

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: Authority Board Members

FROM: Claude Miller 
Director of Procurement

DATE: August 26, 2014

RE: Approval of Contract Renewal with
TransCore, LP for Maintenance of ITS Infrastructure
Contract No. 000720

Board approval is requested for the second and final renewal of the referenced contract with TransCore, LP, in the amount of \$698,146.25. The renewal period will be from October 31, 2014, to October 30, 2015, for the same amount as the current renewal and at the same unit prices included in the original Contract executed in September 2010.

The services to be provided under the renewal will include complete maintenance services for the Authority's ITS infrastructure and systems including, closed circuit television cameras, data collection sensors, dynamic message signs, fiber optic cable, and all electronic system components associated with the ITS devices.

Original Contract Amount \$1,720,295.00 (3-year term with no cost increases)

First Renewal Amount \$698,146.25 (1 year)

cc: Joe Berenis, Deputy Executive Director, Engineering, Operations, Construction and Maintenance
Laura Kelley, Deputy Executive Director, Finance and Administration
Corey Quinn, Director of Expressway Operations
Contract File

**SECOND CONTRACT RENEWAL **
MAINTENANCE OF ITS INFRASTRUCTURE
OOCEA CONTRACT NO. 000720

ITEM #	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE (WRITTEN)	UNIT PRICE (NUMERICAL)	TOTAL
1	668	EA	PREVENTIVE MAINTENANCE-- CCTV CAMERAS		\$ 152.00	\$ 101,536.00
2	572	EA	PREVENTIVE MAINTENANCE-- DATA SENSORS		\$ 90.00	\$ 51,480.00
3	52	EA	PREVENTIVE MAINTENANCE-- SINGLE LINE DMS		\$ 185.00	\$ 9,620.00
4	39	EA	PREVENTIVE MAINTENANCE-- 3-LINE DMS		\$ 230.00	\$ 8,970.00
5	48	EA	PREVENTIVE MAINTENANCE-- PORTABLE DMS		\$ 150.00	\$ 7,200.00
6	1568	EA	PREVENTIVE MAINTENANCE-- TRAFFIC MONITORING STATION		\$ 59.00	\$ 92,512.00
7	256	EA	DAILY ITS SYSTEM MONITORING		\$ 115.00	\$ 29,440.00
8	3450	MH	REGULAR LABOR (HOURLY RATE)		\$ 53.75	\$ 185,437.50
9	350	MH	OVERTIME LABOR (HOURLY RATE)		\$ 80.00	\$ 28,000.00
10	225	MH	REGULAR LABOR (FIBER OPTIC SUBCONTRACTOR) (HOURLY RATE)		\$ 67.25	\$ 15,131.25
11	70	MH	OVERTIME LABOR (FIBER OPTIC SUBCONTRACTOR) (HOURLY RATE)		\$ 169.75	\$ 11,882.50
12	20	EA	SINGLE LANE CLOSURE		\$ 407.00	\$ 8,140.00
13	48	EA	TWO-LANE CLOSURE		\$ 545.00	\$ 26,160.00
14	10	EA	THREE-LANE CLOSURE		\$ 707.00	\$ 7,070.00
15	3	EA	RAMP CLOSURE		\$ 439.00	\$ 1,317.00
16	250	MH	OFF-DUTY LAW ENFORCEMENT OFFICER		\$ 57.00	\$ 14,250.00
17	N/A	N/A	ALLOWANCE FOR PARTS		\$ 100,000.00	\$ 100,000.00
RENEWAL AMOUNT						\$ 698,146.25

Central Florida Expressway Authority
CONTRACT RENEWAL AGREEMENT
CONTRACT NO. 000720

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this ____ day of ____, 2014, by and between the Central Florida Expressway Authority, hereinafter called "Authority" and TransCore, L.P., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, the Authority and the Contractor entered into a Contract Agreement (the "Original Agreement") dated September 22, 2010, with a Notice to Proceed date of October 31, 2010, whereby the Authority retained the Contractor to perform maintenance services for the Authority's ITS infrastructure and systems; and

WHEREAS, pursuant to Article 2 of the Original Agreement, Authority and Contractor wish to renew the Original Agreement for a period of one (1) year;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Contractor agree to a second renewal of said Original Agreement beginning the 31st day of October, 2014, and ending the 30th day of October, 2015, in the amount of \$698,146.25 which amount restates the amount of the Original Agreement and any supplements thereto.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the First Renewal Agreement ending October 30, 2014, the Contractor shall execute a 'Certificate of Completion of the First Renewal Agreement and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the First Renewal Agreement ending October 30, 2014.

All terms and conditions of the Original Agreement and any supplements and amendments thereto shall remain in full force and effect during the full term of this Renewal Agreement.

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

TRANSCORE, L.P.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY: _____
Authorized Signature

BY: _____
Director of Procurement

Print Name: _____

Title: _____

ATTEST: _____ (SEAL)
Secretary or Notary

Approved as to form and execution, only

General Counsel for the Authority

WORKSHEET FOR RENEWAL/NON-RENEWAL OF CONTRACT

Contractor: Transcore, LLC.

Contract No.: 000720

Contract Name/Description: Maintenance of ITS Infrastructure

Contract Amount (Including Supplemental Agreement): \$ 2,419,441.25

Original Contract Execution Date: 10/7/2010

Original Contract Term: 3 Years with 2 Renewal Options

First Renewal: _____

Second Renewal: X

What is the factual basis to support renewal/non-renewal recommendation? Are the value and level of service provided by the (Contractor) (Consultant) satisfactory and adequate for the Authority's needs? For non-renewal recommendation due to Contractor non-compliance, give specific instances for non-compliance with work/performance requirements. Has Contractor been notified of the instances of non-compliance? Give date(s) and method(s) of notification. For non-renewal recommendation due to other reasons (scope changes, quantity, work limit changes, price increases), give specifics.

CONTRACTOR HAS MET CONTRACT

EXPECTATIONS AND REQUIREMENTS

Renewal Recommended

Yes ☒ No ☐


(Recommending Department Head/Manager)

5/29/14
Date

Approve Recommendation

Yes ☒ No ☐


(Name)
Deputy Executive Director

5/29/14
Date

Concur With Recommendation

Yes ☒ No ☐


(Name)
Director of Procurement

5/29/14
Date



ORLANDO - ORANGE COUNTY

4974 ORL TOWER RD., ORLANDO, FLORIDA 32807
TELEPHONE (407) 690-5000 • FAX (407) 690-5011 • WWW.OOCEA.COM

October 26, 2010

Mr. Hugh Stetter, P.E.
TransCore, LP
5858 South Semoran Boulevard
Orlando, Florida 32822

Re: Maintenance of ITS Infrastructure
OOCEA Contract No. 000720
Notice to Proceed

Dear Mr. Stetter:

The Authority has executed a Contract with TransCore, LP for the Maintenance of ITS Infrastructure. This contract includes a maximum fee of \$1,721,295 to perform the scope as described in the Contract paperwork, two (2) executed copies of which were provided for your use on October 7, 2010.

This letter will serve as your Notice to Proceed for the referenced Project effective October 31, 2010. The contract time associated with this contract is three (3) years beginning October 31, 2010.

We look forward to working with you on this project.

Sincerely,

L.A. Griffin
Manager of Expressway Operations

cc: Claude Miller, OOCEA
Rod Stroupe, OOCEA
Charles R. Lattimer, P.E., PBS&J

CONTRACT

This Contract (the "Contract" as defined herein below), is made this 22nd day of September, 2010, between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called the AUTHORITY and TRANSCORE, LP, 5858 South Semoran Boulevard, Orlando, Florida 32822, hereinafter the CONTRACTOR:

WITNESSETH:

WHEREAS, the AUTHORITY was created by statute and is charged with acquiring, constructing, operating and maintaining a system of limited access roadways known as the Orlando-Orange County Expressway System; and,

WHEREAS, the AUTHORITY has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it (by state law);" and,

WHEREAS, the AUTHORITY has determined that it is necessary and convenient in the conduct of its business to retain the services of a CONTRACTOR to provide complete maintenance services for the AUTHORITY's ITS infrastructure and systems including, Closed Circuit television (CCTV) cameras, data collection sensors, dynamic message signs, fiber optic cable, and all electronic system components associated with the ITS devices and related tasks as may from time to time be assigned to the CONTRACTOR by the AUTHORITY; and,

WHEREAS, on or about July 31, 2010, the AUTHORITY issued a Request for Proposals seeking qualified contractors to perform such tasks; and,

WHEREAS, CONTRACTOR was the successful one of three qualified firms that responded to the Request for Proposals and was ultimately selected; and,

NOW THEREFORE, in consideration of the mutual covenants and benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged by each party to the other, the parties hereto agree as follows:

1. SERVICES TO BE PROVIDED

The CONTRACTOR shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized

representatives of the AUTHORITY, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include complete maintenance services for the AUTHORITY's ITS infrastructure and systems including, Closed Circuit television (CCTV) cameras, data collection sensors, dynamic message signs, fiber optic cable, and all electronic system components associated with the ITS devices as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

The AUTHORITY does not guarantee that all of the services described in the Scope of Services will be assigned during the term of the Contract. Further, the CONTRACTOR is providing these services on a non-exclusive basis. The AUTHORITY, at its option, may elect to have any of the services set forth herein performed by other contractors or AUTHORITY staff.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract, including insurance policies and bonds,
- 1.2 The Scope of Services,
- 1.3 The Method of Compensation,
- 1.4 The Technical Proposal submitted by CONTRACTOR, and
- 1.5 The Price Proposal submitted by CONTRACTOR,

(collectively, the "Contract").

2. TERM AND NOTICE

The initial term of the Contract will be three (3) years from the date first written above. There shall be two (2) renewal options of one (1) year each. The options to renew are at the sole discretion and election of the AUTHORITY. Renewals will be based, in part, on a determination by the AUTHORITY that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for the AUTHORITY's needs. If a renewal option is exercised, the AUTHORITY will provide the CONTRACTOR with written notice of its intent at least 180 days prior to the expiration of the initial three-year Contract Term.

The AUTHORITY shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 120 days notice for convenience or 60 days with cure notice for cause for Contractor's material failure to perform the provisions of the Contract. Under no circumstances shall a properly noticed termination by the AUTHORITY (with or without cause) constitute a default by the AUTHORITY. In the event of a termination for convenience or without cause, AUTHORITY shall notify CONTRACTOR (in writing) of such action with instructions as to the effective date of termination or suspension, in accordance with the time frames set forth hereinabove. CONTRACTOR will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONTRACTOR will not be paid for special, indirect, consequential, or undocumented termination expenses. Payment for work performed will be based on Contract prices, which prices are deemed to

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Maintenance of ITS Infrastructure

Contract No: 000720

This Supplemental Agreement No. 1 entered into this 25th day of July, 2013, by and between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY (the "Authority"), and TRANSCORE, LP, (the "Contractor"), the same being supplementary to the Agreement between the aforesaid, dated September 22, 2010, for services pertaining to maintenance of ITS infrastructure, (the Contract").

1. The Authority wishes to amend the language in the first sentence of Article 2, Term and Notice, in the Agreement to read as follows:

"The initial term of the Contract will be three (3) years from the date of the Notice to Proceed from the Authority."

2. The Contractor hereby agrees to the amendment to the Contract at no increase in the Contract amount.
3. The Authority and Contractor agree that this Supplemental Agreement No.1 shall not alter or change in any manner the force and effect of the Contract except insofar as the same is altered and amended by this Supplemental Agreement No.1; that acceptance of this Supplemental Agreement No.1 signifies the Contractor's waiver of all future rights for additional compensation which is not already defined herein.
4. This Supplemental Agreement No. 1 is necessary to clarify the start date for the Contract.

SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Maintenance of ITS Infrastructure

Contract No.: 000720

Amount of Changes to this document: \$0.00

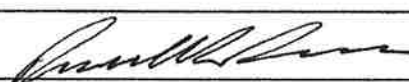
This Supplemental Agreement No.1 entered into as of the day and year first written above.

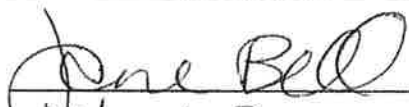
ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

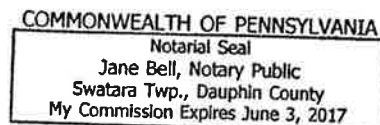
By: 
Director of Procurement

Date: 8/2/13

TRANSCORE, LP

By: 
Russell L. Reeser
Title: Vice President

Attest:  (Seal)
Date: 7/30/13



CONTRACT

**ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY
AND
TRANSCORE, LP**

**MAINTENANCE OF ITS INFRASTRUCTURE
CONTRACT NO. 000720**

**CONTRACT DATE: SEPTEMBER 22, 2010
CONTRACT AMOUNT: \$1,721,295.00**



**ORLANDO-ORANGE COUNTY
EXPRESSWAY AUTHORITY**

**CONTRACT, SCOPE OF SERVICES, METHOD OF
COMPENSATION, PRICE PROPOSAL, TECHNICAL
PROPOSAL, PERFORMANCE BOND AND FORMS**

**CONTRACT, SCOPE OF SERVICES, METHOD OF COMPENSATION, PRICE
PROPOSAL, TECHNICAL PROPOSAL, PERFORMANCE BOND AND FORMS**

FOR

MAINTENANCE OF ITS INFRASTRUCTURE

CONTRACT NO. 000720

SEPTEMBER 2010

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

Members of the Board

**Walter A. Ketcham, Jr., Chairman
Tanya J. Wilder, Vice Chairman
Mark C. Filburn, Secretary/Treasurer
Noranne B. Downs, P.E., Ex-Officio Member
Richard T. Crotty, Ex-Officio Member**

Executive Director

Michael Snyder, P.E.

TABLE OF CONTENTS

<u>Title</u>	<u>Page</u>
Contract	1 to 20
SS Scope of Services	SS-1 to SS-38
Appendix A – Line Monitoring System Map	
Appendix B – CCTV System Maps	
Appendix C – DCS System Maps	
Appendix D – Single-Line DMS System Maps	
Appendix E – 3-Line DMS System Map	
Appendix F – Authority-Furnished Spare Parts	
Appendix G – Contractor Security Policy and Guidelines Handbook	
Appendix H – Section 631	
Appendix I – Section 633	
Appendix J – Section 638	
Appendix K – Section 663	
Appendix L – Section 686	
Appendix M – Daily Device Checklist	
Appendix N – Work Order Template	
Appendix O – Future Device Deployment Matrix	
MC Method of Compensation	MC-1 to MC-5
PP Price Proposal	PP-1 to PP-12
TP Technical Proposal	TP-1 to TP-90
VR Vehicle Registration Form	VR-1 to VR-2
PB Performance Bond	PB-1 to PB-4

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WITNESSETH:

WHEREAS, the AUTHORITY was created by statute and is charged with acquiring, constructing, operating and maintaining a system of limited access roadways known as the Orlando-Orange County Expressway System; and,

WHEREAS, the AUTHORITY has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it (by state law);" and,

WHEREAS, the AUTHORITY has determined that it is necessary and convenient in the conduct of its business to retain the services of a CONTRACTOR to provide complete maintenance services for the AUTHORITY's ITS infrastructure and systems including, Closed Circuit television (CCTV) cameras, data collection sensors, dynamic message signs, fiber optic cable, and all electronic system components associated with the ITS devices and related tasks as may from time to time be assigned to the CONTRACTOR by the AUTHORITY; and,

WHEREAS, on or about July 31, 2010, the AUTHORITY issued a Request for Proposals seeking qualified contractors to perform such tasks; and,

WHEREAS, CONTRACTOR was the successful one of three qualified firms that responded to the Request for Proposals and was ultimately selected; and,

NOW THEREFORE, in consideration of the mutual covenants and benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged by each party to the other, the parties hereto agree as follows:

1. SERVICES TO BE PROVIDED

The CONTRACTOR shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized

representatives of the AUTHORITY, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include complete maintenance services for the AUTHORITY's ITS infrastructure and systems including, Closed Circuit television (CCTV) cameras, data collection sensors, dynamic message signs, fiber optic cable, and all electronic system components associated with the ITS devices as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

The AUTHORITY does not guarantee that all of the services described in the Scope of Services will be assigned during the term of the Contract. Further, the CONTRACTOR is providing these services on a non-exclusive basis. The AUTHORITY, at its option, may elect to have any of the services set forth herein performed by other contractors or AUTHORITY staff.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract, including insurance policies and bonds,
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- 1.5 The Price Proposal submitted by CONTRACTOR,

(collectively, the "Contract").

2. TERM AND NOTICE

The initial term of the Contract will be three (3) years from the date first written above. There shall be two (2) renewal options of one (1) year each. The options to renew are at the sole discretion and election of the AUTHORITY. Renewals will be based, in part, on a determination by the AUTHORITY that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for the AUTHORITY's needs. If a renewal option is exercised, the AUTHORITY will provide the CONTRACTOR with written notice of its intent at least 180 days prior to the expiration of the initial three-year Contract Term.

The AUTHORITY shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 120 days notice for convenience or 60 days with cure notice for cause for Contractor's material failure to perform the provisions of the Contract. Under no circumstances shall a properly noticed termination by the AUTHORITY (with or without cause) constitute a default by the AUTHORITY. In the event of a termination for convenience or without cause, AUTHORITY shall notify CONTRACTOR (in writing) of such action with instructions as to the effective date of termination or suspension, in accordance with the time frames set forth hereinabove. CONTRACTOR will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONTRACTOR will not be paid for special, indirect, consequential, or undocumented termination expenses. Payment for work performed will be based on Contract prices, which prices are deemed to

include profit and overhead. No profit or overhead will be allowed for work not performed, regardless of whether the termination is for cause.

If CONTRACTOR: (i) fails to perform the Contract terms and conditions; (ii) fails to begin the work under the Contract within the time specified in the "Notice to Proceed"; (iii) fails to perform the work with sufficient personnel or with sufficient materials to assure the prompt performance of the work items covered by the Contract; (iv) fails to comply with the Contract, or (v) performs unsuitably or unsatisfactorily in the opinion of AUTHORITY reasonably exercised, or for any other cause whatsoever, fails to carry on the work in an acceptable manner, or if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of the AUTHORITY, the AUTHORITY will give notice in writing to the CONTRACTOR and CONTRACTOR's surety of such delay, neglect or default. If the Contract is declared in default, the AUTHORITY may require the CONTRACTOR's surety to take over and complete the Contract performance. Upon the failure or refusal of the surety to assume the Contract within the time demanded, the AUTHORITY may take over the work covered by the Contract.

If CONTRACTOR (within the curative period, if any, described in the notice of default) does not correct the default, AUTHORITY will have the right to remove the work from CONTRACTOR and to declare the Contract in default and terminated.

Upon declaration of default and termination of the Contract, AUTHORITY will have the right to appropriate or use any or all materials and equipment on the sites where work is or was occurring, as the AUTHORITY determines, and may retain others for the completion of the work under the Contract, or may use other methods which in the opinion of AUTHORITY are required for Contract completion. All costs and charges incurred by AUTHORITY because of, or related to, the CONTRACTOR's default (including the costs of completing Contract performance) shall be charged against the CONTRACTOR. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the CONTRACTOR and the surety shall be jointly and severally liable and shall pay the AUTHORITY the amount of the excess. If, after the default notice curative period has expired, but prior to any action by AUTHORITY to complete the work under the Contract, CONTRACTOR demonstrates an intent and ability to cure the default in accordance with AUTHORITY's requirements, AUTHORITY may, but is not obligated to, permit CONTRACTOR to resume work under the Contract. In such circumstances, any costs of AUTHORITY incurred by the delay (or from any reason attributable to the delay) will be deducted from any monies due or which may become due CONTRACTOR under the Contract. Any such costs incurred by AUTHORITY which exceed the remaining amount due on the Contract shall be reimbursed to AUTHORITY by CONTRACTOR. The financial obligations of this paragraph, as well as any other provision of the Contract which by its nature and context survives the expiration of earlier termination of the Contract, shall survive the expiration or earlier termination of the Contract.

AUTHORITY shall have no liability to CONTRACTOR for expenses or profits related to unfinished work on a Contract terminated for default.

AUTHORITY reserves the right to cancel and terminate this Contract in the event the CONTRACTOR or any employee, servant, or agent of the CONTRACTOR is indicted or has direct information issued against him for any crime arising out of or in conjunction with any work being performed by the CONTRACTOR for on behalf of the AUTHORITY, without penalty. Such termination shall be deemed a termination for default.

AUTHORITY reserves the right to terminate or cancel this Contract in the event the CONTRACTOR shall be placed in either voluntary or involuntary bankruptcy or an assignment is made for the benefit of creditors. Such termination shall be deemed a termination for default.

3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES

3.1 The Contract Amount for the three-year Contract term is \$1,721,295.00.

3.2 AUTHORITY agrees to pay CONTRACTOR for services performed in accordance with the Method of Compensation.

4. AUDIT AND EXAMINATION OF RECORDS

4.1 Definition of Records:

(i) "Contract Records" shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Contract or the CONTRACTOR's performance of the Contract determined necessary or desirable by the AUTHORITY for any purpose. Proposal Records shall include, but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by CONTRACTOR in determining labor, unit price, or any other component of a bid submitted to the AUTHORITY.

(ii) "Proposal Records" shall include, but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subcontractors, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by CONTRACTOR in determining a price.

AUTHORITY reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Proposal Records (as hereinafter defined) of the CONTRACTOR or any subcontractor. By submitting a response to the Request for Proposal, CONTRACTOR or any subcontractor submits to and agree to comply with the provisions of this section.

If the AUTHORITY requests access to or review of any Contract Documents or Proposal Records and CONTRACTOR refuses such access or review, CONTRACTOR shall be in default under its Contract with AUTHORITY, and such refusal shall, without any other or additional

actions or omissions, constitute grounds for suspension or disqualification of CONTRACTOR. These provisions shall not be limited in any manner by the existence of any CONTRACTOR claims or pending litigation relating to the Contract. Disqualification or suspension of the CONTRACTOR for failure to comply with this section shall also preclude the CONTRACTOR from acting in the future as a subcontractor of another CONTRACTOR doing work for the AUTHORITY during the period of disqualification or suspension. Disqualification shall mean the CONTRACTOR is not eligible for and shall be precluded from doing future work for the AUTHORITY until reinstated by the AUTHORITY.

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

CONTRACTOR shall preserve all Proposal Records and Contract Records for the entire term of the Contract and for a period of five (5) years after the later of: (i) final acceptance of the project by the AUTHORITY, (ii) until all claims (if any) regarding the Contract are resolved, or (iii) expiration of the Proposal Records and Contract Records' status as public records, as and if applicable, under Chapter 119, Florida Statutes.

5. MINORITY AND WOMEN'S BUSINESS ENTERPRISES

AUTHORITY has adopted a program to provide opportunities for small business, including Minority Business Enterprises ("MBEs") and Women's Business Enterprises ("WBEs"). Under the AUTHORITY'S program, CONTRACTOR is encouraged to grant small businesses the maximum opportunity to participate in the provision of the required Services. CONTRACTOR shall provide information regarding its employment of such businesses and the percentage of payments made to such businesses and others. CONTRACTOR shall provide an annual report to AUTHORITY on or before each anniversary of the Contract Date hereof and throughout the Term, regarding use of small business MBEs and WBEs and the percentage of payments made to enterprises falling within such categories. Such report shall consolidate the information contained in CONTRACTOR's invoices, and shall be in a form reasonably acceptable to AUTHORITY.

6. CONTRACTOR INSURANCE AND PERFORMANCE AND PAYMENT BOND

CONTRACTOR shall carry and keep in force during the period of this Contract, the required amount of coverage as stated below. All bonds and insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, as defined by A.M. Best and

Company's Key Rating Guide and must be approved by the AUTHORITY. All surety bonds shall be in a form and issued by a surety company approved by AUTHORITY. CONTRACTOR shall carry and keep in force the following insurance coverage, and provide the AUTHORITY with correct certificates of insurance (ACORD forms) upon Contract execution:

6.1 **Commercial General Liability** Insurance having a minimum coverage of One Million Dollars (\$1,000,000.00) per occurrence of bodily injury or property damage and a minimum of Two Million Dollars (\$2,000,000.00) annual aggregate for both General and Products and Completed Operations. Liability insurance shall be current ISO simplified form including products and completed operations coverage. The contractual liability insurance coverage shall include coverage for responsibilities and liabilities assumed by CONTRACTOR under this Agreement.

6.2 **Business Automobile Liability** (for bodily injury, death and property damage) having a minimum coverage of One Million Dollars (\$1,000,000.00) for each accident;

6.3 **Workers' Compensation Insurance** Coverage, including all coverage required under the laws of the state of Florida (as amended from time to time hereafter);

6.4 **Unemployment Insurance** Coverage in amounts and forms required by Florida law, as it may be amended from time to time hereafter.

Such insurance policies shall be without co-insurance, and shall (a) include the AUTHORITY, and such other applicable parties the AUTHORITY shall designate, as additional insureds for commercial general liability and business automobile liability, (b) be primary insurance, (c) include contractual liability for commercial general liability, (d) provide that the policy may not be canceled or materially changed without at least thirty (30) days prior written notice to the AUTHORITY from the company providing such insurance, and (e) provide that the insurer waives any right of subrogation against AUTHORITY, to the extent allowed by law and to the extent the same would not void primary coverage for applicable insurance policies. CONTRACTOR shall be responsible for any deductible it may carry. At least fifteen (15) days prior to the expiration of any such policy of insurance required to be carried by CONTRACTOR hereunder, CONTRACTOR shall deliver insurance certificates to AUTHORITY evidencing a renewal or new policy to take the place of the one expiring. Procurement of insurance shall not be construed to limit CONTRACTOR's obligations or liabilities under the Contract. The requirement of insurance shall not be deemed a waiver of sovereign immunity by AUTHORITY.

Any insurance carried by the AUTHORITY in addition to CONTRACTOR's policies shall be excess insurance, not contributory.

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide AUTHORITY with certificates of same, the AUTHORITY may obtain such policies and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments.

6.5 Payment Bond The CONTRACTOR shall furnish to the AUTHORITY, and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by the AUTHORITY. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to the AUTHORITY. The surety agent's name, address and telephone number shall be clearly stated on the face of the Payment Bond.

In the event that the surety executing the bond (although acceptable to the AUTHORITY at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after the AUTHORITY's initial approval of the company, then the AUTHORITY may require that the CONTRACTOR immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to the AUTHORITY. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the CONTRACTOR from its payment of premium on the defaulting bond, will be borne by the AUTHORITY.

7. CONTRACTOR RESPONSIBILITY

7.1 CONTRACTOR shall take all reasonable precautions in the performance of the Services and shall cause its employees, agents and subcontractors to do the same. CONTRACTOR shall be solely responsible for the safety of, and shall provide protection to prevent damage, injury or loss to:

- (i) all employees of CONTRACTOR and its subcontractors and other persons who would reasonably be expected to be affected by the performance of the Services;

- (ii) other property of CONTRACTOR and its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible on or adjacent to the plazas or other areas upon which services are performed;

- (iii) members of the public who may be traveling through the plazas and their vehicles.

7.2 CONTRACTOR shall comply, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible, with applicable laws, ordinances, rules, regulations, orders of public authorities, sound business practices, including without limitation:

- (i) those relating to the safety of persons and property and their protection from damage, injury or loss, and
- (ii) all workplace laws, regulations, and posting requirements, and

- (iii) implementation of a drug-free workplace policy at least of a standard comparable to, and in compliance with, AUTHORITY'S Drug-Free Workplace Policy; And
- (iv) compliance with the public records laws of Chapter 119, Florida Statutes.

7.3 CONTRACTOR shall be responsible for actual damage and loss that may occur with respect to any and all property located on or about any structures in any way involved in the provision of services by CONTRACTOR, whether such property is owned by CONTRACTOR, AUTHORITY, or any other person, to the extent such damage or loss shall have been caused or brought about by the negligent acts or omissions of CONTRACTOR or its employees, agents, officers or subcontractors or any other persons for whom CONTRACTOR may be legally or contractually responsible.

7.4 CONTRACTOR shall ensure that all of its activities and the activities of its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible are undertaken in a manner that will minimize the effect on surrounding property and the public.

7.5 CONTRACTOR shall immediately notify AUTHORITY of any material adverse change in CONTRACTOR's financial condition, business, prospects, affairs, or operations, or of such change of any partner, or of such change of any shareholder holding greater than a 10% interest in CONTRACTOR, or of the existence of any material impairment of rights or ability of CONTRACTOR to carry on as its business and operations are currently conducted.

8. ASSIGNMENT AND REMOVAL OF KEY PERSONNEL

A significant factor in the decision of the AUTHORITY to award this Contract to the CONTRACTOR is the level of expertise, knowledge and experience possessed by employees of CONTRACTOR, particularly James Blumhoefer, Richard Allen, Bev Mitchell, David Emrick, Stephen Fischer, Myles McNamara, Andy Fong and Rick Louis (the "Key Personnel") and CONTRACTOR's covenant to have employees possessing such expertise, knowledge and experience available at all times to assist in the provision of the services. Throughout the Term of this Contract, CONTRACTOR shall employ individuals having significant training, expertise, and experience in the areas or disciplines more particularly set forth in the Scope of Services, together with such other areas of expertise or experience, as may be designated from time to time during the Term of this Contract by the AUTHORITY. When the AUTHORITY designates an additional area for which expertise or experience shall be required, CONTRACTOR shall use all reasonable and diligent efforts to promptly hire and retain one or more individuals possessing such experience or expertise.

CONTRACTOR shall hire and maintain Key Personnel as employees throughout the Term of the Contract. The identity of the individuals, initially assigned to each of such positions by CONTRACTOR, shall be submitted to AUTHORITY and the AUTHORITY shall be notified in advance of any changes in the individuals. The Key Personnel shall be committed to performing

services on this Contract to the extent required. Key Personnel may be dismissed for unsatisfactory performance or any reason set forth below.

If prior to the second anniversary of the Effective Date of this Contract, CONTRACTOR removes, suspends, dismisses, fires, transfers, reassigns, lays off, discharges, or otherwise terminates any Key Personnel without the prior notification to the AUTHORITY, such action shall constitute an event of default by CONTRACTOR hereunder. CONTRACTOR may cure such event of default only by replacing the Key Personnel with another employee having comparable experience and qualifications.

Promptly upon request of AUTHORITY, CONTRACTOR shall remove from activities associated with or related to the performance of this Contract any employee whom AUTHORITY considers unsuitable for such work. Such employee shall not be reassigned to perform any work relating to the services except with the express written consent of the AUTHORITY

9. INDEMNITY

The CONTRACTOR shall indemnify, defend and hold harmless AUTHORITY and all of its respective officers, CONTRACTOR's or employees from actual suits, actions, claims, demands, costs as defined elsewhere herein, expenses (including reasonable attorneys' fees as defined elsewhere herein), judgments, liabilities of any nature whatsoever (collectively, "Claims") arising out of, because of, or due to breach of the Contract by the CONTRACTOR (its subcontractors, officers, agents or employees) or due to any negligent or intentional act or occurrence of omission or commission of the CONTRACTOR (its subcontractors, officers, agents or employees), including without limitation any misappropriation or violation of third party copyright, trademark, patent, trade secret, publicity, or other intellectual property rights or other third party rights of any kind by or arising out of any one or more of the following:

9.1 violation of same by CONTRACTOR, its subcontractors, officers, agents or employees,

9.2 AUTHORITY's use or possession of the CONTRACTOR Property or CONTRACTOR Intellectual Property (as defined herein below),

9.3 AUTHORITY's full exercise of its rights under any license conveyed to it by CONTRACTOR,

9.4 CONTRACTOR's violation of the confidentiality and security requirements associated with the AUTHORITY Property and AUTHORITY Intellectual Property (as defined herein below),

9.5 CONTRACTOR's failure to include terms in its subcontracts as required by this Contract,

9.6 CONTRACTOR's failure to ensure compliance with the requirements of the Contract by its employees, agents, officers, or subcontractors, or

9.7 CONTRACTOR's breach of any of the warranties or representations contained in this Contract.

CONTRACTOR will not be liable for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the AUTHORITY or any of its officers, agents or employees. The parties agree that 1% of the total compensation to the CONTRACTOR for performance of each task authorized under the Contract is the specific consideration from AUTHORITY to CONTRACTOR for CONTRACTOR's indemnity and the parties further agree that the 1% is included in the amount negotiated for each authorized task.

10. PUBLIC RECORDS

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the AUTHORITY. Thereafter, CONTRACTOR shall follow AUTHORITY'S instructions with regard to such request. To the extent that such request seeks non-exempt public records, the AUTHORITY shall direct CONTRACTOR to provide such records for inspection and copying in compliance with Chapter 119. A subsequent refusal or failure by CONTRACTOR to timely grant such public access will be grounds for immediate, unilateral cancellation of the Contract by AUTHORITY.

11. PRESS RELEASES

CONTRACTOR shall make no statements, press releases or publicity releases concerning the Contract or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished under the Contract, or any particulars thereof, including without limitation AUTHORITY Property and AUTHORITY Intellectual Property, without first notifying AUTHORITY and securing its consent in writing.

12. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS

AUTHORITY is and shall be and remain the sole owner of all rights, title, and interest in, to, and associated with all plans, documents, software in all forms, hardware, programs, procedures, specifications, drawings, brochures pamphlets, manuals, flyers, models, photographic or design images, negatives, videos and film, tapes, work product, information, data and other items (all whether in preliminary, draft, master, final, paper, electronic, or other form), along with the media on which they reside and with which they interface for function or aesthetics, that are generated or developed with respect to and in connection with this Contract and the performance thereof (collectively, the "AUTHORITY Property"). AUTHORITY's ownership of the AUTHORITY Property includes without limitation all common law, statutory and other rights, title, and interest in, to, and associated with trademark, service mark, copyright, patent, trade secret, and publicity (collectively, the "AUTHORITY Intellectual Property"). CONTRACTOR, its employees, agents, officers, and subcontractors acknowledge that E-PASS® is the

AUTHORITY's registered trademark name for the AUTHORITY's electronic toll collection system, and comprises a portion of the AUTHORITY Intellectual Property.

CONTRACTOR, its employees, agents, officers, and subcontractors may not use the AUTHORITY Property or AUTHORITY Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of AUTHORITY, which may be granted or denied in the AUTHORITY's sole discretion. CONTRACTOR, its employees, agents, officers, and subcontractors' access to and/or use of the AUTHORITY Property and AUTHORITY Intellectual Property is without any warranty or representation by AUTHORITY regarding same.

For all materials listed hereinabove that are not generated or developed under this Contract or performance hereof, but rather are brought in, provided, or installed by CONTRACTOR (collectively, the "CONTRACTOR Property"), and the intellectual property rights associated therewith (collectively, the "CONTRACTOR Intellectual Property"), CONTRACTOR (its employees, officers, agents, and subcontractors, which for purposes of this section shall collectively be referred to as "CONTRACTOR") warrants and represents the following:

12.1 CONTRACTOR was and is the sole owner of all right, title and interest in and to all CONTRACTOR Property and CONTRACTOR Intellectual Property; **OR**

12.2 CONTRACTOR has obtained, and was and is the sole holder of one or more freely assignable, transferable, non-exclusive licenses in and to the CONTRACTOR Property and CONTRACTOR Intellectual Property, as necessary to provide and install the CONTRACTOR Property and/or to assign or grant corresponding to AUTHORITY all licenses necessary for the full performance of this Contract; and that the CONTRACTOR is current and will remain current on all royalty payments due and payable under any license where CONTRACTOR is licensee; **AND**

12.3 CONTRACTOR has not conveyed, and will not convey, any assignment, security interest, exclusive license, or other right, title, or interest that would interfere in any way with the AUTHORITY's use of the CONTRACTOR Property or any license granted to AUTHORITY for use of the CONTRACTOR Intellectual Property rights; **AND**

12.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONTRACTOR shall maintain the AUTHORITY Property and AUTHORITY Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use the AUTHORITY Property or AUTHORITY Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of AUTHORITY, which may be granted or denied in the AUTHORITY's sole discretion. CONTRACTOR shall not publish, copyright, trademark, service mark, patent, or claim trade secret, publicity, or other rights of any kind in any of the Property. In ensuring the confidentiality and security of the AUTHORITY Property and AUTHORITY Intellectual Property, CONTRACTOR shall utilize the same standards of protection and confidentiality that CONTRACTOR uses to protect its own property and confidential information, but in no instance less than reasonable care plus the standards set forth anywhere in this Contract.

CONTRACTOR further warrants and represents that there are no pending, threatened, or anticipated Claims against CONTRACTOR, its employees, officers, agents, or subcontractors with respect to the CONTRACTOR Property or CONTRACTOR Intellectual Property.

The provisions of this Section shall survive the term of this Contract for the longer of:

12.5 The statute of limitations on any action arising out of either party's conduct relating to this section, whether such action may be brought by AUTHORITY, CONTRACTOR, or a third party; or

12.6 AUTHORITY's continued use (notwithstanding any temporary suspension of use) of any CONTRACTOR Property or CONTRACTOR Intellectual Property; and

12.7 Notwithstanding sections 12.5 and 12.6, the confidentiality and security provisions contained herein shall survive the term of this Contract for ten (10) years beyond 12.5 and 12.6.

13. PERMITS, LICENSES, ETC.

Throughout the Term of the Contract, the CONTRACTOR shall procure and maintain, at its sole expense, all permits and licenses that may be required in connection with the performance of Services by CONTRACTOR; shall pay all charges, fees, royalties, and taxes; and shall give all notices necessary and incidental to the due and lawful prosecution of the Services. Copies of required permits and licenses shall be furnished to AUTHORITY upon request.

14. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT

CONTRACTOR warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

CONTRACTOR acknowledges that AUTHORITY officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with the AUTHORITY in accordance with the AUTHORITY's Ethics Policy. CONTRACTOR acknowledges that it has read the Ethics Policy and, to the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONTRACTOR shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Contract services.

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

15. NONDISCRIMINATION

CONTRACTOR, its employees, officers, agents, and subcontractors shall not discriminate on the grounds of race, color, religion, sex, national origin, or other protected class, in the performance of work or selection of personnel under this Contract.

16. NOTIFICATION of CONVICTION of CRIMES

CONTRACTOR shall notify the AUTHORITY if any of CONTRACTOR's Key Personnel shall be convicted of any crime, whether state or federal, or felony or misdemeanor of any degree. Such notification shall be made no later than thirty (30) days after the conviction, regardless of whether such conviction is appealed.

17. SUBLETTING AND ASSIGNMENT

AUTHORITY has selected CONTRACTOR to perform the Services based upon characteristics and qualifications of CONTRACTOR and its employees. Therefore, CONTRACTOR shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONTRACTOR's right, title, or interest therein without the written consent of the AUTHORITY, which may be withheld in the AUTHORITY'S sole and absolute discretion. Any attempt by CONTRACTOR to dispose of this Contract as described above, in part or in whole, without AUTHORITY'S written consent shall be null and void and shall, at AUTHORITY's option, constitute a default under the Contract.

Notwithstanding the foregoing:

17.1 CONTRACTOR may assign its rights to receive payment under this Agreement with AUTHORITY's prior written consent, which consent shall not be unreasonably withheld. AUTHORITY may assign all or any portion of its rights under this Agreement without consent of or advance notice to CONTRACTOR; and

17.2 Subject to the right of AUTHORITY to review and approve or disapprove subcontracts, and subject to the compliance by CONTRACTOR with the provisions of this Contract with regard to Key Personnel, CONTRACTOR shall be entitled to subcontract some of the services hereunder to other entities, provided that all subcontracts:

- (i) shall name AUTHORITY as a third party beneficiary and provide that the subcontract is assignable to the AUTHORITY (or its successor in interest under the terms of this Contract) without the prior approval of the parties thereto, and that the assignment thereof shall be effective upon receipt by the subcontractor of written notice of the assignment from the AUTHORITY. Upon such event, the AUTHORITY shall be deemed to assume all rights and obligations of the CONTRACTOR under the

subcontract, but only to the extent such rights and obligations accrue from and after the date of the assignment. Without limitation, all warranties and representations of subcontractor shall inure to the benefit of AUTHORITY, and

(ii) shall require the subcontractor to comply with all laws, as may be revised, modified and supplemented from time to time, and must require the subcontractor to carry forms and amounts of insurance satisfactory to the AUTHORITY in its sole discretion, and shall provide AUTHORITY with certificates of insurance upon request. The AUTHORITY shall be listed as an additional insured on all such insurance policies, and copies of correct insurance certificates and policies shall be delivered to the AUTHORITY upon request, and

(iii) shall require the subcontractor to join in any dispute resolution proceeding upon request of AUTHORITY, and

(iv) shall include the same or similar terms as are included in this Contract with respect to subcontractors, providing the AUTHORITY with equal or greater protections than herein.

If, during the life of the Contract and any renewals hereof, CONTRACTOR desires to subcontract any portion(s) of the work to a subcontractor that was not disclosed by the CONTRACTOR to the AUTHORITY at the time that the Contract was originally awarded, and such subcontract would, standing alone or aggregated with prior subcontracts awarded to the proposed subcontractor, equal or exceed twenty five thousand dollars (\$25,000.00), the CONTRACTOR shall first submit a request to the AUTHORITY's Director of Procurement for authorization to enter into such subcontract. Except in the case of an emergency, as determined by the Executive Director or his/her designee, no such subcontract shall be executed by the CONTRACTOR until it has been approved by the AUTHORITY Board. In the event of a designated emergency, the CONTRACTOR may enter into such a subcontract with the prior written approval of the Executive Director or his/her designee, but such subcontract shall contain a provision that provides that it shall be automatically terminated if not approved by the AUTHORITY Board at its next regularly scheduled meeting.

18. DISPUTES

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of the AUTHORITY's Executive Director (or his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. The Executive Director's decision upon all claims, questions and disputes shall be final agency action. Adjustments of compensation and Contract time, because of any major changes in the work that may become necessary or desirable as the work progresses shall be left to the absolute discretion of the Executive Director (and the AUTHORITY Board if amendments are required) and supplemental agreement(s) of such nature as required may be entered into by the parties in accordance herewith.

19. REMEDIES

In addition to any remedies otherwise available to the AUTHORITY under law, upon an uncured default the AUTHORITY shall have the right to appropriate or use any or all materials and equipment on the sites where work is or was occurring, and may enter into agreements with others for the completion of the work under the Contract, or may use other methods which in the opinion of the AUTHORITY are required for Contract completion. All costs and charges incurred by the AUTHORITY because of or related to the CONTRACTOR's default including, but not limited to, the costs of completing Contract performance shall be charged against the CONTRACTOR. If the expense of Contract completion exceeds the remaining sum which would have been payable under the balance of the Contract, CONTRACTOR shall be liable to the AUTHORITY for the difference. On a Contract terminated for default, in no event shall the AUTHORITY have any liability to the CONTRACTOR for expenses or profits related to unfinished work, or for AUTHORITY's use of any CONTRACTOR materials or equipment on the work sites, including without limitation the CONTRACTOR Property and CONTRACTOR Intellectual Property.

20. PREVAILING PARTY ATTORNEY'S FEES

If any contested claim arises hereunder or relating to the Contract (or CONTRACTOR's work hereunder), and either party engages legal counsel, the prevailing party in such dispute, as "prevailing party" is hereinafter defined, shall be entitled to recover reasonable attorneys' fees and costs as defined herein, from the non-prevailing party.

In order for CONTRACTOR to be the prevailing party, CONTRACTOR must receive an adjusted judgment or adjusted award equal to at least eighty percent (80%) of its contested claims filed with AUTHORITY, failing which AUTHORITY will be deemed the prevailing party for purposes of this Contract.

For purposes of determining whether the judgment of award is eighty percent (80%) or more of the contested claims, "adjusted award" or "adjusted judgment" shall mean the amount designated in the award or final judgment as compensation to CONTRACTOR for its claims (exclusive of interest, cost or expenses), less: (i) any amount awarded to AUTHORITY (exclusive of interest, costs or expenses) on claims asserted by AUTHORITY against CONTRACTOR in connection with the Contract, and (ii) any amount offered in settlement prior to initiation of CONTRACTOR litigation (exclusive of interest, cost or expense), which for purposes of enforcing this section only shall be admissible into evidence.

The term "contested claim" or "claims" shall include "Claims" as defined in Section 11, as well as the initial written claim (s) submitted to AUTHORITY by CONTRACTOR (disputed by AUTHORITY) which have not otherwise been resolved through ordinary close-out procedures of the Contract prior to the initiation of litigation. CONTRACTOR claims or portions thereof, which AUTHORITY agrees or offers to pay prior to initiation of litigation, shall not be deemed contested claims for purposes of this provision. If CONTRACTOR submits a modified, amended or substituted claim after its original claim and such modified, amended or substituted

claim(s) is for an amount greater than the prior claim(s), the higher amount shall be the claim(s) for purposes of determining whether the award is at least eighty percent (80%) of CONTRACTOR's claim(s).

Attorneys' fees and costs awarded to the prevailing party shall mean reasonable fees and costs incurred in connection with and measured from the date a claim is initially submitted to AUTHORITY through and including trial, appeal and collection. In the circumstance where an original claim is subsequently modified, amended or a substituted claim is filed therefore, fees and costs shall accrue from the date of the first written claim submitted, regardless of whether the original or subsequent claim amount is ultimately used in determining if the judgment or award is at least eighty percent (80%) of the cumulative claims.

"Attorneys' fees" shall include but not be limited to fees and charges of attorneys, paralegals, legal assistants, attorneys' CONTRACTOR's, expert witnesses, court reporters, photocopying, telephone charges, travel expenses, or any other charges, fees, or expenses incurred through use of legal counsel, whether or not such fees are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial fees (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation, or administrative proceedings arising out of this Contract.

"Costs" shall include but not be limited to any filing fees, application fees, expert witnesses' fees, court reporters' fees, photocopying costs, telephone charges, travel expenses, or any other charges, fees, or expenses incurred whether or not legal counsel is retained, whether or not such costs are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial costs (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation or administrative proceeding arising out of this Contract.

As a condition precedent to filing a claim with any legal or administrative tribunal, CONTRACTOR shall have first submitted its claim (together with supporting documentation) to AUTHORITY, and AUTHORITY shall have had sixty (60) days thereafter within which to respond thereto.

The purpose of this provision is to discourage frivolous or overstated claims and, as a result thereof, AUTHORITY and CONTRACTOR agree that neither party shall avail itself of Section 768.79, Florida Statutes, or any other like statute or rule involving offers of settlement or offers of judgment, it being understood and agreed that the purpose of such statute or rule are being served by this provision.

Should this section be judged void, unenforceable or illegal, in whole or in substantial part, by a court of competent jurisdiction, this section shall be void in its entirety and each party shall bear its own attorneys' fees and costs.

21. OTHER SEVERABILITY

If any section of this Contract, other than the immediately preceding Prevailing Party Attorneys' Fees section, be judged void, unenforceable or illegal, then the illegal provision shall be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original intention, and the remaining portions of the Contract shall remain in full force and effect and shall be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

22. GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Contract shall be exclusively in Orange County, Florida.

In consideration of the foregoing premises, AUTHORITY agrees to pay CONTRACTOR for work performed and materials furnished at the prices submitted with the Proposal.

23. RELATIONSHIPS

CONTRACTOR acknowledges that no employment relationship exists between AUTHORITY and CONTRACTOR or CONTRACTOR's employees. CONTRACTOR shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. CONTRACTOR shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax and income tax withholding, unemployment compensation, workers compensation, and employment benefits.

CONTRACTOR shall conduct no act or omission that would lead CONTRACTOR's employees or any legal tribunal or regulatory agency to believe or conclude that CONTRACTOR's employees would be employees of the AUTHORITY.

Any approval by AUTHORITY of a subcontract or other matter herein requiring AUTHORITY approval for its occurrence shall not be deemed a warranty or endorsement of any kind by AUTHORITY of such subcontract, subcontractor, or matter.

24. INTERPRETATION

For purposes of this Contract, the singular shall include the plural, and the plural shall include the singular, unless the context clearly requires otherwise. Except for reference to women's business enterprises and matters relating thereto, reference to one gender shall include all genders. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the stated statute or regulation. Words not otherwise defined and that have well-known technical, industry, or legal meanings, are used in accordance with such recognized meanings, in the order stated. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities. If CONTRACTOR discovers any

material discrepancy, deficiency, or ambiguity in this Contract, or is otherwise in doubt as to the meaning of any provision of the Contract, CONTRACTOR may immediately notify AUTHORITY and request clarification of AUTHORITY's interpretation of the Contract. The Contract Documents, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

25. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

The CONTRACTOR hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached documentation supporting the compensation are accurate, complete and current as of the date of this Contract. It is further agreed that said price shall be adjusted to exclude any significant sums where the AUTHORITY shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by the AUTHORITY, whichever is later.

26. SURVIVAL OF EXPIRATION OR TERMINATION

Any clause, sentence, paragraph, or section providing for, discussing, or relating to any of the following shall survive the expiration or earlier termination of the Contract:

26.1 Trademarks, service marks, patents, trade secrets, copyrights, publicity, or other intellectual property rights, and terms relating to the ownership, security, protection, or confidentiality thereof; and

26.2 Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and

26.3 Prohibition on non-competition agreements of CONTRACTOR's employees with respect to any successor of CONTRACTOR; and

26.4 Obligations upon expiration or termination of the Contract, as set forth in Section 27; and

26.5 Any other term or terms of this Contract which by their nature or context necessarily survive the expiration or earlier termination of the Contract for their fulfillment.

27. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT

27.1 Immediately upon expiration or termination of this Contract: CONTRACTOR shall submit to AUTHORITY a report containing the last known contact information for each subcontractor or employee of CONTRACTOR who performed work under the Contract; and

27.2 CONTRACTOR shall initiate settlement of all outstanding liabilities and claims arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of AUTHORITY.

IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties as of the day and year first above written. This Contract was awarded by the Authority's Board of Directors at its meeting on September 22, 2010.

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

By: Claude Miller
Director of Procurement

Print Name: 10/7/10 Claude Miller

TRANSCORE, LP

By: Joseph S. Grabias
Print Name: JOSEPH S. GRABIAS

Title: VICE PRESIDENT FINANCE

ATTEST: Russell L. Reeser
RUSSELL L. REESER, ASSISTANT SECRETARY



Approved as to form and execution, only.

Joseph J. Lassatore
General Counsel for the AUTHORITY