemented or modified other than in writing signed by the parties hereto. Neither electronic mail nor instant messaging shall be considered a "writing" for purposes of amending, supplementing or modifying this Agreement. No services shall be performed until such services are provided for in an Amendment or Addenda and executed by both parties.

### **8.10 No Third-Party Beneficiaries**

No person, except for the Central Florida Expressway Authority, shall be deemed to possess any third-party beneficiary rights pursuant to this Agreement. It is the intent of the parties hereto that no direct benefit to any third party, other than the Central Florida Expressway Authority, is intended or implied by the execution of this Agreement. It is agreed and understood between the services rendered hereunder shall be for the benefit of the Central Florida Expressway Authority and the Central Florida Expressway Authority is entitled to rely upon the business damages report(s) prepared hereunder.

### **8.11 Accountant Contractual Authorization**

Accountant represents and warrants that the execution and delivery of the Agreement and the performance of the acts and obligations to be performed have been duly authorized by all necessary corporate (or if appropriate, partnership) resolutions or actions and the Agreement does not conflict with or violate any agreements to which Accountant is bound, or any judgment, decree or order of any court.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement, effective as of the date set forth above.

**SHUTTS & BOWEN LLP**

Attest:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Witness Signature

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Printed Name

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Witness Signature

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Printed Name

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Witness Signature

\_\_\_\_\_  
Printed Name

By: \_\_\_\_\_

David A. Shontz, Esq.  
Legal Counsel to the Central Florida  
Expressway Authority

**GERSON, PRESTON, ROBINSON,  
KLEIN, LIPS & EISENBERG, P.A.**

By: \_\_\_\_\_

Gary R. Gerson, CPA, MBA

**EXHIBIT A**

**Client's Representative**

David A. Shontz, Esq.  
Shutts & Bowen LLP  
300 South Orange Avenue, Suite 1000  
Orlando, Florida 32801

**Accountant's Representative**

Gary R. Gerson, CPA, MBA  
Gerson, Preston, Robinson, Klein, Lips &  
Eisenberg, P.A.  
666 Seventy-First Street  
Miami Beach, Florida 33141

This **Exhibit A** includes the following which shall be made a part hereof:

- ☐ Accountant's Compensation Schedule including all Billable Rates is as follows. (The rates shall include allowance for salaries, overhead, operating margin and direct expenses.)

Name	Position/Expertise	Labor Rate
Gary R. Gerson, CPA, MBA	Principal	\$225.00 per hour
Ed Deppmen, CPA/ABV, CFF	Director	\$170.00 per hour
Jorge L. Moreno Z.	Manager	\$150.00 per hour
Experienced Staff	Staff Accountants	\$135.00 per hour

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## **CONSENT AGENDA ITEM**


**#6**





*Founded 1910*

## MEMORANDUM

TO: Central Florida Expressway Authority Board Members  
FROM: David A. Shontz, Esq., Right-of-Way Counsel   
DATE: August 25, 2014  
RE: Addendum to Agreement for Engineering Expert Witness Consulting Services for  
Wekiva Parkway Project Numbers 429-203, 429-204, 429-205, and 429-206

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Approval of an Addendum to Agreement for Engineering Expert Witness Consulting Services by Donald W. McIntosh Associates, Inc. ("Engineering Expert Witness Consultant") to perform engineering services for the Wekiva Parkway Project Numbers 429-203, 429-204, 429-205, and 429-206 is sought from the Central Florida Expressway Authority Board ("Board"). A copy of the proposed Addendum to Agreement for Engineering Expert Witness Consulting Services is attached for your review.

### BACKGROUND/DESCRIPTION

On October 10, 2013, the Engineering Expert Witness Consultant entered into an agreement to provide pre-litigation and litigation engineering consultation services for the Wekiva Parkway Project ("the Agreement"). The original contract price was limited to \$150,000.00 (the "upset limit"). The Engineering Expert Witness Consultant has notified Shutts & Bowen LLP that the Engineering Expert Witness Consultant will reach the \$150,000.00 upset limit. Approval of the attached Addendum will increase the upset limit by an additional \$100,000.00. The increase is necessary to allow the Engineering Expert Witness Consultant to continue to provide pre-condemnation consultation services, engineering consultation services and litigation support services for the Wekiva Parkway Project. All invoices submitted pursuant to the agreement shall be reviewed for accuracy by Shutts & Bowen LLP.

Sections 429-204, 429-205 and 429-206 have a total of forty-four (44) additional parcels for which appraisal assignments have been made. Assistance is required with engineering issues

on some of those parcels so that the appraisers can complete the appraisal assignments. Additionally, orders of taking have been obtained on the thirty-four (34) parcels in Section 429-203. As litigation proceeds, funds must be available to allow the Engineering Expert Witness Consultant to provide litigation services including production of documents and deposition and possible trial testimony. The requested increase in the upset limit will allow uninterrupted continuation of those services.

#### **REQUESTED ACTION**

It is respectfully requested that the Board approve the terms of the Addendum to Agreement for Engineering Expert Witness Consulting Services and authorize execution of the Addendum. Addendum Value: \$100,000.00.

#### **ATTACHMENT**

Addendum to Agreement for Engineering Expert Witness Consulting Services for Wekiva Parkway Project Numbers 429-203, 429-204, 429-205, and 429-206.

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**ADDENDUM TO AGREEMENT FOR ENGINEERING EXPERT WITNESS  
CONSULTING SERVICES FOR WEKIVA PARKWAY  
PROJECT NUMBERS 429-203, 429-204, 429-205, AND 429-206**

**THIS AGREEMENT** is effective this \_\_\_\_\_ day of September, 2014, by and between Shutts & Bowen LLP ("Client"), whose business address is 300 South Orange Avenue, Suite 1000, Orlando, Florida 32801, and Donald W. McIntosh Associates, Inc. ("Engineering Expert Witness Consultant"), whose business address is 2200 Park Avenue North, Winter Park, Florida 32789.

**WHEREAS**, the Engineering Expert Witness Consultant and Client have entered into an agreement for engineering expert witness consulting services dated October 10, 2013; and

**WHEREAS**, pursuant to the terms set forth in the Agreement for Engineering Expert Witness Consulting Services dated October 10, 2013, payments made to the Engineering Expert Witness Consultant shall not exceed an upset limit of One Hundred Fifty Thousand Dollars (\$150,000.00) without an addendum; and

**WHEREAS**, the Engineering Expert Witness Consultant has notified the Client that the Engineering Expert Witness Consultant will reach the One Hundred Fifty Thousand Dollar (\$150,000.00) upset limit; and

**WHEREAS**, the Client desires that the Engineering Expert Witness Consultant continue to furnish it with engineering expert witness consulting services, and the Engineering Expert Witness Consultant represents that he is fully qualified to perform such services and will furnish such services personally;

**NOW, THEREFORE**, the Client and the Engineering Expert Witness Consultant, for the consideration and under the conditions hereinafter set forth, do agree as follows:

**ARTICLE 1 - Upset Limit is increased by One Hundred Thousand Dollars (\$100,000.00)**

All payments made pursuant to this Addendum to the Agreement for Engineering Expert Witness Consulting Services dated October 10, 2013, shall not exceed a total of One Hundred Thousand Dollars (\$100,000.00). It shall be the responsibility of the Engineering Expert Witness Consultant to monitor the total of all payments pursuant to this Addendum and to notify the Client prior to reaching the One Hundred Thousand Dollar (\$100,000.00) upset limit.

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**ARTICLE 2 - Payment**

Payment for all other services shall be made in accordance with the Agreement for Engineering Expert Witness Consulting Services dated October 10, 2013.

**IN WITNESS WHEREOF**, the parties hereto, by their duly authorized representatives, have executed this Agreement, effective as of the date set forth above.

Attest:

**SHUTTS & BOWEN LLP**

\_\_\_\_\_  
Witness Signature

Terri L. Martin

Printed Name

\_\_\_\_\_  
Witness Signature

Mary Ellen Farmer

Printed Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name

By: \_\_\_\_\_

David A. Shontz, Esquire  
Legal Counsel to the Central Florida  
Expressway Authority

**DONALD W. McINTOSH  
ASSOCIATES, INC.**

By: \_\_\_\_\_

Donald W. McIntosh

**AGREEMENT FOR ENGINEERING EXPERT WITNESS CONSULTING  
SERVICES FOR WEKIVA PARKWAY  
PROJECTS 429-202, 429-203, 429-204, 429-205 AND 429-206**

**THIS AGREEMENT** is effective this 10~~th~~ day of October, 2013, by and between Shutts & Bowen LLP ("Client"), whose business address is 300 South Orange Avenue, Suite 1000, Orlando, Florida 32801 and Donald W. McIntosh Associates, Inc. ("Engineering Expert Witness Consultant"), whose business address is 2200 Park Avenue North, Winter Park, Florida 32789.

**WITNESSETH:**

**WHEREAS**, the Client, in its capacity as Right-of-Way Counsel to the Orlando-Orange County Expressway Authority, desires to employ the Engineering Expert Witness Consultant to provide engineering expert witness consulting services as described herein; and

**WHEREAS**, the Engineering Expert Witness Consultant is licensed, qualified, willing and able to perform the engineering expert witness consulting services required on the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the Client and the Engineering Expert Witness Consultant do hereby agree as follows:

**ARTICLE 1 - SERVICES TO BE PROVIDED BY THE ENGINEERING EXPERT WITNESS CONSULTANT**

**1.1 Engineering Expert Witness Consulting Services**

The Engineering Expert Witness Consultant agrees to perform engineering expert witness consulting services for Wekiva Parkway Projects 429-202, 429-203, 429-204, 426-205 and 429-206. It is understood and agreed that the performance of the engineering expert witness consulting services requires the expertise of an individual engineer and the exercise of his or her independent judgment and that the continued and uninterrupted performance of the services is essential, and, therefore, if the Engineering Expert Witness Consultant of Record leaves the Engineering Expert Witness Consultant's employ, for any reason, the Client shall have the option, in its sole discretion, of assigning this Agreement, and any Addenda hereto, to the Engineering Expert Witness Consultant of Record so that the services shall be rendered without interruption or shall require the Engineering Expert Witness Consultant to appoint a different individual as the Engineering Expert Witness Consultant of Record. If the Agreement is assigned to another engineering firm, payment shall be made to the Engineering Expert Witness Consultant for all services rendered. Payment for engineering expert witness consulting services shall be made in accordance with the compensation schedule set forth in **Exhibit A**.

The Engineering Expert Witness Consultant of Record shall prepare and deliver six (6) color copies of the engineering report(s) to David A. Shontz, Esquire, at Shutts & Bowen LLP, 300 South Orange Avenue, Suite 1000, Orlando, Florida 32801, within the timeframe set forth in the Addendum.

The Engineering Expert Witness Consultant shall commence work on the engineering report(s) immediately and shall perform the work in the most expeditious manner and shall complete the engineering report(s) within the specified timeframe, which the Engineering Expert Witness Consultant acknowledges is reasonable. Upon the request from the Client, the Engineering Expert Witness Consultant shall provide a progress report which shall advise as to the status of the services to be performed by the Engineering Expert Witness Consultant.

It is agreed and understood that all services rendered under this Agreement, and any Addenda hereto, are at the direction of the Client, and, as such, all communications and documents of any kind are privileged work product and shall not be provided to any person unless directed by the Client.

The Engineering Expert Witness Consultant shall consult with the Client regarding services to be performed by the Engineering Expert Witness Consultant at such time(s) as may be mutually convenient for the parties to this agreement. The Engineering Expert Witness Consultant shall initiate such consultations whenever the Engineering Expert Witness Consultant needs legal advice on any aspect of the engineering report to be furnished under this Agreement.

## **1.2 Litigation Support Services**

If requested by the Client, the Engineering Expert Witness Consultant of Record shall personally testify under oath as an expert witness on behalf of the Orlando-Orange County Expressway Authority in any judicial proceeding involving any engineering expert witness consulting work performed under this Agreement. Payment for such litigation support services shall be in accordance with the compensation schedule attached hereto as Exhibit A and shall include such reasonable time as may be required for re-inspection of the property, revising the engineering report, participation in pretrial conferences with the Client, and preparation for and testifying at depositions, trial, or other judicial proceedings as requested.

## **1.3 Sub-consultants**

The Engineering Expert Witness Consultant shall have the right, with the prior written consent of the Client, to employ other firms or individuals to serve as sub-consultants in connection with the Engineering Expert Witness Consultant's performance of any services. Upon the written request of the Client, which may be made with or without cause, the Engineering Expert Witness Consultant agrees to terminate promptly the services of any sub-consultant and to replace promptly each such terminated sub-consultant with a qualified firm or individual approved by the Client.

The Client shall have no liability or obligation to the sub-consultants hereunder. The Orlando-Orange County Expressway Authority shall have the right, but not the obligation, based upon sworn statements of accounts from the sub-consultants, to pay a specific amount directly to a sub-consultant. In such event, the Engineering Expert Witness Consultant agrees any such payments shall be treated as a direct payment to the Engineering Expert Witness Consultant's account. Sub-consultant fees shall be invoiced at cost with no additional markup applied by the Engineering Expert Witness Consultant.

#### **1.4 Engineering Expert Witness Consultant's Standards of Performance**

The Engineering Expert Witness Consultant shall use professional standards of performance to perform all services in such sequence, and in accordance with such reasonable time requirements and reasonable written instructions, as may be requested or provided by the Client. The Engineering Expert Witness Consultant has represented that it is possessed of that level of skill, knowledge, experience and expertise that is commensurate with firms of national repute and acknowledges that the Client has relied on such representations. By executing this Agreement, the Engineering Expert Witness Consultant agrees that the Engineering Expert Witness Consultant will exercise that degree of care, knowledge, skill and ability and agrees to perform the services in an efficient and economical manner.

#### **1.5 Engineering Expert Witness Consultant's Obligation to Correct Errors or Omissions**

The Engineering Expert Witness Consultant shall be responsible for the professional quality, technical adequacy and accuracy, timely completion, and coordination of all data, designs, specifications, calculations, estimates, plans, drawings, photographs, reports, memoranda, other documents and instruments, and other services furnished by the Engineering Expert Witness Consultant. The Engineering Expert Witness Consultant shall, without additional cost or expense to the Client, correct or revise any errors, omissions, or other deficiencies in the services performed by the Engineering Expert Witness Consultant.

#### **1.6 Non-Exclusive Rights**

The rights granted to the Engineering Expert Witness Consultant hereunder are nonexclusive, and the Client reserves the right to enter into agreements with other engineering expert witness consultants to perform engineering expert witness consulting services, including without limitation, any of the services provided for herein.

#### **1.7 Engineering Expert Witness Consultant's Compliance with Laws and Regulations**

The Engineering Expert Witness Consultant and its employees and sub-consultants shall promptly observe and comply with all applicable federal, state and local laws, regulations, rules and ordinances then in effect or as amended ("laws"). The Engineering Expert Witness Consultant shall procure and keep in force during the term of this Agreement all necessary licenses, registrations, certificates, permits and other authorizations as are required by law in order for the Engineering Expert Witness Consultant to render its services hereunder.

#### **1.8 Engineering Expert Witness Consultant Is Not Client's Agent**

The Engineering Expert Witness Consultant is not authorized to act as the Client's agent and shall have no authority, expressed or implied, to act for or bind the Client. The Engineering Expert Witness Consultant is not authorized to act as the agent of the Orlando-Orange County Expressway Authority and shall have no authority, expressed or implied, to act for or bind the Orlando-Orange County Expressway Authority.

## **1.9 Reduced Scope of Services**

The Client shall have the right, by written notice to the Engineering Expert Witness Consultant, to reduce the scope of services to be rendered hereunder. If the Client reduces the services to be rendered, the Engineering Expert Witness Consultant will be paid in accordance with the compensation schedule set forth in the attached Exhibit A for any time spent in connection with the reduced services. The Engineering Expert Witness Consultant shall not be entitled to any anticipated profit as a result of the reduced scope of services.

## **ARTICLE 2 - TIME**

**2.1** The date for commencement of the Engineering Expert Witness Consultant Services (described in Article 1.1) is the effective date of this Agreement. The date for commencement of the Litigation Support Services (described in Article 1.2) is the date such services are required by the Client.

**2.2** The Due Date for the delivery of the engineering report(s) shall be included in an Addendum. By executing an Addendum, the Engineering Expert Witness Consultant acknowledges that the Due Date is both realistic and achievable, and that the report(s) will be completed by that time.

**2.3** If, at any time prior to completion of the services, the Engineering Expert Witness Consultant determines that the services are not progressing sufficiently to meet the Due Date, the Engineering Expert Witness Consultant shall immediately notify the Client's Representative in writing and shall provide a description of the cause of the delay, the effect on the scheduled Due Date and the recommended action to meet the Due Date.

**2.4** No extensions of time shall be granted unless in writing and approved by the Client's Representative. Any requests for extensions shall be in writing explaining in detail why such extension is necessary and shall be made at least seven (7) days prior to the Due Date to be extended.

## **ARTICLE 3 - PAYMENT**

### **3.1 When Payment Is To Be Made By The Client**

All payments made pursuant to this Agreement will be paid to the Engineering Expert Witness Consultant by the Client only after payment by the Orlando-Orange County Expressway Authority to the Client. Payment for services rendered by any sub-consultants shall be paid to the Engineering Expert Witness Consultant and the Engineering Expert Witness Consultant shall be fully responsible for making payment to any sub-consultant retained by the Engineering Expert Witness Consultant. The Engineering Expert Witness Consultant acknowledges and understands that the Client shall not be responsible for making any payment for any services rendered hereunder unless reimbursed by the Orlando-Orange County Expressway Authority.

It is expressly agreed and understood that the Client is obtaining Engineering Expert Witness Consultant's services on behalf of the Orlando-Orange County Expressway Authority



and, although the Client will direct the services hereunder, including making payment for the services, it shall assume no liability or responsibility for any payment due hereunder.

### **3.2 Compensation for Consultation Services**

It is expressly agreed and understood that the Engineering Expert Witness Consultant shall be paid for all pre-condemnation consultation services in accordance with the compensation schedule set forth in **Exhibit A** within thirty (30) days after receipt of each monthly invoice; provided that the invoice is received by the 3rd of each month. It is expressly agreed and understood that although the Client will direct the services hereunder, it shall assume no liability or responsibility for any payment due hereunder.

### **3.3 Compensation For Engineering Expert Witness Consulting Services**

It is expressly agreed and understood that the Engineering Expert Witness Consultant shall be paid for satisfactorily performed engineering expert witness consulting services in accordance with the compensation schedule set forth on **Exhibit A**. No payment shall be made for engineering expert witness consulting services until after the receipt of the engineering report(s) by the Client. Once a final engineering report(s) has been provided to the Client, the Orlando-Orange County Expressway Authority shall pay all invoices for engineering expert witness consulting services within forty-five (45) days after receipt of the invoice.

The Engineering Expert Witness Consultant shall receive compensation in accordance with **Exhibit A** for services performed in connection with the modification or preparation of any supplement or update to any engineering report furnished under this agreement if (1) the property has been materially altered since the initial engineering (i.e., fire or act of God), (2) the boundaries of the property to be acquired have been revised, or (3) if requested by the Client for any other reason not the fault of the Engineering Expert Witness Consultant.

The Engineering Expert Witness Consultant shall not receive compensation for services performed in connection with the modification or preparation of any supplement or update to any engineering report furnished under this agreement if (1) applicable principles of law require the modification on or supplementing of such engineering report, (2) material omissions, inaccuracies, or defects in the engineering report are discovered, or (3) the Engineering Expert Witness Consultant receives or becomes aware of relevant additional information in existence prior to the date the Engineering Expert Witness Consultant signed the report.

### **3.4 Compensation for Litigation/Consultation Services**

It is expressly agreed and understood that the Engineering Expert Witness Consultant shall be paid for all litigation support services in accordance with the compensation schedule set forth in **Exhibit A** within thirty (30) days after receipt of each monthly invoice, provided that the invoice is received by the 3rd of each month. It is expressly agreed and understood that although the Client will direct the services hereunder, it shall assume no liability or responsibility for any payment due hereunder.

### **3.5 Invoices**

The Engineering Expert Witness Consultant shall submit detailed invoices to the Client for all services rendered. The Engineering Expert Witness Consultant represents and warrants that all billable hours and rates furnished by the Engineering Expert Witness Consultant to the Client shall be accurate, complete and current as of the date of this Agreement or the Addendum. The Client shall forward such invoices to the Orlando-Orange County Expressway Authority for payment as provided herein.

The Client shall notify the Engineering Expert Witness Consultant in writing of any objection to the amount of such invoice, together with the Client's determination of the proper amount of such invoice. Any dispute over the proper amount of such monthly invoice shall be resolved by mutual agreement of the parties, and after final resolution of such dispute, the Orlando-Orange County Expressway Authority shall promptly pay the Engineering Expert Witness Consultant the amount so determined, less any amounts previously paid with respect to such monthly invoice.

### **3.6 Right to Withhold Payment**

The Client or the Orlando-Orange County Expressway Authority shall have the right to withhold payment on any invoice in the event that the Engineering Expert Witness Consultant is in default under any provision of this Agreement (including any Addenda) or if liquidated damages are assessed against the Engineering Expert Witness Consultant.

### **3.7 Total Payments Not To Exceed**

All payments made pursuant to this Agreement shall not exceed a total of One Hundred Fifty Thousand Dollars (\$150,000.00), without an Addendum to this Agreement that shall be approved by the Orlando-Orange County Expressway Authority. It shall be the responsibility of the Engineering Expert Witness Consultant to monitor the total of all payments made pursuant to this Agreement and notify the Client prior to reaching the One Hundred Fifty Thousand Dollars (\$150,000.00) upset limit so that Client may timely present the necessary Addendum to the Orlando-Orange County Expressway Authority.

## **ARTICLE 4 - LIQUIDATED DAMAGES**

### **4.1 Engineering Reports**

If the Engineering Expert Witness Consultant fails to submit any engineering report by the Due Date, the Engineering Expert Witness Consultant will be assessed one percent (1%) of the lump sum amount for such report per calendar day for the first seven (7) calendar days the engineering report is delayed. If the Engineering Expert Witness Consultant submits the draft or final engineering report more than seven (7) calendar days after the Due Date, the Engineering Expert Witness Consultant will be assessed two percent (2%) of the lump sum for such report per calendar day thereafter, until the engineering report is received by the Client.

## **4.2 Responses, Modifications, or Corrections**

The Client will notify the Engineering Expert Witness Consultant of any modifications, corrections or additional services that, in the sole discretion of the Client, are determined to be necessary. All modifications, corrections, or additional services shall be completed within five (5) calendar days after the request is made by the Client. Once the Engineering Expert Witness Consultant completes the requested modifications, corrections or additional services, the Engineering Expert Witness Consultant shall submit a revised engineering report to the Client.

The revised engineering report shall be reviewed within five (5) calendar days for compliance with the requested modifications, corrections or additional services and a final report submitted to the Client within three (3) calendar days of such review.

## **ARTICLE 5 - RECORDS**

### **5.1 Maintenance of Records**

The Engineering Expert Witness Consultant shall maintain complete and accurate records relating to all services rendered by Engineering Expert Witness Consultant and any sub-consultants pursuant to this Agreement. Records shall be kept in a form reasonably acceptable to the Client. Records and invoices for services shall include all of the information required in order to determine the Engineering Expert Witness Consultant's monthly hours for each employee rendering services hereunder, and shall identify the services rendered by each employee in a manner acceptable to the Client.

### **5.2 Records Availability and Audit**

All of the Engineering Expert Witness Consultant's records relating to services shall, upon reasonable notice by the Client, be made available to the Client, and the Client shall have the right from time to time, through their respective duly authorized representatives, at all reasonable times, to review, inspect, audit or copy the Engineering Expert Witness Consultant's records. Production of such records by the Engineering Expert Witness Consultant shall not constitute promulgation and shall retain in the Engineering Expert Witness Consultant all rights and privileges of workmanship, confidentiality and any other vested interests. If, as a result of an audit, it is established that the Engineering Expert Witness Consultant has overstated its hours of service, per diem or hourly rates for any month, the amount of any overcharge paid as a result of an overstatement shall forthwith be refunded by the Engineering Expert Witness Consultant to the Orlando-Orange County Expressway Authority with interest thereon, if any, at a rate of six percent (6%) per annum on the overstated amount accrued from forty-five (45) days after the Client's notice to the Engineering Expert Witness Consultant of the overstatement. If the amount of an overstatement in any month exceeds five percent (5%) of the amount of the Engineering Expert Witness Consultant's statement for that month, the entire reasonable expense of the audit shall be borne by the Engineering Expert Witness Consultant. The Engineering Expert Witness Consultant shall retain all records and shall make same available to the requesting party for a period of five (5) years from the date of payment by the Client of the final invoice for the services to which the records relate.

## **ARTICLE 6 - TERM OF AGREEMENT AND TERMINATION**

### **6.1 Term of Agreement**

Services shall commence upon the execution of the Agreement and shall be provided on a continuous basis. No addenda shall be issued after two (2) years from the effective date of this Agreement. The Client can elect to extend the Agreement by exercising up to three additional extensions of one year each.

### **6.2 Termination**

This Agreement and/or any exhibit hereto may be terminated in whole or in part by either party by written notification at any time. Upon notification, the Engineering Expert Witness Consultant will immediately discontinue all services and submit a final invoice to the Client within thirty (30) days of Client's notice of termination to the Engineering Expert Witness Consultant. The Engineering Expert Witness Consultant shall be paid for the services satisfactorily performed by the Engineering Expert Witness Consultant if the engineering report(s) has been provided to the Client. If the engineering report(s) has not been provided to the Client, the Engineering Expert Witness Consultant shall receive no compensation for any services rendered under this agreement or any Addenda hereto.

Upon termination, the Engineering Expert Witness Consultant shall deliver or otherwise make available to the Client all data, designs, specifications, calculations, estimates, plans, drawings, photographs, reports, memoranda, other documents and instruments, and such other information and materials as may have been prepared or accumulated by the Engineering Expert Witness Consultant or its sub-consultants in performing services under this Agreement, whether completed or in process. The Engineering Expert Witness Consultant shall have no entitlement to recover anticipated profit for services or other work not performed.

## **ARTICLE 7 - CONFIDENTIALITY**

Unless otherwise required by law, the Engineering Expert Witness Consultant shall not, without the prior written consent of the Client, knowingly divulge, furnish or make available to any third person, firm or organization, any information generated by the Engineering Expert Witness Consultant or received from the Client, concerning the services rendered by the Engineering Expert Witness Consultant or any sub-consultant pursuant to this Agreement.

## **ARTICLE 8 - MISCELLANEOUS PROVISIONS**

### **8.1 Notices**

All notices required to be given hereunder shall be in writing and shall be given by United States mail, postage prepaid addressed to the parties' representatives at the address set forth in **Exhibit A**. Electronic mail, instant messaging, or facsimile shall NOT be considered notice as required hereunder.

## **8.2 Change of Address**

Any party may change its address for purposes of this Article by written notice to the other party given in accordance with the requirements of this Article.

## **8.3 Jurisdiction**

Any claim, dispute or other matter in question arising out of or relating to this Agreement or the breach thereof, except for claims which have been waived pursuant to this Agreement, shall be brought only in the Circuit Court of the Ninth Judicial District in and for Orange County, Florida. Such claims, disputes or other matters shall not be subject to arbitration without the prior written consent of both the Client and the Engineering Expert Witness Consultant. The parties hereby agree that process may be served by United States Mail, postage prepaid, addressed to the Client's Representative, with a copy to the Client, or the Engineering Expert Witness Consultant's Representative as defined in **Exhibit A**. The parties hereby consent to the jurisdiction the Circuit Court of the Ninth Judicial District in and for Orange County, Florida.

## **8.4 Governing Law**

The Agreement shall be governed by the laws of Florida.

## **8.5 Transfers and Assignments**

The Engineering Expert Witness Consultant shall not transfer or assign any of its rights hereunder (except for transfers that result from the merger or consolidation of the Engineering Expert Witness Consultant with a third party) or (except as otherwise authorized in this Agreement or in an exhibit hereto) subcontract any of its obligations hereunder to third parties without the prior written approval of the Client. The Client shall be entitled to withhold such approval for any reason or for no reason. Except as limited by the provisions of this paragraph, this Agreement shall inure to the benefit of and be binding upon the Client and the Engineering Expert Witness Consultant, and their respective successors and assigns.

## **8.6 Member Protection**

No recourse shall be had against any member, officer, employee or agent, as such, past, present or future, of the Client or the Orlando-Orange County Expressway Authority, either directly or indirectly, for any claim arising out of this Agreement or the services rendered pursuant to it, or for any sum that may be due and unpaid. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any Client or the Orlando-Orange County Expressway Authority member, officer, employee or agent as such, to respond by reason of any act or omission on his or her part or otherwise for any claim arising out of this Agreement for the services rendered pursuant to it, or for the payment for or to the Client or the or the Orlando-Orange County Expressway Authority, or any receiver therefore or otherwise, of any sum that may remain due and unpaid, is hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement.

## **8.7 Conflict of Interest**

Except with the Client's knowledge and written consent, the Engineering Expert Witness Consultant and Sub-consultants shall not undertake services when it would reasonably appear that such services could compromise the Engineering Expert Witness Consultant's judgment or prevent the Engineering Expert Witness Consultant from serving the best interests of the Client. Except with the Client's knowledge and written consent, the Engineering Expert Witness Consultant shall not perform any services for any property-owners from whom property has been, will be, or is contemplated to be acquired or condemned by the Orlando-Orange County Expressway Authority for the projects collectively known as the State Road 429 Wekiva Parkway Project, which for the purpose of this Agreement shall be defined by the Client at a later date and as such roadway is modified from time to time. Client reserves the right to raise such conflict unless that right is specifically waived by the Orlando-Orange County Expressway Authority.

## **8.8 Entire Agreement**

This Agreement, including the exhibits hereto, constitutes the entire agreement between the parties and shall supersede and replace all prior agreements or understandings, written or oral, relating to the matters set forth herein.

## **8.9 Amendment**

This Agreement and its exhibits shall not be amended, supplemented or modified other than in writing signed by the parties hereto. Neither electronic mail nor instant messaging shall be considered a "writing" for purposes of amending, supplementing or modifying this Agreement. No services shall be performed until such services are provided for in an Amendment or Addenda and executed by both parties.

## **8.10 No Third-Party Beneficiaries**

No person, except for the Orlando-Orange County Expressway Authority, shall be deemed to possess any third-party beneficiary rights pursuant to this Agreement. It is the intent of the parties hereto that no direct benefit to any third party, other than the Orlando-Orange County Expressway Authority, is intended or implied by the execution of this Agreement. It is agreed and understood between the services rendered hereunder shall be for the benefit of the Orlando-Orange County Expressway Authority and the Orlando-Orange County Expressway Authority is entitled to rely upon the engineering report(s) prepared hereunder.

## **8.11 Engineering Expert Witness Consultant Contractual Authorization**

The Engineering Expert Witness Consultant represents and warrants that the execution and delivery of the Agreement and the performance of the acts and obligations to be performed have been duly authorized by all necessary corporate (or if appropriate, partnership) resolutions or actions and the Agreement does not conflict with or violate any agreements to which the Engineering Expert Witness Consultant is bound, or any judgment, decree or order of any court.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement, effective as of the date set forth above.

Attest:

**SHUTTS & BOWEN LLP**

Terril L. Martin

Witness Signature

Terril L. Martin

Printed Name

Mary Ellen Farmer

Witness Signature

MARY ELLEN FARMER

Printed Name

By:

David A. Shontz, Esquire  
Legal Counsel to the Orlando-Orange  
County Expressway Authority

**DONALD W. McINTOSH  
ASSOCIATES, INC.**

Janet B. Hatch

Witness Signature

Janet B. Hatch

Printed Name

Lisa E. Toney

Witness Signature

LISA E. TONEY

Printed Name

By:

Donald W. McIntosh  
Donald W. McIntosh

**EXHIBIT A**

**Client's Representative**

Shutts & Bowen LLP  
David A. Shontz, Esquire  
300 South Orange Avenue, Suite 1000  
Orlando, Florida 32801

**Engineering Expert Witness  
Consultant's Representative**

Donald W. McIntosh Associates, Inc.  
Donald W. McIntosh  
2200 Park Avenue North  
Winter Park, Florida 32789

This **Exhibit A** includes the following which shall be attached hereto and made a part hereof:

- ☐ Engineering Expert Witness Consultant's Compensation Schedule including all Billable Rates. (The rates shall include allowance for salaries, overhead, operating margin and direct expenses.)

**Please see attached Hourly Rate Schedule, Effective June 1, 2007**





## **EXHIBIT "A"**

### **HOURLY RATE SCHEDULE EFFECTIVE JUNE 1, 2007**

<b><u>PERSONNEL CLASSIFICATION</u></b>	<b><u>HOURLY RATE</u></b>
Principal	\$300.00
Engineering Department Director	\$265.00
Survey Department Director	\$240.00
Planning Department/Entitlements Director	\$250.00
Associate	\$210.00
Senior Engineering Project Manager	\$210.00
Senior Survey Project Manager	\$195.00
Sr. Reg. Engineer; Eng. Project Manager	\$190.00
Survey Project Manager	\$175.00
Registered Engineer	\$170.00
Registered Surveyor	\$170.00
GIS Administrator	\$150.00
Computer System/GIS Manager	\$150.00
Engineer III	\$150.00
Engineer II	\$140.00
Engineer I	\$130.00
Senior Planner	\$120.00
Senior Design Technician	\$115.00
Design Technician	\$100.00
Assistant Planner	\$100.00
Survey Technician	\$100.00
Construction Services Director	\$135.00
Construction Observer	\$100.00
Researcher	\$105.00
Draftsman	\$80.00
Project Manager Assistant	\$85.00
Clerical/Runner	\$60.00
Survey Crew	\$155.00
GPS Survey Crew	\$275.00
Pickup/Delivery	\$40.00

In addition to the hourly rates listed, charges will include identifiable out of pocket expenses and other reimbursables billed at a multiplier of 1.00.

The above hourly rates do not apply to expert witness preparation, depositions and testimony. Hourly rates for these services will be provided upon request.


## **CONSENT AGENDA ITEM**

**#7**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: August 26, 2014

RE: Award of Contract for  
Goldenrod Road Milling and Resurfacing  
Contract No. 001036; Project No. 800-903D

In accordance with the approved Procurement Policy and Procedures for an invitation to bid, the Procurement Department opened sealed bids on August 14, 2014, for the referenced project. Bid results were as follows:

	<b><u>Bidder</u></b>	<b><u>Bid Amount</u></b>
1.	Preferred Materials, Inc.	\$3,947,769.18
2.	Hubbard Construction Company	\$3,967,000.00
3.	The Middlesex Corporation	\$4,031,898.30
4.	Ranger Construction Industries, Inc.	\$4,528,718.80

The Engineer's Estimate for this project is \$4,307,900.57.

The Procurement Department has evaluated all bids and has determined the bid from Preferred Materials, Inc. (Preferred), to be responsible and responsive to the bidding requirements. Award of the contract to Preferred in the amount of \$3,947,769.18 is recommended contingent upon final execution of the contract by both parties.

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations, Construction and Maintenance  
Laura Kelley, Deputy Executive Director, Finance and Administration  
Ben Dreiling, Director of Construction and Maintenance  
Contract File

## CONTRACT

This Contract No. 001036 (the "Contract"), made this 11<sup>th</sup> day of September, 2014, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called the AUTHORITY and PREFERRED MATERIALS, INC., of 2710 Michigan Avenue, Kissimmee, Florida 34744, hereinafter the CONTRACTOR:

WITNESSETH: The CONTRACTOR shall, for the consideration herein mentioned and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents (and under security as set forth in the attached Public Construction Bond) all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed to the satisfaction of the duly authorized representatives of the AUTHORITY, who shall have at all times full opportunity to inspect the materials furnished and the work done under this Contract.

The work to be done under this Contract includes construction of all items associated with Project No. 800-903D, Goldenrod Road Milling and Resurfacing, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 105 calendar days. The Contract Amount is \$3,947,769.18. This Contract was awarded by the AUTHORITY's Board of Directors at its meeting on September 11, 2014.

The Contract Documents consist of:

1. The Contract,
2. The Memorandum of Agreement,
3. The Addenda (if any), modifying the General Specifications, Technical Specifications, Special Provisions, Plans or other Contract Documents,
4. The Plans,
5. The Special Provisions,
6. The Technical Specifications,
7. The General Specifications,
8. The Standard Specifications,
9. The Design Standards, and
10. The Proposal.

In consideration of the foregoing premises, the AUTHORITY agrees to pay the CONTRACTOR for work performed and materials furnished at the unit and lump sum prices, and under the conditions set forth, in the Proposal.

IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties on the date set forth below.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
Director of Procurement

DATE: \_\_\_\_\_

PREFERRED MATERIALS, INC.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

ATTEST: \_\_\_\_\_ (Seal)

DATE: \_\_\_\_\_

Approved as to form and execution, only.

General Counsel for the AUTHORITY

\_\_\_\_\_


## **CONSENT AGENDA ITEM**

**#8**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: August 26, 2014

RE: Approval of Final Ranking and Authorization for  
Fee Negotiations for Construction Engineering and Inspection Services for  
S.R. 429 (Wekiva Parkway) from S.R. 429/US 441 Interchange to Kelly Park Road  
Project No. 429-202; Contract No. 000982

In accordance with the approved Procurement Policy and Procedures for professional services consultants, the Procurement Department advertised for Letters of Interest (LOI) for the referenced project on June 14, 2014. Responses were received from four firms by the July 8, 2014, deadline. Those firms were: Rummel, Klepper & Kahl, Inc.; Metric Engineering, Inc.; GAI Consultants, Inc.; Jacobs Engineering Group, Inc.

The LOIs were transmitted to the members of the Evaluation Committee on July 8, 2014, for review and scoring. The Committee met on July 22, 2014, to record the scores for the LOIs. After the scores were recorded, the Committee voted unanimously to shortlist all four firms who were notified by the Procurement Department and directed to submit Technical Proposals. Subsequent to the notification, Metric Engineering withdrew itself from consideration for award. Technical Proposals from the remaining three firms were received on August 12, 2014, and transmitted to the members of the Technical Review Committee for review and scoring.

The Technical Review Committee met on August 26, 2014, to hear oral presentations from the firms and to record the members' scores for the technical proposals and oral presentations. Based on the final scores the following ranking of the firms was determined:

<u>Ranking</u>	<u>Consultant Firm</u>
1	Rummel, Klepper & Kahl, Inc.
2	Jacobs Engineering Group, Inc.
3	GAI Consultants, Inc.

Board approval of final ranking and authorization to enter into fee negotiations with Rummel, Klepper & Kahl, Inc., is requested. Once fee negotiations are completed, Board approval of the negotiated amount and award of a contract will be requested.

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations, Maintenance & Construction  
Laura Kelley, Deputy Executive Director, Finance and Administration  
Ben Dreiling, Director of Construction and Maintenance  
Contract File

**NOTICE TO PROFESSIONAL ENGINEERING CONSULTANTS  
REQUEST FOR LETTERS OF INTEREST FOR  
CONSTRUCTION ENGINEERING AND INSPECTION (CEI) SERVICES FOR  
WEKIVA PARKWAY  
PROJECT NO. 429-202, CONTRACT NO. 001037**

The Orlando-Orange County Expressway Authority requires the services of a Professional Engineering Consultant to provide CEI services required by the Authority for Contract No. 001037, S.R. 429 (Wekiva Parkway) from S.R. 429/US 441 interchange to north of Ponkan Road in Orange County, Florida.

Shortlist consideration will be given to only those firms who are qualified pursuant to law, and as determined by the Authority, based on information provided by the firms, and who have been pre-qualified by FDOT to perform, as a minimum, the indicated Types of Work.

Firms are advised that requests made to the Engineer of Record or any of its subconsultants for project information including design documents and files are prohibited. All such requests must be made through the Authority Contact Person shown below. Any violation of this requirement will be grounds for rejection of a submittal made in response to this notice.

**MAJOR TYPES OF WORK:** As a minimum, the consultant shall be prequalified by FDOT in the following types of work: Groups 10.1, Roadway Construction CEI; 10.4, Minor Bridge and Miscellaneous Structures CEI. The consultant shall also be prequalified, on its own or through FDOT-approved subconsultants, in the following work types: 10.3, Construction Materials Inspection.

**DESCRIPTION:** The work will consist of providing CEI services related to the construction of the new limited access roadway (S.R. 429) from south of US 441 Connector Road to north of Ponkan Road. The construction project also includes new interchange ramps to/from S.R. 429 north at the US 441 Connector Road.

The selected firm and its subconsultant(s) shall not enter into any other contract with the Authority during the term of the contracts which would create or involve a conflict of interest with the services to be provided.

**LETTERS OF INTEREST SUBMITTAL REQUIREMENTS:** Consultants wishing to be considered shall submit six (6) sets of a Letter of Interest package utilizing Times New Roman font, 12 pitch, single spacing and one (1) compact disk with an electronic version in pdf format with a resolution of 300 dots per inch (dpi). The Letter of Interest shall be a maximum of five (5) pages (8½" x 11"), excluding resumes and attachments identified below. The responses shall address the following:

1. Technical Experience – Demonstrate that the firm and any proposed subconsultants have the ability to perform the work effort required by the Authority. Submit details of specific experience for at least three (3) projects similar to those described above completed by the



consultant's Resident Engineer and other key project team members including the name of client contact person, telephone number, and physical address;

2. Proposed Staffing – Ability, quality, experience and cooperativeness of the proposed individuals of the firm and proposed subconsultants to perform the required services. Detailed resumes of the firm's proposed Resident Engineer and other key personnel presently employed by the firm who will be assigned to the project, as well as resumes of subconsultants that may be involved in key roles, shall be provided. Resumes shall include no more than three client/owner references for all proposed personnel for the past 5 years and availability date for each individual. The firm's Resident Engineer shall have at least five (5) years of experience on CEI contracts. Resumes do not count against the 5 page limit;

3. Project Approach - Provide a narrative describing the firm's approach to delivering the CEI services. In addition to the narrative, provide a proposed project organization chart including subconsultant personnel and a matrix summarizing proposed personnel experience on similar projects including registrations/certifications. The chart and matrix do not count against the 5 page limit;

4. Location of the Firm – To receive the maximum number of points, the firm's local office shall also serve as the firm's corporate headquarters. Identify which situation describes the location of the firm's corporate headquarters: 1) A local corporate headquarters serving as the local office; 2) A sub-local corporate headquarters with a local office; 3) An out of state corporate headquarters with a local office; 4) An out of state corporate headquarters with a sub-local office; 5) No offices within the state. Local is defined as within a 30-mile radius of the Authority's Headquarters Building. Sub-local is defined as within the state of Florida, but outside a 30-mile radius of the Authority's Headquarters Building.

5. M/WBE Utilization – Demonstrate the firm's good faith effort to meet the participation objective for this project which is 15%. Participation equal to or exceeding 20% will receive the highest score. Firms that are submitting as the "prime" consultant and are certified M/WBEs will not be allowed to use that status to satisfy the participation requirement. Such firms are still required to propose a percentage of participation using other certified M/WBEs and will be scored based on that percentage.

6. Current and Projected Workload – Indicate ability of staff to manage a CEI assignment and indicate, as a percentage, the current/projected workload of current staff. Indicate the total number of firm's professional, technical and administrative personnel by discipline, location and office responsible for administering the contract.

7. Volume of Work Previously Awarded – The firm shall submit with the Letter of Interest a list of all direct contracts of any type, both active and completed, between the Authority and the firm during the past five (5) years. The list shall have column headings showing the project name, the firm's Resident Engineer/Project Manager, the project fees, the estimated remaining or final budget amount (exclusive of subconsultant fees associated with the project) as of the date of submittal of the Letter of Interest, the percent complete/status, and any comments relative to the project. The object of this criterion is to effect an equitable distribution of contracts among

qualified firms provided such distribution does not violate the principle of selection of the most highly qualified firms. This list does not count against the 5 page limit.

Failure to submit any of the above required information may be cause for rejection of the package as non-responsive.

Each firm will also be evaluated based on past performance on Authority projects only. Items considered will include the quality of work product, whether the project was completed within negotiated fee and the ability of the Authority staff to work with the firm's staff.

**SCORING AND SHORTLISTING:** The Authority's Evaluation Committee will shortlist a minimum of three (3) firms based on its evaluation and scoring of the Letters of Interest. Past performance on Authority projects will also be considered as indicated above. Scores for each category identified above will be determined using a weighted system. Each category has been assigned a weight factor that will be multiplied by a grade to determine the score. The assigned weights to each category are as follows: Technical Experience (8); Proposed Staffing (10); Project Approach (6); Location of Firm (4); M/WBE Utilization (3); Current and Projected Workload (3); Volume of Work Previously Awarded (-3). Grades for each category will be between 0 and 4. Scoring of Past Performance will have a weight of 6 and a grade range between -2 and 2. If the Committee member has no knowledge of the firm or its past performance on Authority projects then the grade shall be zero.

Shortlisting of firms will be based on converting each Committee member's Total Score into a ranking with the highest score ranked first, second highest ranked second, etc. Once converted, the Committee members' rankings for each firm will be entered into a summary sheet. The Total Score recorded on the summary sheet will determine the ranking and shortlisting.

Shortlisted firms will proceed to the next step in the process which includes preparation and submittal of a Technical Proposal and an oral presentation. The Authority will provide the shortlisted firms with a Scope of Services for use in preparing the Technical Proposal together with a partial set of draft construction plans. Each firm will be evaluated and ranked by the Authority's Technical Review Committee based on the Technical Proposal and oral presentation. The highest ranked firm will be presented to the Authority Board for approval and authorization to negotiate fees and expenses.

**CODE OF ETHICS:** All consultants selected to work with the Authority are required to comply with the Authority's Code of Ethics, a copy of which may be viewed on the Authority's web site at [www.oocea.com](http://www.oocea.com).

**EQUAL OPPORTUNITY STATEMENT:** The Orlando-Orange County Expressway Authority, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, hereby notifies all firms and individuals that it will require affirmative efforts be made to ensure participation by minorities.

**MINORITY/WOMEN/DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION:**

Minority/Women/Disadvantaged Business Enterprises will not be discriminated against on the basis of race, color, sex, or national origin in consideration for qualification or an award by the Authority. The Authority has established a 15% participation objective for M/WBE firms for each project.

**NON-SOLICITATION PROVISION:** From the first date of publication of this notice, no person may contact any Authority Board Member, Officer or Employee or any evaluation committee member, with respect to this notice or the services to be provided. All such requests for information shall be made to the Authority Contact Person indicated below. Refer to the lobbying guidelines of the Authority for further information regarding this Non-Solicitation Provision.

**LETTER OF INTEREST RESPONSE DEADLINE:**

July 8, 2014, 1:30 p.m., Orlando local time

**AUTHORITY CONTACT PERSON:**

Mr. Robert Johnson  
Manager of Procurement  
Telephone: (407) 690-5372

**LETTER OF INTEREST RESPONSE ADDRESS:**

Orlando-Orange County Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

Re: CEI Services for S.R. 429 (Wekiva Parkway), Project 429-202  
Contract No. 001037

**ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY**

Claude Miller  
Director of Procurement

**LETTERS OF INTEREST**

**CONSTRUCTION ENGINEERING AND INSPECTION (CEI) SERVICES  
FOR**

**S.R. 429 - WEKIVA PARKWAY  
PROJECT NO. 429-202**

**CONTRACT 001037**

**DUE: JULY 8, 2014**

**COMPANY NAME**

1.	<i>GAI Consultants, Inc</i>
2.	<i>RK &amp; K</i>
3.	<i>Metric Engineering, Inc</i>
4.	<i>Jacobs Engineering Group, Inc.</i>
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	

OPENED BY: *Courtney Ector*

WITNESSES: *Siane McClary*

DATE: *7-8-14*

TIME: *1:44 pm*

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Evaluation Committee Members:  
Iranetta Dennis, Director of Business Development  
Glenn Pressimone, Director of Engineering  
Corey Quinn, Director of Expressway Operations  
Julie Naditz, Manager, Highway Construction Division, Orange County

FROM: Robert Johnson, Manager of Procurement

DATE: July 8, 2014

RE: Evaluation Committee Instructions for Letters of Interest for CEI Services for Wekiva Parkway;  
Contract No. 001037, Project No. 429-202

Thank you for agreeing to serve on the Evaluation Committee for Letters of Interest (LOI) for the above referenced project. LOIs were received and opened on July 8, 2014, from the following four (4) firms:

Rummel, Klepper & Kahl, Inc.  
GAI Consultants, Inc.

Metric Engineering, Inc.  
Jacobs Engineering Group, Inc.

Copies of the Notice to Professionals/Contractors requesting LOIs, each response received, Evaluation Committee Disclosure form, Evaluation Committee Scoring Sheet and the selection process schedule. **Item 4, Location of Firm; Item 5, M/WBE Utilization; and Item 7, Volume of Work Previously Awarded has been scored. These three scores have been provided to you along with your scoring sheets in the evaluation package.** Consultants/Contractors will be shortlisted based on evaluation and scoring by the Committee of the submittals in accordance with the attached evaluation criteria.

Please notify me immediately if you feel there is a conflict of interest and if you believe that you should be replaced by an alternate committee member. If no conflict exists, please sign the Evaluation Committee Disclosure form and bring it to the first meeting.

Meetings of the Committee may fall under the Sunshine Law, Section 286.011, Florida Statutes. The law requires that reasonable advance public notice of each meeting be given, that the meeting be held at a place accessible to all persons wishing to attend, and that written minutes be prepared.

The schedule will remain in effect unless notified otherwise. The Shortlisting / Evaluation Committee meeting has been scheduled for Tuesday, July 22, 2014, at 8:00 A.M. in the Sandpiper Conference Room (Room 337). I will attend the meeting to act as a facilitator only and will have no official vote. I will also be responsible for preparation of the meeting minutes and for notifying shortlisted firms.

As a reminder, the Authority's Non-Solicitation policy states that no person may contact any Authority Board Member, Officer or Employee or any evaluation/selection committee member, with respect to the notice or the services to be provided. Additionally, in accordance with Florida Statute, members of an Evaluation Committee are not to discuss or communicate the evaluation of the respondents outside of a publicly posted meeting.

Please contact me immediately if you have any questions or concerns. I can be reached at (407) 690-5372.

Attachments

**LOI-001037 Committee Meeting July 22, 2014 Minutes**

Evaluation Committee for **CEI Services for Wekiva Parkway Project 429-202; LOI-001037**, held a duly noticed meeting on Tuesday, July 22, 2014, commencing at 8:15 a.m. in the Sandpiper Conference Room at the CFX Administrative Bldg., Orlando, Florida.

**Committee Members Present:**

Corey Quinn, Director of Expressway Operations  
Iranetta Dennis, Director of Business Development  
Glenn Pressimone, Director of Engineering  
Julie Naditz, Manager, Highway Construction Division, Orange County

**Other Attendees:**

Robert Johnson, Manager of Procurement

**Discussion:**

Robert explained that today's meeting was to evaluate and shortlist the top firms and commenced the meeting collecting the Evaluation Committee Member Disclosure forms that the committee members reviewed and executed.

General discussion ensued about the project and the LOI submittals. Committee members then tallied up the individual evaluation sheets and passed them in for incorporation onto to the LOI shortlist summary sheet. Evaluation Criteria forms were collected and the ranking scores from all committee members were tallied with the following results:

<b><u>Firms</u></b>	<b><u>Score</u></b>	<b><u>Ranking</u></b>
RK&K	06	1
Jacobs Engineering Group, Inc.	07	2
Metric Engineering, Inc.	11	3
GAI Consultants, Inc.	16	4

It was the consensus of the committee that all respondents be shortlisted. Robert stated that Procurement would notify Proposers of their shortlisting and all will be sent technical packages and invitations.

There being no further business to come before the Committee, the meeting was adjourned at 8:39 a.m. These minutes are considered to be the official minutes of the Evaluation Committee of its meeting held Tuesday, July 22, 2014.

Submitted by: \_\_\_\_\_  
Robert Johnson, Manager of Procurement

On behalf of the Evaluation Committee these minutes have been review and approved by:

\_\_\_\_\_  
Corey Quinn, Director of Expressway Operations

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

July 23, 2014

Mr. Mark DeLorenzo, P.E.  
Jacobs Engineering Group, Inc.  
200 S. Orange Ave., Suite 900  
Orlando, Florida 32801

Email: [mark.delorenzo@jacobs.com](mailto:mark.delorenzo@jacobs.com)

Re: Construction Engineering and Inspection Services for Wekiva Parkway; Project 429-202, Contract No. 001037

Dear Mr. DeLorenzo:

Your firm has been selected as one of four firms that will advance to the next step in the selection process for the referenced project. The other shortlisted firms are:

Metric Engineering, Inc.

RK&K, Inc.

GAI Consultants, Inc.

Technical proposals will be due on August 12, 2014, at 1:30 p.m. Enclosed for your use in preparing your technical proposal are 2 documents and a CD with pdf files:

1. Technical/Constructability Review Submittal Requirements package including Oral Presentation Requirements/Guideline.
2. Standard Agreement
3. CD containing project plans, geotech reports, and permits

Final Ranking of the firms will be based on oral presentations, which are scheduled for Tuesday, August 26, 2014, in the Pelican Conference Room (Room 107), at our office located at 4974 ORL Tower Road, Orlando. The oral presentations will be held in alphabetical order as follows:

GAI Consultants, Inc.	08:30 – 09:05 a.m.
Jacobs Engineering Group, Inc.	09:15 – 09:50 a.m.
Metric Engineering, Inc.	10:00 – 10:35 a.m.
RK&K, Inc.	10:45 – 11:20 a.m.

The presentation is essential for your firm to be considered for award of the contract. Thank-you for your interest in the Authority's work program. We look forward to seeing you at the oral presentations.

Sincerely,

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Robert Johnson  
Manager of Procurement

## Attachments

cc: D. Budnovich, CFX  
G. Pressimone, CFX  
J. Berents, CFX



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

July 23, 2014

Mr. Edward DeCresie, Vice President  
Metric Engineering, Inc.  
615 Crescent Executive Ct., Suite 524  
Lake Mary, Florida 32746

Email: [edecresie@metriceng.com](mailto:edecresie@metriceng.com)

Re: Construction Engineering and Inspection Services for Wekiva Parkway; Project 429-202, Contract No. 001037

Dear Mr. DeCresie:

Your firm has been selected as one of four firms that will advance to the next step in the selection process for the referenced project. The other shortlisted firms are:

Jacobs Engineering Group, Inc.

RK&K, Inc.

GAI Consultants, Inc.

Technical proposals will be due on August 12, 2014, at 1:30 p.m. Enclosed for your use in preparing your technical proposal are 2 documents and a CD with pdf files:

1. Technical/Constructability Review Submittal Requirements package including Oral Presentation Requirements/Guideline.
2. Standard Agreement
3. CD containing project plans, geotech reports, and permits

Final Ranking of the firms will be based on oral presentations, which are scheduled for Tuesday, August 26, 2014, in the Pelican Conference Room (Room 107), at our office located at 4974 ORL Tower Road, Orlando. The oral presentations will be held in alphabetical order as follows:

GAI Consultants, Inc.	08:30 – 09:05 a.m.
Jacobs Engineering Group, Inc.	09:15 – 09:50 a.m.
Metric Engineering, Inc.	10:00 – 10:35 a.m.
RK&K, Inc.	10:45 – 11:20 a.m.

The presentation is essential for your firm to be considered for award of the contract. Thank-you for your interest in the Authority's work program. We look forward to seeing you at the oral presentations.

Sincerely,

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Robert Johnson  
Manager of Procurement

## Attachments

cc: D. Budnovich, CFX  
G. Pressimone, CFX  
J. Berenis, CFX

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

July 23, 2014

Mr. Greg Aldrich, P.E.  
GAI Consultants, Inc.  
618 East South Street, Suite 700  
Orlando, Florida 32801

Email: [g.aldrich@gaiconsultant.com](mailto:g.aldrich@gaiconsultant.com)

Re: Construction Engineering and Inspection Services for Wekiva Parkway; Project 429-202, Contract No. 001037

Dear Mr. Aldrich:

Your firm has been selected as one of four firms that will advance to the next step in the selection process for the referenced project. The other shortlisted firms are:

Metric Engineering, Inc.

RK&K, Inc.

Jacobs Engineering Group, Inc.

Technical proposals will be due on August 12, 2014, at 1:30 p.m. Enclosed for your use in preparing your technical proposal are 2 documents and a CD with pdf files:

1. Technical/Constructability Review Submittal Requirements package including Oral Presentation Requirements/Guideline.
2. Standard Agreement
3. CD containing project plans, geotech reports, and permits

Final Ranking of the firms will be based on oral presentations, which are scheduled for Tuesday, August 26, 2014, in the Pelican Conference Room (Room 107), at our office located at 4974 ORL Tower Road, Orlando. The oral presentations will be held in alphabetical order as follows:

GAI Consultants, Inc.	08:30 – 09:05 a.m.
Jacobs Engineering Group, Inc.	09:15 – 09:50 a.m.
Metric Engineering, Inc.	10:00 – 10:35 a.m.
RK&K, Inc.	10:45 – 11:20 a.m.

The presentation is essential for your firm to be considered for award of the contract. Thank-you for your interest in the Authority's work program. We look forward to seeing you at the oral presentations.

Sincerely,

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Robert Johnson  
Manager of Procurement

## Attachments

cc: D. Budnovich, CFX  
G. Pressimone, CFX  
J. Berenils, CFX

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

July 23, 2014

Mr. Mike Lausier, PE  
RK&K, Inc.  
3504 Lake Lynda Drive, Suite 165  
Orlando, Florida 32817

Email: [mlausier@rkk.com](mailto:mlausier@rkk.com)

Re: Construction Engineering and Inspection Services for Wekiva Parkway; Project 429-202, Contract No. 001037

Dear Mr. Lausier:

Your firm has been selected as one of four firms that will advance to the next step in the selection process for the referenced project. The other shortlisted firms are:

Jacobs Engineering Group, Inc.

Metric Engineering, Inc.

GAI Consultants, Inc.

Technical proposals will be due on August 12, 2014, at 1:30 p.m. Enclosed for your use in preparing your technical proposal are 2 documents and a CD with pdf files:

1. Technical/Constructability Review Submittal Requirements package including Oral Presentation Requirements/Guideline.
2. Standard Agreement
3. CD containing project plans, geotech reports, and permits

Final Ranking of the firms will be based on oral presentations, which are scheduled for Tuesday, August 26, 2014, in the Pelican Conference Room (Room 107), at our office located at 4974 ORL Tower Road, Orlando. The oral presentations will be held in alphabetical order as follows:

GAI Consultants, Inc.	08:30 – 09:05 a.m.
Jacobs Engineering Group, Inc.	09:15 – 09:50 a.m.
Metric Engineering, Inc.	10:00 – 10:35 a.m.
RK&K, Inc.	10:45 – 11:20 a.m.

The presentation is essential for your firm to be considered for award of the contract. Thank-you for your interest in the Authority's work program. We look forward to seeing you at the oral presentations.

Sincerely,

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Robert Johnson  
Manager of Procurement

## Attachments

CC: D. Budnovich, CFX  
G. Pressimone, CFX  
J. Berenils, CFX



August 5, 2014

Mr. Robert Johnson  
Manager of Procurement, Orlando-Orange County Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807

**RE: Withdrawal from Consideration**

CEI Services for SR 429 (Wekiva Parkway) Project 429-202, Contract No. 001037

Mr. Johnson:

Metric Engineering proposed a CEI staff for your consideration on the above project based upon an anticipated completion of our current assignment in the Spring of 2015. Since submittal of our letter of response package, it has become apparent that a contract time extension will be issued that may render our proposed key staff members unavailable until the Fall of 2015.

The Technical Proposal/Constructability Review Submittal Requirements we received after our shortlist notice states that, *"Proposed staff currently employed on other projects (not anticipated to be completed prior to the commencement of this project) will not be considered as available for this project."* Yesterday you provided clarification that the Authority anticipates construction commencement to be between January and March 2015.

Therefore, based upon our appreciation for the integrity of the consultant selection process, we are immediately notifying you of the change to our availability and respectfully, withdraw our team from further consideration on this project.

We sincerely regret any inconvenience this may cause.

Sincerely,  
METRIC ENGINEERING, INC.

Edward J. DeCresie  
Vice President/Area CEI Manager

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Technical Review Committee Members:  
Joe Berenis, Executive Deputy Director Engineering and Operations  
Ben Dreiling, Director of Construction and Maintenance  
Don Budnovich, Resident Engineer

FROM: Robert Johnson  
Manager of Procurement

DATE: August 12, 2014

RE: Technical Review Committee Instructions for Technical Proposals and Presentations for Construction Engineering and Inspection (CEI) Services for Wekiva Parkway; Project 429-202, Contract No. 001037

Technical proposals were received today, Tuesday, August 12, 2014, at 1:30 p.m. Enclosed for your use are copies of each firm's technical proposal and scoring packages (Evaluation Committee Disclosure form, Technical Proposal Submittal Requirements, and Technical Proposal Scoring Sheet).

Final Ranking of the firms will be based on oral presentations, which are scheduled for Tuesday, August 26, 2014, in the Pelican Conference Room (Room 107), at our office located at 4974 ORL Tower Road, Orlando. The oral presentations will be held in alphabetical order as follows:

GAI Consultants, Inc.	08:30 – 09:05 a.m.
Jacobs Engineering Group, Inc.	09:15 – 09:50 a.m.
RK&K, Inc.	10:00 – 10:35 a.m.

Presentations will be 20 minutes in duration followed by a 15 minute QA session.

I will attend the meeting to act as a facilitator only and will have no official vote. I will also be responsible for preparation of the meeting minutes and Consent Agenda item.

Please contact me immediately if you have any questions or concerns. I can be reached at (407) 690-5372.

Attachments

**LOI-001037 Project 429-202 Committee Meeting August 26, 2014 Minutes**

Technical Review Committee for CEI Services for Project No. 429-202 (Wekiva Parkway) Contract No. 001037, held a duly noticed meeting on Tuesday, August 26, 2014, commencing at 8:26a.m. in the Pelican Conference Room at the CFX Administrative Bldg, Orlando, Florida.

**Committee Members Present:**

Glenn Pressimone, Director of Engineering  
Ben Dreiling, Director of Construction  
Don Budnovich, Resident Engineer

**Other Attendees:**

Robert Johnson, Manager of Procurement

**Discussion and Motions:**

Robert Johnson commenced each presentation with a brief overview of the process and introduced the Technical Review Committee.

GAI Consultants, Inc. -	08:29am to at 09:05am
Jacobs Engineering Group, Inc. -	09:23am to at 09:59am
RK&K, Inc. -	10:11am to at 10:41am

The committee members individually scored the proposers and submitted them to Robert for tallying. Robert Johnson tallied the score sheets utilizing the rankings assigned by each committee member based on the raw scores each Proposer received. Below are the results:

<u>FIRM</u>	<u>Points</u>	<u>Ranking</u>
RK&K, Inc.	03	01
Jacobs Engineering Group, Inc.	06	02
GAI Consultants, Inc.	09	03

Committee recommends CFX Board approve ranking and authorize negotiations in ranked order.

The committee agreed that Ben Dreiling would review and approve the minutes on behalf of the committee.

They're being no other business to come before the Committee; the meeting was adjourned at 10:56am. These minutes are considered to be the official minutes of the Technical Review Committee meeting held Tuesday, August 26, 2014, and no other notes, tapes, etc., taken by anyone takes precedence.

Submitted by:

  
Robert Johnson

Approved by:

  
Ben Dreiling

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

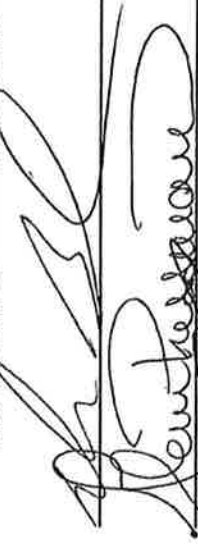
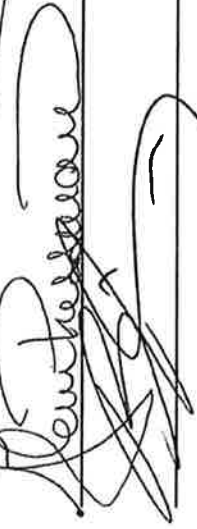

FINAL RANKING SUMMARY

(CEI) Services for Wekiva Parkway

PROJECT 429-202, CONTRACT NO. 001037

CONSULTANT	Glenn Pressimone RANKING	Ben Dreiling RANKING	Don Budrovich RANKING	TOTAL SCORE	RANKING
GAI Consultants, Inc.	3	3	3	9	3
Jacobs Engineering Group, Inc.	2	2	2	6	2
RK&K, Inc.	1	1	1	3	1

TECHNICAL REVIEW COMMITTEE MEMBERS:

  
  
  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Disclosure Form for Evaluation Committee Members

For this purpose, the term "relative" includes the following: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister or any person having the same legal residence as the employee.

The term "principal" means anyone who shares in the profits of the entity or whose compensation might vary based on the award or performance of the project.

The term "employed by" includes any receipt of compensation for services.

"May submit a proposal," means planning to submit, or considering submission. If you don't know, ask.

Persons serving on a selection committee in a solicitation process should be able to answer all the following questions in the negative. If the answer is affirmative, please explain below:

- |   | Yes                      | No                                  |
|---|--------------------------|-------------------------------------|
| 1. Are you, your spouse, child or anyone living in your household currently Employed by any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Are you, or any relative, an officer, director, principal, or project team participant of, any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Do you, or does any relative, own more than 5% of any entity that may submit a proposal?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Within the preceding 12 months have you, your spouse, child or anyone living in your household been offered employment or future employment or, had any discussion involving future employment with any entity that may submit a proposal? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. Within the preceding 12 months, have you, your spouse, child or anyone living in your household accepted a gift valued at over \$100 from any entity, or a principal of any entity that may submit a proposal?                             | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Could the award of this contract result in any pecuniary gain to you, any relative, any business associate, or any entity that has employed or retained you within the past 12 months?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Do you know of any reason that would impact your impartiality with respect to this solicitation?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If you answer yes to any of these questions, please explain below

Additional comments \_\_\_\_\_

- NA -

If the answer to any of the foregoing questions is "yes," then your participation on the selection committee must be approved by the Executive Director after a review of all relevant facts.

I, Gloria Pressimone hereby certify that I have read and understand the Central Florida

(Name)

Expressway Authority Ethics Policy and I agree to be bound by the applicable laws and policies.

Gloria Pressimone  
(Signature)



**Disclosure Form for Evaluation Committee Members**

For this purpose, the term "relative" includes the following: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister or any person having the same legal residence as the employee.

The term "principal" means anyone who shares in the profits of the entity or whose compensation might vary based on the award or performance of the project.

The term "employed by" includes any receipt of compensation for services.

"May submit a proposal," means planning to submit, or considering submission. If you don't know, ask.

Persons serving on a selection committee in a solicitation process should be able to answer all the following questions in the negative. If the answer is affirmative, please explain below:

- |   | Yes                      | No                                  |
|---|--------------------------|-------------------------------------|
| 1. Are you, your spouse, child or anyone living in your household currently Employed by any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Are you, or any relative, an officer, director, principal, or project team participant of, any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Do you, or does any relative, own more than 5% of any entity that may submit a proposal?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Within the preceding 12 months have you, your spouse, child or anyone living in your household been offered employment or future employment or, had any discussion involving future employment with any entity that may submit a proposal? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. Within the preceding 12 months, have you, your spouse, child or anyone living in your household accepted a gift valued at over \$100 from any entity, or a principal of any entity that may submit a proposal?                             | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Could the award of this contract result in any pecuniary gain to you, any relative, any business associate, or any entity that has employed or retained you within the past 12 months?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Do you know of any reason that would impact your impartiality with respect to this solicitation?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

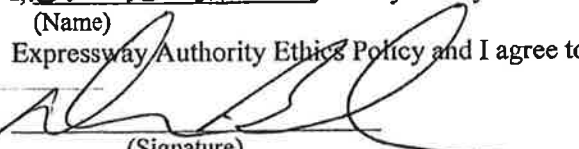
If you answer yes to any of these questions, please explain below

Additional comments \_\_\_\_\_

If the answer to any of the foregoing questions is "yes," then your participation on the selection committee must be approved by the Executive Director after a review of all relevant facts.

I, Don Budavich hereby certify that I have read and understand the Central Florida  
(Name)

Expressway Authority Ethics Policy and I agree to be bound by the applicable laws and policies.

  
(Signature)

### Disclosure Form for Evaluation Committee Members

For this purpose, the term "relative" includes the following: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister or any person having the same legal residence as the employee.

The term "principal" means anyone who shares in the profits of the entity or whose compensation might vary based on the award or performance of the project.

The term "employed by" includes any receipt of compensation for services.

"May submit a proposal," means planning to submit, or considering submission. If you don't know, ask.

Persons serving on a selection committee in a solicitation process should be able to answer all the following questions in the negative. If the answer is affirmative, please explain below:

- |   | Yes                      | No                                  |
|---|--------------------------|-------------------------------------|
| 1. Are you, your spouse, child or anyone living in your household currently Employed by any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Are you, or any relative, an officer, director, principal, or project team participant of, any entity that may submit a proposal?  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Do you, or does any relative, own more than 5% of any entity that may submit a proposal?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Within the preceding 12 months have you, your spouse, child or anyone living in your household been offered employment or future employment or, had any discussion involving future employment with any entity that may submit a proposal? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. Within the preceding 12 months, have you, your spouse, child or anyone living in your household accepted a gift valued at over \$100 from any entity, or a principal of any entity that may submit a proposal?                             | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Could the award of this contract result in any pecuniary gain to you, any relative, any business associate, or any entity that has employed or retained you within the past 12 months?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Do you know of any reason that would impact your impartiality with respect to this solicitation?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If you answer yes to any of these questions, please explain below

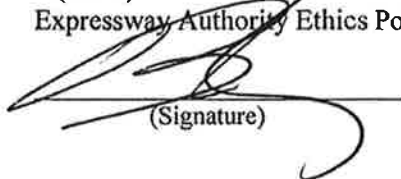
Additional comments \_\_\_\_\_

If the answer to any of the foregoing questions is "yes," then your participation on the selection committee must be approved by the Executive Director after a review of all relevant facts.

I, B. Deering, hereby certify that I have read and understand the Central Florida

(Name)

Expressway Authority Ethics Policy and I agree to be bound by the applicable laws and policies.

  
(Signature)

**o, Inc**

**Date: August 26, 2014**

**Time: 9:15 a.m. - 9:50 a.m.**

# Pelican Conference Room #107

[illegible]



## Oral Presentation/Interview - RK &amp; K, Inc

Project Title: Construction Engineering and Inspection Services for Wekiva Parkway  
 Project No. 429-202  
 Contract # 001037

Date: August 26, 2014

Time: 10:00 a.m. - 10:35 a.m.

Pelican Conference Room #107

COMPANY NAME	REPRESENTATIVE	CONTACT #	FAX #	EMAIL ADDRESS
RK&K	Jennifer Brackman	321-397-7820	321-397-7826	jbrackman@rk.com
RK&K	Sasmi Alaman	407-334-8035		jalemany@rk.com
RK&K	Joel Iglesias	407-310-1505		SIglesi@rk.com
RK&K	Earl Hollister	321-229-6540		ehollister@rk.com
RK&K	Mike Larsen	407-919-0300		mlarsen@rk.com
RK&K	Dan Foss	813-205-6135		dfoss@rk.com
RK&K	Andrew Ripplinger	863-272-3603		aripplinger@rk.com
PT Consulting	Charita Prajapati	407-491-0118		cp@ptcs.com
RK&K	Paul Streusser	407 770 3560		pstreusser@rk.com
P&T	lydia wing	407 509 3429		lydia.wing@ptusa.com


## **CONSENT AGENDA ITEM**

**#9**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Members of the Board  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807

FROM: Ben Dreiling, P.E.   
Director of Construction and Maintenance

DATE: August 25, 2014

RE: Consent Agenda Item  
Construction Contract Modifications

Authorization is requested to execute the following Construction Contract Modifications. Supporting detailed information for each proposed Construction Contract Modification is attached.

Contract No.	Name	Contract Description	Original Contract Amount (\$)	Previous Authorized Adjustments (\$)	Requested (\$) September 2014	Total Amount (\$ to Date*)	Time Increase or Decrease
599-616	Traffic Control Products of FL, Inc.	Systemwide Trailblazers Signs	965,793.50	0.00	(38,684.37)	927,109.13	0
429-621	United Signs & Signals, Inc.	SR 429 Guide Sign Replacement	1,859,383.90	0.00	10,583.89	1,869,967.79	0
599-520	United Signs & Signals, Inc.	Systemwide Data Collection System Upgrade	4,290,457.94	0.00	60,612.00	4,351,069.94	0
<b>TOTAL</b>					<b>\$32,511.52</b>		

\* Includes Requested Amount for current month.

BD/cb/ek

cc: Joe Berenis, P.E.

The following is a proposed Construction Contract Modification along with the detailed information:

**Contract 599-616: Systemwide Trailblazers Signs**  
**Traffic Control Products of FL, Inc.**  
**SA 599-616-0914-01**

Quantity Adjustments for Completed Pay Items

The Authority wishes to adjust quantities for completed pay items in the Contract. This will adjust the contract quantities to reflect the actual authorized quantities installed under the Contract. The Disputes Review Board was not required for this project.

**OVERRUN THE FOLLOWING PAY ITEMS:**

F&I Single Post Sign Assembly (12-20 SF)	\$8,094.00
Replace Sign Panel ( 15 SF or Less)	<u>\$2,233.00</u>
	\$10,327.00

**UNDERRUN THE FOLLOWING PAY ITEMS:**

Concrete Sidewalk (4" Thick)	(\$6,210.00)
Sod (Performance Turf)	(\$1,250.00)
F&I Single Post Sign Assembly (Less Than 12 SF)	(\$950.00)
F&I Barrier Mounted Sign Assembly (12-20 SF)	(\$2,144.00)
F&I New Sign Panel (15 SF or Less)	(\$660.00)
F&I New Sign Panel (16-100 SF) Ground Mounted	(\$571.00)
F&I New Sign Overlay (15 SF or Less)	(\$2,016.00)
F&I 3M Linear Delineation System (6" Panels)	(\$12,587.25)
F&I Luminaires on Existing Sign Assembly	(\$11,828.00)
Allowance for Disputes Review Board	(\$3,000.00)
Work Order Allowance	<u>(\$7,795.12)</u>
	(\$49,011.37)

**TOTAL AMOUNT FOR PROJECT 599-616** **(\$38,684.37)**



**Contract 429-621: SR 429 Guide Sign Replacement  
United Signs & Signals, Inc.  
SA 429-621-0914-01**

Add/Delete Pay Items to Contract

The Authority wishes to add the following pay items due to the change in scope of work. This adjustment was made to LED driver box pay items to accommodate nine (9) drivers in cabinet and modify per Plan Revision #2.

**ADD THE FOLLOWING PAY ITEMS:**

F&I LED 6 Driver Box	\$218,299.90
F&I LED 9 Driver Box	<u>\$10,660.20</u>
	\$228,960.10

**DELETE THE FOLLOWING PAY ITEM:**

F&I LED Driver Box	(\$231,039.90)
--------------------	----------------

Subtotal: Add/Delete Pay Items to Contract (\$ 2,079.80)

Adjustments for Contract Items

The Authority wishes to adjust quantities to accommodate additional work and change in this contract. This will adjust the contract quantities to reflect the changes made to this contract.

**OVERRUN THE FOLLOWING PAY ITEMS:**

F&I Conduit (2" PVC Sch. 40) (Underground)	\$619.20
F&I Conduit (1" Galvanized) (Surface Mount)	\$2,099.50
F&I Conductor #10 (Insulated)	\$1,670.40
F&I Conductor #6 (Insulated)	\$498.75
F&I Luminaire & Bracket Arm on Existing Sign Assembly	\$7,143.48
F&I Pull Box Roadside (Moulded)	<u>\$632.36</u>
	\$12,663.69

**TOTAL AMOUNT FOR PROJECT 429-621**

**\$10,583.89**

**Contract 599-520: Systemwide Data Collection System Upgrade**  
**United Signs & Signals, Inc.**  
**SA 599-520-0914-01**

Wrong Way driving at entrance / exit ramps has been and continues to be an unsafe driver event that occasionally occurs on limited access roadways such as ours. In an effort to enhance driver safety and reduce the probability of a wrong way driver unwittingly entering our system, the Authority has developed plans for implementation of a visual deterrent system. At this time, we are requesting Board approval to implement a prototype of this system at one location (EB Exit Ramp from SR 528 to SR 520). The cost to implement this system is \$60,612.00 as itemized for your reference below:

Add Pay Items

The Authority wishes to add the following pay items to install the wrong way driving system. This will add the new pay items to reflect the changes made to the contract.

**ADD THE FOLLOWING PAY ITEMS:**

Mobilization, Wrong Way Driving	\$2,342.00
Maintenance of Traffic, Wrong Way Driving	\$2,385.00
Conduit (1-2" HDPE/SDR 11) (Trench or Plow)	\$313.00
Conduit (1-2" HDPE/SDR 11) (Bore)	\$1,853.28
Fiber Optic Conduit (2-1" HDPE/SDR 11 & 1-2" HDPE/SDR 11) (Trench or Plow)	\$12,169.90
Uninterruptible Power Supply (Install Only)	\$408.11
Single Post Sign, F&I Ground Mount, Up to 12 SF	\$8,024.00
RRFB Wrong Way System Complete (Install) (AC)	\$9,541.00
Conductors (F&I) (Insulated) (#6)	\$6,206.10
Conduit (F&I – Surface Mount) (RGS) (2")	\$245.90
ITS Field Cabinet, F&I, Special, Pole Mount (NEMA)	<u>\$1,256.90</u>
	\$44,745.19

Adjustments for Contract Items

The Authority wishes to adjust quantities to accommodate installation of the wrong way driving system. This will adjust the contract quantities to reflect the changes made to the contract.

**OVERRUN THE FOLLOWING PAY ITEMS:**

Fiber Optic Cable (Single Mode, 12 Fiber) (F&I)	\$2,120.58
Fiber Optic Fusion Splice	\$310.92
Pull Box (F&I)	\$6,332.00
Small Fiber Optic Pull Box (F&I)	\$1,318.03
Fiber Optic Conduit (2-1" HDPE/SDR 11) (Trench or Plow)	\$104.38
Electrical Service Disconnect (F&I)	\$2,223.00
Prestressed Concrete Pole (F&I) (Type II) (12')	\$847.00
Fiber Optic Media Converter (F&I)	\$1,315.26
Fiber Optic Patch Panel – 12 Port (F&I)	<u>\$1,295.64</u>
	\$15,866.81

**TOTAL AMOUNT FOR PROJECT 599-520**

**\$60,612.00**


## **CONSENT AGENDA ITEM**

**#10**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: August 26, 2014

RE: Approval of Contract Renewal with  
TransCore, LP for Maintenance of ITS Infrastructure  
Contract No. 000720

Board approval is requested for the second and final renewal of the referenced contract with TransCore, LP, in the amount of \$698,146.25. The renewal period will be from October 31, 2014, to October 30, 2015, for the same amount as the current renewal and at the same unit prices included in the original Contract executed in September 2010.

The services to be provided under the renewal will include complete maintenance services for the Authority's ITS infrastructure and systems including, closed circuit television cameras, data collection sensors, dynamic message signs, fiber optic cable, and all electronic system components associated with the ITS devices.

Original Contract Amount     \$1,720,295.00 (3-year term with no cost increases)

First Renewal Amount         \$698,146.25 (1 year)

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations, Construction and Maintenance  
Laura Kelley, Deputy Executive Director, Finance and Administration  
Corey Quinn, Director of Expressway Operations  
Contract File

**\*\*SECOND CONTRACT RENEWAL \*\***  
**MAINTENANCE OF ITS INFRASTRUCTURE**  
**OOCEA CONTRACT NO. 000720**

ITEM #	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE (WRITTEN)	UNIT PRICE (NUMERICAL)	TOTAL
1	668	EA	PREVENTIVE MAINTENANCE-- CCTV CAMERAS		\$ 152.00	\$ 101,536.00
2	572	EA	PREVENTIVE MAINTENANCE-- DATA SENSORS		\$ 90.00	\$ 51,480.00
3	52	EA	PREVENTIVE MAINTENANCE-- SINGLE LINE DMS		\$ 185.00	\$ 9,620.00
4	39	EA	PREVENTIVE MAINTENANCE-- 3-LINE DMS		\$ 230.00	\$ 8,970.00
5	48	EA	PREVENTIVE MAINTENANCE-- PORTABLE DMS		\$ 150.00	\$ 7,200.00
6	1568	EA	PREVENTIVE MAINTENANCE-- TRAFFIC MONITORING STATION		\$ 59.00	\$ 92,512.00
7	256	EA	DAILY ITS SYSTEM MONITORING		\$ 115.00	\$ 29,440.00
8	3450	MH	REGULAR LABOR (HOURLY RATE)		\$ 53.75	\$ 185,437.50
9	350	MH	OVERTIME LABOR (HOURLY RATE)		\$ 80.00	\$ 28,000.00
10	225	MH	REGULAR LABOR (FIBER OPTIC SUBCONTRACTOR) (HOURLY RATE)		\$ 67.25	\$ 15,131.25
11	70	MH	OVERTIME LABOR (FIBER OPTIC SUBCONTRACTOR) (HOURLY RATE)		\$ 169.75	\$ 11,882.50
12	20	EA	SINGLE LANE CLOSURE		\$ 407.00	\$ 8,140.00
13	48	EA	TWO-LANE CLOSURE		\$ 545.00	\$ 26,160.00
14	10	EA	THREE-LANE CLOSURE		\$ 707.00	\$ 7,070.00
15	3	EA	RAMP CLOSURE		\$ 439.00	\$ 1,317.00
16	250	MH	OFF-DUTY LAW ENFORCEMENT OFFICER		\$ 57.00	\$ 14,250.00
17	N/A	N/A	ALLOWANCE FOR PARTS		\$ 100,000.00	\$ 100,000.00
RENEWAL AMOUNT						\$ 698,146.25

Central Florida Expressway Authority  
CONTRACT RENEWAL AGREEMENT  
CONTRACT NO. 000720

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_, 2014, by and between the Central Florida Expressway Authority, hereinafter called "Authority" and TransCore, L.P., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, the Authority and the Contractor entered into a Contract Agreement (the "Original Agreement") dated September 22, 2010, with a Notice to Proceed date of October 31, 2010, whereby the Authority retained the Contractor to perform maintenance services for the Authority's ITS infrastructure and systems; and

WHEREAS, pursuant to Article 2 of the Original Agreement, Authority and Contractor wish to renew the Original Agreement for a period of one (1) year;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Contractor agree to a second renewal of said Original Agreement beginning the 31<sup>st</sup> day of October, 2014, and ending the 30<sup>th</sup> day of October, 2015, in the amount of \$698,146.25 which amount restates the amount of the Original Agreement and any supplements thereto.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the First Renewal Agreement ending October 30, 2014, the Contractor shall execute a 'Certificate of Completion of the First Renewal Agreement and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the First Renewal Agreement ending October 30, 2014.

All terms and conditions of the Original Agreement and any supplements and amendments thereto shall remain in full force and effect during the full term of this Renewal Agreement.

IN WITNESS WHEREOF, the parties have executed this Renewal Agreement by their duly authorized officers on the day, month and year set forth above.

TRANSCORE, L.P.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY: \_\_\_\_\_  
Authorized Signature

BY: \_\_\_\_\_  
Director of Procurement

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_ (SEAL)  
Secretary or Notary

Approved as to form and execution, only

\_\_\_\_\_  
General Counsel for the Authority

**WORKSHEET FOR RENEWAL/NON-RENEWAL OF CONTRACT**

Contractor: Transcore, LLC.

Contract No.: 000720

Contract Name/Description: Maintenance of ITS Infrastructure

Contract Amount (Including Supplemental Agreement): \$ 2,419,441.25

Original Contract Execution Date: 10/7/2010

Original Contract Term: 3 Years with 2 Renewal Options

First Renewal: \_\_\_\_\_

Second Renewal: X

What is the factual basis to support renewal/non-renewal recommendation? Are the value and level of service provided by the (Contractor) (Consultant) satisfactory and adequate for the Authority's needs? For non-renewal recommendation due to Contractor non-compliance, give specific instances for non-compliance with work/performance requirements. Has Contractor been notified of the instances of non-compliance? Give date(s) and method(s) of notification. For non-renewal recommendation due to other reasons (scope changes, quantity, work limit changes, price increases), give specifics.

CONTRACTOR HAS MET CONTRACT

EXPECTATIONS AND REQUIREMENTS

Renewal Recommended

Yes ☒ No \_\_\_\_\_

  
(Recommending Department Head/Manager)

5/29/14  
Date

Approve Recommendation


Yes ☒ No \_\_\_\_\_

  
(Name)  
Deputy Executive Director

5/29/14  
Date

Concur With Recommendation

Yes ☒ No \_\_\_\_\_

  
(Name)  
Director of Procurement

5/29/14  
Date



## ORLANDO - ORANGE COUNTY

4974 ORL TOWER RD., ORLANDO, FLORIDA 32807  
TELEPHONE (407) 690-5000 • FAX (407) 690-5011 • WWW.OOCEA.COM

October 26, 2010

Mr. Hugh Stetter, P.E.  
TransCore, LP  
5858 South Semoran Boulevard  
Orlando, Florida 32822

Re: Maintenance of ITS Infrastructure  
OOCEA Contract No. 000720  
Notice to Proceed

Dear Mr. Stetter:

The Authority has executed a Contract with TransCore, LP for the Maintenance of ITS Infrastructure. This contract includes a maximum fee of \$1,721,295 to perform the scope as described in the Contract paperwork, two (2) executed copies of which were provided for your use on October 7, 2010.

This letter will serve as your Notice to Proceed for the referenced Project effective October 31, 2010. The contract time associated with this contract is three (3) years beginning October 31, 2010.

We look forward to working with you on this project.

Sincerely,

L.A. Griffin  
Manager of Expressway Operations

cc: Claude Miller, OOCEA  
Rod Stroupe, OOCEA  
Charles R. Lattimer, P.E., PBS&J

WALTER A. KETCHAM, JR.  
Chairman

TANYA J. WILDER  
Vice Chairman

MARK C. FILBURN  
Secretary/Treasurer

NORANNE B. DOWNS, P.E.  
Ex Officio  
Florida Department of  
Transportation

RICHARD T. CROTTY  
Ex Officio  
Orange County

MICHAEL SNYDER, P.E.  
Executive Director



## **CONTRACT**

This Contract (the "Contract" as defined herein below), is made this 22<sup>nd</sup> day of September, 2010, between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called the AUTHORITY and TRANSCORE, LP, 5858 South Semoran Boulevard, Orlando, Florida 32822, hereinafter the CONTRACTOR:

### **WITNESSETH:**

**WHEREAS**, the AUTHORITY was created by statute and is charged with acquiring, constructing, operating and maintaining a system of limited access roadways known as the Orlando-Orange County Expressway System; and,

**WHEREAS**, the AUTHORITY has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it (by state law);" and,

**WHEREAS**, the AUTHORITY has determined that it is necessary and convenient in the conduct of its business to retain the services of a CONTRACTOR to provide complete maintenance services for the AUTHORITY's ITS infrastructure and systems including, Closed Circuit television (CCTV) cameras, data collection sensors, dynamic message signs, fiber optic cable, and all electronic system components associated with the ITS devices and related tasks as may from time to time be assigned to the CONTRACTOR by the AUTHORITY; and,

**WHEREAS**, on or about July 31, 2010, the AUTHORITY issued a Request for Proposals seeking qualified contractors to perform such tasks; and,

**WHEREAS**, CONTRACTOR was the successful one of three qualified firms that responded to the Request for Proposals and was ultimately selected; and,

**NOW THEREFORE**, in consideration of the mutual covenants and benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged by each party to the other, the parties hereto agree as follows:

### **1. SERVICES TO BE PROVIDED**

The CONTRACTOR shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized

representatives of the AUTHORITY, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include complete maintenance services for the AUTHORITY's ITS infrastructure and systems including, Closed Circuit television (CCTV) cameras, data collection sensors, dynamic message signs, fiber optic cable, and all electronic system components associated with the ITS devices as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

The AUTHORITY does not guarantee that all of the services described in the Scope of Services will be assigned during the term of the Contract. Further, the CONTRACTOR is providing these services on a non-exclusive basis. The AUTHORITY, at its option, may elect to have any of the services set forth herein performed by other contractors or AUTHORITY staff.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract, including insurance policies and bonds,
- 1.2 The Scope of Services,
- 1.3 The Method of Compensation,
- 1.4 The Technical Proposal submitted by CONTRACTOR, and
- 1.5 The Price Proposal submitted by CONTRACTOR,

(collectively, the "Contract").

## **2. TERM AND NOTICE**

The initial term of the Contract will be three (3) years from the date first written above. There shall be two (2) renewal options of one (1) year each. The options to renew are at the sole discretion and election of the AUTHORITY. Renewals will be based, in part, on a determination by the AUTHORITY that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for the AUTHORITY's needs. If a renewal option is exercised, the AUTHORITY will provide the CONTRACTOR with written notice of its intent at least 180 days prior to the expiration of the initial three-year Contract Term.

The AUTHORITY shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 120 days notice for convenience or 60 days with cure notice for cause for Contractor's material failure to perform the provisions of the Contract. Under no circumstances shall a properly noticed termination by the AUTHORITY (with or without cause) constitute a default by the AUTHORITY. In the event of a termination for convenience or without cause, AUTHORITY shall notify CONTRACTOR (in writing) of such action with instructions as to the effective date of termination or suspension, in accordance with the time frames set forth hereinabove. CONTRACTOR will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONTRACTOR will not be paid for special, indirect, consequential, or undocumented termination expenses. Payment for work performed will be based on Contract prices, which prices are deemed to

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Maintenance of ITS Infrastructure

Contract No: 000720

This Supplemental Agreement No. 1 entered into this 25<sup>th</sup> day of July, 2013, by and between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY (the "Authority"), and TRANSCORE, LP, (the "Contractor"), the same being supplementary to the Agreement between the aforesaid, dated September 22, 2010, for services pertaining to maintenance of ITS infrastructure, (the Contract").

1. The Authority wishes to amend the language in the first sentence of Article 2, Term and Notice, in the Agreement to read as follows:  
  
"The initial term of the Contract will be three (3) years from the date of the Notice to Proceed from the Authority."
2. The Contractor hereby agrees to the amendment to the Contract at no increase in the Contract amount.
3. The Authority and Contractor agree that this Supplemental Agreement No.1 shall not alter or change in any manner the force and effect of the Contract except insofar as the same is altered and amended by this Supplemental Agreement No.1; that acceptance of this Supplemental Agreement No.1 signifies the Contractor's waiver of all future rights for additional compensation which is not already defined herein.
4. This Supplemental Agreement No. 1 is necessary to clarify the start date for the Contract.

SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Maintenance of ITS Infrastructure

Contract No.: 000720

Amount of Changes to this document: \$0.00


This Supplemental Agreement No.1 entered into as of the day and year first written above.

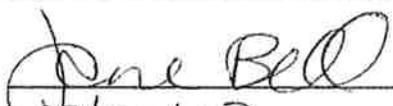
ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

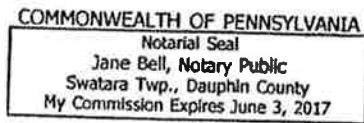
By:   
Director of Procurement

Date: 8/2/13

TRANSCORE, LP

By:   
Russell L. Reeser  
Title: Vice President

Attest:  (Seal)  
Date: 7/30/13



# **CONTRACT**

**ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
AND  
TRANSCORE, LP**

**MAINTENANCE OF ITS INFRASTRUCTURE  
CONTRACT NO. 000720**

**CONTRACT DATE: SEPTEMBER 22, 2010  
CONTRACT AMOUNT: \$1,721,295.00**



**ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY**

**CONTRACT, SCOPE OF SERVICES, METHOD OF  
COMPENSATION, PRICE PROPOSAL, TECHNICAL  
PROPOSAL, PERFORMANCE BOND AND FORMS**

**CONTRACT, SCOPE OF SERVICES, METHOD OF COMPENSATION, PRICE  
PROPOSAL, TECHNICAL PROPOSAL, PERFORMANCE BOND AND FORMS**

**FOR**

**MAINTENANCE OF ITS INFRASTRUCTURE**

**CONTRACT NO. 000720**

**SEPTEMBER 2010**

**ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY**

**Members of the Board**

**Walter A. Ketcham, Jr., Chairman  
Tanya J. Wilder, Vice Chairman  
Mark C. Filburn, Secretary/Treasurer  
Noranne B. Downs, P.E., Ex-Officio Member  
Richard T. Crotty, Ex-Officio Member**

**Executive Director**

**Michael Snyder, P.E.**

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## **CONTRACT**

This Contract (the "Contract" as defined herein below), is made this 22<sup>nd</sup> day of September, 2010, between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called the AUTHORITY and TRANSCORE, LP, 5858 South Semoran Boulevard, Orlando, Florida 32822, hereinafter the CONTRACTOR:

### **WITNESSETH:**

**WHEREAS**, the AUTHORITY was created by statute and is charged with acquiring, constructing, operating and maintaining a system of limited access roadways known as the Orlando-Orange County Expressway System; and,

**WHEREAS**, the AUTHORITY has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it (by state law);" and,

**WHEREAS**, the AUTHORITY has determined that it is necessary and convenient in the conduct of its business to retain the services of a CONTRACTOR to provide complete maintenance services for the AUTHORITY's ITS infrastructure and systems including, Closed Circuit television (CCTV) cameras, data collection sensors, dynamic message signs, fiber optic cable, and all electronic system components associated with the ITS devices and related tasks as may from time to time be assigned to the CONTRACTOR by the AUTHORITY; and,

**WHEREAS**, on or about July 31, 2010, the AUTHORITY issued a Request for Proposals seeking qualified contractors to perform such tasks; and,

**WHEREAS**, CONTRACTOR was the successful one of three qualified firms that responded to the Request for Proposals and was ultimately selected; and,

**NOW THEREFORE**, in consideration of the mutual covenants and benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged by each party to the other, the parties hereto agree as follows:

### **1. SERVICES TO BE PROVIDED**

The CONTRACTOR shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized



representatives of the AUTHORITY, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include complete maintenance services for the AUTHORITY's ITS infrastructure and systems including, Closed Circuit television (CCTV) cameras, data collection sensors, dynamic message signs, fiber optic cable, and all electronic system components associated with the ITS devices as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

The AUTHORITY does not guarantee that all of the services described in the Scope of Services will be assigned during the term of the Contract. Further, the CONTRACTOR is providing these services on a non-exclusive basis. The AUTHORITY, at its option, may elect to have any of the services set forth herein performed by other contractors or AUTHORITY staff.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract, including insurance policies and bonds,
- 1.2 The Scope of Services,
- 1.3 The Method of Compensation,
- 1.4 The Technical Proposal submitted by CONTRACTOR, and
- 1.5 The Price Proposal submitted by CONTRACTOR,

(collectively, the "Contract").

## **2. TERM AND NOTICE**

The initial term of the Contract will be three (3) years from the date first written above. There shall be two (2) renewal options of one (1) year each. The options to renew are at the sole discretion and election of the AUTHORITY. Renewals will be based, in part, on a determination by the AUTHORITY that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for the AUTHORITY's needs. If a renewal option is exercised, the AUTHORITY will provide the CONTRACTOR with written notice of its intent at least 180 days prior to the expiration of the initial three-year Contract Term.

The AUTHORITY shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 120 days notice for convenience or 60 days with cure notice for cause for Contractor's material failure to perform the provisions of the Contract. Under no circumstances shall a properly noticed termination by the AUTHORITY (with or without cause) constitute a default by the AUTHORITY. In the event of a termination for convenience or without cause, AUTHORITY shall notify CONTRACTOR (in writing) of such action with instructions as to the effective date of termination or suspension, in accordance with the time frames set forth hereinabove. CONTRACTOR will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONTRACTOR will not be paid for special, indirect, consequential, or undocumented termination expenses. Payment for work performed will be based on Contract prices, which prices are deemed to

include profit and overhead. No profit or overhead will be allowed for work not performed, regardless of whether the termination is for cause.

If CONTRACTOR: (i) fails to perform the Contract terms and conditions; (ii) fails to begin the work under the Contract within the time specified in the "Notice to Proceed"; (iii) fails to perform the work with sufficient personnel or with sufficient materials to assure the prompt performance of the work items covered by the Contract; (iv) fails to comply with the Contract, or (v) performs unsuitably or unsatisfactorily in the opinion of AUTHORITY reasonably exercised, or for any other cause whatsoever, fails to carry on the work in an acceptable manner, or if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of the AUTHORITY, the AUTHORITY will give notice in writing to the CONTRACTOR and CONTRACTOR's surety of such delay, neglect or default. If the Contract is declared in default, the AUTHORITY may require the CONTRACTOR's surety to take over and complete the Contract performance. Upon the failure or refusal of the surety to assume the Contract within the time demanded, the AUTHORITY may take over the work covered by the Contract.

If CONTRACTOR (within the curative period, if any, described in the notice of default) does not correct the default, AUTHORITY will have the right to remove the work from CONTRACTOR and to declare the Contract in default and terminated.

Upon declaration of default and termination of the Contract, AUTHORITY will have the right to appropriate or use any or all materials and equipment on the sites where work is or was occurring, as the AUTHORITY determines, and may retain others for the completion of the work under the Contract, or may use other methods which in the opinion of AUTHORITY are required for Contract completion. All costs and charges incurred by AUTHORITY because of, or related to, the CONTRACTOR's default (including the costs of completing Contract performance) shall be charged against the CONTRACTOR. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the CONTRACTOR and the surety shall be jointly and severally liable and shall pay the AUTHORITY the amount of the excess. If, after the default notice curative period has expired, but prior to any action by AUTHORITY to complete the work under the Contract, CONTRACTOR demonstrates an intent and ability to cure the default in accordance with AUTHORITY's requirements, AUTHORITY may, but is not obligated to, permit CONTRACTOR to resume work under the Contract. In such circumstances, any costs of AUTHORITY incurred by the delay (or from any reason attributable to the delay) will be deducted from any monies due or which may become due CONTRACTOR under the Contract. Any such costs incurred by AUTHORITY which exceed the remaining amount due on the Contract shall be reimbursed to AUTHORITY by CONTRACTOR. The financial obligations of this paragraph, as well as any other provision of the Contract which by its nature and context survives the expiration of earlier termination of the Contract, shall survive the expiration or earlier termination of the Contract.

AUTHORITY shall have no liability to CONTRACTOR for expenses or profits related to unfinished work on a Contract terminated for default.

AUTHORITY reserves the right to cancel and terminate this Contract in the event the CONTRACTOR or any employee, servant, or agent of the CONTRACTOR is indicted or has direct information issued against him for any crime arising out of or in conjunction with any work being performed by the CONTRACTOR for on behalf of the AUTHORITY, without penalty. Such termination shall be deemed a termination for default.

AUTHORITY reserves the right to terminate or cancel this Contract in the event the CONTRACTOR shall be placed in either voluntary or involuntary bankruptcy or an assignment is made for the benefit of creditors. Such termination shall be deemed a termination for default.

### **3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES**

3.1 The Contract Amount for the three-year Contract term is \$1,721,295.00.

3.2 AUTHORITY agrees to pay CONTRACTOR for services performed in accordance with the Method of Compensation.

### **4. AUDIT AND EXAMINATION OF RECORDS**

4.1 Definition of Records:

(i) "Contract Records" shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Contract or the CONTRACTOR's performance of the Contract determined necessary or desirable by the AUTHORITY for any purpose. Proposal Records shall include, but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by CONTRACTOR in determining labor, unit price, or any other component of a bid submitted to the AUTHORITY.

(ii) "Proposal Records" shall include, but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subcontractors, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by CONTRACTOR in determining a price.

AUTHORITY reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Proposal Records (as hereinafter defined) of the CONTRACTOR or any subcontractor. By submitting a response to the Request for Proposal, CONTRACTOR or any subcontractor submits to and agree to comply with the provisions of this section.

If the AUTHORITY requests access to or review of any Contract Documents or Proposal Records and CONTRACTOR refuses such access or review, CONTRACTOR shall be in default under its Contract with AUTHORITY, and such refusal shall, without any other or additional

actions or omissions, constitute grounds for suspension or disqualification of CONTRACTOR. These provisions shall not be limited in any manner by the existence of any CONTRACTOR claims or pending litigation relating to the Contract. Disqualification or suspension of the CONTRACTOR for failure to comply with this section shall also preclude the CONTRACTOR from acting in the future as a subcontractor of another CONTRACTOR doing work for the AUTHORITY during the period of disqualification or suspension. Disqualification shall mean the CONTRACTOR is not eligible for and shall be precluded from doing future work for the AUTHORITY until reinstated by the AUTHORITY.

Final Audit for Project Closeout: The CONTRACTOR shall permit the AUTHORITY, at the AUTHORITY'S option, to perform or have performed, an audit of the records of the CONTRACTOR and any or all subcontractors to support the compensation paid the CONTRACTOR. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the CONTRACTOR under the Contract are subsequently determined to have been inadvertently paid by the AUTHORITY because of accounting errors or charges not in conformity with the Contract, the CONTRACTOR agrees that such amounts are due to the AUTHORITY upon demand. Final payment to the CONTRACTOR shall be adjusted for audit results.

CONTRACTOR shall preserve all Proposal Records and Contract Records for the entire term of the Contract and for a period of five (5) years after the later of: (i) final acceptance of the project by the AUTHORITY, (ii) until all claims (if any) regarding the Contract are resolved, or (iii) expiration of the Proposal Records and Contract Records' status as public records, as and if applicable, under Chapter 119, Florida Statutes.

## **5. MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

AUTHORITY has adopted a program to provide opportunities for small business, including Minority Business Enterprises ("MBEs") and Women's Business Enterprises ("WBEs"). Under the AUTHORITY'S program, CONTRACTOR is encouraged to grant small businesses the maximum opportunity to participate in the provision of the required Services. CONTRACTOR shall provide information regarding its employment of such businesses and the percentage of payments made to such businesses and others. CONTRACTOR shall provide an annual report to AUTHORITY on or before each anniversary of the Contract Date hereof and throughout the Term, regarding use of small business MBEs and WBEs and the percentage of payments made to enterprises falling within such categories. Such report shall consolidate the information contained in CONTRACTOR's invoices, and shall be in a form reasonably acceptable to AUTHORITY.

## **6. CONTRACTOR INSURANCE AND PERFORMANCE AND PAYMENT BOND**

CONTRACTOR shall carry and keep in force during the period of this Contract, the required amount of coverage as stated below. All bonds and insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, as defined by A.M. Best and

Company's Key Rating Guide and must be approved by the AUTHORITY. All surety bonds shall be in a form and issued by a surety company approved by AUTHORITY. CONTRACTOR shall carry and keep in force the following insurance coverage, and provide the AUTHORITY with correct certificates of insurance (ACORD forms) upon Contract execution:

**6.1 Commercial General Liability Insurance** having a minimum coverage of One Million Dollars (\$1,000,000.00) per occurrence of bodily injury or property damage and a minimum of Two Million Dollars (\$2,000,000.00) annual aggregate for both General and Products and Completed Operations. Liability insurance shall be current ISO simplified form including products and completed operations coverage. The contractual liability insurance coverage shall include coverage for responsibilities and liabilities assumed by CONTRACTOR under this Agreement.

**6.2 Business Automobile Liability** (for bodily injury, death and property damage) having a minimum coverage of One Million Dollars (\$1,000,000.00) for each accident;

**6.3 Workers' Compensation Insurance Coverage**, including all coverage required under the laws of the state of Florida (as amended from time to time hereafter);

**6.4 Unemployment Insurance Coverage** in amounts and forms required by Florida law, as it may be amended from time to time hereafter.

Such insurance policies shall be without co-insurance, and shall (a) include the AUTHORITY, and such other applicable parties the AUTHORITY shall designate, as additional insureds for commercial general liability and business automobile liability, (b) be primary insurance, (c) include contractual liability for commercial general liability, (d) provide that the policy may not be canceled or materially changed without at least thirty (30) days prior written notice to the AUTHORITY from the company providing such insurance, and (e) provide that the insurer waives any right of subrogation against AUTHORITY, to the extent allowed by law and to the extent the same would not void primary coverage for applicable insurance policies. CONTRACTOR shall be responsible for any deductible it may carry. At least fifteen (15) days prior to the expiration of any such policy of insurance required to be carried by CONTRACTOR hereunder, CONTRACTOR shall deliver insurance certificates to AUTHORITY evidencing a renewal or new policy to take the place of the one expiring. Procurement of insurance shall not be construed to limit CONTRACTOR's obligations or liabilities under the Contract. The requirement of insurance shall not be deemed a waiver of sovereign immunity by AUTHORITY.

Any insurance carried by the AUTHORITY in addition to CONTRACTOR's policies shall be excess insurance, not contributory.

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide AUTHORITY with certificates of same, the AUTHORITY may obtain such policies and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments.

6.5 **Payment Bond** The CONTRACTOR shall furnish to the AUTHORITY, and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by the AUTHORITY. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to the AUTHORITY. The surety agent's name, address and telephone number shall be clearly stated on the face of the Payment Bond.

In the event that the surety executing the bond (although acceptable to the AUTHORITY at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after the AUTHORITY's initial approval of the company, then the AUTHORITY may require that the CONTRACTOR immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to the AUTHORITY. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the CONTRACTOR from its payment of premium on the defaulting bond, will be borne by the AUTHORITY.

## **7. CONTRACTOR RESPONSIBILITY**

7.1 CONTRACTOR shall take all reasonable precautions in the performance of the Services and shall cause its employees, agents and subcontractors to do the same. CONTRACTOR shall be solely responsible for the safety of, and shall provide protection to prevent damage, injury or loss to:

- (i) all employees of CONTRACTOR and its subcontractors and other persons who would reasonably be expected to be affected by the performance of the Services;

- (ii) other property of CONTRACTOR and its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible on or adjacent to the plazas or other areas upon which services are performed;

- (iii) members of the public who may be traveling through the plazas and their vehicles.

7.2 CONTRACTOR shall comply, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible, with applicable laws, ordinances, rules, regulations, orders of public authorities, sound business practices, including without limitation:

- (i) those relating to the safety of persons and property and their protection from damage, injury or loss, and
- (ii) all workplace laws, regulations, and posting requirements, and

- (iii) implementation of a drug-free workplace policy at least of a standard comparable to, and in compliance with, AUTHORITY'S Drug-Free Workplace Policy; And
- (iv) compliance with the public records laws of Chapter 119, Florida Statutes.

7.3 CONTRACTOR shall be responsible for actual damage and loss that may occur with respect to any and all property located on or about any structures in any way involved in the provision of services by CONTRACTOR, whether such property is owned by CONTRACTOR, AUTHORITY, or any other person, to the extent such damage or loss shall have been caused or brought about by the negligent acts or omissions of CONTRACTOR or its employees, agents, officers or subcontractors or any other persons for whom CONTRACTOR may be legally or contractually responsible.

7.4 CONTRACTOR shall ensure that all of its activities and the activities of its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible are undertaken in a manner that will minimize the effect on surrounding property and the public.

7.5 CONTRACTOR shall immediately notify AUTHORITY of any material adverse change in CONTRACTOR's financial condition, business, prospects, affairs, or operations, or of such change of any partner, or of such change of any shareholder holding greater than a 10% interest in CONTRACTOR, or of the existence of any material impairment of rights or ability of CONTRACTOR to carry on as its business and operations are currently conducted.

## **8. ASSIGNMENT AND REMOVAL OF KEY PERSONNEL**

A significant factor in the decision of the AUTHORITY to award this Contract to the CONTRACTOR is the level of expertise, knowledge and experience possessed by employees of CONTRACTOR, particularly James Blumhoefer, Richard Allen, Bev Mitchell, David Emrick, Stephen Fischer, Myles McNamara, Andy Fong and Rick Louis (the "Key Personnel") and CONTRACTOR's covenant to have employees possessing such expertise, knowledge and experience available at all times to assist in the provision of the services. Throughout the Term of this Contract, CONTRACTOR shall employ individuals having significant training, expertise, and experience in the areas or disciplines more particularly set forth in the Scope of Services, together with such other areas of expertise or experience, as may be designated from time to time during the Term of this Contract by the AUTHORITY. When the AUTHORITY designates an additional area for which expertise or experience shall be required, CONTRACTOR shall use all reasonable and diligent efforts to promptly hire and retain one or more individuals possessing such experience or expertise.

CONTRACTOR shall hire and maintain Key Personnel as employees throughout the Term of the Contract. The identity of the individuals, initially assigned to each of such positions by CONTRACTOR, shall be submitted to AUTHORITY and the AUTHORITY shall be notified in advance of any changes in the individuals. The Key Personnel shall be committed to performing

services on this Contract to the extent required. Key Personnel may be dismissed for unsatisfactory performance or any reason set forth below.

If prior to the second anniversary of the Effective Date of this Contract, CONTRACTOR removes, suspends, dismisses, fires, transfers, reassigns, lays off, discharges, or otherwise terminates any Key Personnel without the prior notification to the AUTHORITY, such action shall constitute an event of default by CONTRACTOR hereunder. CONTRACTOR may cure such event of default only by replacing the Key Personnel with another employee having comparable experience and qualifications.

Promptly upon request of AUTHORITY, CONTRACTOR shall remove from activities associated with or related to the performance of this Contract any employee whom AUTHORITY considers unsuitable for such work. Such employee shall not be reassigned to perform any work relating to the services except with the express written consent of the AUTHORITY

## **9. INDEMNITY**

The CONTRACTOR shall indemnify, defend and hold harmless AUTHORITY and all of its respective officers, CONTRACTOR's or employees from actual suits, actions, claims, demands, costs as defined elsewhere herein, expenses (including reasonable attorneys' fees as defined elsewhere herein), judgments, liabilities of any nature whatsoever (collectively, "Claims") arising out of, because of, or due to breach of the Contract by the CONTRACTOR (its subcontractors, officers, agents or employees) or due to any negligent or intentional act or occurrence of omission or commission of the CONTRACTOR (its subcontractors, officers, agents or employees), including without limitation any misappropriation or violation of third party copyright, trademark, patent, trade secret, publicity, or other intellectual property rights or other third party rights of any kind by or arising out of any one or more of the following:

9.1 violation of same by CONTRACTOR, its subcontractors, officers, agents or employees,

9.2 AUTHORITY's use or possession of the CONTRACTOR Property or CONTRACTOR Intellectual Property (as defined herein below),

9.3 AUTHORITY's full exercise of its rights under any license conveyed to it by CONTRACTOR,

9.4 CONTRACTOR's violation of the confidentiality and security requirements associated with the AUTHORITY Property and AUTHORITY Intellectual Property (as defined herein below),

9.5 CONTRACTOR's failure to include terms in its subcontracts as required by this Contract,

9.6 CONTRACTOR's failure to ensure compliance with the requirements of the Contract by its employees, agents, officers, or subcontractors, or



9.7 CONTRACTOR's breach of any of the warranties or representations contained in this Contract.

CONTRACTOR will not be liable for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the AUTHORITY or any of its officers, agents or employees. The parties agree that 1% of the total compensation to the CONTRACTOR for performance of each task authorized under the Contract is the specific consideration from AUTHORITY to CONTRACTOR for CONTRACTOR's indemnity and the parties further agree that the 1% is included in the amount negotiated for each authorized task.

## **10. PUBLIC RECORDS**

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the AUTHORITY. Thereafter, CONTRACTOR shall follow AUTHORITY'S instructions with regard to such request. To the extent that such request seeks non-exempt public records, the AUTHORITY shall direct CONTRACTOR to provide such records for inspection and copying in compliance with Chapter 119. A subsequent refusal or failure by CONTRACTOR to timely grant such public access will be grounds for immediate, unilateral cancellation of the Contract by AUTHORITY.

## **11. PRESS RELEASES**

CONTRACTOR shall make no statements, press releases or publicity releases concerning the Contract or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished under the Contract, or any particulars thereof, including without limitation AUTHORITY Property and AUTHORITY Intellectual Property, without first notifying AUTHORITY and securing its consent in writing.

## **12. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS**

AUTHORITY is and shall be and remain the sole owner of all rights, title, and interest in, to, and associated with all plans, documents, software in all forms, hardware, programs, procedures, specifications, drawings, brochures pamphlets, manuals, flyers, models, photographic or design images, negatives, videos and film, tapes, work product, information, data and other items (all whether in preliminary, draft, master, final, paper, electronic, or other form), along with the media on which they reside and with which they interface for function or aesthetics, that are generated or developed with respect to and in connection with this Contract and the performance thereof (collectively, the "AUTHORITY Property"). AUTHORITY's ownership of the AUTHORITY Property includes without limitation all common law, statutory and other rights, title, and interest in, to, and associated with trademark, service mark, copyright, patent, trade secret, and publicity (collectively, the "AUTHORITY Intellectual Property"). CONTRACTOR, its employees, agents, officers, and subcontractors acknowledge that E-PASS® is the

AUTHORITY's registered trademark name for the AUTHORITY's electronic toll collection system, and comprises a portion of the AUTHORITY Intellectual Property.

CONTRACTOR, its employees, agents, officers, and subcontractors may not use the AUTHORITY Property or AUTHORITY Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of AUTHORITY, which may be granted or denied in the AUTHORITY's sole discretion. CONTRACTOR, its employees, agents, officers, and subcontractors' access to and/or use of the AUTHORITY Property and AUTHORITY Intellectual Property is without any warranty or representation by AUTHORITY regarding same.

For all materials listed hereinabove that are not generated or developed under this Contract or performance hereof, but rather are brought in, provided, or installed by CONTRACTOR (collectively, the "CONTRACTOR Property"), and the intellectual property rights associated therewith (collectively, the "CONTRACTOR Intellectual Property"), CONTRACTOR (its employees, officers, agents, and subcontractors, which for purposes of this section shall collectively be referred to as "CONTRACTOR") warrants and represents the following:

12.1 CONTRACTOR was and is the sole owner of all right, title and interest in and to all CONTRACTOR Property and CONTRACTOR Intellectual Property; **OR**

12.2 CONTRACTOR has obtained, and was and is the sole holder of one or more freely assignable, transferable, non-exclusive licenses in and to the CONTRACTOR Property and CONTRACTOR Intellectual Property, as necessary to provide and install the CONTRACTOR Property and/or to assign or grant corresponding to AUTHORITY all licenses necessary for the full performance of this Contract; and that the CONTRACTOR is current and will remain current on all royalty payments due and payable under any license where CONTRACTOR is licensee; **AND**

12.3 CONTRACTOR has not conveyed, and will not convey, any assignment, security interest, exclusive license, or other right, title, or interest that would interfere in any way with the AUTHORITY's use of the CONTRACTOR Property or any license granted to AUTHORITY for use of the CONTRACTOR Intellectual Property rights; **AND**

12.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONTRACTOR shall maintain the AUTHORITY Property and AUTHORITY Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use the AUTHORITY Property or AUTHORITY Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of AUTHORITY, which may be granted or denied in the AUTHORITY's sole discretion. CONTRACTOR shall not publish, copyright, trademark, service mark, patent, or claim trade secret, publicity, or other rights of any kind in any of the Property. In ensuring the confidentiality and security of the AUTHORITY Property and AUTHORITY Intellectual Property, CONTRACTOR shall utilize the same standards of protection and confidentiality that CONTRACTOR uses to protect its own property and confidential information, but in no instance less than reasonable care plus the standards set forth anywhere in this Contract.

CONTRACTOR further warrants and represents that there are no pending, threatened, or anticipated Claims against CONTRACTOR, its employees, officers, agents, or subcontractors with respect to the CONTRACTOR Property or CONTRACTOR Intellectual Property.

The provisions of this Section shall survive the term of this Contract for the longer of:

12.5 The statute of limitations on any action arising out of either party's conduct relating to this section, whether such action may be brought by AUTHORITY, CONTRACTOR, or a third party; or

12.6 AUTHORITY's continued use (notwithstanding any temporary suspension of use) of any CONTRACTOR Property or CONTRACTOR Intellectual Property; and

12.7 Notwithstanding sections 12.5 and 12.6, the confidentiality and security provisions contained herein shall survive the term of this Contract for ten (10) years beyond 12.5 and 12.6.

### **13. PERMITS, LICENSES, ETC.**

Throughout the Term of the Contract, the CONTRACTOR shall procure and maintain, at its sole expense, all permits and licenses that may be required in connection with the performance of Services by CONTRACTOR; shall pay all charges, fees, royalties, and taxes; and shall give all notices necessary and incidental to the due and lawful prosecution of the Services. Copies of required permits and licenses shall be furnished to AUTHORITY upon request.

### **14. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT**

CONTRACTOR warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

CONTRACTOR acknowledges that AUTHORITY officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with the AUTHORITY in accordance with the AUTHORITY's Ethics Policy. CONTRACTOR acknowledges that it has read the Ethics Policy and, to the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONTRACTOR shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Contract services.

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

#### **15. NONDISCRIMINATION**

CONTRACTOR, its employees, officers, agents, and subcontractors shall not discriminate on the grounds of race, color, religion, sex, national origin, or other protected class, in the performance of work or selection of personnel under this Contract.

#### **16. NOTIFICATION of CONVICTION of CRIMES**

CONTRACTOR shall notify the AUTHORITY if any of CONTRACTOR's Key Personnel shall be convicted of any crime, whether state or federal, or felony or misdemeanor of any degree. Such notification shall be made no later than thirty (30) days after the conviction, regardless of whether such conviction is appealed.

#### **17. SUBLETTING AND ASSIGNMENT**

AUTHORITY has selected CONTRACTOR to perform the Services based upon characteristics and qualifications of CONTRACTOR and its employees. Therefore, CONTRACTOR shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONTRACTOR's right, title, or interest therein without the written consent of the AUTHORITY, which may be withheld in the AUTHORITY'S sole and absolute discretion. Any attempt by CONTRACTOR to dispose of this Contract as described above, in part or in whole, without AUTHORITY'S written consent shall be null and void and shall, at AUTHORITY's option, constitute a default under the Contract.

Notwithstanding the foregoing:

17.1 CONTRACTOR may assign its rights to receive payment under this Agreement with AUTHORITY's prior written consent, which consent shall not be unreasonably withheld. AUTHORITY may assign all or any portion of its rights under this Agreement without consent of or advance notice to CONTRACTOR; and

17.2 Subject to the right of AUTHORITY to review and approve or disapprove subcontracts, and subject to the compliance by CONTRACTOR with the provisions of this Contract with regard to Key Personnel, CONTRACTOR shall be entitled to subcontract some of the services hereunder to other entities, provided that all subcontracts:

- (i) shall name AUTHORITY as a third party beneficiary and provide that the subcontract is assignable to the AUTHORITY (or its successor in interest under the terms of this Contract) without the prior approval of the parties thereto, and that the assignment thereof shall be effective upon receipt by the subcontractor of written notice of the assignment from the AUTHORITY. Upon such event, the AUTHORITY shall be deemed to assume all rights and obligations of the CONTRACTOR under the

subcontract, but only to the extent such rights and obligations accrue from and after the date of the assignment. Without limitation, all warranties and representations of subcontractor shall inure to the benefit of AUTHORITY, and

(ii) shall require the subcontractor to comply with all laws, as may be revised, modified and supplemented from time to time, and must require the subcontractor to carry forms and amounts of insurance satisfactory to the AUTHORITY in its sole discretion, and shall provide AUTHORITY with certificates of insurance upon request. The AUTHORITY shall be listed as an additional insured on all such insurance policies, and copies of correct insurance certificates and policies shall be delivered to the AUTHORITY upon request, and

(iii) shall require the subcontractor to join in any dispute resolution proceeding upon request of AUTHORITY, and

(iv) shall include the same or similar terms as are included in this Contract with respect to subcontractors, providing the AUTHORITY with equal or greater protections than herein.

If, during the life of the Contract and any renewals hereof, CONTRACTOR desires to subcontract any portion(s) of the work to a subcontractor that was not disclosed by the CONTRACTOR to the AUTHORITY at the time that the Contract was originally awarded, and such subcontract would, standing alone or aggregated with prior subcontracts awarded to the proposed subcontractor, equal or exceed twenty five thousand dollars (\$25,000.00), the CONTRACTOR shall first submit a request to the AUTHORITY's Director of Procurement for authorization to enter into such subcontract. Except in the case of an emergency, as determined by the Executive Director or his/her designee, no such subcontract shall be executed by the CONTRACTOR until it has been approved by the AUTHORITY Board. In the event of a designated emergency, the CONTRACTOR may enter into such a subcontract with the prior written approval of the Executive Director or his/her designee, but such subcontract shall contain a provision that provides that it shall be automatically terminated if not approved by the AUTHORITY Board at its next regularly scheduled meeting.

## **18. DISPUTES**

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of the AUTHORITY's Executive Director (or his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. The Executive Director's decision upon all claims, questions and disputes shall be final agency action. Adjustments of compensation and Contract time, because of any major changes in the work that may become necessary or desirable as the work progresses shall be left to the absolute discretion of the Executive Director (and the AUTHORITY Board if amendments are required) and supplemental agreement(s) of such nature as required may be entered into by the parties in accordance herewith.

## **19. REMEDIES**

In addition to any remedies otherwise available to the AUTHORITY under law, upon an uncured default the AUTHORITY shall have the right to appropriate or use any or all materials and equipment on the sites where work is or was occurring, and may enter into agreements with others for the completion of the work under the Contract, or may use other methods which in the opinion of the AUTHORITY are required for Contract completion. All costs and charges incurred by the AUTHORITY because of or related to the CONTRACTOR's default including, but not limited to, the costs of completing Contract performance shall be charged against the CONTRACTOR. If the expense of Contract completion exceeds the remaining sum which would have been payable under the balance of the Contract, CONTRACTOR shall be liable to the AUTHORITY for the difference. On a Contract terminated for default, in no event shall the AUTHORITY have any liability to the CONTRACTOR for expenses or profits related to unfinished work, or for AUTHORITY's use of any CONTRACTOR materials or equipment on the work sites, including without limitation the CONTRACTOR Property and CONTRACTOR Intellectual Property.

## **20. PREVAILING PARTY ATTORNEY'S FEES**

If any contested claim arises hereunder or relating to the Contract (or CONTRACTOR's work hereunder), and either party engages legal counsel, the prevailing party in such dispute, as "prevailing party" is hereinafter defined, shall be entitled to recover reasonable attorneys' fees and costs as defined herein, from the non-prevailing party.

In order for CONTRACTOR to be the prevailing party, CONTRACTOR must receive an adjusted judgment or adjusted award equal to at least eighty percent (80%) of its contested claims filed with AUTHORITY, failing which AUTHORITY will be deemed the prevailing party for purposes of this Contract.

For purposes of determining whether the judgment of award is eighty percent (80%) or more of the contested claims, "adjusted award" or "adjusted judgment" shall mean the amount designated in the award or final judgment as compensation to CONTRACTOR for its claims (exclusive of interest, cost or expenses), less: (i) any amount awarded to AUTHORITY (exclusive of interest, costs or expenses) on claims asserted by AUTHORITY against CONTRACTOR in connection with the Contract, and (ii) any amount offered in settlement prior to initiation of CONTRACTOR litigation (exclusive of interest, cost or expense), which for purposes of enforcing this section only shall be admissible into evidence.

The term "contested claim" or "claims" shall include "Claims" as defined in Section 11, as well as the initial written claim (s) submitted to AUTHORITY by CONTRACTOR (disputed by AUTHORITY) which have not otherwise been resolved through ordinary close-out procedures of the Contract prior to the initiation of litigation. CONTRACTOR claims or portions thereof, which AUTHORITY agrees or offers to pay prior to initiation of litigation, shall not be deemed contested claims for purposes of this provision. If CONTRACTOR submits a modified, amended or substituted claim after its original claim and such modified, amended or substituted

claim(s) is for an amount greater than the prior claim(s), the higher amount shall be the claim(s) for purposes of determining whether the award is at least eighty percent (80%) of CONTRACTOR's claim(s).

Attorneys' fees and costs awarded to the prevailing party shall mean reasonable fees and costs incurred in connection with and measured from the date a claim is initially submitted to AUTHORITY through and including trial, appeal and collection. In the circumstance where an original claim is subsequently modified, amended or a substituted claim is filed therefore, fees and costs shall accrue from the date of the first written claim submitted, regardless of whether the original or subsequent claim amount is ultimately used in determining if the judgment or award is at least eighty percent (80%) of the cumulative claims.

"Attorneys' fees" shall include but not be limited to fees and charges of attorneys, paralegals, legal assistants, attorneys' CONTRACTOR's, expert witnesses, court reporters, photocopying, telephone charges, travel expenses, or any other charges, fees, or expenses incurred through use of legal counsel, whether or not such fees are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial fees (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation, or administrative proceedings arising out of this Contract.

"Costs" shall include but not be limited to any filing fees, application fees, expert witnesses' fees, court reporters' fees, photocopying costs, telephone charges, travel expenses, or any other charges, fees, or expenses incurred whether or not legal counsel is retained, whether or not such costs are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial costs (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation or administrative proceeding arising out of this Contract.

As a condition precedent to filing a claim with any legal or administrative tribunal, CONTRACTOR shall have first submitted its claim (together with supporting documentation) to AUTHORITY, and AUTHORITY shall have had sixty (60) days thereafter within which to respond thereto.

The purpose of this provision is to discourage frivolous or overstated claims and, as a result thereof, AUTHORITY and CONTRACTOR agree that neither party shall avail itself of Section 768.79, Florida Statutes, or any other like statute or rule involving offers of settlement or offers of judgment, it being understood and agreed that the purpose of such statute or rule are being served by this provision.

Should this section be judged void, unenforceable or illegal, in whole or in substantial part, by a court of competent jurisdiction, this section shall be void in its entirety and each party shall bear its own attorneys' fees and costs.

## **21. OTHER SEVERABILITY**

If any section of this Contract, other than the immediately preceding Prevailing Party Attorneys' Fees section, be judged void, unenforceable or illegal, then the illegal provision shall be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original intention, and the remaining portions of the Contract shall remain in full force and effect and shall be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

## **22. GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Contract shall be exclusively in Orange County, Florida.

In consideration of the foregoing premises, AUTHORITY agrees to pay CONTRACTOR for work performed and materials furnished at the prices submitted with the Proposal.

## **23. RELATIONSHIPS**

CONTRACTOR acknowledges that no employment relationship exists between AUTHORITY and CONTRACTOR or CONTRACTOR's employees. CONTRACTOR shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. CONTRACTOR shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax and income tax withholding, unemployment compensation, workers compensation, and employment benefits.

CONTRACTOR shall conduct no act or omission that would lead CONTRACTOR's employees or any legal tribunal or regulatory agency to believe or conclude that CONTRACTOR's employees would be employees of the AUTHORITY.

Any approval by AUTHORITY of a subcontract or other matter herein requiring AUTHORITY approval for its occurrence shall not be deemed a warranty or endorsement of any kind by AUTHORITY of such subcontract, subcontractor, or matter.

## **24. INTERPRETATION**

For purposes of this Contract, the singular shall include the plural, and the plural shall include the singular, unless the context clearly requires otherwise. Except for reference to women's business enterprises and matters relating thereto, reference to one gender shall include all genders. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the stated statute or regulation. Words not otherwise defined and that have well-known technical, industry, or legal meanings, are used in accordance with such recognized meanings, in the order stated. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities. If CONTRACTOR discovers any



material discrepancy, deficiency, or ambiguity in this Contract, or is otherwise in doubt as to the meaning of any provision of the Contract, CONTRACTOR may immediately notify AUTHORITY and request clarification of AUTHORITY's interpretation of the Contract. The Contract Documents, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

## **25. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE**

The CONTRACTOR hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached documentation supporting the compensation are accurate, complete and current as of the date of this Contract. It is further agreed that said price shall be adjusted to exclude any significant sums where the AUTHORITY shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by the AUTHORITY, whichever is later.

## **26. SURVIVAL OF EXPIRATION OR TERMINATION**

Any clause, sentence, paragraph, or section providing for, discussing, or relating to any of the following shall survive the expiration or earlier termination of the Contract:

26.1 Trademarks, service marks, patents, trade secrets, copyrights, publicity, or other intellectual property rights, and terms relating to the ownership, security, protection, or confidentiality thereof; and

26.2 Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and

26.3 Prohibition on non-competition agreements of CONTRACTOR's employees with respect to any successor of CONTRACTOR; and

26.4 Obligations upon expiration or termination of the Contract, as set forth in Section 27; and

26.5 Any other term or terms of this Contract which by their nature or context necessarily survive the expiration or earlier termination of the Contract for their fulfillment.

**27. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT**

27.1 Immediately upon expiration or termination of this Contract: CONTRACTOR shall submit to AUTHORITY a report containing the last known contact information for each subcontractor or employee of CONTRACTOR who performed work under the Contract; and

27.2 CONTRACTOR shall initiate settlement of all outstanding liabilities and claims arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of AUTHORITY.

IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties as of the day and year first above written. This Contract was awarded by the Authority's Board of Directors at its meeting on September 22, 2010.

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

By: Claude Miller  
Director of Procurement

Print Name: 10/7/10 Claude Miller

TRANSCORE, LP

By: Joseph S. Grabis

Print Name: JOSEPH S. GRABIAS

Title: VICE PRESIDENT FINANCE

ATTEST: Russell L. Reiser  
RUSSELL L. REISER, ASSISTANT SECRETARY



Approved as to form and execution, only.

Joseph J. Salvatore  
General Counsel for the AUTHORITY


## **CONSENT AGENDA ITEM**

**#11**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: August 26, 2014

RE: Renewal of Contract No. 001009 with  
The W Group Consulting Firm, LLC for  
Business Development Management Consultant Services

Board approval is requested for the first renewal of the referenced contract with The W Group Consulting Firm, LLC, for a one year period, beginning November 25, 2014, in the amount of \$68,000.00. Services to be provided under this renewal will include assisting Business Development staff to initiate our strategic outreach plan whose purpose is to provide local small, minority and women-owned businesses with the necessary resources to become effective viable businesses and eligible to take advantage of the Authority's procurement opportunities.

The terms and conditions of the original contract, including manhour rates will remain unchanged for the renewal period.

Original Contract Amount	\$47,650.00
Supplemental Agreement No. 1	<u>\$20,350.00</u>
Total Original Contract Amount	\$68,000.00 (1 year contract term)
 Total Contract Renewal Amount	 \$68,000.00

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations, Construction and Maintenance  
Laura Kelley, Deputy Executive Director, Finance and Administration  
Iranetta Dennis, Director of Business Development  
Contract File

## **CONTRACT**

This Contract (the "Contract" as defined herein below), is made this 20<sup>th</sup> day of November, 2013, between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called the AUTHORITY and THE W GROUP CONSULTING FIRM, LLC, 8815 Conroy-Windemere Road, Suite 214, Orlando, Florida 32835, hereinafter the CONSULTANT:

### **WITNESSETH:**

**WHEREAS**, the AUTHORITY was created by statute and is charged with acquiring, constructing, operating and maintaining a system of limited access roadways known as the Orlando-Orange County Expressway System; and,

**WHEREAS**, the AUTHORITY has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it (by state law);" and,

**WHEREAS**, the AUTHORITY has determined that it is necessary and convenient in the conduct of its business to retain the services of a CONSULTANT to perform business development management services as may be assigned to the CONSULTANT by the AUTHORITY; and,

**WHEREAS**, on or about October 21, 2013, the AUTHORITY issued a Request for Proposals seeking qualified consultants to perform such tasks; and,

**WHEREAS**, CONSULTANT was the successful one of two qualified firms that responded to the Request for Proposals and was ultimately selected; and,

**NOW THEREFORE**, in consideration of the mutual covenants and benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged by each party to the other, the parties hereto agree as follows:

### **1. SERVICES TO BE PROVIDED**

The CONSULTANT shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized representatives of the AUTHORITY, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include business development management services as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

The AUTHORITY does not guarantee that all of the services described in the Scope of Services will be assigned during the term of the Contract. Further, the CONSULTANT is providing these services on a non-exclusive basis. The AUTHORITY, at its option, may elect to have any of the services set forth herein performed by other consultants or AUTHORITY staff.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract, including insurance policies,
- 1.2 The Scope of Services,
- 1.3 The Method of Compensation,
- 1.4 The Technical Proposal submitted by CONSULTANT, and
- 1.5 The Price Proposal submitted by CONSULTANT,

(collectively, the "Contract").

## **2. TERM AND NOTICE**

The initial term of the Contract will be one (1) year from the date of the Notice to Proceed from the AUTHORITY. There shall be two (2) renewal options of one (1) year each. The options to renew are at the sole discretion and election of the AUTHORITY. Renewals will be based, in part, on a determination by the AUTHORITY that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for the AUTHORITY's needs. If a renewal option is exercised, the AUTHORITY will provide the CONTRACTOR with written notice of its intent at least 150 days prior to the expiration of the initial one-year Contract Term.

The AUTHORITY shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 15 days notice for convenience or 30 days with cure notice for cause for CONSULTANT's material failure to perform the provisions of the Contract. Under no circumstances shall a properly noticed termination by the AUTHORITY (with or without cause) constitute a default by the AUTHORITY. In the event of a termination for convenience or without cause, AUTHORITY shall notify CONSULTANT (in writing) of such action with instructions as to the effective date of termination or suspension, in accordance with the time frames set forth hereinabove. CONSULTANT will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONSULTANT will not be paid for special, indirect, consequential, or undocumented termination expenses. Payment for work performed will be based on Contract prices, which prices are deemed to include profit and overhead. No profit or overhead will be allowed for work not performed, regardless of whether the termination is for cause.

If CONSULTANT: (i) fails to perform the Contract terms and conditions; (ii) fails to begin the work under the Contract within the time specified in the "Notice to Proceed"; (iii) fails to perform the work with sufficient personnel or with sufficient materials to assure the prompt

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
PRICE PROPOSAL  
BUSINESS DEVELOPMENT MANAGEMENT CONSULTANT SERVICES- CONTRACT NO. 001009

ITEM NO.	QUANT.	UNIT	ITEM DESCRIPTION	HOURLY RATE	TOTAL COST
1	230	MANHOURS	BUSINESS DEVELOPMENT ASSISTANCE	\$ 90	\$ 20,700
2	280	MANHOURS	PROGRAM DEVELOPMENT ASSISTANCE	\$ 90	\$ 25,200
3	70	MANHOURS	ADMINISTRATIVE ASSISTANT	\$ 25	\$ 1,750
TOTAL PROPOSAL AMOUNT					\$ 47,650

*[Signature]*





## ORLANDO - ORANGE COUNTY

4974 ORL TOWER RD., ORLANDO, FLORIDA 32807  
TELEPHONE (407) 690-5000 • FAX (407) 690-5011 • WWW.OOCEA.COM

November 25, 2013

Ms. Wendy Anderson  
The W Group Consulting Firm, LLC.  
8815 Conroy Windermere Road Suite 214  
Orlando, Florida 32835

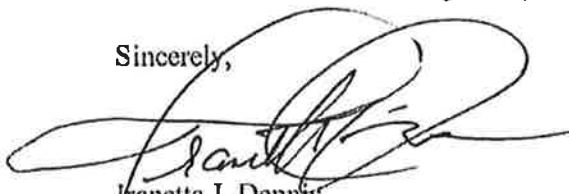
Re: Business Development Management Consultant Services  
Contract No. 001009  
Notice to Proceed

Dear Ms. Anderson:

This letter will service as your Notice to Proceed with the services under the referenced Contract effective November 25, 2013. The Contract term will be one (1) years with an option to extend the Contract for 2 one-year renewal periods. Exercise of the options will be made at the sole discretion and election of the Authority.

We look forward to working with you on this important Authority project.

Sincerely,



Franetta J. Dennis  
Business Development Director

WALTER A. KETCHAM, JR.  
Chairman

R. SCOTT BATTERSON, P.E.  
Vice Chairman

TERESA JACOBS  
Secretary/Treasurer  
Ex Officio Board Member  
Orange County

MARCO PEÑA  
Board Member

NORANNE B. DOWNS, P.E.  
Ex Officio Board Member  
Florida Department of  
Transportation

## WORKSHEET FOR RENEWAL/NON-RENEWAL OF CONTRACT

Contractor: The W Group Consulting Firm

Contract No.: 001009

Contract Name/Description: Business Development Management Consultant Services

Contract Amount (Including Supplemental Agreement): \$ 47,650.00

Original Contract Execution Date: 11/25/2013

Original Contract Term: 1 Year with 2 Renewal Options

First Renewal: X

Second Renewal: \_\_\_\_\_

What is the factual basis to support renewal/non-renewal recommendation? Are the value and level of service provided by the (Contractor) (Consultant) satisfactory and adequate for the Authority's needs? For non-renewal recommendation due to Contractor non-compliance, give specific instances for non-compliance with work/performance requirements. Has Contractor been notified of the instances of non-compliance? Give date(s) and method(s) of notification. For non-renewal recommendation due to other reasons (scope changes, quantity, work limit changes, price increases), give specifics.

Value and level of service provided are satisfactory and  
adequate for Authority's needs.

Renewal Recommended

Yes ☒ No \_\_\_\_\_

  
(Recommending Department Head/Manager)

7/1/14  
Date

Approve Recommendation


Yes ☒ No \_\_\_\_\_

  
(Name)  
Deputy Executive Director

7-8-14  
Date

Concur With Recommendation

Yes ☒ No \_\_\_\_\_

  
(Name)  
Director of Procurement

7/8/14  
Date

Central Florida Expressway Authority  
CONTRACT RENEWAL AGREEMENT  
CONTRACT NO. 001009

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_, 2014, by and between the Central Florida Expressway Authority, hereinafter called "Authority" and The W Group Consulting Firm, LLC, hereinafter called "Consultant"

WITNESSETH

WHEREAS, the Authority and Consultant entered into a Contract Agreement (the "Original Agreement") dated November 20, 2013, with a Notice to Proceed date of November 25, 2013, whereby the Authority retained Consultant to provide business development management consultant services; and

WHEREAS, pursuant to Article 2 of the Original Agreement, Authority and Consultant wish to renew the Original Agreement for a period of one (1) year;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Consultant agree to a first renewal of said Original Agreement beginning the 25<sup>th</sup> day of November, 2014, and ending the 24<sup>th</sup> day of November, 2015, for the amount of \$68,000.00, which amount restates the amount of the Original Agreement and any supplements thereto.

Consultant states that, upon its receipt and acceptance of Final Payment for Services rendered under the Original Agreement ending November 24, 2014, Consultant shall execute a 'Certificate of Completion of the Original Agreement and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the Original Agreement ending November 24, 2014.

All terms and conditions of said Original Agreement and any supplements and amendments thereto shall remain in full force and effect during the full term of this Renewal Agreement except as follows:

IN WITNESS WHEREOF, the parties have executed this Renewal Agreement by their duly authorized officers on the day, month and year set forth above.

THE W GROUP CONSULTING FIRM, LLC

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY: \_\_\_\_\_  
Authorized Signature

BY: \_\_\_\_\_  
Director of Procurement

Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_ (SEAL)  
Secretary or Notary

If Individual, furnish two witnesses:

Witness (1) \_\_\_\_\_

Witness (2) \_\_\_\_\_

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: The W Group Consulting Firm, LLC

Contract No: 001009 Project No.: N/A

This Supplemental Agreement No. 1 entered into this 14<sup>th</sup> day of August, 2014, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY (the "Authority"), and THE W GROUP CONSULTING FIRM, LLC., (the "Consultant"), the same being supplementary to the Contract between the aforesaid, dated November 20, 2013, for services pertaining to business development management, (the "Contract").

1. The Authority has determined it necessary to increase the Contract amount by \$20,350.00 in order to continue the required business development management services to the end of the Contract Term; and,
2. The Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract; and,
3. The Authority and Consultant agree that this Supplemental Agreement No. 1 shall not alter or change in any manner the force and effect of the Contract including any previous amendments thereto, if any, except insofar as the same is altered and amended by this Supplemental Agreement No. 1; that acceptance of this Supplemental Agreement No. 1 signifies the Consultant's complete and total claim for the terms and conditions of the same and that the Consultant waives all future right for additional compensation which is not already defined herein.
4. This Supplemental Agreement No. 1 is necessary to continue the required services to the end of the Contract Term and was approved by the Authority's Board of Directors at its meeting on August 14, 2014.

SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Business Development Management Services

Contract No.: 001009 Project No.: N/A

Amount of Changes to this document: \$20,350.00

This Supplemental Agreement No. 1 entered into as of the day and year first written above.

**"Authority":**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

By: *Paula Nale*  
Director of Procurement

Date: 8/28/14

**"Consultant":**

**THE W GROUP CONSULTING FIRM, LLC**

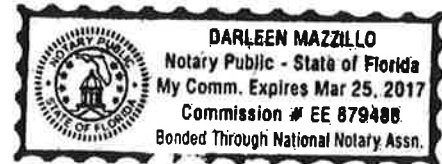
By: *Wendy D. Anderson*  
Authorized Signature

Print Name: Wendy D. Anderson

Title: Managing Director

Attest: *Darleen Mazzillo*  
Notary

Date: 8/28/14



Approved as to form and execution, only.

*Joseph J. Cassatone*  
General Counsel for the Authority

# **CONTRACT**

**ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
AND  
THE W GROUP CONSULTING FIRM, LLC,**

**BUSINESS DEVELOPMENT MANAGEMENT  
CONSULTANT SERVICES**

**CONTRACT NO. 001009**

**CONTRACT DATE: NOVEMBER 20, 2013  
CONTRACT AMOUNT: \$47,650.00**



**ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY**

**CONTRACT, SCOPE OF SERVICES, METHOD OF  
COMPENSATION, TECHNICAL PROPOSAL  
AND PRICE PROPOSAL**

**CONTRACT, SCOPE OF SERVICES, METHOD OF COMPENSATION,  
TECHNICAL PROPOSAL AND PRICE PROPOSAL**

**FOR**

**BUSINESS DEVELOPMENT MANAGEMENT CONSULTANT SERVICES**

**CONTRACT NO. 001009**

**NOVEMBER 2013**

**Members of the Board**

**Walter A. Ketcham, Jr., Chairman  
R. Scott Batterson, P.E., Vice Chairman  
Teresa Jacobs, Secretary/Treasurer  
Noranne B. Downs, P.E., Ex-Officio Member  
Marco Peña, Board Member**

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## **CONTRACT**

This Contract (the "Contract" as defined herein below), is made this 20<sup>th</sup> day of November, 2013, between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called the AUTHORITY and THE W GROUP CONSULTING FIRM, LLC, 8815 Conroy-Windemere Road, Suite 214, Orlando, Florida 32835, hereinafter the CONSULTANT:

### **WITNESSETH:**

**WHEREAS**, the AUTHORITY was created by statute and is charged with acquiring, constructing, operating and maintaining a system of limited access roadways known as the Orlando-Orange County Expressway System; and,

**WHEREAS**, the AUTHORITY has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it (by state law);" and,

**WHEREAS**, the AUTHORITY has determined that it is necessary and convenient in the conduct of its business to retain the services of a CONSULTANT to perform business development management services as may be assigned to the CONSULTANT by the AUTHORITY; and,

**WHEREAS**, on or about October 21, 2013, the AUTHORITY issued a Request for Proposals seeking qualified consultants to perform such tasks; and,

**WHEREAS**, CONSULTANT was the successful one of two qualified firms that responded to the Request for Proposals and was ultimately selected; and,

**NOW THEREFORE**, in consideration of the mutual covenants and benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged by each party to the other, the parties hereto agree as follows:

### **1. SERVICES TO BE PROVIDED**

The CONSULTANT shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized representatives of the AUTHORITY, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include business development management services as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

The AUTHORITY does not guarantee that all of the services described in the Scope of Services will be assigned during the term of the Contract. Further, the CONSULTANT is providing these services on a non-exclusive basis. The AUTHORITY, at its option, may elect to have any of the services set forth herein performed by other consultants or AUTHORITY staff.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract, including insurance policies,
- 1.2 The Scope of Services,
- 1.3 The Method of Compensation,
- 1.4 The Technical Proposal submitted by CONSULTANT, and
- 1.5 The Price Proposal submitted by CONSULTANT,

(collectively, the "Contract").

## **2. TERM AND NOTICE**

The initial term of the Contract will be one (1) year from the date of the Notice to Proceed from the AUTHORITY. There shall be two (2) renewal options of one (1) year each. The options to renew are at the sole discretion and election of the AUTHORITY. Renewals will be based, in part, on a determination by the AUTHORITY that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for the AUTHORITY's needs. If a renewal option is exercised, the AUTHORITY will provide the CONTRACTOR with written notice of its intent at least 150 days prior to the expiration of the initial one-year Contract Term.

The AUTHORITY shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 15 days notice for convenience or 30 days with cure notice for cause for CONSULTANT's material failure to perform the provisions of the Contract. Under no circumstances shall a properly noticed termination by the AUTHORITY (with or without cause) constitute a default by the AUTHORITY. In the event of a termination for convenience or without cause, AUTHORITY shall notify CONSULTANT (in writing) of such action with instructions as to the effective date of termination or suspension, in accordance with the time frames set forth hereinabove. CONSULTANT will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONSULTANT will not be paid for special, indirect, consequential, or undocumented termination expenses. Payment for work performed will be based on Contract prices, which prices are deemed to include profit and overhead. No profit or overhead will be allowed for work not performed, regardless of whether the termination is for cause.

If CONSULTANT: (i) fails to perform the Contract terms and conditions; (ii) fails to begin the work under the Contract within the time specified in the "Notice to Proceed"; (iii) fails to perform the work with sufficient personnel or with sufficient materials to assure the prompt

performance of the work items covered by the Contract; (iv) fails to comply with the Contract, or (v) performs unsuitably or unsatisfactorily in the opinion of AUTHORITY reasonably exercised, or for any other cause whatsoever, fails to carry on the work in an acceptable manner, the AUTHORITY will give notice in writing to the CONSULTANT of such delay, neglect or default. If the Contract is declared in default, the AUTHORITY may take over the work covered by the Contract.

If CONSULTANT (within the curative period, if any, described in the notice of default) does not correct the default, AUTHORITY will have the right to remove the work from CONSULTANT and to declare the Contract in default and terminated.

Upon declaration of default and termination of the Contract, AUTHORITY will have the right to appropriate or use any or all materials as the AUTHORITY determines, and may retain others for the completion of the work under the Contract, or may use other methods which in the opinion of AUTHORITY are required for Contract completion. All costs and charges incurred by AUTHORITY because of, or related to, the CONSULTANT's default (including the costs of completing Contract performance) shall be charged against the CONSULTANT. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the CONSULTANT shall pay the AUTHORITY the amount of the excess. If, after the default notice curative period has expired, but prior to any action by AUTHORITY to complete the work under the Contract, CONSULTANT demonstrates an intent and ability to cure the default in accordance with AUTHORITY's requirements, AUTHORITY may, but is not obligated to, permit CONSULTANT to resume work under the Contract. In such circumstances, any costs of AUTHORITY incurred by the delay (or from any reason attributable to the delay) will be deducted from any monies due or which may become due CONSULTANT under the Contract. Any such costs incurred by AUTHORITY which exceed the remaining amount due on the Contract shall be reimbursed to AUTHORITY by CONSULTANT. The financial obligations of this paragraph, as well as any other provision of the Contract which by its nature and context survives the expiration of earlier termination of the Contract, shall survive the expiration or earlier termination of the Contract.

AUTHORITY shall have no liability to CONSULTANT for expenses or profits related to unfinished work on a Contract terminated for default.

AUTHORITY reserves the right to terminate or cancel this Contract in the event the CONSULTANT shall be placed in either voluntary or involuntary bankruptcy or an assignment is made for the benefit of creditors. Such termination shall be deemed a termination for default.

### **3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES**

3.1 The Contract Amount for the Contract term is \$47,650.00

3.2 AUTHORITY agrees to pay CONSULTANT for services performed in accordance with the Method of Compensation.

#### **4. AUDIT AND EXAMINATION OF RECORDS**

##### **4.1 Definition of Records:**

(i) "Contract Records" shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Contract or the CONSULTANT's performance of the Contract determined necessary or desirable by the AUTHORITY for any purpose. Proposal Records shall include, but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by CONSULTANT in determining labor, unit price, or any other component of a bid submitted to the AUTHORITY.

(ii) "Proposal Records" shall include, but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subconsultants, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by CONSULTANT in determining a price.

AUTHORITY reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Proposal Records (as hereinafter defined) of the CONSULTANT or any subconsultant. By submitting a response to the Request for Proposal, CONSULTANT or any subconsultant submits to and agree to comply with the provisions of this section.

If the AUTHORITY requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review, CONSULTANT shall be in default under its Contract with AUTHORITY, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall also preclude the CONSULTANT from acting in the future as a subconsultant of another CONSULTANT doing work for the AUTHORITY during the period of disqualification or suspension. Disqualification shall mean the CONSULTANT is not eligible for and shall be precluded from doing future work for the AUTHORITY until reinstated by the AUTHORITY.

Final Audit for Project Closeout: The CONSULTANT shall permit the AUTHORITY, at the AUTHORITY'S option, to perform or have performed, an audit of the records of the CONSULTANT and any or all subconsultants to support the compensation paid the CONSULTANT. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the CONSULTANT under the Contract are subsequently determined to have been inadvertently paid by the AUTHORITY because of accounting errors or charges not in conformity with the Contract, the CONSULTANT

agrees that such amounts are due to the AUTHORITY upon demand. Final payment to the CONSULTANT shall be adjusted for audit results.

CONSULTANT shall preserve all Proposal Records and Contract Records for the entire term of the Contract and for a period of five (5) years after the later of: (i) final acceptance of the project by the AUTHORITY, (ii) until all claims (if any) regarding the Contract are resolved, or (iii) expiration of the Proposal Records and Contract Records' status as public records, as and if applicable, under Chapter 119, Florida Statutes.

## **5. MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

AUTHORITY has adopted a program to provide opportunities for small business, including Minority Business Enterprises ("MBEs") and Women's Business Enterprises ("WBEs"). Under the AUTHORITY'S program, CONSULTANT is encouraged to grant small businesses the maximum opportunity to participate in the provision of the Services.

## **6. CONSULTANT INSURANCE**

CONSULTANT shall carry and keep in force during the period of this Contract, the required amount of coverage as stated below. All insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, as defined by A.M. Best and Company's Key Rating Guide and must be approved by the AUTHORITY. CONSULTANT shall carry and keep in force the following insurance coverage, and provide the AUTHORITY with correct certificates of insurance (ACORD forms) upon Contract execution:

6.1 **Commercial General Liability** Insurance having a minimum coverage of One Million Dollars (\$1,000,000.00) per occurrence of bodily injury or property damage and a minimum of Two Million Dollars (\$2,000,000.00) annual aggregate for both General and Products and Completed Operations. Liability insurance shall be current ISO simplified form including products and completed operations coverage. The contractual liability insurance coverage shall include coverage for responsibilities and liabilities assumed by CONSULTANT under this Agreement.

6.2 **Business Automobile Liability** (for bodily injury, death and property damage) having a minimum coverage of One Million Dollars (\$1,000,000.00) for each accident;

6.3 **Workers' Compensation Insurance** Coverage, including all coverage required under the laws of the state of Florida (as amended from time to time hereafter);

6.4 **Unemployment Insurance** Coverage in amounts and forms required by Florida law, as it may be amended from time to time hereafter.

Such insurance policies shall be without co-insurance, and shall (a) include the AUTHORITY, and such other applicable parties the AUTHORITY shall designate, as additional insureds for commercial general liability and business automobile liability, (b) be primary insurance, (c)

include contractual liability for commercial general liability, (d) provide that the policy may not be canceled or materially changed without at least thirty (30) days prior written notice to the AUTHORITY from the company providing such insurance, and (e) provide that the insurer waives any right of subrogation against AUTHORITY, to the extent allowed by law and to the extent the same would not void primary coverage for applicable insurance policies. CONSULTANT shall be responsible for any deductible it may carry. At least fifteen (15) days prior to the expiration of any such policy of insurance required to be carried by CONSULTANT hereunder, CONSULTANT shall deliver insurance certificates to AUTHORITY evidencing a renewal or new policy to take the place of the one expiring. Procurement of insurance shall not be construed to limit CONSULTANT's obligations or liabilities under the Contract. The requirement of insurance shall not be deemed a waiver of sovereign immunity by AUTHORITY.

Any insurance carried by the AUTHORITY in addition to CONSULTANT's policies shall be excess insurance, not contributory.

If CONSULTANT fails to obtain the proper insurance policies or coverages, or fails to provide AUTHORITY with certificates of same, the AUTHORITY may obtain such policies and coverages at CONSULTANT's expense and deduct such costs from CONSULTANT payments.

#### **7. CONSULTANT RESPONSIBILITY**

CONSULTANT shall comply, and shall cause its employees, agents, officers and subconsultants and all other persons for whom CONSULTANT may be legally or contractually responsible, with applicable laws, ordinances, rules, regulations, orders of public authorities, sound business practices, including without limitation:

- (i) those relating to the safety of persons and property and their protection from damage, injury or loss, and
- (ii) all workplace laws, regulations, and posting requirements, and
- (iii) implementation of a drug-free workplace policy at least of a standard comparable to, and in compliance with, AUTHORITY'S Drug-Free Workplace Policy; And
- (iv) compliance with the public records laws of Chapter 119, Florida Statutes.

#### **8. INDEMNITY**

The CONSULTANT shall indemnify, defend and hold harmless AUTHORITY and all of its respective officers, CONSULTANT's or employees from actual suits, actions, claims, demands, costs as defined elsewhere herein, expenses (including reasonable attorneys' fees as defined elsewhere herein), judgments, liabilities of any nature whatsoever (collectively, "Claims") arising out of, because of, or due to breach of the Contract by the CONSULTANT (its subconsultants, officers, agents or employees) or due to any negligent or intentional act or occurrence of omission or commission of the CONSULTANT (its subconsultants, officers, agents or employees), including without limitation any misappropriation or violation of third

party copyright, trademark, patent, trade secret, publicity, or other intellectual property rights or other third party rights of any kind by or arising out of any one or more of the following:

8.1 violation of same by CONSULTANT, its subconsultants, officers, agents or employees,

8.2 AUTHORITY's use or possession of the CONSULTANT Property,

8.3 AUTHORITY's full exercise of its rights under any license conveyed to it by CONSULTANT,

8.4 CONSULTANT's violation of the confidentiality and security requirements associated with the AUTHORITY Property,

8.5 CONSULTANT's failure to include terms in its subcontracts as required by this Contract,

8.6 CONSULTANT's failure to ensure compliance with the requirements of the Contract by its employees, agents, officers, or subconsultants, or

8.7 CONSULTANT's breach of any of the warranties or representations contained in this Contract.

CONSULTANT will not be liable for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the AUTHORITY or any of its officers, agents or employees. The parties agree that 1% of the total compensation to the CONSULTANT for performance of each task authorized under the Contract is the specific consideration from AUTHORITY to CONSULTANT for CONSULTANT's indemnity and the parties further agree that the 1% is included in the amount negotiated for each authorized task.

## **9. PUBLIC RECORDS**

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONSULTANT in conjunction with this Contract (including without limitation CONSULTANT Records and Proposal Records, if and as applicable), CONSULTANT shall immediately notify the AUTHORITY. Thereafter, CONSULTANT shall follow AUTHORITY'S instructions with regard to such request. To the extent that such request seeks non-exempt public records, the AUTHORITY shall direct CONSULTANT to provide such records for inspection and copying in compliance with Chapter 119. A subsequent refusal or failure by CONSULTANT to timely grant such public access will be grounds for immediate, unilateral cancellation of the Contract by AUTHORITY.

#### **10. PRESS RELEASES**

CONSULTANT shall make no statements, press releases or publicity releases concerning the Contract or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished under the Contract, or any particulars thereof, including without limitation AUTHORITY Property, without first notifying AUTHORITY and securing its consent in writing.

#### **11. PERMITS, LICENSES, ETC.**

Throughout the Term of the Contract, the CONSULTANT shall procure and maintain, at its sole expense, all permits and licenses that may be required in connection with the performance of Services by CONSULTANT; shall pay all charges, fees, royalties, and taxes; and shall give all notices necessary and incidental to the due and lawful prosecution of the Services. Copies of required permits and licenses shall be furnished to AUTHORITY upon request.

#### **12. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT**

CONSULTANT warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Contract, and that CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

CONSULTANT acknowledges that AUTHORITY officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with the AUTHORITY in accordance with the AUTHORITY's Ethics Policy. CONSULTANT acknowledges that it has read the Ethics Policy and, to the extent applicable, CONSULTANT will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONSULTANT shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Contract services.

CONSULTANT covenants and agrees that it and its employees, officers, agents, and subconsultants shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.



### **13. NONDISCRIMINATION**

CONSULTANT, its employees, officers, agents, and subconsultants shall not discriminate on the grounds of race, color, religion, sex, national origin, or other protected class, in the performance of work or selection of personnel under this Contract.

### **14. SUBLETTING AND ASSIGNMENT**

AUTHORITY has selected CONSULTANT to perform the Services based upon characteristics and qualifications of CONSULTANT and its employees. Therefore, CONSULTANT shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONSULTANT's right, title, or interest therein without the written consent of the AUTHORITY, which may be withheld in the AUTHORITY'S sole and absolute discretion. Any attempt by CONSULTANT to dispose of this Contract as described above, in part or in whole, without AUTHORITY'S written consent shall be null and void and shall, at AUTHORITY's option, constitute a default under the Contract.

If, during the term of the Contract, CONSULTANT desires to subcontract any portion(s) of the work to a subconsultant that was not disclosed by the CONSULTANT to the AUTHORITY at the time that the Contract was originally awarded, and such subcontract would, standing alone or aggregated with prior subcontracts awarded to the proposed subconsultant, equal or exceed twenty five thousand dollars (\$25,000.00), the CONSULTANT shall first submit a request to the AUTHORITY's Director of Procurement for authorization to enter into such subcontract. Except in the case of an emergency, as determined by the Executive Director or his/her designee, no such subcontract shall be executed by the CONSULTANT until it has been approved by the AUTHORITY Board. In the event of a designated emergency, the CONSULTANT may enter into such a subcontract with the prior written approval of the Executive Director or his/her designee, but such subcontract shall contain a provision that provides that it shall be automatically terminated if not approved by the AUTHORITY Board at its next regularly scheduled meeting.

### **15. DISPUTES**

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the AUTHORITY's Executive Director (or his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. The Executive Director's decision upon all claims, questions and disputes shall be final agency action. Adjustments of compensation and Contract time, because of any major changes in the work that may become necessary or desirable as the work progresses shall be left to the absolute discretion of the Executive Director (and the AUTHORITY Board if amendments are required) and supplemental agreement(s) of such nature as required may be entered into by the parties in accordance herewith.

#### **16. PREVAILING PARTY ATTORNEY'S FEES**

If any contested claim arises hereunder or relating to the Contract (or CONSULTANT's work hereunder), and either party engages legal counsel, the prevailing party in such dispute, as "prevailing party" is hereinafter defined, shall be entitled to recover reasonable attorneys' fees and costs as defined herein, from the non-prevailing party.

In order for CONSULTANT to be the prevailing party, CONSULTANT must receive an adjusted judgment or adjusted award equal to at least eighty percent (80%) of its contested claims filed with AUTHORITY, failing which AUTHORITY will be deemed the prevailing party for purposes of this Contract.

Should this section be judged void, unenforceable or illegal, in whole or in substantial part, by a court of competent jurisdiction, this section shall be void in its entirety and each party shall bear its own attorneys' fees and costs.

#### **17. OTHER SEVERABILITY**

If any section of this Contract, other than the immediately preceding Prevailing Party Attorneys' Fees section, be judged void, unenforceable or illegal, then the illegal provision shall be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original intention, and the remaining portions of the Contract shall remain in full force and effect and shall be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

#### **18. GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Contract shall be exclusively in Orange County, Florida.

In consideration of the foregoing premises, AUTHORITY agrees to pay CONSULTANT for work performed and materials furnished at the prices submitted with the Proposal.

#### **19. RELATIONSHIPS**

CONSULTANT acknowledges that no employment relationship exists between AUTHORITY and CONSULTANT or CONSULTANT's employees. CONSULTANT shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. CONSULTANT shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax and income tax withholding, unemployment compensation, workers compensation, and employment benefits. CONSULTANT shall structure its relationship with its employees such that the employees may be assigned, reassigned, or transferred from one toll collection plaza to another by CONSULTANT, upon written direction or request of AUTHORITY.

CONSULTANT shall conduct no act or omission that would lead CONSULTANT's employees or any legal tribunal or regulatory agency to believe or conclude that CONSULTANT's employees would be employees of the AUTHORITY.

Any approval by AUTHORITY of a subcontract or other matter herein requiring AUTHORITY approval for its occurrence shall not be deemed a warranty or endorsement of any kind by AUTHORITY of such subcontract, subconsultant, or matter.

## **20. INTERPRETATION**

For purposes of this Contract, the singular shall include the plural, and the plural shall include the singular, unless the context clearly requires otherwise. Except for reference to women's business enterprises and matters relating thereto, reference to one gender shall include all genders. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the stated statute or regulation. Words not otherwise defined and that have well-known technical, industry, or legal meanings, are used in accordance with such recognized meanings, in the order stated. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities. If CONSULTANT discovers any material discrepancy, deficiency, or ambiguity in this Contract, or is otherwise in doubt as to the meaning of any provision of the Contract, CONSULTANT may immediately notify AUTHORITY and request clarification of AUTHORITY's interpretation of the Contract. The Contract Documents, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

## **21. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE**

The CONSULTANT hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached documentation supporting the compensation are accurate, complete and current as of the date of this Contract. It is further agreed that said price shall be adjusted to exclude any significant sums where the AUTHORITY shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by the AUTHORITY, whichever is later.

## **22. SURVIVAL OF EXPIRATION OR TERMINATION**

Any clause, sentence, paragraph, or section providing for, discussing, or relating to any of the following shall survive the expiration or earlier termination of the Contract:

22.1 Trademarks, service marks, patents, trade secrets, copyrights, publicity, or other intellectual property rights, and terms relating to the ownership, security, protection, or confidentiality thereof; and

22.2 Payment to CONSULTANT for satisfactory work performed or for termination expenses, if applicable; and

22.3 Prohibition on non-competition agreements of CONSULTANT's employees with respect to any successor of CONSULTANT; and

22.4 Obligations upon expiration or termination of the Contract, as set forth in Section 23; and

22.5 Any other term or terms of this Contract which by their nature or context necessarily survive the expiration or earlier termination of the Contract for their fulfillment.

### **23. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT**

23.1 Immediately upon expiration or termination of this Contract: CONSULTANT shall submit to AUTHORITY a report containing the last known contact information for each subconsultant or employee of CONSULTANT who performed work under the Contract; and

23.2 CONSULTANT shall initiate settlement of all outstanding liabilities and claims arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of AUTHORITY.

IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties on the date below.

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

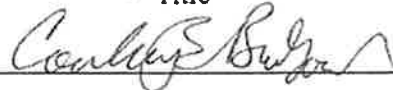
By:   
Director of Procurement

DATE: 11/25/13

THE W GROUP CONSULTING FIRM, LLC

By: 

Print Name: Wendy D. Anderson  
Managing Director  
Title

ATTEST:  (Seal)

DATE: 11/25/2013

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: The W Group Consulting Firm, LLC

Contract No: 001009 Project No.: N/A

This Supplemental Agreement No. 1 entered into this 14<sup>th</sup> day of August, 2014, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY (the "Authority"), and THE W GROUP CONSULTING FIRM, LLC., (the "Consultant"), the same being supplementary to the Contract between the aforesaid, dated November 20, 2013, for services pertaining to business development management, (the "Contract").

1. The Authority has determined it necessary to increase the Contract amount by \$20,350.00 in order to continue the required business development management services to the end of the Contract Term; and,
2. The Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract; and,
3. The Authority and Consultant agree that this Supplemental Agreement No. 1 shall not alter or change in any manner the force and effect of the Contract including any previous amendments thereto, if any, except insofar as the same is altered and amended by this Supplemental Agreement No. 1; that acceptance of this Supplemental Agreement No. 1 signifies the Consultant's complete and total claim for the terms and conditions of the same and that the Consultant waives all future right for additional compensation which is not already defined herein.
4. This Supplemental Agreement No. 1 is necessary to continue the required services to the end of the Contract Term and was approved by the Authority's Board of Directors at its meeting on August 14, 2014.

SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Business Development Management Services

Contract No.: 001009 Project No.: N/A

Amount of Changes to this document: \$20,350.00

This Supplemental Agreement No. 1 entered into as of the day and year first written above.

**"Authority":**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

By: \_\_\_\_\_  
Director of Procurement

Date: \_\_\_\_\_

**"Consultant":**

**THE W GROUP CONSULTING FIRM, LLC**

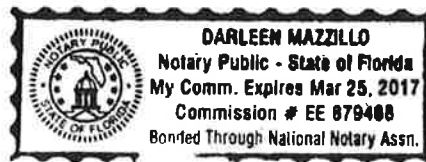
By: [Signature]  
Authorized Signature

Print Name: Wendy D. Anderson

Title: Managing Director

Attest: [Signature]  
Notary

Date: 8/28/14



Approved as to form and execution, only.

\_\_\_\_\_  
General Counsel for the Authority

## **CONSENT AGENDA ITEM**


**#12**



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Members of the Board  
Central Florida Expressway Authority  
4974 ORL Tower Rd  
Orlando, Florida 32807

FROM: Claude Miller, Director of Procurement 

DATE: August 22, 2014

RE: Approval of Insurance Proposal with FMIT

The Authority utilizes an independent insurance broker, Arthur J. Gallagher, to obtain insurance on its assets for risk management advice and the solicitation and evaluation of proposals for insurance coverage. Our current insurance policy for Workers Compensation/Employer's Liability, General Liability & Public Officials Liability, Automobile Liability, and Property & Crime expires on 9/30/14, is with Florida Municipal Insurance Trust (FMIT), and administered by the Florida League of Cities.

Gallagher has obtained a renewal quote from FMIT for the upcoming year of 10/1/14 to 9/30/15. That policy premium is for \$121,054, which is an increase of \$17,392 or 17% from last year's premium. The increase is due to the workers compensation payroll re-classification as a result of the FMIT 2012-2013 workers compensation audit. Prior policies classified all employees under the clerical class code. Based on the audit, the Central Florida Expressway Authority engineers and maintenance employees were re-classified to engineer and maintenance class codes which typically have higher rates. Also, employees that have a high rate of travel to clients and business partners were re-classified to the salesperson code which also has a higher rate. Note that the total policy premium decreased by 8.45% for the policy year preceding this one and it also decreased by 7.42% the year prior to that.

Gallagher recommends renewing the policy with FMIT for the following reasons:

- FMIT is one of the few insurers which is able/willing to provide coverage for the unique exposure posed by the Authority's roadways.
- Gallagher has found FMIT to have an on-going stable program.
- This quote is competitively solicited (three other firms were solicited and declined to quote).

Staff concurs with Gallagher's recommendation and requests the Board approve the insurance policy for 10/1/14 to 9/30/15 with FMIT at a premium not to exceed \$125,000 (which will allow for possible slight increases or additions for property).

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## Summary of Policy:

	Premiums	Exposures
• Property including Machinery & Crime	\$45,060	\$28,798,855
• General Liability with Employee Benefits Liability	\$13,913	109 lane miles
• Errors & Omissions with Employment Practices Liab.	\$19,716	Included
• Auto Liability	\$4,152	11 vehicles
• Auto Physical Damage	\$1,626	\$251,800
• Workers Compensation/Employer's Liability	\$36,587	\$5,216,729

Enclosed is the Executive Summary from Arthur J. Gallagher for additional information.

cc: Joe Berenis, Deputy Executive Director  
Laura Kelley, Deputy Executive Director  
Consent Agenda 9/14

# Central Florida Expressway Authority

## Executive Summary

Arthur J. Gallagher Risk Management Services, Inc. appreciates the opportunity to present this proposal for your consideration.

This program renews October 1, 2014 for a period of one year and includes coverage for Real and Personal Property, Time Element, Machinery & Equipment Breakdown, Crime, Faithful Performance, General Liability, Employee Benefits Administration Liability, Errors & Omissions (Public Officials) Liability, Employment Practices Liability, Auto Liability, Auto Physical Damage and Workers Compensation / Employers Liability.

Details of FMIT's offer for the 10/1/14 renewal are outlined in this proposal. Several important items to note:

Total premium for 2014 is \$121,054. This is an increase of approximately 17% from expiring.

This premium increase is due to the workers compensation payroll re-classification as a result of the FMIT 2012-2013 workers compensation audit. Prior policies classified all employees under clerical class code 8810 which typically had a rate of about .27 cent per \$100 of payroll. Due to the FMIT audit, the 10/1/14 workers compensation policy will now be rated based on:

- Traveling employees are classified as salesperson and rated on class code 8742 with a rate of \$2.91
- Engineers rated under class code 9410 with a rate of \$11.67
- Maintenance employees under class code 5509 with a rate of \$0.52
- Clerical employees under class code 8810 with a rate of \$.26

FMIT has agreed not to audit CFEA 10/1/2013-10/1/2014 based on these new class codes. CFEA will be audited based on all employees being classified as clerical – class code 8810 with a rate of .26. This provides CFEA with an estimated savings of \$32,000.

The FMIT Board of Trustees has again approved a \$7,000,000 return of premium for members that had property coverage in the 2012-2013 Fund Year. The directive of the Board was to return property premium on the renewing members for 2014-2015 that participated in the Trust's property program in 2012-2013. A preliminary calculation has been made to establish a minimum amount the member can expect to be used for budget purposes. Based on the property premiums paid in 2012-2013 the CFEA can expect \$9,679 in return premium upon renewal of the FMIT program as presented in our proposal. This return premium would be issued and sent by FMIT via a check directly to CFEA.

(*Values shown as of Policy Inception)	14/15	Change From Prior	13/14	Change From Prior	12/13	Change From Prior	11/12	Change From Prior
<b>PREMIUMS</b>								
Property Incl'g Machinery & Crime	\$45,060	-10%	\$49,907	0.03%	\$49,891	3.97%	\$45,868	-9.72%
GL w/EBL	\$13,913	-21%	\$17,662	-25.25%	\$23,627	-19.51%	\$28,620	24.55%
E&O w/EPL	\$19,716	-7%	\$21,211	-15.24%	\$25,025	-16.05%	\$29,810	33.89%
Auto Liability	\$4,152	-1%	\$4,191	7.02%	\$3,916	-6.00%	\$4,166	-12.53%
Auto Physical Damage	\$1,626	-10%	\$1,797	-12.89%	\$2,063	-9.20%	\$2,272	12.36%
WC/EL	\$36,587	311%	\$8,894	2.07%	\$8,714	1.85%	\$8,556	-14.90%
<b>TOTAL</b>	<b>\$121,054</b>	<b>17%</b>	<b>\$103,662</b>	<b>-8.45%</b>	<b>\$113,236</b>	<b>-7.42%</b>	<b>\$119,292</b>	<b>5.67%</b>

# Central Florida Expressway Authority

## Executive Summary (Cont.)

(*Values shown as of Policy Inception)	14/15	Change From Prior	13/14	Change From Prior	12/13	Change From Prior	11/12	Change From Prior
<b>EXPOSURES</b>								
Property Incl'g Machinery & Crime	\$28,798,855	-8%	\$29,019,915	0.28%	\$29,101,915	0.37%	\$28,993,443	3.10%
GL w/EBL	109	0%	109	0%	109	3.81%	105	0%
E&O w/EPL	Included	0%	Included	0%	Included	0%	Included	0%
Auto Liability	11 Vehicles	0%	11 Vehicles	0%	11 Vehicles	-8.33%	12 Vehicles	0%
Auto Physical Damage	\$251,800	0%	\$251,801	0%	\$251,800	-2.26%	\$257,633	9.69%
WC / EL	\$5,216,729	317%	\$5,293,085	3.34%	\$5,122,073	-0.84%	\$5,165,233	1.43%

- The Property RATE has decreased from .1622 per \$100 of value (including Extra Expense Values) to .1492 per \$100 of value. This is a decrease of approximately 8%.
- Valuable Papers and Records limit will continue to be \$3M per your endorsement request.
- Blanket coverage and Agreed Value are continued for this renewal.
- The Named Windstorm deductible remains at 3%.
- The Excess Flood Coverage limit remains at \$4,500,000 per occurrence. For Flood Zones A & V, coverage continue to be excess of maximum available NFIP limit which is \$500,000 per building and \$500,000 content. For Flood Zones B, C, D, X and non-zone, deductible is \$100,000 per occurrence per.
- The Real and Personal Property deductible remains at \$5,000 for all locations.
- Equipment breakdown coverage section; covered equipment does not include electrical generating equipment; however, this exclusion does not apply to emergency generators.
- Extra Contractual Legal Expense - \$100,000 limit (EEOC, Florida Commission on Human Relations, Ethics). Please note the Sunshine Law violations are no longer covered.
- Bodily Injury Liability and Property Damage Liability are not excluded as a result of a hostile fire.

FMIT has not released their changes to the Trust Agreement or coverage forms. As soon as we have these, we will forward them to your attention.

We appreciate the opportunity to work with the Authority and recommend that coverage be renewed with the Florida Municipal Insurance Trust.

Carmen Falcon, AAI  
Account Manager

## **CONSENT AGENDA ITEM**

**#13**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Board Members  
Central Florida Expressway Authority

FROM: Lisa Lumbard, Interim Chief Financial Officer

DATE: August 26, 2014

RE: Disposal of Inventory



Staff requests authorization to dispose of equipment items that are broken and/or are no longer of use to the Authority using the services of Southeastern Data.

Actual/Est Acquire Date	Item	Cost/Est Cost per each	Quantity	Total Cost/Est Cost	Asset Tag Number
8/93	printer	\$ 2,295.00	1	\$ 2,295.00	1429
1998	4100 AlphaServers-These were used for the Advanced Revenue Collection System (ARCS)	\$ 66,000.00	2	\$ 132,000.00	NA
1998	800 AlphaServers-These were used for customer service training	\$ 5,232.00	7	\$ 36,624.00	NA
1998	Digital Storageworks Cabinet-Additional server hard drive storage	\$ 2,884.00	20	\$ 57,680.00	NA
1998	Digital Enterprise Storage Array-Additional server hard drive storage	\$ 66,000.00	2	\$ 132,000.00	NA
1/98	printer	\$ 2,397.00	1	\$ 2,397.00	3139
8/01	1200 AlphaServer-Used for additional development and testing in ARCS	\$ 13,734.27	1	\$ 13,734.27	4067
1/08	computer	\$ 1,305.52	1	\$ 1,305.52	5849
10/10	computer	\$ 3,123.24	1	\$ 3,123.24	7034

## **CONSENT AGENDA ITEM**

**#14**



July 15, 2014

Mr. Joe Berenis  
Deputy Executive Director  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

JUL 16 AM 10:51

Re: Amendment to the Interlocal Agreement for Creation of the Metropolitan Planning Organization

Dear Mr. Berenis:

With the signing of Senate Bill 230 by Governor Rick Scott on June 20, 2014, the new Central Florida Expressway Authority (CFX) has taken over the existing Orlando-Orange County Expressway Authority. This action necessitates completion of an amendment to our Interlocal Agreement to incorporate the changes.

Attached is an Amendment to the Interlocal Agreement Creating the Orlando Urban Area Metropolitan Planning Organization, d/b/a/ MetroPlan Orlando, A Regional Transportation Partnership to remove the Orlando-Orange County Expressway Authority and add the Central Florida Expressway Authority. Please place this Agreement on the Central Florida Expressway Authority Board agenda for approval as soon as possible. Execute both copies, retain one copy for the Agency's records, and return an executed copy to me along with a certified copy of your Board minutes, showing where this action was approved.

Once approved by the Central Florida Expressway Authority and all other partners, it will be filed with the Clerk of the Court as the official document amending the Interlocal Agreement for Creation of the Metropolitan Planning Organization. If your staff has any questions, please contact me at (407) 481-5672 ext. 310 or [jloschiavo@metroplanorlando.com](mailto:jloschiavo@metroplanorlando.com). We appreciate your assistance in expediting this to your Agency Board.

Sincerely,



Jason S. Loschiavo, CPA  
Director of Finance and Administration

Enclosure





**AMENDMENT TO THE INTERLOCAL AGREEMENT CREATING THE  
ORLANDO URBAN AREA METROPOLITAN PLANNING ORGANIZATION  
D/B/A/ METROPLAN ORLANDO**

THIS AMENDMENT is made and entered into by and between the FLORIDA DEPARTMENT OF TRANSPORTATION; the COUNTY(IES) OF Orange County, Florida, Osceola County, Florida, Seminole County, Florida; the CITY(IES) of City of Altamonte Springs, Florida, City of Apopka, Florida, City of Kissimmee, Florida, City of Orlando, Florida, City of Sanford, Florida, The Central Florida Regional Transportation Authority, The Greater Orlando Aviation Authority, The Central Florida Expressway Authority, and the Sanford Airport Authority.

**RECITALS:**

WHEREAS, Chapter 2014-171, Laws of Florida, enacted by the 2014 Legislature, amends Chapter 348, Part III of the Florida Statutes, to create and establish a body politic and corporate, an agency of the state, to be known as the Central Florida Expressway Authority (CFX), which shall assume all governance and control of the Orlando Orange County Expressway Authority system; and

WHEREAS, it is necessary to amend the Interlocal Agreement creating the Orlando Urban Area Metropolitan Planning Organization d/b/a Metroplan Orlando, in order to add the Central Florida Expressway Authority as a voting member, in place of the Orlando/Orange County Expressway Authority.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representation herein, the parties agree as follows:

I. Article 4, Section 4.01(a) of the Interlocal Agreement dated June 7, 2000, as amended, is amended to read as follows:

The membership of the MPO shall consist of nineteen (19) voting representatives and five (5) non-voting representatives. The names of the member local governmental entities and the voting apportionment of the governing board as approved by the Governor shall be as follows:

*Orange County*  
*Osceola County*

*6 Representatives*  
*1 Representative*

<i>Seminole County</i>	<i>2 Representatives</i>
<i>City of Altamonte Springs</i>	<i>1 Representative</i>
<i>City of Apopka</i>	<i>1 Representative</i>
<i>City of Kissimmee</i>	<i>1 Representative</i>
<i>City of Orlando</i>	<i>2 Representatives</i>
<i>City of Sanford</i>	<i>1 Representative</i>
<i>Central Florida Regional Transportation Authority</i>	<i>1 Representative</i>
<i>Greater Orlando Aviation Authority</i>	<i>1 Representative</i>
<i>Central Florida Expressway Authority</i>	<i>1 Representative</i>
<i>Sanford Airport Authority</i>	<i>1 Representative</i>

II. Article 7, Section 7.04 of the Interlocal Agreement, dated June 7, 2000, as amended, is amended to read as follows:

Add: Chairperson  
Central Florida Expressway Authority "CFX"  
4974 ORL Tower Road  
Orlando, FL 32807

Delete: Chairman  
Orlando/Orange County Expressway Authority "OOCEA"  
4974 ORL Tower Road  
Orlando, FL 32807

III. The Central Florida Expressway Authority shall have all the rights, duties, and obligations to which each voting member on the MPO is entitled to receive, including, but not limited to, such rights, duties, and obligations provided in the Interlocal Agreement effective June 7, 2000, as amended and Section 339.175, *Florida Statutes*.

IV. Severability. The invalidity or unenforceability of any term or provision of this Amendment or the non-applicability of any such term or provision to any person or circumstance shall not impair or affect the remainder of this Amendment, and the remaining terms and provisions hereof shall not be invalidated but shall remain in full force and effect but shall be construed as if such invalid, unenforceable, or non-applicable provisions were omitted.

V. Entire Agreement. This Amendment represents the entire understanding and agreement between the parties with respect to the subject matter hereof. None of the terms and provisions hereof may be amended, supplemented, waived or changed orally, but only by a writing signed by each of the parties hereto.

VI. Rules of Construction. Whenever used herein, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

VII. Amendment execution, Use of counterpart signature pages. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same instrument.

VIII. Effective Date. This Amendment shall become effective upon its filing in the Office of the Clerk of the Circuit Court of each county in which a party hereto is located. Any amendment hereto shall become effective only upon its filing in the Office of the Clerk of the Circuit Court for each county in which a party hereto is located.

IN WITNESS WHEREOF, the undersigned parties have caused this Amendment to the Interlocal Agreement dated \_\_\_\_\_, as amended, to be duly executed in their behalf.

ORANGE COUNTY, FLORIDA

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

OSCEOLA COUNTY, FLORIDA

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

SEMINOLE COUNTY, FLORIDA

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

CITY OF ALTAMONTE SPRINGS,  
FLORIDA

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

CITY OF APOPKA, FLORIDA

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

CITY OF KISSIMMEE, FLORIDA

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

CITY OF ORLANDO, FLORIDA

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

CITY OF SANFORD, FLORIDA

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

THE CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

THE GREATER ORLANDO AVIATION AUTHORITY

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

SANFORD AIRPORT AUTHORITY

BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

FLORIDA DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

APPROVED AS TO FORM, LEGALITY  
DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
ATTORNEY  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_

SEMINOLE CO., FL

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
INTERLOCAL AGREEMENT FOR CREATION OF THE  
METROPOLITAN PLANNING ORGANIZATION**

CL 2000086219

DR 1745/1065

THIS INTERLOCAL AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by and between the FLORIDA DEPARTMENT OF TRANSPORTATION; the COUNTY(IES) OF Orange County, Florida, Osceola County, Florida, Seminole County, Florida; the CITY(IES) OF City of Altamonte Springs, Florida, City of Kissimmee, Florida, City of Orlando, Florida, City of Sanford, Florida, City of Winter Park, Florida, The Central Florida Regional Transportation Authority, The Greater Orlando Aviation Authority, The Orlando-Orange County Expressway Authority and the West Orange Airport Authority.

DR Bk 6019 Pg 3845  
Orange Co FL 2000-0238154

**RECITALS:**

WHEREAS, the Federal Government, under the authority of 23 USC Section 134 and Sections 4(a), 5(g)(1), and 8 of the Federal Transit Act [49 USC Subsection 5303], requires that each metropolitan area, as a condition to the receipt of federal capital or operating assistance, have a continuing, cooperative, and comprehensive transportation planning process that results in plans and programs consistent with the comprehensively planned development of the metropolitan area, and stipulates that the State and the metropolitan planning organization shall enter into an agreement clearly identifying the responsibilities for cooperatively carrying out such transportation planning;

WHEREAS, the parties of this Interlocal Agreement desire to participate cooperatively in the performance, on a continuing basis, of a coordinated, comprehensive transportation planning process to assure that highway facilities, mass transit, rail systems, air transportation and other facilities will be properly located and developed in relation to the overall plan of community development;

WHEREAS, 23 USC Section 134, 49 USC Section 5303, 23 CFR Section 450.306, and Section 339.175, Florida Statutes, provide for the creation of metropolitan planning organizations to develop transportation plans and programs for metropolitan areas;

WHEREAS, pursuant to 23 USC Section 134(b), 49 USC Section 5303, 23 CFR Section 450.306(a), and Section 339.175, Florida Statutes, a determination has been made by the Governor and units of general purpose local government representing at least 75% of the affected population in the metropolitan area to designate a metropolitan planning organization;

WHEREAS, pursuant to Section 339.175(3), Florida Statutes, by letter to the Chairman of the Orlando Urban Area Metropolitan Planning Organization, dated January 15, 1993, the Governor has agreed to the apportionment plan of the members of the proposed MPO as set forth in this Agreement;

WHEREAS, pursuant to 23 CFR Section 450.306(c), and Section 339.175(1)(b), Florida Statutes, an interlocal agreement must be entered into by the Department and the governmental entities designated by the Governor for membership on the MPO;

WHEREAS, the interlocal agreement is required to create the metropolitan planning organization and delineate the provisions for operation of the MPO;

WHEREAS, the undersigned parties have determined that this Agreement satisfies the requirements of and is consistent with Section 339.175(1)(b), Florida Statutes;

3854 1741

SEMINOLE CO., FL

FORM 525-010-01  
POLICY PLANNING  
OGC - 05/98  
Page 2 of 11

WHEREAS, pursuant to Section 339.175(1)(b), Florida Statutes, the interlocal agreement must be consistent with statutory requirements set forth in Section 163.01, Florida Statutes, relating to interlocal agreements; and

WHEREAS, the undersigned parties have determined that this Agreement is consistent with the requirements of Section 163.01, Florida Statutes.

CL 2000086219

OR 1745/1066

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representation herein, the parties desiring to be legally bound, do agree as follows:

ARTICLE I  
RECITALS; DEFINITIONS

OR Bk 6019 Pg 3846  
Orange Co FL 2000-0238154

Section 1.01. Recitals. Each and all of the foregoing recitals be and the same hereby incorporated herein and acknowledged to be true and correct to the best of the parties' knowledge. Failure of any of the foregoing recitals to be true and correct shall not operate to invalidate this Agreement.

Section 1.02. Definitions. The following words when used in this Agreement (unless the context shall clearly indicate the contrary) shall have the following meanings:

"Agreement" means and refers to this instrument, as amended from time to time.

"Department" shall mean and refer to the Florida Department of Transportation, an agency of the State of Florida created pursuant to Section 20.23, Florida Statutes.

"FHWA" means and refers to the Federal Highway Administration.

"FTA" means and refers to the Federal Transit Administration.

"Long Range Transportation Plan is the 20-year plan which: identifies transportation facilities; includes a financial plan that demonstrates how the plan can be implemented and assesses capital improvements necessary to preserve the existing metropolitan transportation system and make efficient use of existing transportation facilities, indicates proposed transportation enhancement activities; and in ozone/carbon monoxide nonattainment areas is coordinated with the State Implementation Plan, all as required by 23 USC Section 134(g), 23 CFR Section 450.322, Section 339.175(6), Florida Statutes.

"Metropolitan Area" means and refers to the planning area as delineated by the MPO for the urbanized area containing at least a population of 50,000 as described in 23 USC Section 134(b)(1), 49 USC Section 5303(c)(1), and Section 339.175, Florida Statutes, which shall be subject to the MPO.

"MPO" means and refers to the metropolitan planning organization formed pursuant to this Agreement.

"Transportation Improvement Program (TIP)" is the transportation document which includes the following components: a priority list of projects and project phases; a list of projects proposed for funding; a financial plan demonstrating how the TIP can be implemented; a listing of group projects; an indication of whether the projects and project phases are consistent with applicable local government comprehensive plans adopted pursuant to Section 163.3161 et seq., Florida Statutes; and an indication of how improvements are consistent, to the maximum extent feasible, with affected seaport and airport master plans and with public transit development plans of the units of local government located within the boundaries of the MPO, all as required by 23 USC Section 134(h), 23 CFR Section 450.324, Section 339.175(7), Florida Statutes.

"Unified Planning Work Program (UPWP)" is the annual plan developed in cooperation with the Department and public transportation providers, that lists all planning tasks to be undertaken during a program year, together with a complete description thereof and an estimated budget, all as required by 23 CFR Section 450.314, and Section 339.175(8), Florida Statutes.

ARTICLE 2  
PURPOSE

SEMINOLE CO., FL

CL 2000086219

OR 1745/1067

Section 2.01. General Purpose. The purpose of this Agreement is to establish the MPO:

(a) To assist in the development of transportation systems embracing various modes of transportation in a manner that will maximize the mobility of people and goods within and through this metropolitan area of this state and minimize, to the maximum extent feasible for transportation-related fuel consumption and air pollution;

(b) To develop transportation plans and programs, in cooperation with the Department, which plans and programs provide for the development of transportation facilities that will function as multi-modal and an intermodal transportation system for the metropolitan area;

(c) To implement and ensure a continuing, cooperative, and comprehensive transportation planning process that results in coordinated plans and programs consistent with the comprehensively planned development of this affected metropolitan area in cooperation with the Department;

(d) To assure eligibility for the receipt of Federal capital and operating assistance pursuant to 23 USC Section 134 and Sections 4(a), 5(g)(1), and 8 of the Federal Transit Act [49 USC Subsection 5303, 5304, 5305 and 5306]; and

(e) To carry out the metropolitan transportation planning process, in cooperation with the Department, as required by 23 USC Section 134 and Sections 4(a), 5(g)(1), and 8 of the Federal Transit Act [49 USC Subsection 5303, 5304, 5305 and 5306]; 23 CFR, Parts 420 and 450 and 49 CFR Part 613, Subpart A; and consistent with Chapter 339, Florida Statutes, and other applicable state and local laws.

Section 2.02. Major MPO Responsibilities. The MPO is intended to be a forum for cooperative decision making by officials of the governmental entities which are party to this Agreement in the development of transportation-related plans and programs, including but not limited to:

- (a) The long range transportation plan;
- (b) The transportation improvement program;
- (c) The unified planning work program;
- (d) A congestion management system for the metropolitan area as required by state or federal law;
- (e) Assisting the Department in mapping transportation planning boundaries required by state or federal law;
- (f) Assisting the Department in performing its duties relating to access management, functional classification of roads, and data collection; and
- (g) Performing such other tasks presently or hereafter required by state or federal law.

OR Bk 6019 Pg 3847  
Orange Co FL 2000-0238154

Section 2.03. MPO decisions coordinated with FDOT and consistent with comprehensive plans. Chapter 334, Florida Statutes, grants the broad authority for the Department's role in transportation. Section 334.044, Florida Statutes, shows the legislative intent that the Department shall be responsible for coordinating the planning of a safe, viable and balanced state transportation system serving all regions of the State. Section 339.155, Florida Statutes, requires the Department to develop a statewide transportation plan, which considers, to the maximum extent feasible, strategic regional policy plans, MPO plans, and approved local government comprehensive plans. Section 339.175, Florida Statutes, specifies the authority and responsibility of the MPO and the Department in the management of a continuing, cooperative, and comprehensive transportation planning process for the metropolitan area.



SEMINOLE CO., FL

In fulfillment of this purpose and in the exercise of the various powers granted by Chapters 334 and 339, Florida Statutes, the Department and all parties to this Agreement acknowledge that the provisions of the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161-3245, Florida Statutes, are applicable to this Agreement. The parties to this Agreement shall take particular care that the planning processes and planning integrity of local governments as set forth in aforementioned law shall not be infringed upon.

CL 2000086219

OR 1745/1068

ARTICLE 3

OR Bk 6019 Pg 3848  
Orange Co FL 2000-0238154

MPO ORGANIZATION AND CREATION

Section 3.01. Establishment of MPO. The MPO for the metropolitan area as described in the membership apportionment plan approved by the Governor is hereby created and established pursuant to the Agreement to carry out the purposes and functions set forth in Articles 2 and 5. The legal name of this metropolitan planning organization shall be Orlando Urban Area Metropolitan Planning Organization d/b/a METROPLAN ORLANDO.

Section 3.02. MPO to operate pursuant to law. In the event that any election, referendum, approval, permit, notice, other proceeding or authorization is required under applicable law to undertake any power, duty, or responsibility hereunder, or to observe, assume, or carry out any of the provisions of this Agreement, the MPO will, to the extent of its legal capacity, comply with all applicable laws and requirements.

Section 3.03. Governing board to act as policy-making body of MPO. The governing board established pursuant to Section 4.01 of this Agreement shall be the policy-making body forum of the MPO responsible for cooperative decision-making of actions taken by the MPO. The Governing Board is the policy-making body that is the forum for cooperative decision-making and will be taking the required approval action as the MPO.

Section 3.04. Submission of proceedings; Contracts and other documents. Subject to the right to claim an exemption from the Florida Public Records Law, Chapter 119, Florida Statutes, the parties shall submit to each other such data, reports, records, contracts, and other documents relating to its performance as a metropolitan planning organization as is requested. Charges to be in accordance with Chapter 119, Florida Statutes.

Section 3.05. Rights of review. All parties to this Agreement, and the affected Federal funding agency (i.e., FHWA, FTA, and FAA) shall have the rights of technical review and comment of MPO projects.

ARTICLE 4

COMPOSITION; MEMBERSHIP; TERMS OF OFFICE

Section 4.01. Composition and membership of governing board.

(a) The membership of the MPO shall consist of nineteen (19) voting representatives and five (5) non-voting representatives. The names of the member local governmental entities and the voting apportionment of the governing board as approved by the Governor shall be as follows:

Orange County  
Osceola County  
Seminole County  
City of Altamonte Springs  
City of Kissimmee  
City of Orlando  
City of Sanford  
City of Winter Park

6 representatives  
1 representative  
2 representatives  
1 representative  
1 representative  
2 representatives  
1 representative  
1 representative

PAGE  
3864 1714  
SEMINOLE CO., FL

FORM 325-010-01  
POLICY PLANNING  
OOC - 05/98  
Page 5 of 11

Central Florida Regional Transportation Authority  
Greater Orlando Aviation Authority  
Orlando/Orange County Expressway Authority  
West Orange Airport Authority

1 representative  
1 representative  
1 representative  
1 representative

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OR 1745/1069

(b) All voting representatives shall be elected officials of general purpose local governments, except to the extent that the MPO includes, as part of its apportioned voting membership, a member of a statutorily authorized planning board or an official of an agency that operates or administers a major mode of transportation, or a member of an authority or other agency that has been or may be created by law to perform transportation functions, if the authority or agency is not under the jurisdiction of a general-purpose local government represented on the MPO. All individuals acting as a representative of the governing board of the county, the city, or authority shall first be selected by said governing board.

(c) In no event shall county commission representatives constitute less than one-third of the total number of representatives on the MPO.

(d) In the event that a governmental entity that is a member of the MPO fails to fill an assigned appointment to the MPO within sixty (60) days after notification by the Governor of its duty to appoint a representative, that appointment shall be made by the Governor from the eligible individuals of that governmental entity.

Section 4.02. Terms. The term of office of members of the MPO shall be four (4) years. The membership of a member who is a public official automatically terminates upon said official leaving the elective or appointive office for any reason, or may be terminated by a majority vote of the total membership of the governmental entity represented by the member. A vacancy shall be filled by the original appointing entity. A member may be appointed for one or more additional four (4) year terms.

OR Bk 6019 Pg 3849  
Orange Co FL 2000-0238154

## ARTICLE 5 AUTHORITIES, POWERS, DUTIES AND RESPONSIBILITIES

Section 5.01. General authority. The MPO shall have all authorities, powers and duties, enjoy all rights, privileges, and immunities, exercise all responsibilities and perform all obligations necessary or appropriate to managing a continuing, cooperative, and comprehensive transportation planning process as specified in Section 339.175(4) and (5), Florida Statutes.

Section 5.02. Specific authority and powers. The MPO shall have the following powers and authority:

(a) As provided in Section 339.175(5)(g), Florida Statutes, the MPO may employ personnel and/or may enter into contracts with local or state agencies and private planning or engineering firms to utilize the staff resources of local and/or state agencies;

(b) As provided in Section 163.01(14), Florida Statutes, the MPO may enter into contracts for the performance of service functions of public agencies;

(c) As provided in Section 163.01(5)(j), Florida Statutes, the MPO may acquire, own, operate, maintain, sell, or lease real and personal property;

(d) As provided in Section 163.01(5)(m), Florida Statutes, the MPO may accept funds, grants, assistance, gifts or bequests from local, State, and Federal resources;

(e) The MPO may promulgate rules to effectuate its powers, responsibilities, and obligations enumerated herein; provided, that said rules do not supersede or conflict with applicable local and state laws, rules and regulations; and]

SEMINOLE CO., FL

(f) The MPO shall have such powers and authority as specifically provided in Sections 163.01 and 339.175, Florida Statutes, and as may otherwise be provided by federal or state law.

Section 5.03. Duties and responsibilities. The MPO shall have the following duties and responsibilities:

(a) As provided in Section 339.175(5)(d), Florida Statutes, the MPO shall create and appoint a technical advisory committee;

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OR 1745/1070

(b) As provided in Section 339.175(5)(e), Florida Statutes, the MPO shall create and appoint a citizens' advisory committee;

(c) As provided in Section 163.01(5)(o), Florida Statutes, the MPO membership shall, to the extent permitted by law, be jointly and severally liable for liabilities, and the MPO may respond to such liabilities through the purchase of insurance or bonds, the retention of legal counsel, and, as appropriate, the approval of settlements of claims by its governing board;

(d) As provided in Section 339.175(8), Florida Statutes, the MPO shall establish a budget which shall operate on a fiscal year basis consistent with any requirements of the Unified Planning Work Program;

(e) The MPO, in cooperation with the Department, shall carry out the metropolitan transportation planning process as required by 23 CFR Part 420 and 450, and 49 CFR Part 613, Subpart A, and consistent with Chapter 339, Florida Statutes, and other applicable state and local laws;

(f) As provided in Section 339.175(9)(a), Florida Statutes, the MPO shall enter into agreements with the Department, operators of public transportation systems and the metropolitan and regional intergovernmental coordination and review agencies serving the metropolitan area. These agreements will prescribe the cooperative manner in which the transportation planning process will be coordinated and included in the comprehensively planned development of the area;

(g) Prepare the Long-Range Transportation Plan;

(h) In cooperation with the Department, prepare the Transportation Improvement Program;

(i) In cooperation with the Department, prepare and annually update the Unified Planning Work Program;

(j) Prepare a congestion management system for the metropolitan area;

(k) Assist the Department in mapping transportation planning boundaries required by state or federal law;

(l) Assist the Department in performing its duties relating to access management, functional classification of roads, and data collection;

(m) Perform such other tasks presently or hereafter required by state or federal law;

(n) Execute certifications and agreements necessary to comply with state or federal law; and

(o) Adopt operating rules and procedures.

OR Bk 6019 Pg 3850  
Orange Co FL 2000-0238154

ARTICLE 6  
FUNDING; INVENTORY REPORT; RECORD-KEEPING

Section 6.01. Funding. The Department shall allocate to the MPO for its performance of its transportation planning and programming duties, an appropriate amount of federal transportation planning funds.

Section 6.02. Inventory report. The MPO agrees to inventory, to maintain records of and to insure proper use, control, and disposal of all nonexpendable tangible property acquired pursuant to funding under this Agreement. This shall be done in accordance with the requirements of 23 CFR Part 420, Subpart A, 49 CFR Part 18, Subpart C, and all other applicable federal regulations.

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OR 1745/1071

Section 6.03. Record-keeping and document retention. The Department and the MPO shall prepare and retain all records in accordance with the federal and state requirements, including but not limited to 23 CFR Part 420, Subpart A, 49 CFR Part 18, Subpart C, 49 CFR Section 18.42, and Chapter 119, Florida Statutes.

OR Bk 6019 Pg 3851  
Orange Co FL 2000-0238154

#### ARTICLE 7 MISCELLANEOUS PROVISION

Section 7.01. Constitutional or statutory duties and responsibilities of parties. This Agreement shall not be construed to authorize the delegation of the constitutional or statutory duties of any of the parties. In addition, this Agreement does not relieve any of the parties of an obligation or responsibility imposed upon them by law, except to the extent of actual and timely performance thereof by one or more of the parties to this Agreement or any legal or administrative entity created or authorized by this Agreement, in which case this performance may be offered in satisfaction of the obligation or responsibility.

Section 7.02. Amendment of Agreement. Amendments or modifications of this Agreement may only be made by written agreement signed by all parties here to with the same formalities as the original Agreement. No amendment may alter the apportionment or jurisdictional boundaries of the MPO without approval by the Governor.

Section 7.03. Duration; withdrawal procedure.

(a) Duration. This Agreement shall remain in effect until terminated by the parties to this Agreement or as otherwise provided in Section 339.175 Florida Statutes; provided, however, that the Governor shall examine the composition of the MPO membership and reapportion it as necessary to comply with Section 339.175, Florida Statutes, as appropriate. During examination of the MPO apportionment by the Governor, this Agreement shall be reviewed by the MPO and the Department to confirm the validity of the contents and to recommend amendments, if any, that are required.

(b) Withdrawal procedure. To the extent permitted by law, any party may withdraw from this Agreement after presenting in written form a notice of intent to withdraw to the other parties to this Agreement and the MPO, at least ninety (90) days prior to the intended date of withdrawal. Upon receipt of the intended notice of withdrawal:

(1) The withdrawing member and the MPO shall execute a memorandum reflecting the withdrawal of the member and alteration of the list of member governments that are signatories to this Agreement. The memorandum shall be filed in the Office of the Clerk of the Circuit Court of each county in which a party hereto is located; and

(2) The Office of the Governor shall be contacted, and the Governor, with the agreement of the remaining members of the MPO, shall determine whether any reapportionment of the membership shall be appropriate. The Governor and the MPO shall review the previous MPO designation, applicable Florida and local law, and MPO rules for appropriate revision. In the event that another entity is to be accorded membership in the place of the member withdrawing from the MPO, the parties acknowledge that pursuant to 23 CFR Section 450.306(k), adding membership to the MPO does not automatically require redesignation of the MPO. In the event that a party who is not a signatory to this Agreement is accorded membership on the MPO, membership shall not become effective until this Agreement is amended to reflect that the new member has joined the MPO.

SEMINOLE COUNTY, FL

Section 7.04. Notices. All notices, demands and correspondence required or provided for under this Agreement shall be in writing and delivered in person or dispatched by certified mail, postage prepaid, return receipt requested. Notice required to be given shall be addressed as follows:

Mayor  
City of Altamonte Springs  
225 Newburyport Avenue  
Altamonte Springs, Florida 32701

Mayor CL 2000086219  
City of Orlando  
400 S. Orange Avenue  
Orlando, Florida 32801

OR 1745/1072

Chairman  
Greater Orlando Aviation Authority  
One Airport Blvd.  
Orlando, Florida 32827-4399

Mayor  
City of Kissimmee  
101 N. Church Street  
Kissimmee, Florida 34741

Chairman  
Orange County Board of Commissioners  
201 S. Rosalind  
Orlando, Florida 32802

Chairman  
Osceola County Board of Commissioners  
17 S. Vernon Avenue, Room 155  
Kissimmee, FL 34741

Chairman  
Seminole County Board Commissioners  
1101 E. First Street  
Sanford, FL 32771

Chairman  
Orlando-Orange County Expressway Authority  
525 S. Magnolia Ave.  
Orlando, FL 32801

Mayor  
City of Sanford  
300 N. Park Ave  
Sanford, FL 32771

Mayor  
City of Winter Park  
401 Park Ave  
Winter Park, FL 32789

OR Bk 6019 Pg 3852  
Orange Co FL 2000-0238154

Chairman  
Central Florida Regional Transportation Authority  
445 West Amelia Ave, Suite 800  
Orlando, FL 32801

Chairman  
West Orange Airport Authority  
c/o Burch Properties, Inc.  
905 West Story Street  
Winter Garden, FL 32787

A party may unilaterally change its address or addressee by giving notice in writing to the other parties as provided in this section. Thereafter, notices, demands and other pertinent correspondence shall be addressed and transmitted to the new address.

Section 7.05. Interpretation.

(a) Drafters of Agreement. The Department and the members of the MPO were each represented by or afforded the opportunity for representation by legal counsel and participated in the drafting of this Agreement and in

choice of wording. Consequently, no provision hereof should be more strongly construed against any party as drafter of this Agreement.

SEMINOLE CO. FL  
CL 2000086219

OR 1745/1073

(b) Severability. Invalidation of any one of the provisions of this Agreement or any part, clause or word hereof, or the application thereof in specific circumstances, by judgement, court order, or administrative hearing or order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect; provided, that such remainder would then continue to conform to the terms and requirements of applicable law.

(c) Rules of construction. In interpreting this Agreement, the following rules of construction shall apply unless the context indicates otherwise:

- (1) The singular of any word or term includes the plural;
- (2) The masculine gender includes the feminine gender; and
- (3) The word "shall" is mandatory, and "may" is permissive.

Section 7.06. Enforcement by parties hereto. In the event of any judicial or administrative action to enforce or interpret this Agreement by any party hereto, each party shall bear its own attorney's fees in connection with such proceeding.

Section 7.07. Agreement execution; Use of counterpart signature pages. This Agreement, and any amendments hereto, may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

Section 7.08. Effective date; Cost of recordation.

(a) Effective date. This Agreement shall become effective upon its filing in the Office of the Clerk of the Circuit Court of each county in which a party hereto is located. Any amendment hereto shall become effective only upon its filing in the Office of the Clerk of the Circuit Court for each county in which a party hereto is located.

(b) Recordation. The MPO hereby agrees to pay for any costs of recordation or filing of this Agreement in the Office of the Circuit Court for each county in which a party is hereto located. The recorded or filed original hereof, or any amendment, shall be returned to the MPO for filing in its records.

OR Bk 6019 Pg 3853  
Oranga Co FL 2000-0238154

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS

SEP 09 2003 AA/66



INSTR 20030678727

OR BK 07205 PG 0068

MARTHA O. HAYNIE, COMPTROLLER  
ORANGE COUNTY, FL

11/21/2003 11:31:42 AM

REC FEE 73.50

AMENDMENT TO THE INTERLOCAL AGREEMENT CREATING THE  
ORLANDO URBAN AREA METROPOLITAN PLANNING ORGANIZATION  
D/B/A/ METROPLAN ORLANDO

THIS AMENDMENT is made and entered into by and between the FLORIDA DEPARTMENT OF TRANSPORTATION; the COUNTY(IES) OF Orange County, Florida, Osceola County, Florida, Seminole County, Florida; the CITY(IES) of City of Altamonte Springs, Florida, City of Apopka, Florida, City of Kissimmee, Florida, City of Orlando, Florida, City of Sanford, Florida, The Central Florida Regional Transportation Authority, The Greater Orlando Aviation Authority, The Orlando-Orange County Expressway Authority, the West Orange Airport Authority, and the Sanford Airport Authority.

RECITALS:

WHEREAS, pursuant to Section 339.175(2)(a), Florida Statutes, the membership of an MPO may include, as part of its apportioned voting members, an official of an agency that operates or administers a major mode of transportation; and

WHEREAS, Chapter 2003-286, Laws of Florida, enacted by the 2003 Legislature, amends Section 139.175(2)(b), Florida Statutes, to provide that agencies which have been or may be created by law to perform transportation functions, must also be performing transportation functions in order to be entitled to voting membership on an MPO; and

WHEREAS, the governing body of METROPLAN ORLANDO has determined that it is appropriate that the West Orange Airport Authority withdraw from the Interlocal Agreement, as amended, creating METROPLAN ORLANDO, and the Sanford Airport Authority, created by the provisions of Chapter 71-924, Laws of Florida, which authorizes it, among other things, to operate and manage an airport, be added as a voting member thereof.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representation herein, the parties agree as follows:

I. Article 4, Section 4.01(a) of the Interlocal Agreement, dated June 7, 2000, as amended, is amended to read as follows:

OSCEOLA COUNTY, FLORIDA  
CLERK OF CIRCUIT COURT

CERTIFIED COPY  
MARYANNE MORSE  
CLERK OF CIRCUIT COURT  
OSCEOLA COUNTY, FLORIDA  
NDV 24 2003

CL 2003223288 OR 238972027  
DLB Date 11/21/2003 Time 14:04:00

16P

OSCEOLA COUNTY, FLORIDA  
CLERK OF CIRCUIT COURT

CL 2003223288 OR 238972027  
DLB Date 11/21/2003 Time 14:04:00

OSCEOLA COUNTY, FLORIDA  
CLERK OF CIRCUIT COURT

CL 2003223288 OR 238972027  
DLB Date 11/21/2003 Time 14:04:00

OSCEOLA COUNTY, FLORIDA  
CLERK OF CIRCUIT COURT

CL 2003223288 OR 238972027  
DLB Date 11/21/2003 Time 14:04:00

11/24/2003 02:03 PM  
Instrument# 2003-297260  
Book# 5212  
Page# 3223

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Book# 5212  
Page# 3223

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Instrument# 2003-297260  
Book# 5212  
Page# 3223

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS

SEP 09 2003 AA/G6



INSTR 20030678727  
OR BK 07205 PG 0068

MARTHA O. HAYNIE, COMPTROLLER  
ORANGE COUNTY, FL  
11/21/2003 11:31:42 AM  
REC FEE 73.50

AMENDMENT TO THE INTERLOCAL AGREEMENT CREATING THE  
ORLANDO URBAN AREA METROPOLITAN PLANNING ORGANIZATION  
D/B/A METROPLAN ORLANDO

THIS AMENDMENT is made and entered into by and between the FLORIDA DEPARTMENT OF TRANSPORTATION; the COUNTY(IES) OF Orange County, Florida, Osceola County, Florida, Seminole County, Florida; the CITY(IES) of City of Altamonte Springs, Florida, City of Apopka, Florida, City of Kissimmee, Florida, City of Orlando, Florida, City of Sanford, Florida, The Central Florida Regional Transportation Authority, The Greater Orlando Aviation Authority, The Orlando-Orange County Expressway Authority, the West Orange Airport Authority, and the Sanford Airport Authority.

RECITALS:

WHEREAS, pursuant to Section 339.175(2)(a), Florida Statutes, the membership of an MPO may include, as part of its apportioned voting members, an official of an agency that operates or administers a major mode of transportation; and

WHEREAS, Chapter 2003-286, Laws of Florida, enacted by the 2003 Legislature, amends Section 139.175(2)(b), Florida Statutes, to provide that agencies which have been or may be created by law to perform transportation functions, must also be performing transportation functions in order to be entitled to voting membership on an MPO; and

WHEREAS, the governing body of METROPLAN ORLANDO has determined that it is appropriate that the West Orange Airport Authority withdraw from the Interlocal Agreement, as amended, creating METROPLAN ORLANDO, and the Sanford Airport Authority, created by the provisions of Chapter 71-924, Laws of Florida, which authorizes it, among other things, to operate and manage an airport, be added as a voting member thereof.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representation herein, the parties agree as follows:

I. Article 4, Section 4.01(a) of the Interlocal Agreement, dated June 7, 2000, as amended, is amended to read as follows:

OSCEOLA COUNTY, FLORIDA  
CLERK OF CIRCUIT COURT

CL 2003223288 OR 238982027  
DLB Date 11/21/2003 Time 14:04:00

11/24/2003 02:03 PM  
Instrument# 2003-297260  
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Page: 3223

(15) "Metropolitan Orlando"  
315 E Robinson St, suite 355  
Orlando, FL 32801

MARTHA O. HAYNIE, CLERK OF CIRCUIT COURT SEMINOLE COUNTY, OFN 200310103 BK 05111 PGS 1011-1026 RECD 11/24/2003 03:02:23 PM RECD BY L. HAYNIE



Book: 5212  
Page: 3224

OR 2389/2028

CL 2003223288

The membership of the MPO shall consist of nineteen (19) voting representatives and five (5) non-voting representatives. The names of the member local governmental entities and the voting apportionment of the governing board as approved by the Governor shall be as follows:

Orange County	6 Representatives
Osceola County	1 Representative
Seminole County	2 Representatives
City of Altamonte Springs	1 Representative
City of Apopka	1 Representative
City of Kissimmee	1 Representative
City of Orlando	2 Representatives
City of Sanford	1 Representative
Central Florida Regional Transportation Authority	1 Representative
Greater Orlando Aviation Authority	1 Representative
Orlando/Orange County Expressway Authority	1 Representative
Sanford Airport Authority	1 Representative

II. Article 7, Section 7.04 of the Interlocal Agreement, dated June 7, 2000, as amended, is amended to read as follows:

Add: Sanford Airport Authority  
One Red Cleveland Boulevard; #200  
Sanford, Florida 32773

Delete: West Orange Airport Authority  
c/o Burch Properties, Inc.  
905 West Story Road  
Winter Garden, Florida 32787

III. The Sanford Airport Authority shall have all the rights, duties, and obligations to which each voting member on the MPO is entitled to receive, including, but not limited to, such rights, duties, and obligations provided in the Interlocal Agreement effective June 7, 2000, as amended, Section 339.175, *Florida Statutes*, and *Florida Administrative Code Rule 35I-1.001, et seq.*

IV. The West Orange Airport Authority hereby withdraws as a voting member of METROPLAN ORLANDO.

V. Severability. The invalidity or unenforceability of any term or provision of this Amendment or the non-applicability of any such term or provision to any person or circumstance shall not impair or affect the remainder of this Amendment, and the remaining terms and provisions hereof shall not be invalidated but shall remain in full force and effect but shall be construed as if such invalid, unenforceable, or non-applicable provisions were omitted.

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OR BK 07205 PG 0069

VI. Entire Agreement. This Amendment represents the entire understanding and agreement between the parties with respect to the subject matter hereof. None of the terms and provisions hereof may be amended, supplemented, waived or changed orally, but only by a writing signed by each of the parties hereto.

VII. Rules of Construction. Whenever used herein, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

VIII. Amendment execution, Use of counterpart signature pages. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same instrument.

IX. Effective Date. This Amendment shall become effective upon its filing in the Office of the Clerk of the Circuit Court of each county in which a party hereto is located. Any amendment hereto shall become effective only upon its filing in the Office of the Clerk of the Circuit Court for each county in which a party hereto is located.

IN WITNESS WHEREOF, the undersigned parties have caused this Amendment to the Interlocal Agreement dated June 7, 2000, as amended, to be duly executed in their behalf.

ORANGE COUNTY, FLORIDA  
BY: [Signature]  
DATE: 3.9.98  
TITLE: CLERK  
ATTEST: ADMINISTRATOR  
TITLE: \_\_\_\_\_

OSCEOLA COUNTY, FLORIDA  
BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

SEMINOLE COUNTY, FLORIDA  
BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

CITY OF ALTAMONTE SPRINGS,  
FLORIDA  
BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ATTEST: \_\_\_\_\_  
TITLE: \_\_\_\_\_

INSIR 20030678727  
OR BK 07205 PC 0070

**CONSENT AGENDA ITEM**

**#15**



Laura Kelly  
Deputy Executive Director  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando  
FL 32807

August 6, 2014

Ms. Kelley:

I wish to inform you that I have contributed to the reelection campaign of Mayor Teresa Jacobs in the amount of \$500.

Harold W Worrall  
President

16443 Tudor Grove Drive  
Orlando, FL 32828  
407-512-4189 Office  
407-310-9112 Mobile  
Trans.innov@gmail.com  
www.trans-innov.com

## EXHIBIT "B"

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Joseph A. Berenis, Deputy Executive Director

DATE: September 10, 2014

RE: Staff's Report



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Below is the Staff's Report for the September 11, 2014 Board Meeting.

### Engineering, Operations, Construction & Maintenance

- Staff is working with All Aboard Florida (AAF) on a potential rail alignment within a portion of the SR 528 median.
- We have completed the 60% plans for the Innovation Way Interchange Project.
- Wekiva Parkway:
  - Completed 100% plans for the two sections north of US 441.
- Right of way acquisition for the first two sections of the Wekiva Parkway is proceeding on schedule.
- 2040 Master Plan Update:
  - Individual meetings with Board Members will be scheduled.
  - Phase I involving data gathering and meeting with other public agencies is complete.
- OOCEA's Traffic & Revenue Consultant has completed the Wekiva Parkway revenue study.
- The Five-Year Work Plan has been completed.
- The Authority is submitting all additional information requested by USDOT for the Wekiva Parkway TIFIA application.
- The Authority will be advertising for requests for proposals to replace toll collection equipment in the lanes.

### Finance and Administration

- Authority staff is in the final stages of acquiring a USDOT Transportation Infrastructure Finance and Innovation Act (TIFIA) loan for Section 2 of the Wekiva Parkway. Negotiation of the loan terms is expected to begin in approximately two weeks. The loan will advance the project 1½ years and save approximately \$120 million in financing costs over a 35 year period.
- Laura Kelley is participating in the East Central Florida Corridor Task Force initiative. The purpose of the Task Force is to evaluate and develop consensus recommendations on future transportation corridors serving established and emerging economic activity centers in portions of Brevard, Orange and Osceola Counties.
- The Authority's external auditors Moore, Stephens, Lovelace have begun their work on the Fiscal Year 2014 audit.
- Authority staff is working with Florida's Turnpike, Miami Dade Expressway Authority and Tampa Hillsborough Expressway Authority to negotiate a Centralized Customer Service System (CCSS) agreement that will define the governance and management of CCSS development and implementation.
- Authority Staff participated in the first TEAMFL Policy Committee meeting on September 9, 2014. The committee decided to focus on the following three issues:
  - 1) Work with DHSMV and FHP to improve license plate design for better optical plate reads for toll agencies and law enforcement.
  - 2) Seek a resolution to a registration hold loophole that has surfaced in south Florida.
  - 3) Assist Florida's Turnpike with developing a Center for Transportation Excellence at the Florida Polytechnic University in Polk County.
- Authority staff attended the following meetings:
  - Tri-County League of Cities
  - Monthly coordination meeting FDOT on Wekiva Parkway projects
  - Metroplan Board and committee meetings
  - East Central Florida Planning Council
  - Hosted Leadership Orlando at CFX office
  - Lynx
- Authority staff presented at the following community meetings:
  - Altamonte Rotary
  - Maitland Rotary
  - Kiwanis Club of Avalon Park
  - Rotary Club of Seminole County Sunset
  - Rotary Club of Kissimmee
  - Wekiva Acres Property Owners Association
  - Sanford City Council
  - Lake-Sumter MPO TAC & CAC
  - Lake-Sumter MPO BPAC
  - Lake-Sumter MPO Governing Board

End of Report

## EXHIBIT "C"



**Resolution No. 2014-**

**A RESOLUTION OF THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY (CFX), AMENDING THE POLICY RELATING TO THE POSITION OF EXECUTIVE DIRECTOR**

**WHEREAS**, the Central Florida Expressway Authority (CFX) is Central Florida's regional expressway authority duly authorized by state law to maintain and operate an expressway system in Lake, Orange, Osceola and Seminole counties; and

**WHEREAS**, the Central Florida Expressway Authority has assumed the governance and control of the Orlando-Orange County Expressway Authority; and

**WHEREAS**, Florida Statutes 348.753 provides that the CFX may employ an Executive Director and determine the qualifications of such person; and

**WHEREAS**, the governing Board wishes to update the Executive Director Policy to reflect the transition from the Orlando-Orange County Expressway Authority to the Central Florida Expressway Authority; and

**WHEREAS**, the governing Board wishes to update the education and experience requirements of the Executive Director.

**NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, as follows:

Section 1. Job Description The job description attached hereto as Exhibit "A" setting forth the duties and responsibilities for the position of Executive Director is hereby formally adopted.

Section 2. Evaluation Process The evaluation process attached hereto as Exhibit "B" updating the Authority's name on the formal performance evaluation for the position of Executive Director, is hereby formally adopted.

Section 3. Codification This policy shall be codified in that section of the CFX Index of Policy and Procedures entitled "Executive" and designated as "EXEC-4".

Section 4. EFFECTIVE DATE This Resolution shall be effective immediately upon passage.

**ADOPTED** this 11th day of September, 2014.

ATTEST: \_\_\_\_\_  
Darleen Mazzillo  
Executive Assistant

\_\_\_\_\_  
Welton G. Cadwell  
Chairman

Approved as to form and legality:

\_\_\_\_\_  
Joseph A. Passiatore  
CFX General Counsel

EXHIBIT "A"  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
JOB DESCRIPTION

DATE: September 11, 2014

POSITION: Executive Director

DEPARTMENT: Executive

JOB SUMMARY

The Executive Director is the chief administrative and technical officer of the Agency and reports directly to the Authority Board. The Executive Director oversees all of the activities of the Agency and shall:

1. Provide the most convenient, safest and economical expressway possible with the limited resources allocated;
2. Establish and maintain effective communications with customers, Board members, employees, consultants and coordinating agencies;
3. Complete approved plans, programs and contracts as scheduled and budgeted;
4. Maximize benefits from funds expended; and
5. Fully implement the policies, systems, standards and specifications adopted by the Authority.

PRINCIPAL DUTIES AND RESPONSIBILITIES

1. Identify policy and planning issues and make recommendations for Board consideration.
2. Prepare and recommend programs and finance plans for expressway expansions and improvements.
3. Prepare and recommend programs and budgets for the operation and maintenance of existing facilities.
4. Direct and control Authority operations in accordance with approved policies, plans, programs and budgets.
5. Prepare and distribute periodic status reports comparing planned and actual accomplishments to the Board.
6. Report problems and corrective actions taken to the Board.
7. Provide public information programs to communicate expressway activities to customers.
8. Establish and maintain communication and coordination with appropriate local, state and federal agencies.
9. Provide employees with work plans, programs, budgets and contracts.
10. Provide staff with timely decisions on policy, program and budget matters.
11. Provide adequate descriptions of staff responsibilities, authorities and scope of operations.
12. Approve contracts within the limits established by the Procurement Policy.
13. Provide the facilities and equipment needed for the effective day-to-day operation of the Authority's business.

### **MINIMUM EDUCATION, CERTIFICATION AND EXPERIENCE REQUIREMENTS**

**Education:** Graduation from an accredited college or university with a Bachelor's Degree is required. A Master's degree is preferable.

**Experience:** 8 years of comprehensive executive management and finance experience. Experience in toll operations, fixed guideway facilities, budgets, business, contract management, finance, economic development and transportation operations desired.

### **REQUIRED SPECIAL STRENGTHS**

- Proven executive level manager with a strength in finance (both capital and operations)
- Effective operations and project management with both direct employees and consultants
- An effective agent on behalf of the Authority with a variety of critical stakeholders including other governmental agencies, businesses, community leaders, customers and the media
- Politically astute and sensitive,
- A visionary who is creative, innovative and proactive
- A strong customer focus
- Impeccable professional and personal ethics with a commitment to full transparency
- Excellent verbal and written communications skills, including public speaking,
- A skillful negotiator

Required to provide and maintain proof of a valid Florida's driver's license and car Insurance.

EXHIBIT "B"  
EXECUTIVE DIRECTOR PERFORMANCE REVIEW

The evaluation will be conducted as follows:

Utilize the evaluation form attached. It contains nine columns, one for each Board member with seven categories for evaluation criteria, an area for comments regarding either specific positive attributes or negative concerns that may warrant action, and a section for comments and recommendations.

Forms will be prepared by the Human Resources Director and provided to each of the Board members for their input.

Once completed, the Human Resources Director will provide a summary of the evaluations by category, with averages provided as well as a summary of comments and suggestions as to potential merit increases. (Each category will be weighted with a total of 100 points for all categories and each evaluation will be between 1 and 10 with 1 being the lowest rating and 10 being the highest. A rating of 7 would indicate minimally acceptable performance.)

Upon completion of the evaluations, the Board will discuss the results and any action that is appropriate at the next regularly scheduled Board meeting.

This performance review shall take place at a minimum of once per year on the anniversary hire date of the individual serving as Executive Director or as soon thereafter as is practical.

The following are the definitions of the Key Task and Core Competency Categories.

#### Vision and Mission of the Board

Does the Executive Director (ED) work with the Board to develop a clear vision? Does the ED translate CFX missions into realistic goals and objectives? Does the ED work with both the Board and staff to develop a long-range plan? Does the ED understand what changes must take place for CFX to accomplish its mission and realize its goals?

#### Accomplishments of Management Objectives

Has the ED successfully cultivated a qualified senior staff and provided a model for effective behavior? Has the ED built morale among the staff? Has the ED ensured there are appropriate systems in place to facilitate day-to-day operations, including education and outreach, policy development, administration and operations, and resource development?

#### Fiscal Management

Is the ED knowledgeable regarding financial planning, budgeting, and management of the system's finances? Does the ED understand the overall financial picture? Have strategic and operational planning been linked to the budgeting process? Is there clear and accurate communication of all accounting and financial issues to the Board?

#### Operations Management

Does the ED have adequate knowledge to effectively operate CFX? Is there a sound risk management system in place? Are there appropriate policies for personnel and staffing? Is CFX in compliance with all legal and regulatory requirements?

#### Board/Staff Relationship

Is there an appropriate level of dialogue between the ED and both the Board and staff to ensure the Board maintains a good knowledge of the CFX? Has the ED ensured there is an effective and collegial working relationship between staff and Board members?

#### External Liaison and Public Image

Does the ED maintain a positive professional image in the community and act as an ambassador? Does the ED cultivate effective relationships with community and business leaders, customers, public officials, and relevant professional organizations? Is the ED an articulate and knowledgeable spokesperson for CFX? Is the ED knowledgeable about the public policy dimension of CFX?

#### Performance Measures

Has the ED worked effectively to enable CFX to satisfy the performance objectives of the Florida Transportation Commission as set forth on the attached matrix?

CFX Executive Director Performance Evaluation  
Scoring Matrix  
Date: \_\_\_\_\_

KEY TASK AND COMPETENCY	MAX POINTS	BOARD MEMBERS										AVERAGE
Vision and Mission of the Board Accomplishment of Management Objectives Fiscal Management Operations Management Board Staff Relationship External Liaison and Public Image Performance Measures	10											
	10											
	10											
	10											
	10											
	10											
	10											
40												
TOTAL AVERAGE												

COMMENTS ON SPECIFIC ASPECTS OF PERFORMANCE:

COMMENTS AND RECOMMENDATIONS FOR MERIT INCREASE OR OTHER ACTION:

Evaluation Rating Scale

- 1.0 - 6.0 Performance is constantly below expectations
- 6.1 - 7.0 Performance sometimes meets expectations and needs improvement
- 7.1 - 8.0 Performance consistently achieves minimal expectations
- 8.1 - 9.0 Performance often exceeds expectations
- 9.1 - 10.0 Performance far exceeds expectations

## EXHIBIT "D"

# **AUDIT COMMITTEE CHARTER**



**A RESOLUTION OF THE CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY AMENDING ITS AUDIT COMMITTEE CHARTER**

WHEREAS, the Central Florida Expressway Authority (CFX) is Central Florida's regional expressway authority duly authorized by state law to maintain and operate an expressway system in Lake, Orange, Osceola and Seminole counties; and

WHEREAS, the Central Florida Expressway Authority assumed the governance and control of the Orlando-Orange County Expressway Authority; and

WHEREAS, the Authority previously adopted a policy creating the Audit Committee and its Charter; and

WHEREAS, the governing Board wishes to update the Audit Committee Charter to reflect the transition from the Orlando-Orange County Expressway Authority to the Central Florida Expressway Authority; and

WHEREAS, at its workshop on August 14, 2014; the Board directed changes to Audit Committee membership and changes to the method of Committee Chair selection,

NOW THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY, the following amendments are hereby adopted by the governing Board:

Section 1. Throughout the Audit Committee Charter, "Orlando-Orange County Expressway Authority" is replaced with "Central Florida Expressway Authority".

Section 2. The first four paragraphs in the section entitled: "Organization" is hereby replaced with the following:

The Audit Committee shall be composed of five voting members as follows:

1. Orange County staff member appointed by the Orange County Commission or in accordance with Orange County's policies providing for appointments to other governmental agencies;
2. City of Orlando staff member appointed by the City of Orlando Commission or in accordance with the City of Orlando's policies providing for appointments to other governmental agencies;
3. Lake County staff member appointed by Lake County Commission or in accordance with Lake County's policies providing for appointments to other governmental agencies;

4. Osceola County staff member appointed by the Osceola County Commission or in accordance with Osceola County's policies providing for appointments to other governmental agencies;
5. Seminole County staff member appointed by the Seminole County Commission or in accordance with Seminole County's policies providing for appointments to other governmental agencies.

Committee member appointments may not be delegated. The Committee members will serve at the pleasure of their respective jurisdictions. Committee members should have financial expertise in governmental accounting and experience reviewing financial statements and audit reports.

The Audit Committee will be chaired on an annual, rotating basis beginning on the effective date of this amendment, in the following order:

Orange County Representative  
City of Orlando Representative  
Seminole County Representative  
Osceola County Representative  
Lake County Representative

The Audit Committee Chair shall serve as the Board Liaison and attend CFX Board meetings.

Section 3. The revised Charter is adopted in its entirety as Exhibit "A".

Section 4. This Resolution shall become effective upon adoption.

ADOPTED this 11<sup>th</sup> day of September, 2014.

ATTEST: \_\_\_\_\_  
Darleen Mazzillo  
Executive Assistant

\_\_\_\_\_  
Welton G. Cadwell  
Chairman

Approved as to form and legality

\_\_\_\_\_  
Joseph L. Passiatore  
General Counsel

EXHIBIT "A"  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY BOARD  
AUDIT COMMITTEE CHARTER

Adopted October 27, 2004

Revised and Adopted January 24, 2007

Revised and Adopted November 19, 2008

Revised and Adopted July 24, 2009

Revised and Adopted October 27, 2010

Revised and Adopted January 23, 2013

Replaced and Adopted September 11, 2014

**PURPOSE**

The Audit Committee's primary function is to assist the Authority Board in fulfilling its oversight responsibilities by reviewing the financial information, systems of internal control which Management has established, the audit process, the process for monitoring compliance with laws and regulations and the Code of Ethics. In doing so, it is the responsibility of the Audit Committee to provide an open avenue of communication between the Authority Board, Management, the Internal Auditor, and external auditors. The Audit Committee is provided specific authority to make recommendations to the Chief Financial Officer, the Executive Director and the Authority Board.

**ORGANIZATION**

The Audit Committee shall be composed of five voting members as follows:

1. Orange County staff member appointed by the Orange County Commission or in accordance with Orange County's policies providing for appointments to other governmental agencies;
2. City of Orlando staff member appointed by the City of Orlando Commission or in accordance with the City of Orlando's policies providing for appointments to other governmental agencies;
3. Lake County staff member appointed by Lake County Commission or in accordance with Lake County's policies providing for appointments to other governmental agencies;
4. Osceola County staff member appointed by the Osceola County Commission or in accordance with Osceola County's policies providing for appointments to other governmental agencies;
5. Seminole County staff member appointed by the Seminole County Commission or in accordance with Seminole County's policies providing for appointments to other governmental agencies.

Committee member appointments may not be delegated. The Committee members will serve at the pleasure of their respective jurisdictions. Committee members should have financial expertise in governmental accounting and experience reviewing financial statements and audit reports.

The Audit Committee will be chaired on an annual, rotating basis beginning on the effective date of this amendment, in the following order:

Orange County Representative  
City of Orlando Representative  
Seminole County Representative  
Osceola County Representative  
Lake County Representative

The Audit Committee Chair shall serve as the Board Liaison and attend CFX Board meetings.

The Internal Audit Director and the external auditors shall have direct and independent access to the Audit Committee and individually to members of the Audit Committee. The Committee shall have unrestricted access to employees and relevant information. The Committee may retain independent counsel, accountants or others to assist in the conduct of its responsibilities, subject to the Authority's procurement policy.

## MEETINGS

The Audit Committee shall meet at least quarterly. Meetings may be called by the Authority Board Chairman, the Audit Committee Chair, or any two Committee members. Public notice shall be provided in accordance with State law.

Whenever possible, the agenda will be prepared by the Chair and provided in advance to members, along with appropriate briefing materials. In the absence of any objection, the Chair or any Committee member may add or subtract agenda items at a meeting. In the event of objection, a majority vote shall decide.

The Committee meeting minutes and any Committee recommendations shall be submitted to the Authority Board for consideration.

## RESPONSIBILITIES

### Financial Reporting Oversight

1. Review with Management and the external auditors:
  - The annual financial statements and related footnotes;
  - The external auditors' audit of the financial statements and their report;
  - Management's representations and responsibilities for the financial statements;
  - Any significant changes required in the audit plan;
  - Information from the external auditors regarding their independence;
  - Any difficulties or disputes with Management encountered during the audit;
  - The organization's accounting principles;
  - All matters required to be communicated to the Committee under generally accepted auditing standards.
2. Review with Management, the Authority's financial performance on a regular basis.

### Internal Control and Risk Assessment

3. Review with Management the effectiveness of the internal control system, including information technology security and control.

4. Review with Management the effectiveness of the process for assessing significant risks or exposures and the steps Management has taken to monitor and control such risks.
5. Review any significant findings and recommendations of the Internal Auditor and external auditors together with Management's responses, including the timetable for implementation of recommendations to correct any weaknesses.

#### Compliance

6. Review with Management the effectiveness of the system for monitoring compliance with laws and regulations and the results of management's investigation and follow-up (including disciplinary action) of any instances of noncompliance.

#### Code of Ethics

7. Review with Management and monitor adequacy, administration, and compliance with the Authority's Code of Ethics.
8. Review the procedures for the anonymous and confidential submission of complaints and concerns regarding matters such as accounting, internal controls, auditing, waste, abuse, fraud, conflicts of interest, or other Code of Ethics violations.

#### Internal Audit

9. Recommend to the Board the appointment or removal of the Internal Audit Director.
10. Review and approve the annual internal audit plan and all major changes to the plan.
11. Review the internal audit budget and submit to the Finance Committee.
12. Review and approve the Internal Audit Department Charter.
13. Review internal audit reports and recommend transmittal and acceptance of the audit for filing with the governing Board which shall be accomplished by separate item on the Consent Agenda at a regularly scheduled meeting.
14. Review annually the performance of the Internal Audit Director.
15. Review annually the effectiveness of the internal audit function.

#### External Audit

16. Appoint an Audit Committee Member to serve on the Selection Committee for all external audit services.
17. Recommend to the Authority Board the external auditors to be appointed and the related compensation.
18. Review and approve the discharge of the external auditors.
19. Review the scope and approach of the annual audit with the external auditors.
20. Approve all non-audit services provided by the external auditors.

#### Other Authority and Responsibilities

21. Conduct other activities as requested by the Authority Board.
22. Conduct or authorize investigations into any matter within the Committee's scope of responsibilities.
23. Address any disagreements between Management and the Internal Auditor or external auditors.
24. Annually evaluate the Committee's and individual member's performance.
25. Review the Committee's formal Charter annually and update as needed.
26. Confirm annually that all responsibilities outlined in this Charter have been carried out.

# **FINANCE COMMITTEE CHARTER**

**A RESOLUTION OF THE CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY AMENDING ITS FINANCE COMMITTEE CHARTER**

WHEREAS, the Central Florida Expressway Authority (CFX) is Central Florida's regional expressway authority duly authorized by state law to maintain and operate an expressway system in Lake, Orange, Osceola and Seminole counties; and

WHEREAS, the Central Florida Expressway Authority assumed the governance and control of the Orlando-Orange County Expressway Authority; and

WHEREAS, the Authority previously adopted a policy creating the Finance Committee and its Charter; and

WHEREAS, the governing Board wishes to update the Finance Committee Charter to reflect the transition from the Orlando-Orange County Expressway Authority to the Central Florida Expressway Authority; and

WHEREAS, at its workshop on August 14, 2014; the Board directed changes to Finance Committee membership and changes to the method of Committee Chair selection,

NOW THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY, the following amendments are hereby adopted by the governing Board.

Section 1. Throughout the Finance Committee Charter, "Orlando-Orange County Expressway Authority" is replaced with "Central Florida Expressway Authority".

Section 2. The first three paragraphs in the section entitled: "Organization" is hereby replaced with the following:

The Finance Committee shall be composed of five voting members as follows:

1. Orange County staff member appointed by the Orange County Commission or in accordance with Orange County's policies providing for appointments to other governmental agencies;
2. City of Orlando staff member appointed by the City of Orlando Commission or in accordance with the City of Orlando's policies providing for appointments to other governmental agencies;
3. Lake County staff member appointed by Lake County Commission or in accordance with Lake County's policies providing for appointments to other governmental agencies;

4. Osceola County staff member appointed by the Osceola County Commission or in accordance with Osceola County's policies providing for appointments to other governmental agencies;
5. Seminole County staff member appointed by the Seminole County Commission or in accordance with Seminole County's policies providing for appointments to other governmental agencies.

Committee member appointments may not be delegated. The Committee members will serve at the pleasure of their respective jurisdictions. Committee members should have financial management expertise in governmental accounting and experience in public finance.

The Finance Committee will be chaired on an annual, rotating basis beginning on the effective date of this amendment, in the following order:

Seminole County Representative  
Osceola County Representative  
Lake County Representative  
Orange County Representative  
City of Orlando Representative

The Finance Committee Chair shall serve as the Board Liaison and attend CFX Board meetings.

Section 3. The revised Charter is adopted in its entirety as Exhibit "A".

Section 4. This Resolution shall become effective upon adoption.

ADOPTED this 11<sup>th</sup> day of September, 2014.

ATTEST: \_\_\_\_\_  
Darleen Mazzillo  
Executive Assistant

\_\_\_\_\_  
Welton G. Cadwell  
Chairman

Approved as to form and legality

\_\_\_\_\_  
Joseph L. Passiatore  
General Counsel



EXHIBIT "A"  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY BOARD  
FINANCE COMMITTEE CHARTER

**PURPOSE**

The Finance Committee's primary function is to assist the Authority Board in fulfilling its responsibilities by providing financial and budgetary oversight and guidance.

**RESPONSIBILITIES**

The Finance Committee is responsible for conducting reviews and associated recommendations to the Board regarding capital budgeting, debt structure and issuance, liquidity, credit management, financial forecasting and interest rate risk management.

**ORGANIZATION**

The Finance Committee shall be composed of five voting members as follows:

1. Orange County staff member appointed by the Orange County Commission or in accordance with Orange County's policies providing for appointments to other governmental agencies;
2. City of Orlando staff member appointed by the City of Orlando Commission or in accordance with the City of Orlando's policies providing for appointments to other governmental agencies;
3. Lake County staff member appointed by Lake County Commission or in accordance with Lake County's policies providing for appointments to other governmental agencies;
4. Osceola County staff member appointed by the Osceola County Commission or in accordance with Osceola County's policies providing for appointments to other governmental agencies;
5. Seminole County staff member appointed by the Seminole County Commission or in accordance with Seminole County's policies providing for appointments to other governmental agencies.

Committee member appointments may not be delegated. The Committee members will serve at the pleasure of their respective jurisdictions. Committee members should have financial management expertise in governmental accounting and experience in public finance.

The Finance Committee will be chaired on an annual, rotating basis beginning on the effective date of this amendment, in the following order:

Seminole County Representative  
Osceola County Representative  
Lake County Representative

Orange County Representative  
City of Orlando Representative

The Finance Committee Chair shall serve as the Board Liaison and attend CFX Board meetings.

The Central Florida Expressway Authority Chief Financial Officer shall serve as an advisor to the Committee and may retain independent consultants to assist in the conduct of Authority responsibilities, subject to the Authority's procurement policy and budget.

#### MEETINGS

The Finance Committee shall meet as required to review financial and budgetary matters and provide guidance to Authority staff and consultants. Meetings may be called by the Executive Director, Chief Financial Officer or the Finance Committee Chair. Public notice shall be provided in accordance with state law.

An agenda will be prepared by the Executive Director and the Chief Financial Officer and provided in advance to members, along with appropriate briefing materials.

Committee recommendations for financial and budgetary actions shall be submitted to the Board for approval. Draft committee meeting minutes and any other Committee actions shall be submitted to the Authority Board for information and/or approval.

# **OPERATIONS COMMITTEE CHARTER**

**A RESOLUTION OF THE CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY AMENDING ITS OPERATIONS COMMITTEE CHARTER**

WHEREAS, the Central Florida Expressway Authority (CFX) is Central Florida's regional expressway authority duly authorized by state law to maintain and operate an expressway system in Lake, Orange, Osceola and Seminole counties; and

WHEREAS, the Central Florida Expressway Authority assumed the governance and control of the Orlando-Orange County Expressway Authority; and

WHEREAS, the Authority previously adopted a policy creating the Operations Committee and its Charter; and

WHEREAS, the governing Board wishes to update the Operations Committee Charter to reflect the transition from the Orlando-Orange County Expressway Authority to the Central Florida Expressway Authority; and

WHEREAS, at its workshop on August 14, 2014; the Board directed changes to Operations Committee membership and changes to the method of Committee Chair selection,

NOW THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY, the following amendments are hereby adopted by the governing Board.

Section 1. Throughout the Operations Committee Charter, "Orlando-Orange County Expressway Authority" is replaced with "Central Florida Expressway Authority".

Section 2. The section entitled: "Organization" is hereby replaced with the following:

The Operations Committee shall be composed of five voting members as follows:

1. Orange County staff member appointed by the Orange County Commission or in accordance with Orange County's policies providing for appointments to other governmental agencies;
2. City of Orlando staff member appointed by the City of Orlando Commission or in accordance with the City of Orlando's policies providing for appointments to other governmental agencies;
3. Lake County staff member appointed by Lake County Commission or in accordance with Lake County's policies providing for appointments to other governmental agencies;

4. Osceola County staff member appointed by the Osceola County Commission or in accordance with Osceola County's policies providing for appointments to other governmental agencies;
5. Seminole County staff member appointed by the Seminole County Commission or in accordance with Seminole County's policies providing for appointments to other governmental agencies;

Committee member appointments may not be delegated. The Committee members will serve at the pleasure of their respective jurisdictions. Committee members should have operations and management experience.

The Operations Committee will be chaired on an annual, rotating basis beginning on the effective date of this amendment, in the following order:

City of Orlando Representative  
Seminole County Representative  
Osceola County Representative  
Lake County Representative  
Orange County Representative

The Operations Committee Chair shall serve as the Board Liaison and attend CFX Board meetings.

Section 3. The revised Charter is adopted in its entirety as Exhibit "A".

Section 4. This Resolution shall become effective upon adoption.

ADOPTED this 11<sup>th</sup> day of September, 2014.

ATTEST: \_\_\_\_\_  
Darleen Mazzillo  
Executive Assistant

\_\_\_\_\_  
Welton G. Cadwell  
Chairman

Approved as to form and legality

\_\_\_\_\_  
Joseph L. Passiatore  
General Counsel

**EXHIBIT "A"**  
**CENTRAL FLORIDA EXPRESSWAY AUTHORITY BOARD**  
**OPERATIONS COMMITTEE CHARTER**

**PURPOSE**

The Operations Committee's primary function is to assist the Authority Board in fulfilling its responsibilities by reviewing operational information, toll collection and violation processing functions, and established agency performance indicators to monitor agency operations. The Operations Committee has the specific responsibility and authority to make recommendations to the Executive Director and the Authority Board regarding operational issues.

**RESPONSIBILITIES**

1. Review with Management:
  - Toll revenue collection results;
  - Toll violation reports;
  - Any proposed changes to operational policies;
  - Any proposed change to the Authority Operational Business Rules;
  - Any additions or changes to Authority interoperability agreements with other agencies.
2. Review with management the Authority's annual operational performance as reported by the FTC Transportation Authority Monitoring and Oversight report.
3. Review with management the results of the bi-annual customer service survey.
4. Review with management the performance of the toll collection and back office staffing of consultants.
5. Conduct other operational activities as requested by the Authority Board.

**ORGANIZATION**

The Operations Committee shall be composed of five voting members as follows:

1. Orange County staff member appointed by the Orange County Commission or in accordance with Orange County's policies providing for appointments to other governmental agencies;
2. City of Orlando staff member appointed by the City of Orlando Commission or in accordance with the City of Orlando's policies providing for appointments to other governmental agencies;
3. Lake County staff member appointed by Lake County Commission or in accordance with Lake County's policies providing for appointments to other governmental agencies;

4. Osceola County staff member appointed by the Osceola County Commission or in accordance with Osceola County's policies providing for appointments to other governmental agencies;
5. Seminole County staff member appointed by the Seminole County Commission or in accordance with Seminole County's policies providing for appointments to other governmental agencies.

Committee member appointments may not be delegated. The Committee members will serve at the pleasure of their respective jurisdictions. Committee members should have operations and management experience.

The Operations Committee will be chaired on an annual, rotating basis beginning on the effective date of this amendment, in the following order:

City of Orlando Representative  
Seminole County Representative  
Osceola County Representative  
Lake County Representative  
Orange County Representative

The Operations Committee Chair shall serve as the Board Liaison and attend CFX Board meetings.

#### MEETINGS

The Operations Committee shall meet as required to adequately fulfill Committee responsibilities. Meetings may be called by the Executive Director, the Authority Board Chairman, and/or the Operations Committee Chair.

Public notice shall be provided in accordance with state law.

An agenda will be prepared by the Executive Director and provided in advance to members, along with appropriate briefing materials.

The draft Committee meeting minutes and Committee recommendations shall be submitted to the Authority Board for information and/or approval as required.

# **RIGHT OF WAY COMMITTEE CHARTER**



**A RESOLUTION OF THE  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AMENDING ITS  
RIGHT OF WAY COMMITTEE CHARTER**

WHEREAS, the Central Florida Expressway Authority (CFX) is Central Florida's regional expressway authority duly authorized by state law to maintain and operate an expressway system in Lake, Orange, Osceola and Seminole counties; and

WHEREAS, the Central Florida Expressway Authority assumed the governance and control of the Orlando-Orange County Expressway Authority; and

WHEREAS, the Authority possesses the power of eminent domain in order to acquire real property to expand and operate the expressway system; and

WHEREAS, the Authority previously adopted a policy and associated Charter establishing a Right of Way Committee to make recommendations to the full Board on land acquisition and disposition; and

WHEREAS, the governing Board wishes to update the Right of Way Committee Charter to reflect the transition from the Orlando-Orange County Expressway Authority to the Central Florida Expressway Authority; and

WHEREAS, at its workshop on August 14, 2014; the Board directed changes to Right of Way Committee membership and changes to the method of Committee Chair selection,

NOW THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY, the following amendments are hereby adopted by the governing Board:

Section 1. Throughout the Right of Way Committee Charter, "Orlando-Orange County Expressway Authority" is replaced with "Central Florida Expressway Authority".

Section 2. The first five paragraphs in the section entitled: "Organization" is hereby replaced with the following:

The Right of Way Committee shall be composed of five voting members as follows:

1. Orange County staff member and a designated substitute to serve in their absence, appointed by the Orange County Commission or in accordance with Orange County's policies providing for appointments to other governmental agencies;

2. City of Orlando staff member and a designated substitute to serve in their absence. appointed by the City of Orlando Commission or in accordance with the City of Orlando's policies providing for appointments to other governmental agencies;
3. Lake County staff member and a designated substitute to serve in their absence. appointed by Lake County Commission or in accordance with Lake County's policies providing for appointments to other governmental agencies;
4. Osceola County staff member and a designated substitute to serve in their absence. appointed by the Osceola County Commission or in accordance with Osceola County's policies providing for appointments to other governmental agencies;
5. Seminole County staff member and a designated substitute to serve in their absence. appointed by the Seminole County Commission or in accordance with Seminole County's policies providing for appointments to other governmental agencies.

Committee member appointments may not be delegated. The Committee members will serve at the pleasure of their respective jurisdictions. Committee members should have experience in Florida eminent domain matters, possess sufficient experience in property acquisition and disposition. Committee members shall not vote on matters directly impacting their respective jurisdictions (i.e., engaging in any business with the Authority).

The Right of Way Committee will be chaired on an annual, rotating basis beginning on the effective date of this amendment, in the following order:

Osceola County Representative  
Lake County Representative  
Orange County Representative  
City of Orlando Representative  
Seminole County Representative

The Right of Way Committee Chair shall serve as the Board Liaison and attend CFX Board meetings.

Section 3. The revised Charter is adopted in its entirety as Exhibit "A".

Section 4. This Resolution shall become effective upon adoption.

ADOPTED this 11<sup>th</sup> day of September, 2014.

ATTEST:

Darleen Mazzillo  
Executive Assistant

\_\_\_\_\_  
Welton G. Cadwell  
Chairman

Approved as to form and legality:

\_\_\_\_\_  
Joseph L. Passiatore  
General Counsel

EXHIBIT "A"

CENTRAL FLORIDA EXPRESSWAY AUTHORITY BOARD  
RIGHT OF WAY COMMITTEE CHARTER

PURPOSE

The Right of Way Committee's primary function is to assist the Authority Board in fulfilling its responsibilities by providing oversight and control of the property acquisition and disposition process.

The Right of Way Committee shall oversee and assist the Central Florida Expressway Authority right of way activities. Delegation of authority for right of way acquisition activities recognizes the practical need to conduct negotiations for property acquisition, business damage claims and other matters pertinent to real estate transactions in confidence until such time as a settlement is reached.

RESPONSIBILITIES

The Right of Way Committee is responsible for conducting reviews and associated recommendations to the Board regarding property acquisition negotiations, proposed settlements, review of condemnation proceedings and mediation, and other matters related to acquisition negotiations and settlements.

ORGANIZATION

The Right of Way Committee shall be composed of five voting members as follows:

1. Orange County staff member and a designated substitute to serve in their absence, appointed by the Orange County Commission or in accordance with Orange County's policies providing for appointments to other governmental agencies;
2. City of Orlando staff member and a designated substitute to serve in their absence, appointed by the City of Orlando Commission or in accordance with the City of Orlando's policies providing for appointments to other governmental agencies;
3. Lake County staff member and a designated substitute to serve in their absence, appointed by Lake County Commission or in accordance with Lake County's policies providing for appointments to other governmental agencies;
4. Osceola County staff member and a designated substitute to serve in their absence, appointed by the Osceola County Commission or in accordance with Osceola County's policies providing for appointments to other governmental agencies;
5. Seminole County staff member and a designated substitute to serve in their absence, appointed by the Seminole County Commission or in accordance with Seminole County's policies providing for appointments to other governmental agencies.

Committee member appointments may not be delegated. The Committee members will serve at the pleasure of their respective jurisdictions. Committee members should have experience in Florida eminent domain matters, possess sufficient experience in property acquisition and

disposition. Committee members shall not vote on matters directly impacting their respective jurisdictions (i.e., engaging in any business with the Authority).

The Right of Way Committee will be chaired on an annual, rotating basis beginning on the effective date of this amendment, in the following order:

Osceola County Representative  
Lake County Representative  
Orange County Representative  
City of Orlando Representative  
Seminole County Representative

The Right of Way Committee Chair shall serve as the Board Liaison and attend CFX Board meetings.

The Central Florida Expressway Authority General Counsel's office and Right of Way Counsel shall serve as advisors to the Committee. The Authority General Counsel's office shall provide support to the Committee and may retain independent consultants to assist in the conduct of Authority responsibilities, subject to the Authority's procurement policy and budget.

#### CONDUCT OF BUSINESS

The Right of Way Committee shall conduct business in accordance with the Central Florida Expressway Authority Property Acquisition and Disposition Procedures Manual.

#### MEETINGS

The Right of Way Committee shall meet as required to review negotiations and provide guidance to General Counsel, acquisition staff and consultants. Meetings may be called by the Executive Director, General Counsel or the Right of Way Committee Chair.

Public notice shall be provided in accordance with state law.

An agenda will be prepared by General Counsel and provided in advance to members, along with appropriate briefing materials.

Committee recommendations for right of way acquisition and disposition shall be submitted to the Board for approval. Draft Committee meeting minutes and any other Committee recommendations shall be submitted to the Authority Board for information and/or approval.