


CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Robert Johnson 
Manager of Procurement

DATE: March 3, 2016

RE: Confirmation and Approval of
Declaration of Emergency for
Federal Compliance Consultant for Wekiva Parkway Construction
Contract No. 001182

In accordance with the Procurement Policy, Board confirmation and approval is requested for a declaration of emergency and award of a contract authorized by the Executive Director for the Federal Compliance Consultant for Wekiva Parkway Construction. These services ensure compliance with federal requirements for the Wekiva Parkway construction projects.

The consultant providing these services since March, 2015, Covalt Group, Inc., withdrew from the contract on February 1, 2016 because they could no longer staff the work required. The total contract value was \$1,225,000 with estimated \$972,181.00 remaining at the time of termination.

The Director of Supplier Diversity contacted the second ranked firm, MTN Resources, LLC, to discuss their current availability and willingness to provide the services required.

On February 15, 2016, the Executive Director approved the Agreement with the second ranked firm, MTN Resources, LLC, in the amount of \$53,740.10 to provide these services through March 21, 2016.

Board confirmation and approval is requested for this declaration of emergency.

Board approval is also requested to continue the Agreement with MTN Resources, LLC for three (3) years with two (2) one year options commencing March 22, 2016, in the total contract amount of \$1,006,531.83.

MTN Resources, LLC will be utilizing Wynn Consulting Group as a subconsultant with a contract value of \$292,549.00.



February 9, 2016

Ms. Iranetta Dennis
Director of Supplier Diversity
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Fee Proposal for Compliance Services for Wekiva Parkway
(429-202, 429-203, 429-204, 429-205, 429-206)

Dear Ms. Dennis,

Central Florida Expressway Authority has requested a fee proposal for MTN Resources to provide compliance services for the above referenced projects. The attached fee proposal has been estimated based on remaining construction days for currently active projects and projected construction schedules as follows:

Project	Construction Contract Status	Construction Cost	Days	Start Date	End Date
429-202	Executed	\$56,152,429.00	660	June 2015	Mar 2017
429-203	Executed	\$46,617,017.39	600	Aug 2015	Mar 2017
429-204	Executed	\$79,625,302.60	730	Jan 2016	Jan 2018
429-205	Not Advertised	\$39,846,000.00	548	Apr 2017	Sept 2018
429-206	Not Advertised	\$62,916,000.00	548	Apr 2017	Sept 2018

The services to be provided include:

- Compliance services as previously advertised by the Authority under Contract No. 001072
- Sub-consultant Wynn Consulting Group, Inc. – DBE outreach

This fee estimate represents a not to exceed, Limiting Amount. Services rendered will be invoiced to the Authority based on actual time effort put forth, along with supporting timesheets. While the actual effort may vary from this estimate among positions, the Total Limiting Amount as estimated will not be exceeded. In the event that construction days are extended beyond the above estimated time periods, the fee estimate will need to be supplemented to allow for the additional efforts involved to deliver the services requested.

All services will be provided from the company offices in Longwood, FL (MTN), New Smyrna Beach, FL (MTN) and Windermere, FL (Wynn).

Please contact me at mnance@mtnresources.com or (407)616-6890 should you have any questions. Thank you for this opportunity.

Thank you,

A handwritten signature in black ink that reads "Marla T. Nance". The script is fluid and cursive, with the first letters of each word being capitalized and prominent.

Marla T. Nance, CPA
President/MTN Resources, LLC

Wellvue Pathway Distribution of Manhours by Project Staff																																																			
Project/Staff	2018												2017												2016												2015			Totals	Billing Rates	Totals									
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MTH Resources \$ 668,242.75 Wynn Construction \$ 244,619.00 Total Contract Amount \$ 912,791.75																																																			

MTN Resources \$ 665,242.73
Wynn Consulting \$ 284,549.00
Total Contract Amount \$ 952,791.73

February 15, 2016

Ms. Iranetta Dennis
Director of Supplier Diversity
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807



RE: Fee Estimate for Interim Compliance Services on Wekiva Parkway Project Grouping

Dear Ms. Dennis,

Central Florida Expressway Authority has requested a fee estimate for MTN Resources to provide interim compliance services for the above referenced project grouping. These efforts are estimated for a period of February 16, 2016 thru March 21, 2016 and include:

- MTN Resources – to provide compliance oversight services as previously advertised by the Authority under Contract No. 001072 and assess compliance project files prepared to date by previous Consultant.
- Sub-consultant Wynn Consulting Group, Inc. - to assist the Supplier Diversity Director with implementing components of the DBE and Supplier Diversity programs. The activities listed are not intended to be all inclusive but components needed to ensure the functionality of both programs.
 - Assisting in making contracts more accessible to DBE's and small businesses
 - Providing technical assistance and other services
 - Disseminate information on contracting procedures and specific contract opportunities
 - Provide services to help DBE's and small businesses increase opportunities to participate in project(s)
 - Assist DBE's and other small business in the development of their capability to utilize emerging technology and conduct business through electronic media
 - Attend networking events and construction progress meetings
 - Research new and revised federal, local and state requirements related to operating a business, licensing requirements pertaining to disadvantage, small minority and women business enterprises.
 - Miscellaneous support services needed by the Supplier Diversity Director

This fee estimate represents a not to exceed, Limiting Amount. Services rendered will be invoiced to the Authority based on actual time effort put forth, along with supporting timesheets. While the actual effort may vary from this estimate among positions, the Total Limiting Amount as estimated will not be exceeded.

MTN Resources			
Position	Billing Rate	Manhours	Fee Estimate
Compliance Manager	\$173.08	19	\$ 3,288.52
Lead Compliance Specialist	\$108.17	97	\$10,492.49
Compliance Specialist	\$86.61	369	\$31,959.09
MTN Resources - Total Limiting Amount			\$45,740.10
Subconsultant – Wynn Consulting Group, Inc.			\$ 8,000.00
Total Limiting Amount			\$53,740.10

All services will be provided from the company offices in Longwood, FL (MTN), New Smyrna Beach, FL (MTN) and Windermere, FL (Wynn).

Please contact me at mnance@mtnresources.com or (407)616-6890 should you have any questions. Thank you for this opportunity.

Sincerely,



Marla T. Nance, CPA
President/MTN Resources, LLC

CONTRACT

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AND
MTN RESOURCES, LLC**

**CONSTRUCTION CONTRACTOR COMPLIANCE
CONSULTANT SERVICES**

CONTRACT NO. 001182

**CONTRACT DATE: February 16, 2016
CONTRACT AMOUNT: \$53,740.10**

**CENTRAL FLORIDA
EXPRESSWAY AUTHORITY**

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

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

FOR

CONSTRUCTION CONTRACTOR COMPLIANCE CONSULTANT SERVICES

CONTRACT NO. 001182

FEBRUARY 2016

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
Andrea Herr, Member
Jay Madara, Member
S. Michael Scheeringa, Member
Diane Guitierrez- Scaccetti, Non-Voting Advisor**

Executive Director

Laura Kelley

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CONTRACT

This Contract (the "Contract" as defined herein below), is made this 17th day of February, 2016, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called CFX and MTN RESOURCES, LLC., 204 N. Sweetwater Cove Blvd., Longwood, Florida 32779, hereinafter the CONSULTANT:

WITNESSETH:

WHEREAS, CFX was created by statute and is charged with acquiring, constructing, operating and maintaining a system of limited access roadways known as the Central Florida Expressway System; and,

WHEREAS, CFX 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, CFX has determined that it is necessary and convenient in the conduct of its business to retain the services of a consultant to provide Construction Contractor Compliance Consultant services and related tasks as may be assigned to the consultant by CFX and identified as Contract No. 001182; and,

WHEREAS, on or about February 15, 2015, CFX issued a Request for Proposals seeking qualified contractors to perform such tasks; and,

WHEREAS, CONSULTANT was the successful one of four qualified firms that responded to the Request for Proposals and was ranked second; and,

WHEREAS, on or about March 12, 2015, CFX awarded the Agreement to the top ranked firm, COVALT GROUP, INC.; and,

WHEREAS, on or about February 1, 2016, CFX received a withdrawal letter from, COVALT GROUP, INC.; and,

WHEREAS, on or about February 15, 2016, CFX Executive Director approved an emergency procurement with the second ranked firm, MTN RESOURCES, LLC., on an interim basis through March 21, 2016; and,

WHEREAS, on or about March 10, 2016, the CFX Board will meet and ratify the emergency procurement and decide whether to continue the Agreement with the second ranked firm, MTN RESOURCES, LLC., for an additional three (3) year term with two (2) one year renewals; and,

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

1. SERVICES TO BE PROVIDED

The CONSULTANT shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized representatives of CFX, 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 providing Construction Contractor Compliance Consultant services as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

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

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

- 1.1 The Contract, including insurance policies,
- 1.2 The Scope of Services,
- 1.3 The Method of Compensation,
- 1.4 The Technical Proposal submitted by CONSULTANT, and
- 1.5 The Fee Schedule.

(collectively, the "Contract").

2. TERM AND NOTICE

The initial term of the Contract will be from the date indicated in the Notice to Proceed from CFX to March 21, 2016. Predicated on CFX Board approval on or about March 10, 2016, the Contract will automatically extend for three (3) years from March 22, 2016 until March 21, 2019. Additionally, With CFX's sole option, the Contract may be renewed for two (2) one year periods, or portions thereof. If the Board approval amends the term hereto, an amendment shall be executed revising the term and compensation. If CFX Board disapproves on or about March 10, 2016, the contract extension, the Agreement term will terminate March 21, 2016, unless amended otherwise.

CFX shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 10 days notice for convenience or 15 days with cure notice for cause for CONSULTANT's material failure to perform the provisions of the Contract. Under no circumstances shall a properly noticed termination by CFX (with or without cause) constitute a default by CFX. In the event of a termination for convenience or without cause, CFX shall notify CONSULTANT (in writing) of such action with instructions as to the effective date of termination or suspension, in accordance with the time frames set forth hereinabove. CONSULTANT will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONSULTANT will not be paid for special, indirect, consequential, or undocumented termination expenses. Payment for work performed will be based on Contract prices, which prices are deemed to include profit and overhead. No profit or overhead will be allowed for work not performed, regardless of whether the termination is for cause.

If CONSULTANT: (i) fails to perform the Contract terms and conditions; (ii) fails to begin the work under the Contract within the time specified in the "Notice to Proceed"; (iii) fails to perform the work with sufficient personnel or with sufficient materials to assure the prompt performance of the work items covered by the Contract; (iv) fails to comply with the Contract, or (v) performs unsuitably or unsatisfactorily in the opinion of CFX reasonably exercised, or for any other cause whatsoever, fails to carry on the work in an acceptable manner, CFX will give notice in writing to the CONSULTANT of such delay, neglect or default. If the Contract is declared in default, CFX may take over the work covered by the Contract.

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

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

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

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

3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES

3.1 The Contract Amount for the Contract term through March 21, 2016, is \$53,740.10.

3.2 The Contract Amount for the Contract term through March 22, 2016 through March 21, 2019, is \$952,791.73.

3.2 CFX agrees to pay CONSULTANT for services performed in accordance with the Method of Compensation.

4. AUDIT AND EXAMINATION OF RECORDS

4.1 Definition of Records:

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

(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 CONSULTANT in determining a price.

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

If CFX requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review, CONSULTANT shall be in default under its

Contract with CFX, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall also preclude the CONSULTANT from acting in the future as a subcontractor of another CONSULTANT doing work for CFX during the period of disqualification or suspension. Disqualification shall mean the CONSULTANT is not eligible for and shall be precluded from doing future work for CFX until reinstated by CFX.

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

CONSULTANT shall preserve all Proposal Records and Contract Records for the entire term of the Contract and for a period of five (5) years after the later of: (i) final acceptance of the project by CFX, (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

CFX has adopted a program to provide opportunities for small business, including Minority Business Enterprises ("MBEs") and Women's Business Enterprises ("WBEs"). Under CFX'S program, CONSULTANT is encouraged to grant small businesses the maximum opportunity to participate in the provision of the Services.

6. CONSULTANT INSURANCE

CONSULTANT shall carry and keep in force during the period of this Contract, the required amount of coverage as stated below. All insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, as defined by A.M. Best and Company's Key Rating Guide and must be approved by CFX. CONSULTANT shall carry and keep in force the following insurance coverage, and provide CFX with correct certificates of insurance (ACORD forms) upon Contract execution:

6.1 Commercial General Liability Insurance having a minimum coverage of One Million Dollars (\$1,000,000.00) per occurrence of bodily injury or property damage and a minimum of Two Million Dollars (\$2,000,000.00) annual aggregate for both General and Products and Completed Operations. Liability insurance shall be current ISO simplified form

including products and completed operations coverage. The contractual liability insurance coverage shall include coverage for responsibilities and liabilities assumed by CONSULTANT under this Agreement.

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

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

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

Such insurance policies shall be without co-insurance, and shall (a) include CFX, and such other applicable parties CFX 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 CFX from the company providing such insurance, and (e) provide that the insurer waives any right of subrogation against CFX, to the extent allowed by law and to the extent the same would not void primary coverage for applicable insurance policies. CONSULTANT shall be responsible for any deductible it may carry. At least fifteen (15) days prior to the expiration of any such policy of insurance required to be carried by CONSULTANT hereunder, CONSULTANT shall deliver insurance certificates to CFX evidencing a renewal or new policy to take the place of the one expiring. Procurement of insurance shall not be construed to limit CONSULTANT's obligations or liabilities under the Contract. The requirement of insurance shall not be deemed a waiver of sovereign immunity by CFX.

Any insurance carried by CFX in addition to CONSULTANT's policies shall be excess insurance, not contributory.

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

7. CONSULTANT RESPONSIBILITY

CONSULTANT shall comply with, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONSULTANT may be legally or contractually responsible to comply 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, CFX'S Drug-Free Workplace Policy; And
- (iv) compliance with the public records laws of Chapter 119, Florida Statutes.

8. INDEMNITY

The CONSULTANT shall indemnify, defend and hold harmless CFX and all of its respective officers, CONSULTANT's or employees from actual suits, actions, claims, demands, costs as defined elsewhere herein, expenses (including reasonable attorneys' fees as defined elsewhere herein), judgments, liabilities of any nature whatsoever (collectively, "Claims") arising out of, because of, or due to breach of the Contract by the CONSULTANT (its subcontractors, officers, agents or employees) or due to any negligent or intentional act or occurrence of omission or commission of the CONSULTANT (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:

8.1 violation of same by CONSULTANT, its subcontractors, officers, agents or employees,

8.2 CFX's use or possession of the CONSULTANT Property or CONSULTANT Intellectual Property (as defined herein below),

8.3 CFX's full exercise of its rights under any license conveyed to it by CONSULTANT,

8.4 CONSULTANT's violation of the confidentiality and security requirements associated with CFX Property and CFX Intellectual Property (as defined herein below),

8.5 CONSULTANT's failure to include terms in its subcontracts as required by this Contract,

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

8.7 CONSULTANT's breach of any of the warranties or representations contained in this Contract.

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

9. PUBLIC RECORDS

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

10. PRESS RELEASES

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

11. PERMITS, LICENSES, ETC.

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

12. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT

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

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

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

CONSULTANT covenants and agrees that it and its employees, officers, agents, and 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.

13. NONDISCRIMINATION

CONSULTANT, 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.

14. SUBLETTING AND ASSIGNMENT

CFX has selected CONSULTANT to perform the Services based upon characteristics and qualifications of CONSULTANT and its employees. Therefore, CONSULTANT shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONSULTANT's right, title, or interest therein without the written consent of CFX, which may be withheld in CFX'S sole and absolute discretion. Any attempt by CONSULTANT to dispose of this Contract as described above, in part or in whole, without CFX'S written consent shall be null and void and shall, at CFX'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 subcontractor that was not disclosed by the CONSULTANT to CFX 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 CONSULTANT shall first submit a request to CFXs 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 CFX 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 CFX Board at its next regularly scheduled meeting.

15. DISPUTES

All services shall be performed by the CONSULTANT to the reasonable satisfaction of CFX'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 CFX Board if amendments are required) and

supplemental agreement(s) of such nature as required may be entered into by the parties in accordance herewith.

16. PREVAILING PARTY ATTORNEY'S FEES

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

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

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

17. OTHER SEVERABILITY

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

18. GOVERNING LAW

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

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

19. RELATIONSHIPS

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

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

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

20. INTERPRETATION

For purposes of this Contract, the singular shall include the plural, and the plural shall include the singular, unless the context clearly requires otherwise. Except for reference to women's business enterprises and matters relating thereto, reference to one gender shall include all genders. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the stated statute or regulation. Words not otherwise defined and that have well-known technical, industry, or legal meanings, are used in accordance with such recognized meanings, in the order stated. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities. If CONSULTANT discovers any material discrepancy, deficiency, or ambiguity in this Contract, or is otherwise in doubt as to the meaning of any provision of the Contract, CONSULTANT may immediately notify CFX and request clarification of CFX's interpretation of the Contract. The Contract Documents, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

21. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

The CONSULTANT hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached documentation supporting the compensation are accurate, complete and current as of the date of this Contract. It is further agreed that said price shall be adjusted to exclude any significant sums where CFX 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 CFX, whichever is later.

22. SURVIVAL OF EXPIRATION OR TERMINATION

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

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

22.2 Payment to CONSULTANT for satisfactory work performed or for termination expenses, if applicable; and

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

22.4 Obligations upon expiration or termination of the Contract; and

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

23. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT

23.1 Immediately upon expiration or termination of this Contract CONSULTANT shall submit to CFX, upon request, a report containing the last known contact information for each subcontractor or employee of CONSULTANT who performed work under the Contract; and

23.2 CONSULTANT shall initiate settlement of all outstanding liabilities and claims, if any, arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of CFX.

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.

CENTRAL FLORIDA EXPRESSWAY CFX

By: 
Director of Procurement CFX

MTN RESOURCES, LLC.

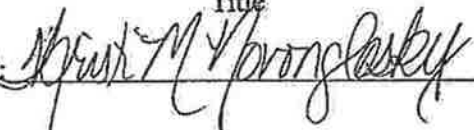
By: Marla T. Nance

Marla T. Nance

Print Name


President/Owner

Title

ATTEST:  (Seal)

DATE: 2/16/16

Approved as to form and execution, only.


General Counsel for CFX