


CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: June 13, 2017

SUBJECT: Authorization to Execute Cooperative Purchase Agreement with
Traffic Engineering and Management LLC. d/b/a Control Specialists for Traffic
Signal Maintenance Services
Contract No. 001322

Board authorization is requested to execute an agreement with Traffic Engineering and Management LLC. d/b/a Control Specialists in the amount of \$500,000.00 to provide traffic signal maintenance services. The contract term will be three years with two (2) one-year renewals.

This will be a cooperative purchase (piggyback) agreement based on a contract between Traffic Engineering and Management LLC. d/b/a Control Specialists and the City of Winter Garden for the same services which will allow CFX to take advantage of the favorable bid prices received by the City of Winter Garden.

This contract is budgeted for in the OM&A Budget.

Reviewed by:



Claude Miller
Director of Maintenance



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
COOPERATIVE PURCHASE AGREEMENT
CONTRACT NO. 001322**

This Agreement is made this 1st day of August 2017, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called "CFX" or "Owner," and TRAFFIC ENGINEERING AND MANAGEMENT, LLC, d/b/a CONTROL SPECIALISTS, a Florida Limited Liability Company, registered and authorized to conduct business in the State of Florida, whose address is 707 Nicolet Avenue, Suite 100A, Winter Park, Florida 32789, 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, 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 traffic signal maintenance services; and

WHEREAS, on or about August 27, 2015, the CONTRACTOR entered into an amendment to an agreement with the City of Winter Garden to provide the same services as required by CFX; and

WHEREAS, the contract between the CONTRACTOR and the City of Winter Garden was procured through a competitive bidding process, which process is substantially similar to those required by CFX, and included sealed bids from other contractors; and

WHEREAS, a Request for Proposals or competitive bids seeking qualified contractors to perform such services for CFX was not required because the CONTRACTOR has an existing contract with the City of Winter Garden for the same services to be provided hereunder and CFX has decided to contract with CONTRACTOR for the performance of the services described herein under the same conditions previously negotiated by the City of Winter Garden; and

WHEREAS, the CONTRACTOR agrees to provide the services under the same terms and conditions as included in its contract with the City of Winter Garden, a copy of which is attached to this Contract as **Exhibit "D"**, and such additional terms and conditions as detailed below.

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:

- A. **RECITALS.** The recitals are true and incorporated as terms.
- B. **ADOPTION OF TERMS IN THE CITY CONTRACT.** The parties adopt the terms and conditions in the Contract with the City of Winter Garden as amended ("City Contract"), a copy of which is attached hereto, subject to the substitutions or revisions reflected below. For ease of reference, the terms of the City Contract have been reiterated below with the additions and deletions highlighted by underlines and strikeouts, respectively. Paragraphs 1 through 5 are from the Amendment to the Contract and the paragraphs that follow are from the original City Contract. The paragraph numbers from the Amendment and the original City Contract have been modified to allow for sequential numbers.

1. **SCOPE OF WORK.** The CONTRACTOR shall be available on the request of the Owner to provide emergency repair, planned maintenance, new installations of traffic lights, caution lights, school flashers and roadway safety lighting. Please refer to **Exhibit "A": Traffic Signal Intersections Maintained and Operated for CFX the City of Winter Garden (attached).**
2. **TERM.** This Agreement shall be for an initial term of three (3) ~~one (1)~~ years from the date of the Agreement; however, the Owner shall have the right to cancel and terminate this Agreement, in its sole discretion, during the term thereof, upon giving written notice to the CONTRACTOR at least ninety (90) days prior to the intended date of termination. In the event of termination the CONTRACTOR shall be entitled to receive payment for services and work performed and materials and/or equipment furnished under the terms of this Agreement as directed by the Owner up to the date of termination provided it is acknowledged that the CONTRACTOR shall not be entitled to any damage liquidated or otherwise caused as a result of such termination.

It is mutually agreed between both parties that this Agreement may be renewed ~~extended~~ at the expiration of the initial term for two one-year renewal periods ~~a period of one (1) to five (5) years~~ from the anniversary date of the expiration of the original term, upon the same terms and conditions specified herein. ~~Rates are subject to change, but not to exceed five percent (5%) in a given year.~~¹ The rates described in the Cost Schedule attached to the 2009 Agreement as ~~Exhibit "A,"~~ as Exhibit "B," or any subset thereof, are subject to increase, not to exceed five percent (5%) in a given year, provided that Owner deems such rate increase reasonable in light of increased costs to CONTRACTOR and assents in writing.

3. **WHEN EFFECTIVE.** This Agreement shall have no effect unless and until it is approved by the ~~Winter Garden City Commission~~ CFX and executed by the parties,

¹ This sentence was removed by the 2015 Amendment.

whichever occurs last, at which time its initial term shall begin ~~and the 2009 Agreement shall be completely terminated and replaced by this Agreement.~~

4. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties hereto with respect to its subject matter. This Agreement supersedes any and all prior agreements, discussions, negotiations, arrangements, or understandings, whether written, oral or implied, with respect to the subject matter of this Agreement.
5. PUBLIC RECORDS LAWS. CONTRACTOR acknowledges and agrees that Owner is a public entity that is subject to Florida's public records laws and as such, documents in CONTRACTOR's possession relating to performance under this Agreement may be subject to inspection pursuant to Chapter 119, Florida Statutes, unless otherwise exempt under applicable law. It is hereby specifically agreed that any record, document, computerized information and program, e-mail, audio or video tape, photograph, or other writing of the CONTRACTOR, its representatives, employees, subcontractors, subsubcontractors, agents, entities, and its independent contractors and associates related, directly or indirectly, to this Agreement (collectively the "Agreement Records"), shall be deemed to be a public record, whether in the possession or control of Owner or CONTRACTOR, unless determined not to be a public record, or to be otherwise exempt from disclosure, by Owner in its sole discretion. Any Agreement Record that has not been determined by Owner, in its sole discretion, to be exempt from the public records laws, shall be subject to inspection by the public in accordance with the provisions of Chapter 119, Florida Statutes, and other applicable laws and regulations, on the same terms and conditions as Owner's public record inspection policies. To ensure that Agreement Records that are exempt or confidential under the public records laws are not disclosed, CONTRACTOR shall not disclose any Agreement Record in response to a public record request from a member of the public without first obtaining written permission from Owner. While in the possession and control of CONTRACTOR, its representatives, employees, subcontractors, sub-subcontractors, agents, entities, independent contractors, and associates, all Agreement Records shall be secured, maintained, preserved, and retained in a manner consistent with the public records laws, at CONTRACTOR's expense, and CONTRACTOR shall not destroy an Agreement Record without Owner's authorization. Upon request by Owner, CONTRACTOR shall, at CONTRACTOR's expense, within five (5) business days, supply a copy or copies of any Agreement Record to Owner. All Agreement Records shall, at any and all reasonable times during the normal working hours of CONTRACTOR, be open and freely exhibited to Owner for the purposes of examination and/or audit. Since Owner's documents are of utmost importance to the conduct of Owner's business and because of the legal obligations applicable to Owner and which may be applicable to CONTRACTOR under the public records laws, CONTRACTOR agrees that it shall, under no circumstances, withhold possession of any Agreement Record, including originals, copies or electronic images thereof when such are requested by Owner, regardless of any contractual or other dispute that may arise between CONTRACTOR and Owner. Upon termination or expiration of this Agreement, CONTRACTOR shall transfer to Owner, at CONTRACTOR's expense,

all Agreement Records in the possession of CONTRACTOR and its representatives, employees, subcontractors, subsubcontractors, agents, entities, independent contractors, and associates, and shall, at Owner's direction, destroy any duplicate public records that are exempt or confidential under the public records laws. All Agreement Records stored electronically must be provided to Owner in a format that is compatible with the information technology systems of Owner. This Paragraph Six (6) survives expiration and termination of the Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT Phone: 407-690-5000, e-mail: publicrecords@cfxway.com, and address: Central Florida Expressway Authority, 4974 ORL Tower Road, Orlando, FL. 32807.

As set forth in Section 119.0701, Florida Statutes, a portion of which is reiterated below, CONTRACTOR shall comply with public records laws, specifically to:

1. Keep and maintain public records required by the public agency to perform the service.

2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the public agency.

4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the CONTRACTOR or keep and maintain public records required by the public agency to perform the service. If the CONTRACTOR transfers all public records to the public agency upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the

public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

6. EXECUTION OF WORK. The CONTRACTOR shall execute the work under this Agreement in the following manner:
- a. The CONTRACTOR certifies that it is a full-time specialized contractor in the State of Florida, and is pre-qualified by the Florida Department of Transportation to perform said work and has the capability and expertise to install and maintain traffic signals for the Owner.
 - b. The CONTRACTOR shall provide emergency repair, planned maintenance, new installations of traffic lights, caution lights, school flashers and roadway safety lighting as requested and directed by CFX's Director of Maintenance, the Owner's designated personnel, hereinafter referred to as Director.
 - c. The CONTRACTOR shall provide qualified employees of the CONTRACTOR who shall be available at all times, day and night, for on-site consultation with the Director regarding traffic signal Issues. The CONTRACTOR shall furnish the name and telephone number of such representatives to the Director upon execution of this Agreement.
 - d. The CONTRACTOR shall at all times maintain emergency response vehicles which will be utilized to respond to emergency maintenance calls during the term of this Agreement. This emergency vehicle will have rotating beacons on front and center or rear or comparable flashing lights or bars.
 - e. The CONTRACTOR, in performing any work under this Agreement, shall utilize protective signing, flashers, cones and flag persons in compliance with the "Manual on Traffic Controls and Safety Practices for Street and Highway Construction, Maintenance and Utility Operation", Sections 1 through 15, published by the Florida Department of Transportation.
 - f. The CONTRACTOR shall be responsible for making all arrangements with public or private utility companies to ensure underground and overhead clearances and construction liaison when needed.
 - g. The CONTRACTOR shall promptly notify the Director of the disablement of any piece of equipment of any system due to an accident, or other cause such as damaged cable, broken parts or other difficulties, when such piece of equipment cannot be readily repaired making it necessary to discontinue operation of all or part of the installation.
 - h. The CONTRACTOR shall promptly report to the Director any unauthorized construction or repair work by others on the Owner's equipment being maintained under this Agreement. The CONTRACTOR shall also report any construction or

repair work in progress that may endanger or damage the equipment of the Owner's system.

- i. The CONTRACTOR shall act in the best interest of the Owner in selection of material and equipment which has been authorized for purchase by the Director. In addition, the CONTRACTOR shall advise and assist the Director regarding the settlement of claims on defective materials and equipment used in traffic signal, school flasher and highway safety equipment when purchased by the CONTRACTOR.

7. JOB NUMBERS:

- a. The CONTRACTOR, prior to commencement on any routine maintenance, shall receive a Purchase Order Number from the Director. Upon completion of the work the CONTRACTOR shall notify the Director of the scope, nature and cost of such work performed. **Exhibit "C" Traffic Signal Maintenance Inspection List** shall be completed with each routine maintenance inspection.
- b. The CONTRACTOR, at the beginning of each month, shall submit to the Director a copy of all Invoices for approval of payment. A separate invoice shall be used to identify each job.
- c. The CONTRACTOR shall be issued a separate Purchase Order and Job Number from the Director prior to the commencement of any work to be performed for non-routine maintenance, construction, major repairs and capital purchases. If the Director orally directs that a repair be made during non-working hours, a Job Number will be issued to the Contractor on the next normal day of operation to cover the pre-authorized cost of the repair.

8. COMPENSATION: The Owner shall pay the CONTRACTOR for work performed as outlined in **Exhibit "B"**.
9. EXTRA WORK: It is understood and agreed under this Agreement that the CONTRACTOR shall hold itself ready at all times to perform emergency planned maintenance for the Owner on traffic lights, caution lights, school flashers and roadway safety lighting. In addition, the Owner shall have the CONTRACTOR perform the installation and construction of new equipment for the Owner under this Agreement. This includes major repairs or major changes in any system. The new construction or major repairs shall be performed only after receiving written notice from the Owner. If the CONTRACTOR desires to perform any work or project involving new installations or major repairs, the CONTRACTOR shall furnish the Owner with a firm price for all the work necessary to perform such major repair or to complete such new construction.
10. TIME AND CHARGES: If it becomes necessary to install a temporary controller due to damage to a traffic signal which changes the timing or sequence, or any other special feature of a traffic signal, the Director shall be notified in writing giving the

reason for the change, the nature of the change and the approximate date the traffic signal shall be returned to normal service. The Director shall also be notified in writing within a reasonable time when the original equipment has been repaired and replaced. The Director must authorize any and all timing changes on Owner's traffic signals. Whenever the Director determines a condition that warrants the modification of timing or dial settings on traffic control systems, the Director shall advise the CONTRACTOR of such changes and the CONTRACTOR shall keep timing and dial setting in accordance with the Director's instructions at all times. If the Director is unavailable in the event of an emergency the CONTRACTOR shall make such time changes as are necessary.

11. **CONTRACTOR'S RECORDS:** The CONTRACTOR shall maintain records in accordance with generally accepted accounting practices to document its costs and expenditures under this Agreement. The CONTRACTOR hereby grants the Owner and its duly authorized representative's permission to audit and review any and all of the CONTRACTOR's records pertaining to the Agreement. The CONTRACTOR shall furnish the Owner all invoices and statements for which It requests reimbursement.
12. **METHOD OF PAYMENT:** Upon completion of all work under a Purchase Order and/or Job Number, the CONTRACTOR shall submit an Invoice to the Director for approval. The Invoice shall reference the Purchase Order and/or Job Number, the date, time, location, reporting agencies, repairs made and the itemized costs.
13. **PERFORMANCE BOND AND LABOR/MATERIAL BOND:** The CONTRACTOR shall post a labor and material bond in the amount of \$10,000.00 which shall guarantee payment by the CONTRACTOR of all sums of money due for any labor and materials furnished under this Agreement. The CONTRACTOR shall also furnish a performance bond in the sum of \$10,000.00 which shall guarantee performance of any and all duties under this Agreement. For new construction or other major projects, the Owner may require a bond of a greater amount.
14. **INSURANCE:** The CONTRACTOR shall provide and maintain at all times during this Agreement, without cost or expense to the Owner, policies of insurance generally known as liability policies, insuring the CONTRACTOR against any and all claims, demands and causes of action whatsoever for injuries received and damage to property in connection with this Agreement. Said policies shall insure the CONTRACTOR in the amount of not less than \$1,000,000.00 per person, in the amount of not less than \$1,000,000.00 to cover any and all claims arising in connection with any particular accident or occurrence and property damage insurance in the amount of \$1,000,000.00. The CONTRACTOR shall provide and maintain Worker's Compensation insurance as required by Florida State Statute 440. The Owner shall be entitled to thirty (30) days' notice of any change or cancellation in said policies. The Owner shall be named as additional insured under any and all public liability policies.

- a. 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. CONTRACTOR shall carry and keep in force the following insurance coverage, and provide CFX with correct certificates of insurance (ACORD forms) upon contract execution:
- i. **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.
 - ii. **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;
- b. 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.
- c. Compliance with these insurance requirements shall not relieve or limit the CONTRACTOR's liabilities and obligations under this Agreement. Failure of CFX to demand such certificate or evidence of full compliance with these insurance requirements or failure of CFX to identify a deficiency from

evidence provided will not be construed as a waiver of the CONTRACTOR's obligation to maintain such insurance. The acceptance of delivery by CFX of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by CFX that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

- d. 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. Alternately, CFX may declare CONTRACTOR in default for cause.

15. FINAL PAYMENT: The Owner shall hold the final payment due the CONTRACTOR until all equipment has been inspected and inventoried. The costs of any equipment unaccounted for, or deficiencies in workmanship during the year, shall be subtracted from the final Agreement payment. A complete inventory, including a list of all field and traffic equipment supplied by the Owner, shall be made prior to the beginning and termination of the Agreement.

16. INDEPENDENT CONTRACTOR: The CONTRACTOR shall perform the conditions of this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall be in any way construed to constitute the CONTRACTOR, or any of its agents or employees as the agent, employee or representative of the Owner.

The CONTRACTOR agrees that they shall be solely responsible to parties with whom they shall deal in carrying out the terms of this Agreement and shall be responsible for the agreements they shall make with the third party or for those obligations incurred by the CONTRACTOR to such third parties in carrying out the terms of this Agreement.

17. TERMINATION FOR CAUSE: If, through any cause, the CONTRACTOR shall fail to fulfill in a timely manner its obligations under this Agreement, or if the CONTRACTOR shall violate any of the covenants, agreements or stipulations of this Agreement, the Owner shall have a right to terminate this Agreement by giving written notice to the CONTRACTOR of such termination, specifying the effective date thereof, at least ten (10) days before the effective date of such termination.

18. PERSONAL SERVICE CONTRACT: This Agreement is not assignable by the CONTRACTOR without the expressed written consent of the Owner.

19. ENTIRE AGREEMENT: It is agreed that neither party has made any statement, promise or agreement, nor taken upon itself any engagement whatsoever, verbally or in writing, in conflict with the terms of this Agreement, or in any way that modifies, carries, alters, enlarges or invalidates any provision hereof.

20. SEVERABILITY: In the event a Court of Competent Jurisdiction finds any sentence, provision, paragraph or section of this Agreement null and void, the remaining parts of this Agreement shall continue in full force and effect as though such sentence, provision, paragraph or section has been omitted from this Agreement.

C. CFX'S ADDITIONAL STANDARD PROVISIONS

21. SUBLETTING AND ASSIGNMENT; SUBCONTRACTOR APPROVAL CLAUSE:
CFX has selected CONTRACTOR to perform the Scope of Work based upon characteristics and qualifications of CONTRACTOR and its employees and the subcontractors listed below.

List of Subcontractors

ARDAMAN & ASSOCIATES, INC.
ASTEC UNDERGROUND UTILITIES LLC
MAMMOTH CONSTRUCTORS LLC
OGLESBY CONSTRUCTION, INC.
PJQ, INC.
PRECISION CONTRACTING SERVICES, INC.
SOUTHERN PAINTING & BLASTING, LLC

Therefore, CONTRACTOR shall not further sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Agreement 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 Agreement 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 Agreement.

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

Prior to retaining a subcontractor/subconsultant or assigning any work to a subcontractor/subconsultant, CONTRACTOR shall verify that the subcontractor/subconsultant does not have any conflicts and acknowledges its duty to comply with CFX's Code of Ethics. If CFX's discovers that CONTRACTOR is utilizing a subcontractor/subconsultant who has a conflict, CFX has the right to immediately terminate the Agreement.

22. INSPECTOR GENERAL: CONTRACTOR agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. CONTRACTOR agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5).
23. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT: Pursuant to Section 287.133(2)(a), Florida Statutes, "a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list." Pursuant to Section 287.134(2)(a), Florida Statutes, "an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity."
24. PRESS RELEASES: CONTRACTOR shall make no statements, press releases or publicity releases concerning the Agreement or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished under the Agreement, or any particulars thereof, without first notifying AUTHORITY and securing its consent in writing.
25. PERMITS, LICENSES, ETC.: Throughout the term of the Agreement, 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.

26. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT: CONTRACTOR acknowledges that CFX officials and employees are subject to the Statutory Code of Ethics codified in Chapter 112, Part III, and CFX's Ethics Policy. CONTRACTOR acknowledges that it has read, and to the extent applicable, that it will comply with the aforesaid Ethics Policy in connection with performance of the Agreement.

In the performance of the Agreement, CONTRACTOR shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Agreement 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 Agreement, which standards will by reference be made a part of this Agreement as though set forth in full.

27. 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.

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.

28. 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 Agreement:

- a. Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and
- b. Any other term or terms of this Agreement which by their nature or context necessarily survive the expiration or earlier termination of the Agreement for their fulfillment.

29. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF AGREEMENT: CONTRACTOR shall initiate settlement of all outstanding liabilities and claims arising out of the Agreement and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of CFX.

30. LAWS OF FLORIDA; VENUE: 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.

31. **UNAUTHORIZED ALIENS:** CFX shall consider the employment of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the CONTRACTOR knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the Agreement.
32. **E-VERIFY CLAUSE:** CONTRACTOR shall utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the CONTRACTOR during the term of the Agreement. CONTRACTOR shall require all of its subcontractors to verify the employment eligibility of all new employees hired by the subcontractors during the term of the Agreement.

IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties on the date below. This Contract was awarded by CFX's Board of Directors at its meeting on _____, 2017.

APPROVED BY:

**TRAFFIC ENGINEERING AND MANAGEMENT, LLC, d/b/a
CONTROL SPECIALISTS**

By: _____

Print Name and Title

Attest: _____ (Seal)

Date: _____

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____

Director of Procurement

Approved as to form and execution,
for reliance by CFX only.

General Counsel for CFX

EXHIBIT "A"
TRAFFIC SIGNAL INTERSECTIONS MAINTAINED AND OPERATED FOR CFX

Location	Maintainer	%	Cost	R/W	Comments
Narcoossee Road and SR 417 NB	CFX	100%		417	CFX
Narcoossee Road and SR 417 SB	CFX	100%		417	CFX
Narcoossee Road and SR 528 EB	CFX	100%		528	CFX
Narcoossee Road and SR 528 WB	CFX	100%		528	CFX
Dowden Road and SR 417 NB	CFX	100%		417	CFX
Dowden Road and SR 417 SB	CFX	100%		417	CFX
Conway Road and SR 528 WB off-ramp	CFX	100%		528	CFX
E Anderson/Lk Underhill/408	CFX	100%		408	CFX
E South St/Lk Underhill/408WB	CFX	100%		408	CFX
OBT/Carter St/EB 408	CFX	100%		408	CFX
OBT/Long St/408 WB	CFX	100%		408	CFX
E South St/WB 408/Roselind	CFX	100%		408	CFX
SR 429/Plant St (nb off-ramp)	CFX	100%		429	CFX
SR 429/Plant St (sb off-ramp)	CFX	100%		429	CFX
SR 429/Winter Garden Vineland (nb off-ramp)	CFX	100%		429	CFX
SR 429/Winter Garden Vineland (sb off-ramp)	CFX	100%		429	CFX
SR 429/CR437A (nb off-ramp)	CFX	100%		429	CFX
SR 429/CR437A (sb off-ramp)	CFX	100%		429	CFX
Conway Road and SR 528 WB	CFX	100%		528	CFX
SR 528 EB/Jetport Road and Tradeport Drive	CFX	100%		528	CFX
SR 408 and Chickasaw Trail EB off ramp	CFX	100%		408	CFX
SR 408 and Chickasaw Trail WB off ramp	CFX	100%		408	CFX
SR 408 and CR 434 WB off ramp	CFX	100%		408	CFX
SR 408 and CR 434 EB off ramp	CFX	100%		408	CFX
SR 408 and Dean Road EB off ramp	CFX	100%		408	CFX
SR 408 and Dean Road WB off ramp	CFX	100%		408	CFX
SR 408 and Good Homes Road EB off ramp	CFX	100%		408	CFX
SR 408 and Good Homes Road WB off ramp	CFX	100%		408	CFX
SR 408 and Hiawasee Road EB off ramp	CFX	100%		408	CFX
SR 408 and Hiawasee Road WB off ramp	CFX	100%		408	CFX
SR 408 and Rouse Road EB off ramp	CFX	100%		408	CFX
SR 408 and Rouse Road WB off ramp	CFX	100%		408	CFX
SR 414 and Hiawasee Road	CFX	100%		414	CFX
SR 414 and Keene Road	CFX	100%		414	CFX
SR 417 and Boggy Creek Road EB off ramp	CFX	100%		417	CFX
SR 417 and Boggy Creek Road WB off ramp	CFX	100%		417	CFX
SR 417 and John Young Parkway WB off ramp	CFX	100%		417	CFX
SR 417 and John Young Parkway EB off ramp	CFX	100%		417	CFX
SR 417 and Curry Ford Road EB off ramp	CFX	100%		417	CFX
SR 417 and Curry Ford Road WB off ramp	CFX	100%		417	CFX
SR 417 and World Center Parkway	CFX	100%		417	CFX
SR 417 and Landstar Boulevard EB off ramp	CFX	100%		417	CFX
SR 417 and Landstar Boulevard WB off ramp	CFX	100%		417	CFX
SR 417 and Moss Park Road NB ramp	CFX	100%		417	CFX
SR 417 and Moss Park Road SB ramp	CFX	100%		417	CFX
Valencia College Lane and William C Coleman Drive	CFX	100%		408	CFX
SR 417 and University Boulevard NB off ramp	CFX	100%		417	CFX
SR 417 and University Boulevard SB off ramp	CFX	100%		417	CFX
SR 429 and West Road NB off ramp	CFX	100%		429	CFX
SR 429 and West Road SB off ramp	CFX	100%		429	CFX
SR 429 and Connector Road/SR 414	CFX	100%		429	CFX
SR 429 and Connector Road/Plymouth Sorrento Road	CFX	100%		429	CFX

EXHIBIT "B"
TRAFFIC SIGNAL MAINTENANCE COST SCHEDULE

	TYPE	PER HOUR COST
LABOR	Drive Time	N/A
	Emergency Repair Time Monday-Friday 7:30 am to 4:30 pm	\$87.00
	Emergency Repair Time Monday-Friday 4:30 pm to 7:30 am	\$110.00
	Emergency Repair Time 4:30 pm Friday to 7:30 am Monday	\$110.00
	Emergency Overtime	\$110.00
EQUIPMENT	Bucket Truck	\$93.00
	Lift Truck	\$93.00
	Auger/Crane Truck	\$144.00
	Service Vehicle	\$58.00
	Other	N/A
	TYPE	PER UNIT COST
MATERIALS	Load Switch (FDOT Cert# 1620221401)	\$24.00
	Flashers (FDOT Cert# 1631221401)	\$24.00
	Detectors A. Rack Mount 1. 2-Channel (FDOT Cert #1351221402)	\$120.00
	Detectors B. Shelf Mount 1. 1-Channel (FDOT Cert #1351221405)	\$95.00
	2. 1-Channel w/Delay (FDOT Cert #1351221406)	\$119.00
	Fan 110 -120 VAC 5" w/Roller Bearing	\$24.00
	Pull Box (Small) A. 12" x 24" x 12" Pull Box w/Heavy Duty Lid	\$230.00
	B. 17" x 30" x 12" Pull Box w/Heavy Duty Lid	\$360.00
	C. 24" x 36" x 18" Pull Box w/Heavy Duty Lid	\$675.00
	D. 39" Round x 39" Deep Pull Box w/Heavy Duty Lid	\$1710.00
	Cabinet (New) Cabinet Type 5 Wired (FDOT Cert# 1444040101)	\$8150.00 off system
	Controller NEMA TS2 Type 2 Controller - Eagle EPAC M-52 (FDOT Cert# 1552080102)	\$2987.00

EXHIBIT "B"
TRAFFIC SIGNAL MAINTENANCE COST SCHEDULE (cont.)

	TYPE	PER UNIT COST
MATERIALS (Cont.)	Bulb	\$6.50
	20 Watt Florescent	
	LED Bulb (GYR)	\$133.00
	A. 12" Green LED	
	B. 12" Yellow LED	\$96.00
	C. 12" Red LED	\$68.00
	D. 12" Green LED - Arrow	\$108.00
	E. 12" Yellow LED - Arrow	\$103.00
	F. 12" Red LED - Arrow	\$65.00
	LED Ped Module	\$345.00
	A. 12" LED Countdown Standard 1-Way	
	B. 12" LED Countdown Standard 2-Way	\$745.00
	Conflict Monitor (Repair)	\$86.00
	A. Repair - Malfunction Management Unit 16LE (FDOT Cert# 1611080203)	
	B. Replace - Malfunction Management Unit 16LE (FDOT Cert# 1611080203)	\$865.00
OTHER MATERIALS	Ped Button	\$51.00
	ADA Ped Pushbutton (FDOT Cert# 1390201109)	
INSTALLATIONS	(As Needed): Cost plus 15%	
	Loops (Vehicle Detection)	
	"B" Loop	\$650.00
PREVENTIVE MAINT.	"F" Loop	\$950.00
	(Per Intersection/Per Month)	\$87.00

*** NOTE:** REPLACEMENTS AND NEW INSTALLATIONS SHALL BE BID ON A TIME PLUS MATERIALS BASIS. ALL MATERIALS AND INSTALLATIONS SHALL BE IN ACCORDANCE WITH FDOT STANDARDS & SPECIFICATIONS.

EXHIBIT "C"
TRAFFIC SIGNAL MAINTENANCE INSPECTION LIST

Circle One

- | | | | |
|----|--|-----|----|
| 1. | SIGNAL OPERATION: | | |
| | a. Observed operation for one complete cycle | YES | NO |
| 2. | INSPECT THE TRAFFIC SIGNAL ASSEMBLY: (Look for the following) | | |
| | a. Bulbs and/or LED degradation | YES | NO |
| | b. Broken signal heads, visors, lens | YES | NO |
| | c. Broken or loose brackets | YES | NO |
| | d. Loose disconnect hanger and door | YES | NO |
| 3. | ELECTRIC SERVICE: | | |
| | a. Conduit riser secure | YES | NO |
| | b. Meter/can "safe" | YES | NO |
| | c. Secure breaker cover | YES | NO |
| 4. | POLES: | | |
| | a. Rake appearance OK | YES | NO |
| | b. Any visible breakage within pole | YES | NO |
| 5. | PEDESTRIAN SIGNALS: | | |
| | a. Signal heads, lens, bulb broken or out | YES | NO |
| | b. Sign OK | YES | NO |
| | c. Push button detector operational | YES | NO |
| 6. | CABINET AND BASE: | | |
| | a. Secure and weather tight | YES | NO |
| | b. Any visible damage to cabinet or base | YES | NO |
| 7. | CABINET INTERIOR: | | |
| | a. Detectors tuned | YES | NO |
| | b. Random checked conflict monitor | YES | NO |
| | c. Observed flash condition, including police door | YES | NO |
| | d. Observed controller operation | YES | NO |
| | e. Checked pre-empt if possible | YES | NO |
| | f. Checked time clock operation | YES | NO |
| | g. Cleaned cabinet interior | YES | NO |
| | h. Checked status of system (online/ offline) | YES | NO |
| | i. Observed that cameras and camera system are working | YES | NO |
| 8. | SOLAR POWERED SIGNALS: | | |
| | a. Checked security of panels | YES | NO |
| | b. Reviewed program of operation | YES | NO |
| | c. Observed operation | YES | NO |
| | d. Checked batteries | YES | NO |

EXHIBIT "D"

AGREEMENT FOR RENEWAL OF TRAFFIC SIGNAL MAINTENANCE AGREEMENT

This AGREEMENT FOR RENEWAL (the "Agreement"), effective as of the date it is last executed by the parties hereto and approved by the Winter Garden City Commission, is entered into between THE CITY OF WINTER GARDEN (the "Owner"), a Florida municipal corporation, whose address is 300 West Plant Street, Winter Garden, Florida 34787, and TRAFFIC ENGINEERING AND MANAGEMENT, LLC, d/b/a CONTROL SPECIALISTS, a Florida Limited Liability Company, whose address is 707 Nicolet Avenue, Suite 100, Winter Park, Florida 32789 (the "Contractor").

RECITALS

WHEREAS, in or around December, 2009, Owner and Contractor's predecessor-in-interest, Control Specialists Company, a Florida corporation, entered into that certain Traffic Signal Maintenance Agreement (the "2009 Agreement"), attached hereto as Schedule "A"; and

WHEREAS, the 2009 Agreement, whose initial term was one (1) year, was renewed by the parties in or around December, 2010, for a period of five years, in accordance with paragraph two (2) of the 2009 Agreement; and

WHEREAS, in or around the year 2013, as part of a business restructuring, that portion of Control Specialists Company's business operations related to traffic signal construction and maintenance was transferred to Contractor, who continues to do business under the name of "Control Specialists," and who has subsequently performed under the 2009 Agreement as successor-in-interest and/or agent of Control Specialists Company; and

WHEREAS, on or about February 17, 2014, Exhibit "A" to the 2009 Agreement, listing traffic signal intersections maintained under the contract, was updated to its current form by mutual consent of the parties; and

WHEREAS, on or about February 17, 2014, the parties agreed to an increase in compensation to reflect Contractor's increased costs, and modified the cost schedule attached to the 2009 Agreement as Exhibit "B" to its current form; and

WHEREAS, Owner and Contractor wish to renew the 2009 Agreement as modified by the terms herein agreed upon, subject to approval by the Winter Garden City Commission.

NOW THEREFORE, in consideration of the above recitals, the mutual promises herein contained and \$10 and other good and valuable considerations, receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. **RECITALS.** The above recitals are true and correct and are incorporated as material provisions into this Agreement.

2. **RENEWAL.** All terms of the 2009 Agreement are hereby incorporated into this Agreement as if set forth in full herein, unless expressly modified or otherwise incompatible with the terms of this Agreement. In the event of any conflict between the 2009 Agreement and this Agreement, this Agreement shall control.

3. **TERM.** The last sentence of paragraph two (2) of the 2009 Agreement is deleted and replaced with the following:

The rates described in the Cost Schedule attached to the 2009 Agreement as Exhibit "A," or any subset thereof, are subject to increase, not to exceed five percent (5%) in a given year, provided that Owner deems such rate increase reasonable in light of increased costs to Contractor and assents in writing.

4. **WHEN EFFECTIVE.** This Agreement shall have no effect unless and until it is approved by the Winter Garden City Commission and executed by the parties, whichever occurs last, at which time its initial term shall begin and the 2009 Agreement shall be completely terminated and replaced by this Agreement.

5. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties hereto with respect to its subject matter. This Agreement supersedes any and all prior agreements, discussions, negotiations, arrangements, or understandings, whether written, oral or implied, with respect to the subject matter of this Agreement.

6. **PUBLIC RECORDS LAWS.** Contractor acknowledges and agrees that Owner is a public entity that is subject to Florida's public records laws and as such, documents in Contractor's possession relating to performance under this Agreement may be subject to inspection pursuant to Chapter 119, Florida Statutes, unless otherwise exempt under applicable law. It is hereby specifically agreed that any record, document, computerized information and program, e-mail, audio or video tape, photograph, or other writing of the Contractor, its representatives, employees, subcontractors, sub-subcontractors, agents, entities, and its independent contractors and associates related, directly or indirectly, to this Agreement (collectively the "Agreement Records"), shall be deemed to be a public record, whether in the possession or control of Owner or Contractor, unless determined not to be a public record, or to be otherwise exempt from disclosure, by Owner in its sole discretion. Any Agreement Record that has not been determined by Owner, in its sole discretion, to be exempt from the public records laws, shall be subject to inspection by the public in accordance with the provisions of Chapter 119, Florida Statutes, and other applicable laws and regulations, on the same terms and conditions as Owner's public record inspection policies. To ensure that Agreement Records that are exempt or confidential under the public records laws are not disclosed, Contractor shall not disclose any Agreement Record in response to a public record request from a member of the public without first obtaining written permission from Owner. While in the possession and control of Contractor, its representatives, employees, subcontractors, sub-subcontractors, agents, entities, independent contractors, and associates, all Agreement Records shall be secured, maintained, preserved, and retained in a manner consistent with the public records laws, at Contractor's expense, and Contractor shall not destroy an Agreement Record without Owner's authorization. Upon request by Owner, Contractor shall, at Contractor's expense, within

five (5) business days, supply a copy or copies of any Agreement Record to Owner. All Agreement Records shall, at any and all reasonable times during the normal working hours of Contractor, be open and freely exhibited to Owner for the purposes of examination and/or audit. Since Owner's documents are of utmost importance to the conduct of Owner's business and because of the legal obligations applicable to Owner and which may be applicable to Contractor under the public records laws, Contractor agrees that it shall, under no circumstances, withhold possession of any Agreement Record, including originals, copies or electronic images thereof when such are requested by Owner, regardless of any contractual or other dispute that may arise between Contractor and Owner. Upon termination or expiration of this Agreement, Contractor shall transfer to Owner, at Contractor's expense, all Agreement Records in the possession of Contractor and its representatives, employees, subcontractors, sub-subcontractors, agents, entities, independent contractors, and associates, and shall, at Owner's direction, destroy any duplicate public records that are exempt or confidential under the public records laws. All Agreement Records stored electronically must be provided to Owner in a format that is compatible with the information technology systems of Owner. This Paragraph Six (6) survives expiration and termination of the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date last executed and approved below.

CITY OF WINTER GARDEN

Michael Bollhoefer
Michael Bollhoefer, City Manager

Aug. 27, 2015
Date

Approved by the Winter Garden City Commission as of Aug 27, 2015, as attested by Kathy Golden, whose position is City Clerk.

Kathy Golden

**TRAFFIC ENGINEERING AND
MANAGEMENT, LLC, d/b/a CONTROL
SPECIALISTS**

W. Bruce O'Donoghue
Signature

W. Bruce O'Donoghue
Print Name

Business Manager
Position

08-25-2015
Date

Schedule "A"

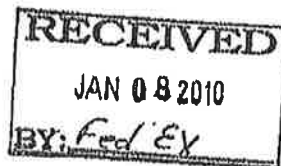
CITY OF WINTER GARDEN TRAFFIC SIGNAL MAINTENANCE AGREEMENT

THIS AGREEMENT made and entered into this 10th day of December, 2009 by and between the CITY OF WINTER GARDEN, hereinafter referred to as "OWNER", and CONTROL SPECIALISTS COMPANY, INC., hereinafter referred to as "CONTRACTOR".

1. **SCOPE OF WORK.** The Contractor shall be available on the request of the Owner to provide emergency repair, planned maintenance, new installations of traffic lights, caution lights, school flashers and roadway safety lighting. Please refer to Exhibit A: Traffic Signal Intersections Maintained and Operated for The City of Winter Garden (attached).
2. **TERM.** This Agreement shall be for an initial term of one (1) year from the date of the Agreement; however, the Owner shall have the right to cancel and terminate this Agreement, in its sole discretion, during the term thereof, upon giving written notice to the Contractor at least ninety (90) days prior to the intended date of termination. In the event of termination the Contractor shall be entitled to receive payment for services and work performed and materials and/or equipment furnished under the terms of this Agreement as directed by the Owner up to the date of termination provided it is acknowledged that the Contractor shall not be entitled to any damage liquidated or otherwise caused as a result of such termination.

It is mutually agreed between both parties that this Agreement may be extended at the expiration of the initial term for a period of one (1) to five (5) years from the anniversary date of the expiration of the original term, upon the same terms and conditions specified herein. Rates are subject to change, but not to exceed five percent (5%) in a given year.

3. **EXECUTION OF WORK.** The Contractor shall execute the work under this Agreement in the following manner:
 - a) The Contractor certifies that it is a full-time specialized contractor in the State of Florida, and is pre-qualified by the Florida Department of Transportation to perform said work and has the capability and expertise to install and maintain traffic signals for the Owner.
 - b) The Contractor shall provide emergency repair, planned maintenance, new installations of traffic lights, caution lights, school flashers and roadway safety lighting as requested and directed by the Owner's designated personnel, hereinafter referred to as Director.
 - c) The Contractor shall provide qualified employees of the Contractor who shall be available at all times, day and night, for on-site consultation with the



Director regarding traffic signal issues. The Contractor shall furnish the name and telephone number of such representatives to the Director upon execution of this Agreement.

- d) The Contractor shall at all times maintain emergency response vehicles which will be utilized to respond to emergency maintenance calls during the term of this Agreement. This emergency vehicle will have rotating beacons on front and center or rear.
- e) The Contractor, in performing any work under this Agreement, shall utilize protective signing, flashers, cones and flag persons in compliance with the "Manual on Traffic Controls and Safety Practices for Street and Highway Construction, Maintenance and Utility Operation", Sections 1 through 15, published by the Florida Department of Transportation.
- f) The Contractor shall be responsible for making all arrangements with public or private utility companies to ensure underground and overhead clearances and construction liaison when needed.
- g) The Contractor shall promptly notify the Director of the disablement of any piece of equipment of any system due to an accident, or other cause such as damaged cable, broken parts or other difficulties, when such piece of equipment cannot be readily repaired making it necessary to discontinue operation of all or part of the installation.
- h) The Contractor shall promptly report to the Director any unauthorized construction or repair work by others on the Owner's equipment being maintained under this Agreement. The Contractor shall also report any construction or repair work in progress that may endanger or damage the equipment of the Owner's system.
- i) The Contractor shall act in the best interest of the Owner in selection of material and equipment which has been authorized for purchase by the Director. In addition, the Contractor shall advise and assist the Director regarding the settlement of claims on defective materials and equipment used in traffic signal, school flasher and highway safety equipment when purchased by the Contractor.

4. JOB NUMBERS:

- a) The Contractor, prior to commencement on any routine maintenance, shall receive a Purchase Order Number from the Director. Upon completion of the work the Contractor shall notify the Director of the scope, nature and

cost of such work performed. Exhibit "C" Traffic Signal Maintenance Inspection List shall be completed with each routine maintenance inspection.

- b) The Contractor, at the beginning of each month, shall submit to the Director a copy of all invoices for approval of payment. A separate invoice shall be used to identify each job.
 - c) The Contractor shall be issued a separate Purchase Order and Job Number from the Director prior to the commencement of any work to be performed for non routine maintenance, construction, major repairs and capital purchases. If the Director orally directs that a repair be made during non-working hours, a Job Number will be issued to the Contractor on the next normal day of operation to cover the pre-authorized cost of the repair.
5. COMPENSATION: The Owner shall pay the Contractor for work performed as outlined in Exhibit "B".
6. EXTRA WORK: It is understood and agreed under this Agreement that the Contractor shall hold itself ready at all times to perform emergency planned maintenance for the Owner on traffic lights, caution lights, school flashers and roadway safety lighting. In addition, the Owner shall have the Contractor perform the installation and construction of new equipment for the Owner under this Agreement. This includes major repairs or major changes in any system. The new construction or major repairs shall be performed only after receiving written notice from the Owner. If the Contractor desires to perform any work or project involving new installations or major repairs, the Contractor shall furnish the Owner with a firm price for all the work necessary to perform such major repair or to complete such new construction.
7. TIME AND CHARGES: If it becomes necessary to install a temporary controller due to damage to a traffic signal which changes the timing or sequence, or any other special feature of a traffic signal, the Director shall be notified in writing giving the reason for the change, the nature of the change and the approximate date the traffic signal shall be returned to normal service. The Director shall also be notified in writing within a reasonable time when the original equipment has been repaired and replaced. The Director must authorize any and all timing changes on Owner's traffic signals. Whenever the Director determines a condition that warrants the modification of timing or dial settings on traffic control systems, the Director shall advise the Contractor of such changes and the Contractor shall keep timing and dial setting in accordance with the Director's instructions at all times. If the Director is unavailable in the event of an emergency the Contractor shall make such time changes as are necessary.
8. CONTRACTOR'S RECORDS: The Contractor shall maintain records in accordance with generally accepted accounting practices to document its costs and expenditures under this Agreement. The Contractor hereby grants the Owner and its duly authorized

representative's permission to audit and review any and all of the Contractor's records pertaining to the Agreement. The Contractor shall furnish the Owner all Invoices and statements for which it requests reimbursement.

9. **METHOD OF PAYMENT:** Upon completion of all work under a Purchase Order and/or Job Number, the Contractor shall submit an Invoice to the Director for approval. The Invoice shall reference the Purchase Order and/or Job Number, the date, time, location, reporting agencies, repairs made and the itemized costs.
10. **PERFORMANCE BOND AND LABOR/MATERIAL BOND:** The Contractor shall post a labor and material bond in the amount of \$10,000.00 which shall guarantee payment by the Contractor of all sums of money due for any labor and materials furnished under this Agreement. The Contractor shall also furnish a performance bond in the sum of \$10,000.00 which shall guarantee performance of any and all duties under this Agreement. For new construction or other major projects, the Owner may require a bond of a greater amount.
11. **INSURANCE:** The Contractor shall provide and maintain at all times during this Agreement, without cost or expense to the Owner, policies of insurance generally known as liability policies, insuring the Contractor against any and all claims, demands and causes of action whatsoever for injuries received and damage to property in connection with this Agreement. Said policies shall insure the Contractor in the amount of not less than \$1,000,000.00 per person, in the amount of not less than \$1,000,000.00 to cover any and all claims arising in connection with any particular accident or occurrence and property damage insurance in the amount of \$1,000,000.00. The Contractor shall provide and maintain Worker's Compensation Insurance as required by Florida State Statute 440. The Owner shall be entitled to thirty (30) days notice of any change or cancellation in said policies. The Owner shall be named as additional insured under any and all public liability policies.
12. **FINAL PAYMENT:** The Owner shall hold the final payment due the Contractor until all equipment has been inspected and inventoried. The costs of any equipment unaccounted for, or deficiencies in workmanship during the year, shall be subtracted from the final Agreement payment. A complete inventory, including a list of all field and traffic equipment supplied by the Owner, shall be made prior to the beginning and termination of the Agreement.
13. **INDEPENDENT CONTRACTOR:** The Contractor shall perform the conditions of this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Agreement shall be in any way construed to constitute the Contractor, or any of its agents or employees as the agent, employee or representative of the Owner.

The Contractor agrees that they shall be solely responsible to parties with whom they shall deal in carrying out the terms of this Agreement and shall be responsible for the agreements they shall make with the third party or for those obligations incurred by the Contractor to such third parties in carrying out the terms of this Agreement.

14. TERMINATION FOR CAUSE: If, through any cause, the Contractor shall fail to fulfill in a timely manner its obligations under this Agreement, or if the Contractor shall violate any of the covenants, agreements or stipulations of this Agreement, the Owner shall have a right to terminate this Agreement by giving written notice to the Contractor of such termination, specifying the effective date thereof, at least ten (10) days before the effective date of such termination.
15. PERSONAL SERVICE CONTRACT: This Agreement is not assignable by the Contractor without the expressed written consent of the Owner.
16. ENTIRE AGREEMENT: It is agreed that neither party has made any statement, promise or agreement, nor taken upon itself any engagement whatsoever, verbally or in writing, in conflict with the terms of this Agreement, or in any way that modifies, carries, alters, enlarges or invalidates any provision hereof.
17. SEVERABILITY: In the event a Court of Competent Jurisdiction finds any sentence, provision, paragraph or section of this Agreement null and void, the remaining parts of this Agreement shall continue in full force and effect as though such sentence, provision, paragraph or section has been omitted from this Agreement.

CONTRACTOR

Signature/Date

CITY OF WINTER GARDEN

Signature/Date

WITNESS

Signature/Date

CITY CLERK

Signature/Date

12-21-09