

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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

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### Board Members Present:

Commissioner Welton G. Cadwell, Lake County (Chairman)  
Commissioner S. Scott Boyd, Orange County (Vice Chairman)  
Commissioner Brenda Carey, Seminole County (Secretary-Treasurer)  
Mayor Buddy Dyer, City of Orlando  
Commissioner Fred Hawkins, Jr., Osceola County  
Mayor Teresa Jacobs, Orange County  
Walter A. Ketcham, Jr., Gubernatorial Appointment  
Jay Madara, Gubernatorial Appointment <sup>1</sup>

### Via Phone:

S. Michael Scheeringa, Gubernatorial Appointment <sup>1</sup>

### 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

- 1) Mr. Bob Hartnett invited everyone to attend the joint TEAMFL/Florida Transportation Commission meeting on January 22 and 23 at the Hyatt Regency Orlando International Airport.
- 2) Mr. Chuck Graham would like to see a percentage of toll money put into dedicated funding of public transportation for disabled and senior citizens. Mayor Jacobs commented that she would like Mr. Graham's support in their efforts to get legislative support for the rental car surcharge, which could generate \$40 million in Orange County alone and ultimately benefit funding for LYNX.

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<sup>1</sup> Mr. Madara & Mr. Scheeringa participated in the meeting as observers only, due to qualifying paper requirements.

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## **INTRODUCTION OF NEW BOARD MEMBERS**

Chairman Cadwell introduced the two newest Board members appointed by Governor Scott, Jay Madara and S. Michael Scheeringa. Mr. Scheeringa participated by phone for this meeting.

General Counsel Joseph Passiatore stated that in the Governor's appointment letter to Mr. Madara and Mr. Scheeringa there is a requirement that each of the appointees file qualifying papers with the Department of State before they assume their duties on the CFX Board. Those papers have not been received by the appointees, and therefore have not been filed. Mr. Passiatore recommended that Mr. Madara and Mr. Scheeringa refrain from participation at today's meeting. Both Mr. Madara and Mr. Scheeringa agreed that they will participate as observers for today's meeting.

## **APPROVAL OF MINUTES**

**A motion was made by Mr. Ketcham and seconded by Mayor Jacobs to approve the minutes of the November 13, 2014 Board Meeting and November 13, 2014 Board Workshop as presented. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.**

## **APPROVAL OF CONSENT AGENDA**

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

## **CONSTRUCTION & MAINTENANCE**

1. Authorization to advertise for bids for S.R. 429/S.R. 414 Systems Interchange Landscape Improvements – Project No. 429-200F
2. Approval for award of contract to Rummel, Klepper & Kahl, Inc. for Construction Engineering and Inspection (CEI) Services for Wekiva Parkway Project No. 429-202 (Contract amount: Not-to-exceed \$4,100,000)
3. Approval of construction contract modifications on the following contract:
  - a) Contract No. 417-110 Masci General Contractor, Inc. \$15,494.17

## **ENGINEERING**

4. Approval for renewal of contract with Atkins North America, Inc. for General Engineering Consultant Services – Contract No. 000820 (Contract amount: Not-to-exceed \$5,125,000)
5. Approval for award of contract to CH2M Hill for I-4/S.R. 408 Interchange Corridor Consultant (Contract award: Not-to-exceed \$5,300,000)

FINANCE/ACCOUNTING

6. Approval for disposal of inventory items

INFORMATION TECHNOLOGY

7. Approval of Purchase Order for Carousel Industries to replace outdated network switches for Local Area Network Communications and Support (Purchase Order amount: \$84,520.20)

LEGAL

8. Approval of final ranking and authorization to enter into fee negotiations with Nabors, Giblin & Nickerson, P.A. for Disclosure Counsel
9. Adoption of Resolution for acquisition of Parcel 249, Wekiva Parkway Project 429-204
10. Adoption of Resolution for acquisition of Parcel 303 (Parts A, B & C) for Wekiva Parkway Project 429-204
11. Approval of settlement agreement with tenants on Parcel 197, Wekiva Parkway Project 429-203
12. Approval of Third Amendment to Contract of Sale and Purchase with Suburban Land Reserve, Inc. and Farmland Reserve, Inc.

TOLL OPERATIONS

13. Authorization to advertise for bids for printing and mailing services for the Toll Operations Department

EXPRESSWAY OPERATIONS

14. Authorization to advertise for design consultant services for Single Line Dynamic Message Sign (DMS) Upgrade – Project 599-525

**A motion was made by Commissioner Boyd and seconded by Mayor Jacobs to approve the Consent Agenda as presented. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.**

### **CHAIRMAN'S REPORT**

Chairman Cadwell requested the Board members' direction on whether they want to hold the election of officers at the January meeting. General Counsel Joseph Passiatore stated that the CFX bylaws require annual elections to take place in January, unless the Board chooses to waive the rules. By consensus, the election of officers will be put on the January 8, 2015 agenda.

### **TREASURER'S REPORT**

Commissioner Carey reported that toll revenues for October were \$28,361,664 which is 6% above projections and 8.5% above prior year. The Authority's total revenues were \$29.8 million for the month.

Total OM&A expenses were \$4.3 million for the month and \$14.4 million year-to-date, which is 12.5% under budget.

After debt service the total net revenue was \$13.6 million for October and \$51.5 million year-to-date.

### **STAFF'S REPORT**

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

### **ACCEPTANCE OF FISCAL YEAR 2014 FINANCIAL STATEMENTS**

Dan O'Keefe of Moore Stephens Lovelace explained that his firm was engaged to audit CFX's financial statements for the year ended June 30, 2014. The purpose was to issue an opinion as to whether or not CFX's financial statements are presented fairly, in all material respects, and in conformity with GAAP. He gave a presentation which included management responsibilities, auditor responsibilities, internal controls, compliance, risk-based audit approach, management representations, audit schedule and financial highlights.

Mr. O'Keefe presented the following communications of significant matters:

- There were no audit adjustments made during the course of the audit.
- There were no unreported or unadjusted differences.
- They had no disagreements with management.
- As far as they knew, management did not receive opinions from other accountants.

**A motion was made by Commissioner Boyd and seconded by Mayor Jacobs to accept the Fiscal Year 2014 Financial Statements as presented. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.**



### **ACCEPTANCE OF FISCAL YEAR 2015 CONTRACTS AUDIT**

Phil Fretwell of Protiviti reported that the Audit Committee has accepted the FY 2015 Contracts Audit to present to the Board for filing.

In accordance with the 2015 Internal Audit Plan, Protiviti audited two contracts with a combined contract value exceeding \$90,000,000. The objectives of the audit were to: (1) identify and test key processes and controls around project funding and bid authorization, project bidding, bid awards, bid bond requirements, contract renewals and supplemental agreements, (2) test vendor compliance with contract terms and conditions, insurance, bond and permitting requirements and minority and women owned business requirements, and (3) audit the accuracy of items billed to the Authority in accordance with contract terms and conditions.

Mr. Fretwell reported there were no findings identified as a result of this audit.

**A motion was made by Mayor Jacobs and seconded by Commissioner Carey to accept the Fiscal Year 2015 Contracts Audit for filing. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.**

### **ACCEPTANCE OF PAYMENT CARD INDUSTRY (PCI) ASSESSMENT WITH REPORT ON COMPLIANCE**

Phil Fretwell of Protiviti reported that the Audit Committee has accepted the PCI Assessment to present to the Board for filing.

He stated that Protiviti has issued an unqualified report on the PCI Assessment.

The PCI Assessment is exempt from public records disclosure pursuant to F.S. 282.318 and shall not be copied or distributed in any manner. Mr. Fretwell offered to meet with any Board member to answer questions.

Mayor Jacobs asked if the exemption issue has been carefully looked into. General Counsel Joseph Passiatore stated that he has analyzed the exemption issue and it is his legal opinion that the internal controls to protect the security of the credit card numbers is privileged.

**A motion was made by Commissioner Hawkins and seconded by Mr. Ketcham to accept the Payment Card Industry Assessment for filing. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.**

**ADOPTION OF RESOLUTION AMENDING SECTION 5-6.04 OF THE PROPERTY ACQUISITION AND DISPOSITION PROCEDURES MANUAL AND REFERENCING CFX AS THE GOVERNING AUTHORITY**

General Counsel Joseph Passiatore reported that on November 24 the Right of Way Committee recommended approval of revisions to the Property Acquisition & Disposition Procedures Manual that included CFX transition revisions and amendments to Section 5-6.04 regarding disposition of surplus parcels.

Mr. Passiatore explained the proposed changes to the Property Acquisition & Disposition Procedures Manual (Exhibit "C"). He recommended adoption of the Resolution and proposed revisions to the Manual.

**A motion was made by Commissioner Hawkins and seconded by Commissioner Carey to adopt the Resolution amending the Property Acquisition and Disposition Procedures Manual as presented. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.**

**REQUEST FOR DIRECTION REGARDING PENDING REQUEST FOR PROPOSALS FOR CFX ISSUER'S COUNSEL ON FUTURE CFX BOND TRANSACTIONS**

Chairman Cadwell recommended that we assign the in-house General Counsel's office fill the role of Issuer's Counsel with the understanding that it may hire public finance legal counsel to assist on an as needed basis.

The current contract with Shutts & Bowen for Issuer's Counsel on the TIFIA loan expires on December 31, 2014. We would need to extend the contract with Shutts & Bowen to continue support for the TIFIA loan.

There was discussion regarding assigning the primary function to in-house General Counsel and allowing it to contract out for specialized legal financial services on an as-needed basis. Mr. Passiatore stated that if the Board decides to outsource the function, it will need to select the firm. If the Board decides to assign the function to General Counsel, that office would retain the discretion to hire a firm on an ad-hoc basis.

The Board members suggested that if we hire a firm for Issuer's Counsel that we contract on an hourly basis rather than a percentage of the bond deal.

**A motion was made by Mayor Jacobs and seconded by Commissioner Carey to extend the current contract with Shutts & Bowen through the course of the issuance on the TIFIA loan and associated debt and to bring the Issuer's Counsel item back to the Board at the January meeting. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.**

### **CONSIDERATION OF ALL ABOARD FLORIDA'S REQUEST TO AMEND AGREEMENTS EXTENDING CERTAIN DATES**

General Counsel Joseph Passiatore stated that All Aboard Florida (AAF) is requesting that the Board approve a First Amendment to Document Escrow Agreement and a Third Amendment to Contract for Sale and Purchase of Rail Line Easements. Mr. Passiatore has outlined the agreements in a memo dated December 3, 2014 (memo and agreements attached as Exhibit "D").

Mr. Passiatore recommended approval of the Third Amendment with the deadlines revised per his memo and direction to bring a Fourth Amendment at the March 2015 meeting addressing funding for additional property purchases.

A lengthy discussion took place regarding the proposed agreements and deadlines. Mr. Ken Wright of Shutts & Bowen and Mr. Mike Reininger, President of All Aboard Florida, provided their comments and answered questions.

**A motion was made by Commissioner Carey and seconded by Mayor Dyer to accept the Third Amendment to the Contract for Sale and Purchase of Rail Line Easements with the following deadlines:**

<b>Inspection Period</b>	<b>March 20, 2015</b>
<b>Outside Closing Date</b>	<b>June 30, 2015</b>
<b>Title Commitment</b>	<b>March 13, 2015</b>
<b>Survey</b>	<b>February 13, 2015</b>
<b>Initial Notice</b>	<b>March 20, 2015</b>

**The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.**

There was discussion regarding the Lease Agreement, which has expired. **By consensus, the Board agreed to renegotiate the Lease Agreement and Fourth Amendment and bring them to the Board.**

(A short break was taken at this time.)

### **SELECTION OF EXECUTIVE DIRECTOR FROM SHORTLISTED CANDIDATES**

Chairman Cadwell stated that his plan was to bring back 5 or 6 candidates with different management styles and backgrounds for the Board Members to interview. However, the process has not turned out as he envisioned. Currently we only have two candidates from the shortlist of 5 that are still interested. He recommended that we stop the process, take the time to think about it and come back in January to talk about where we go from here.

The Board Members agreed to defer the Executive Director selection until January when we have a full Board to discuss the best strategies going forward.

The question was asked if background checks were done on the candidates. Laura Kelley confirmed that educational and criminal background checks were done on all the shortlisted candidates.

**A motion was made by Mayor Jacobs and seconded by Mr. Ketcham to defer a decision until the January meeting and revisit the process. The motion carried with seven Board members voting AYE by voice vote; Mr. Madara and Mr. Scheeringa did not vote.**

By consensus, the Board Members recommended that we allow any of the candidates who withdrew to come back into the process.


Mr. Madara requested that he be given the opportunity to interview the two remaining candidates before the January 8<sup>th</sup> meeting.

#### **BOARD MEMBER COMMENT**

- 1) Chairman Cadwell requested and received the Board's approval to send a letter of thanks to the outgoing FDOT Secretary of Transportation, Ananth Prasad.
- 2) Commissioner Hawkins stated that the White House has announced that the last two years of the presidency will be focused on transportation dollars and new and existing infrastructure. He requested that an item be placed on the agenda for the January meeting regarding our federal lobbying efforts. He wants to make sure that we have strong representation to apply for those federal dollars.

#### **ADJOURNMENT**

There being no further business to come before the Board, the Chairman adjourned the meeting at 10:52 a.m.



Commissioner Welton G. Cadwell  
Chairman  
Central Florida Expressway Authority



Darleen Mazzillo  
Recording Secretary/Executive Assistant  
Central Florida Expressway Authority

Minutes approved on \_\_\_\_\_, 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**  
**December 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 Item)**

1. November 13, 2014 Board Meeting
2. November 13, 2014 Board Workshop

**D. APPROVAL OF CONSENT AGENDA (Action Item)**

**E. REPORTS**

1. Chairman's Report
2. Treasurer's Report
3. Staff's Report

**F. REGULAR AGENDA ITEMS**

1. **ACCEPTANCE OF FISCAL YEAR 2014 FINANCIAL STATEMENTS** – *Lisa Lumbar, Interim CFO and Dan O'Keefe, Moore Stephens Lovelace, P.A.* (Action Item)
2. **ACCEPTANCE OF FY 2015 CONTRACTS AUDIT** – *Phil Fretwell, Protiviti* (Action Item)
3. **ACCEPTANCE OF PAYMENT CARD INDUSTRY (PCI) ASSESSMENT WITH REPORT ON COMPLIANCE** – *Phil Fretwell, Protiviti* (Action Item)
4. **ADOPTION OF RESOLUTION AMENDING SECTION 5-6.04 OF THE PROPERTY ACQUISITION AND DISPOSITION PROCEDURES MANUAL AND REFERENCING CFX AS THE GOVERNING AUTHORITY** – *Joseph L. Passiatore, General Counsel* (Action Item)
5. **REQUEST FOR DIRECTION REGARDING PENDING REQUEST FOR PROPOSALS FOR CFX ISSUER'S COUNSEL ON FUTURE CFX BOND TRANSACTIONS** – *Joseph L. Passiatore, General Counsel* (Action Item)
6. **CONSIDERATION OF ALL ABOARD FLORIDA'S REQUEST TO AMEND AGREEMENTS EXTENDING CERTAIN DATES** – *Joseph L. Passiatore, General Counsel* (Action Item)
7. **SELECTION OF EXECUTIVE DIRECTOR FROM SHORTLISTED CANDIDATES** - *Chairman Cadwell* (Action Item)

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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 Statute 286.0105.

# EXHIBIT “A”

**CONSENT AGENDA**

**December 11, 2014**

**CONSTRUCTION & MAINTENANCE**

1. Authorization to advertise for bids for S.R. 429/S.R. 414 Systems Interchange Landscape Improvements – Project No. 429-200F
2. Approval for award of contract to Rummel, Klepper & Kahl, Inc. for Construction Engineering and Inspection (CEI) Services for Wekiva Parkway Project No. 429-202 (Contract amount: Not-to-exceed \$4,100,000)
3. Approval of construction contract modifications on the following contract:
  - a) Contract No. 417-110 Masci General Contractor, Inc. \$15,494.17

**ENGINEERING**

4. Approval for renewal of contract with Atkins North America, Inc. for General Engineering Consultant Services – Contract No. 000820 (Contract amount: Not-to-exceed \$5,125,000)
5. Approval for award of contract to CH2M Hill for I-4/S.R. 408 Interchange Corridor Consultant (Contract award: Not-to-exceed \$5,300,000)

**FINANCE/ACCOUNTING**

6. Approval for disposal of inventory items

**INFORMATION TECHNOLOGY**

7. Approval of Purchase Order for Carousel Industries to replace outdated network switches for Local Area Network Communications and Support (Purchase Order amount: \$84,520.20)

**LEGAL**

8. Approval of final ranking and authorization to enter into fee negotiations with Nabors, Giblin & Nickerson, P.A. for Disclosure Counsel
9. Adoption of Resolution for acquisition of Parcel 249, Wekiva Parkway Project 429-204
10. Adoption of Resolution for acquisition of Parcel 303 (Parts A, B & C) for Wekiva Parkway Project 429-204



# **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

11. Approval of settlement agreement with tenants on Parcel 197, Wekiva Parkway Project 429-203
12. Approval of Third Amendment to Contract of Sale and Purchase between Suburban Land Reserve Inc. and Farmland Reserve, Inc.

## **TOLL OPERATIONS**

13. Authorization to advertise for bids for printing and mailing services for the Toll Operations Department

## **EXPRESSWAY OPERATIONS**

14. Authorization to advertise for design consultant services for Single Line Dynamic Message Sign (DMS) Upgrade – Project 599-525


# **CONSENT AGENDA ITEM**

**#1**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: November 25, 2014

RE: Authorization to Advertise  
S.R. 429/S.R. 414 Systems Interchange Landscape Improvements  
Project No. 429-200F; Contract No. 001078

Board authorization is requested to advertise for bids for the construction, establishment and initial maintenance of landscape improvements at the S.R. 429/S.R. 414 Systems Interchange. This project is included in the current Five-Year Work Plan.

cc: Joseph A. 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



# **CONSENT AGENDA ITEM**

**#2**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: November 25, 2014

RE: Award of Contract for Construction Engineering and Inspection Services for  
S.R. 429 (Wekiva Parkway) from US 441 to North of Ponkan Road  
Project No. 429-202; Contract No. 001037

At its meeting on September 11, 2014, the Board approved the final ranking of the firms for the referenced project and authorized staff to negotiate fees and expenses with Rummel, Klepper & Kahl, Inc. (RK&K). Those negotiations have been completed and Board award of the contract to RK&K in the not-to-exceed amount of \$4,100,000.00 is 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

# **AGREEMENT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
RUMMEL, KLEPPER & KAHL, INC.**

**CONSTRUCTION ENGINEERING AND INSPECTION SERVICES  
FOR  
S.R. 429 (WEKIVA PARKWAY) FROM US 441 TO  
NORTH OF PONKAN ROAD  
CONTRACT NO. 001037**

**CONTRACT DATE: DECEMBER 11, 2014  
CONTRACT AMOUNT: \$4,100,000.00**

**AGREEMENT, SCOPE OF SERVICES, METHOD  
OF COMPENSATION, DETAILS OF COSTS AND  
FEES, AND PROJECT ORGANIZATIONAL CHART**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS  
OF COSTS AND FEES AND PROJECT ORGANIZATIONAL CHART**

**FOR**

**S.R. 429 (WEKIVA PARKWAY) FROM US 441 TO NORTH OF PONKAN ROAD**

**CONSTRUCTION ENGINEERING AND INSPECTION SERVICES**

**CONTRACT NO. 001037**

**DECEMBER 2014**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**Members of the Board**

**Welton Cadwell, Chairman**

**Scott Boyd, Vice-Chairman**

**Brenda Carey, Secretary/Treasurer**

**Buddy Dyer, Member**

**Fred Hawkins, Jr., Member**

**Teresa Jacobs, Member**

**Walter A. Ketcham Jr., Member**

**Diane Guitierrez- Scaccetti, Non-Voting Advisor**



## TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>
AG	Agreement
A	Exhibit “A”, Scope of Services
B	Exhibit “B”, Method of Compensation
C	Exhibit “C”, Details of Cost and Fees
D	Exhibit “D”, Project Organization Chart
VR	Vehicle Registration Form

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AGREEMENT FOR CONSTRUCTION ENGINEERING AND INSPECTION SERVICES  
S.R. 429 (WEKIVA PARKWAY) FROM US 441 TO NORTH OF PONKAN ROAD  
CONTRACT NO. 001037**

THIS AGREEMENT, made and entered into this 11<sup>th</sup> day of December, 2014 by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 63-573 Laws of Florida, 1963, (Chapter 348, Part V, Florida Statutes) hereinafter called the “AUTHORITY” and RUMMEL, KLEPPER & KAHL, INC., hereinafter called “CONSULTANT”, carrying on professional practice in engineering with offices located at 3504 Lake Lynda Drive, Suite 165, Orlando, Florida 32817.

That the AUTHORITY did determine that the CONSULTANT is fully qualified to render the services contracted.

WITNESSETH:

1.0           The AUTHORITY does hereby retain the CONSULTANT to furnish Construction Engineering and Inspection (CEI) services required by the AUTHORITY for Contract No. 001037, S.R. 429 (Wekiva Parkway) from US 441 to north of Ponkan Road.

2.0           The CONSULTANT and the AUTHORITY mutually agree to furnish, each to the other, the respective services, information and items as described in Exhibit “A”, Scope of Services, attached hereto and made a part hereof.

Before any additions or deletions to the work described in Exhibit “A”, and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into a Supplemental Amendment covering such modifications and the compensation to be paid therefore.

Reference herein to this Agreement shall be considered to include any Supplemental Agreement thereto.

The AUTHORITY's Director of Construction or his authorized designee shall provide the management and technical direction for this Agreement on behalf of the AUTHORITY. All technical and administrative provisions of this Agreement shall be managed by the Director of Construction and the CONSULTANT shall comply with all of the directives of the Director of Construction that are within the purview of this Agreement. Decisions concerning Agreement amendments and adjustments, such as time extensions and supplemental agreements shall be made by the Director of Construction.

This Agreement is considered a non-exclusive Agreement between the parties.

### 3.0 TERM OF AGREEMENT

Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a five year term from the date of the Notice to Proceed from the Authority. An extension of the five year term may be approved by the AUTHORITY at its sole discretion. For purposes of Exhibit B, Method of Compensation, the term shall be 24 months.

### 4.0 PROJECT SCHEDULE

It shall be the responsibility of the CONSULTANT to ensure at all times that sufficient time remains within the project schedule within which to complete the services on the project. In the event there have been delays which would affect the scheduled project completion date, the CONSULTANT shall submit a written request to the AUTHORITY which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the

delays were concurrent with one another. The AUTHORITY will review the request and make a determination as to granting all or part of the requested extension.

In the event the scheduled project completion date is reached and the CONSULTANT has not requested, or if the AUTHORITY has denied, an extension of the completion date, partial progress payments will be stopped when the scheduled project completion date is met. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by the AUTHORITY.

#### 5.0 PROFESSIONAL STAFF

The CONSULTANT shall maintain an adequate and competent professional staff to enable the CONSULTANT to timely perform under this Agreement. The CONSULTANT shall continue to be authorized to do business within the State of Florida. In the performance of these professional services, the CONSULTANT shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The CONSULTANT shall use due care in performing the required services and shall have due regard for acceptable standards of construction engineering and inspection principles. The CONSULTANT may associate with it such specialists, for the purpose of its services hereunder, without additional cost to the AUTHORITY, other than those costs negotiated within the limits and terms of this Agreement. Should the CONSULTANT desire to utilize specialists, the CONSULTANT shall be fully responsible for satisfactory completion of all subcontracted work. The CONSULTANT, however, shall not sublet, assign or transfer any work under this Agreement to other than the associate consultants listed below without the written consent of the AUTHORITY. It is understood and agreed that the AUTHORITY will not, except for such services so designated herein, permit or

authorize the CONSULTANT to perform less than the total contract work with other than its own organization.

RS&H, Inc.  
Mehta and Associates, Inc.  
Terracon  
AMEC E&I, Inc.

Pi Consulting Services, LLC  
Elipsis Engineering & Consulting, Inc.  
URS Corporation Southern

CONSULTANT shall not further 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.

## 6.0 SERVICES TO BE PROVIDED

The work covered by this Agreement includes providing CEI services for Contract No. 001037 including, but not necessarily limited to, construction of roadways and bridges, signing, roadway lighting, drainage, and utilities.

## 7.0 COMPENSATION

The AUTHORITY agrees to pay the CONSULTANT compensation as detailed in Exhibit "B", Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$4,100,000.00. Bills for fees or other compensation for services or expenses shall be submitted to the AUTHORITY in detail sufficient for a proper pre-audit and post audit thereof.

The CONSULTANT may be liable for AUTHORITY costs resulting from negligent, reckless or intentionally wrongful errors or deficiencies in designs furnished under this Agreement. The AUTHORITY may enforce such liability and collect the amount due if the recoverable cost will exceed the administrative cost involved or is otherwise in the AUTHORITY's best interest.

Records of costs incurred by the CONSULTANT under terms of this Agreement shall be maintained and made available upon request to the AUTHORITY at all times during the period of this Agreement and for three years after final payment is made. Copies of these documents and records shall be furnished to the AUTHORITY upon request. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

Records of costs incurred includes the CONSULTANT's general accounting records and the project records, together with supporting documents and records, of the CONSULTANT and

all subconsultants performing work on the project, and all other records of the CONSULTANT and subconsultants considered necessary by the AUTHORITY for a proper audit of project costs.

The general cost principles and procedures for the negotiation and administration, and the determination or allowance of costs under this Agreement shall be as set forth in the Code of Federal Regulations, Titles 23, 48, 49, and other pertinent Federal and State Regulations, as applicable, with the understanding that there is no conflict between State and Federal regulations in that the more restrictive of the applicable regulations will govern. Whenever travel costs are included in Exhibit "B", the provisions of Section 112.061, Florida Statutes, shall govern as to reimbursable costs.

#### 8.0 COMPLIANCE WITH LAWS

The CONSULTANT shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this contract.

The CONSULTANT shall keep fully informed regarding and shall fully and timely comply with all current laws and future laws that may affect those engaged or employed in the performance of this Agreement.

#### 9.0 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 Exhibit "C", Details of Costs and Fees, supporting the compensation provided in Paragraph 7.0 are accurate, complete and current as of the date of this Agreement. It is further agreed that said price provided in Paragraph 7.0 hereof 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.

#### 10.0 TERMINATION

The AUTHORITY may terminate this Agreement in whole or in part at any time the interest of the AUTHORITY requires such termination.

If the AUTHORITY determines that the performance of the CONSULTANT is not satisfactory, the AUTHORITY shall have the option of (a) immediately terminating the Agreement or (b) notifying the CONSULTANT of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time.

If the AUTHORITY requires termination of the Agreement for reasons other than unsatisfactory performance of the CONSULTANT, the AUTHORITY shall notify the CONSULTANT in writing of such termination, not less than seven (7) calendar days as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

If the AUTHORITY abandons the work or subtracts from the work, suspends, or terminates the Agreement as presently outlined, the CONSULTANT shall be compensated for actual costs, as determined in Exhibit "B", for work performed by the CONSULTANT prior to abandonment or termination of the Agreement. The ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be retained by the AUTHORITY.

The ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be retained by the AUTHORITY.

The AUTHORITY reserves the right to cancel and terminate this Agreement in the event the CONSULTANT or any employee, servant, or agent of the CONSULTANT is indicted or



has a direct information issued against him for any crime arising out of or in conjunction with any work being performed by the CONSULTANT for or on behalf of the AUTHORITY, without penalty.

It is understood and agreed that in the event of such termination, all tracings, plans, specifications, maps, and data prepared or obtained under this Agreement shall immediately be turned over to the AUTHORITY. The CONSULTANT shall be compensated for its services rendered up to the time of any such termination in accordance with Paragraph 7.0 hereof. The AUTHORITY also reserves the right to terminate or cancel this Agreement in the event the CONSULTANT shall be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. The AUTHORITY further reserves the right to suspend the qualifications of the CONSULTANT to do business with the AUTHORITY upon any such indictment or direct information. In the event that any such person against whom any such indictment or direct information is brought shall have such indictment or direct information dismissed or be found not guilty, such suspension on account thereof may be lifted by the AUTHORITY's Director of Construction.

#### 11.0 ADJUSTMENTS

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the Director of Construction who shall decide all questions, difficulties and dispute of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof; and his decision upon all claims, questions and disputes shall be final. Adjustments of compensation and term of the Agreement, 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 Director and Supplemental Agreement(s) of such a nature as required may be entered into by the parties in accordance herewith.

Disputes between the Director of Construction and the CONSULTANT that cannot be resolved shall be referred to the AUTHORITY's Executive Director whose decision shall be final.

In the event that the CONSULTANT and the AUTHORITY are not able to reach an agreement as to the amount of compensation to be paid to the CONSULTANT for supplemental work desired by the AUTHORITY, the CONSULTANT shall be obligated to proceed with the supplemental work in a timely manner for the amount determined by the AUTHORITY to be reasonable. In such event, the CONSULTANT will have the right to file a claim with the AUTHORITY for such additional amounts as the CONSULTANT deems reasonable; however, in no event will the filing of the claim or the resolution or litigation thereof, through administrative procedures or the courts, relieve the CONSULTANT from the obligation to timely perform the supplemental work.

## 12.0 CONTRACT LANGUAGE AND INTERPRETATION

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

If the CONSULTANT discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the CONSULTANT shall immediately notify the AUTHORITY and request clarification of the AUTHORITY's interpretation of this Agreement.

The Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

13.0           HOLD HARMLESS AND INDEMNIFICATION

The CONSULTANT shall indemnify, defend, and hold harmless the AUTHORITY and all of its officers, agents and employees from any claim, loss, damage, cost, charge or expense arising out of any negligent act, error or omission by the CONSULTANT, its agents, employees, or subcontractors during the performance of the Agreement, except that neither the CONSULTANT, its agents, employees nor any of its subconsultants will be liable under this paragraph for any claim, loss, damage, cost, charge or expense arising out of any act, error, omission or negligent act by the AUTHORITY or any of its officers, agents or employees during the performance of the Agreement.

When the AUTHORITY receives a notice of claim for damages that may have been caused by the CONSULTANT in the performance of services required by the CONSULTANT under this Agreement, the AUTHORITY will immediately forward the claim to the CONSULTANT. The CONSULTANT and the AUTHORITY will evaluate the claim and report their findings to each other within seven working days. The AUTHORITY and the CONSULTANT will jointly discuss options in defending the claim. After reviewing the claim, the AUTHORITY will determine whether to require the participation of the CONSULTANT in the defense of the claim or to require that the CONSULTANT defend the AUTHORITY in such claim as described in this section. The AUTHORITY's failure to notify the CONSULTANT of a claim within seven days will not release the CONSULTANT from any of the requirements of this section upon subsequent notification by the AUTHORITY to the CONSULTANT of the claim. The AUTHORITY and the CONSULTANT will pay their own cost for the evaluation, settlement negotiations and trial, if any. However, if only one

party participates in the defense of the claim at trial, that party is responsible for all costs, but if the verdict determines that there is joint responsibility the costs and liability for damages will be shared in the same percentage as that judicially established.

The parties agree that 1% of the total compensation to the CONSULTANT for performance of this Agreement is the specific consideration from the AUTHORITY to the CONSULTANT for the CONSULTANT's indemnity agreement.

The CONSULTANT shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. The CONSULTANT shall, at its expense, hold harmless and defend the AUTHORITY against any claim, suit or proceeding brought against the AUTHORITY which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this Agreement, constitute an infringement of any patent or copyright of the United States. The CONSULTANT shall pay all damages and costs awarded against the AUTHORITY.

#### 14.0 THIRD PARTY BENEFICIARY

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement, and that the 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 Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For the breach or violation of this paragraph, the AUTHORITY shall have the right to terminate this Agreement without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

## 15.0 INSURANCE

The CONSULTANT, at its own expense, shall keep in force and at all times maintain during the term of this Agreement all insurance of the types and to the limits specified herein.

The CONSULTANT shall require and ensure that each of its subconsultants providing services hereunder procures and maintains, until the completion of the services, insurance of the requirements, types and to the limits specified herein. Upon request from the AUTHORITY, the CONSULTANT shall furnish copies of certificates of insurance evidencing coverage of each subconsultant.

The CONSULTANT shall require all insurance policies in any way related to the work and secured and maintained by the CONSULTANT to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against the AUTHORITY. The CONSULTANT shall require of subconsultants, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section. When required by the insurer, or should a policy condition not permit an endorsement, the CONSULTANT agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the CONSULTANT enter into such an agreement on a pre-loss basis. At the CONSULTANT's expense, all limits must be maintained.

15.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately

to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to the AUTHORITY) or the general aggregate limit shall be twice the required occurrence limit. The AUTHORITY shall be listed as an additional insured. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

15.2 Business Automobile Liability coverage shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Each of the above insurance policies shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; (2) The stated limits of liability coverage

for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard “supplementary payments” clause will pay in addition to the applicable limits of liability and that these supplementary payments are not included as part of the insurance policies limits of liability.

15.3 Workers’ Compensation and Employer’s Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer’s Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for bodily injury by disease, and \$500,000 policy limit by disease. The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of the AUTHORITY for all work performed by the CONSULTANT, its employees, agents and subconsultants.

15.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of the AUTHORITY for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

The CONSULTANT shall provide the AUTHORITY with Certificate(s) of Insurance with required endorsements on all the policies of insurance and renewals thereof in a form(s) acceptable to the AUTHORITY. The AUTHORITY shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

All insurance policies shall be issued by responsible companies who are acceptable to the AUTHORITY and licensed to do business under the laws of the State of Florida. Each Insurance company shall minimally have an A.M. Best rating of A-:VII. If requested by the AUTHORITY, the AUTHORITY shall have the right to examine copies and relevant provisions of the insurance policies

required by this Agreement, subject to the appropriate confidentiality provisions to safeguard the proprietary nature of CONSULTANT manuscript policies.

Any deductible or self-insured retention must be declared to and approved by the AUTHORITY. At the option of AUTHORITY, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as requests the AUTHORITY, or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All such insurance required by the CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by the AUTHORITY.

Compliance with these insurance requirements shall not relieve or limit the CONSULTANT's liabilities and obligations under this Agreement. Failure of the AUTHORITY to demand such certificate or evidence of full compliance with these insurance requirements or failure of the AUTHORITY to identify a deficiency from evidence provided will not be construed as a waiver of the CONSULTANT's obligation to maintain such insurance.

The acceptance of delivery by the AUTHORITY of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by the AUTHORITY that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

## 16.0 COMMUNICATIONS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying the



AUTHORITY and securing its consent in writing. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data furnished in compliance with this Agreement, it being understood that, under Paragraph 8.00 hereof, such data or information is the property of the AUTHORITY.

#### 17.0 STANDARD OF CONDUCT

The CONSULTANT 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 this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

The CONSULTANT acknowledges that it has read the AUTHORITY's Code of Ethics and to the extent applicable to the CONSULTANT agrees to abide with such policy.

#### 18.0 DOCUMENTED ALIENS

The CONSULTANT warrants that all persons performing work for the AUTHORITY under this Agreement, regardless of the nature or duration of such work, shall be United States citizens or properly authorized and documented aliens. The CONSULTANT shall comply with all federal, state and local laws and regulations pertaining to the employment of unauthorized or undocumented aliens at all times during the performance of this Agreement and shall indemnify and hold the AUTHORITY harmless for any violations of the same. Furthermore, if the AUTHORITY determines that CONSULTANT has knowingly employed any unauthorized alien in the performance of this Agreement, the AUTHORITY may immediately and unilaterally terminate this Agreement for cause.

## 19.0 CONFLICT OF INTEREST

The CONSULTANT shall not knowingly enter into any other contract with the AUTHORITY during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with the AUTHORITY during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Executive Director for resolution. During the term of this Agreement the CONSULTANT is not eligible to pursue any advertised construction engineering and inspection projects of the AUTHORITY as either a prime or subconsultant where the CONSULTANT participated in the design of the projects. Subconsultants are also ineligible to pursue construction engineering and inspection projects where they participated in the design of the projects.

## 20.0 SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

## 21.0 GOVERNING LAW AND VENUE

This Agreement shall be governed by and constructed in accordance with the laws of the State of Florida. Venue of any judicial proceedings arising out of the Agreement shall be in Orange County, Florida.

22.00

## ATTACHMENTS

Exhibit “A”, Scope of Services

Exhibit “B”, Method of Compensation

Exhibit “C”, Details of Cost and Fees

Exhibit “D”, Project Organization Chart

IN WITNESS WHEREOF, the CONSULTANT and the AUTHORITY have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written. This Contract was awarded by the Authority's Board of Directors at its meeting on December 11, 2014.

**RUMMEL, KLEPPER & KAHL, INC.**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

BY: \_\_\_\_\_  
Authorized Signature

BY: \_\_\_\_\_  
Director of Procurement

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

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

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

ATTEST: \_\_\_\_\_ (Seal)  
Secretary or Notary

Approved as to form and execution, only.

General Counsel for the AUTHORITY

\_\_\_\_\_

**EXHIBIT A**

**SCOPE OF SERVICES**

## **EXHIBIT "A"**

### **SCOPE OF SERVICES**

#### **CONSTRUCTION ENGINEERING AND INSPECTION CONSULTANT**

##### **I.     PURPOSE**

The AUTHORITY requires the assistance of a CONSULTANT to provide construction engineering and inspection services; including but not limited to, contract administration, engineering, inspection, material sampling and testing, claim analysis and evaluation, constructability plan reviews and other services deemed necessary and authorized by the AUTHORITY, for Contract No. 001037, SR 429 (Wekiva Parkway) from US 441 to north of Ponkan Road.

The CONSULTANT shall provide qualified technical and professional personnel to perform the duties and responsibilities assigned under the terms of the Agreement.

The CONSULTANT shall minimize, to the extent possible, the AUTHORITY's need to apply its own resources to assignments authorized by the AUTHORITY. The AUTHORITY, at its option, may elect to expand, reduce or delete the extent of each work element described in this Scope of Services.

There is no guarantee that any or all of the services described in this Scope of Services will be assigned during the term of the Agreement. Further, the CONSULTANT will provide these services on a non-exclusive basis. The AUTHORITY, at its option, may elect to have any of the services performed by other consultants or AUTHORITY staff.

##### **II.    GENERAL REQUIREMENTS**

The CONSULTANT's work shall be performed and/or directed by the key personnel identified in the Agreement. Any changes in the key personnel by the CONSULTANT shall be subject to review and approval by the AUTHORITY.

The CONSULTANT must be prequalified by the Florida Department of Transportation (FDOT) to perform the appropriate work categories established by the FDOT.

##### **III.   BEGINNING AND LENGTH OF SERVICES**

Work shall commence on the date established in the Notice to Proceed and for a period of five (5) years thereafter. For purposes of Exhibit B, Method of Compensation, the term shall be considered 24 months.

#### IV. SERVICES

The CONSULTANT will perform the following tasks in the conduct of the Agreement. The following tasks provide an example of the type of work to be required but are not intended to be all inclusive.

##### A. General

It shall be the responsibility of the CONSULTANT to provide services as necessary to administer the construction contracts in a manner so as to verify that the projects are constructed in conformity with the plans, specifications, contract provisions and within the time allotted by the construction contracts.

The CONSULTANT is expected to pursue its work in such a manner as to cover all major contractor activities and make periodic condition inspections regardless of time of day, or date, or weather conditions.

The CONSULTANT shall advise the AUTHORITY of any omissions, substitutions, defects, or deficiencies noted in the work of the contractor and the corrective action taken. The work provided by the CONSULTANT shall in no way relieve the contractor of responsibility for the satisfactory performance of the construction contract.

##### B. Resident Inspection

The CONSULTANT shall provide services to monitor the contractor's on-site construction operations, and to inspect the materials entering into the work as required to determine that the quality of workmanship and materials is such that the projects will be completed in substantial conformity with the plans, specifications, and other contract provisions, and within the specified contract time. The CONSULTANT shall keep detailed, accurate records of the Contractor's daily operations, progress, and significant events that affect the work.

The standard procedures and practices of the FDOT for inspection of construction projects are set forth in the Department's and Authority's Construction Administration Procedures Manuals. The CONSULTANT shall, in general, perform inspection services in accordance with these standard procedures and practices and approved variations as may be appropriate.

##### C. Testing

The CONSULTANT shall perform sampling and testing of component materials and completed work items to the extent that will verify that the materials and workmanship incorporated in each project are in conformity with the plans, specifications and contract provisions. The minimum sampling frequencies set forth in the FDOT's Materials Sampling, Testing and Reporting Guide

or approved variation shall be met. In complying with the aforementioned guide, the CONSULTANT shall perform the on-site sampling of materials and such testing of materials and completed work items that are normally done in the vicinity of the project.

The CONSULTANT through the services of its subconsultant, will provide off-site inspection and sampling of materials and components incorporated into the work. When applicable the CONSULTANT shall determine the acceptability of all materials and work performed at off-site facilities on the basis of certifications, certified mill analysis, FDOT labels, FDOT stamps, etc.

Sampling, testing and laboratory methods shall be as required by the aforementioned guide or as modified by the contract provisions.

Documentation reports on sampling and testing shall be submitted to responsible parties during the same week that the construction work is done or as otherwise directed by the AUTHORITY's representative.

The CONSULTANT shall be responsible for storing and transporting samples to be tested. The CONSULTANT is responsible for the testing of all concrete production. The CONSULTANT as required by the project documents will provide daily surveillance of the Contractor's Quality Control activities at the project site, and/or site of production in regard to concrete and perform verification sampling and testing at the specified frequency.

The CONSULTANT shall perform all necessary surveillance and inspection of the on-site hot-mix asphalt operations. The CONSULTANT shall provide surveillance and verification sampling and testing at any hot-mix asphalt plant providing mixes to the project.

The CONSULTANT shall perform all necessary surveillance and inspection of the off-site fabrication of steel and/or prestressed structural elements, including bridge beams and sign structures.

#### D. Management Engineering Services

The CONSULTANT shall perform the management engineering services necessary to verify that proper coordination of the activities of all parties involved in accomplishing completion of the projects is achieved; to maintain complete, accurate records of all activities and events relating to the projects; to properly document the significant changes to the projects; to provide interpretations of the plans, specifications and contract provisions; to make recommendations to the AUTHORITY to resolve disputes which arise in relation to the construction contracts; and to maintain an adequate level of surveillance of the contractor's activities. The CONSULTANT shall also perform any other management engineering services normally assigned to a Resident Engineer that are required to fulfill its responsibilities under the Agreement. All records and documentation will be in accordance with standard procedures, format and content, and the policies and procedures of the AUTHORITY.



Services include, but are not limited to the following:

1. At the direction of the AUTHORITY, schedule and conduct a preconstruction conference for each project. Record significant information and decisions made at this conference and distribute copies of these minutes to the appropriate parties.
2. Maintain project files in accordance with the AUTHORITY's methods and utilizing the AUTHORITY's filing system.
3. Receive, review, and recommend acceptance by the Authority of the Contractor's Project Construction Schedule, prepared and submitted in accordance with the Contract Documents.
4. Maintain, on a daily basis, a complete and accurate record of the activities and events relating to the project and a record of the work completed by the contractor, including quantities of pay items in conformity with final estimate preparation procedures and specifications. The CONSULTANT shall immediately report apparent, significant changes in quantity, time, or cost as they are noted.
5. Maintain a roadway and bridge construction diary, including weather.
6. Maintain a log of all materials entering into the work with proper indication of the basis of acceptance of each shipment of material.
7. Maintain records of all sampling and testing accomplished and analyze such records as required to ascertain acceptability of materials and completed work items. Reports for records of work and testing results shall be maintained in the CONSULTANT's files for each individual project.
8. Once each month, prepare a comprehensive tabulation of the quantity of each pay item satisfactorily completed to date. Quantities shall be based on daily records or calculations. Calculations shall be retained. The tabulation will be used for preparation of the monthly progress estimate. The monthly progress estimate will be jointly prepared by the contractor and CONSULTANT. Progress estimates will be submitted to the AUTHORITY for review and processing.

The CONSULTANT shall make and record such measurements as are necessary to calculate and document quantities for pay items; make and record preconstruction and excavated cross section surveys of the project in those areas where earth work (subsoil excavation) will be paid by calculating volumes removed and paid for within authorized limits at contract unit prices specified in the construction contract. The CONSULTANT will perform incidental engineering surveys as may be necessary to carry out the services and to verify and confirm the accuracy of the contractor's survey layout work on an occasional and random basis.

9. Provide to the contractor interpretations of the plans, specifications, and contract provisions. The CONSULTANT shall consult with the AUTHORITY when an interpretation involves complex issues or may have an impact on the cost of performing the work. When warranted, the AUTHORITY may request an interpretation from the Wekiva Parkway Corridor Consultant and/or Design Engineers.
10. Analyze problems that arise on a project and proposals submitted by the contractor and prepare and submit a recommendation to the AUTHORITY.
11. Analyze changes to the plans, specifications, or contract provisions and extra work which appear to be necessary to carry out the intent of the contract when it is determined that a change or extra work is necessary and such work is not within the scope of the original contract.
12. When it is determined that a modification to the original contract for a project is required, due to a necessary change in the character of the work, negotiate prices with the contractor and prepare and submit for approval by the AUTHORITY a finding of facts and request for contract modification in accordance with applicable procedures.
13. In the event that the contractor gives notice, either written or verbal, that he deems certain work to be performed is beyond the scope of the construction contract, and that he intends to claim additional compensation, the CONSULTANT shall maintain accurate force account records of the costs involved in such work. These records shall include manpower and equipment times and materials installed (temporary or permanent) in the portion of the work in dispute.
14. In the event that the contractor submits a claim for additional compensation, analyze the submittal and prepare a written recommendation based on documented facts to the AUTHORITY covering validity and reasonableness of charges, and conduct negotiations leading to recommendations for settlement of the claim. Maintain complete force account and other records of work involved in claims.
15. In the event that the Contractor for a project submits a request for extension of the allowable contract time, analyze the request in accordance with the contract and prepare a written recommendation to the AUTHORITY covering accuracy of statements and the actual effect of delaying factors on completion of controlling work items.
16. Prepare and submit to the AUTHORITY all project close out documentation, including, but not limited to, formal notification of Final Construction Inspection, Final Acceptance; assembled and indexed written guarantees, certifications, operation and maintenance manuals, and similar items required by the Contract Documents; completed project (Final) Quantity Computation Manual, with supporting documentation; a written summary of any outstanding issues, claims and matters affecting the Final Contract close out process; the Final Estimate; one

full size set each from the contractor and the CONSULTANT of the marked As-Built (Record) plans; and similar project close out requirements. This task must be completed within fifteen (15) calendar days after final acceptance of the project by the AUTHORITY. The CONSULTANT is allowed an additional fifteen (15) calendar days to complete indexing and boxing project files, coordination of demobilization of CONSULTANT's property, AUTHORITY's property, and contractor's removal and cleanup of the Resident Engineer's office facilities.

17. Assist the AUTHORITY's representatives in preparing for arbitration hearings or litigation that may occur during the CONSULTANT's contract time in connection with a project covered by the Agreement.

18. Monitor each construction project to the extent necessary to determine whether construction activities violate the requirements of any permits. Notify the contractor of any violations or potential violations and require his immediate resolution of the problem. Violations must be reported to the AUTHORITY immediately.

19. Shop drawing/sample submittals and approvals shall be tracked. Tracking shall include maintaining the status of each submittal as it progresses through review and approval. The CONSULTANT shall actively encourage all reviewers to accomplish reviews promptly. The CONSULTANT will review samples, catalog data, shop drawings, laboratory, shop, and mill tests of materials and equipment, and other data which the contractor is required to submit, only for conformance and compliance with the design concept of the project as set forth by the Contract Documents. Additionally, the AUTHORITY's Wekiva Parkway Corridor Consultant will review and approve structural, life-safety, and unusual or specialty submittals.

20. Provide thorough and complete coordination between the contractor and utility companies to ensure that conflicting utilities are removed, adjusted, or protected in-place in a timely manner to minimize delays to construction operations. Documentation will be maintained in accordance with the project procedures.

21. The CONSULTANT's Resident Engineer will conduct a weekly meeting with the respective contractor, subcontractors, and/or utility companies to review plans, schedules, problems, or other areas of concern. The meeting minutes will be prepared and a copy transmitted to the AUTHORITY within two (2) business days following the meeting.

22. Conduct and document field review of the existing/proposed highway lighting, maintenance of traffic operation during and after normal working hours, weekends, holidays, and during inclement weather. If maintenance of traffic features represent a potential hazard to the public, notify the contractor's representative immediately and verify that corrective action is taken.

23. When needed to prevent delays in contractor's operations, provide the timely analysis of a situation, recommend alternative solutions, prepare any necessary sketches, field data, and other resources required to continue the construction progress.

24. The CONSULTANT shall review the Contractor's baseline CPM Schedule, as well as the Contractor's monthly schedule updates consistent with the requirements of the construction contract. Prepare a detailed As-Built schedule of the contractor's work efforts. Utilizing a minimum of the same activity codes and descriptions listed in the contractor's CPM schedule, the CONSULTANT will prepare an As-Built schedule of the contractor's activities.

## V. PERSONNEL

### A. General Requirements

The CONSULTANT shall provide a sufficient number of qualified personnel as necessary to effectively carry out its responsibilities under the Agreement.

### B. Personnel Qualifications

The CONSULTANT shall utilize only competent personnel who are qualified by education, experience, and certification where required. The CONSULTANT shall submit in writing to the AUTHORITY the names of all personnel to be considered for assignment to the construction projects, together with a detailed resume with respect to salary, education, experience qualifications of each individual, and certifications. Minimum qualifications for the CONSULTANT's Resident Engineer and key staff members are defined in Paragraph "E" of this Article.

The CONSULTANT's personnel approval request shall be submitted at least two (2) weeks prior to the date an individual is to report to work.

### C. Staffing

The CONSULTANT shall adequately staff the project and shall maintain an appropriate staff after completion of construction to complete the final project closeout. Responsible personnel, thoroughly familiar with all aspects of construction and measurement of the various pay items, shall be available to resolve disputed final pay quantities until the respective contract has been closed out. The qualifications of each person proposed for assignment must be reviewed and approved in writing by the AUTHORITY. An individual previously approved by the AUTHORITY whose performance is later determined by the AUTHORITY to be unsatisfactory shall be replaced by the CONSULTANT within one (1) week after notification.

Personnel identified in the CONSULTANT's fee proposal will be assigned to the construction projects as proposed by the CONSULTANT and are considered by the AUTHORITY to be committed to performing services under the CONSULTANT's Agreement. Any changes will require written approval of the AUTHORITY.

When the contractor's operations on a project diminish, the CONSULTANT shall reduce the number of its personnel assigned to that project, as appropriate. Any adjustment of the CONSULTANT forces as recommended by the AUTHORITY will be accomplished within one (1) week after notification.

In the event of a construction contract suspension which requires the removal of CONSULTANT forces from the project, the CONSULTANT will be allowed up to a maximum of ten (10) days to demobilize, relocate, or terminate such forces.

D. Licensing for Equipment Operation

The CONSULTANT will be responsible for obtaining proper licenses for equipment and personnel operating equipment when licenses are required. Licensing of surface moisture/density (nuclear) gauges shall be obtained through the State of Florida Department of Health, Bureau of Radiation Control, Radio Active Materials Section. Only nuclear density inspectors approved by the FDOT shall be authorized to operate surface moisture/density gauges.

E. Personnel Training and Experience Standards

The following are the minimum training and experience standards for CONSULTANT personnel.

1. Resident Engineer/Sr. Project Engineer

Registration by the Florida State Board of Engineer Examiners as a Professional Engineer and ten (10) years of highway construction engineering experience. Experience shall include at least five (5) years of major bridge construction and at least five (5) years of roadway construction. Qualifications include the ability to communicate effectively and actively direct a highly complex and specialized construction engineering administration and inspection program; plan and organize the work of subordinate staff members; consult with the AUTHORITY's Director of Construction and his staff; develop and review policies, methods, practices and procedures; review the program for conformity with FDOT standards and as amended by the AUTHORITY. The Resident Engineer must be able to interpret and monitor scheduled construction progress; must be qualified to manage field changes, change orders, claims and public complaints.

2. Project Engineer/Project Administrator

A Civil Engineering Degree plus six (6) years of highway construction engineering experience; or ten (10) years of responsible highway construction engineering experience. Experience shall include at least two (2) years of major bridge construction. Receives general instruction regarding assignments and is expected to exercise initiative and independent judgment in solution of work problems. Directs and assigns specific tasks to inspectors and assistants for all phases of the construction project. A master's degree may be substituted for one (1) year of experience.

3. Office Engineer/Contract Support Specialist

High school graduate plus five (5) years construction project related experience. Should exercise independent judgment in planning work details and making technical decisions related to office aspects of the project. Receives general supervision and verbal instructions from Resident Engineer. Must be able to interpret project drawings and technical specifications, organize and summarize construction quantities, and perform computer data entry. Must have technical skill to maintain As-Built (record) drawings.

4. Senior Inspector (Roadway/Bridge)

High School graduate plus eight (8) years of experience in construction inspection (four (4) years of which shall have been in roadway/bridge construction). Responsible for performing highly complex technical assignments in field surveying and construction layout, making and checking engineering computations, inspecting construction work and conducting field tests. Work is performed under general supervision of Project Engineer.

VI. ITEMS TO BE FURNISHED BY THE AUTHORITY TO THE CONSULTANT

The following printed documents, facilities, equipment and services are furnished by the AUTHORITY, either directly or as provided by the Contractor on selected construction projects.

- A. Project Construction Contract.
- B. Project Construction (Design) Drawings.
- C. Project Supplemental Specifications.
- D. Project Special Provisions.
- E. R.O.W. Drawings, geotechnical reports, permits and similar documents.

The CONSULTANT will be kept advised of project prebid and postbid activities. Upon confirmation of award of the construction contract and scheduled start of construction, the CONSULTANT shall be ready to assign personnel within two weeks after the AUTHORITY's notification to the CONSULTANT to begin CEI services. No personnel shall be assigned until written notification has been issued.

Construction Engineering and Inspection forces will generally be required of the CONSULTANT at all times while the contractor is working on the construction contract where traffic is being or could be impacted. The Resident Engineer will designate his responsible alternate at times he may be absent from the project. If the construction contract is suspended, or the work is slowed for any reason, the CONSULTANT's forces will be adjusted at the direction of the AUTHORITY.

#### IX. COOPERATION AND PERFORMANCE OF THE CONSULTANT

During the life of the Agreement, the AUTHORITY may conduct reviews of the various phases and stages of the CONSULTANT's operations, such as construction inspection, materials sampling and testing, and administrative activities.

Reviews will be conducted in accordance with established AUTHORITY policies on work phases to determine compliance with this agreement, and the sufficiency with which procedures are being effectively applied to verify that the construction work and administration activities are performed in reasonable conformity with policies, plans, specifications, and contract provisions. The CONSULTANT shall cooperate and assist the AUTHORITY's representative in the conduct of the reviews.

When deficiencies are indicated in a review, remedial action shall be immediately implemented by the CONSULTANT in conformance with the AUTHORITY's recommendations. The AUTHORITY's remedial recommendations and the CONSULTANT's actions will be documented by the AUTHORITY. In general, remedial action shall be required commensurate with the degree and nature of the deficiencies cited. Additional compensation shall not be allowed for remedial action taken to correct deficiencies by the CONSULTANT. Remedial actions may include any or all of, but are not necessarily limited to, the following actions:

- A. Further subdivide assigned inspection responsibilities, re-assign inspection personnel or assign additional inspection personnel. The CONSULTANT will comply with this action within forty-eight (48) hours of notification.
- B. Replace personnel whose performance has been determined by the AUTHORITY to be inadequate.

- C. Increase the frequency of the project control testing immediately in the appropriate phase of work when such is the responsibility of the CONSULTANT.
- D. Increase the scope and frequency of training conducted by the CONSULTANT.

X. SUBCONSULTANT SERVICES

Services assigned to subconsultants must be approved in advance by the AUTHORITY in accordance with the Contract requirements. The subconsultants must be qualified by the AUTHORITY to perform all work assigned to them.

In the event services of a subconsultant are authorized, the CONSULTANT shall obtain a schedule of rates and the AUTHORITY shall review and must approve any rates to be paid to the subconsultant. No subconsultant shall be added without the prior written authorization of the Director of Construction. No subconsultant shall be added with projected fees over \$25,000.00 without documented prior authorization of the Authority Board.

XI. OTHER SERVICES

The CONSULTANT will, upon written authorization by the AUTHORITY, perform any additional services not otherwise identified in the Agreement as may be required in connection with the project. The following items are not included as part of the Agreement, but may be required to supplement the CONSULTANT's services under the Agreement.

- A. The CONSULTANT will, upon review, approval, and written authorization by the AUTHORITY, make such changes and revisions to the plans and specifications as may be required in order to complete the construction activities.
- B. The CONSULTANT will, upon written request by the AUTHORITY, provide qualified engineers and/or engineering technicians to serve as engineering witnesses, provide exhibits, and otherwise assist in any litigation or hearings in connection with the construction contract(s).

XII. POST CONSTRUCTION CLAIMS REVIEW

In the event the contractor for the project submits a claim for additional compensation and/or time, and the CONSULTANT has completed the terms of its Agreement with the AUTHORITY, the CONSULTANT shall, at the written request from the AUTHORITY, analyze the claim, prepare a recommendation to the AUTHORITY covering validity and reasonableness of charges and/or assist in negotiations leading to settlement of the claim. Compensation will be separately reimbursed by a supplement to the Agreement.

END OF SCOPE



## **EXHIBIT B**

### **METHOD OF COMPENSATION**

**EXHIBIT "B"**  
**METHOD OF COMPENSATION**

**Central Florida Expressway Authority**  
**Project No. 429-202**  
**Contract No. 001037**

**1.0 PURPOSE**

This Exhibit defines the method and limits of compensation to be made to the CONSULTANT for the services described in **Exhibit "A"** (Scope of Service) and method by which payments shall be made.

**2.0 COMPENSATION**

For satisfactory completion of all services detailed in **Exhibit "A"** (Scope of Services) of this Agreement, the AUTHORITY will pay the CONSULTANT a Total Maximum Limiting Amount not to exceed \$4,100,000.00. It is agreed that this amount will be the limit of all compensation due the CONSULTANT for completion of the services identified in **Exhibit "A"** and quantified in **Exhibit "C"**.

**2.1 SUMMARY OF COMPENSATION**

The Total Maximum Limiting Amount will consist of the following:

- Salary Related Costs (Limiting Amount) (Field Services) A limiting amount for salary related costs including salary and wages for "straight time", "straight overtime", and applicable administrative overhead and payroll burden costs. (This will include reimbursement for premium overtime only for those firms that account for this expense as part of their contract overhead.) The amounts for the Consultant and Sub-Consultant is as follows:

	\$ 2,973,660.56
--	-----------------

- Premium Overtime (Limiting Amount) Compensation for premium overtime costs are provided only for firms that do not account reimbursement through their overhead rate (at the time of execution of this contract) or for firms that have had their field overhead rate capped at 120% or for firms that allocate this to the FDOT direct expense rate because such rate is not reimbursed as part of this contract.

	\$ 19,600.16
--	--------------

- Fixed Fee/Operating Margin.(Field Services )

RK&K (Lump Sum)	\$ 268,950.35
Sub-Consultants (Limiting Amount)	\$ 87,888.92

- Direct Project Expenses (As Identified)

Office Setup and Rent (Allowance)	\$ 95,621.03
Office Supplies, Utilities, Tools, Equip, Furniture (Lump Sum)	\$ 90,142.73
Vehicles, Operating Costs, Tolls and Mobile Communications (Limiting Amount) (Billed Hourly for each vehicle-phone combination up to a max. 165 hrs. per month of vehicle presence on the jobsite.)	\$ 225,079.01
RK&K – Mgmt. & Insp.	\$6.06
RK&K – Sub	\$0.32
CDM	\$6.68
RS&H	\$6.48
PiCS	\$6.42

A limiting amount for Subconsultants for Engineering, Off-Site Plant Inspection, Geotechnical, Material Testing, and Surveying Services.

(Testing Services) Elipsis	\$ 40,033.25
(Plant & Precast) Elipsis	\$ 50,050.00
(PDA Services) URS	\$ 140,268.46
(Offsite Steel Fab.) AMEC	\$ 75,007.55
(Survey Services) Mehta	\$ 10,264.80

Contingency (Allowance) The parties recognize that: final construction project durations have not been firmly established; no escalation of salaries has been included; and that bids have not yet been received that establish the value of construction, and therefore have included a contingency to be expended at the sole discretion and prior authorization of the Authority

Contingency (Allowance)	\$ 23,433.18
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## 2.2 DETAILS OF COMPENSATION

### LUMP SUM AMOUNTS

#### Project Expenses (Lump Sum)

The CONSULTANT will receive monthly progress payments as follows: Month 1 @ \$18,028.55, Months 2 – 23 will be paid in equal installments of \$3,135.40 per month and Month 24 will be paid @ \$3,135.38. Unless otherwise agreed upon by the Authority, project expenses will be paid beginning on the 1<sup>st</sup> month the Consultant's field office for this project is established and operational.

#### Operating Margin (Lump Sum)

The CONSULTANT will receive progress payments based on a percentage determined from the ratio of "salary costs to date" divided by the corresponding "salary costs (limiting amount)". Any unbilled lump sum amount, provided project is completed to the satisfaction of the Authority, will be made on final billing.

- F. Copy of the original plan quantities project computation manual.
- G. AUTHORITY Construction Project Administration Procedures.
- H. AUTHORITY standardized forms to be used with documentation and reporting procedures.

It is the intent of the AUTHORITY to provide sufficient office space to accommodate the CONSULTANT's staff during the duration of the assigned construction projects. However, if the AUTHORITY is unable to provide space at any time during the term of the Agreement, the CONSULTANT shall secure the necessary office space to effectively carry out the requirements of this Scope of Services. The AUTHORITY will reimburse the CONSULTANT for such office expenses based on costs and fees as provided in the Method of Compensation.

#### VII. ITEMS TO BE FURNISHED BY THE CONSULTANT

The CONSULTANT shall furnish the quantity of the following items required to effectively perform the work and services required. Except as stated herein, these items are considered normal and incidental to the type of services provided and will not be reimbursed by the AUTHORITY.

- A. FDOT Standard Specifications for Road and Bridge Construction, 2014 edition.
- B. FDOT Roadway and Traffic Design Standards, 2014 edition.
- C. FDOT Structures Design Standards, current edition.
- D. FDOT Construction Manual, current edition.
- E. FDOT Materials Sampling, Testing and Reporting Guide, current edition.
- F. FDOT Qualified Products Listing, current edition.
- G. FDOT Utility Accommodation Guide, current edition.
- H. FDOT Inspection-In-Depth of the Materials and Construction Control Process Manual, current edition.
- I. FDOT Basis of Estimates and Computation Manual, current edition.
- J. FDOT Sample Computation Manual, Final Estimate Preparation Short Course, and Carter Key Manual, current edition.

- K. FDOT Guidelines for Determination of Compliance with Equal Employment Opportunity Policies, current edition.
- L. Testing and sampling supplies such as disposable molds for casting concrete cylinders, sample cartons, sample bags, sample cans and other expendable type testing supplies.
- M. Testing and sampling equipment, tools, hand levels, measuring wheels, tapes, rules, protective and warning equipment, and all other required devices to effectively perform the services of testing, sampling, inspection and measurement of the project.
- N. Miscellaneous office supplies and accommodations, such as stationery, rubber stamps, engineering rules, pads, pens, daily diaries, survey books, staplers, punches, electronic calculators, adding machines, tape recorder, mail box, postal fees, and any other items necessary to maintain an office.
- O. Project vehicles for AUTHORITY related business. Documentation of mileage for Authority related business will be required.
- P. Project telephones and services, including long distance charges.
- Q. Surface moisture/density (nuclear) gauges, CEI personnel qualification and registration fees, licenses, personnel badges, safety restrictions, carrying lockers, and security systems.
- R. Progress photographs, videos, project claim documentation, and expenditures directed by the AUTHORITY's representatives.
- S. Applicable software to calculate Monthly Project Progress Estimates in a format acceptable to the AUTHORITY and all other software packages determined by the AUTHORITY to be essential to the execution of the Agreement.
- T. Any additional equipment and furnishings considered by the CONSULTANT to perform the required services are optional to the CONSULTANT, at his expense.

#### VIII. LIAISON

The CONSULTANT shall be fully responsible for performing all tasks assigned under this Scope of Services and interrelated documents on the construction project. All activities and decisions of the CONSULTANT relating to the projects shall be subject to review and approval by the AUTHORITY. The CONSULTANT shall provide and maintain close coordination and support of all activities, correspondence, documentation, reports and other communication related to construction progress, delays, changes, claims, and significant events, whereby the AUTHORITY may carry out its responsibilities.

## LIMITING AMOUNT ELEMENTS

For the following elements which are established as limiting amounts, the AUTHORITY will compensate the CONSULTANT for all reasonable, allocable and allowable costs incurred in the categories defined below. The reasonableness, allocability and allowability of compensation sought under this Agreement are expressly made subject to the terms of this Agreement; Federal Acquisition Regulations; Office of Management and Budget Circulars A-21, A-87, A-102, A-110; and any pertinent Federal and State law.

### Salary Related Costs (Limiting Amount)

Subject to the established limiting amounts, the CONSULTANT will receive progress payments for direct salaries and wages for actual time expended by personnel in the performance of authorized work during the billing period at their actual salary rates or such lower rate as determined in the detail of cost and fees, or as limited by the Authority.

Direct salaries and wages include both straight time payments and all overtime payments made to an employee based on a forty-hour (40) work week. The AUTHORITY requires that project hours worked by the Resident Engineer, Project Engineer, and Engineer of Administrative Services (Contract Support Specialist and Contract Administrator) be worked during normal business hours, i.e., between 7:00 am and 6:00 pm Monday through Friday. AUTHORITY shall not pay CONSULTANT for hours worked by these employees outside of normal business hours unless either: (1) documented project conditions made such work outside of normal business hours necessary; or, (2) said CONSULTANT employees obtained prior written permission from the AUTHORITY to work outside of normal business hours.

Overtime costs will be divided into straight overtime and premium overtime costs. Straight overtime cost is the portion of overtime compensation paid to an employee at the regular hourly rate. Premium overtime cost is the portion of overtime compensation paid in excess of the regular hourly rate. Straight overtime and premium overtime may be authorized for Senior Inspectors, Inspectors and Inspector's Aides only; as well as field engineers (PDA), and technicians.

Administrative overhead and fringe benefit costs will be applied to approved straight time salary and wage costs as shown in **Exhibit "C."** Straight time is the amount paid an employee excluding any premium overtime costs.

### Sub-consultant Inspection, Engineering, Material Testing, and Environmental Services (Limiting Amount)

Subject to the established limiting amount, the CONSULTANT will be compensated for these services based upon the billing rates as provided in **Exhibit "C."**

## ALLOWANCE AMOUNT ELEMENTS

### Contingency (Allowance Amount)

Subject to prior task approval from the Authority and the established allowance amount, the CONSULTANT will be compensated for these services based upon rates agreed to prior to the performance of the task.

### **3.0 INVOICING PROCEDURE**

The CONSULTANT will be eligible for progress payments under this Contract at intervals not less than monthly.

Invoices for this agreement will be prepared by the CONSULTANT in the form and quantity acceptable to the AUTHORITY. The CONSULTANT will maintain for this purpose a job cost accounting system that is acceptable to the AUTHORITY. If required by the AUTHORITY, the final invoice for this agreement will be accompanied by a certified job cost summary report generated by the accounting system.

### **4.0 RATE ESCALATION PROVISION**

The Contract does not contain any rate escalation provision. Unless otherwise agreed to by the Authority, the established billable rates of compensation shall remain in force throughout the term of the Contract. However, the Authority will review pertinent published relevant cost / price indexes and market conditions in December of each year to determine if an increase is appropriate. Likewise, if it is apparent that a given negotiated rate is not serving the intended purpose, renegotiations of that rate may occur if both parties agree to do so.

END OF SECTION

**EXHIBIT C**

**DETAILS OF COSTS AND FEES**



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
CEI CONSULTANT WORK AND FEE ESTIMATE

CEI CONTRACT NO. 001037

CFX PROJECT NO. 429-202



**Project Summary**

Contractual Role	Firm	Services	Total	Page
PRIME	RK&K	Construction Engineering & Inspection	\$ 2,860,605.69	
Subconsultant 1	CDM Smith	Inspection Services	\$ 90,764.36	
Subconsultant 2	RS&H	Inspection Services	\$ 82,320.48	
Subconsultant 3	PiCS*	Inspection Services	\$ 701,394.12	
Subconsultant 4	PSI	Contingency - Remediation Services	\$ 25,858.10	
Subconsultant 5	URS	Geotechnical Engineering Services	\$ 140,268.46	
Subconsultant 6	Terracon/Nodarse	Precast Plant Inspect Services & bkup Asphalt	\$ -	
Subconsultant 7	Elipsis*	Laboratory & Asphalt Plant Services	\$ 90,083.25	
Subconsultant 8	AMEC	Steel Fabrication Inspection	\$ 75,007.55	
Subconsultant 9	Mehta*	Survey Services	\$ 10,264.80	

Total \$ 4,076,566.82

DBE\* \$ 801,742.17  
20%

Construction Budget \$ 61,000,000.00  
Total Construction N/A at this time

Percent CEI of Construction 6.68%

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
CEI CONSULTANT WORK AND FEE ESTIMATE



CEI CONTRACT NO 001037

Method of Compensation

Salary Related costs	Field Inspection				<b>\$ 2,973,660.56</b>
		RK&K	\$	2,241,252.95	
		CDM Smith	\$	72,056.66	
		RS&H	\$	65,862.72	
		PICS*	\$	571,400.63	
		PSI	\$	23,087.59	
		URS			see limiting amount offsite engineering below
		Terracon/Nodarse			see limiting amount offsite engineering below
		AMEC			see limiting amount offsite engineering below
		Mehta*			see limiting amount offsite engineering below

Premium OT					<b>\$ 19,600.16</b>
		RK&K	\$	18,357.77	
		CDM Smith	\$	1,242.39	
		RS&H	\$	-	
		PICS*	\$	-	
		PSI	\$	-	
					see limiting amount offsite engineering below

Operating Margin		Total	\$	<b>356,839.28</b>	
		Subconsultants only	\$	<b>87,888.92</b>	
		RK&K	\$	268,950.35	
		CDM Smith	\$	8,646.80	
		RS&H	\$	7,903.53	
		PICS*	\$	68,588.08	
		PSI	\$	2,770.51	
		URS			see limiting amount offsite engineering below
		Terracon/Nodarse			see limiting amount offsite engineering below
		AMEC			see limiting amount offsite engineering below
		Mehta*			see limiting amount offsite engineering below

	No. Months	Rate	Total LS (exp)	\$90,142.73	excludes billable expense and office contingency
Direct Expense Reimbursement	Month 1 (20% mob)	1 \$ 18,028.55	\$ 18,028.55	check	
	Months 2 to 24	23 \$ 3,135.40	\$ 72,114.18	\$ 90,142.73	\$ -

Vehicle / Mobile Communications	hourly rate of reimbursement		Hrly Rate	
		RK&K Mgt	\$39,775.28	
		RK&K Sr. Insp.	\$ 6.06 \$65,296.45	
		RK&K Insp/Aide	\$37,268.63	
		RK&K Sub	\$ 0.32 \$3,940.50	
		CDM	\$6.68 \$8,818.51	
		RSH	\$6.48 \$8,554.23	
		PICS	\$6.42 \$61,425.41	
		Total	<b>\$225,079.01</b>	

Office Setup and Rent (allowance) **\$95,621.03**

Offsite Plant Inspection and Testing, Geotech and Survey **\$ 315,624.06**

1 Testing	Elipsis	\$40,033.25
2 Plant/Precast	Elipsis	\$ 50,050.00
PDA	URS	\$ 140,268.46
Offsite Steel fab	AMEC	\$ 75,007.55
Survey	Mehta	\$ 10,264.80

1 and 2 above invoice per System Wide Ardaman

Summary of Above

Salary	\$ 2,973,660.56
Premium OT	\$ 19,600.16
Op Margin	\$ 356,839.28
RKK	\$ 268,950.35
Subs	\$ 87,888.92
Office Setup	\$95,621.03
Direct Expenses	\$90,142.73
Vehicles/mobiles	\$225,079.01

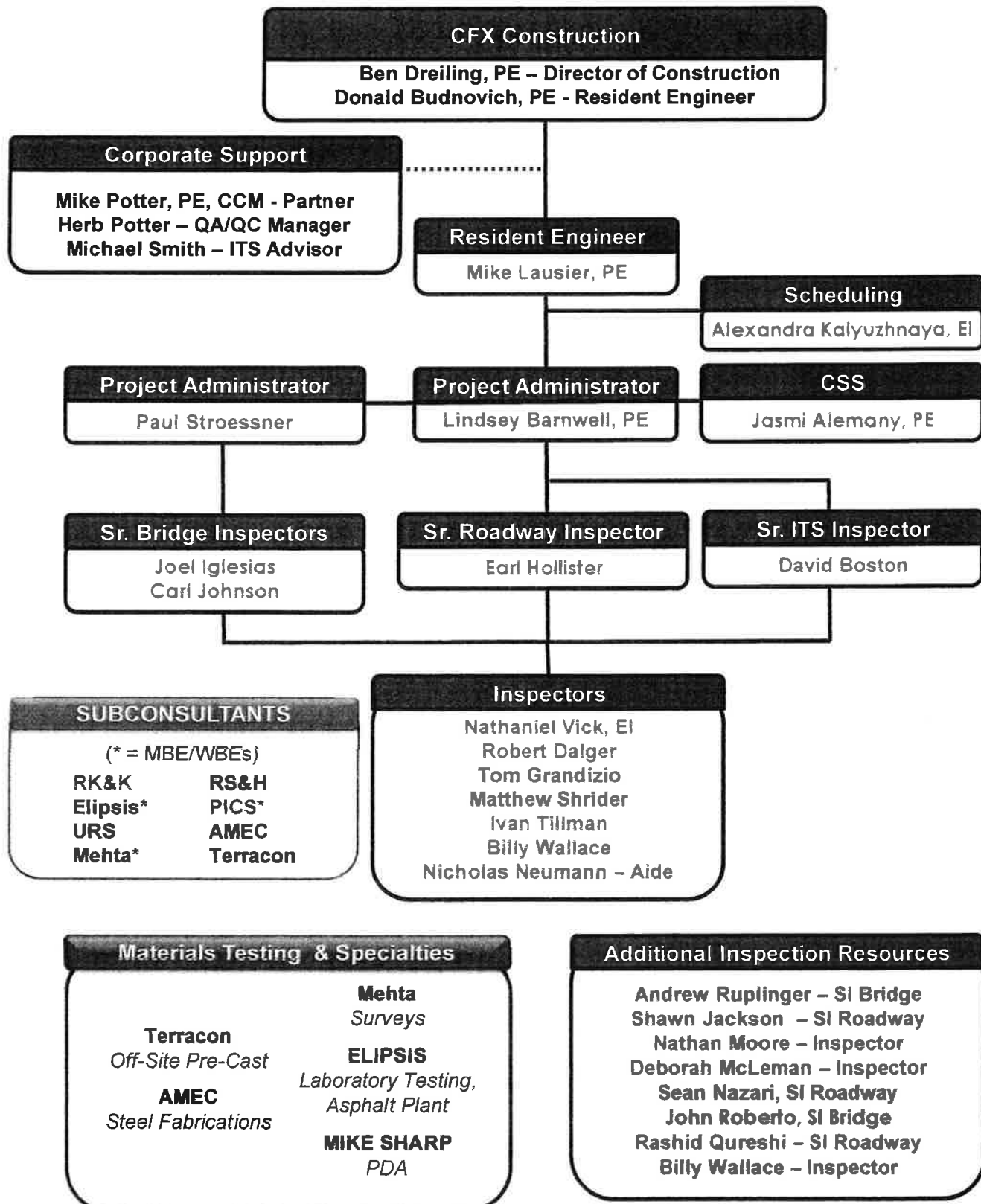
Limiting offsite Eng	\$ 315,624.06
Laboratory Testing	\$ 40,033.25
Asphalt & Precast Plant offsite	\$ 50,050.00
URS/PDA	\$ 140,268.46
AMEC	\$ 75,007.55
Echezabal	\$ 10,264.80

Subtotal	\$ 4,076,566.82	check to project summary	\$ 4,076,566.82	\$ -
Contingencies	\$ 23,433.18			
Total	<b>\$ 4,100,000.00</b>			

**EXHIBIT D**

**PROJECT ORGANIZATIONAL CHART**

Exhibit D  
Project Organizational Chart



CENTRAL FLORIDA EXPRESSWAY AUTHORITY

VEHICLE REGISTRATION

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

BEFORE ME, this day, personally appeared \_\_\_\_\_,  
(Contractor's Name)

who says that all of the vehicles operated or caused to be operated by said Contractor, are registered in the State of Florida, in accordance with Section 337.11(13) F.S. (2013).

\_\_\_\_\_  
(Contractor's Signature)

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

Position: \_\_\_\_\_

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

Company Address: \_\_\_\_\_

\_\_\_\_\_

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

VEHICLE REGISTRATION

\*\*\*\*\*

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ by  
(Date)

\_\_\_\_\_,  
(Name of Officer or agent, title of officer or agent)

of \_\_\_\_\_, a  
(Name of Corporation acknowledging)

\_\_\_\_\_ corporation, on behalf of the corporation. He/she is  
(State or place of incorporation)

personally known to me or has produced \_\_\_\_\_  
(Type of identification)

as identification and did (did not) take an oath.

\_\_\_\_\_ Notary Public, Commission No.

\_\_\_\_\_ (Name of Notary typed, printed or stamped)

Title or Type of Document \_\_\_\_\_ (Optional)

Number of Pages \_\_\_\_\_ Date of Document \_\_\_\_\_ (Optional)

Signer(s) Other than Named Above \_\_\_\_\_ (Optional)

**(SEAL ABOVE)**


# **CONSENT AGENDA ITEM**

**#3**

# 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: November 25, 2014

RE: Consent Agenda Item  
Construction Contract Modifications

Authorization is requested to execute the following Construction Contract Modification. Supporting detailed information for the proposed Construction Contract Modification is attached.

Contract No.	Name	Contract Description	Original Contract Amount (\$)	Previous Authorized Adjustments (\$)	Requested (\$) December 2014	Total Amount (\$) to Date*	Time Increase or Decrease
417-110	Masci General Contractor, Inc.	SR 417 Widening from Curry Ford to Lake Underhill	10,109,586.09	143,249.06	15,494.17	10,268,329.32	0
TOTAL						\$15,494.17	

\* Includes Requested Amount for current month.

BD/ek

cc: Joe Berenis, P.E.



The following is a proposed Construction Contract Modification along with the detailed information:

**Contract 417-110: SR 417 Widening from Curry Ford to Lake Underhill**  
**Masci General Contractor, Inc.**  
**SA 417-110-1214-003**

Emergency Roadway Repair for Base Failure on 8/16/14

This change is requested by the Authority. Emergency roadway repairs were necessary due to base failures caused by high moisture content in the existing base and subgrade materials in the outside shoulder on northbound SR 417 from STA 400+00 to 401+50 which is carrying traffic in a temporary configuration in accordance with the traffic control plans. The scope of work under this contract includes only milling and resurfacing in the existing lanes and overbuild on the existing shoulder. Due to high moisture content in the existing base and subgrade, the existing base failed causing subsequent pavement failure in the new pavement following the milling and resurfacing operations in this area. Emergency repairs were made as directed by the CEI in a manner attempting to minimize the overall impact to Expressway customers. Permanent repairs included fully removing the base material and a portion of the compromised subgrade material and replacing with aggregate base and asphalt.

ADD THE FOLLOWING ITEM:

Emergency Roadway Repairs on 8/16/14	\$ 15,494.17
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**TOTAL AMOUNT FOR PROJECT 417-110**

**\$ 15,494.17**

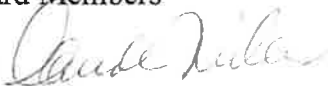
# **CONSENT AGENDA ITEM**

**#4**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: November 25, 2014

RE: Renewal of Contract No. 000820 with  
Atkins North America, Inc., for  
General Engineering Consultant Services

Board approval is requested for the third renewal of the referenced contract with Atkins North America, Inc., for a one year period, beginning May 16, 2015, and ending on May 15, 2016, in the not-to-exceed amount of \$5,125,000.00. The budget for the renewal period is attached to the draft renewal agreement.

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations, Construction and Maintenance  
Laura Kelley, Deputy Executive Director, Administration  
Glenn Pressimone, Director of Engineering  
Contract File

Central Florida Expressway Authority  
CONTRACT RENEWAL AGREEMENT NO. 3  
CONTRACT NO. 000820

THIS CONTRACT RENEWAL AGREEMENT NO. 3 (the "Renewal Agreement"), made and entered into this 11<sup>th</sup> day of December, 2014, by and between the Central Florida Expressway Authority, hereinafter called "Authority" and Atkins North America, Inc., hereinafter called the "Consultant"

WITNESSETH

WHEREAS, the Authority and the Consultant entered into a Contract Agreement (the "Original Agreement") dated May 15, 2008, whereby the Authority retained the Consultant to perform General Engineering Consultant services; and

WHEREAS, pursuant to Article 3.00 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 third renewal of said Original Agreement beginning the 16<sup>th</sup> day of May 2015 and ending the 15<sup>th</sup> day of May 2016, at the cost of \$5,125,000.00, which amount restates the amount of the Original Agreement.

Consultant states that, upon its receipt and acceptance of Final Payment for Services rendered under the Second Renewal of the Original Agreement ending May 15, 2015, the Consultant shall execute a 'Certificate of Completion of the Second Renewal of the Original Agreement and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the Second Renewal of the Original Agreement ending May 15, 2015.

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.

IN WITNESS WHEREOF, the parties have executed this Renewal Agreement by their duly authorized officers on the day, month and year set forth above.

ATKINS NORTH AMERICA, INC.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY: \_\_\_\_\_  
Authorized Signature

BY: \_\_\_\_\_  
Director of Procurement

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

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

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

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

LEGAL APPROVAL: \_\_\_\_\_  
AS TO FORM                      General Counsel for the Authority

**Atkins- General Engineering Consultant Services  
OOCEA Contract No. 000820**

<b>Activity</b>	<b>Proposed May 2015 - May 2016</b>
<b>Bond Covenant Services Support</b>	<b>\$165,000</b>
<b>Engineering / Design Support</b>	<b>\$520,000</b>
<b>Planning Support</b>	<b>\$570,000</b>
<b>Tolls Support</b>	<b>\$95,000</b>
<b>Expressway Operation Support</b>	<b>\$775,000</b>
<b>Maintenance Support</b>	<b>\$65,000</b>
<b>General Program Support</b>	<b>\$435,000</b>
<b>Work Plan Support</b>	<b>\$2,500,000</b>
<b>Total</b>	<b>\$5,125,000.00</b>

Orlando-Orange County Expressway Authority  
CONTRACT RENEWAL AGREEMENT  
CONTRACT NO. 000820

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 12<sup>th</sup> day of December, 2013, by and between the Orlando-Orange County Expressway Authority, hereinafter called "Authority" and Atkins North America, Inc., hereinafter called the "Consultant"

WITNESSETH

WHEREAS, the Authority and the Consultant entered into a Contract Agreement (the "Original Agreement") dated May 15, 2008, whereby the Authority retained the Consultant to perform General Engineering Consultant services; and

WHEREAS, pursuant to Article 3.00 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 second renewal of said Original Agreement beginning the 16<sup>th</sup> day of May 2014 and ending the 15<sup>th</sup> day of May 2015, at the cost of \$5,230,000.00, which amount restates the amount of the Original Agreement.

Consultant states that, upon its receipt and acceptance of Final Payment for Services rendered under the First Renewal of the Original Agreement ending May 15, 2014, the Consultant shall execute a 'Certificate of Completion of the First Renewal of the Original Agreement and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the First Renewal of the Original Agreement ending May 15, 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.

IN WITNESS WHEREOF, the parties have executed this Renewal Agreement by their duly authorized officers on the day, month and year set forth above.

ATKINS NORTH AMERICA, INC.

BY: Thomas F Barry Jr

Authorized Signature

THOMAS F. BARRY, JR.  
Print Name

Title: SR. VICE PRESIDENT

ORLANDO-ORANGE COUNTY EXPRESSWAY  
AUTHORITY

BY: Paul Miller

Director of Procurement

Witness (1) Nancy A. Smith

Witness (2) Doreen Alger

LEGAL APPROVAL:  
AS TO FORM

Joseph J. Lassiter  
General Counsel for the Authority

<b>Atkins- General Engineering Consultant Services</b> <b>OOCEA Contract No. 000820</b>		
<b>Activity</b>	<b>Proposed May 2014- May 2015</b>	
<b>Bond Covenant Services Support</b>	<b>\$160,000</b>	
<b>Engineering / Design Support</b>	<b>\$500,000</b>	
<b>Planning Support</b>	<b>\$550,000</b>	
<b>Tolls Support</b>	<b>\$90,000</b>	
<b>Expressway Operation Support</b>	<b>\$750,000</b>	
<b>Maintenance Support</b>	<b>\$60,000</b>	
<b>General Program Support</b>	<b>\$420,000</b>	
<b>Work Plan Support</b>	<b>\$2,700,000</b>	
<b>Total</b>	<b>\$5,230,000.00</b>	

Orlando-Orange County Expressway Authority  
CONTRACT RENEWAL AGREEMENT  
CONTRACT NO. 000820

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 27<sup>th</sup> day of September, 2012, by and between the Orlando-Orange County Expressway Authority, hereinafter called "Authority" and Atkins North America, Inc., hereinafter called the "Consultant"

WITNESSETH

WHEREAS, the Authority and the Consultant entered into a Contract Agreement (the "Original Agreement") dated May 15, 2008, whereby the Authority retained the Consultant to perform General Engineering Consultant services; and

WHEREAS, pursuant to Article 3.00 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 16<sup>th</sup> day of May, 2013 and ending the 15<sup>th</sup> day of May, 2014, at the cost of \$5,000,000.00, which amount restates the amount of the Original Agreement.

Consultant states that, upon its receipt and acceptance of Final Payment for Services rendered under the Original Agreement ending May 15, 2013, the 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 May 15, 2013.

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.

IN WITNESS WHEREOF, the parties have executed this Renewal Agreement by their duly authorized officers on the day, month and year set forth above.

ATKINS NORTH AMERICA, INC.

BY: Thomas F Barry Jr

Authorized Signature

THOMAS F BARRY JR

Print Name

Title: SR. VICE PRESIDENT

Witness (1) Nancy J. Smith

Witness (2) [Signature]

ORLANDO-ORANGE COUNTY EXPRESSWAY  
AUTHORITY

BY: [Signature]

Director of Procurement

LEGAL APPROVAL:  
AS TO FORM

Joseph J. Lassiter  
General Counsel for the Authority



ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: General Engineering Consultant Services

Contract No: 000820

This Supplemental Agreement No. 1 entered into this 20<sup>th</sup> day of November, 2013, by and between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY (the "Authority"), and ATKINS NORTH AMERICA, INC., (the "Consultant"), the same being supplementary to the first renewal of the original Contract (dated May 15, 2008) between the aforesaid for a one year period beginning May 16, 2013, and ending May 15, 2014, for General Engineering Consultant services, (the Contract").

1. The Authority has determined it necessary to increase the maximum limiting amount of the first renewal of the original Contract by \$495,000.00 in order to continue the required support services for the Five-Year Work Plan projects to the end of the first renewal Contract term, and
2. The Consultant hereby agrees to the increase in the first renewal Contract amount and will continue to provide the required services with no change in the fees and rates included in the renewal, and
3. Task Authorizations will be used to allocate the funds to the Consultant for the required services.
4. 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 first renewal of the original 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 Consultant's waiver of all future rights for additional compensation which is not already defined herein.
5. This Supplemental Agreement No. 1 is necessary so that the Consultant can continue the required support services for the Five-Year Work Plan projects to the end of the first renewal Contract term.

SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: General Engineering Consultant Services

Contract No.: 000820

Amount of Changes to this document: \$495,000.00

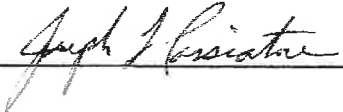
This Supplemental Agreement No.1 entered into as of the day and year first written above.

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

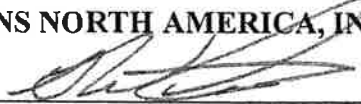
By:   
Director of Procurement

Approved as to form and execution, only.

General Counsel for the AUTHORITY

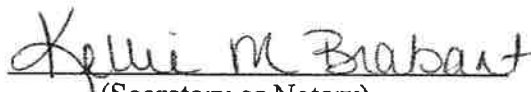


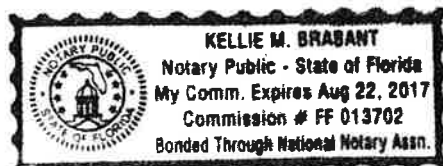
ATKINS NORTH AMERICA, INC.


By: 

Print Name: STEPHEN W. AUSTIN

Title: VICE - PRESIDENT

Attest:   
(Secretary or Notary)



RECEIVED  
CONTRACTS DEPT  
 12/6/13  
SIGNATURE / DATE



ORLANDO - ORANGE COUNTY

4974 ORL TOWER RD., ORLANDO, FLORIDA 32807  
TELEPHONE (407) 690-5000 • FAX (407) 690-3011 • WWW.OOCEA.COM

MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller *Claude Miller*  
Director of Procurement

DATE: November 5, 2013

RE: Supplemental Agreement No. 1 for Atkins North America, Inc.  
General Engineering Consultant (GEC) Services  
Contract No. 000820

Board approval is requested for Supplemental Agreement No. 1 for the referenced contract with Atkins North America, Inc., in the not-to-exceed amount of \$495,000.00. This Supplemental Agreement is necessary due to additional services required for various projects. Those projects and the additional services include:

1. Coordination and review of the All Aboard Florida (AAF) proposal and coordination with Farmland Reserve and Suburban Land Reserve. Review of the AAF preliminary designs will continue.
2. Additional right of way effort on the Wekiva Parkway due to federalizing the process and the requirement to follow the Uniform Relocation Act. This revised process began in late FY 2013 and will continue through project completion.
3. Upcoming efforts managing the preparation of the Design Build Criteria Package for the Innovation Way Interchange on S.R. 528.

This Supplemental Agreement will be a continuation of the renewal agreement previously approved by the Authority for GEC services.

Original Contract Renewal Amount	\$ 5,000,000.00
Amount of This Supplemental Agreement No. 1	<u>\$ 495,000.00</u>
Total Revised Contract Renewal Amount	\$ 5,495,000.00

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations, Maintenance & Construction  
Laura Kelley, Deputy Executive Director, Administration and Finance  
Contract File  
Consent Agenda 11/13

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 2

Contract Name: General Engineering Consultant Services

Contract No: 000820

This Supplemental Agreement No. 2 entered into this 7<sup>th</sup> day of July, 2011, by and between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY (the "Authority"), and ATKINS NORTH AMERICA, INC., (the "Consultant"), the same being supplementary to the Contract between the aforesaid, dated May 15, 2008, for professional engineering services pertaining to General Engineering Consultant services, (the Contract").

1. The Authority wishes to provide for continued support of the development and implementation of the Expressway Authority's revised Five-Year Work Plan. Services to be provided by the Consultant include professional services contract support, plans review for technical and specialty areas, environmental permitting support, right-of-way services support, construction support, design services, survey and mapping support and planning support (including long range plan).
2. The Consultant hereby agrees to provide the required continued support and services for an increase of \$2,000,000.00 in the maximum limiting amount of the Contract budgeted as shown on the attached Exhibit A. Task Authorizations will be used to allocate these funds to the Consultant for Five-Year Work Plan project services.
3. The Authority and Consultant agree that this Supplemental Agreement No.2 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.2; that acceptance of this Supplemental Agreement No.2 signifies the Consultant's waiver of all future rights for additional compensation which is not already defined herein.
4. This Supplemental Agreement No. 2 is necessary so that the Consultant can provide continued support and services for the Authority's revised Five-Year Work Plan.

SUPPLEMENTAL AGREEMENT NO. 2

Contract Name: General Engineering Consultant Services

Contract No.: 000820

Amount of Changes to this document: \$2,000,000.00

This Supplemental Agreement No.2 entered into as of the day and year first written above.

**ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY**

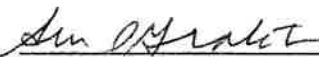
By:   
Director of Procurement

Approved as to form and execution, only.

General Counsel for the AUTHORITY



**ATKINS NORTH AMERICA, INC.**

By: 

Title: Vice President

Attest:  (Seal)



## Exhibit A

General Engineering Consultant Services  
Supplemental Agreement No. 2  
Budgeted Fees

Task	Budgeted Fees
Professional Services Contract Support	\$ 60,000
Plans Review	\$ 245,000
Environmental Permitting Services	\$ 150,000
R/W Services	\$ 550,000
Construction Phase Support	\$ 545,000
Design Services Support	\$ 90,000
Survey and Mapping Support	\$ 60,000
Planning Support	\$ 300,000
Total	\$ 2,000,000

Final fees subject to work order authorizations.

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 3

Contract Name: General Engineering Consultant Services

Contract No: 000820

This Supplemental Agreement No. 3 entered into this 23<sup>rd</sup> day of February, 2012, by and between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY (the "Authority"), and ATKINS NORTH AMERICA, INC., (the "Consultant"), the same being supplementary to the Contract between the aforesaid, dated May 15, 2008, for professional engineering services pertaining to General Engineering Consultant services, (the Contract").

1. The Authority wishes to provide for support of Authority staff for: project management services for design projects; strategic planning services; temporary staffing; technical support for expressway operations (ITS) projects; planning/engineering support for concept studies; tolls support; right-of-way support for Wekiva Parkway. The revised Scope of Services language included in Supplemental Agreement No. 1 notwithstanding, right-of-way support for the Wekiva Parkway is not considered part of the design effort for purposes of this Supplemental Agreement No. 3.
2. The Consultant hereby agrees to provide the additional support and services for an increase of \$1,487,500.00 in the maximum limiting amount of the Contract budgeted as shown on the attached Exhibit A. Task Authorizations will be used to allocate these funds to the Consultant for the required services.
3. The Authority and Consultant agree that this Supplemental Agreement No.3 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. 3; that acceptance of this Supplemental Agreement No. 3 signifies the Consultant's waiver of all future rights for additional compensation which is not already defined herein.
4. This Supplemental Agreement No. 3 is necessary so that the Consultant can provide additional support and services required by the Authority.

SUPPLEMENTAL AGREEMENT NO. 3

Contract Name: General Engineering Consultant Services

Contract No.: 000820

Amount of Changes to this document: \$1,487,500.00

This Supplemental Agreement No.3 entered into as of the day and year first written above.

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY


By:   
Director of Procurement

Approved as to form and execution, only.

General Counsel for the AUTHORITY




ATKINS NORTH AMERICA, INC.

By: 

Title: Vice President

Attest:  (Seal)



RECEIVED  
CONTRACTS DEPT  
 2/28/12  
SIGNATURE / DATE





Atkins North America, Inc.  
482 South Keller Road  
Orlando, Florida 32810-6101  
Telephone: +1.407.647.7275  
[www.atkinsglobal.com/northamerica](http://www.atkinsglobal.com/northamerica)

February 2, 2011

Mr. Joseph A. Berenis, P.E.  
Deputy Executive Director  
Orlando-Orange County Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

Re: Orlando-Orange County Expressway Authority  
General Engineering Consultant Services

Dear Mr. Berenis:

As discussed, this is the Supplemental Agreement Request Number 3 for the OOECA General Engineering Consultant Services Agreement. This supplemental request is for additional services to assist Expressway Authority staff. The following services are anticipated:

- Add Project Management services for upcoming design projects;
- Add strategic planning services;
- Provide temporary staffing (via a subconsultant CSI Professional, Inc.);
- Additional technical support for expressway operations (ITS) projects;
- Additional planning/engineering support for concept studies;
- Additional tolls support;
- Additional right-of-way support for Wekiva Parkway.

It is requested that the maximum limiting amount of the General Engineering Consultant Service Agreement be increased by \$1,487,500. Approval is also requested to add CSI Professional, Inc. to our team as a subconsultant. It is our understanding that work orders will be used to manage the scope, schedule and fees for the additional services.

Call me at your convenience if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Keith Jackson".

R. Keith Jackson, P.E.  
Program Manager

cc: file

**General Engineering Consultant Services  
Supplemental Agreement No. 3  
Budgeted Fees**

<b>Task</b>	<b>Budgeted Fees</b>
Planning/Engineering Support	\$ 112,500
Tolls Support	\$ 100,000
General Program Support	\$ 225,000
Work Plan Projects Support (PM, ITS projects, Wekiva R/W, concept studies)	\$ 1,050,000
<b>Total</b>	<b>\$ 1,487,500</b>

**Final fees subject to work order authorizations.**

# **CONSULTANT AGREEMENT**

## **GENERAL ENGINEERING CONSULTANT SERVICES**

## AGREEMENT

THIS AGREEMENT, made and entered into this 15<sup>th</sup> day of May, 2008, by and between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY, a public body politic and corporate agency of the State of Florida, organized and existing under Chapter 63-573 Laws of Florida, 1963, hereinafter called the "AUTHORITY" and Post, Buckley, Schuh & Jernigan, Inc., hereinafter called "GENERAL ENGINEERING CONSULTANT" (GEC), carrying on professional practice in engineering with offices located at 482 S. Keller Road, Orlando, Florida 32810-6101.

The AUTHORITY did determine that the GEC is fully qualified to render the services contracted.

### WITNESSETH:

1.00 The AUTHORITY does hereby retain the GEC to furnish certain General Engineering Services to the AUTHORITY.

2.00 The GEC and the AUTHORITY mutually agree to furnish, each to the other, the respective services, information and items as described in Exhibit "A", attached hereto and made a part hereof.

Before any additions or deletions to the work described in Exhibit "A", and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into a Supplemental Agreement covering such modifications and the compensation to be paid therefore.

Reference herein to this Agreement shall be considered to include any Supplemental Agreement thereto.

Reference herein to Director shall mean the AUTHORITY's Executive Director.

Reference herein to the Project Manager shall mean the AUTHORITY's Director of Engineering or his designee.

3.00 This is a continuing services Agreement subject to AUTHORITY periodic review, approval and satisfaction with the GEC's performance. The initial term of the Agreement shall be five (5) years from written notice to proceed with five (5) one-year renewal periods subject to and contingent upon, (1) the AUTHORITY's sole discretion, (2) satisfactory performance of the GEC, (3) availability of funds, and (4) allowability of renewals by the AUTHORITY's policies in effect during the fifth year of the initial term of the Agreement. This Agreement may be terminated by the AUTHORITY at any time in accordance with Paragraph 11.00. In no event, however, shall the services extend beyond a ten (10) year period without AUTHORITY approval.

4.00 The GEC agrees to provide progress reports for the services provided by the GEC in a format acceptable to the AUTHORITY and at intervals established by the AUTHORITY. The AUTHORITY will be entitled at all times to be advised, at its request, as to the status of work being done by the GEC and of the details thereof. Coordination shall be maintained by the GEC with representatives of the AUTHORITY, or of other agencies interested in these services on behalf of the AUTHORITY. Either party to the Agreement may request and be granted a conference.

5.00 It shall be the responsibility of the GEC to ensure at all times that sufficient time remains in the Agreement within which to complete the services. In the event there have been delays which would affect the completion date, the GEC shall submit a written request to the AUTHORITY which identifies the reason(s) for the delay and the amount of time related to each reason. The AUTHORITY will review the request and make a determination as to granting all, part or none of the requested extension.

In the event the term of the Agreement expires and the GEC has not requested, or if the AUTHORITY has denied, an extension of the completion date, partial progress payments will be stopped on the date time expires. No further payment for the services will be made until a time extension is granted or all work has been completed and accepted by the AUTHORITY.

6.00 The GEC shall maintain an adequate and competent professional staff authorized to do business within the State of Florida. The GEC may associate with it such specialists (subconsultants), for the purpose of its services hereunder, without additional cost to the AUTHORITY, other than those costs identified in Exhibit "C". Should the GEC desire to use subconsultants, the GEC is fully responsible for satisfactory completion of all subcontracted work. The GEC, however, shall not sublet, assign or transfer any work under this Agreement to other than those subconsultants listed below without the written consent of the AUTHORITY. It is understood and agreed that the AUTHORITY will not, except for such services so designated herein, permit or authorize the GEC to perform less than the total contract work with other than its own organization.

<u>Firm</u>	<u>Area of Responsibility</u>
Ardaman and Associates	Geotechnical
Civilworks Design And Engineering, Inc.	Signing and Pavement Marking
GMB Engineers and Planners	Traffic Counts
Joel Leisch	Highway Design
KCS Systems	Intelligent Transportation Systems
Mehta and Associates	Surveying
Nadic Engineering services	Geotechnical

7.00 All final plans, documents, reports, studies and other data prepared by the GEC, or its subconsultants, will bear the endorsement of a person in the full employ of the GEC, or its subconsultants, and duly registered by the State of Florida in the appropriate professional category.

7.10 The GEC shall not be liable for use by the AUTHORITY of said plans, documents, reports, studies or other data for any purpose other than intended by the terms of this Agreement.

8.00 All plans, documents, reports, studies, electronic files, and/or other data prepared or obtained under this Agreement shall be considered instruments made for services and shall become the property of the AUTHORITY without restriction or limitation on their use and shall be made available, upon request, to the AUTHORITY at any time. The AUTHORITY will have the right to visit the site for inspection of the work of the GEC at any time. Unless changed by written agreement of the parties, said site shall be 482 South Keller Road, Orlando, Florida 32810.

Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the AUTHORITY at all times during the period of this Agreement and for three years after final payment is made. Copies of these documents and records shall be furnished to the AUTHORITY upon request.

Records of costs incurred includes the GEC's general accounting records and project records, together with supporting documents and records, of the GEC and all subconsultants performing work on the project, and all other records of the GEC and subconsultants considered necessary by the AUTHORITY for a proper audit of project costs.

The general cost principles and procedures for the negotiation and administration, and the determination or allowance of costs under this Agreement shall be as set forth in the Code of Federal Regulations, Titles 23, 48, 49, and other pertinent Federal and State Regulations, as applicable, with the understanding that there is no conflict between State and Federal regulations in that the more restrictive of the applicable regulations will govern.

Whenever travel costs are included in Exhibit "B", the provisions of Section 112.061, Florida Statutes, shall govern as to reimbursable costs.

The GEC shall allow public access to all documents, papers, letters, or other material as approved and authorized by the AUTHORITY and subject to the provisions of Chapter 119, Florida Statutes, and made or received by the GEC in conjunction with this Agreement. Failure by the GEC to grant such public access may be grounds for immediate unilateral cancellation of this Agreement by the AUTHORITY.



9.00 The GEC shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement.

10.00 The AUTHORITY agrees to pay the GEC compensation as detailed in Exhibit "B", attached hereto and made a part hereof. Bills for fees or other compensation for services or expenses shall be submitted to the AUTHORITY in detail sufficient for a proper preaudit and postaudit thereof.

11.00 The AUTHORITY may terminate this Agreement in whole or in part at any time the interest of the AUTHORITY is best served by such termination.

11.10 Should the AUTHORITY determine that the performance of the GEC is not satisfactory, the AUTHORITY shall have the option of (a) immediately terminating the Agreement or (b) notifying the GEC of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time.

11.20 Should the AUTHORITY require termination of the Agreement for reasons other than unsatisfactory performance of the GEC, the AUTHORITY shall notify the GEC in citing of such termination, not less than seven (7) calendar days as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

11.30 Should the AUTHORITY abandon the work or subtract from the scope of that work, suspend, or terminate the Agreement as presently outlined, the GEC shall be compensated for actual costs as determined in Exhibit "B". Direct Expenses (Lump Sum) shall be prorated if the termination occurs prior to the end of the calendar month. The ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be retained by the AUTHORITY.

12.00 All services shall be performed by the GEC to the reasonable satisfaction of the Project Manager who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof; and the Project Manager's decision upon all claims, questions and disputes shall be final. Adjustments of compensation and the term of the Agreement, because of any major changes in the work that may become necessary or desirable as the work progresses, shall be left to the discretion of the Project Manager and supplemental agreement(s) of such a nature as required may be entered into by the parties in accordance herewith.

13.00 All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include both genders.

14.00 The GEC shall indemnify and hold harmless the AUTHORITY, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable

attorneys' fees, to the extent caused by negligence, recklessness, or intentionally wrongful conduct of the GEC and other persons employed or utilized by the GEC in the performance of the Agreement.

15.00 The GEC warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the GEC to solicit or secure this Agreement, and that it 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 Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

15.10 For the breach or violation of Paragraph 15.00, the AUTHORITY shall have the right to terminate this Agreement without liability, and, at its discretion, to deduct from the Agreement amount, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

16.00 The GEC, at its own expense, shall keep in force and at all times maintain during the term of this Agreement all insurance of the types and to the limits specified herein.

The GEC shall require and ensure that each of its subconsultants providing services hereunder procures and maintains, until the completion of the services, insurance of the

requirements, types and to the limits specified herein. Upon request from the AUTHORITY, the GEC shall furnish copies of certificates of insurance evidencing coverage of each sub-consultant.

The GEC shall require all insurance policies in any way related to the work and secured and maintained by the GEC to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against the AUTHORITY. The GEC shall require of subconsultants, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section. When required by the insurer, or should a policy condition not permit an endorsement, the GEC agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the GEC enter into such an agreement on a pre-loss basis. At the GEC's expense, all limits must be maintained.

#### 16.10 Commercial General Liability:

Commercial General Liability insurance shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to the AUTHORITY) or the general aggregate limit shall be twice the required occurrence limit. The AUTHORITY shall be listed as an

additional insured. The GEC further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests.

The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

#### 16.20 Business Automobile Liability:

Business Automobile Liability Insurance shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. In the event the GEC does not own automobiles, the GEC shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Each of the above insurance policies shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one

insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; (2) The stated limits of liability coverage for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard "supplementary payments" clause will pay in addition to the applicable limits of liability and that these supplementary payments are not included as part of the insurance policies limits of liability.

#### 16.30 Workers' Compensation Coverage:

Workers' Compensation and Employer's Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer's Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for bodily injury by disease, and \$500,000 policy limit by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the AUTHORITY for all work performed by the GEC, its employees, agents and sub-consultants.

#### 16.40 Professional Liability Coverage:

The limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of the AUTHORITY for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the GEC.

16.50 Insurance Certificates:

The GEC shall provide the AUTHORITY with Certificate(s) of Insurance with required endorsements on all the policies of insurance and renewals thereof in a form(s) acceptable to the AUTHORITY. The AUTHORITY shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

All insurance policies shall be issued by responsible companies who are acceptable to the AUTHORITY and licensed to do business under the laws of the State of Florida. Each insurance company shall minimally have an A.M. Best rating of A-:VII. If requested by the AUTHORITY, the AUTHORITY shall have the right to examine copies and relevant provisions of the insurance policies required by this Agreement, subject to the appropriate confidentiality provisions to safeguard the proprietary nature of GEC manuscript policies.

Any deductible or self-insured retention must be declared to and approved by the AUTHORITY. At the option of AUTHORITY, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as requests the AUTHORITY, or the GEC shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All such insurance required by the GEC shall be primary to, and not contribute with, any insurance or self-insurance maintained by the AUTHORITY. Compliance with these insurance requirements shall not relieve or limit the GEC's liabilities and obligations under this Agreement. Failure of the AUTHORITY to demand such certificate or evidence of full compliance with these insurance requirements or failure of the

AUTHORITY to identify a deficiency from evidence provided will not be construed as a waiver of the GEC's obligation to maintain such insurance.

The acceptance of delivery by the AUTHORITY of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by the AUTHORITY that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

17.00 The GEC agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying the AUTHORITY and securing its consent in writing. The GEC also agrees not to publish, copyright or patent any of the data furnished in compliance with this Agreement, it being understood that, under Paragraph 8.00 hereof, such data or information is the property of the AUTHORITY.

18.00 It is mutually agreed and understood that the following provision shall be applicable to this Agreement:

The signing of this Agreement by the GEC shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete and current at the time of contracting. The Agreement amount and any additions thereto shall be adjusted to exclude any significant sums by which the AUTHORITY determines the Agreement amount 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 end of the term of the Agreement. For purpose of this Agreement, the end of the term of the Agreement shall be deemed to be the date of final billing or acceptance of the work by the AUTHORITY, whichever is later.

Neither the AUTHORITY's review of, approval of, acceptance of nor payment for the services required by this Agreement shall be construed to operate as a waiver of any rights or of any cause of action arising out of the performance of this Agreement. Additionally, the GEC shall be and remain liable to the AUTHORITY in accordance with applicable law for all damages to the AUTHORITY caused by the GEC's negligent performance of any of the services furnished under this Agreement. The rights and remedies of the AUTHORITY provided for under this Agreement are in addition to any other rights and remedies otherwise provided by law.

19.00 The GEC 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 this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The GEC agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

20.00 The AUTHORITY reserves the right to cancel and terminate this Agreement in the event the GEC or any employee, servant, or agent of the GEC is indicted or has a direct information issued against it for any crime arising out of or in conjunction with any work being performed by the GEC for or on behalf of the AUTHORITY, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans, specifications, computer models and reports prepared or obtained under this Agreement shall immediately be turned over to the

AUTHORITY in conformity with the provisions of Paragraph 8.00 hereof. The GEC shall be compensated for its services rendered up to the time of any such termination in accordance with paragraph 11.00 hereof. The AUTHORITY also reserves the right to terminate or cancel this Agreement in the event the GEC shall be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. The AUTHORITY further reserves the right to suspend the qualifications of the GEC to do business with the AUTHORITY upon any such indictment or direct information. In the event that any such person against whom any such indictment or direct information is brought shall have such indictment or direct information dismissed or be found not guilty, such suspension on account thereof may be lifted by the Project Manager.

21.00 The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

22.00 This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The parties stipulate that venue for any matter which is a subject of this Agreement shall be in Orange County, Florida.

**23.00 Attachments:**

**Exhibit "A" Scope of Services**


**Exhibit "B" Method of Compensation**

**Exhibit "C" Details of Cost and Fees**

**Exhibit "D" Project Organization Chart**

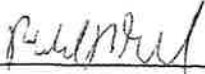
IN WITNESS WHEREOF, the GEC and the AUTHORITY have caused this instrument to be signed and witnessed by their respective duly authorized officials, all as of the day and year first above written.

**ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY**

By:   
Executive Director

ATTEST:  (SEAL)  
Assistant Secretary

**POST, BUCKLEY, SCHUH & JERNIGAN, INC.**

By:   
Richard M. Grubel  
Senior Vice President  
\_\_\_\_\_  
Title

ATTEST:  (SEAL)  
Charles D. Nostra  
Assistant Secretary

Approved as to form and execution, only.

General Counsel for the AUTHORITY



**Exhibit "A"**  
**Scope of Services**  
**General Engineering Consultant Services**  
**Table of Contents**

<b>I.</b>	<b>Purpose .....</b>	<b>A-2</b>
<b>II.</b>	<b>Overview.....</b>	<b>A-2</b>
<b>III.</b>	<b>Services .....</b>	<b>A-2</b>
	1. Bond Covenant Services Support .....	A-2
	2. Engineering/Design Support.....	A-3
	3. Planning Support .....	A-4
	4. Tolls Support .....	A-4
	5. Expressway Operations Support .....	A-4
	6. Maintenance Program Support .....	A-5
	7. General Program Support .....	A-5
	8. Work Plan Support.....	A-5
<b>IV.</b>	<b>Subcontracting.....</b>	<b>A-6</b>
<b>V.</b>	<b>Conflict of Interest.....</b>	<b>A-6</b>
<b>VI.</b>	<b>Other Services .....</b>	<b>A-7</b>

**Exhibit "A"**  
**SCOPE OF SERVICES**  
**GENERAL ENGINEERING CONSULTANT**

**I. Purpose**

The Orlando-Orange County Expressway Authority (Authority) requires professional services of the General Engineering Consultant (GEC) in connection with general planning, design, engineering, management and other services for projects related to the development, determination of feasibility, planning, design, permitting, right-of-way acquisition, bidding, construction, operation and maintenance of the Authority's existing and future system. This Scope of Services describes and defines those services.

**II. Overview**

- A. The Authority will request GEC services as described below on an as-needed basis. Services to be provided will be initiated and completed as directed by the Authority's Design Project Manager or other authorized representative. The Authority does not guarantee that any or all of the services described herein will be assigned during the term of the agreement. Further, the GEC shall provide these services on a non-exclusive basis. The Authority, at its option, may elect to have any of the services performed by other consultants or Authority staff.
- B. The GEC shall provide a resource pool of qualified professional, technical and administrative personnel, in appropriate numbers and at the proper times, to assure that services and responsibilities assigned under this Scope of Services are effectively and efficiently carried out.

**III. Services**

As requested by the Authority, the GEC may perform the following tasks which are examples of the types of work to be required but are not intended to be all inclusive:

1. Bond Covenant Services Support

The Amended and Restated Master Bond Resolution, adopted February 3, 2003, which is incorporated herein by reference, requires the Authority to engage a Consulting Engineer to perform all acts and carry out all duties necessary to supervise the acquisition and construction of all system projects of the Authority. These acts and duties have been defined by the Authority to include, but not be necessarily limited to:

- Monitoring the construction of projects financed with Bond Proceeds.
- Assisting the Authority with approval of all expenditures from the Construction Fund.

- Advising and conferring with the Authority concerning the budget for operation, maintenance and repair of the Authority system.
- Making an annual independent inspection and report concerning the condition of the Authority system.
- Certifying for each fiscal year the amounts necessary for the funding of the Renewal and Replacement Fund.
- Certifying necessary amount of multi-risk and use and occupancy insurance; and upon damage to an insured risk, approve plans for restoration or replacement of that portion of the Authority system and certifying as to schedule and need for replacement or restoration.
- Certifying that any sale or lease of Authority property will not have a negative impact on the operation of the Authority system.
- Preparing an Engineer's Report for scheduled bond sales.
- Assisting the Authority with preparation of an annual report recapping the overall prior year's performance.
- Attending meetings as required to carry out the above services.

## 2. Engineering/Design Support

The GEC may be authorized to perform the following:

- Review construction plans.
- Provide utility plans review and coordination.
- Develop scope of work and contract provisions.
- Estimate costs for proposed services.
- Develop durations of services. (Project schedules)
- Monitor existing and projected traffic volumes on the system.
- Collect and report data on traffic and accidents.
- Perform traffic engineering analysis necessary to evaluate existing conditions and plan future improvements throughout the system.
- Perform traffic engineering activities such as signal warrants, signal timings, traffic counts, modeling, speed studies, etc. as required.
- Coordinate with other agencies on traffic operation and safety issues.
- Review access management issues and provide recommendations.
- Provide construction cost estimates.
- Provide environmental permitting compliance monitoring and review.
- Provide permitting support for projects.
- Provide roadway signing and pavement marking concept development, review and design.
- Provide surveying and right-of-way mapping for projects.
- Provide right-of-way support for projects.
- Maintain real property inventories and assist in the disposal of excess property.
- Provide noise analysis for projects.
- Provide geotechnical and geotechnical advisory services for projects.
- Provide landscaping concept development, review and design.

- Provide architectural services.
- Attend meetings and site visits as required to carry out the above services.

3. Planning Support

The GEC may be authorized to perform the following:

- Perform reviews of adjacent development including Developments of Regional Impact.
- Provide support and participate in Metroplan Orlando activities.
- Prepare the Systems Traffic Data and Statistics Manual and update annually.
- Assist in the technical review of the Traffic and Revenue Consultant's modeling.
- Prepare the Five-Year Work Plan including cash flow forecasting.
- Prepare project concept plans and reports as requested.
- Attend meetings and site visits as required to carry out the above services.

4. Tolls Support

The GEC may be authorized to perform the following:

- Assist the Authority with the planning and design; procurement and review of designs and installation of toll collection equipment.
- Assist the Authority with the planning and design; or procurement and coordination of facility modifications.
- Update the Toll Facilities Reference Manual as needed.
- Assist the Authority with general back-office support and customer service center operations.
- Attend meetings and site visits as required to carry out the above services.

5. Expressway Operations Support

The GEC may be authorized to perform the following:

- Provide technical support associated with the operation and maintenance of the Authority's fiber optic network and Intelligent Transportation System (ITS) infrastructure.
- Provide technical support for projects.
- Support Authority staff as the owner's technical representative for the fiber optic network, ITS deployments, and other expressway operations initiatives as requested.
- Assist the Authority in collection and presentation of data to support Performance Measures and program evaluation efforts.
- Attend meetings and site visits as required to carry out the above services.



6. Maintenance Program Support

The GEC may be authorized to perform the following:

- Provide engineering support to assist Authority's maintenance program with reviewing and resolving systemwide or specific maintenance problems or issues.
- Provide recommendation for the Authority's Pavement Management Program based on FDOT data.
- Assist in the management of the maintenance activities for the Authority's wetland mitigation program.
- Maintain a systemwide signing inventory and provide engineering support for the maintenance and replacement of signs.
- Attend meetings and site visits as required to carry out the above services.

7. General Program Support

The GEC may be authorized to perform the following:

- Develop and maintain a file document control system.
- Provide project status reports and document meeting minutes.
- Develop briefing materials for Authority staff presentations to the Board of Directors as well as other agencies.
- Assist Authority staff with the development of presentations, technical papers, and publications for industry organizations and peer journals.
- Assist Authority staff in providing copies of files and plans to other agencies and the general public.
- Provide printing services as may be requested by the Authority.
- Provide graphics services in support of the Authorities public information programs and as may be requested by the Authority.
- Furnish testimony and prepare trial exhibits in hearings and other litigation.
- Provide any needed support for legal activities (including expert witness activity).
- Attend meetings as required to carry out the above services.

8. Work Plan Support

The GEC may be authorized to perform the following in support of the development and implementation of the FY 08-12 Five-Year Work Plan projects:

- Professional services contract support.
- Plans review for technical and specialty areas.
- Environmental permitting support.
- Right-of-way services support.
- Construction support.
- Design services.

- Survey and mapping support.
- Planning support (including long range plan).
- Attend meetings as required to carry out the above services.

#### **IV. Subcontracting**

Services assigned to subconsultants must be approved in advance by the Authority in accordance with the Agreement and the Authority's Procurement Policy. All subconsultants must be qualified by the Authority to perform all work assigned to them.

In the event services of a subconsultant are authorized, the GEC shall obtain a schedule of rates, and the Authority shall review and must approve in advance any rates to be paid to the subconsultant.

#### **V. Conflict of Interest**

The GEC shall not knowingly enter into any other contract with the Authority during the term of the Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with the Authority during the term of the Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Authority's Executive Director for resolution.

During the term of the Agreement:

- The GEC is not eligible to pursue any advertised work in the GEC's area of oversight for any project for which the GEC developed the scope of services or have oversight responsibilities. Subconsultants are also ineligible to pursue projects where they participated in the development of the scope of services or have an oversight responsibility.
- The GEC is not eligible to pursue any advertised Construction Engineering and Inspection projects of the Authority as either a prime or subconsultant where the GEC participated in the oversight of the projects or for any project which the GEC developed the scope of services. Subconsultants are also ineligible to pursue Construction Engineering and Inspection projects where they participated in the oversight of the projects or for any project which the subconsultant developed the scope of services.

## **VI. Other Services**

The Authority may require professional services of the GEC for a wide range of planning, engineering, architectural, environmental, landscape architectural, environmental, systems and registered land surveying in support of the Authority's program areas of Roadway Maintenance, Facilities and Telecommunication Maintenance, Traffic Operations, Construction, Materials, and Geotechnical Engineering not otherwise identified in this Agreement to supplement or replace the services being provided to the Authority by other consultants.

END OF SCOPE OF SERVICES

**EXHIBIT "B"**  
**METHOD OF COMPENSATION**  
**GENERAL ENGINEERING CONSULTANT**

**1.0 PURPOSE**

This Exhibit describes the limits and method of compensation to be made to the General Engineering Consultant (GEC) for the services set forth in Exhibit "A", Scope of Services. The services shall be provided over the duration of the work specified in Section 3.00 of the Agreement.

**2.0 AMOUNT OF COMPENSATION**

- 2.1 The Authority agrees to pay the GEC for the performance of authorized services described in Exhibit "A" an amount not to exceed \$16,000,000 for the initial five (5) year term of the Agreement, such amount hereinafter referred to as the Maximum Limiting Amount.
- 2.2 Compensation for Services provided under this Contract will be made on a unit price basis per manhour, plus reimbursable expenses and will not to exceed the Maximum Limiting Amount unless increased by the Authority. This method of payment is intended to compensate the GEC for all costs (salaries, overhead, fringe benefits, equipment costs, operational costs, reimbursable expenses and profit) related to the services required.

**3.0 ALLOWABLE COSTS**

The Authority will reimburse the GEC for all reasonable allocable and allowable costs. The reasonableness, allocability and allowability of reimbursements sought under the Agreement are expressly made subject to the terms of (1) the Agreement, (2) Federal Acquisition Regulations sub-part 31-2, (3) Office of management and Budget (OMB) Circular A-87 (46FR9548, January 28, 1981) and A-102 (45FR55086, August 18, 1980), and (4) other pertinent federal and state regulations. By reference hereto, said sub-part of Federal Acquisition Regulations and OMB circulars are hereby incorporated in and made a part of the Agreement. Allowable Costs and Fees are defined as follows:

- 3.1 Direct Salaries and Wages: All direct salaries and wages of the GEC for time expended by personnel in the performance of the work; however, this shall specifically exclude salaries and payroll burden of Corporate Officers and Principals when expended in the performance of indirect functions. The amount for salary related cost is based on unit rates for the GEC's staff expected to be used to perform the required services. The GEC, for the term of the Agreement, will not be compensated for salary related costs in excess of those originally accepted by the Authority unless the Authority authorizes additional staff or costs by Supplemental Agreement.

Direct Salaries and Wages (salary costs) include both straight time payments and all overtime payments made for an employee's services on a project. Straight time costs shall be the hourly rate paid for an employee based on a forty (40) hour workweek. Overtime costs shall be the salary costs paid for an employee for work exceeding a forty (40) hour workweek. Overtime costs shall be paid as either Straight Overtime costs or Premium Overtime costs as detailed below:

- 3.1.1 Straight Overtime: The portion of overtime compensation paid for employees at the straight time hourly rate burdened with overhead and fringe benefits.
  - 3.1.2 Premium Overtime: The portion of overtime compensation paid in excess of the straight time hourly rate not burdened with overhead and fringe benefits. Premium overtime is not authorized unless approved in writing by the Authority's Project Manager.
  - 3.1.3 Payment of Overtime: Straight Overtime or Premium Overtime shall be paid in accordance with the GEC's overtime policies and practices, provided that such compensation plan or practice is so consistently followed, in effect, to imply an equitable treatment of overtime to all of the GEC's clients.
- 3.2 A multiplier of 2.85 shall be applied to all GEC direct salaries and wages as total compensation for the GEC's administration overhead and burden costs (indirect charges) and the GEC's operating margin (profit and risk).
  - 3.3 Expenses: A Lump Sum Amount will be negotiated and paid for miscellaneous and out-of-pocket expenses for each approved work authorization or amendment as established in Exhibit "C". Local travel expenses will not be paid separately but will be considered incidental to the other items of work. Non-local GEC travel must be pre-approved by the Authority and will be reimbursed in accordance with Florida State Statute 112.061.
  - 3.4 Subconsultant Costs: Compensation will be based on actual costs of subconsultant expenses directly chargeable to the project and supported by invoices or other documentation acceptable to the Authority. Subconsultant fees, as authorized by the Authority, will be passed through the GEC at cost. In lieu of administrative mark-up, the GEC will charge time and reimbursable costs associated with the management administrative charges to oversee and administer subconsultants.

#### 4.0 METHOD OF COMPENSATION

Unless increased, no more than the Total Maximum Limiting Amount provided for in Section 2.0 above will be paid by the Authority to the GEC as follows, subject to the provisions of Section 3.0 above:

- 4.1 The GEC will be reimbursed monthly for services performed for each approved work authorization or amendment. Payment to the GEC will be in an amount to cover costs incurred during the preceding month for actual direct salary and wages times a multiplier of 2.85, a portion of Lump Sum Expenses and Subconsultant Costs for actual work performed. The GEC shall promptly pay all subconsultants their proportionate share of payment received from the Authority.
- 4.2 The GEC shall earn a portion of Lump Sum expense cost for each approved work authorization or amendment in the amount equal to the Lump Sum equally distributed over the term of the work authorization or amendment. Any balance due the GEC upon completion of the services provided under the work authorization or amendment will be paid in the final invoice.
- 4.3 The GEC shall be responsible for the consolidation and submittal of one (1) original monthly invoice, in the form and detail established or approved by the Authority. All payments on such invoices are conditional and subject to adjustment as a result of a final audit as to the allowability of costs in accordance with the Agreement. Invoices shall include an itemization and substantiation of costs incurred. The itemization shall include the amount budgeted, current amount billed, total billed to date and amount to complete.
- 4.4 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. Any and all such payments previously withheld shall be released and paid to the GEC promptly when the work is subsequently satisfactorily performed.

## 5.0 PROJECT CLOSEOUT

- 5.1 The GEC shall permit the Authority to perform, or have performed, a final audit of the records of the GEC and any or all of its subconsultants to support the compensation paid the GEC. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the GEC under the Agreement are subsequently properly disallowed by the Authority because of accounting errors or charges not in conformity with the Agreement, the GEC agrees that such disallowed amounts are due the Authority upon demand. Further, the Authority shall have the right to deduct from any payment due the GEC an amount sufficient to satisfy any amount due and owing the Authority by the GEC under the Agreement. Final payment to the GEC will be adjusted for audit results.

END OF SECTION

EXHIBIT "C"  
ORLANDO - ORANGE COUNTY EXPRESSWAY AUTHORITY  
GENERAL ENGINEERING CONSULTANT SERVICES

June 2008 to June 2013

AUTHORIZATION/TASK DESCRIPTION	Year 1	Year 2	Year 3	Year 4	Year 5	TOTALS
<b>BOND COVENANT SERVICES SUPPORT</b>	\$110,000.00	\$110,000.00	\$125,000.00	\$125,000.00	\$125,000.00	\$595,000.00
Annual System Inspection & Report						
General Bond Document Support						
<b>ENGINEERING/DESIGN SUPPORT</b>	\$600,000.00	\$600,000.00	\$600,000.00	\$600,000.00	\$600,000.00	\$3,000,000.00
Engineering, Design & Review Support						
Systemwide Traffic Operations Analysis						
Systemwide E-PASS & Accident Data Monitoring						
Signing and Pavement Marking Support						
Environmental, Permitting, & Compliance						
Right-of-Way Support						
Survey Support						
Right-of-Way Mapping Support						
Noise analysis						
Geotechnical Support						
Landscaping Support						
Architectural Support						
<b>PLANNING SUPPORT</b>	\$275,000.00	\$275,000.00	\$300,000.00	\$275,000.00	\$275,000.00	\$1,400,000.00
General Transportation Planning Support						
Systems Traffic Data and Statistics Manual						
Five-Year Work Plan Update & Support						
Traffic and Rev. Consultant Review						
Concept Reports						
<b>TOLLS SUPPORT</b>	\$135,000.00	\$135,000.00	\$150,000.00	\$150,000.00	\$150,000.00	\$720,000.00
Toll Facilities Support						
Toll Collection System Support						
Toll Operations Support						
<b>EXPRESSWAY OPERATIONS SUPPORT</b>	\$475,050.00	\$392,020.00	\$422,180.00	\$433,250.00	\$434,000.00	\$2,156,500.00
ITS Program Support						
Performance Measures						
FCN Operation & Maintenance Support						
ITS Device Maint Mgmt Support						
ITS Deployment						
<b>MAINTENANCE SUPPORT</b>	\$90,000.00	\$90,000.00	\$90,000.00	\$90,000.00	\$90,000.00	\$450,000.00
Maintenance Program - GEC Support						
Mitigation Site Maintenance - GEC Support						
Pavement Management Program Support						
Signing Support						
<b>GENERAL PROGRAM SUPPORT</b>	\$355,000.00	\$355,000.00	\$355,000.00	\$355,000.00	\$355,000.00	\$1,775,000.00
GEC Program Management						
General Meetings						
Document Control						
Graphics Support						
Hearing and Litigation Support						
<b>WORK PLAN SUPPORT</b>	\$1,250,000.00	\$1,750,000.00	\$870,000.00	\$525,000.00	\$295,000.00	\$4,690,000.00
FY 08 - 12 Five Year Work Plan Projects						
<b>TOTAL (2008 \$)</b>	<b>\$3,290,050.00</b>	<b>\$3,707,020.00</b>	<b>\$2,912,180.00</b>	<b>\$2,553,250.00</b>	<b>\$2,324,000.00</b>	<b>\$14,786,500.00</b>
<b>Salary Escalation</b>		0.035	0.035	0.035	0.035	
<b>FEE SUBTOTAL BY YEAR (including subconsultants)</b>	<b>3,290,050.00</b>	<b>3,836,765.70</b>	<b>3,119,600.02</b>	<b>2,830,833.91</b>	<b>2,666,843.45</b>	<b>\$15,744,093.09</b>
<b>Estimated Directs</b>	<b>48,000.00</b>	<b>49,700.00</b>	<b>\$1,400.00</b>	<b>53,200.00</b>	<b>55,100.00</b>	<b>\$257,400.00</b>
<b>TOTAL (including subconsultants)</b>	<b>3,338,050.00</b>	<b>3,886,465.70</b>	<b>3,171,000.02</b>	<b>2,884,033.91</b>	<b>2,721,943.45</b>	<b>16,001,493.09</b>
<b>ROUNDED FEE</b>	<b>3,340,000.00</b>	<b>3,890,000.00</b>	<b>3,170,000.00</b>	<b>2,880,000.00</b>	<b>2,720,000.00</b>	<b>16,000,000.00</b>

## **CONSENT AGENDA ITEM**

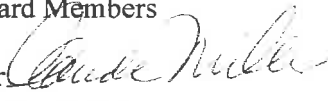
**#5**



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: November 25, 2014

RE: Award of Contract for I-4/S.R. 408 Interchange Corridor Consultant  
Contract No. 001055

At its meeting on November 12, 2014, the Board approved the final ranking of the firms for the referenced project and authorized staff to enter negotiations with CH2M Hill, Inc., the firm ranked first. Those negotiations have been completed and Board award of the contract to CH2M Hill, Inc., in the not-to-exceed amount of \$5,300,000.00 is requested. This contract amount is not guaranteed. The term of the contract will be 5 years with time extensions as necessary to coincide with the completion of the project which is anticipated to take approximately 6½ years from the notice to proceed.

The services to be provided by CH2M Hill will be task order driven based on the hourly labor rates that have been negotiated for activities associated with the construction of the I-4/S.R. 408 Ultimate Interchange Improvements. Those activities will include attendance at meetings; reviewing and processing design submittals; construction engineering oversight; construction contract administration; scheduling; maintenance of traffic; utility/environmental coordination; and keeping CFX staff updated on project schedule and upcoming activities.

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  
Glenn Pressimone, Director of Engineering  
Contract File

# **AGREEMENT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
CH2M HILL, INC.**

**I-4/S.R. 408 INTERCHANGE CORRIDOR CONSULTANT  
CONTRACT NO. 001055**

**CONTRACT DATE: \_\_\_\_\_, 2014  
CONTRACT AMOUNT: \$5,300,000.00**

**AGREEMENT, SCOPE OF SERVICES, METHOD  
OF COMPENSATION, COSTS AND FEES, PROJECT  
ORGANIZATIONAL CHART**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, COSTS AND  
FEES, AND PROJECT ORGANIZATIONAL CHART**

**FOR**

**I-4/S.R. 408 INTERCHANGE CORRIDOR CONSULTANT**

**CONTRACT NO. 001055**

**DECEMBER 2014**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**Members of the Board**

**Welton Cadwell, Chairman**

**Scott Boyd, Vice-Chairman**

**Brenda Carey, Secretary/Treasurer**

**Buddy Dyer, Member**

**Fred Hawkins, Jr., Member**

**Teresa Jacobs, Member**

**Walter A. Ketcham Jr., Member**

**Diane Guitierrez- Scaccetti, Non-Voting Advisor**

## TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>
	Agreement
A	Exhibit “A”, Scope of Services
B	Exhibit “B”, Method of Compensation
C	Exhibit “C”, Cost and Fees
D	Exhibit “D”, Project Organization Chart

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AGREEMENT FOR PROFESSIONAL SERVICES  
S.R. 408/I-4 INTERCHANGE CORRIDOR CONSULTANT**

THIS AGREEMENT, made and entered into this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2014, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 63-573 Laws of Florida, 1963, (Chapter 348, Part V, Florida Statutes) hereinafter called the "AUTHORITY" and CH2M HILL, INC., hereinafter called "CONSULTANT", carrying on professional practice in engineering with offices located at 255 East Robinson Street, Suite 505, Orlando, Florida 32801.

That the AUTHORITY did determine that the CONSULTANT is fully qualified to render the services contracted.

WITNESSETH:

1.0           The AUTHORITY does hereby retain the CONSULTANT to provide SR 408/I-4 Interchange Corridor Consultant services.

2.0           The CONSULTANT and the AUTHORITY mutually agree to furnish, each to the other, the respective services, information and items as described in Exhibit "A", Scope of Services, attached hereto and made a part hereof.

Before any additions or deletions to the work described in Exhibit "A", and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into a Supplemental Amendment covering such modifications and the compensation to be paid therefore.

Reference herein to this Agreement shall be considered to include any Supplemental Agreement thereto.

Reference herein to Director shall mean the AUTHORITY's Executive Director.

Reference herein to the Project Manager shall mean the AUTHORITY's Director of Engineering or his authorized designee. The Project Manager shall provide the management and technical direction for this Agreement on behalf of the AUTHORITY. All technical and administrative provisions of this Agreement shall be managed by the Project Manager and the CONSULTANT shall comply with all of the directives of the Project Manager that are within the purview of this Agreement. Decisions concerning Agreement amendments and adjustments, such as time extensions and supplemental agreements shall be made by the Project Manager.

This Agreement is considered a non-exclusive Agreement between the parties.

### 3.0 TERM OF AGREEMENT AND EXTENSIONS

This is a continuing services Agreement subject to AUTHORITY periodic review, approval and satisfaction with the CONSULTANT's performance. Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a five (5) year term from the date of the Notice to Proceed for the required project services. Extension of this Agreement for two one-year extensions may be exercised by the AUTHORITY at its sole discretion. Extensions will be based, in part, on a determination by the AUTHORITY that the value and level of service provided by the CONSULTANT are satisfactory and adequate for the AUTHORITY's needs.

### 4.0 PROGRESS SCHEDULE

The CONSULTANT agrees to provide progress reports in a format acceptable to the AUTHORITY and at intervals established by the AUTHORITY. The AUTHORITY will be entitled at all times to be advised, at its request, as to the status of work being done by the CONSULTANT and of the details thereof. Coordination shall be maintained by the CONSULTANT with

representatives of the AUTHORITY, or of other agencies interested in the project on behalf of the AUTHORITY. Either party to the Agreement may request and be granted a conference.

It shall be the responsibility of the CONSULTANT to ensure at all times that sufficient time remains in the Agreement within which to complete the services. In the event there have been delays which would affect the completion date, the CONSULTANT shall submit a written request to the AUTHORITY which identifies the reason for the delay and the amount of time related to the reason. The AUTHORITY will review the request and make a determination as to granting all, part or none of the requested extension.

In the event the term of the Agreement has expired and the CONSULTANT has not requested, or if the AUTHORITY has denied, an extension of the completion date, partial progress payments will be stopped on the date time expires. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by the AUTHORITY.

#### 5.0 PROFESSIONAL STAFF

The CONSULTANT shall maintain an adequate and competent professional staff to enable the CONSULTANT to timely perform under this Agreement. The CONSULTANT shall continue to be authorized to do business within the State of Florida. In the performance of these professional services, the CONSULTANT shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The CONSULTANT shall use due care in performing design reviews and shall have due regard for acceptable standards of design principles. The CONSULTANT may associate with it such specialists, for the purpose of its services hereunder, without additional cost to the AUTHORITY, other than those costs negotiated within the limits and terms of this Agreement. Should the CONSULTANT desire to utilize specialists, the CONSULTANT shall be fully responsible for satisfactory completion

of all subcontracted work. The CONSULTANT, however, shall not sublet, assign or transfer any work under this Agreement to other than the associate consultants listed below without the written consent of the AUTHORITY. It is understood and agreed that the AUTHORITY will not, except for such services so designated herein, permit or authorize the CONSULTANT to perform less than the total contract work with other than its own organization.

Brindley Pieters & Associates, Inc.  
Echezabel & Associates, Inc.  
Quest Corporation of America  
I.F. Rooks and Associates, Inc.

CONSULTANT shall not further 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.

## 6.0 SERVICES TO BE PROVIDED

The work covered by this Agreement is best described as review by the CONSULTANT of the preliminary and final design plans prepared by the FDOT's Concessionaire selected to construct the I-4 Ultimate Project (limited work contemplated on the AUTHORITY system). The basis of review shall be the complete AUTHORITY design standards and criteria outlined in FDOT's final Request for Proposal documents for the I-4 Ultimate project.

The services include, but are not necessarily limited to, the following as they relate to S.R. 408: comprehensive reviews of all design submittals (roadway and drainage, structural, signing and pavement marking, intelligent transportation systems, signalization, lighting, toll plaza etc.), coordinating environmental permits, utility plans review and coordination, develop durations of services (project schedules), coordinate with other agencies on permitting, traffic operation and safety issues, prepare construction cost estimates, surveying support services, right-of-way support services, geotechnical and geotechnical advisory services for projects, attend meetings and site visits as required to carry out the above services and other miscellaneous consultant project management services as requested by the Authority. It should be noted that multiple project management assignments may be authorized and on-going concurrently.

## 7.0 COMPENSATION

The AUTHORITY agrees to pay the CONSULTANT compensation as detailed in Exhibit "B", Method of Compensation, attached hereto and made a part hereof. Bills for fees or other

compensation for services or expenses shall be submitted to the AUTHORITY in detail sufficient for a proper pre-audit and post audit thereof.

Subject to the limits of actual compensation received by the CONSULTANT for services provided under this Agreement, the CONSULTANT may be liable for AUTHORITY costs resulting from negligent, reckless or intentionally wrongful errors or deficiencies in design reviews performed under this Agreement. The AUTHORITY may enforce such liability and collect the amount due if the recoverable cost will exceed the administrative cost involved or is otherwise in the AUTHORITY's best interest.

Records of costs incurred by the CONSULTANT under terms of this Agreement shall be maintained and made available upon request to the AUTHORITY at all times during the period of this Agreement and for three years after final payment is made. Copies of these documents and records shall be furnished to the AUTHORITY upon request. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

Records of costs incurred includes the CONSULTANT's general accounting records, together with supporting documents and records, of the CONSULTANT and all subconsultants performing work on the project, and all other records of the CONSULTANT and subconsultants considered necessary by the AUTHORITY for a proper audit of project costs.

The general cost principles and procedures for the negotiation and administration, and the determination or allowance of costs under this Agreement shall be as set forth in the Code of Federal Regulations, Titles 23, 48, 49, and other pertinent Federal and State Regulations, as applicable, with the understanding that there is no conflict between State and Federal regulations in that the more restrictive of the applicable regulations will govern. Whenever travel costs are included

in Exhibit “B”, the provisions of Section 112.061, Florida Statutes, shall govern as to reimbursable costs.

#### 8.0 DOCUMENT OWNERSHIP AND RECORDS

The CONSULTANT shall allow public access to all documents, papers, letters, or other material as approved and authorized by the AUTHORITY and subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONSULTANT in conjunction with this Agreement. Failure by the CONSULTANT to grant such public access shall be ground for immediate unilateral cancellation of this Agreement by the AUTHORITY.

#### 9.0 COMPLIANCE WITH LAWS

The CONSULTANT shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this contract.

The CONSULTANT shall keep fully informed regarding and shall fully and timely comply with all current laws and future laws that may affect those engaged or employed in the performance of this Agreement.

#### 10.0 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 Exhibit “C”, Costs and Fees, supporting the compensation provided in Paragraph 7.0 are accurate, complete and current as of the date of this Agreement. It is further agreed that said price provided in Paragraph 7.0 hereof 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.

#### 11.0 TERMINATION

The AUTHORITY may terminate this Agreement in whole or in part at any time the interest of the AUTHORITY requires such termination.

If the AUTHORITY determines that the performance of the CONSULTANT is not satisfactory, the AUTHORITY shall have the option of (a) immediately terminating the Agreement or (b) notifying the CONSULTANT of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time.

If the AUTHORITY requires termination of the Agreement for reasons other than unsatisfactory performance of the CONSULTANT, the AUTHORITY shall notify the CONSULTANT in writing of such termination, not less than seven (7) calendar days as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

If the AUTHORITY abandons the work or subtracts from the work, suspends, or terminates the Agreement as presently outlined, the CONSULTANT shall be compensated for actual costs as determined in Exhibit "B". In determining the percentage of work completed, the AUTHORITY shall consider the work performed by the CONSULTANT prior to abandonment or termination to the total amount of work contemplated by this Agreement. The ownership of all documents completed or partially completed at the time of such termination or abandonment, shall be retained by the AUTHORITY.

The AUTHORITY reserves the right to cancel and terminate this Agreement in the event the CONSULTANT or any employee, servant, or agent of the CONSULTANT is indicted or has a direct information issued against him for any crime arising out of or in conjunction with any

work being performed by the CONSULTANT for or on behalf of the AUTHORITY, without penalty.

It is understood and agreed that in the event of such termination, all documents prepared or obtained under this Agreement shall immediately be turned over to the AUTHORITY. The CONSULTANT shall be compensated for its services rendered up to the time of any such termination in accordance with Paragraph 7.0 hereof. The AUTHORITY also reserves the right to terminate or cancel this Agreement in the event the CONSULTANT shall be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. The AUTHORITY further reserves the right to suspend the qualifications of the CONSULTANT to do business with the AUTHORITY upon any such indictment or direct information. In the event that any such person against whom any such indictment or direct information is brought shall have such indictment or direct information dismissed or be found not guilty, such suspension on account thereof may be lifted by the AUTHORITY's Project Manager.

## 12.0 ADJUSTMENTS

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the Project Manager who shall decide all questions, difficulties and dispute of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof; and his decision upon all claims, questions and disputes shall be final. Adjustments of compensation and term of the Agreement, 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 Director and Supplemental Agreement(s) of such a nature as required may be entered into by the parties in accordance herewith. Disputes between the Project Manager and the CONSULTANT that cannot be resolved shall be referred to the Director whose decision shall be final.

In the event that the CONSULTANT and the AUTHORITY are not able to reach an agreement as to the amount of compensation to be paid to the CONSULTANT for supplemental work desired by the AUTHORITY, the CONSULTANT shall be obligated to proceed with the supplemental work in a timely manner for the amount determined by the AUTHORITY to be reasonable. In such event, the CONSULTANT will have the right to file a claim with the AUTHORITY for such additional amounts as the CONSULTANT deems reasonable; however, in no event will the filing of the claim or the resolution or litigation thereof, through administrative procedures or the courts, relieve the CONSULTANT from the obligation to timely perform the supplemental work.

#### 13.0 CONTRACT LANGUAGE AND INTERPRETATION

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

If the CONSULTANT discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the CONSULTANT shall immediately notify the AUTHORITY and request clarification of the AUTHORITY's interpretation of this Agreement.

The Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

#### 14.0 HOLD HARMLESS AND INDEMNIFICATION

The CONSULTANT shall indemnify, defend, and hold harmless the AUTHORITY and all of its officers, agents and employees from any claim, loss, damage, cost, charge or expense arising out of any act, error, omission or negligent act by the CONSULTANT, its agents, employees, or subcontractors during the performance of the Agreement, except that neither the CONSULTANT, its agents, employees nor any of its subconsultants will be liable under this paragraph for any claim, loss, damage, cost, charge or expense arising out of any act, error, omission or negligent act by the AUTHORITY or any of its officers, agents or employees during the performance of the Agreement.

When the AUTHORITY receives a notice of claim for damages that may have been caused by the CONSULTANT in the performance of services required by the CONSULTANT under this Agreement, the AUTHORITY will immediately forward the claim to the CONSULTANT. The CONSULTANT and the AUTHORITY will evaluate the claim and report their findings to each other within seven working days. The AUTHORITY and the CONSULTANT will jointly discuss options in defending the claim. After reviewing the claim, the AUTHORITY will determine whether to require the participation of the CONSULTANT in the defense of the claim or to require that the CONSULTANT defend the AUTHORITY in such claim as described in this section. The AUTHORITY's failure to notify the CONSULTANT of a claim within seven days will not release the CONSULTANT from any of the requirements of this section upon subsequent notification by the AUTHORITY to the CONSULTANT of the claim. The AUTHORITY and the CONSULTANT will pay their own cost for the evaluation, settlement negotiations and trial, if any. However, if only one

party participates in the defense of the claim at trial, that party is responsible for all costs, but if the verdict determines that there is joint responsibility the costs and liability for damages will be shared in the same percentage as that judicially established.

The parties agree that 1% of the total compensation to the CONSULTANT for performance of this Agreement is the specific consideration from the AUTHORITY to the CONSULTANT for the CONSULTANT's indemnity agreement.

The CONSULTANT shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. The CONSULTANT shall, at its expense, hold harmless and defend the AUTHORITY against any claim, suit or proceeding brought against the AUTHORITY which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this Agreement, constitute an infringement of any patent or copyright of the United States. The CONSULTANT shall pay all damages and costs awarded against the AUTHORITY.

#### 15.0 THIRD PARTY BENEFICIARY

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement, and that the 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 Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For the breach or violation of this paragraph, the AUTHORITY shall have the right to terminate this Agreement without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.



## 16.0 INSURANCE

The CONSULTANT, at its own expense, shall keep in force and at all times maintain during the term of this Agreement all insurance of the types and to the limits specified herein.

The CONSULTANT shall require and ensure that each of its subconsultants providing services hereunder procures and maintains, until the completion of the services, insurance of the requirements, types and to the limits specified herein. Upon request from the AUTHORITY, the CONSULTANT shall furnish copies of certificates of insurance evidencing coverage of each subconsultant.

The CONSULTANT shall require all insurance policies in any way related to the work and secured and maintained by the CONSULTANT to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against the AUTHORITY. The CONSULTANT shall require of subconsultants, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section. When required by the insurer, or should a policy condition not permit an endorsement, the CONSULTANT agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the CONSULTANT enter into such an agreement on a pre-loss basis. At the CONSULTANT's expense, all limits must be maintained.

16.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately

to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to the AUTHORITY) or the general aggregate limit shall be twice the required occurrence limit. The AUTHORITY shall be listed as an additional insured. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

16.2 Business Automobile Liability coverage shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Each of the above insurance policies shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; (2) The stated limits of liability coverage

for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard “supplementary payments” clause will pay in addition to the applicable limits of liability and that these supplementary payments are not included as part of the insurance policies limits of liability.

16.3 Workers’ Compensation and Employer’s Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer’s Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for bodily injury by disease, and \$500,000 policy limit by disease. The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of the AUTHORITY for all work performed by the CONSULTANT, its employees, agents and subconsultants.

16.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of the AUTHORITY for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

The CONSULTANT shall provide the AUTHORITY with Certificate(s) of Insurance with required endorsements on all the policies of insurance and renewals thereof in a form(s) acceptable to the AUTHORITY. The AUTHORITY shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

All insurance policies shall be issued by responsible companies who are acceptable to the AUTHORITY and licensed to do business under the laws of the State of Florida. Each Insurance company shall minimally have an A.M. Best rating of A-:VII. If requested by the AUTHORITY, the AUTHORITY shall have the right to examine copies and relevant provisions of the insurance policies

required by this Agreement, subject to the appropriate confidentiality provisions to safeguard the proprietary nature of CONSULTANT manuscript policies.

Any deductible or self-insured retention must be declared to and approved by the AUTHORITY. At the option of AUTHORITY, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as requests the AUTHORITY, or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All such insurance required by the CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by the AUTHORITY.

Compliance with these insurance requirements shall not relieve or limit the CONSULTANT's liabilities and obligations under this Agreement. Failure of the AUTHORITY to demand such certificate or evidence of full compliance with these insurance requirements or failure of the AUTHORITY to identify a deficiency from evidence provided will not be construed as a waiver of the CONSULTANT's obligation to maintain such insurance.

The acceptance of delivery by the AUTHORITY of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by the AUTHORITY that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

#### 17.0 COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying the

AUTHORITY and securing its consent in writing. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data furnished in compliance with this Agreement, it being understood that, under Paragraph 8.00 hereof, such data or information is the property of the AUTHORITY.

Regarding the use of logos, printed documents and presentations produced for the AUTHORITY shall not contain the name of logo of the CONSULTANT unless approved by the AUTHORITY's Director of Public Relations and Communication or his/her designee. If a copy of the AUTHORITY logo is to be used in a document or presentation, the logo shall not be altered in any way. The width and height of the logo shall be of equal proportions. If a color logo is used, the logo shall conform to the proper PMS colors as directed by the Director of Public Relations and Communication. If a black and white logo is utilized, the logo shall be properly screened to insure allayers of the logo are visible. The logo shall always have a white background that extends beyond the logo border. The proper presentation of the AUTHORITY logo is of utmost importance to the AUTHORITY. Any questions regarding the use of the AUTHORITY logo shall be directed to the Director of Public Relations and Communications or his/her designee.

#### 18.0 STANDARD OF CONDUCT

The CONSULTANT 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 this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

The CONSULTANT acknowledges that it has read the AUTHORITY's Code of Ethics and to the extent applicable to the CONSULTANT agrees to abide with such policy.

## 19.0 DOCUMENTED ALIENS

The CONSULTANT warrants that all persons performing work for the AUTHORITY under this Agreement, regardless of the nature or duration of such work, shall be United States citizens or properly authorized and documented aliens. The CONSULTANT shall comply with all federal, state and local laws and regulations pertaining to the employment of unauthorized or undocumented aliens at all times during the performance of this Agreement and shall indemnify and hold the AUTHORITY harmless for any violations of the same. Furthermore, if the AUTHORITY determines that CONSULTANT has knowingly employed any unauthorized alien in the performance of this Agreement, the AUTHORITY may immediately and unilaterally terminate this Agreement for cause.

## 20.0 CONFLICT OF INTEREST

The CONSULTANT shall not knowingly enter into any other contract with the AUTHORITY during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with the AUTHORITY during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Director for resolution. During the term of this Agreement:

1. The CONSULTANT is not eligible to pursue any advertised work in the CONSULTANT's area of oversight for any project for which the CONSULTANT had design review responsibilities. Subconsultants are also ineligible to pursue projects where they participated in design review.
2. The CONSULTANT is not eligible to pursue any advertised construction engineering and inspection projects of the AUTHORITY as either a prime or

subconsultant where the CONSULTANT had design review responsibilities.

Subconsultants are also ineligible to pursue construction engineering and inspection projects where they participated in the design review.

#### 21.0 SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

#### 22.0 GOVERNING LAW AND VENUE

This Agreement shall be governed by and constructed in accordance with the laws of the State of Florida. Venue of any judicial proceedings arising out of the Agreement shall be in Orange County, Florida.

#### 23.00 ATTACHMENTS

Exhibit "A", Scope of Services

Exhibit "B", Method of Compensation

Exhibit "C", Cost and Fees

Exhibit "D", Project Organization Chart

IN WITNESS WHEREOF, the CONSULTANT and the AUTHORITY have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written. This Contract was awarded by the AUTHORITY's Board of Directors at its meeting on \_\_\_\_, 2014.

**CH2M HILL, INC.**

BY: \_\_\_\_\_  
Authorized Signature

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

ATTEST: \_\_\_\_\_ (Seal)  
Secretary or Notary

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

BY: \_\_\_\_\_  
Director of Procurement

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

Approved as to form and execution, only.

General Counsel for the AUTHORITY

\_\_\_\_\_



**Exhibit "A"**  
**SCOPE OF SERVICES**  
**SR 408/I-4 ULTIMATE INTERCHANGE CORRIDOR CONSULTANT**

**I. Purpose**

- A. The Central Florida Expressway Authority (Authority) requires professional services and assistance of a SR 408/I-4 Ultimate Interchange Corridor Consultant (SR 408/I-4CC) to serve as an extension of Authority staff and be responsible for providing consultant project management services and associated activities as may be required by the Authority on an as-needed basis. The services to be provided will assist the Authority with meeting commitments made to the Florida Department of Transportation in the Interlocal Agreement outlining the services to be provided by the Authority as part of the I-4 Ultimate P3 project to be delivered by the I-4 Mobility Partners (Concessionaire). It should be noted that multiple project management assignments may be authorized and on-going concurrently. Services provided by the SR 408/I-4CC shall include, but are not necessarily limited to, the following:
1. Comprehensive reviews of all concessionaire design submittals including, but not limited to, survey, roadway, drainage, geotechnical, structural, signing/pavement marking, intelligent transportation systems, signalization, lighting, toll plaza modifications, aesthetics, etc.;
  2. Ensuring that all appropriate construction permits, authorized or approved by the Authority or other Agencies, are obtained in a timely fashion by the concessionaire;
  3. Utility plan review and coordination;
  4. Coordination with other agencies as required;
  5. Coordination with FDOT-5, its General Engineering Consultant (GEC) and/or its Construction Oversight consultant (COS) for the project on a regular basis;
  6. Ensuring adherence of the concessionaire's calculations and design to the requirements of the I-4 Ultimate project, as related to SR 408 and the interchange with I-4:
    - I-4 Ultimate Project – Volume I – RFP and Concession Agreement
    - I-4 Ultimate Project – Volume II – Technical Requirements (All Sections)
    - I-4 Ultimate Project – Volume III – Additional Mandatory Standards;
  7. Attend meetings and site visits as required to fulfill the requirements of this scope of services;
  8. Providing oversight and regular reporting of the Concessionaire's self-monitoring obligations during construction to ensure contractual requirements are being met;
  9. Reviewing construction progress, both thru field reviews and regular attendance at construction coordination meetings, to ensure contractual requirements are being met;
  10. Tracking instances where requirements are not being met during construction and reporting to FDOT those deficiencies found and/or requiring corrective actions:

11. Coordinate with Authority staff to identify and coordinate specialty services of other consultants contracted separately by the Authority to assist with the commitments made to FDOT as part of the Interlocal Agreement;
12. Other miscellaneous consultant project management services as requested by the Authority.

## **II. Overview**

- A. Services provided by the SR 408/I-4CC shall be on an as needed basis and will be initiated and completed as directed by the Authority's Project Manager or other authorized representative. The Authority does not guarantee that any or all of the services described herein will be assigned during the term of the agreement. Further, the SR 408/I-4CC shall provide these services on a non-exclusive basis. The Authority, at its option, may elect to have any of the services performed by other consultants or Authority staff.
- B. The SR 408/I-4CC shall provide a resource pool of qualified professional, technical, and administrative personnel, in appropriate numbers and at the proper times, to assure that services and responsibilities assigned under this Scope of Services are effectively and efficiently carried out.

## **III. Standards, Design Criteria, and Reviews**

- A. The editions of the applicable standards and policies, including subsequent updates and amendments, in effect at the time of execution of the Agreement between the Authority and design consultant will be used as follows:
  1. I-4 Ultimate Project – Volume I – RFP and Concession Agreement
  2. I-4 Ultimate Project – Volume II – Technical Requirements (All Sections)
  3. I-4 Ultimate Project – Volume III – Additional Mandatory Standards.
  4. The applicable design and construction standards and policies of the Florida Department of Transportation including the Standard Specifications for Road and Bridge Construction, the Design Standards (Index Drawings), Plans Preparation Manual, Basis of Estimates Handbook;
  5. Federal Highway Administration (FHWA);
  6. American Association of State Highway and Transportation Officials (AASHTO);
  7. Transportation Research Board (TRB);
  8. Standard Building Code;
  9. National Electrical Code;
  10. ANSI National Electrical Safety Code;
  11. NFPA Life Safety Code;
- B. The Concessionaire's design consultant has total responsibility to ensure conformity to the "standards of the industry" for the accuracy and completeness of the plans, design, calculations, reports and other documents prepared for the project. Unless specifically stated otherwise, the SR 408/I-4CC shall verify that the concessionaire's

work, throughout the design and construction of the project, conforms to the Authority's design criteria and procedures. Review by the SR 408/I-4CC does not include detailed review or checking of design of major components and related details or the accuracy with which such designs are depicted on the plans. The responsibility for accuracy and completeness of such items remains solely that of the concessionaire and/or their design consultant.

- C. Review and coordination of the concessionaire's work by the SR 408/I-4CC shall continue from the information developed through the project development process. Submittals by the concessionaire for review by the SR 408/I-4CC will be made as prescribed by the agreement between concessionaire and FDOT.
- D. The SR 408/I-4CC shall complete all reviews and transmit comments to the Authority's Project Manager within 21 calendar days after receipt of the submittal. It should be noted that submittals from multiple disciplines may be on-going concurrently and the SR 408/I-4CC shall keep the Authority's Project Manager aware of the number and discipline of the reviews on-going.

#### **IV. Subcontracting**

Services assigned to subconsultants must be approved in advance by the Authority in accordance with the Agreement and the Authority's Procurement Policy. All subconsultants must be qualified by the Authority to perform all work assigned to them. In the event services of a subconsultant are authorized, the SR 408/I-4CC shall obtain a schedule of rates, and the Authority shall review and must approve in advance any rates to be paid to the subconsultant.

#### **V. Conflict of Interest**

The SR 408/I-4CC shall not knowingly enter into any other contract with the Authority during the term of the Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with the Authority during the term of the Agreement which would create or involve a conflict of interest with the service provided herein. Questions regarding potential conflicts of interest shall be addressed to the Authority's Executive Director for resolution.

#### **VI. Term of Agreement and Renewal**

The SR 408/I-4CC Agreement shall remain in Full force and effect for a five (5) year term from the date of the issued *Notice to Proceed* letter. Renewal of the Agreement for up to two (2) one year renewal periods may be exercised by the Authority at its sole discretion. No payment for work performed will be made to the SR 408/I-4CC team members and subconsultants unless it is performed under the SR 408/I-4CC Services budget approved by the Authority or a Letter of Authorization has been mutually agreed to in writing by the parties hereto.

### **END OF SCOPE OF SERVICES**

**Exhibit "B"**  
**METHOD OF COMPENSATION**  
**SR 408/I-4 ULTIMATE INTERCHANGE CORRIDOR CONSULTANT**

**1.0 PURPOSE**

This Exhibit describes the limits and method of compensation to be made to the SR 408/I-4 Ultimate Interchange Corridor Consultant (SR 408/I-4CC) for the services set forth in Exhibit "A", Scope of Services. The services shall be provided over the duration of the work specified in Section 3.00 of the Agreement.

**2.0 AMOUNT OF COMPENSATION**

- 2.1 The Authority agrees to pay the SR 408/I-4CC for the performance of authorized services described in Exhibit "A" an amount not to exceed \$5,300,000.00 for the initial five (5) year term of the Agreement, such amount hereinafter referred to as the Maximum Limiting Amount. All compensation shall be authorized by means of individual Work Authorizations.
- 2.2 Compensation for services provided under this Contract will be made on a unit price basis per manhour, plus reimbursable expenses and will not exceed the Maximum Limiting Amount unless increased by the Authority. This method of payment is intended to compensate the SR 408/I-4CC for all costs (salaries, overhead, fringe benefits, equipment costs, operational costs, reimbursable expenses and profit) related to the services required.

**3.0 ALLOWABLE COSTS**

The Authority will reimburse the SR 408/I-4CC for all reasonable allocable and allowable costs. The reasonableness, allocability and allowability of reimbursements sought under the Agreement are expressly made subject to the terms of (1) the Agreement, (2) Federal Acquisition Regulations sub-part 31-2, (3) Office of management and Budget (OMB) Circular A-87 (46FR9548, January 28, 1981) and A-102 (45FR55086, August 18, 1980), and (4) other pertinent federal and state regulations. By reference hereto, said sub-part of Federal Acquisition Regulations and OMB circulars are hereby incorporated in and made a part of the Agreement. Allowable Costs and Fees are defined as follows:

- 3.1 Direct Salaries and Wages: All direct salaries and wages of the SR 408/I-4CC for time expended by personnel in the performance of the work; however, this shall specifically exclude salaries and payroll burden of Corporate Officers and Principals when expended in the performance of indirect functions. The amount for salary related cost is based on unit rates for the SR 408/I-4CC's staff expected to be used to perform the required services.

Direct Salaries and Wages (salary costs) include both straight time payments and all overtime payments made for an employee's services on a project. Straight time costs shall be the hourly rate paid for an employee based on a forty (40) hour workweek. Overtime costs shall be the salary costs paid for an employee for work exceeding a forty (40) hour workweek. Overtime costs shall be paid as either Straight Overtime costs or Premium Overtime costs as detailed below:

- 3.1.1 Straight Overtime: The portion of overtime compensation paid for employees at the straight time hourly rate burdened with overhead and fringe benefits.
  - 3.1.2 Premium Overtime: The portion of overtime compensation paid in excess of the straight time hourly rate not burdened with overhead and fringe benefits. Premium overtime is not authorized unless approved in writing by the Authority's Project Manager.
  - 3.1.3 Payment of Overtime: Straight Overtime or Premium Overtime shall be paid in accordance with the SR 408/I-4CC's overtime policies and practices, provided that such compensation plan or practice is so consistently followed, in effect, to imply an equitable treatment of overtime to all of the SR 408/I-4CC's clients.
- 3.2 A multiplier of 2.316 shall be applied to all SR 408/I-4CC direct salaries and wages as total compensation for the SR 408/I-4CC's administration overhead and burden costs (indirect charges) and the SR 408/I-4CC's operating margin (profit and risk).
  - 3.3 Expenses: A Lump Sum Amount will be negotiated and paid for miscellaneous and out-of-pocket expenses for each approved Work Authorization. All non-local SR 408/I-4CC travel must be pre-approved by the Authority and will be reimbursed in accordance with Florida State Statute 112.061.
  - 3.4 Subconsultant Costs: Compensation will be based on actual costs of subconsultant expenses directly chargeable to the project and supported by invoices or other documentation acceptable to the Authority. Subconsultant fees, as authorized by the Authority, will be passed through the SR 408/I-4CC at cost. In lieu of administrative mark-up, the SR 408/I-4CC will charge time and reimbursable costs associated with the management administrative charges to oversee and administer subconsultants.

#### 4.0 METHOD OF COMPENSATION

Unless increased, no more than the Maximum Limiting Amount provided for in Section 2.0 above will be paid by the Authority to the SR 408/I-4CC as follows, subject to the provisions of Section 3.0 above:

- 4.1 The SR 408/I-4CC will be reimbursed monthly for services performed for each approved Work Authorization. Payment to the SR 408/I-4CC will be in an amount to cover costs incurred during the preceding month for actual direct salary and wages times a multiplier of 2.316, a portion of Lump Sum Expenses and Subconsultant Costs for actual work performed. The SR 408/I-4CC shall promptly pay all subconsultants their proportionate share of payment received from the Authority.
- 4.2 The SR 408/I-4CC shall earn a portion of its established Lump Sum Expense cost in the amount equal to such Lump Sum equally distributed over the Work Authorization's anticipated duration. Any balance due the SR 408/I-4CC upon completion of a Work Authorization shall be paid in the final invoice.
- 4.3 The SR 408/I-4CC shall be responsible for the consolidation and submittal of one (1) original monthly invoice, in the form and detail established or approved by the Authority. All payments on such invoices are conditional and subject to adjustment as a result of a final audit as to the allowability of costs in accordance with this Agreement. Invoices shall include an itemization and substantiation of costs incurred. The itemization must include the amount budgeted, current amount billed, total billed to date and amount to complete.
- 4.4 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. Any and all such payment previously withheld shall be released and paid to SR 408/I-4CC promptly when the work is subsequently satisfactorily performed.

#### 5.0 PROJECT CLOSEOUT:

- 5.1 Final Audit: The SR 408/I-4CC shall permit the Authority to perform or have performed an audit of the records of the SR 408/I-4CC and any or all Subconsultants to support the compensation paid the SR 408/I-4CC. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the SR 408/I-4CC under this Agreement are subsequently properly disallowed by the Authority because of accounting errors or charges not in conformity with this Agreement, the SR 408/I-4CC agrees that such disallowed amounts are due to the Authority upon demand. Further, the Authority shall have the right to deduct from any payment due the SR 408/I-4CC under any other contract between the Authority and the SR 408/I-4CC

an amount sufficient to satisfy any amount due and owing the Authority by the SR 408/I-4CC under this Agreement. Final payment to the SR 408/I-4CC shall be adjusted for audit results.

- 5.2 Certificate of Completion: Subsequent to the completion of the final audit, a Certificate of Completion will be prepared for execution by both parties stating the total compensation due the SR 408/I-4CC, the amount previously paid, and the difference. Upon execution of the Certificate of Completion, the SR 408/I-4CC shall either submit a termination invoice for an amount due or refund to the Authority for the overpayment, provided the net difference is not zero.

END OF SECTION

Exhibit "C"  
Costs and Fees

**Team Compensation**

Team services will be compensated for their work under the SR 408/I-4 Ultimate Interchange Consultant Contract per the information proved below. All team direct expenses will be negotiated with each Work Authorization.

**CH2M HILL, Inc.**

Overhead	106.76%
FCCM	0%
Profit	12%
Direct Expenses	Negotiated
Multiplier	2.316

**Echezabal & Associates, Inc.**

Overhead	178.47%
FCCM	0%
Profit	11.533%
Direct Expenses	Negotiated
Multiplier	3.106

**Quest Corporation of America, Inc.**

Overhead	169.50%
FCCM	0%
Profit	12%
Direct Expenses	Negotiated
Multiplier	3.018

**Brindly Pieters & Associates, Inc.**

Overhead	243.57%
FCCM	0%
Profit	8.451%
Direct Expenses	Negotiated
Multiplier	3.726

**I. F. Rooks & Associates, Inc.**

Overhead	143.79%
FCCM	0%
Profit	12%
Direct Expenses	Negotiated
Multiplier	2.730

NOTE: Profit percentages were calculated using an average of 12% for a Statewide Average Overhead Rate of 171.53%. For Overhead Rates different than 171.53%, a ratio was applied to calculate the maximum allowable profit percentage as follows:  $(171.53 / \text{Overhead Rate}) * 12\%$ , with a maximum allowable profit of 12%.



**Exhibit "C"**  
**Costs and Fees**

SR 408/I-4 Ultimate Interchange Corridor Consultant  
CH2M HILL  
SCHEDULE OF VALUES

Task Description	Calendar Year					Summary
	2015	2016	2017	2018	2019	
<b>Task 1 - Concessionaire Design Review Services</b>	\$369,500	\$369,500	\$82,000	\$0	\$0	<b>\$821,000</b>
<b>Task 2 - Meetings</b>	\$171,260	\$171,560	\$171,560	\$171,560	\$171,560	<b>\$857,500</b>
<b>Task 3 - Construction Oversight Services</b>	\$459,000	\$670,000	\$670,000	\$670,000	\$670,000	<b>\$3,139,000</b>
<b>Task 4 - Maintenance Period Services</b>	\$0	\$0	\$0	\$41,250	\$41,250	<b>\$82,500</b>
<b>Task 5 - Public Involvement</b>	\$50,000	\$75,000	\$100,000	\$100,000	\$75,000	<b>\$400,000</b>
<b>Summary</b>	<b>\$1,049,760</b>	<b>\$1,286,060</b>	<b>\$1,023,560</b>	<b>\$982,810</b>	<b>\$957,810</b>	<b>\$5,300,000</b>

<b>Percentage of Total Project Funding:</b>	<b>\$230,000,000</b>	<b>\$5,300,000</b>	<b>2.30%</b>
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Exhibit "C"  
Costs and Fees

SR 408/I-4 Ultimate Interchange Design Review Fees  
Updated: 11/18/2014

Firm Contracts		Projected Billings					
Project		Task 1 Totals	Task 2 Totals	Task 3 Totals	Task 4 Totals	Task 5 Totals	Project Totals
CMP - Review 1		\$ 556,179					
CMP - Review 2		\$ 139,570					
90% Review		\$ 73,458					
Release for Construction Review		\$ 51,945					
Task 2 - Meetings			\$ 857,808				\$ 821,152
Task 3 - COS				\$ 3,139,702			\$ 857,808
Task 4 - Maintenance Period					\$ 82,835		\$ 3,139,702
Task 5 - Public Involvement						\$ 400,000	\$ 82,835
							\$ 400,000
Total		\$ 821,152	\$ 857,808	\$ 3,139,702	\$ 82,835	\$ 400,000	\$ 5,301,496

408/I-4 Ultimate Interchange Consultant Contract  
 Exhibit "C"  
 Summary of Compensation Rates Costs and Fees

CH2M HILL, Inc.

Category	2015	2016	2017	2018	2019	Average
Senior Program Manager	\$104.32	\$107.45	\$110.68	\$114.00	\$117.42	\$110.77
Program Manager	\$78.33	\$80.68	\$83.10	\$85.59	\$88.16	\$83.17
Senior Project Manager	\$66.74	\$68.75	\$70.81	\$72.93	\$75.12	\$70.87
Chief Engineer	\$58.03	\$59.77	\$61.56	\$63.41	\$65.31	\$61.61
Chief Scientist	\$47.52	\$48.95	\$50.42	\$51.93	\$53.49	\$50.46
Engineer	\$37.12	\$38.23	\$39.38	\$40.56	\$41.78	\$39.41
Scientist	\$33.25	\$34.25	\$35.28	\$36.33	\$37.42	\$35.31
Engineering Intern	\$26.68	\$27.48	\$28.30	\$29.15	\$30.03	\$28.33
Senior Designer	\$38.91	\$40.07	\$41.28	\$42.51	\$43.79	\$41.31
Engineering Technician	\$29.27	\$30.01	\$30.76	\$31.52	\$32.31	\$30.77
CADD/Computer Tech.	\$28.38	\$29.23	\$30.11	\$31.01	\$31.94	\$30.14
Administrative Support	\$23.23	\$23.92	\$24.64	\$25.38	\$26.14	\$24.66

Echezabal & Associates, Inc.

Category	2015	2016	2017	2018	2019	Average
Party Chief	\$22.75	\$23.43	\$24.13	\$24.85	\$25.60	\$24.15
Instrument Man	\$15.26	\$15.71	\$16.19	\$16.67	\$17.17	\$16.20
Rod Man	\$12.36	\$12.73	\$13.11	\$13.51	\$13.91	\$13.12
Senior Surveyor & Mapper	\$50.23	\$51.74	\$53.29	\$54.89	\$56.53	\$53.34
Surveyor & Mapper	\$42.33	\$43.60	\$44.91	\$46.26	\$47.65	\$44.95
Survey Technician	\$32.04	\$33.00	\$33.99	\$35.01	\$36.07	\$34.02
Secretary/Clerical	\$19.40	\$19.98	\$20.58	\$21.20	\$21.83	\$20.60

Quest Corporation of America, Inc.

Category	2015	2016	2017	2018	2019	Average
P.I. - Project Manager	\$39.61	\$40.80	\$42.03	\$43.29	\$44.59	\$42.06
Sr. Public Information	\$30.51	\$31.42	\$32.37	\$33.34	\$34.34	\$32.40

Brindley Pieters & Associates, Inc.

Category	2015	2016	2017	2018	2019	Average
Project Manager	\$71.02	\$72.44	\$73.89	\$75.37	\$76.88	\$73.92
Utilities Manager	\$38.43	\$39.20	\$39.98	\$40.78	\$41.60	\$40.00
Sr. Designer/Sr. Construction Inspector	\$38.47	\$39.24	\$40.02	\$40.82	\$41.64	\$40.04
Eng. Tech./Construction Inspector	\$25.50	\$26.01	\$26.53	\$27.06	\$27.60	\$26.54

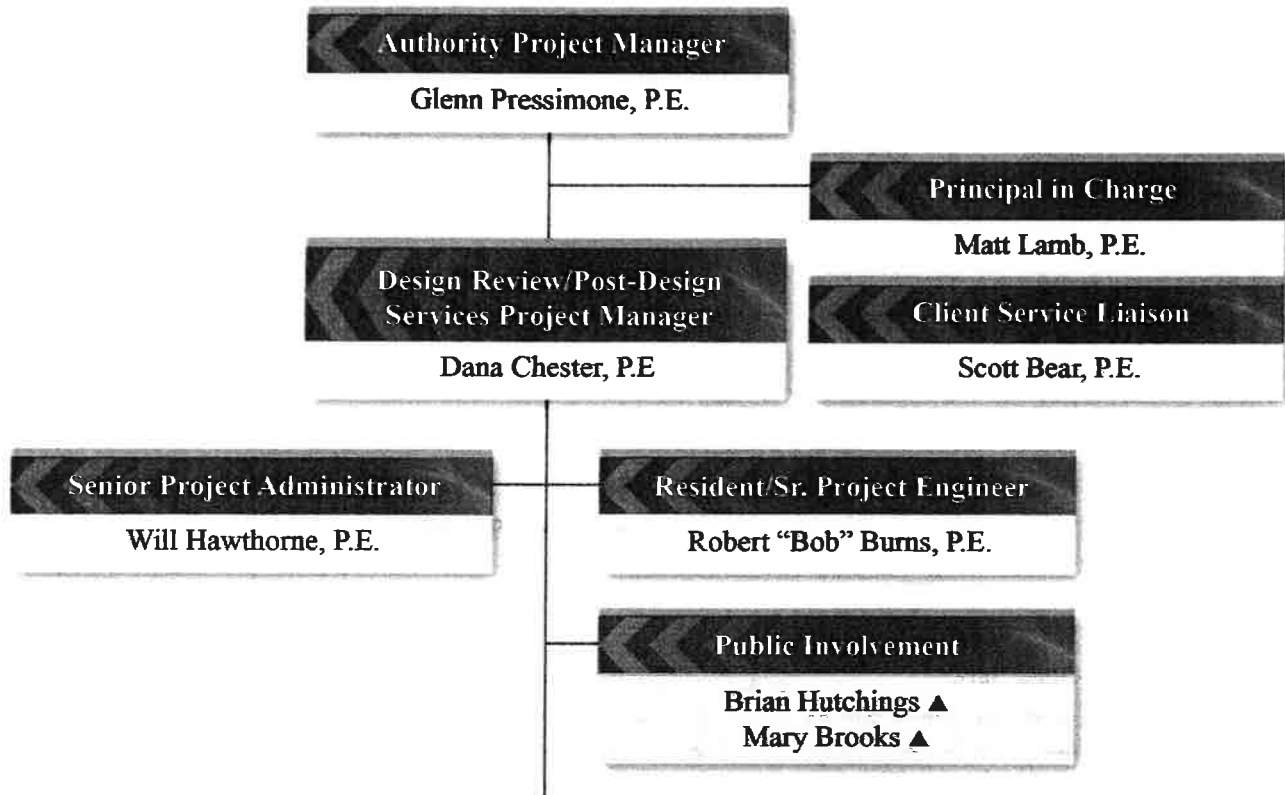
408/I-4 Ultimate Interchange Consultant Contract  
 Summary of Compensation Rates

Exhibit "C"  
 Costs and Fees

I.F. Rooks & Associates, Inc.

Category	2015	2016	2017	2018	2019	Average
Project Manager	\$61.76	\$63.00	\$64.26	\$65.54	\$66.85	\$64.28
Senior Specialist	\$39.24	\$40.02	\$40.82	\$41.64	\$42.47	\$40.84
Surveyor & Mapper	\$28.56	\$29.13	\$29.71	\$30.31	\$30.91	\$29.73
CADD Computer Tech A	\$27.88	\$28.43	\$29.00	\$29.58	\$30.17	\$29.01
CADD Computer Tech B	\$24.48	\$24.97	\$25.47	\$25.98	\$26.50	\$25.48
Specialist	\$20.40	\$20.81	\$21.22	\$21.65	\$22.08	\$21.23

Exhibit "D"  
Project Organization Chart



**Design Review and  
Post-Design Services**

**Roadway/MOT**

Krystal Burns, P.E.  
Tim Walsh, P.E.

**S&PM/Lighting/Traffic**

Tom Ross, P.E.  
DeeAngela Tjikueni, P.E.

**ITS**

Tom Ross, P.E.  
Dana Chester, P.E.

**Structures**

Randy Mock, P.E.  
Bhushan Godbole, P.E.

**Drainage**

Stephen Hart, P.E.  
Kennedy Simmonds, P.E.

**Geotech**

Mark Canty, P.E.

**Utilities**

Patricia Dickerson ■

**Landscaping**

Scott Barber, RLA

**Surveying and Mapping**

Ian Major ●  
Richard Step ●  
Stephen Tate, P.S.M. ●  
James T. Viers, P.L.S. ●  
Ike Rooks, P.S.M. \*

***Legend:***

- *Brindley Pieters & Associates, Inc.*
- *Echezabel & Associate, Inc.*
- ▲ *Quest Corporation of America*
- \* *I.F. Rooks and Associates, Inc.*

Team Prequalifications: 3.2 Major Highway Design; 3.3 Controlled Access Highway Design; 4.1 Miscellaneous Structures and Minor Bridge Design; 4.2.2 Major Bridge Design-Steel; 6.3 Intelligent Transportation Systems Analysis, Design, and Implementation; 7.0 Traffic Operations; and 8.0 Survey and Mapping. Please refer to Appendix D for a complete list of our team's prequalifications.

## **CONSENT AGENDA ITEM**

**#6**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Board Members  
Central Florida Expressway Authority

FROM: Lisa Lumbar, Interim Chief Financial Officer

DATE: December 11, 2014

RE: Disposal of Inventory



Staff requests authorization to dispose of equipment that is either broken or obsolete to CFX using the services of Southeastern Data.

Actual/Est Acquire Date	Description	Cost/Est cost per each	Quantity	Total Cost/Est cost	Asset Tag #
11/97	Toshiba Laptop	\$ 1,973.00	1	\$ 1,973.00	3136
1998	Digital 800 Servers-used for customer service training	\$ 5,232.00	3	\$ 15,696.00	NA
6/05	HP Server- used for customer documents i.e. faxes, customer statements	\$ 10,128.00	1	\$ 10,128.00	4388
1/07	HP Server- used for customer documents i.e. faxes, customer statements	\$ 5,388.00	1	\$ 5,388.00	5583
1/09	Magicard Proxy Card Reader- for processing employee & contractor ID cards	\$ 3,220.00	1	\$ 3,220.00	6230
9/11	HP KVM-monitor and keyboard to access multiple servers on a rack in the computer room	\$ 1,248.75	1	\$ 1,248.75	NA
11/11	Captaris Server-used for faxing customer statements	\$ 3,495.00	1	\$ 3,495.00	6659

## **CONSENT AGENDA ITEM**

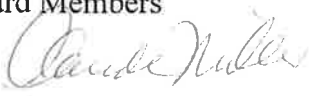
**#7**



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: November 25, 2014

RE: Approval of Purchase Order for Carousel Industries for  
Switches for Local Area Network Communications and Support

Board approval is requested to issue a purchase order in the amount of \$84,520.20 to Carousel Industries to replace outdated network switches that provide communications for desktops, phones, video, monitoring equipment, etc., for the Headquarters Building. Unit prices for the required items are based on GSA Contract No. GS-35F-0511T.

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations, Construction and Maintenance  
Laura Kelley, Deputy Executive Director, Finance and Administration  
Joann Chizlett, Director of Information Technology



## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Extreme

40GB

Created By: Vishal Nanda  
Account Executive: Kenneth Jones  
Report Created: 11/4/2014  
Tracking Number: 178130

Quote Valid Until 12/20/14  
GSA # GS-35F-0511T

Product						
Deliverable	Part #	Description	Qty	MSRP/Unit	MSRP/Total	Extended Price
460-G2 switch	16704	Summit X460-G2 48 10/100/1000BASE-T PoE+, 4 1000/10GBaseX unpop'd SFP+ ports, Rear VIM Slot (unpop'd), Rear Timing Slot (unpop'd), 2 unpop'd PSU slots, fan module slot (unpop'd), ExtremeXOS Edge license	12	\$8,100.00	\$97,200.00	\$41,796.00
Power Supply	10941	Summit 1100W AC PSU FB	24	\$1,095.00	\$26,280.00	\$11,300.40
Fan Module	10945	FAN Module for Summit X470 Series Switches - front to back airflow	12	\$295.00	\$3,540.00	\$1,522.20
40GB Module	16710	Optional Virtual Interface Module for the rear of the X460-G2 providing 2 40GBASE-X ports unpopulated QSFP+	12	\$2,495.00	\$29,940.00	\$12,874.20
0.5m x 40GB Cable	40GB-C0.5-QSFP	40GB, QSFP COPPER DAC 0.5M	9	\$250.00	\$2,250.00	\$967.50
1m x 40GB Cable	40GB-C01-QSFP	40GB, QSFP COPPER CABLE 1M	3	\$350.00	\$1,050.00	\$451.50
Power Cords	10099	Power Cord, 13A, NEMA 5-15, IEC320-C15	24	\$25.00	\$600.00	\$258.00
					\$0.00	\$0.00
					\$0.00	\$0.00
					\$0.00	\$0.00
LR Single-Mode SFP+	10302-AO	3RD PARTY SFP+ AddOn Extreme 10302 Compatible 10GBASE-LR SFP+ SMF F/EXTREME LC 1310NM 10KM 100% COMPATIBLE	12	\$830.00	\$9,960.00	\$7,370.40
					\$0.00	\$0.00
Sub-Total					\$170,820.00	\$76,540.20

Installation - Project Management						
Deliverable	Part #	Description	Qty	MSRP/Unit	MSRP/Total	Extended Price
	00049				\$0.00	\$0.00
	00049				\$0.00	\$0.00
	00049				\$0.00	\$0.00
Shipping is NOT Included						
Sub-Total					\$0.00	\$0.00

Manufacturer Training & Professional Services						
Deliverable	Part #	Description	Qty	MSRP/Unit	MSRP/Total	Extended Price
					\$0.00	\$0.00
					\$0.00	\$0.00
					\$0.00	\$0.00
Sub-Total					\$0.00	\$0.00

Support Contract						
Deliverable	Part #	Description	Qty	MSRP/Unit	MSRP/Total	Extended Price
16704	97004-16704	EW NBD AHR 16704	12	\$405.00	\$4,860.00	\$4,617.00
16710	97004-16710	EW NBD AHR 16710	12	\$125.00	\$1,500.00	\$1,425.00
10302-AO	97004-LR-SFPP	EW NBD AHR Optics LR-SFPP	12	\$170.00	\$2,040.00	\$1,938.00
Sub-Total					\$8,400.00	\$7,980.00

	MSRP	EXTENDED
Product Total	\$170,820.00	\$76,540.20
Installation - Project Management Total	\$0.00	\$0.00
Training -Professional Services Total	\$0.00	\$0.00
Support Contract Total	\$8,400.00	\$7,980.00
<b>TOTAL</b>	<b>\$179,220.00</b>	<b>\$84,520.20</b>

NOTES:

## Claude Miller

---

**From:** Rene Rodrigue  
**Sent:** Monday, November 17, 2014 4:13 PM  
**To:** Robert Johnson; Claude Miller  
**Cc:** Joann Chizlett; Rene Rodrigue; Paul Crawford  
**Subject:** Consent Agenda Item | Extreme Switch Purchase  
**Attachments:** CEFA 460-G2 POE 40gb SLX 178130 11514 11-17-14.pdf

Hi Robert / Claude:

Please see my request for the following consent agenda item.

"Board approval is requested to issue a purchase order in the amount of \$84,520.20 to Carousel Industries. The purchase items are procured from GSA Contract #GS-35F-0511T. Each floor of the Headquarters building contains network switches that provide communications for desktops, phones, video, monitoring equipment, etc. The current switches are currently end of sale as of 03-31-2014 and will be approaching seven years old. The Headquarters building is dependent upon this equipment for all local area network communications. This purchase order will allow replacement of the current switches and provide for one year of support."

Thanks,

Rene

---

Rene Rodrigue  
Information Security Manager

### **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

4974 ORL Tower Road  
Orlando, Florida 32807

(o) 407-690-5162

[www.ExpresswayAuthority.com](http://www.ExpresswayAuthority.com)

PLEASE NOTE: Florida has a very broad public records law (F. S. 119).  
All e-mails to and from the Expressway Authority are kept as a public record.  
Your e-mail communications, including your e-mail address may be  
disclosed to the public and media at any time.

## **CONSENT AGENDA ITEM**

**#8**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: November 25, 2014

RE: Award of Contract for  
Disclosure Counsel  
Contract No. 001057

In accordance with the Procurement Policy and Procedures for competitive sealed proposals, a Request for Proposals (RFP) from qualified firms to serve as Disclosure Counsel was advertised on October 12, 2014. Responses were received from six (6) firms by the November 3, 2014, deadline for submittal of Technical Proposals. Those firms were: Nixon Peabody, LLP; Ballard Spahr, LLP; Nabors, Giblin & Nickerson, P.A.; Squire Patton Boggs (US) LLP; Edwards Wildman Palmer, LLP; Greenberg Traurig, P.A.

The Evaluation Committee met on November 14, 2014, and after scoring of the Technical Proposals, unanimously agreed to shortlist the three firms with the highest point totals. Those firms were: Nabors, Giblin & Nickerson, P.A.; Squire Patton Boggs (US) LLP; and Greenberg Traurig, P.A. Interviews with the three firms were held on November 24, 2014. At the conclusion of the interviews the final scores were calculated and resulted in the following ranking:

<u>Ranking</u>	<u>Firm</u>
1	Nabors, Giblin & Nickerson, N.A.
2	Squire Patton Boggs (US) LLP
3	Greenberg Traurig, P.A.

Board approval of the final ranking and authorization to enter into fee negotiations with Nabors, Giblin & Nickerson P.A., 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, Construction and Maintenance  
Laura Kelley, Deputy Executive Director, Finance and Administration  
Joe Passiatore, General Counsel  
Lisa Lumbard, Interim Chief Financial Officer

**RFP-001046 / RFP-001057 Committee Meeting November 24, 2014 Minutes**

Technical Review Committee for Issuer's Counsel, 001046, and Disclosure Counsel, 001057, held a duly noticed meeting on Monday, November 24, 2014, commencing at 9:06 a.m. in the Pelican Conference Room at the CFX Administrative Bldg., Orlando, Florida.

**Committee Members Present:**

Joe Passiatore, General Counsel, CFX  
Lisa Lombard, Interim CFO, CFX  
Sandy Minkoff, General Counsel, Lake County  
Chris McCullion, Treasurer, City of Orlando

**Other Attendees:**

Robert Johnson, Manager of Procurement, CFX

**Discussion and Motions:**

Robert commenced the meeting explaining the RFP process and the purpose of today's meeting was to conduct interviews, and make a final recommendation to the Board with regard to Disclosure Counsel and Issuers Counsel.

**Interviews:**

Robert commenced each of the 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.

**Disclosure Counsel**

Greenberg, Traurig PA	09:07 a.m. – 09:38 a.m.
Nabors, Giblin and Nickerson	09:44 a.m. – 10:10 a.m.
Squire Patton Boggs (US) LLP	10:20 a.m. – 10:46 a.m.

**Issuers Counsel**

Nabors, Giblin and Nickerson	10:56 a.m. – 11:21 a.m.
Shutts & Bowen LLP	11:34 a.m. – 12:03 p.m.

**Evaluation Portion:**

Robert stated the evaluation portion of the meeting is open to the public in accordance with Florida Statute. The committee members were given the opportunity to discuss the technical and interviews prior to submitting their evaluation forms. Joe Passiatore requested the attached fees paid to Bond, Disclosure, and Issuer's Counsel over the past 5 years be added to the minutes. General Discussion ensued about Issuer's Counsel and the role they play. 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 and summary results.

<u>Issuers Counsel</u>	
<u>FIRM</u>	<u>Points</u>
Nabors, Giblin and Nickerson	92.5
Shutts & Bowen LLP	85.0


<u>Disclosure Counsel</u>	
<u>FIRM</u>	<u>Points</u>
Nabors, Giblin and Nickerson	94.5
Squire Patton Boggs (US) LLP	92.0
Greenberg, Traurig PA	91.75

Joe Passiatore made a motion to approve the rankings and recommend Board authorization to negotiate with Nabors, Giblin and Nickerson on the Disclosure Counsel contract. In the event negotiations are unsuccessful, then staff would negotiate with the second ranked firm of Squire Patton Boggs (US) LLP. In the event negotiations are unsuccessful, then staff would negotiate with the third ranked firm of Greenberg, Traurig PA. Further, in the event Nabors, Giblin and Nickerson is not awarded the Disclosure Counsel contract, staff will next negotiate with Nabors, Giblin and Nickerson on the Issuer's Counsel contract. If Nabors, Giblin and Nickerson is awarded the Disclosure Counsel contract, staff will negotiate with Shutts & Bowen LLP, for the Issuer's Counsel contract due to the fact that one firm cannot be awarded both contracts. Lisa seconded the motion and the Committee unanimously agreed.

They're being no other business to come before the Committee; the meeting was adjourned at 12:53p.m.

These minutes are considered to be the official minutes of the Evaluation Committee meeting held Monday, November 24, 2014, and no other notes, tapes, etc., taken by anyone takes precedence.

Submitted by:   
Robert Johnson

Approved by:   
Joe Passiatore

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**TECHNICAL PROPOSAL INDIVIDUAL SCORING**

**DISCLOSURE COUNSEL SERVICES RFP-001057**

Nixon Peabody, LLP	Chris McCullior	Joe Passiatore	Lisa Lumbard	Sandy Minkoff
Experience of the Firm (25 points max.)	22	22	19	25
Experience of the Attorneys Assigned (25 points max.)	20	23	19	23
Approach to Assignment (25 points max.)	20	23	20	20
Interview (25 points max.)	0	0	0	0
Total (Not to exceed 100)	62	68	58	68

Nabors, Giblin & Nickerson, P.A.	Chris McCullior	Joe Passiatore	Lisa Lumbard	Sandy Minkoff
Experience of the Firm (25 points max.)	25	24	23	25
Experience of the Attorneys Assigned (25 points max.)	23	24	25	20
Approach to Assignment (25 points max.)	25	24	22	23
Interview (25 points max.)	25	25	25	20
Total (Not to exceed 100)	98	97	95	88

Edwards Wildman Palmer, LLP	Chris McCullior	Joe Passiatore	Lisa Lumbard	Sandy Minkoff
Experience of the Firm (25 points max.)	22	24	25	20
Experience of the Attorneys Assigned (25 points max.)	20	22	20	20
Approach to Assignment (25 points max.)	20	23	22	20
Interview (25 points max.)	0	0	0	0
Total (Not to exceed 100)	62	69	67	60

Ballard Spahr, LLP	Chris McCullior	Joe Passiatore	Lisa Lumbard	Sandy Minkoff
Experience of the Firm (25 points max.)	15	22	17	10
Experience of the Attorneys Assigned (25 points max.)	20	21	23	20
Approach to Assignment (25 points max.)	20	22	18	15
Interview (25 points max.)	0	0	0	0
Total (Not to exceed 100)	55	65	58	45

Squire Patton Boggs, LLP	Chris McCullior	Joe Passiatore	Lisa Lumbard	Sandy Minkoff
Experience of the Firm (25 points max.)	25	25	25	25
Experience of the Attorneys Assigned (25 points max.)	21	23	25	23
Approach to Assignment (25 points max.)	23	23	22	20
Interview (25 points max.)	25	20	18	25
Total (Not to exceed 100)	94	91	90	93


Greenberg Trautman, P.A.	Chris McCullior	Joe Passiatore	Lisa Lumbard	Sandy Minkoff
Experience of the Firm (25 points max.)	25	24	25	20
Experience of the Attorneys Assigned (25 points max.)	25	24	25	15
Approach to Assignment (25 points max.)	25	24	25	20
Interview (25 points max.)	25	20	20	25
Total (Not to exceed 100)	100	92	95	80

Committee Members:



Monday, November 24, 2014

Monday, November 24, 2014



Monday, November 24, 2014

Monday, November 24, 2014



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TECHNICAL PROPOSAL SCORING SUMMARY  
DISCLOSURE COUNSEL SERVICES RFP-001057

EVALUATOR	Nabors, Gihlin & Nickerson, P.A.		Squire Patton Boggs, LLP		Greenberg Traurig, P.A.	
	TECHNICAL	PRICE	TECHNICAL	PRICE	TECHNICAL	PRICE
Chris McCullion	88		94		100	
Joe Passalunghi	97		91		82	
Lisa Lumbard	95		90		95	
Sandy Minkoff	88		93		80	
TOTAL	378		368		367	
AVG. TECH. POINTS	94.50		92.00		91.75	

POINT TOTALS AND FINAL RANKING			
PROPOSER	TECHNICAL POINTS	TOTAL POINTS	FINAL RANKING
Nabors, Gihlin & Nickerson, P.A.	94.50	94.50	1
Squire Patton Boggs, LLP	92.00	92.00	2
Greenberg Traurig, P.A.	91.75	91.75	3

Committee Members:


Monday, November 24, 2014  
Monday, November 24, 2014  
Monday, November 24, 2014  
Monday, November 24, 2014

**RFP-001046 / RFP-001057 Committee Meeting November 17, 2014 Minutes**

Technical Review Committee for **Issuer's Counsel, 001046, and Disclosure Counsel, 001057**, held a duly noticed meeting on Monday, November 17, 2014, commencing at 10:31 a.m. in the Starling Conference Room at the OOCEA Administrative Bldg, Orlando, Florida.

**Committee Members Present:**

Joe Passiatore, General Counsel  
Lisa Lumbard, Interim CFO  
Sandy Minkoff, General Counsel, Lake County  
Chris McCullion, Treasurer, City of Orlando

**Other Attendees:**

Robert Johnson, Manager of Procurement

**Discussion and Motions:**

Robert commenced the meeting collecting the Evaluation Committee Member Disclosure forms that the committee members reviewed and executed. Robert explained that today's meeting was to evaluate and shortlist the submittals for Disclosure Counsel and Issuers Counsel.

Starting with Issuers Counsel, general discussion ensued with regard to the submittals and RFP requirements. Upon completion of the discussion, scores were tallied as provided below:

<u>FIRM</u>	<u>Issuers Counsel</u>	<u>Points</u>
Nabors, Giblin & Nickerson, P.A.		272
Shutts & Bowen, LLP		257

It was the consensus of the committee that both firms be invited in alphabetical order to interviews which would be for 30 minutes on Monday, November 24<sup>th</sup>.

General discussion ensued whereby the committee members discussed the firms and the evaluation criteria outline in the RFQ for the six firms being considered for Disclosure Counsel.

Upon the committee's discussion, individual committee members scored the individual responses. Evaluation Criteria forms were collected and tallied with the following results:

<u>FIRM</u>	<u>Disclosure Counsel</u>	<u>Points</u>
Nabors, Giblin and Nickerson		283
Squire Patton Boggs (US) LLP		280
Greenberg, Traurig PA		277
Edwards Wildman Palmer, LLP		258
Nixon Peabody, LLP		256
Ballard Spahr, LLP		223

It was the consensus of the committee that the top three (3) firms be invited in alphabetical order to interviews which would be for 30 minutes on Monday, November 24<sup>th</sup>.

As per the Committee's recommendation, Disclosure Counsel will be interviewed first followed directly by Issuer's Counsel. Upon completion of all the interviews, then the evaluation phase will commence.

Robert stated he would notify respondents of their interview times.

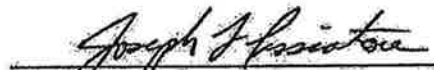
They're being no other business to come before the Committee; the meeting was adjourned at 12:01p.m.

These minutes are considered to be the official minutes of the Evaluation Committee meeting held Monday, November 17, 2014, and no other notes, tapes, etc., taken by anyone takes precedence.

Submitted by:

  
Robert Johnson

Approved by:

  
Joe Passiatore

DISCLOSURE COUNSEL SERVICES RFP-001057  
SUMMARY OF THE INDIVIDUAL COMMITTEE MEMBER SCORING OF THE  
FIRST THREE CRITERIA UNDER 4.2

PROPOSER	Chris McCullion	Joe Passiatore	Lisa Lumbard	Sandy Minkoff	Total	Ranking
Nixon Peabody, LLP	62	68	58	68	256	5
Nabors, Giblin & Nickerson, P.A.	73	72	70	68	283	1
Edwards Wildman Palmer, LLP	62	69	67	60	258	4
Ballard Spahr, LLP	55	65	58	45	223	6
Squire Patton Boggs, LLP	69	71	72	68	280	2
GreenbergTrautman, P.A.	75	72	75	55	277	3

COMMITTEE MEMBER *Lisa Lumbard*  
Monday, November 17, 2014

COMMITTEE MEMBER *Sandy Minkoff*  
Monday, November 17, 2014

COMMITTEE MEMBER *Chris McCullion*  
Monday, November 17, 2014

COMMITTEE MEMBER *Joe Passiatore*  
Monday, November 17, 2014


## **CONSENT AGENDA ITEM**

**#9**

**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**

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

**TO: Central Florida Expressway Authority Board Members**  
**FROM: James Edward Cheek, III, Right of Way Counsel**   
**Winderweedle, Haines, Ward & Woodman, P.A.**  
**DATE: November 25, 2014**  
**RE: SR 429 Wekiva Parkway**  
**Project 429-204: Parcel 249 - Resolution**

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Winderweedle, Haines, Ward & Woodman, P.A. ("WHWW"), right of way counsel, submits the attached Resolution and requests that the Board consider the adoption of the Resolution for the acquisition of Parcel 249 for the construction of the SR 429 Wekiva Parkway, Project 429-204.

**DESCRIPTION AND BACKGROUND:**

The Resolution is being sought in accordance with applicable Florida law governing eminent domain and property acquisition procedures. In addition, the Resolution is being sought as a step in the process of property acquisition consistent with the Central Florida Expressway Authority Property Acquisition & Disposition Procedures Manual.

Parcel 249 is a 3,462 square foot parcel of land located on Ondich Road in Orange County, Florida. The acquisition of Parcel 249 is necessary for the construction of the SR 429 Wekiva Parkway, Project 429-204.

**REQUESTED ACTION:**

Right of way counsel respectfully requests that the Board adopt the attached Resolution for the acquisition of Parcel 249.

**ATTACHMENT:**

Resolution for Parcel 249

**RESOLUTION**

**WHEREAS**, the CENTRAL FLORIDA EXPRESSWAY AUTHORITY (the "AUTHORITY") is empowered by Chapter 348, Part III, Florida Statutes to acquire, hold, construct, improve, maintain and operate the CENTRAL FLORIDA EXPRESSWAY SYSTEM (the "SYSTEM"), and is further authorized to construct any extension, additions or improvements to the SYSTEM or pertinent facilities including all necessary approaches, roads and avenues of access with such changes, modifications or revisions of the project as shall be deemed desirable and proper, and

**WHEREAS**, the SYSTEM is defined under Section 348.752(5), Florida Statutes, as any expressways and appurtenant facilities thereto, including, but not limited to, all approaches, roads, bridges and avenues for the expressway and any rapid transit, trams, or fixed guideways located within the right-of-way of an expressway. Furthermore, Section 348.759(1), Florida Statutes, empowers the AUTHORITY to acquire private or public property and property rights as the AUTHORITY may deem necessary for any purpose, including, but not limited to areas necessary for management of access and water retention areas. Section 348.754(1)(b), Florida Statutes, also empowers the AUTHORITY to construct any extensions, additions or improvements to the SYSTEM or appurtenant facilities, including all necessary approaches, roads, bridges and avenues of access, rapid transmit, trams, fixed guideways, thoroughfares, and boulevards with any changes, modifications or revisions of the project which are deemed desirable and proper, and

**WHEREAS**, in furtherance of such authorization, the AUTHORITY has been granted the right to acquire private or public property and property rights including rights of access, air, light and view by gift, devise, purchase or condemnation by eminent proceedings, and

**WHEREAS**, the AUTHORITY has determined that it is necessary and in the public interest to make certain additions, extensions and improvements to the SYSTEM, including the S.R.429 Wekiva Parkway Project #429-204, and the AUTHORITY has determined that to do so it is necessary and in the public interest that the AUTHORITY obtain certain parcels of land in Orange County, Florida, in fee simple, easement, temporary construction easement and water retention areas, the legal descriptions with the property interest sought being attached hereto as Schedule "A," and, therefore be it

**RESOLVED** that for the above, it is necessary, practical, and in the best interest of the public and the AUTHORITY that the fee simple interest, easement, temporary construction easement, water retention areas and such other property interests as may be within the scope of the descriptions in Schedule "A" be acquired in the name of the AUTHORITY by eminent domain over and upon those certain parcels heretofore as described in the attached Schedule "A," and be it further

**RESOLVED** that the AUTHORITY, its officers, employees, agents and attorneys are hereby authorized and directed to proceed to take the necessary steps to institute and prosecute such necessary actions and proceedings as may be proper for the acquisition of the fee simple interest, easement, temporary construction easement, water retention areas and such other property interests as described in the lands by eminent domain proceedings and otherwise and to prepare, sign, execute, serve, publish and file in the name of the AUTHORITY, all eminent domain papers, affidavits and pleadings and its attorneys are authorized to have prepared such other instruments and documents as may be necessary in connection herewith, and be it further

**RESOLVED** that this resolution shall take effect immediately upon adoption.

**ADOPTED** this \_\_ day of \_\_\_\_\_, 2014.

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

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

ATTEST: \_\_\_\_\_  
\_\_\_\_\_  
Executive Assistant

Approved as to form and legality

\_\_\_\_\_  
Joseph L. Passiatore  
General Counsel



## LEGAL DESCRIPTION

PARCEL 249

PURPOSE: LIMITED ACCESS RIGHT OF WAY

ESTATE: FEE SIMPLE

THAT PART OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST (FOUND A 1/2" IRON ROD IN WELLBOX); THENCE, SOUTH 89°21'11" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 1, A DISTANCE OF 839.96 FEET; THENCE, LEAVING SAID SOUTH LINE, NORTH 00°10'07" EAST A DISTANCE OF 30.00 FEET TO A POINT ON THE EXISTING NORTH RIGHT OF WAY LINE OF ONDICH ROAD, ALSO BEING A POINT ON THE EAST LINE OF THE WEST 1/2 OF THE EAST 1/2 OF THE WEST 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 1, AS DESCRIBED IN OFFICIAL RECORDS BOOK 3525, PAGE 994, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE, SOUTH 89°21'11" WEST ALONG SAID EXISTING RIGHT OF WAY LINE, A DISTANCE OF 167.97 FEET TO THE WEST LINE OF THE WEST 1/2 OF THE EAST 1/2 OF THE WEST 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 1, AS DESCRIBED IN OFFICIAL RECORDS BOOK 3525, PAGE 994, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, ALSO BEING THE POINT OF BEGINNING; THENCE, CONTINUE ALONG SAID EXISTING RIGHT OF WAY LINE, SOUTH 89°21'11" WEST A DISTANCE OF 5.90 FEET TO THE EAST LINE OF THE EAST 1/2 OF THE WEST 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 1, AS DESCRIBED IN OFFICIAL RECORDS BOOK 3525, PAGE 994, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE, LEAVING SAID EXISTING RIGHT OF WAY LINE, NORTH 00°17'04" EAST, ALONG SAID EAST LINE, A DISTANCE OF 632.67 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 1; THENCE, LEAVING SAID EAST LINE, NORTH 89°15'01" EAST ALONG SAID NORTH LINE A DISTANCE OF 5.05 FEET TO A POINT ON SAID WEST LINE OF THE WEST 1/2 OF THE EAST 1/2 OF THE WEST 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 1; THENCE, LEAVING SAID NORTH LINE, SOUTH 00°12'26" WEST, ALONG SAID WEST LINE, A DISTANCE OF 632.66 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 3462 SQUARE FEET, MORE OR LESS.

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 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES. SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.

RUSSELL J. MARKS, PSM NO. 5623

NOT VALID WITHOUT SIGNATURE AND ORIGINAL RAISED SEAL

12/18/13  
DATE

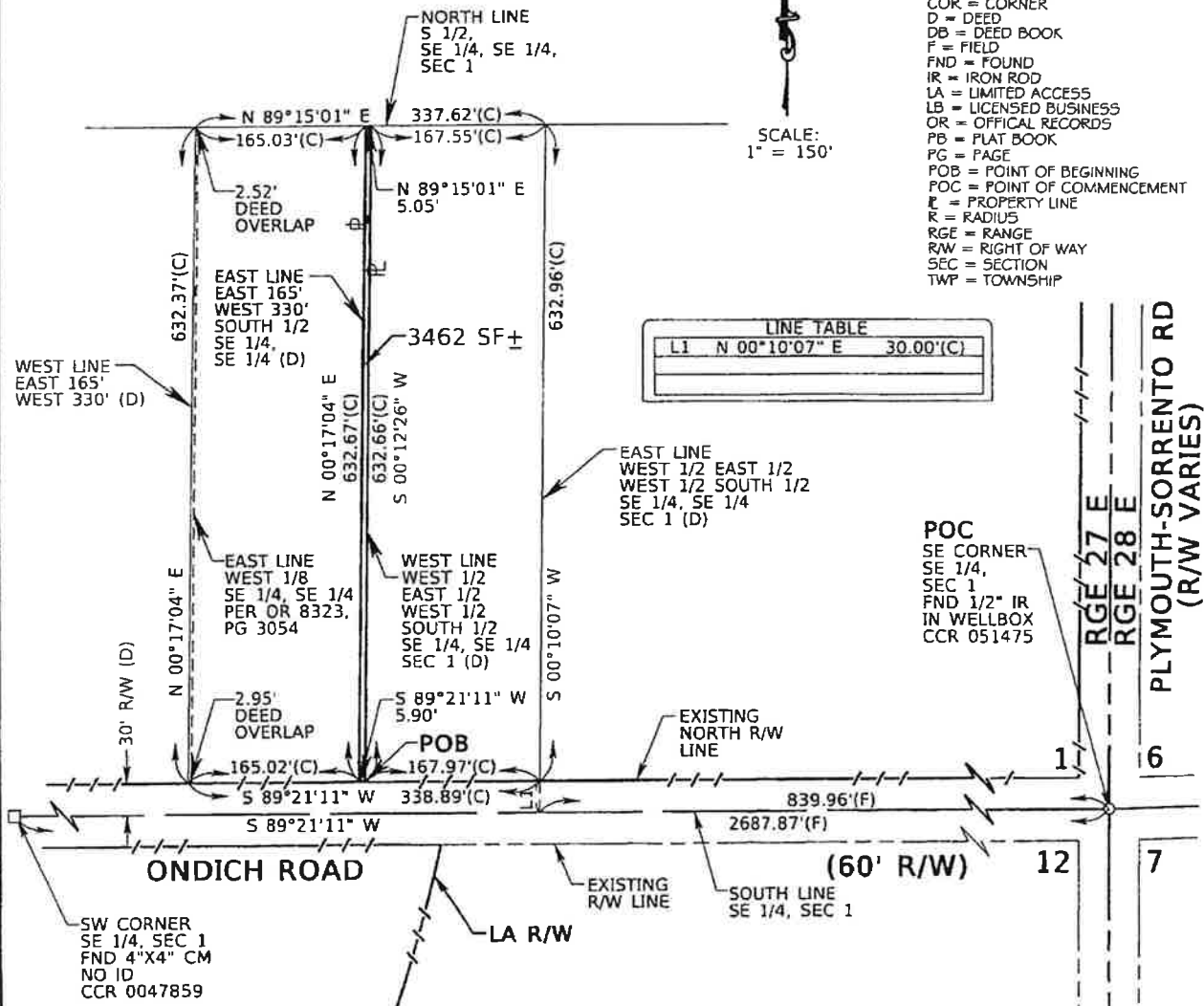
FOR: ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY		STATE ROAD 429	
DESIGNED BY: RJM	DATE: 12/18/13	<b>URS</b> URS CORPORATION 315 E. ROBINSON STREET SUITE 245 ORLANDO, FL 32801-1949 PH (407) 422-0353 LICENSED BUSINESS NO. 6839	REVISIONS:
DRAWN BY: DJK	JOB NO:		
APPROVED BY: RJM	OOCEA PROJECT NO: 429-204		SHEET: 1 OF 2

# SKETCH OF DESCRIPTION

PARCEL 249

PURPOSE: LIMITED ACCESS RIGHT OF WAY  
ESTATE: FEE SIMPLE

## TOWNSHIP 20 SOUTH RANGE 27 EAST



### GENERAL NOTES:

1. THE BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983 NORTH AMERICAN DATUM, 2007 ADJUSTMENT, WITH THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, HAVING A BEARING OF SOUTH 89°21'11" WEST.
2. THERE MAY BE OTHER RECORDED DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY THAT ARE NOT SHOWN ON THIS SKETCH OF DESCRIPTION.
3. ATTENTION IS DIRECTED TO THE FACT THESE MAPS MAY HAVE BEEN ALTERED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALE DATA.
4. A CERTIFICATE OF TITLE INFORMATION PREPARED BY "FIRST AMERICAN TITLE INSURANCE COMPANY" DATED OCTOBER 4, 2012, FILE NO. 2037-2831151 WAS REVIEWED BY THE SURVEYOR AND EXCEPTIONS (IF ANY) NOTED ON SAID CERTIFICATE ARE SHOWN HEREON.

FOR: ORLANDO ORANGE COUNTY EXPRESSWAY AUTHORITY

STATE ROAD 429

DESIGNED BY: RJM

DATE: 12/18/13

DRAWN BY: DJK

JOB NO:

APPROVED BY: RJM

OOCEA PROJECT NO: 429-204

**URS**

URS CORPORATION  
315 E. ROBINSON STREET  
SUITE 245  
ORLANDO, FL 32801-1949  
PH (407) 422-0353  
LICENSED BUSINESS NO. 6839

REVISIONS:

SHEET: 2 OF 2


## **CONSENT AGENDA ITEM**

**#10**

**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**

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

**TO: Central Florida Expressway Authority Board Members**  
**FROM: James Edward Cheek, III, Right of Way Counsel**   
**Winderweedle, Haines, Ward & Woodman, P.A.**  
**DATE: November 25, 2014**  
**RE: SR 429 Wekiva Parkway**  
**Project 429-204: Parcel 303 (Parts A, B & C) - Resolution**

---

Winderweedle, Haines, Ward & Woodman, P.A. ("WHWW"), right of way counsel, submits the attached Resolution and requests that the Board consider the adoption of the Resolution for the acquisition of Parcel 303 (Parts A, B & C) for the construction of the SR 429 Wekiva Parkway, Project 429-204.

**DESCRIPTION AND BACKGROUND:**

The Resolution is being sought in accordance with applicable Florida law governing eminent domain and property acquisition procedures. In addition, the Resolution is being sought as a step in the process of property acquisition consistent with the Central Florida Expressway Authority Property Acquisition & Disposition Procedures Manual.

Parcel 303 (Parts A) is an 8.158 acre parcel of land, Parcel 303 (Part B) is a 21.445 acre parcel of land and Parcel 303 (Part C) is an 11.682 acre parcel of land that are each located west of Plymouth Sorrento Road in Orange County, Florida. The acquisition of Parcel 303 (Parts A, B & C) is necessary for the construction of the SR 429 Wekiva Parkway, Project 429-204.

**REQUESTED ACTION:**

Right of way counsel respectfully requests that the Board adopt the attached Resolution for the acquisition of Parcel 303 (Parts A, B & C).

**ATTACHMENT:**

Resolution for Parcel 303 (Parts A, B & C)

**RESOLUTION**

**WHEREAS**, the CENTRAL FLORIDA EXPRESSWAY AUTHORITY (the "AUTHORITY") is empowered by Chapter 348, Part III, Florida Statutes to acquire, hold, construct, improve, maintain and operate the CENTRAL FLORIDA EXPRESSWAY SYSTEM (the "SYSTEM"), and is further authorized to construct any extension, additions or improvements to the SYSTEM or pertinent facilities including all necessary approaches, roads and avenues of access with such changes, modifications or revisions of the project as shall be deemed desirable and proper, and

**WHEREAS**, the SYSTEM is defined under Section 348.752(5), Florida Statutes, as any expressways and appurtenant facilities thereto, including, but not limited to, all approaches, roads, bridges and avenues for the expressway and any rapid transit, trams, or fixed guideways located within the right-of-way of an expressway. Furthermore, Section 348.759(1), Florida Statutes, empowers the AUTHORITY to acquire private or public property and property rights as the AUTHORITY may deem necessary for any purpose, including, but not limited to areas necessary for management of access and water retention areas. Section 348.754(1)(b), Florida Statutes, also empowers the AUTHORITY to construct any extensions, additions or improvements to the SYSTEM or appurtenant facilities, including all necessary approaches, roads, bridges and avenues of access, rapid transmit, trams, fixed guideways, thoroughfares, and boulevards with any changes, modifications or revisions of the project which are deemed desirable and proper, and

**WHEREAS**, in furtherance of such authorization, the AUTHORITY has been granted the right to acquire private or public property and property rights including rights of access, air, light and view by gift, devise, purchase or condemnation by eminent proceedings, and

**WHEREAS**, the AUTHORITY has determined that it is necessary and in the public interest to make certain additions, extensions and improvements to the SYSTEM, including the S.R.429 Wekiva Parkway Project #429-204, and the AUTHORITY has determined that to do so it is necessary and in the public interest that the AUTHORITY obtain certain parcels of land in Orange County, Florida, in fee simple, easement, temporary construction easement and water retention areas, the legal descriptions with the property interest sought being attached hereto as Schedule "A," and, therefore be it

**RESOLVED** that for the above, it is necessary, practical, and in the best interest of the public and the AUTHORITY that the fee simple interest, easement, temporary construction easement, water retention areas and such other property interests as may be within the scope of the descriptions in Schedule "A" be acquired in the name of the AUTHORITY by eminent domain over and upon those certain parcels heretofore as described in the attached Schedule "A," and be it further

**RESOLVED** that the AUTHORITY, its officers, employees, agents and attorneys are hereby authorized and directed to proceed to take the necessary steps to institute and prosecute such necessary actions and proceedings as may be proper for the acquisition of the fee simple interest, easement, temporary construction easement, water retention areas and such other property interests as described in the lands by eminent domain proceedings and otherwise and to prepare, sign, execute, serve, publish and file in the name of the AUTHORITY, all eminent domain papers, affidavits and pleadings and its attorneys are authorized to have prepared such other instruments and documents as may be necessary in connection herewith, and be it further

**RESOLVED** that this resolution shall take effect immediately upon adoption.

**ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2014.

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

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

ATTEST: \_\_\_\_\_  
\_\_\_\_\_  
Executive Assistant

Approved as to form and legality

\_\_\_\_\_  
Joseph L. Passiatore  
General Counsel

## LEGAL DESCRIPTION

PARCEL 303  
PURPOSE: RIGHT OF WAY  
ESTATE: FEE SIMPLE

### PART A:

THAT PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, ALSO BEING DESCRIBED AS GOVERNMENT LOT 3, SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, AND BEING THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4789, PAGE 1882, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, (A 6"X6" CONCRETE MONUMENT NO IDENTIFICATION AS NOW EXISTS); THENCE SOUTH 89°47'27" EAST ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 1, A DISTANCE OF 1317.59 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 1 AND THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°47'27" EAST, A DISTANCE OF 1317.59 FEET TO THE NORTHEAST CORNER OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND A POINT ON THE EAST LINE OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND A POINT ON WEST LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 8484, PAGE 714 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE DEPARTING SAID NORTH LINE SOUTH 00°35'42" WEST ALONG SAID EAST AND WEST LINES, A DISTANCE OF 399.98 FEET; THENCE DEPARTING SAID EAST AND WEST LINES NORTH 89°24'18" WEST, A DISTANCE OF 583.27 FEET TO THE BEGINNING OF A NON-TANGENT CURVE; THENCE FROM A TANGENT BEARING OF NORTH 59°44'08" WEST NORTHWESTERLY 429.47 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 3970.00 FEET, A CENTRAL ANGLE OF 06°11'54" AND A CHORD BEARING OF NORTH 56°38'11" WEST; THENCE FROM A TANGENT BEARING OF SOUTH 53°32'14" EAST, RUN NORTH 59°46'03" WEST, A DISTANCE OF 290.35 FEET; THENCE NORTH 89°47'27" WEST, A DISTANCE OF 121.12 FEET TO A POINT ON THE WEST LINE OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND A POINT ON THE EAST LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 9131, PAGE 740, OFFICIAL RECORDS BOOK 9131, PAGE 737 AND OFFICIAL RECORDS BOOK 3409, PAGE 2474 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE NORTH 01°06'08" EAST ALONG SAID WEST AND EAST LINE, A DISTANCE OF 16.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 8.158 ACRES, MORE OR LESS.

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 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES. SUBJECT TO NOTES AND NOTATIONS SHOWN HEREON.

  
RUSSELL J. MARKS, PSM NO. 5623

10/28/2014  
DATE

NOT VALID WITHOUT SIGNATURE AND ORIGINAL RAISED SEAL

FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY

STATE ROAD 429

DESIGNED BY: RJM

DATE: 10/28/14

DRAWN BY: SMP

JOB NO:

APPROVED BY: RJM

OOCEA PROJECT NO: 429-204

**URS**

URS CORPORATION  
315 E. ROBINSON STREET  
SUITE 245  
ORLANDO, FL 32801-1949  
PH (407) 422-0353  
LICENSED BUSINESS NO. 6839

REVISIONS:

SHEET: 1 OF 5

## LEGAL DESCRIPTION

PARCEL 303  
PURPOSE: LIMITED ACCESS RIGHT OF WAY  
ESTATE: FEE SIMPLE

### PART B:

THAT PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, ALSO BEING DESCRIBED AS GOVERNMENT LOT 3, SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, AND BEING THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4789, PAGE 1882, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, (A 6"X6" CONCRETE MONUMENT NO IDENTIFICATION AS NOW EXISTS); THENCE SOUTH 89°47'27" EAST ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 1, A DISTANCE OF 1317.59 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 1; THENCE DEPARTING SAID NORTH LINE SOUTH 01°06'08" WEST ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 1, A DISTANCE OF 16.00 FEET AND THE POINT OF BEGINNING; THENCE DEPARTING SAID WEST LINE SOUTH 89°47'27" EAST, A DISTANCE OF 121.12 FEET; THENCE SOUTH 59°46'03" EAST A DISTANCE OF 290.35 FEET TO THE BEGINNING OF A NON-TANGENT CURVE; THENCE FROM A TANGENT BEARING OF SOUTH 53°32'14" EAST SOUTHEASTERLY 429.47 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 3970.00 FEET, A CENTRAL ANGLE OF 06°11'54" AND A CHORD BEARING OF SOUTH 56°38'11" EAST; THENCE SOUTH 89°24'18" EAST, A DISTANCE OF 583.27 FEET TO A POINT ON THE EAST LINE OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND A POINT ON THE WEST LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 8484, PAGE 714 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE SOUTH 00°35'42" WEST ALONG SAID EAST AND WEST LINES, A DISTANCE OF 951.32 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND A POINT ON THE NORTH LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 8484, PAGE 714 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE SOUTH 89°34'05" WEST ALONG SAID SOUTH AND NORTH LINES, A DISTANCE OF 578.67 FEET; THENCE DEPARTING SAID SOUTH AND NORTH LINES NORTH 03°40'42" WEST, A DISTANCE OF 361.53 FEET TO THE BEGINNING OF A NON-TANGENT CURVE; THENCE FROM A TANGENT BEARING OF NORTH 56°29'29" WEST NORTHWESTERLY 941.85 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 3613.72 FEET, A CENTRAL ANGLE OF 14°55'59" AND A CHORD BEARING OF NORTH 49°01'29" WEST TO A POINT ON THE WEST LINE OF SAID NORTHEAST 1/4 OF NORTHWEST 1/4 AND A POINT ON THE EAST LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 9131, PAGE 740, OFFICIAL RECORDS BOOK 9131, PAGE 737 AND OFFICIAL RECORDS BOOK 3409, PAGE 2474 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE FROM A TANGENT BEARING OF SOUTH 41°33'30" EAST, RUN NORTH 01°06'08" EAST ALONG SAID WEST AND EAST LINES, A DISTANCE OF 367.82 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR, AND VIEW TO, FROM OR ACROSS ANY STATE ROAD 453 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

CONTAINING 21.445 ACRES, MORE OR LESS.

FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY			STATE ROAD 429	
DESIGNED BY: RJM	DATE: 10/28/14		<b>URS</b> URS CORPORATION 315 E. ROBINSON STREET SUITE 245 ORLANDO, FL 32801-1949 PH (407) 422-0353 LICENSED BUSINESS NO. 6839	REVISIONS:
DRAWN BY: SMP	JOB NO:			
APPROVED BY: RJM	OOCEA PROJECT NO: 429-204			SHEET: 2 OF 5



## LEGAL DESCRIPTION

PARCEL 303  
PURPOSE: RIGHT OF WAY  
ESTATE: FEE SIMPLE

### PART C:

THAT PART OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, ALSO BEING DESCRIBED AS GOVERNMENT LOT 3, SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, AND BEING THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4789, PAGE 1882, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, (A 6"X6" CONCRETE MONUMENT NO IDENTIFICATION AS NOW EXISTS); THENCE SOUTH 89°47'27" EAST ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 1, A DISTANCE OF 1317.59 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 1; THENCE DEPARTING SAID NORTH LINE SOUTH 01°06'08" WEST, A DISTANCE OF 383.82 FEET AND THE POINT OF BEGINNING; ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE; THENCE FROM A TANGENT BEARING OF SOUTH 41°33'30" EAST SOUTHEASTERLY 941.85 FEET ALONG THE ARC OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 3613.72 FEET, A CENTRAL ANGLE OF 14°55'59" AND A CHORD BEARING OF SOUTH 49°01'29" EAST; THENCE FROM A TANGENT BEARING OF NORTH 56°29'29" WEST, RUN SOUTH 03°40'42" EAST, A DISTANCE OF 361.53 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND A POINT ON THE NORTH LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 8484, PAGE 714 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE SOUTH 89°34'05" WEST ALONG SAID SOUTH AND NORTH LINES, A DISTANCE OF 751.20 FEET TO A POINT ON THE WEST LINE OF SAID NORTHEAST 1/4 OF NORTHWEST 1/4 AND A POINT ON THE EAST LINE OF THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 9131, PAGE 740, OFFICIAL RECORDS BOOK 9131, PAGE 737 AND OFFICIAL RECORDS BOOK 3409, PAGE 2474 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE NORTH 01°06'08" EAST ALONG SAID WEST AND EAST LINES, A DISTANCE OF 982.49 FEET TO THE POINT OF BEGINNING.

CONTAINING 11.682 ACRES, MORE OR LESS.

FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY			STATE ROAD 429	
DESIGNED BY: RJM	DATE: 10/28/14		<b>URS</b> URS CORPORATION 315 E. ROBINSON STREET SUITE 245 ORLANDO, FL 32801-1949 PH (407) 422-0353 LICENSED BUSINESS NO. 6839	REVISIONS:
DRAWN BY: SMP	JOB NO:			
APPROVED BY: RJM	OCCEA PROJECT NO: 429-204			SHEET: 3 OF 5

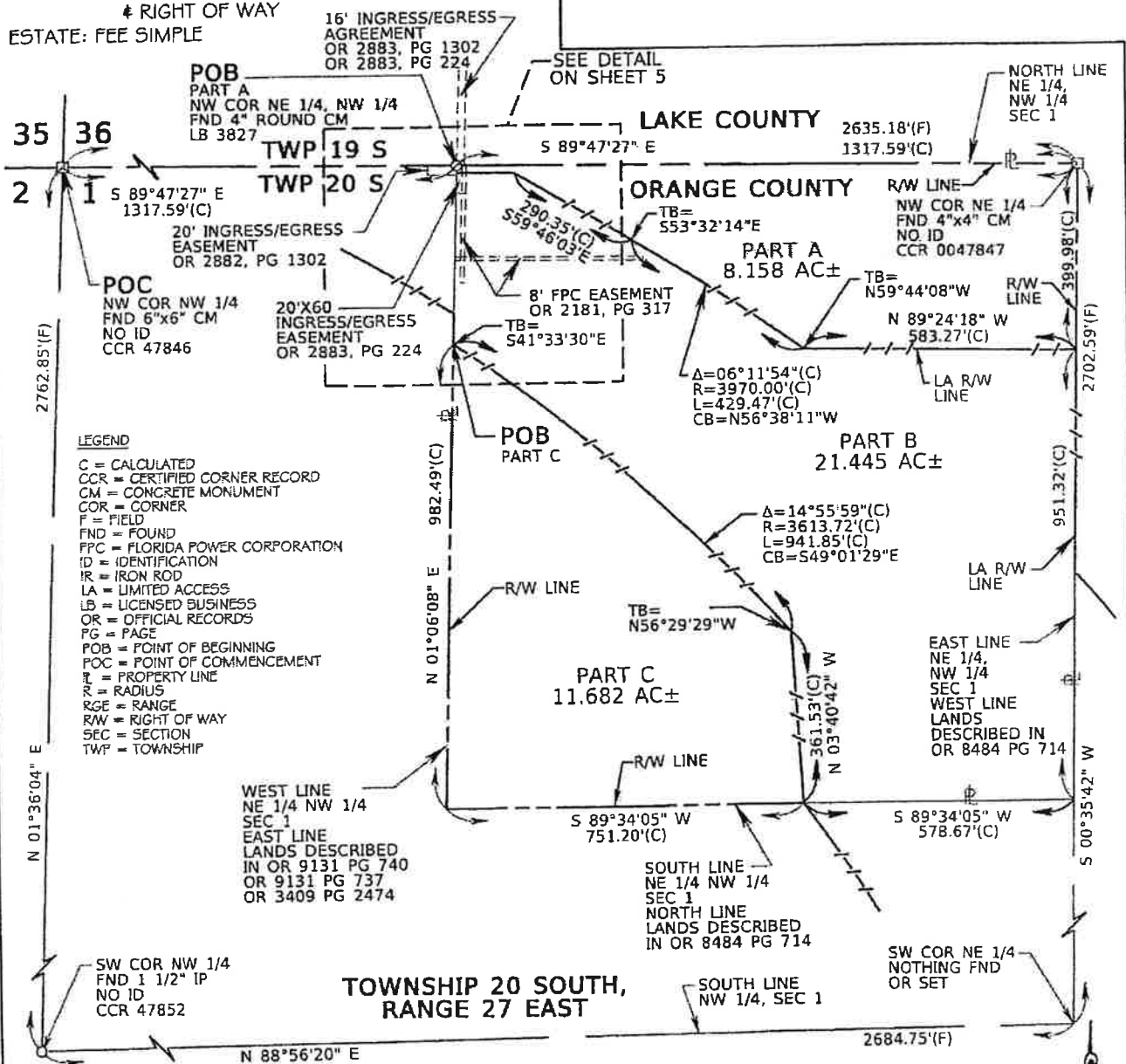
# SKETCH OF DESCRIPTION

PARCEL: 303

PURPOSE: LIMITED ACCESS RIGHT OF WAY

\* RIGHT OF WAY

ESTATE: FEE SIMPLE



## LEGEND

C = CALCULATED  
CCR = CERTIFIED CORNER RECORD  
CM = CONCRETE MONUMENT  
COR = CORNER  
F = FIELD  
FND = FOUND  
FPC = FLORIDA POWER CORPORATION  
ID = IDENTIFICATION  
IR = IRON ROD  
LA = LIMITED ACCESS  
LB = LICENSED BUSINESS  
OR = OFFICIAL RECORDS  
PG = PAGE  
POB = POINT OF BEGINNING  
POC = POINT OF COMMENCEMENT  
PL = PROPERTY LINE  
R = RADIUS  
RGE = RANGE  
R/W = RIGHT OF WAY  
SEC = SECTION  
TWP = TOWNSHIP

## GENERAL NOTES:

1. THE BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983 NORTH AMERICAN DATUM, 2007 ADJUSTMENT, WITH THE SOUTH LINE OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, HAVING A BEARING OF NORTH 88°56'20" EAST.
2. THERE MAY BE OTHER RECORDED DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY THAT ARE NOT SHOWN ON THIS SKETCH OF DESCRIPTION.
3. ATTENTION IS DIRECTED TO THE FACT THESE MAPS MAY HAVE BEEN ALTERED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALE DATA.
4. A CERTIFICATE OF TITLE INFORMATION PREPARED BY "FIDELITY NATIONAL TITLE INSURANCE COMPANY" DATED JULY 23, 2014, FILE NO. 4885577 WAS REVIEWED BY THE SURVEYOR AND EXCEPTIONS (IF ANY) NOTED ON SAID CERTIFICATE ARE SHOWN HEREON.

SCALE:  
1" = 300'

FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY

STATE ROAD 429

DESIGNED BY: RJM

DATE: 10/28/14

**URS**

URS CORPORATION  
315 E. ROBINSON STREET  
SUITE 245  
ORLANDO, FL 32801-1949  
PH (407) 422-0353  
LICENSED BUSINESS NO. 6339

REVISIONS:

DRAWN BY: SMP

JOB NO:

APPROVED BY: RJM

OOCEA PROJECT NO: 429-204

SHEET: 4 OF 5

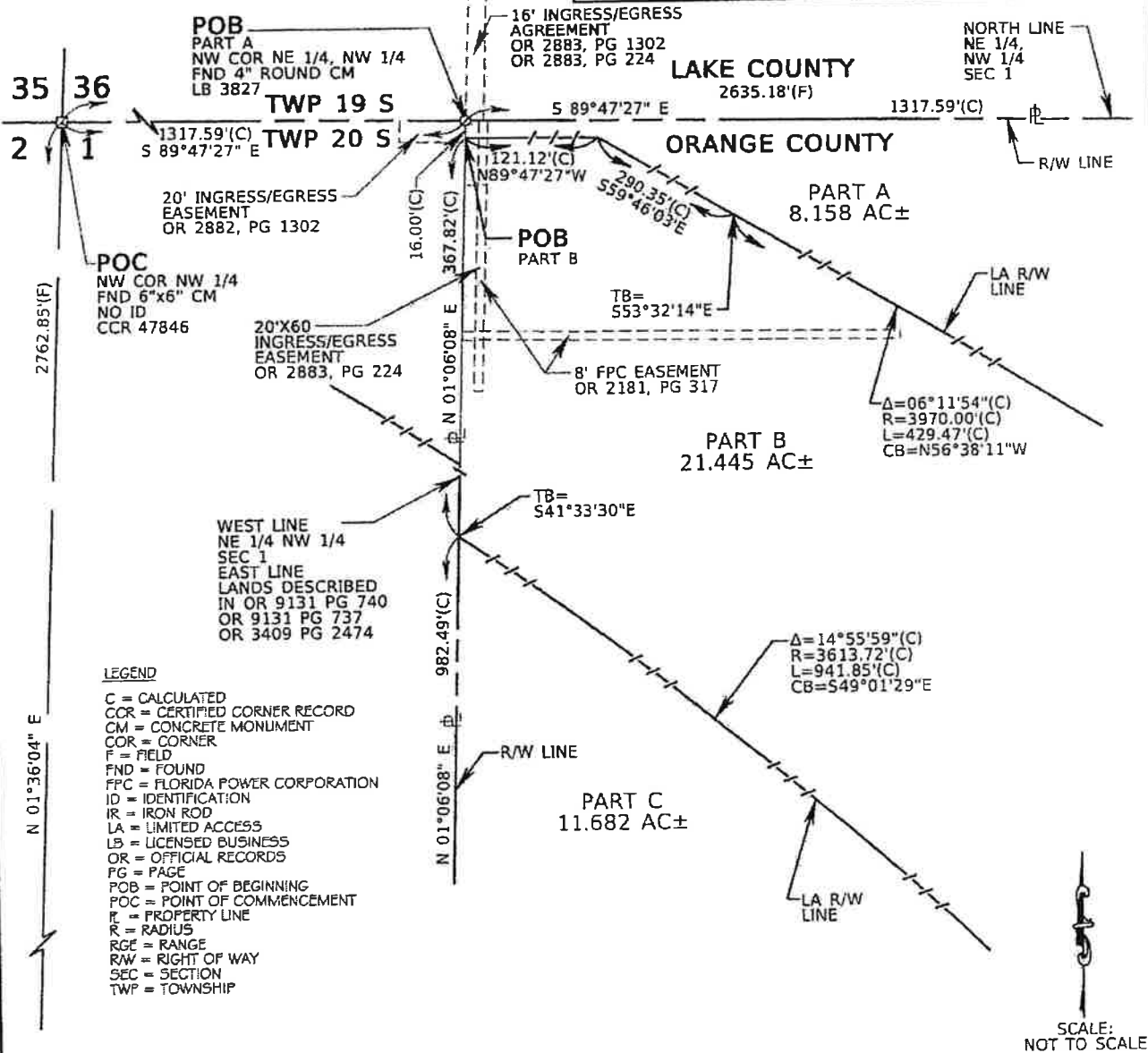
# SKETCH OF DESCRIPTION

PARCEL: 303

PURPOSE: LIMITED ACCESS RIGHT OF WAY

\* RIGHT OF WAY

ESTATE: FEE SIMPLE



## GENERAL NOTES:

1. THE BEARINGS SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, 1983 NORTH AMERICAN DATUM, 2007 ADJUSTMENT, WITH THE SOUTH LINE OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, HAVING A BEARING OF NORTH 88°56'20" EAST.
2. THERE MAY BE OTHER RECORDED DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY THAT ARE NOT SHOWN ON THIS SKETCH OF DESCRIPTION.
3. ATTENTION IS DIRECTED TO THE FACT THESE MAPS MAY HAVE BEEN ALTERED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALE DATA.
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FOR: CENTRAL FLORIDA EXPRESSWAY AUTHORITY			STATE ROAD 429	
DESIGNED BY: RJM	DATE: 10/28/14		<b>URS</b> URS CORPORATION 315 E. ROBINSON STREET SUITE 245 ORLANDO, FL 32801-1949 PH (407) 422-0353 LICENSED BUSINESS NO. 6839	REVISIONS:
DRAWN BY: SMP	JOB NO:			
APPROVED BY: RJM	OOCEA PROJECT NO: 429-204			SHEET: 5 OF 5

## **CONSENT AGENDA ITEM**

**#11**


JAMES M. SPOONHOUR

james.spoonhour@lowndes-law.com  
215 North Eola Drive, Orlando, Florida 32801  
T: 407-418-6300 | F 407-843-4444



## MEMORANDUM

TO: Central Florida Expressway Authority Board (the "Board")

FROM: James Spoonhour, Special Right-of-Way Counsel  
Lowndes, Drosdick, Doster, Kantor & Reed, P.A. 

DATE: November 25, 2014

RE: SR 429 Wekiva Parkway; Project 429-203: Settlement with tenants on Parcel 197

---

Lowndes, Drosdick, Doster, Kantor & Reed, P.A. ("LDDKR"), special right-of-way counsel to the Central Florida Expressway Authority (the "Authority"), submits the following proposed settlement and requests that the Board approve the proposed settlement. The Right-of-Way Committee unanimously approved this settlement by a 5-0 vote on November 24, 2014.

### BACKGROUND:

LDDKR has been in negotiations with counsel for Alfred Kager, Sr., Alfred Kager, Jr., and Kager Hill Ranch (collectively the "Kagers"). The Kagers held a lease on part of the land known as Parcel 197, and therefore all three are parties in the condemnation action as to parcel 197. The Kagers ran a horse boarding business and raised hay on this leased property.

This condemnation action was filed on May 23, 2014, and an Order of Taking was entered as to Parcel 197 on September 8, 2014. CFX took title to the property known as Parcel 197 upon its good-faith deposit in the registry of the Clerk of Court on September 9, 2014. The proposed settlement discussed below includes the claims all three parties (the Kagers), including legal fees and costs.

### SUMMARY OF SETTLEMENT NEGOTIATIONS AND AGREEMENT:

Counsel for the Kagers proposed a settlement offer which included payment for loss of hay crop, payment for loss of income from a commercial horse boarding facility, and payment for replacement of fencing related to the commercial horse boarding facility. The total settlement offer from counsel for the Kagers was \$92,138.50. This was not an official business damages claim offer, but we treated it as such for purposes of negotiations.

After discussion with Joe Passiatore and Glenn Pressimone of CFX, LDDKR counter-proposed a total, all-inclusive settlement offer of \$14,400. This accounted for payment for a portion of the

November 25, 2014

Page 2

perimeter of the fence, as well as a small payment for both commercial operations claimed by the Kagers. This proposal also agreed to allow the Kagers to remove and re-use any fencing in their leased area which now lies within the property taken by the Authority. After additional settlement negotiations, the Kagers agreed to a total settlement amount of \$16,400 for all claims, including fees and costs related to the taking.

In short, the tenants (Kagers) proposed a settlement offer of \$92,138.50. We ultimately agreed on payment of \$16,400 for all claims for the Kagers, along with the Kagers' ability to remove and re-use any fencing in the portion of the taking area which they had under lease. This settlement agreement is inclusive of all fees and costs (including attorney fees) for the Kagers. We made clear that this proposed settlement was subject to approval by the Right-of-Way Committee and the CFX Board. Upon approval by the Board, LDDKR will prepare a Final Judgment for presentation to the Court.

Approval of this settlement offer with the Kagers is in the best interest of CFX. Not only is it a fair and reasonable settlement, but it will also eliminate the cost of preparing a full business damages appraisal report as to the Kagers' business activities, as well as eliminate the cost of right-of-way counsel spending additional time on negotiations with these tenants.

**REQUESTED ACTION:**

Right-of-way counsel respectfully requests that the Board approve the settlement agreement outlined above with tenants Alfred Kager, Sr., Alfred Kager, Jr., and Kager Hill Ranch. Upon approval, right-of-way counsel will prepare a Final Judgment as to these Defendants for presentation to the Court.


JMS/SBL

# **CONSENT AGENDA ITEM**

**#12**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

**TO:** Central Florida Expressway Authority Board  
**FROM:**  Joseph L. Passiatore, General Counsel  
**DATE:** December 2, 2014  
**SUBJECT:** Third Amendment to SLR/FRI Purchase Agreement

---

Attached is a Third Amendment to Contract of Sale and Purchase with Suburban Land Reserve, Inc. and Farmland Reserve, Inc. for the sale of additional right-of-way for the multi-modal corridor along the Beachline.

The amendment extends CFX's Inspection Period out until March 13, 2015 thereby delaying CFX's obligation to make an additional \$5,000.00 deposit until that time. The parties are continuing to finalize their real estate appraisal reports as part of the inspection process.

CFX Legal Counsel recommends Board approval.

JLP/ml  
Attachment

cc: Micky Grindstaff, Esquire



**THIRD AMENDMENT TO  
CONTRACT OF SALE AND PURCHASE**

**THIS THIRD AMENDMENT TO CONTRACT OF SALE AND PURCHASE** ("Amendment") is effective as of NOVEMBER 24<sup>th</sup>, 2014 ("Amendment Effective Date"), by and between SUBURBAN LAND RESERVE, INC., a Utah corporation ("SLR"), and FARMLAND RESERVE, INC., a Utah not-for-profit corporation ("FRI" and, together with "SLR," the "Seller") and the CENTRAL FLORIDA EXPRESSWAY AUTHORITY as successor in interest to the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY, a body corporate and politic existing pursuant to Chapter 348, Florida Statutes (the "Buyer").

**RECITALS:**

WHEREAS, Seller and Buyer heretofore entered into that certain Contract of Sale and Purchase dated as of November 11, 2013 (the "Agreement"); and

WHEREAS, Seller and Buyer amended the Agreement by virtue of that certain First Amendment to Contract of Sale and Purchase dated April 24, 2014 (the "First Amendment").

WHEREAS, Seller and Buyer amended the Agreement by virtue of that certain Second Amendment to Contract of Sale and Purchase dated August 22, 2014 (the "Second Amendment"). (The Agreement, as amended by the First Amendment and the Second Amendment is now hereinafter collectively referred to as the "Agreement".)

WHEREAS, Seller and Buyer desire to amend the Agreement to further extend the Inspection Period; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

**AGREEMENTS:**

1. Recitals. The recitals set forth above are true and correct and are hereby incorporated into this Amendment in their entirety.
2. Definitions. Capitalized terms used but otherwise not defined herein shall have the meaning ascribed to such terms in the Agreement.
3. Due Diligence Period. The Inspection Period (as defined in Section 5(b) of the Agreement) is hereby further extended until 5:00 P.M. (New York, NY time) on **March 13, 2015**. This extension of the Inspection Period is not intended to, and shall not be deemed to, extend any other date or deadline prescribed by the Agreement, except the deadlines in Section 4(a) relating to delivery of the Additional Deposit of Five Thousand and 00/100 Dollars (\$5,000.00). The extension of the Inspection Period shall not extend the Outside Closing Date described in Section 6 of the Agreement which shall remain June 30, 2015.

IN WITNESS WHEREOF, this Amendment has been duly executed as of the Amendment Effective Date.

SELLER

SUBURBAN LAND RESERVE, INC., a  
Utah corporation

By: [Signature]  
Name: [Signature]  
Title: PRESIDENT

Date executed by SLR: 11/24, 2014

FARMLAND RESERVE, INC., a Utah not-  
for-profit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by FRI: \_\_\_\_\_, 2014

BUYER

CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY as successor in interest to the  
ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY, a body  
corporate and politic existing pursuant to  
Chapter 348, Florida Statutes

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by Buyer: \_\_\_\_\_, 2014

APPROVED AS TO FORM AND  
LEGALITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by Legal  
\_\_\_\_\_, 2014

**THIRD AMENDMENT TO  
CONTRACT OF SALE AND PURCHASE**

**THIS THIRD AMENDMENT TO CONTRACT OF SALE AND PURCHASE** ("Amendment") is effective as of \_\_\_\_\_, 2014 ("Amendment Effective Date"), by and between SUBURBAN LAND RESERVE, INC., a Utah corporation ("SLR"), and FARMLAND RESERVE, INC., a Utah not-for-profit corporation ("FRI" and, together with "SLR," the "Seller") and the CENTRAL FLORIDA EXPRESSWAY AUTHORITY as successor in interest to the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY, a body corporate and politic existing pursuant to Chapter 348, Florida Statutes (the "Buyer").

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4. Ratification. Except as herein amended, the Agreement is hereby ratified and affirmed in its entirety by Seller and Buyer. In consideration for this Amendment, Buyer unconditionally waives any right to claim or assert that Seller has not timely and fully performed and observed all obligations accrued to date under the Agreement.

5. Counterparts; Email Signatures. This Amendment may be executed in any number of counterparts, each of which shall be considered an original, and all of such counterparts shall constitute one Amendment. To facilitate execution of this Amendment, Seller and Buyer may execute and exchange by e-mail as a portable document format or other electronic imaging, counterparts of the signature page, which shall be deemed original signatures for all purposes.

[Signature Page Follows]

IN WITNESS WHEREOF, this Amendment has been duly executed as of the Amendment Effective Date.

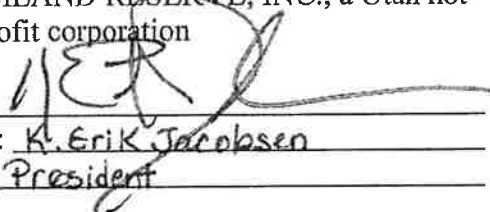
SELLER

SUBURBAN LAND RESERVE, INC., a  
Utah corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by SLR: \_\_\_\_\_, 2014

FARMLAND RESERVE, INC., a Utah not-  
for-profit corporation

By:   
Name: K. Erik Jacobsen  
Title: President

Date executed by FRI: 11/24, 2014

BUYER

CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY as successor in interest to the  
ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY, a body  
corporate and politic existing pursuant to  
Chapter 348, Florida Statutes

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by Buyer: \_\_\_\_\_, 2014

APPROVED AS TO FORM AND  
LEGALITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by Legal  
\_\_\_\_\_, 2014


## **CONSENT AGENDA ITEM**

**#13**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: November 25, 2014

RE: Authorization to Advertise for  
Toll Operations Printing and Mailing Services  
Contract No. 001085

Board authorization is requested to advertise for competitive sealed bids for printing and mailing services for the Toll Operations Department. Services to be provided will include processing, printing and mailing E-PASS statements, Unpaid Toll Notices (UTN), Uniformed Traffic Citations (UTC), various E-PASS/Violation Enforcement Section (VES) letters, and other printing and mailing services as may be required for Toll Operations.

The current contract for these services expires on June 30, 2015, and cannot be renewed.

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations and Maintenance  
Laura Kelley, Deputy Executive Director, Finance and Administration  
Dave Wynne, Director of Toll Operations  
Contract File

## **CONSENT AGENDA ITEM**

**#14**



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller   
Director of Procurement

DATE: November 25, 2014

RE: Authorization to Advertise for  
Design Consultant Services for  
Single Line Dynamic Message Sign (DMS) Upgrade  
Contract No. 001086; Project No. 599-525

Board authorization is requested to advertise for Letters of Interest from qualified firms to provide design consultant services for the referenced project. The services to be provided will include the design of a systemwide upgrade for the Authority's single-line DMS, which are located above the express tolling lanes at the Authority's mainline toll plazas. The services also include an upgrade of legacy ITS cabinet enclosures and ITS field communications equipment at various toll plaza locations.

Selection of a consultant will be in accordance with the approved Procurement Policy and Procedures. A final ranking of the firms will be presented to the Board for approval and authorization will be requested to enter into fee negotiations with the highest ranked firm. Once the final cost has been negotiated, Board approval to award the contract will be requested.

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

# EXHIBIT “B”





# EXHIBIT “C”

**A RESOLUTION OF THE  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY,  
AMENDING SECTION 5-6.04 OF THE PROPERTY  
ACQUISITION AND DISPOSITION PROCEDURES  
MANUAL AND REFERENCING CFX AS THE  
GOVERNING AUTHORITY**

**WHEREAS**, the Central Florida Expressway Authority (CFX) governing board is desirous of amending its policy regarding conveyances of surplus property to governmental entities and not for profit organizations;

**WHEREAS**, other housekeeping amendments are required to update the CFX Property Acquisition and Disposition Procedures Manual to correctly reference CFX as the governing Authority:

**NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY** as follows:

Section 1. ADOPTION. The CFX Property Acquisition and Disposition Procedures Manual is hereby amended and adopted per the attached Exhibit "A." The amendments reflect the change in process for the disposition of surplus parcels to governmental entities and not for profit organizations and all references in the Manual are corrected to reflect CFX as the current Authority.

Section 2. EFFECTIVE DATE. This Resolution shall become effective upon adoption by the CFX governing Board.

**ADOPTED** this \_\_\_\_\_ day of December, 2014.

\_\_\_\_\_  
Welton G. Cadwell  
CFX Board Chairman

ATTEST: \_\_\_\_\_  
Darleen Mazzillo  
Executive Assistant

Approved as to form and legality

\_\_\_\_\_  
Joseph L. Passiatore  
General Counsel

---

~~ORLANDO-ORANGE-COUNTY~~CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

PROPERTY ACQUISITION & DISPOSITION  
PROCEDURES MANUAL

~~2013~~2014

---

APPROVED  
By The Orlando-Orange  
County Expressway Board  
December 12, 2013  
Approved by ROW  
Committee (11/24/14)  
CFX Board for approval  
12/11/14

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## TABLE OF CONTENTS

	Page
Part 1: INTRODUCTION.....	1
5-1.01 Purpose.....	1
5-1.02 Statement of Policy.....	1
5-1.03 <del>OOCEACFX</del> .....	1
Part 2: ORGANIZATION AND COORDINATION.....	1
5-2.01 General Organization.....	1
5-2.02 <del>OOCEACFX</del> Board Oversight.....	2
5-2.03 Right of Way Committee.....	2
5-2.04 Executive Director and General Counsel.....	3
5-2.05 Right of Way Services.....	3
5-2.06 Contract Services.....	4
5-2.061 Right of Way Legal Counsel.....	5
5-2.062 Acquisition Coordinator.....	5
5-2.063 Consultants.....	6
Part 3: CONSULTANT OPERATIONS .....	6
5-3.01 General Requirements .....	6
5-3.02 Consultant Selection and Contracts .....	6
Part 4: PROPERTY ACQUISITION PROCEDURES.....	7
5-4.01 Right of Way Determinations .....	7
5-4.02 Title, Ownership, and Tenant Information .....	7
5-4.021 Negotiated Acquisition.....	8
5-4.03 Appraisals .....	8
5-4.031 Appraisal Reports .....	8
5-4.032 Appraisal Review.....	8
5-4.033 Review Appraiser's Certification.....	9
5-4.04 Acquisition.....	9
5-4.041 Negotiation .....	9
5-4.042 Settlement Justification .....	9
5-4.043 Documentation of Negotiations.....	9



**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
5-4.044 Settlements and Closings .....	10
5-4.05 Eminent Domain Proceedings .....	10
5-4.06 Property Management .....	10
5-4.061 Inventory and Inspection.....	10
5-4.062 Interim Use/Extended Possession.....	11
5-4.063 Repairs and Maintenance .....	11
5-4.064 Sale of Improvements. ....	11
5-4.07 Acquisition and Disposition Records and File Maintenance.....	10
5-4.071 Records to be Maintained.....	10
5-4.072 Identification of Parcels .....	12
5-4.073 Delivery of Acquisition and Disposition Records.....	12
Part 5: ADVANCE ACQUISITION .....	11
5-5.01 Planning for Advance Acquisition .....	12
5-5.011 Planning Program .....	12
5-5.012 Funding Analysis.....	12
5-5.02 Determination of Need for Advance Acquisition .....	12
5-5.021 Review by Right of Way Committee.....	12
5-5.022 Projected Budget.....	13
5-5.023 Recommendation by Right of Way Committee .....	13
5-5.024 Advance Right of Way Pre-Acquisition .....	13
5-5.025 Negotiation for Advance Acquisition .....	13
5-5.026 Advance Acquisition by Eminent Domain .....	13
5-5.027 Retention of Consultants by Right of Way Legal Counsel .....	14
Part 6: POLICY REGARDING THE DISPOSITION OF EXCESS LANDS .....	13
5-6.01 Purpose and Authority .....	13
5-6.02 Definitions .....	13
5-6.03 Determination of Excess Property .....	14
5-6.04 Procedure for Disposition .....	14

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
5-6.05 Appraisals .....	15
5-6.06 Public Sales .....	16
5-6.07 Negotiated Sales .....	18
5-6.08 Exchanges of Property .....	19
5-6.09 Closing .....	19
5-6.10 Sale to Adjacent Owner where Sale is Inequitable .....	20
5-6.11 Costs of Sale .....	20
Part 7: POLICY REGARDING THE RELEASE OF LIMITED ACCESS LINES .....	21
5-7.01 Purpose and Authority .....	21
5-7.02 Determination of Impact of Release .....	21
5-7.03 Valuation Process .....	21
5-7.04 Negotiated Release .....	21
5-7.05 Release of Claims .....	22
5-7.06 Closing and Recording of Release .....	22

## **Part 1: INTRODUCTION**

### **5-1.01 Purpose**

The ~~Orlando-Orange-County-Central Florida~~ Expressway Authority (~~OOCEACFX~~) Property Acquisition and Disposition Procedures Manual ("Manual") is intended to provide recommended procedures to ~~OOCEACFX~~ employees and consultants for (i) obtaining necessary rights of way, easements and other property rights for roadway improvement projects and other projects for which ~~OOCEACFX~~ may be authorized to acquire such property rights and (ii) disposing of property rights deemed available for disposal by ~~OOCEACFX~~. The Manual is intended for use in all projects for which ~~OOCEACFX~~ is the acquiring agency, unless the project is required by law or contract to be governed by Florida Department of Transportation procedures or other procedures.

This Manual and the guidelines presented herein are official ~~OOCEACFX~~ policy and shall provide the basic structure for conducting right of way and other property acquisition and disposition efforts for ~~OOCEACFX~~ authorized projects. Notwithstanding the foregoing, where deemed in the best interest of ~~OOCEACFX~~ and the public, subject to approval by the ~~OOCEACFX~~ Board, the ~~OOCEACFX~~ may waive the procedures set forth herein in a particular circumstance; provided that such waiver shall not be in conflict with state or federal law.

### **5-1.02 Statement of Policy**

The policy of ~~OOCEACFX~~ shall be to acquire all properties in fee simple, easement, or other property interest deemed to be necessary for the implementation of an authorized project. If acquisition of only part of a property would leave its owner with an uneconomic remnant, ~~OOCEACFX~~ will consider acquisition of the entire property. It is further the policy of ~~OOCEACFX~~ that every property owner shall receive full, just and adequate compensation for the property, in accordance with the laws of the State of Florida. ~~OOCEACFX~~ shall attempt to negotiate in good faith to obtain a voluntary purchase from the property owner which may include providing non-monetary consideration as compensation for the property interests acquired.

### **5-1.03 ~~OOCEACFX~~**

Chapter 348, Part III, Florida Statutes provides authority for ~~OOCEACFX~~ to acquire property and to exercise the right and power of eminent domain for acquiring rights of way and other properties for ~~OOCEACFX~~ purposes. Moreover, other statutes, including, without limitation, Chapter 369, Part III, provide authority for ~~OOCEACFX~~ to acquire property for other purposes.

## **Part 2: ORGANIZATION AND COORDINATION**

### **5-2.01 General Organization**

~~OOCEACFX~~ is organized into several operating divisions under the direction of the ~~OOCEACFX~~ Board and the Executive Director. A standing Right of Way Committee provides oversight and control of the property acquisition and disposition process.

### **5-2.02 OOCEACFX Board Oversight**

The OOCEACFX Board has sole and final responsibility for all decisions related to project approval and authorization, expenditure of funds, consultant selection and contracting, property purchases, settlements, and authorization of eminent domain proceedings. OOCEACFX delegates certain authorities and responsibilities to the Executive Director who in turn authorizes various OOCEACFX staff or consultants to conduct the day-to-day operations, including right of way acquisition. In relation to right of way acquisition, the OOCEACFX Board shall approve the following actions:

1. Approval of preliminary PD&E documents, alignment and right of way plans, design documents and construction and project cost estimates.
2. Authorization to initiate right of way acquisition activities.
3. Authorization of right of way acquisition services including appraisals, review appraisals, acquisition consultants, and other right of way contractors.
4. Authorization to initiate eminent domain proceedings.

OOCEACFX delegates authority to the Executive Director, or the Executive Director's designee, to make purchase offers, negotiate settlements, approve mediation and condemnation settlements, execute purchase agreements and decide other matters pertaining to property acquisition and settlements for projects approved by OOCEACFX, provided, however, that the property acquisition process is conducted in accordance with the policies and procedures set forth in this Manual. The Right of Way Committee shall oversee and direct OOCEACFX's delegation of this authority.

OOCEACFX's 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. This need is recognized in Section 119.0711, Florida Statutes which exempts "...all appraisals, other reports relating to value, offers, and counteroffers..." from public disclosure until execution of a valid option contract or conditional acceptance of a written offer to sell by OOCEACFX, subject to final OOCEACFX Board approval.

### **5-2.03 Right of Way Committee**

A standing Right of Way Committee is appointed by OOCEACFX to oversee and direct the right of way acquisition process. The purpose of the Right of Way Committee is to provide a forum for review and approval of property acquisition negotiations, proposed settlements, review of condemnation proceedings and mediation, and other matters related to acquisition negotiations and settlements. The Right of Way Committee is composed of ~~two (2)~~ OOCEA 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.

~~Board Members and a resident of Orange County selected and appointed by the OOCEA Board that serves on an annual basis. Committee member appointments may not be delegated. The Committee members will serve at the pleasure of their respective jurisdictions. Two-Three~~ members of the Right of Way Committee must be physically present at a meeting to constitute a quorum necessary to conduct business of the Right of Way Committee. During right of way acquisition projects, the Right of Way Committee shall meet as required to review negotiations and provide direction to the acquisition staff and consultants. ~~OOCEACFX~~ General Counsel shall also attend Right of Way Committee meetings and shall serve as an advisor to the Right of Way Committee.

#### **5-2.04 Executive Director and General Counsel**

The Executive Director is responsible for the daily operations of the ~~OOCEACFX~~. The Executive Director has delegated the authority and responsibility for right of way acquisition. The Executive Director or the Deputy Executive Director of Engineering and Operations are authorized to execute purchase and other agreements related to property acquisition or disposition.

The ~~OOCEACFX~~ General Counsel is responsible for, among other things, advising the ~~OOCEACFX~~ Board on legal matters, supervising ~~OOCEACFX~~ outside counsel, Right of Way Legal Counsel and the Acquisition Coordinator.

#### **5-2.05 Right of Way Services**

Without limiting anything herein, the Executive Director has specifically designated responsibility to conduct the routine and day-to-day functions of the property acquisition and disposition process to ~~OOCEACFX~~ staff or consultants, including through the Acquisition Coordinator and Right of Way Legal Counsel, subject to oversight by the General Counsel's office, the Right of Way Committee and the ~~OOCEACFX~~ Board as provided herein. These specific responsibilities include, without limitation:

1. Approval of property acquisition plans, subject to final authorization by the OOCEACFX.
2. Approval of consultant work scope for right of way appraisals, appraisal reviews and acquisition after approval of consultant selection.
3. Authorization of specific work items as called for in the consultant contract, including authorization of appraisals, business damage assessment reports, special studies relating to property acquisition impacts and valuation, environmental studies and mitigation, relocation payments and other special services which may be called for in the consultant contract.
4. Authority to negotiate settlements or purchase agreements to acquire property above appraised value when such actions are adequately justified, subject to final approval by the Right of Way Committee and OOCEACFX Board.
5. Authority to mediate cases prior to eminent domain valuation trials, settlement at mediation being subject to final approval by the Right of Way Committee and OOCEACFX Board.
6. Approval of payment requests for right of way purchases and other purposes authorized herein.
7. Day-to-day management of the right of way work effort, including review of progress, schedule and cost adherence, and approval of technical products.
8. Coordination of right of way activities with other OOCEACFX divisions (Planning, Design, Construction, Finance) and consultants.
9. Coordination of acquisition and condemnation activities with OOCEACFX Right of Way Legal Counsel, the Right of Way Acquisition Coordinator and/or designated brokers and consultants.
10. Participation in design plan reviews.
11. Coordination of property disposition activities with OOCEACFX Right of Way Legal Counsel.
12. Such other responsibilities as the Executive Director may assign to staff or consultants with the approval of the Right of Way Committee.

The property acquisition process shall be monitored by the Right of Way Committee, and all actions resulting in final settlement of property acquisition or disposition matters shall be reviewed with and reported to the Committee and the Executive Director prior to execution of agreements, subject to final approval by the OOCEACFX Board.

#### **5-2.06 Contract Services**

OOCEACFX may select consultants to providing various right of way services as required by the complexity and magnitude of the property acquisition program being undertaken. The following types of consultant services may be used, depending on the nature of the acquisition program.

**5-2.061 Right of Way Legal Counsel** - The OOCEACFX Right of Way Legal Counsel will be selected by OOCEACFX. The Right of Way Legal Counsel shall be responsible for all legal matters pertaining to the property acquisition process, subject to oversight by the General Counsel's office and the Right of Way Committee. Specific responsibilities and authority include the following, without limitation.

1. Obtaining and processing title search, ownership and encumbrance reports and other due diligence information as required for both engineering and property acquisition purposes, including, without limitation, those reports specified in Section 5-2.05, paragraph 3 above.
2. Preparing of all legal instruments and documents required for right of way acquisition, including, without limitation, purchase and settlement agreements, option agreements, satisfactions of mortgages, release instruments, deeds, easements, and other documents deemed necessary and proper for each transaction.
3. Closing property purchases and obtaining title insurance.
4. Preparing, filing and prosecuting eminent domain proceedings, upon approval by OOCEACFX.
5. Negotiating property acquisitions.
6. Conducting property disposition activities.

**5-2.062 Acquisition Coordinator** - The Acquisition Coordinator provides the technical work associated with property acquisition projects, assists with pre-condemnation negotiations and property disposition. The Acquisition Coordinator reports to the General Counsel's office and Right of Way Committee and may be a consultant selected by OOCEACFX. The Acquisition Coordinator services may be performed by a firm or individual or as part of the OOCEACFX's General Consulting Engineering Contract. Responsibilities of the Acquisition Coordinator include, without limitation:

1. Assisting in the development of work programs.
2. Conducting pre-condemnation negotiations for property acquisition subject to supervision of the General Counsel's office.
3. Assisting Right of Way Legal Counsel in the preparation and submittal of interim progress reports, negotiation reports, recommended settlement actions and recommendations for initiation of eminent domain proceedings to the Executive Director and Right of Way Committee.

4. Conducting property disposition activities subject to the supervision of the General Counsel's office.
5. Accepting and executing the Review Appraiser's Certification and making statutory first written offers to property owners at appraised value.

**5-2.063 Consultants** - OOCEACFX may elect to utilize the services of qualified technical consultants during the property acquisition process. Technical consultant services required for an acquisition program may include, without limitation, the following.

1. Property Appraisal and Appraisal Review
2. Acquisition/Negotiation/Right of Way Coordination
3. Business Damage Assessment and Report Preparation
4. Relocation and Advisory Services as OOCEACFX may elect from time to time
5. Eminent Domain Support
6. Property Management
7. Environmental Consulting
8. Land Use and Planning Consulting

### **Part 3: CONSULTANT OPERATIONS**

#### **5-3.01 General Requirements**

Consultants engaged in right of way services and real property acquisition and disposition services shall be selected in accordance with OOCEACFX policies and procedures for consultant selection described in this section, however, in the event of any direct conflict with OOCEACFX procurement policies, the policies and procedures set forth in the procurement policy shall prevail. It is the policy of OOCEACFX to provide the maximum opportunity to qualified individuals and businesses to provide goods and services to OOCEACFX, consistent with appropriate quality at the most reasonable cost.

Consultants shall be technically qualified to perform the right of way services, shall have the proper business and professional licenses and registrations and shall meet OOCEACFX's requirements for insurance coverage. Consultant responsibilities, scope of services and compensation shall be specified in a written contract approved by OOCEACFX. The consultant shall provide adequate, qualified personnel to accomplish the scope of services and to staff its offices during normal hours of operation. The consultant will provide ongoing project management personnel necessary to coordinate, plan, direct and control the assignment and all customary administrative services.

#### **5-3.02 Consultant Selection and Contracts**



OOCEACFX's Board shall approve the selection of the Acquisition Coordinator and Right of Way Legal Counsel. At the request of the General Counsel's office, OOCEACFX may solicit proposals for consultants, including the Acquisition Coordinator and Right of Way Legal Counsel. OOCEACFX's Board has designated the Right of Way Committee to evaluate proposals and make recommendations to the Board for approval of such consultants.

General Counsel's office may confer with the Right of Way Committee and Right of Way Legal Counsel from time to time to determine what type of consultant services are required to accomplish right of way and real property acquisition and disposition services. The General Counsel's office may acquire such services through direct negotiations with qualified consultants, or the General Counsel's office may authorize and designate Right of Way Legal Counsel to retain sub-consultants necessary to perform such services, subject to the following.

1. Each such consultant or sub-consultant shall negotiate a written contract setting forth the scope of services and compensation. The scope of services shall define the responsibilities of the consultant, the scope of work to be performed, the resultant deliverables and requirements, invoicing procedures, and authorizations required. The contract shall be authorized by the OOCEACFX Board.
2. Approval of the OOCEACFX Board shall be obtained for any consultant or sub-consultant contract fee anticipated to exceed \$25,000.

#### **Part 4: PROPERTY ACQUISITION PROCEDURES**

This section provides an outline of the property acquisition process as it relates to OOCEACFX's property acquisition program. The outline is not meant to be an all encompassing description of the responsibilities and duties; rather it is meant as a general guide to the process.

**5-4.01 Right of Way Determinations** The following shall be prepared or obtained for OOCEACFX, if available:

1. Maps depicting preferred corridors and/or routes;
2. Right of Way maps;
3. Parcel sketches;
4. Legal description of parcels to be acquired;
5. Property interest(s) to be acquired; and,
6. Project background reports and data.

**5-4.02 Title, Ownership, and Tenant Information** - Right of Way Legal Counsel is responsible for securing title search and title information. Upon commencement of property acquisition activities, the General Counsel's office will oversee:

1. The provision of maps, plans, legal descriptions and parcel sketches, and the obtaining of updated title information for the parcels in the project area;
2. Development of a list of property owners by parcel number; and,
3. Identification of parcels that may be appropriate for early acquisition and/or acquisition as total takes through negotiation or eminent domain and the commencement of negotiations.

**5-4.021 Negotiated Acquisition** – Notwithstanding anything to the contrary contained in this Manual, the Right of Way Committee and OOCEACFX Board may authorize obtaining property in advance of completing its acquisition procedures, provided that any negotiated purchase price of the property obtained is based on a reasonable determination of the fair market value of the property as established by an appraisal. In determining whether early acquisition is appropriate with respect to any such property, the Right of Way Committee and OOCEACFX may consider, without limitation, savings and planning efficiencies which result from the early acquisition, any efforts to develop or improve the property, any proposed or pending sale of the property, any potential business damage claims, or any other circumstance that establishes that early acquisition of the property is in the best interest of the OOCEACFX.

#### **5-4.03 Appraisals**

**5-4.031 Appraisal Reports** – It is the policy of OOCEACFX that any and all appraisals used in the acquisition of property rights reflect the fair market value of the property or rights to be acquired, including any severance damages, less special benefits accruing to the property. Appraisals shall be prepared by qualified appraisers and shall conform to the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board of the Appraisal Foundation. All appraisers will be selected on the basis of their experience, demonstrated quality of work, licensing and reputation. Appraisers must be qualified to give expert testimony in support of their value estimates in the event of eminent domain proceedings. Appraisals shall be certified to OOCEACFX.

Where deemed appropriate by the General Counsel's office and the Right of Way Committee, OOCEACFX may agree upon a single OOCEACFX/landowner appraiser to perform an appraisal certified to both parties, may accept an appraisal prepared for a landowner by an OOCEACFX-approved appraiser meeting the standards set forth herein or may accept an appraisal prepared by any appraiser deemed acceptable to Right of Way Legal Counsel and the Right of Way Committee based on the appraiser's experience, quality of work and reputation. OOCEACFX may also negotiate a proposed settlement or purchase price subject to confirmation by an appraisal performed in accordance with these policies.

**5-4.032 Appraisal Review** - The appraisal report(s) prepared on behalf of OOCEACFX will be reviewed by a qualified Review Appraiser for conformance with the Uniform Standards of Professional Appraisal Practice and to further assure that all compensable items have been included in the appraisal report. The review shall include a thorough check of all mathematical

calculations, a review of the completeness of the appraisal, and a review of the reasonableness of the appraiser's conclusions.

**5-4.033 Review Appraiser's Certification** - The Review Appraiser's written report will certify that the appraisal report conforms to the Uniform Standards of Appraisal Practice and that the value estimate is either reasonable or unreasonable. The Review Appraiser shall document in writing that he or she has reviewed each appraisal report prepared on behalf of OOCEACFX.

#### **5-4.04 Acquisition**

**5-4.041 Negotiation** – In accordance with 73.015, *Florida Statutes*, each property owner should be given full information as to the acquisition, the necessity of the proposed improvement and the potential impact of the improvement on the subject parcel. OOCEACFX may seek donation of rights of way where appropriate or may negotiate property exchanges or non-monetary consideration for acquisition of property interests.

Property acquisition negotiations are conducted under the supervision of the General Counsel's office. Staff or consultant negotiators may be assigned to specific parcels, depending on the perceived difficulty of the negotiations, number of parcels involved in the assignment, and other factors as appropriate.

If during the course of negotiations, certain factors or conditions concerning the property were not known or not evident at the time of valuation, proper consideration and weight should be given to these matters, and they should be brought to the attention of the Right of Way Committee, which may request a reappraisal of the property or may authorize an administrative settlement or agreement based on the facts submitted by the negotiator.

**5-4.042 Settlement Justification** – The negotiator may present counteroffers to the Right of Way Committee and shall present proposed negotiated purchase or settlement agreements for consideration by the Right of Way Committee for recommendation to the OOCEACFX Board and then to the OOCEACFX Board for final approval.

Settlement memoranda shall be prepared for all recommended acquisition settlements. The memoranda will document the basis for settlements and specifically point out the facts and circumstances justifying the settlement.

**5-4.043 Documentation of Negotiations** - The negotiator shall maintain accurate, written records of all negotiations, including:

1. Persons contacted.
2. Potential settlement terms discussed with landowners before and after any first written offer.
3. Written offers and counteroffers.
4. Results of the discussions.

5. Any other data pertinent to the negotiation and settlement of the parcel.
6. Copies of written contact records shall be maintained in the negotiators working file, in chronological order, so that the negotiation process can be readily reviewed throughout the acquisition program.

**5-4.044 Settlements and Closings** - Upon reaching a negotiated settlement with the property owner in the form of a signed agreement, the negotiator will:

1. Provide a statement of justification for the settlement and a recommendation to accept or reject the agreement to the Right of Way Committee and OOCEACFX Board.
2. Upon final approval of the settlement agreement, submit the agreement to the Executive Director for execution reflecting final approval by OOCEACFX.

Closing services shall be performed by the Right of Way Legal Counsel who shall be responsible for recording of the executed deed and other documents. The Right of Way Legal Counsel shall provide copies of the closing statement, deed, title insurance policy and other pertinent closing documents to the OOCEACFX's designated custodian of records.

#### **5-4.05 Eminent Domain Proceedings**

Before initiating a condemnation action as to any property interest, Right of Way Legal Counsel shall consult with the General Counsel's office and Right of Way Committee and shall act in accordance with Chapter 73 and 74, *Florida Statutes*.

The Right of Way Committee shall have the authority to approve initial offers of compensation in any amount deemed to be in the best interest of the OOCEACFX and shall have the authority to approve any terms deemed necessary to obtain a Stipulated Order of Taking of the property to be acquired.

Right of Way Legal Counsel, with oversight from General Counsel's office, is responsible for negotiating settlement agreements achieved after the filing of eminent domain proceedings, and will be responsible for securing approvals of such settlements, through the Right of Way Committee and OOCEACFX Board. If a settlement agreement cannot be reached, the Right of Way Legal Counsel will be responsible for obtaining a final verdict as to compensation to be paid for the property interests to be acquired.

#### **5-4.06 Property Management**

**5-4.061 Inventory and Inspection** - OOCEACFX staff or consultants will inspect the property and coordinate post-acquisition maintenance and/or disposition of buildings and personal property acquired and shall maintain records documenting same.

**5-4.062 Interim Use/Extended Possession** - In certain instances, OCEACFX may acquire a property in advance of the construction schedule and may authorize an interim use of the property. All interim uses shall be approved by the Right of Way Committee.

**5-4.063 Repairs and Maintenance** - As required, the OCEACFX may authorize contractors to clear properties, mow and clean, affect building repairs, board and secure vacant structures, and undertake other ongoing maintenance activities as may be dictated. Properties will be maintained in a safe and secure manner.

**5-4.064 Sale of Improvements** - Sale of improvements for removal or salvage may be authorized when it is in the best interest of OCEACFX to affect such a sale, and when project schedules permit such actions. Sale of improvements will be conducted in compliance with Florida law and appropriate bond documents related to the expressway project.

#### **5-4.07 Acquisition and Disposition Records and File Maintenance**

**5-4.071 Records to be Maintained** - In accordance with Chapter 119, Florida Statutes, and existing OCEACFX policy, files documenting property acquisition and disposition shall be established and maintained at OCEACFX headquarters. Individual files for each parcel should be established by assigned parcel number. Original documents pertaining to property acquisition and disposition are to be included in the parcel file when available.

The available documents and records to be maintained by OCEACFX for each parcel are identified on checklists, Forms 1-3: 1) Real Estate Acquisition Closing Binder Checklist for Non-Litigation Parcels; 2) Real Estate Acquisition Closing Binder Checklist for Litigation Parcels; and, 3) Real Estate Sale Closing Binder Checklist for Surplus Parcels. The documents and records identified on the Checklists are not intended to be exhaustive but represent the most common documents involved in OCEACFX's property acquisition and disposition activities. On a parcel by parcel basis, Right of Way Legal Counsel shall include other documents used and available that may be particular to the parcel acquisition and disposition activity. The Checklists should be revised by OCEACFX staff on a regular basis to maintain complete parcel records and are not intended to be included as part of this Manual.

**5-4.072 Identification of Parcels** - At the beginning of a new project requiring the acquisition of right of way, the Acquisition Coordinator shall develop a master list of parcels to be acquired, identified by parcel number, and shall provide the list to the OCEACFX Records Custodian. From time to time during the project, the list shall be revised to reflect changes in the parcels that are to be acquired. OCEACFX records shall be documented by memo if parcels are identified as no longer necessary for acquisition for the project.

**5-4.073 Delivery of Acquisition and Disposition Records** - Right of Way Legal Counsel shall deliver the complete parcel file to the OCEACFX Records Custodian no later than six (6) months from the date of final parcel activity. This deadline may be extended as necessary by General Counsel's office upon written request.

#### **Part 5: ADVANCE ACQUISITION**

It is expressly found and declared by OOCEACFX that, in certain circumstances, it is necessary and appropriate for OOCEACFX to obtain or acquire rights of way or other property interests prior to the time that funding for any OOCEACFX authorized project is finalized ("Advance Acquisition"). The purpose of this section is to set forth the policies and procedures whereby OOCEACFX may authorize and implement such advance acquisition of rights of way or other property interests.

#### **5-5.01 Planning for Advance Acquisition**

**5-5.011 Planning Program** - In conjunction with its annual and long-range transportation planning and budgeting programs, OOCEACFX may consider opportunities to acquire or reserve rights of way or property rights in advance of the date when the total funding for a particular project will be available.

**5-5.012 Funding Analysis** - As a part of its review of opportunities for advance acquisition of rights of way and property interests, staff shall prepare an analysis of potential funding sources, both public and private, to defray all costs of such advance acquisition pending total funding for the applicable project.

#### **5-5.02 Determination of Need for Advance Acquisition**

**5-5.021 Review by Right of Way Committee** - As far in advance of any particular project as is practical, the Right of Way Committee may review all available information relating to the project, to determine whether Advance Acquisition is appropriate with respect to the project or any portion thereof. In making such determination, the Right of Way Committee shall consider, without limitation, the following factors:

1. The likelihood that property values in the proposed project route will substantially appreciate prior to the anticipated date for construction and that savings will result from a program for Advance Acquisition.
2. Savings and planning efficiencies which would result from Advance Acquisition in conjunction with other OOCEACFX projects and/or coordination with planning or improvement projects by other governmental agencies.
3. The potential for future development within the proposed project corridor or area which would conflict with or impede the proposed project.
4. Environmental considerations which may support advance acquisition of right of way.
5. The availability of additional and alternative funding sources for advance right of way acquisition, including, without limitation, the commitments of financial support and/or right of way donations by other governmental bodies or private entities.

6. The necessity to acquire additional property and/or right of way to preserve availability of previously acquired or donated rights and/or rights of way.
7. Other financial savings and logistical benefits achieved by advance acquisition of right of way.
8. The impact, if any, of acquiring rights of way not in accordance with guidelines from the Federal Highway Administration or other applicable federal agency and the necessity, if applicable, of obtaining a waiver to any such guidelines.
9. Express authorizations by law or agreement for acquisition of property interests in advance of OOCEACFX funding of a related expressway project.

**5-5.022 Projected Budget** - To assist the Right of Way Committee in its determination as to whether advance acquisition of Right of Way is appropriate for any project, staff or consultant personnel shall prepare a projected time schedule for the Advance Acquisition program. The time schedule shall include a proposed estimate of costs of such Advance Acquisition and the revenues and funds which are or will be available for such acquisition prior to full funding of any particular project.

**5-5.023 Recommendation by Right of Way Committee** - The Right of Way Committee shall recommend to OOCEACFX whether a particular project is appropriate for Advance Acquisition. Based upon such recommendation, OOCEACFX may authorize the Advance Acquisition program for a particular project.

**5-5.024 Advance Right of Way Pre-Acquisition** - Upon approval by OOCEACFX, staff or consultant personnel shall commence any additional pre-acquisition activities required by Part 4 of this Manual.

**5-5.025 Negotiation for Advance Acquisition** - Where applicable, a proposed purchase agreement shall contain provisions that (i) funding has not been completed for the subject project and that the contract is subject to funding by an OOCEACFX bond issue or other applicable sources, (ii) the design and location of any contemplated or proposed roadway systems or access scenarios are not guaranteed unless otherwise expressly provided, and (iii) OOCEACFX shall be released from any other claims by the landowner relating to the property acquisition and/or the applicable project, including, without limitation, claims for loss of access, air, light or view or other severance, business and consequential damages.

**5-5.026 Advance Acquisition by Eminent Domain** - To the extent that OOCEACFX has actual funds available and budgeted, and upon authorization by OOCEACFX to proceed with condemnation, the Right of Way Legal Counsel, at the direction of the General Counsel's office, may institute eminent domain proceedings for potentially necessary rights of way for any project prior to the date when the total proceeds for a particular project are available.

**5-5.027 Retention of Consultants by Right of Way Legal Counsel** – It is acknowledged that it may be necessary for Right of Way Legal Counsel to employ consultants for the acquisition process and the attendant eminent domain proceedings. Right of Way Counsel, with the supervision of General Counsel's office, shall be authorized to employ such consultants as may be required to assist in the acquisition process and eminent domain proceedings, if applicable, subject to the requirements of 5-3.02. Such consultants may include, but are not limited to, appraisers, engineers, land planners, market consultants or others who may be required to testify as expert witnesses in required judicial proceedings.

## **Part 6: POLICY REGARDING THE DISPOSITION OF EXCESS LANDS**

### **5-6.01 Purpose and Authority.**

The purpose of this policy is to establish a procedure for disposition of excess real property unnecessary or unsuitable for the OOCEACFX's use. OOCEACFX is authorized by Florida Statutes, Section 348.754, to implement all necessary procedures incident to the creation and maintenance of the expressway system.

Notwithstanding anything provided herein, the disposition or conveyance of any property acquired after May 11, 2006, by OOCEACFX through eminent domain shall be made in accordance with the provisions of Section 73.013, Florida Statutes.

### **5-6.02 Definitions.**

- a. **Excess Property.** Real property, of any monetary value, located outside of the current operating Right of Way limits of OOCEACFX not currently needed to support existing expressway facilities as determined by staff. Excess Property may include excess property with economic value created when design or construction requirements change after acquisition. Excess Property may or may not be needed for future expressway purposes.
- b. **Expressway Facility/Expressway Facilities.** Any and all lands, fixtures, improvements, roadways and toll plazas which may be constructed, operated or maintained in whole or in part with OOCEACFX funds.
- c. **Inequitable Sale.** A sale of Surplus Property which would unfairly or unjustly affect an adjacent property owner's ultimate or present use of the owner's property to the extent that the property owner is or will be hindered or prevented from full use of such property.
- d. **OOCEACFX's Standard Written Contract.** An agreement for sale and purchase of Surplus Property made between a potential purchaser and OOCEACFX being materially in OOCEACFX's standard form and content which contains the terms of the sale.
- e. **Surplus Property.** Excess Property declared by OOCEACFX's Board to no longer be essential to, or have any present or future use or purpose for OOCEACFX and the Expressway Facility.



### **5-6.03 Determination of Excess Property.**

The OCEACFX Board may from time to time, direct the Executive Director or the Right of Way Committee to review property holdings of OCEACFX to determine if Excess Property exists. The Board shall determine whether Excess Property is essential for present or future construction, operation or maintenance of an Expressway Facility or essential for OCEACFX purposes. A determination that Excess Property is non-essential shall be made by a resolution of the Board. If a parcel of property is determined to be non-essential, it will be designated as Surplus Property. If the Surplus Property is subject to a Lease Purchase Agreement with the Florida Department of Transportation (the "FDOT") then OCEACFX shall file with the FDOT a certificate signed by the Chairman of the Board stating that (1) OCEACFX is not in default of any covenants or provisions of the Master Resolutions with the Junior and Senior Bond Holders, and (2) in the opinion of the General Consulting Engineers, OCEACFX is in compliance with the applicable Sections of the Master Resolutions with the Junior and Senior Bond Holders.

### **5-6.04 Procedure for Disposition.**

After the Board has determined a parcel of property is Surplus Property, and CFX staff has consulted with the local governmental jurisdiction in which the property is located<sup>1</sup> OCEACFX may, but is not required to, dispose of the Surplus Property in the following manners. In determining whether to dispose of Surplus Property, the Board may consider, but is not limited to considering, the current market conditions and whether the cost to dispose of the Surplus Property outweighs the price which may be obtained from the sale of the Surplus Property. OCEACFX may sell less than a fee simple interest in Surplus Property. Surplus Property may be sold to, or exchanged with, private entities and persons. When deemed by the OCEACFX Board to be in the public interest, OCEACFX may also sell, give or exchange Surplus Property to or with another public or quasi-public entity or a charitable or other non-profit organization.

- a. Surplus Property Valued Under \$25,000. Where Surplus Property has an estimated value of less than \$25,000, as set forth in a written good-faith estimate by OCEACFX's appraisal consultant or other qualified agent selected by the Right of Way Committee, the Board shall choose one of the following procedures for the disposition of such Surplus Property:
  - (1) Public sale as provided in 5-6.06 below; or
  - (2) Negotiated sale as provided in 5-6.07 below.
- b. Surplus Property Valued Over \$25,000. Where Surplus Property has an estimated value greater than \$25,000, it shall be disposed of by public sale as provided in 5-6.06 below.
- c. Inequitable Sales. Where the sale of Surplus Property would be an Inequitable Sale, regardless of the value of the property, the Surplus

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<sup>1</sup> Revised as requested by Right of Way Committee at November 24, 2014 meeting.

Property may be sold to an adjacent affected property owner by a negotiated sale. If more than one adjacent property owner desires to purchase the property, it shall be sold by a public sale. Without limiting anything else contained in this policy, if no adjacent property owner desires to purchase the property, then the Authority may elect to dispose of such land by public sale, negotiated sale, exchange, donation or any other manner contemplated in this policy. Nothing in this paragraph is intended to eliminate the requirements of subparagraphs 5-6.04 (a) or (b) above.

- d. ~~Surplus Property Sold to a Public/Non-Profit Entity. If Surplus Property is to be sold to another public or quasi-public entity, or a charitable or other non-profit organization, it may be disposed of by a negotiated sale.~~
- e. ~~Surplus Property Given to a Public/Non-Profit Entity. If Surplus Property is to be given to a public or quasi-public entity, or a charitable or other non-profit organization, the Board shall determine if the gift of the Surplus Property is appropriate under all of the circumstances.~~
- d. ~~If the United States, or any department or agency thereof, the state or any political subdivision or agency thereof, or any municipality of this state, or corporation or other organization not for profit which may be organized for the purpose of promoting community interest and welfare, should desire any real or personal property that may be owned by CFX, for public or community interest and welfare, then the United States, or any department or agency thereof, state or such political subdivision, agency, municipality, corporation or organization may apply to the governing board of CFX for a conveyance or lease of such property. After receiving a recommendation from the CFX Right of Way Committee, the governing board if satisfied that such property is required for such use and is not needed for CFX purposes, may thereupon convey or lease the same at private sale to the applicant for such price, whether nominal or otherwise, as such board may fix, regardless of the actual value of such property. The fact of such application being made, the purpose for which such property is to be used, and the price or rent therefor shall be set out in a resolution duly adopted by such board. In case of a lease, the term of such lease shall be recited in such resolution. No advertisement shall be required.~~

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Notwithstanding a. through ~~fd.~~ above, upon recommendation of the Right of Way Committee and Executive Director, and where deemed in the best interest of ~~OOCEACFX~~ and the public, the Board may waive the procedures for disposition of Surplus Property in a particular circumstance. Such waiver shall be by Board resolution. Without limiting anything contained herein, to maximize revenues to ~~OOCEACFX~~, ~~OOCEACFX~~ may market its surplus property, including through marketing and/or listing with a licensed real estate broker or brokers approved by the Board.

#### **5-6.05 Appraisals.**

Except as provided herein, prior to closing on the sale or exchange of Surplus Property, **OOCEACFX** shall obtain an appraisal. If deemed appropriate by **OOCEACFX**, in light of all the circumstances, the appraisal may be in the form of a summary or letter appraisal confirming the proposed transaction price is a reasonable market price. Appraisal costs shall be payable by the purchaser of any Surplus Property.

If the sale of Surplus Property is initiated by **OOCEACFX**, an appraisal shall be obtained by **OOCEACFX** prior to closing on a sale or exchange of any Surplus Property and the purchaser shall pay for the appraisal cost at closing. If a prospective purchaser solicits **OOCEACFX** regarding the purchase of Surplus Property, the prospective purchaser shall be responsible for obtaining and paying for an appraisal prepared by an appraiser selected and approved by **OOCEACFX**. Where deemed appropriate by General Counsel's office and the Right of Way Committee, **OOCEACFX** may accept an appraisal prepared for a landowner by an **OOCEACFX** approved appraiser meeting the standards set forth in Section 5-4.03 of this Manual. Appraisal costs shall be payable by the purchaser of the Surplus Property. If a prospective purchaser solicits **OOCEACFX** regarding the purchase of Surplus Property and provides an approved appraisal but is subsequently not the highest bidder or proposer at a public sale, the successful bidder shall reimburse the cost of the approved appraisal which shall be paid to the original prospective purchaser as a condition to the purchase of the Surplus Property.

If Surplus Property valued at \$25,000 or less is sold by a negotiated sale, a formal appraisal does not need to be obtained provided that **OOCEACFX** shall obtain a written good-faith estimate by **OOCEACFX**'s appraisal consultant that the property value does not exceed \$25,000. However, the **OOCEACFX** Board, General Counsel's office, or Right of Way Legal Counsel may require an appraisal for Surplus Property valued at less than \$25,000 if it is determined a formal appraisal is appropriate under the circumstances. An appraisal shall not be dated more than ninety (90) days prior to the date of the sale.

#### **5-6.06 Public Sales.**

In order to sell Surplus Property by public sale, **OOCEACFX** shall utilize either the bid or proposal procedures set forth below:

##### **Bid Procedure:**

- a. **OOCEACFX** shall advertise the sale, including at a minimum an advertisement in a newspaper of general circulation in the area where the property is located, and shall post the advertisement on **OOCEACFX**'s internet web site. The advertisement shall state the date, time and place of the proposed auction, bid due date, bid opening or other method of buyer and price selection. The advertisement shall briefly describe the property, the minimum bid amount, and the location of where to obtain additional information. The advertisement shall run in the newspaper at least one (1) day, which must occur at least fourteen (14) calendar days prior to the date of the public sale. At the election of **OOCEACFX**, more notice may be

afforded, but not less. OOCEACFX shall reserve the right to reject any or all bids, to request and consider additional information from any bidder and to waive minor irregularities and technical defects in any bid.

- b. The public sale shall be held at OOCEACFX offices or such other place designated by OOCEACFX.
- c. The public sale shall be in sealed bid, auction format, or such other method determined by OOCEACFX and shall be conducted by a designated representative of OOCEACFX.
- d. OOCEACFX may at its option establish a minimum bid amount of not less than the appraised value of the property; however, the Right of Way Committee may determine, subsequent to a public sale where the minimum bid is not obtained, that a lower bid will be accepted.
- e. Upon OOCEACFX's notice of the successful bid, the successful bidder shall be required to place a deposit in the amount of ten percent (10%) of the purchase price (the "Deposit") in an escrow account designated by OOCEACFX within five (5) business days after such notice. The Deposit shall be refundable pursuant to the terms of the OOCEACFX's standard written contract only in the event OOCEACFX does not proceed to execute and/or close on a contract for sale of the subject property or, if after executing the contract, the purchaser determines within the inspection period not to proceed with the purchase of the property. Full payment of the purchase price shall be made to OOCEACFX at closing in either a cashier's check, money order, or other non-cancelable instrument.

**Proposal Procedure:**

- f. The OOCEACFX may solicit proposals (Request for Proposals) for purchase of OOCEACFX property. OOCEACFX shall advertise the Request for Proposals, including at a minimum an advertisement in a newspaper of general circulation in the area where the property is located and shall post the advertisement on OOCEACFX's internet web site. The advertisement shall briefly describe the property and where to obtain additional information. The advertisement shall run in the newspaper at least one (1) day, which must occur at least fourteen (14) calendar days prior to the date the proposals are due. At the election of OOCEACFX, more notice may be afforded, but not less.
- g. The Request for Proposals shall constitute an invitation to submit offers to purchase and does not constitute an offer by OOCEACFX to sell any property. All sales are subject to execution and OOCEACFX Board approval of a written contract materially in OOCEACFX's standard form. OOCEACFX shall reserve the right to negotiate modifications to any offer that it deems acceptable, to reject any or all offers, to request and consider

additional information from any submitter, and to waive minor irregularities and technical defects in any proposal. OOCEACFX shall reserve the right to seek new proposals or offers when it determines that it is in its best interest to do so. OOCEACFX also reserves the right not to pursue sales of any specific properties identified in the Request for Proposals.

- h. The proposals shall be opened on a date specified in the Request for Proposals at the OOCEACFX offices, or such other place designated by OOCEACFX, by a designated representative of OOCEACFX. OOCEACFX shall respond to all proposals by a date specified in the Request for Proposals. Upon OOCEACFX's notice of acceptance of an offer, the potential buyer shall be required to place a deposit in the amount of ten percent (10%) of the purchase price (the "Deposit") in an escrow account designated by OOCEACFX within five (5) business days after such notice. The Deposit shall be refundable pursuant to the terms of the OOCEACFX's standard written contract only in the event OOCEACFX does not proceed to execute and/or close on a contract for sale of the subject property or, if after executing the contract, the purchaser determines within the inspection period not to proceed with the purchase of the property. Full payment of the purchase price shall be made to OOCEACFX at closing in either a cashier's check, money order, or other non-cancelable instrument.
- i. As a condition precedent to OOCEACFX's obligation to sell any property listed in a Request for Proposal, all proposals to purchase such property will be subject to an appraisal to confirm that the offer is a reasonable market offer. The appraisal shall be paid for by the buyer of the property.
- j. Any successful proposer shall enter into the OOCEACFX's standard written contract. Should a successful proposer fail to enter into the OOCEACFX's standard written contract within the time specified in the Request for Proposal, or the OOCEACFX's standard written contract, then the proposer shall be deemed to have abandoned the proposal and the Authority may, but shall not be obligated to, pursue a transaction with any other potential proposers.

All potential bidders and proposers are placed on notice that OOCEACFX is a public agency and is subject to Chapter 119, *Florida Statutes*, regarding the disclosure of public records. Pursuant to Section 119.071(1)(b), *Florida Statutes*, sealed bids or proposals received by OOCEACFX are exempt from public disclosure until such time as the OOCEACFX provides notice of an intended decision or until thirty (30) days after the bids or proposals are opened, whichever is earlier, at which time all bids or proposals received by OOCEACFX shall be made available to the public for inspection and copying in accordance with Chapter 119, *Florida Statutes*. Any language in a bid or proposal attempting to keep all or part of such bid or proposal confidential is of no force and effect and will be disregarded as contrary to Florida law.

#### **5-6.07 Negotiated Sales.**



A negotiated sale is a transaction between OOCEACFX and a prospective purchaser which occurs as a result of negotiations between OOCEACFX and the purchaser, and the sales price is decided through negotiation. In such circumstances, the parties will enter into ~~an~~ OOCEACFX's standard written contract. Upon execution of OOCEACFX's standard written contract, a prospective purchaser shall provide a deposit equal to ten percent (10%) of the sales price. The deposit shall be paid in a cashier's check, money order, or other non-cancelable instrument.

#### **5-6.08 Exchanges of Property.**

OOCEACFX may exchange Surplus Property for other real property. If a prospective purchaser of Surplus Property wishes to exchange a parcel of real property which has value to OOCEACFX (the "Exchange Property"), OOCEACFX may take title to the Exchange Property in exchange for the Surplus Property, provided the Board determines that acceptance of such Exchange Property is in the best interest of OOCEACFX and the public. Factors considered in such determination may include, without limitation, whether the Exchange Property is: (i) located in Orange County, Florida; (ii) contiguous to a current Expressway Facility; (iii) contiguous to a planned Expressway Facility; or (iv) located in an area which would serve an important function for OOCEACFX or OOCEACFX related project even if not contiguous to a current or planned Expressway Facility.

If the Board determines Surplus Property may be exchanged for Exchange Property, the exchange may be an equal exchange or, if the Exchange Property is worth less than the Surplus Property, the prospective purchaser shall pay the difference between the appraised value of the Exchange Property and the appraised value of the Surplus Property. However, if the Surplus Property is to be exchanged with a public entity or for a public purpose, the Board may agree to waive payment of the differential if deemed appropriate under all of the circumstances. In instances where the Exchange Property is appraised and/or is priced at a higher value than the Surplus Property, OOCEACFX shall follow its normal acquisition procedures to obtain such Exchange Property and the Surplus Property may be conveyed as partial consideration for the Exchange Property under such additional terms and conditions as deemed appropriate by OOCEACFX in light of all circumstances.

Notwithstanding anything contained herein, OOCEACFX may exchange property in connection with the settlement of eminent domain matters upon terms and conditions deemed acceptable to the Right of Way Committee and Board without complying with this exchange policy.

#### **5-6.09 Closing.**

Closing for the sale of all Surplus Property shall occur at either OOCEACFX offices, at the office of Right of Way Legal Counsel, or at such other agreed upon location. Closing shall occur as provided in OOCEACFX's standard written contract. All funds from the sale of Surplus Property shall be deposited into the System General Revenue Fund account.

Title to the Surplus Property shall be conveyed by a special warranty deed, "as-is" and "where-is", without abutters' right to the Expressway Facilities, subject to all matters of record and any matters set forth in the purchase and sale contract executed between OOCEACFX and the

purchaser. OOCEACFX will execute an owner's affidavit for title insurance purposes if requested by the purchaser. If any structures are located on the Surplus Property, the purchaser shall receive a radon gas disclosure form which shall be executed by the purchaser.

If the purchaser fails to purchase the property as provided in the OOCEACFX's standard written contract, the purchaser shall forfeit the Deposit and OOCEACFX may proceed to sell the Surplus Property to other parties.

Unless otherwise specifically agreed by OOCEACFX, no deed conveying surplus property shall be deemed to waive or release any limited-access line and the deed shall expressly state that OOCEACFX is not conveying or restoring any other abutter's rights including, without limitation, any claims for air, light and view between the Surplus Property conveyed, any abutting property and OOCEACFX's property.

**5-6.10 Sale to Adjacent Owner where Sale is Inequitable.**

If Surplus Property is sold to an adjacent owner to avoid the occurrence of an otherwise Inequitable Sale, the adjacent property owner must provide OOCEACFX evidence of title to the adjacent property. Further, the adjacent property owner shall certify at closing that he holds title to the adjacent property.

**5-6.11 Costs of Sale.**

At the sale of any property hereunder, the purchaser shall pay all costs associated with the closing, including, but not limited to the following:

- a. Appraisal and review appraisal costs;
- b. Recording the deed and any closing documents;
- c. Title insurance (if provided under the OOCEACFX Sale Agreement);
- d. Prorated ad valorem taxes, if any;
- e. All survey and due diligence costs;
- f. Preparation of a legal description;
- g. Advertising for the public sale;
- h. All costs relating to buyers financing, if any;
- i. All costs of broker, attorneys or other consultants or contractors retained by the buyer; and,
- j. All other costs specified under the OOCEACFX's standard written contract.

OOCEACFX shall prepare and bear the cost for all closing documents.

## **Part 7: POLICY REGARDING THE RELEASE OF LIMITED-ACCESS LINES**

### **5-7.01 Purpose and Authority.**

The purpose of this policy is to establish a procedure for the release or partial release of limited-access line rights held by OOCEACFX upon request by the owners of lands affected by such limited-access lines or other third-party applicants, and the determination that such release shall not materially affect or interfere with the use, operation, maintenance or future expansion of the expressway system.

### **5-7.02 Determination of Impact of Release.**

If an affected landowner or other third party desires the release or partial release of any limited-access line rights held by OOCEACFX, the requesting party shall submit such request in writing to the Executive Director or his designee. The requesting party shall also provide such surveys, plans, title reports or other information as may be reasonably requested by OOCEACFX to determine the nature and purpose of the proposed release. Upon receipt of any such request, OOCEACFX may review the request and the applicable limited-access line, or portion thereof, to determine whether the release would (i) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of any portion of the expressway system, (ii) otherwise impair traffic operations or public safety, or (iii) be prohibited by or conflict with any other laws, regulations, requirements, covenants or agreements binding upon OOCEACFX. If it is determined that the release would not result in any of the foregoing negative effects, OOCEACFX may, in its discretion, release the limited-access line or portion thereof in accordance with the policies and procedures set forth below.

### **5-7.03 Valuation Process.**

If OOCEACFX notifies an applicant of its willingness to release or partially release its rights in any limited-access line, except as otherwise provided herein, OOCEACFX shall obtain an appraisal report to determine the current fair market value of the release requested. If deemed appropriate by OOCEACFX in light of all the circumstances, the appraisal may be in the form of a summary or letter appraisal confirming that the release price is a reasonable market price. Where deemed appropriate by Right of Way Legal Counsel and the Right of Way Committee, OOCEACFX may accept an appraisal prepared for a landowner by an OOCEACFX-approved appraiser meeting the standards set forth in the Section 5-4.03 of this Manual. Appraisal costs shall be payable by the purchaser of any release of any portion of a limited-access line.

In determining the proper consideration to be paid for the release or partial release of any limited-access line, OOCEACFX may consider not only the appraisal but also the price paid, or



obligations incurred, by OOCEACFX in originally obtaining the limited-access line rights as well as such other facts and circumstances as deemed relevant by OOCEACFX.

#### **5-7.04 Negotiated Release.**

OOCEACFX may negotiate with the applicant for release or partial release of the subject limited-access line. The mutually agreed terms and conditions, including the consideration, if any, to be paid to OOCEACFX for the release or partial release of the subject limited-access line, shall be embodied in a written agreement subject to approval by the OOCEACFX Board. Without limiting anything herein, OOCEACFX may release or partially release a limited-access line in exchange for other property, agreements or consideration by the applicant or other parties other than the payment of money. OOCEACFX may also release limited-access lines in connection with the settlement of litigation.

#### **5-7.05 Release of Claims.**

Any release or partial release of a limited-access line shall be made without warranty or representation by OOCEACFX and shall be accepted "as is" by the applicant. In further consideration of OOCEACFX's agreement to release or partially release any limited-access line, the applicant and any other affected landowner shall agree in writing to release and discharge OOCEACFX from all past, present and future claims or actions arising out of, or in any way connected with, the location or relocation of the limited-access line, including any claim for loss of access to any party's remaining property, business damages, severance damages or any other damages. The release or partial release of any limited-access line shall expressly state that it is not conveying or restoring any other abutter's rights including, without limitation, any claims for air, light and view between any abutting property and OOCEACFX's property.

#### **5-7.06 Closing and Recording of Release.**


The closing of the release of limited-access line shall occur in accordance with the terms and conditions of the agreement between OOCEACFX and the applicant party. The applicant requesting such release shall pay all costs of the appraisal, title reports and surveys required, and all taxes, recording costs and fees of any nature relating to the release or the recording of the notice of release as provided herein. OOCEACFX shall prepare the notice of release to be recorded in the public records. Upon satisfaction of the terms and conditions of the agreement, including OOCEACFX's receipt of full payment of the release price and related costs, if any, by cashier's check or wire transfer of immediately available funds, OOCEACFX's Right of Way Legal Counsel shall arrange to record the notice of release in the public records evidencing the release or partial release of the limited-access line. The notice may contain such other terms and conditions of the agreement as OOCEACFX shall deem necessary or appropriate, including, without limitation, the release of claims and limitations of abutter's right as may be deemed necessary.

# EXHIBIT “D”

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

**TO:** Central Florida Expressway Authority Board

**FROM:**  Joseph L. Passiatore, General Counsel

**DATE:** December 3, 2014

**SUBJECT:** Amendments to All Aboard Florida Agreements

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In furtherance of its inter-city passenger rail project, All Aboard Florida (“AAF”) is requesting that the Board approve a First Amendment to Document Escrow Agreement and a Third Amendment to Contract for Sale and Purchase of Rail Line Easements (the proposed Amendments are attached hereto).

### FIRST AMENDMENT TO DOCUMENT ESCROW AGREEMENT

The Document Escrow Agreement governs the effective date of the original Lease Agreement between AAF and CFX which contemplated AAF using existing CFX Beachline right of way. The Escrow Agreement required several preconditions to occur prior to the Lease Agreement becoming effective.

The most significant condition precedent was condition number 5 stating that the Authority’s consulting engineer must state that the leased property is no longer essential in connection with the operation of the Expressway System as required by Section 5.4 of the Authority’s Amended and Restated Master Bond Resolution. An acknowledgment by AAF and CFX as to such condition precedent was included on the cover page to the Lease Agreement along with a statement that there was not sufficient information as to the property description or the alignment under which CFX or its general engineering consultant could give assurance that such a determination could be made. The CFX general engineering consultant has never given an opinion that the current right of way is surplus and there is no present indication that one will be forthcoming.

Moreover, the Termination Date for the Document Escrow Agreement was June 30, 2014. Per Section 2(A) of the Agreement, if the Termination Date passed without the conditions precedent having occurred “the Lease will not be considered to have been delivered or become effective” and per Section 2(D), “if Escrow Agent has not received the Joint Break of Escrow Instructions with appropriate signatures on or before the Termination Date, Escrow Agent shall thereafter promptly return each document held by the Escrow Agent to the Party that provided such document to Escrow Agent.” Per Section 3(B) of the Agreement, upon the Termination Date (and the return of the Escrow Documents to each Party as provided therein) “this Document Escrow Agreement shall terminate.”

At this time it is the opinion of CFX General Counsel and Right of Way Counsel that the Document Escrow Agreement has terminated. There is marginal if any benefit to the Authority to reviving the Lease Agreement via a First amendment to the Document Escrow Agreement.

THIRD AMENDMENT TO CONTRACT FOR SALE AND PURCHASE OF RAIL  
LINE EASEMENTS

The Contract for Sale and Purchase, wherein CFX would sell a 100 foot easement to AAF, more adequately represents the direction that the Board gave at its November 13, 2014 workshop session as well as taking into account CFX's pending Contract of Sale and Purchase with Suburban Land Reserve and Farmland Reserve, Inc. for the 200 ft. corridor south of existing SR 528 right of way.

Several of AAF's due diligence deadlines contained in the Second Amendment previously approved by the Board at its August 14, 2014 meeting have expired. Specifically the title commitment and survey deadlines were August 15, 2014 and the Inspection Period expired on September 1, 2014. The outside closing date of December 31, 2014 is also rapidly approaching.

Because of these missed deadlines, AAF's proposed Third Amendment seeks to extend the dates as follows:

Inspection Period	May 30, 2015
Outside Closing Date	June 30, 2015
Title Commitment	May 15, 2015
Survey	May 15, 2015
Initial Notice	May 30, 2015

CFX has demonstrated significant good faith as well as financial support in order to acquire the 200 foot multi-modal corridor that would in part accommodate AAF's plans for inter-city passenger rail. Based upon last month's workshop there does not appear to be any motivation on the part of the CFX Board to discontinue efforts to acquire the additional southerly right of way to create the corridor.

That being said, the legal landscape under which CFX is now undertaking negotiations with the "Additional Property Owners" i.e. Mattamy Homes, Carlsbad, Bal Bay and B&M Investments has changed significantly since the original agreement was signed. In particular, CFX now possesses condemnation power for rapid transit and fixed guideways. Thus, there is a possibility that CFX will need to file condemnation actions to secure title. Because the current Contract with AAF was negotiated and executed prior to July 1, 2014, the date upon which CFX was provided such condemnation powers by the Florida Legislature, it is silent as to how those related costs would be apportioned.

Also, in the event of a negotiated acquisition the current agreement contemplates that CFX will subsidize the purchase price and then recoup 40% of the average acre cost at such time as the AAF closing on the easement purchase. AAF's closing is dependent on several conditions precedent. It would be appropriate for AAF to fund its portion at the time of closing on these parcels, or posting funds with the court under a taking, as the case may be.

**RECOMMENDATION:** Legal does not recommend the First Amendment to the Document Escrow Agreement, but does support a limited extension of the Contract for Sale and Purchase of Rail Line Easements with AAF via a Third Amendment.

CFX, SLR and FRI have tentatively agreed to an extension of CFX's inspection period for the Ranch Properties until March 13, 2015 and this Amendment is on the December 11<sup>th</sup> consent agenda. The closing date for the Ranch Properties remains June 30, 2015.

Based on the above, CFX Legal counsel would be supportive of extending the dates in the Contract for Sale and Purchase of Rail Line Easements as follows:

Inspection Period	March 20, 2015
Outside Closing Date	March 30, 2015
Title Commitment	March 13, 2015
Survey	March 13, 2015
Initial Notice	March 20, 2015

The Board should also direct the parties to negotiate a Fourth Amendment to be brought forward at the March, 2015 meeting which would address the funding arrangements for the Additional Property acquisitions and establish updated realistic due diligence and closing date as circumstances warrant.

**ACTION SUGGESTED:** Motion to Approve the Third Amendment with the deadlines revised per this memo and direction to bring a Fourth Amendment at the March 2015 meeting addressing funding for Additional Property purchases.

JLP/ml  
Attachments

cc: Ken Wright, Esq.  
Steve Zucker, Esq.  
Joseph A. Berenis  
Laura Kelley

**FIRST AMENDMENT TO  
DOCUMENT ESCROW AGREEMENT**

**THIS FIRST AMENDMENT TO DOCUMENT ESCROW AGREEMENT** (the “First Amendment”) is effective as of \_\_\_\_\_, 2014 (the “Amendment Effective Date”), by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, as successor to the ORLANDO–ORANGE COUNTY EXPRESSWAY AUTHORITY, a body corporate and politic existing pursuant to Chapter 348, Florida Statutes (the “Authority”) and All Aboard Florida – Operations LLC, a Delaware limited liability company (“AAF” and collectively with the Authority referred to as the “Parties”).

**RECITALS:**

WHEREAS, the Authority and AAF heretofore entered into that certain Document Escrow Agreement dated as of its Document Escrow Agreement Effective Date (the “Agreement”); and

WHEREAS, Authority and AAF desire to amend the Agreement in certain respects; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Authority and AAF hereby agree as follows:

**AGREEMENTS:**

1. Recitals. The recitals set forth above are true and correct and are hereby incorporated into this First Amendment in their entirety.

2. Definitions. Capitalized terms used but otherwise not defined herein shall have the meaning ascribed to such terms in the Agreement.

3. Termination Date. The extension of the Termination Date (as defined in Section 2(A)(ii) of the Agreement) to June 30, 2015 is hereby ratified. The first sentence of Section 2(A) of the Agreement is hereby amended to read as follows:

“Escrow Agent shall hold all Escrow Documents in escrow from the date hereof until the earlier of the following dates (the “Term”): (i) the satisfaction or waiver (any such waiver to be in the sole discretion of the waiving Party) of those certain conditions precedent enumerated on Exhibit B, attached hereto and made a part hereof (collectively, the “Conditions”) or (ii) June 30, 2015, as such date may be amended by the Parties in writing (the “Termination Date”).”

4. Waiver. In consideration for this First Amendment, both Authority and AAF unconditionally waive any right to claim or assert that the other has not timely and fully performed and observed all obligations accrued to date under the Agreement.

5. References to the Orlando – Orange County Expressway Authority. All references to the “Orlando – Orange County Expressway Authority” or “OOCEA” in the Agreement, as amended, shall hereafter be deemed to refer to the Central Florida Expressway Authority.

6. Ratification. Except as herein amended, the Agreement is hereby ratified and affirmed in its entirety by Authority and AAF.

7. Counterparts; Email Signatures. This First Amendment may be executed in any number of counterparts, each of which shall be considered an original, and all of such counterparts shall constitute one amendment. To facilitate execution of this First Amendment, Authority and AAF may execute and exchange by e-mail as a portable document format or other electronic imaging, counterparts of the signature page, which shall be deemed original signatures for all purposes.

[Signature Page Follows]

IN WITNESS WHEREOF, this First Amendment has been duly executed as of the Amendment Effective Date.

AAF

ALL ABOARD FLORIDA- OPERATIONS  
LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by AAF: \_\_\_\_\_, 2014

AUTHORITY

CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY, as successor in interest to the  
ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY, a body  
corporate and politic existing pursuant to  
Chapter 348, Florida Statutes

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by Authority: \_\_\_\_\_,  
2014

APPROVED AS TO FORM AND  
LEGALITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by Legal \_\_\_\_\_, 2014

Escrow Agent acknowledges receipt of the First Amendment and agrees to hold the Escrow Documents pursuant to the Document Escrow Agreement as amended.

First American Title Insurance Company

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

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

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



**THIRD AMENDMENT TO  
CONTRACT FOR SALE AND PURCHASE OF RAIL LINE EASEMENTS**

**THIS THIRD AMENDMENT TO CONTRACT FOR SALE AND PURCHASE OF RAIL EASEMENTS** (the “Third Amendment”) is effective as of \_\_\_\_\_, 2014 (the “Amendment Effective Date”), by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, as successor in interest to the ORLANDO–ORANGE COUNTY EXPRESSWAY AUTHORITY, a body corporate and politic existing pursuant to Chapter 348, Florida Statutes (the “Authority” or “Seller”) and All Aboard Florida – Operations LLC, a Delaware limited liability company (“AAF” or the “Buyer” and collectively with the Authority referred to as the “Parties”).

**RECITALS:**

WHEREAS, Seller and Buyer heretofore entered into that certain Contract of Sale and Purchase of Rail Line Easements dated as of its Effective Date (the “Agreement”); and

WHEREAS, Seller and Buyer desire to amend the Agreement in certain respects to extend certain time periods to allow, among other things, time to consider alternate approaches to the Additional Property, including those discussed at that certain CFX Board Workshop on November 13, 2014; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

**AGREEMENTS:**

1. Recitals. The recitals set forth above are true and correct and are hereby incorporated into this Third Amendment in their entirety.
2. Definitions. Capitalized terms used but otherwise not defined herein shall have the meaning ascribed to such terms in the Agreement.
3. Inspection Period. The extension of the Inspection Period (as defined in Section 5(b) of the Agreement) to May 30, 2015 is hereby ratified. The first sentence of Section 5(b) of the Agreement is hereby amended to read as follows:

“Subject to its rights of entry onto the Ranch Property and Additional Property as set forth in Section 5(a) above, Buyer shall have a period commencing as of the Effective Date and terminating on May 30, 2015 (the “Inspection Period”), in which to determine, in Buyer’s sole discretion, whether the OOCEA Property and the Ranch Property is suitable to Buyer.”

4. Outside Closing Date. The extension of the Outside Closing Date (as defined in Section 6 of the Agreement) to June 30, 2015 is hereby ratified. The second sentence of Section 6 of the Agreement is hereby amended to read as follows:

“However, absent the written consent of Buyer and Seller, the Closing Date shall not be later than June 30, 2015 (the “Outside Closing Date”) and should the Conditions Precedent not have occurred or been waived by the Outside Closing Date, then this Contract may be terminated as provided in Paragraph 11.”

5. Title Commitment. The first sentence of Section 8(a) of the Agreement is hereby amended to read as follows:

“By May 15, 2015, Buyer shall obtain, at Buyer’s expense, and deliver to Seller an ALTA commitment for the Title Policy (the “Title Commitment”) issued on behalf of First American Title Insurance Company (“Title Company”) to insure the easement rights set forth in the Easement.”

6. Survey. The third sentence of Section 8(a) of the Agreement is hereby amended to read as follows:

“By May 15, 2015, Buyer may, at Buyer’s expense, cause the OOCEA Property and ~~Ranch Property~~ to be surveyed by a Florida licensed surveyor (the “Survey”).”

7. Initial Notice. The first sentence of Section 8(a)(i) of the Agreement is hereby amended to read as follows:

“Buyer shall have until May 30, 2015 to examine the Title Commitment, the Exception Documents and the ~~Survey~~, and in which to give Seller written notice (the “Initial Notice”) of objections which render Seller’s title unsuitable or less than good and marketable to convey the easement rights set forth in the Easement in the OOCEA Property and the Ranch Property.”

8. Waiver. In consideration for this Third Amendment, both Seller and Buyer unconditionally waive any right to claim or assert that the other has not timely and fully performed and observed all obligations accrued to date under the Agreement.

9. Ratification. Except as herein amended, the Agreement is hereby ratified and affirmed in its entirety by Seller and Buyer.

10. Counterparts; Email Signatures. This Third Amendment may be executed in any number of counterparts, each of which shall be considered an original, and all of such counterparts shall constitute one amendment. To facilitate execution of this Third Amendment, Seller and Buyer may execute and exchange by e-mail as a portable document format or other electronic imaging, counterparts of the signature page, which shall be deemed original signatures for all purposes.

[Signature Page Follows]

IN WITNESS WHEREOF, this Third Amendment has been duly executed by the Buyer and Seller as of the respective dates indicated below.

BUYER

ALL ABOARD FLORIDA- OPERATIONS  
LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by Buyer: \_\_\_\_\_, 2014

SELLER

CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY, as successor in interest to the  
ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY, a body  
corporate and politic existing pursuant to  
Chapter 348, Florida Statutes

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by Seller: \_\_\_\_\_, 2014

APPROVED AS TO FORM AND  
LEGALITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date executed by Legal \_\_\_\_\_, 2014