


CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Robert Johnson 
Manager of Procurement

DATE: February 23, 2016

RE: Supplemental No. 1 for Toll Facilities Operations and Management Services with
URS Energy & Construction, Inc.
Contract No. 0001071

Board approval is requested for Supplemental Agreement No. 1 with URS Energy & Construction, Inc. (URS), in the amount of \$370,266.44. This Supplemental Agreement expands the scope of services to include a pilot program for in lane transponder sales along with account reloading. For this pilot program, staff will be located in toll booth locations at the Conway East and West plaza from 6 AM to 8 PM seven days a week. Customers will be able to buy transponders and reload their accounts by credit card, cash, or check. This will be the first time customers will be able to use cash to pay for E-PASS services. If the pilot program is successful, staff will look at opportunities to expand the project to other locations.

Original Contract Amount	\$67,274,165.81
Amount of this Supplemental Agreement	<u>\$ 370,266.44</u>
Total Revised Contract Amount	\$67,644,432.25

This Supplemental Agreement will be a continuation of an Agreement previously approved by CFX.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Toll Facilities Operations and Management Services

Contract No: 001071

This Supplemental Agreement No. 1 entered into this 10th day of March, 2016, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and URS ENERGY & CONSTRUCTION, INC., (the "Contractor"), the same being supplementary to the Contract between the aforesaid, dated November 12, 2015, for toll facilities operations and management services, (the Contract").

1. CFX desires to expand the scope of services to include a pilot program for in-lane transponder sales along with account replenishment as detailed in Exhibit A.
2. The Contractor hereby agrees to the expanded scope of services and to the additional Contract amount of \$370,266.44 which brings the total Contract amount to \$67,644,432.25 with no increase in the term of the Contract. Although the actual length of the pilot program is undetermined, to establish an estimated amount for the SA, detailed cost for 1 year is provided in Exhibit A. Total man-hours shall not exceed 19,824 without written amendment to the Agreement.
3. Notwithstanding, Article 2. Term and Termination clause, in the original Agreement dated November 12, 2015, CFX may unilaterally terminate the services being provided under this SA with 30 days' written notice for convenience.
4. CFX 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, with respect to this SA, which is not already defined herein or in the fee proposal.
5. This Supplemental Agreement No. 1 is necessary to expand the scope of services to include an operational test for in-lane transponder sales along with account replenishment as detailed in Exhibit A.

SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Toll Facilities Operations and Management Services

Contract No.: 001071

Cost of additional services: \$370,266.44

This Supplemental Agreement No. 1 entered into as of the day and year first written above. This Supplemental Agreement was awarded by CFX's Board of Directors at its meeting on March 10, 2016.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____
Director of Procurement

URS ENERGY & CONSTRUCTION, INC.

By: _____

Print Name

Title: _____

Witness: _____

Date: _____

Approved as to form and execution, only.

General Counsel for CFX

EXHIBIT A

SCOPE OF SERVICES

Central Florida Expressway Authority (CFX)
URS Energy & Construction, Inc. ("URS")
Contract No. 001071

In-Lane Tag Sales Operational Test
Scope of Work

Summary

CFX is implementing a program to sell and distribute E-PASS transponders, and replenish E-PASS Accounts in select Toll Plaza cash lanes. The program will be implemented at the Conway Toll Plaza. URS will be responsible for providing Toll Service Attendants to perform these activities. This will include all related Toll Operations program management, supervision, training, money handling, inventory controls, audit, reconciliation, documentation, and procedures development specific to the work conducted at the plaza and the audit process. CFX will provide all required in lane hardware, and initial training on software and systems required to be used to process each transaction.

CFX intends to install signage that notifies customers of the lanes to be used for purchasing transponders and replenishing accounts. CFX will be providing transponders, related marketing and collateral material, User Agreements, etc. for use by URS personnel as directed. URS personnel will also be trained and equipped to collect cash toll transactions during the sale and for customers that have entered the lane erroneously. Credit cards will not be accepted for the payment of tolls under this program.

Schedule

URS will be responsible for staffing two lanes seven days per week beginning April 1, 2016, as follows:

	Hours Staffed	Total Hours / Day	Days/ Week	Total Hours / Week	Total Hours / Year
Lane No. 5	6:00 AM – 8:00 PM	14	7	98	5,096
Lane No. 15	6:00 AM – 8:00 PM	14	7	98	5,096
Total		28		196	10,556

A separate listing of total hours required for lane staffing, breaks, and supervision is provided in Change Order No. 001071-1.

Training by CFX

CFX will facilitate initial training to URS provided personnel on all Customer Service System functionality required to process each transaction. This will include, but not be limited to:

1. Steps involved in selling a prepackaged E-PASS sticker transponder.
2. Steps involved in selling a prepackaged portable transponder.
3. Steps involved in accepting funds to replenish a customer's account.
4. How to document and provide receipts/proof of sale depending on funds received. Funds accepted may be in the form of cash, credit cards, or checks.
5. Training on documentation or information that may be provided to the customer such as referencing them to the E-PASS Service Center website for detailed account setup and activation.

Training by URS

URS will provide training on the processes involved for issuing shift tour funds, safeguarding of funds and assets, providing proof of quantity sold, managing inventory on hand, managing deposits, and providing documentation to be used by personnel to record all unusual occurrences, etc. This will include, but not be limited to:

1. Tour fund record (to include transponder stock) and all steps involved in beginning a shift.
2. Detailed transaction and revenue accounting processes required.
3. All steps involved in ending a shift.
4. Deposit entry into CFX systems.
 - a. Deposit funds for transfer to Brinks for bank processing or other designated party by CFX.
 - b. Instructions on how to segregate funds from Toll Payment transactions.

URS Audit Process

1. URS will be responsible for providing a detailed Audit and Reconciliation to account for all transactions, revenues, variances, and explanation of variances.
2. A detailed deposit reconciliation process will be developed to compare deposited funds to funds received and recorded by the CFX's bank.
3. Periodic audit of inventory reported to be on hand will be conducted.

Inventory Control

1. CFX will issue URS specific quantities of transponders for sale and distribution. URS will sign for and take responsibility for the quantity received.
2. URS will securely store transponders in the vault room of the plaza.
3. URS will monitor the level of inventory and inform CFX when the inventory needs to be replenished. This will include tracking and reconciling the inventory reported to be sold and the inventory reported to be on hand.

Documentation

1. URS will develop Standard Operating Procedures (SOP's) and Training Modules for the activities described herein.

Central Florida Expressway Authority (CFX)
 URS Energy and Construction, Inc.
 Contract No. 001071

In-Lane Tag Sales Operational Test - Conway Plaza

Total Contract Years 1 - 2				
Description	Quantity	Unit	Unit Price	Total Price
Program Management (1)	-	Lump Sum	Summary	\$0.00
Audit (1)	-	Lump Sum	Summary	\$0.00
Documentation (1)	-	Lump Sum	Summary	\$0.00
Supervisor	7,280.00	Man-Hours	Summary	\$153,316.80
Toll Collector (F/T)	8,320.00	Man-Hours	Summary	\$131,040.00
Toll Collector (P/T)	4,056.00	Man-Hours	Summary	\$58,974.24
Supervisor Training	36.00	Man-Hours	Summary	\$758.16
Toll Collector (F/T) Training	36.00	Man-Hours	Summary	\$567.00
Toll Collector (P/T) Training	96.00	Man-Hours	Summary	\$1,387.20
Subtotal Labor	19,824.00			\$346,043.40
Subtotal				\$346,043.40
Management Fee			3%	\$10,381.30
G&A			4%	\$13,841.74
Total Price				\$370,266.44

(1) Pricing does not include any increased costs for Program Management, Support Staff, and Audit. We have assumed that we will be able to use the existing staff to complete the activities anticipated. This includes developing Audit and Reconciliation, Staff Training, and Standard Operating procedures.

(2) Given this is a test program, pricing does not include any increased direct costs for items such as Supplies, Uniforms, or Mileage and Tolls, etc. In the event the program becomes permanent and/or is expanded, URS reserves the right to price future change orders with compensation for such costs.

Conway Plaza Contract Year 1 April 1, 2016 - December 25, 2016				
Description	Quantity	Unit	Unit Price	Total Price
Supervisor	5,460.00	Man-Hours	21.06	\$114,987.60
Toll Collector (F/T)	6,240.00	Man-Hours	15.75	\$98,280.00
Toll Collector (P/T)	3,042.00	Man-Hours	14.45	\$43,956.90
Supervisor Training	36.00	Man-Hours	21.06	\$758.16
Toll Collector (F/T) Training	36.00	Man-Hours	15.75	\$567.00
Toll Collector (P/T) Training	96.00	Man-Hours	14.45	\$1,387.20
Subtotal Labor	14,910.00			\$259,936.86
Subtotal Year 1				\$259,936.86
Management Fee			3%	\$7,798.11
G&A			4%	\$10,397.47
Total Year 1				\$278,132.44

Conway Plaza Contract Year 2 December 26, 2016 - March 31, 2017				
Description	Quantity	Unit	Unit Price	Total Price
Supervisor	1,820.00	Man-Hours	21.06	\$38,329.20
Toll Collector (F/T)	2,080.00	Man-Hours	15.75	\$32,760.00
Toll Collector (P/T)	1,014.00	Man-Hours	14.81	\$15,017.34
Supervisor Training	-	Man-Hours	21.06	\$0.00
Toll Collector (F/T) Training	-	Man-Hours	15.75	\$0.00
Toll Collector (P/T) Training	-	Man-Hours	14.81	\$0.00
Subtotal Labor	4,914.00			\$86,106.54
Subtotal Year 2				\$86,106.54
Management Fee			3%	\$2,583.20
G&A			4%	\$3,444.26
Total Year 2				\$92,134.00

Central Florida Expressway Authority (CFX)
 URS Energy and Construction, Inc.
 Contract No. 001071

In-Lane Tag Sales Program - Conway Plaza

Plaza Staffing Requirements

Additional Staffing	Start Time	End Time	Subtotal Hours	Check In Time Daily Hours	Check Out Time Daily Hours	Total Hours/Day	Days/Week	Total Hours/Week	Total Hours/Year	Full Time Equiv.	(9 mths) Contract Year 1 Hours	(3 mths) Contract Year 2 Hours
<u>Toll Collectors</u>												
Toll Collector (FT) - Westbound	6.0 AM	20.0 PM	14.0	1.0	1.0	16.0	5.0	80.0	4,160.0	2.0	3,120.0	1,040.0
Toll Collector (FT) - Eastbound	6.0 AM	20.0 PM	14.0	1.0	1.0	16.0	5.0	80.0	4,160.0	2.0	3,120.0	1,040.0
Toll Collector (PT) - Westbound	6.0 AM	20.0 PM	14.0	1.0	1.0	16.0	2.0	32.0	1,664.0	0.8	1,248.0	416.0
Toll Collector (PT) - Eastbound	6.0 AM	20.0 PM	14.0	1.0	1.0	16.0	2.0	32.0	1,664.0	0.8	1,248.0	416.0
Westbound Breaks			1.0	0.0	0.0	1.0	7.0	7.0	364.0	0.2	273.0	91.0
Eastbound Breaks			1.0	0.0	0.0	1.0	7.0	7.0	364.0	0.2	273.0	91.0
Total Toll Collector Hours			58.0	4.0	4.0	66.0		238.0	12,376.0	6.0	9,282.0	3,094.0
<u>Additional Supervision</u>												
Supervisor Westbound	5.0 AM	10.0 AM	5.0	0.0	0.0	5.0	7.0	35.0	1,820.0	0.9	1,365.0	455.0
Supervisor Eastbound	5.0 AM	10.0 AM	5.0	0.0	0.0	5.0	7.0	35.0	1,820.0	0.9	1,365.0	455.0
Supervisor Westbound	16.0 PM	21.0 PM	5.0	0.0	0.0	5.0	7.0	35.0	1,820.0	0.9	1,365.0	455.0
Supervisor Eastbound	16.0 PM	21.0 PM	5.0	0.0	0.0	5.0	7.0	35.0	1,820.0	0.9	1,365.0	455.0
Total Supervision Hours			20.0	0.0	0.0	20.0		140.0	7,280.0	3.5	5,460.0	1,820.0
Total Staffing Hours			78.0	4.0	4.0	86.0		378.0	19,656.0		14,742.0	4,914.0
<u>Training</u>												
						Training Head Count	Hours	Total Hours/Year				
Toll Collector (FT) - Initial Program						8.0	4.0	32.0	32.0	0.0		
Toll Collector (PT) - Initial Program						4.0	4.0	16.0	16.0	0.0		
Supervisor - Initial Program						8.0	4.0	32.0	32.0	0.0		
Toll Collector (FT) - Normal New Hire						2.0	2.0	4.0	4.0	0.0		
Toll Collector (PT) - Normal New Hire						8.0	10.0	80.0	80.0	0.0		
Supervisor - Normal New Hire						2.0	2.0	4.0	4.0	0.0		
Training Hours						32.0		168.0	168.0	0.0		
Total Hours								19,824.0	14,910.0	4,914.0		

Notes:

1. Lanes will be staffed 6 AM to 8 PM each day.
2. Lanes will be staffed with Full-time and Part-time Personnel.
3. Check In/Out Time per shift will be half an hour, in order to account for inventory, complete all paperwork, establish tour fund, make deposit, etc.
4. Additional Supervision will be added from approximately 5 AM to 10 AM, and 4 PM to 9 PM daily to handle the additional requirements due to the expanded scope. All other hours of Supervision will be covered by existing Management and Supervision in place at the plaza.
5. Work is planned to Start April 1, 2016.
6. Initial Training will be based on double the expected head count to ensure that we have backup personnel ready for time off, holidays, call-outs, etc.
7. Initial Training is assumed to be 4 hours per person due to new program. Normal New Hire training after start-up is assumed to be 8 hours regular training and 2 hours Tag Sales for part-time person.
8. Part-timer training headcount is higher due to normal turnover expected in this role.

CONTRACT

This Contract No. 001071 (the "Contract" as defined herein below), is made this 12th day of November, 2015, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called CFX and URS ENERGY & CONSTRUCTION, INC., 10276 NW 47th Street, Sunrise, Florida 33351, hereinafter the CONTRACTOR:

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, the 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 contractor to provide toll facilities operations and management and related tasks as may from time to time be assigned to the contractor by CFX; and,

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

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

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

1. SERVICES TO BE PROVIDED

The 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 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 toll facilities operations and management 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 CONTRACTOR 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 and bonds,
- 1.2 The Addenda,
- 1.3 The Scope of Services,
- 1.4 The Method of Compensation,
- 1.5 The Technical Proposal submitted by CONTRACTOR, and
- 1.6 The Price Proposal submitted by CONTRACTOR,

(collectively, the "Contract").

2. TERM AND TERMINATION

The initial term of the Contract will be five (5) years from the date established in the Notice to Proceed from CFX. There shall be five (5) renewal options of one (1) year each. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide the CONTRACTOR with written notice of its intent at least 90 days prior to the expiration of the initial five-year Contract Term.

CFX shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 90-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 CFX (with or without cause) constitute a default by CFX. In the event of a termination for convenience or without cause, CFX 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 CFX 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 CFX, CFX 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, CFX 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, CFX 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, CFX 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, CFX will have the right to appropriate or use any or all materials and equipment on the sites where work is or was occurring, 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 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 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, CONTRACTOR demonstrates an intent and ability to cure the default in accordance with CFX's requirements, CFX may, but is not obligated to, permit CONTRACTOR 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 CONTRACTOR under the Contract. Any such costs incurred by CFX which exceed the remaining amount due on the Contract shall be reimbursed to CFX 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.

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

CFX 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 a 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 CFX, without penalty. Such termination shall be deemed a termination for default.

CFX 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 five-year Contract term is \$67,274,165.81.

3.2 CFX 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 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 CONTRACTOR 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 CONTRACTOR 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 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 CFX 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 CFX, 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 CFX 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 CFX until reinstated by CFX.

Final Audit for Project Closeout: The CONTRACTOR shall permit CFX, at CFX'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 CFX because of accounting errors or charges not in conformity with the Contract, the CONTRACTOR agrees that such amounts are due to CFX 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 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, CONTRACTOR is encouraged to grant small businesses the maximum opportunity to participate in the provision of the Services with respect to the operation and maintenance of the System. 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 CFX 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 CFX.

6. CONTRACTOR INSURANCE AND PERFORMANCE 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 CFX. All surety bonds shall be in a form and issued by a surety company approved by CFX. CONTRACTOR 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 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.

6.5 **Performance Bond** equivalent to \$1,000,000.00 issued on an annually renewable basis. The terms and provisions of the performance bond shall be satisfactory to CFX in its sole and absolute discretion. CFX may apply any or all of such bond to reimburse it for damages caused by any defaults of CONTRACTOR under this Contract or to remedy any events of default. If CONTRACTOR is not in default at the expiration or termination of this Contract, CFX will authorize the release and return of the performance bond to CONTRACTOR.

6.6 **Employees Fidelity Bond** covering each employee for a minimum of \$100,000.00 per employee, covering each employee of CONTRACTOR employed on this Contract.

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. 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 CFX 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 CFX.

Any insurance carried by CFX 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 CFX with certificates of same, CFX may obtain such policies and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments.

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 the 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.

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, CFX, 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. CONTRACTOR shall immediately notify CFX 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.

7.5 CONTRACTOR shall not make any requirement of any employee, or enter into a non-competition agreement with any employee, whether oral or written, of any kind or nature that would prohibit CONTRACTOR's employees from leaving CONTRACTOR's employ and taking employment with any successor of CONTRACTOR.

7.6 CONTRACTOR shall be responsible for any shortage of tolls collected in accordance with the Scope and SOP Manual, and any theft or conversion of collected toll funds by employees of Contractor, or arising out of the negligence of Contractor;

8. ASSIGNMENT AND REMOVAL OF KEY PERSONNEL

A significant factor in the decision of CFX to award this Contract to the CONTRACTOR is the level of expertise, knowledge and experience possessed by employees of CONTRACTOR, particularly the Project Manager, Quality Controls and Training Manager, Accounting Manager, Audit Manager, Safety and Security Manager, and Toll Operations Manager (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 CFX. When CFX 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 CFX and CFX 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 CFX, 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 CFX, CONTRACTOR shall remove from activities associated with or related to the performance of this Contract any employee whom CFX 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 CFX

9. INDEMNITY

The CONTRACTOR shall indemnify, defend and hold harmless CFX 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 CFX's use or possession of the CONTRACTOR Property or CONTRACTOR Intellectual Property (as defined herein below),

9.3 CFX'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 CFX Property and CFX 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 CFX 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 CFX 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 CFX. Thereafter, CONTRACTOR shall follow CFX'S instructions with regard to such request. To the extent that such request seeks non-exempt public records, CFX 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 CFX.

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 CFX Property and CFX Intellectual Property, without first notifying CFX and securing its consent in writing.

12. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS

CFX 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 "CFX Property"). CFX's ownership of CFX 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 "CFX Intellectual Property"). CONTRACTOR, its employees, agents, officers, and subcontractors acknowledge that E-PASS® is CFX's registered trademark name for CFX's electronic toll collection system, and comprises a portion of CFX Intellectual Property.

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

12.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONTRACTOR shall maintain CFX Property and CFX Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use CFX Property or CFX Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of CFX, which may be granted or denied in CFX'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 CFX Property and CFX 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 CFX, CONTRACTOR, or a third party; **or**

12.6 CFX'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 CFX 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 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. 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 CFX 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

CFX 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 CFX, which may be withheld in CFX'S sole and absolute discretion. Any attempt by CONTRACTOR 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.

Notwithstanding the foregoing:

17.1 CONTRACTOR may assign its rights to receive payment under this Agreement with CFX's prior written consent, which consent shall not be unreasonably withheld. CFX 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 CFX 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 CFX as a third party beneficiary and provide that the subcontract is assignable to CFX (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 CFX. Upon such event, CFX 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 CFX, and

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

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

(iv) shall include the same or similar terms as are included in this Contract with respect to subcontractors, providing CFX 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 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 CONTRACTOR shall first submit a request to CFX'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 her/his designee, no such subcontract shall be executed by the CONTRACTOR until it has been approved by CFX 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 her/his 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.

18. DISPUTES

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of CFX's Executive Director (or her/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.

19. REMEDIES

In addition to any remedies otherwise available to CFX under law, upon an uncured default CFX 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 CFX are required for Contract completion. All costs and charges incurred by CFX 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 CFX for the difference. On a Contract terminated for default, in no event shall CFX have any liability to the CONTRACTOR for expenses or profits related to unfinished work, or for CFX'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 CFX, failing which CFX 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 CFX (exclusive of interest, costs or expenses) on claims asserted by CFX 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 CFX by CONTRACTOR (disputed by CFX) 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 CFX 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 CFX 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 CFX, and CFX 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, CFX 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 Agreement is accepted and entered into in Florida and any question regarding its validity, construction, enforcement, or performance shall be governed by Florida law. The parties consent to the exclusive jurisdiction of the courts located in Orange County, Florida.

In consideration of the foregoing premises, CFX 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 CFX 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 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.

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 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.

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 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.

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 CFX 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 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. This Contract was awarded by CFX's Board of Directors at its meeting on November 12, 2015.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement

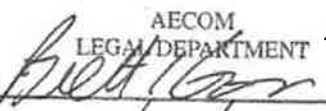
Print Name: Claude Miller

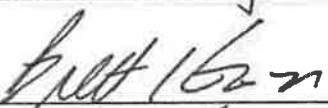
URS ENERGY & CONSTRUCTION, INC.

By: B. A. Trott

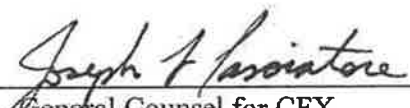
Print Name: Bruce A. Trott

Title: General Manager

AECOM
LEGAL DEPARTMENT
BY: 
DATE: 11/19/15

ATTEST:  (Seal)
Asst Sec

Approved as to form and execution, only.


General Counsel for CFX