

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth O. Williams 
Director of Procurement

DATE: April 18, 2017

SUBJECT: Approval of Contract Renewal Agreement for Payment Card Industry (PCI)
Compliance Audit Services with Protiviti, Inc.
Contract No. 000960

Board authorization is requested for the second and final renewal of the referenced contract with Protiviti, Inc., in the amount of \$65,000.00 for a one year period beginning July 18, 2017 and ending July 17, 2018. The current contract expires on July 17, 2017. The original contract term was three years with two (2) one-year renewals.

The Audit Committee, at its March 29, 2017 meeting recommended renewal.

Original Contract Amount	\$156,625.00
Supplemental Agreement No. 1	\$ 70,000.00
Renewal Agreement No. 1	\$ 65,000.00
Renewal Agreement No. 2	<u>\$ 65,000.00</u>
Total	\$356,625.00

This contract is included in the OM&A Budget.

Reviewed by: 
Corey Quinn
Chief of Technology/Operations

Central Florida Expressway Authority
CONTRACT RENEWAL AGREEMENT
CONTRACT NO. 000960

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 12th day of May, 2017, by and between the Central Florida Expressway Authority, hereinafter called "CFX" and Protiviti, Inc., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, CFX and the Contractor entered into a Contract Agreement (the "Original Agreement") dated May 22, 2013, whereby CFX retained the Contractor to perform payment card industry (PCI) compliance audit services; and

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

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, CFX and Contractor agree to a second renewal of said Original Agreement beginning the 18th day of July, 2017 and ending the 17th day of July, 2018 in the amount of \$65,000.00 which amount restates the amount of the Original Agreement.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the first Renewal Agreement ending July 17, 2017, the Contractor shall execute a 'Certificate of Completion of the first Renewal Agreement and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the first Renewal Agreement ending July 17, 2017.

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

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

PROTIVITI, INC.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY: _____
Authorized Signature

BY: _____
Director of Procurement

Print Name: _____

Title: _____

ATTEST: _____ (SEAL)
Secretary or Notary

Approved as to form and execution, only

General Counsel for CFX

Central Florida Expressway Authority
CONTRACT RENEWAL AGREEMENT
CONTRACT NO. 000960

25 MAY 16 10:15 AM

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 12th day of May, 2016, by and between the Central Florida Expressway Authority, hereinafter called "CFX" and Protiviti, Inc., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, CFX and the Contractor entered into a Contract Agreement (the "Original Agreement") dated May 22, 2013, whereby CFX retained the Contractor to perform payment card industry (PCI) compliance audit services; and

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

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, CFX and Contractor agree to a first renewal of said Original Agreement beginning the 18th day of July, 2016 and ending the 17th day of July, 2017 in the amount of \$65,000.00 which amount restates the amount of the Original Agreement.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the Original Agreement ending July 17, 2016, the Contractor shall execute a 'Certificate of Completion of the Original Agreement and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the Original Agreement ending July 17, 2016.

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

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

PROTIVITI, INC.

BY: [Signature]
Authorized Signature

Print Name: DAVID J. TAYLOR

Title: MANAGING DIRECTOR

ATTEST: [Signature] (SEAL)
Secretary or Notary



CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY: [Signature]
Director of Procurement

Approved as to form and execution, only

[Signature]
General Counsel for CFX

2016 MAY 11 10:45

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 1
TO
AGREEMENT FOR PAYMENT CARD INDUSTRY (PCI) COMPLIANCE
AUDIT SERVICES
CONTRACT NO. 000960**

This Supplemental Agreement No. 1 ("Supplemental Agreement") is entered into this 12th day of May 2016, by and between the Central Florida Expressway Authority ("CFX") and Protiviti, Inc. ("Consultant").

WITNESSETH:

WHEREAS, CFX and the Consultant on May 22, 2013, entered into an Agreement whereby CFX retained the Consultant to provide payment card industry (PCI) compliance audit services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$70,000.00 in order to continue the required services through the original term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated May 22, 2013;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$70,000.00 which shall make the total not-to-exceed amount of the Contract \$226,625.00.

CFX and Consultant agree that this Supplemental Agreement No.1 shall not alter or change in any manner the force and effect of the original Contract except insofar as the same is altered and amended by this Supplemental Agreement No.1; that acceptance of this Supplemental Agreement No.1 signifies the Consultant's waiver of all future rights for additional compensation which is not already defined herein.

IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the day and year first written above. This Supplemental Agreement No. 1 was approved by CFX Board of Directors on May 12, 2016.

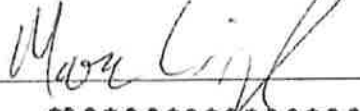
CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement

PROTIVITI, INC.

By: 

Title: MANAGING DIRECTOR

Attest:  (Seal)



Approved as to form and execution, only.

General Counsel for CFX



CONTRACT

**ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY
AND
PROTIVITI, INC.**

PAYMENT CARD INDUSTRY (PCI) COMPLIANCE AUDIT

CONTRACT NO. 000960

**CONTRACT DATE: MAY 22, 2013
CONTRACT AMOUNT: \$156,625.00**



**ORLANDO-ORANGE COUNTY
EXPRESSWAY AUTHORITY**

**CONTRACT, SCOPE OF SERVICES, METHOD OF COMPENSATION,
TECHNICAL PROPOSAL AND PRICE PROPOSAL
FOR
PAYMENT CARD INDUSTRY (PCI) COMPLIANCE AUDIT**

CONTRACT NO. 000960

MAY 2013

Members of the Board

**Walter A. Ketcham, Jr., Chairman
R. Scott Batterson, P.E., Vice Chairman
Teresa Jacobs, Secretary/Treasurer
Noranne B. Downs, P.E., Ex-Officio Member**

Executive Director

Max Crumit, P.E.

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CONTRACT

This Contract (the "Contract" as defined herein below), is made this 22nd day of May, 2013, between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called the AUTHORITY and PROTIVITI, INC., 301 East Pine Street, Suite 225, Orlando, Florida 32801, hereinafter the AUDITOR:

WITNESSETH:

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

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

WHEREAS, the AUTHORITY has determined that it is necessary and convenient in the conduct of its business to retain the services of an auditor to perform payment card industry (PCI) compliance audit and related tasks as may be assigned to the AUDITOR by the AUTHORITY and identified as Contract No. 000960; and,

WHEREAS, on or about March 23, 2013, the AUTHORITY issued a Request for Proposals seeking qualified auditors to perform such tasks; and,

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

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

1. SERVICES TO BE PROVIDED

The AUDITOR shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized representatives of the AUTHORITY in accordance with the Scope of Services, 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 performing PCI compliance audit in accordance with direction from the AUTHORITY.

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

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

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

(collectively, the "Contract").

2. TERM AND NOTICE

The initial term of the Contract will be three (3) years from the date indicated in the Notice to Proceed from the AUTHORITY. There shall be two renewal options of one (1) year each. The options to renew are at the sole discretion and election of the AUTHORITY. Renewals will be based, in part, on a determination by the AUTHORITY that the value and level of service provided by the AUDITOR are satisfactory and adequate for the AUTHORITY's needs. If a renewal option is exercised, the AUTHORITY will provide the AUDITOR with written notice of its intent at least 150 days prior to the expiration of the initial three-year Contract Term.

The AUTHORITY shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 10 days' notice for convenience or 15 days with cure notice for cause for AUDITOR's material failure to perform the provisions of the Contract. Under no circumstances shall a properly noticed termination by the AUTHORITY (with or without cause) constitute a default by the AUTHORITY. In the event of a termination for convenience or without cause, AUTHORITY shall notify AUDITOR (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. AUDITOR will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. AUDITOR 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 AUDITOR: (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) materially fails to comply with the Contract, or (v) performs unsuitably or unsatisfactorily in the opinion of AUTHORITY reasonably exercised in accordance with the Scope of Services, or for any other cause whatsoever, fails to carry on the work in an acceptable manner in accordance with the Scope of Services, the AUTHORITY will

give notice in writing to the AUDITOR of such delay, neglect or default and provide AUDITOR with a reasonable opportunity to cure. If the Contract is declared in default, the AUTHORITY may take over the work covered by the Contract.

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

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

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

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

3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES

3.1 The Contract Amount for the Contract term is \$156,625.00. Services shall be provided and fees to be billed for each audit as agreed by the AUTHORITY.

3.2 AUTHORITY agrees to pay AUDITOR 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, directly related to the Contract or the AUDITOR's performance of the Contract determined reasonably necessary or desirable by the AUTHORITY to verify invoicing and performance.

AUTHORITY reserves and is granted the right (during regular business hours and after 48 hours advance notice) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) of the AUDITOR or any subconsultant. By submitting a response to the Request for Proposal, AUDITOR or any subconsultant submits to and agree to comply with the provisions of this section.

If the AUTHORITY requests access to or review of any Contract Documents and AUDITOR unlawfully refuses such access or review, AUDITOR shall be in default under its Contract with AUTHORITY, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of AUDITOR. Disqualification or suspension of the AUDITOR for failure to comply with this section shall also preclude the AUDITOR from acting in the future as a subconsultant of another AUDITOR doing work for the AUTHORITY during the period of disqualification or suspension. Disqualification shall mean the AUDITOR is not eligible for and shall be precluded from doing future work for the AUTHORITY until reinstated by the AUTHORITY.

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

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

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

20. INTERPRETATION

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

21. 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:

21.1 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

21.2 Payment to AUDITOR for satisfactory work performed or for termination expenses, if applicable; and

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

21.4 Obligations upon expiration or termination of the Contract; and

21.5 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.

22. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT

22.1 Immediately upon expiration or termination of this Contract AUDITOR shall submit to AUTHORITY, upon request, a report containing the last known contact information for each subconsultant or employee of AUDITOR who performed work under the Contract; and

22.2 AUDITOR 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 AUTHORITY.

23. INTELLECTUAL PROPERTY

Subject to AUTHORITY's fulfillment of all payment obligations, AUDITOR acknowledges and agrees that AUTHORITY shall retain all ownership rights in any deliverables developed by AUDITOR under this Agreement and delivered to AUTHORITY, excluding AUDITOR Proprietary Materials, as defined below, and any third-party software that is incorporated into the deliverables. AUTHORITY acknowledges that as part of performing services, AUDITOR may utilize proprietary software, ideas, concepts, know-how, tools, models, processes, methodologies and techniques (including any enhancements or modifications thereto) which have been originated or developed by AUDITOR, or which have been purchased by, or licensed to AUDITOR (collectively, "AUDITOR Proprietary Materials"). AUTHORITY agrees that AUDITOR shall retain sole and exclusive title, rights and interest in and to AUDITOR Proprietary Materials. Subject to the terms of this Agreement, AUDITOR grants and AUTHORITY accepts a worldwide, nonexclusive, nontransferable license to AUDITOR Proprietary Materials for use only in conjunction with deliverables.

AUDITOR's deliverables are for the use and benefit of AUTHORITY only and not for any other party (such other parties, each a "Third Party"). If AUTHORITY desires to disclose such deliverables or make reference to AUDITOR to any Third Party other than AUTHORITY's legal counsel and external auditors who need access to such information and who have agreed to keep such information confidential, except as otherwise required by the applicable public records act, AUTHORITY will obtain AUDITOR's prior written approval and if requested by AUDITOR, obtain from such Third Party a non-disclosure agreement and release in a form satisfactory to AUDITOR in its reasonable discretion. AUDITOR accepts no liability or responsibility to any Third Party who benefits from or uses services hereunder or gains access to the deliverables.

IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties as of the day and year first above written. This Contract was awarded by the AUTHORITY's Board of Directors at its meeting on May 22, 2013.

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

By: *Claude Miller*
Director of Procurement

Print Name: Claude Miller

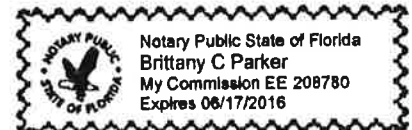
PROTIVITI, INC.

By: *Scott C. LaLiberte*

Print Name: Scott C. LaLiberte

Managing Director
Title

ATTEST: *Brittany C. Parker* (Seal)



Approved as to form and execution, only.

Joseph J. Rosentre
General Counsel for the AUTHORITY