

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

AGENDA  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
BOARD MEETING  
April 11, 2019  
9:00 a.m.

Meeting location: Central Florida Expressway Authority  
Board Room  
4974 ORL Tower Road  
Orlando, FL 32807

**A. CALL TO ORDER / PLEDGE OF ALLEGIANCE**

**B. PUBLIC COMMENT**

Pursuant to Rule 1-1.011, the governing Board for CFX has set aside at least 15 minutes at the beginning of each regular meeting for citizens to speak to the Board on any matter of public interest under the Board's authority and jurisdiction, regardless of whether the public interest is on the Board's agenda but excluding pending procurement issues. Each speaker shall be limited to 3 minutes.

**C. APPROVAL OF MARCH 14, 2019 BOARD MEETING MINUTES (action Item)**

**D. APPROVAL OF CONSENT AGENDA (action Item)**

**E. REPORTS**

1. Chairman's Report
2. Treasurer's Report
3. Executive Director's Report

**F. REGULAR AGENDA ITEMS**

1. **LAKE/ORANGE COUNTY CONNECTOR PROJECT DEVELOPMENT & ENVIRONMENT (PD&E) STUDY** – *Glenn Pressimone, Director of Engineering and William Sloup, Metric Engineering (info. item)*
2. **GENERAL COUNSEL POSITION** – *Jay Madara, Chairman (action item)*
3. **SUSTAINABILITY PLAN** – *Glenn Pressimone, Director of Engineering and Terry Blalock, Stanley Consultants (action item)*

**G. BOARD MEMBER COMMENT**

(CONTINUED ON PAGE 2)

H. ADJOURNMENT

This meeting is open to the public.

Section 286.0105, Florida Statutes states that if a person decides to appeal any decision made by a board, agency, or commission with respect to any matter considered at a meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability as defined by the ADA needs special accommodation to participate in this proceeding, then not later than two (2) business days prior to the proceeding, he or she should contact the Central Florida Expressway Authority at 407-690-5000.

Persons who require translation services, which are provided at no cost, should contact CFX at (407) 690-5000 x5316 or by email at [lrnetta.dennis@CFXway.com](mailto:lrnetta.dennis@CFXway.com) at least three business days prior to the event.

C.

APPROVAL OF  
BOARD MEETING MINUTES

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**MINUTES  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
BOARD MEETING  
March 14, 2019**

**Location: Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807  
Board Room**

Board Members Present:

Commissioner Brenda Carey, Seminole County (Vice Chairman)  
Mayor Buddy Dyer, City of Orlando (Treasurer)  
Mayor Jerry Demings, Orange County  
Commissioner Fred Hawkins, Jr., Osceola County  
Andria Herr, Gubernatorial Appointment  
Commissioner Leslie Campione, Lake County  
Commissioner Betsy VanderLey, Orange County

Board Members Appearing by Phone:

S. Michael Scheeringa, Gubernatorial Appointment

Board Members Not Present:

Jay Madara, Gubernatorial Appointment (Chairman)  
Commissioner Curt Smith, Brevard County

Staff Present at Dais:

Laura Kelley, Executive Director  
Joseph L. Passiatore, General Counsel  
Mimi Lamaute, Recording Secretary

Non-Voting Advisor Not Present:

Paul Wai, Florida's Turnpike Enterprise

**A. CALL TO ORDER**

The meeting was called to order at 9:00 a.m. by Vice Chairman Carey.

## **B. PUBLIC COMMENT**

The following individuals commented on the Osceola Parkway Extension project:

- Catherine Lewis, Resident of Lake Ajay Village. Ms. Lewis distributed maps and pictures attached as **Exhibit "A"**
- Bob Turner, Resident of Lake Ajay Village

## **C. APPROVAL OF MINUTES**

**A motion was made by Commissioner Hawkins and seconded by Mayor Dyer to approve the February 21, 2019 Board Meeting Minutes as presented. The motion carried unanimously with seven (7) members present voting AYE by voice vote. One (1) member, Mr. Scheeringa voting AYE by phone. Chairman Madara and Commissioner Smith were not present.**

## **D. APPROVAL OF CONSENT AGENDA**

The Consent Agenda was presented for approval.

### **CONSTRUCTION**

1. Approval of Construction Contract Modifications on the following projects:
  - a. Project 408-128 Lane Construction Corp. \$ 286,150.90
  - b. Project 408-742A Preferred Materials, Inc. \$ 280,816.53
  - c. Project 429-654D Southland Construction, Inc. (\$ 169,598.93)
  - d. Project 417-134 Hubbard Construction Co. (\$ 552,653.00)

### **ENGINEERING**

2. Approval of Fourth Contract Renewal with CH2M Hill, Inc. for Wekiva Parkway Corridor Consultant Services, Contract No. 000746 (Agreement Value: \$0)
3. Approval of First Contract Renewal with Pegasus Engineering, LLC, for Miscellaneous Design Consultant Services, Contract No. 001161 (Agreement Value: \$830,000.00)
4. Approval of Supplemental Agreement No. 2 with RS&H, Inc. for the Osceola Parkway Extension Project Development and Environmental Study from Nova Road to Cyrils Drive, Project 599-223, Contract No. 001250 (Agreement Value: \$722,294.22)
5. Approval of Contract Award to Moffatt & Nichol, Inc. for Design Consultant Services for SR 429 Widening from West Road to SR 414, Project 429-153, Contract No. 001396 (Agreement Value: \$5,160,000.00)

### INTERNAL AUDIT

6. Acceptance of Internal Audit Reports:
  - a. Payment Card Industry Assessment with Report on Compliance
  - b. Department of Highway Safety and Motor Vehicles Data Security Assessment
  - c. Procurement and Contract Billing Audits

### LEGAL

7. Approval of Access and Continuing Maintenance Agreement with City of Apopka for the Belgian Street Bridge over the Wekiva Parkway, Project 429-202, Parcel 124, Stanton Ridge Subdivision (Agreement Value: \$0)
8. Approval of Second Contract Renewal with Mateer & Harbert, P.A. for Right of Way Counsel Services, Contract No. 001116 (Agreement Value: \$0)

### RECORDS RETENTION

9. Authorization to Execute Cooperative Purchase Agreement with Retrievox Acquisition LLC II for Offsite Records Storage Services, Contract No. 001523 (Agreement Value: not-to-exceed \$108,000.00)

### TOLL OPERATIONS/TECHNOLOGY

10. Approval of Second Contract Renewal with TC Delivers, Inc. for Toll Operations Printing and Mailing Services, Contract No. 001085 (Agreement Value: \$72,600.00)
11. Approval of Final Ranking and Contract Award to DRMP, Inc. for Design Consultant Services for Wrong-Way Driving Deployment, Project 599-526C, Contract No. 001438 (Agreement Value: \$310,000.00)
12. Approval of Contract Award to United Signs & Signals, Inc. for Supplemental Data Collection Sensor and Close-Circuit Television Deployment, Project 599-537, Contract No. 001464 (Agreement Value: \$6,414,469.00)

Commissioner VanderLey requested that Item #11 be pulled for separate consideration. She stated that she will abstain from voting on Item #11, due to a conflict of interest with DRMP, Inc. (Form 8B, Memorandum of Voting Conflict Form, attached as **Exhibit "B"**).

**A motion was made by Commissioner VanderLey and seconded by Commissioner Campione to approve the Consent Agenda except for item #11. The motion carried unanimously with seven (7) members present voting AYE by voice vote. One (1) member, Mr. Scheeringa voting AYE by phone. Chairman Madara and Commissioner Smith were not present.**

**A motion was made by Commissioner Hawkins and seconded by Commissioner Campione to approve Consent Agenda Item #11. The motion carried unanimously with six (6) members present voting AYE by voice vote. One (1) member, Mr. Scheeringa voting AYE by phone. Commissioner VanderLey abstained from voting. Chairman Madara and Commissioner Smith were not present.**

## **E. REPORTS**

### **1. CHAIRMAN'S REPORT**

- The Chairman recognized the heroic actions of CFX Road Ranger, Garrett Popovich. Mr. Popovich witnessed a submerged vehicle on SR 417 and Lake Nona. He dove into the pond, heroically saving the driver's life.

Commissioner Herr read the Proclamation proclaiming March 14, 2019 as Road Ranger Garrett Popovich Day.

**A motion was made by Mayor Dyer and seconded by Commissioner Hawkins to approve the Proclamation proclaiming March 14, 2019 as Road Ranger Garrett Popovich Day. The motion carried unanimously with seven (7) members present voting AYE by voice vote. One (1) member, Mr. Scheeringa voting AYE by phone. Chairman Madara and Commissioner Smith were not present.**

### **2. TREASURER'S REPORT**

Mayor Dyer reported total revenues year-to-date as of January were \$268,368,327, which is 1.3% over projection and 10.5% over prior year.

Total Operations, Maintenance and Administration expenses are \$42.6 million year-to-date, which is 9.1% under budget.

### **3. EXECUTIVE DIRECTOR'S REPORT**

Ms. Kelley provided the Executive Director's Report in written form. In addition, she expanded on the following:

- Process for the offer of the electronic toll rate to 20,000 pay-by-plate customers
- Details of Ms. Kelley's participation in the Good Morning Seminole panel
- Invitation to IBTTA Technology Summit on March 31<sup>st</sup>
- Update on Virgin USA Trains

## F. REGULAR AGENDA ITEMS

### 1. APPROVAL OF LEASE AMENDMENT AGREEMENT WITH WOMEN'S CARE OF FLORIDA, LLC

The Lease Amendment Agreement with Women's Care of Florida, LLC, which was pulled from last month's agenda for requested amendments, it is now being presented for approval.

**A motion was made by Mayor Demings and seconded by Commissioner Campione to approve the Lease Amendment Agreement with Women's Care of Florida, LLC. The motion carried unanimously with seven (7) members present voting AYE by voice vote. One (1) member, Mr. Scheeringa voting AYE by phone. Chairman Madara and Commissioner Smith were not present.**

### 2. 2019 LEGISLATIVE UPDATE

Chief of Staff/Public Affairs Officer Michelle Maikisch provided an update on bills being tracked by CFX during the current legislative session.

(This item was presented for information only. No action was taken by the Board.)

### 3. STRATEGIC PLAN UPDATE

Chief of Staff/Public Affairs Officer Michelle Maikisch described the current CFX Strategic Plan and achieved performance measures. At a future Board meeting, recommendations for revisions and adoption of a revised strategic plan will be presented.

(This item was presented for information only. No action was taken by the Board.)

### 4. CONSTRUCTION UPDATE

Director of Construction Ben Dreiling and Resident Engineer Jack Burch provided an update on the status of CFX construction projects.

(This item was presented for information only. No action was taken by the Board.)



**5. VISITOR TOLL PASS TECHNOLOGY PREVIEW**

Chief of Technology Operations Corey Quinn provided technology details of the Visitor Toll Pass Program. The Visitor Toll Pass Program is a three-month pilot program consisting of an automated toll payment solution for visitors to Central Florida renting a car from the Orlando International Airport. It is the first of its kind with a U.S. patent pending.

(This item was presented for information only. No action was taken by the Board.)

**G. BOARD MEMBER COMMENT**

The following Board members provided comments:

- Commissioner VanderLey
- Ms. Herr

**H. ADJOURNMENT**

Vice Chairman Carey adjourned the meeting at 10:05 a.m.

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Commissioner Brenda Carey  
Vice Chairman  
Central Florida Expressway Authority

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Mimi Lamaute  
Recording Secretary  
Central Florida Expressway Authority

Minutes approved on \_\_\_\_\_, 2019.

*Pursuant to the Florida Public Records Law and the CFX Records & Information Management Program Policy, audiotapes of all Board and applicable Committee meetings are maintained and available upon request to the Custodian of Public Records at (407) 690-5326, [PublicRecords@CFXway.com](mailto:PublicRecords@CFXway.com), or 4974 ORL Tower Road, Orlando, FL 32807. Additionally, videotapes of Board meetings are available at the CFX website, [www.CFXway.com](http://www.CFXway.com).*

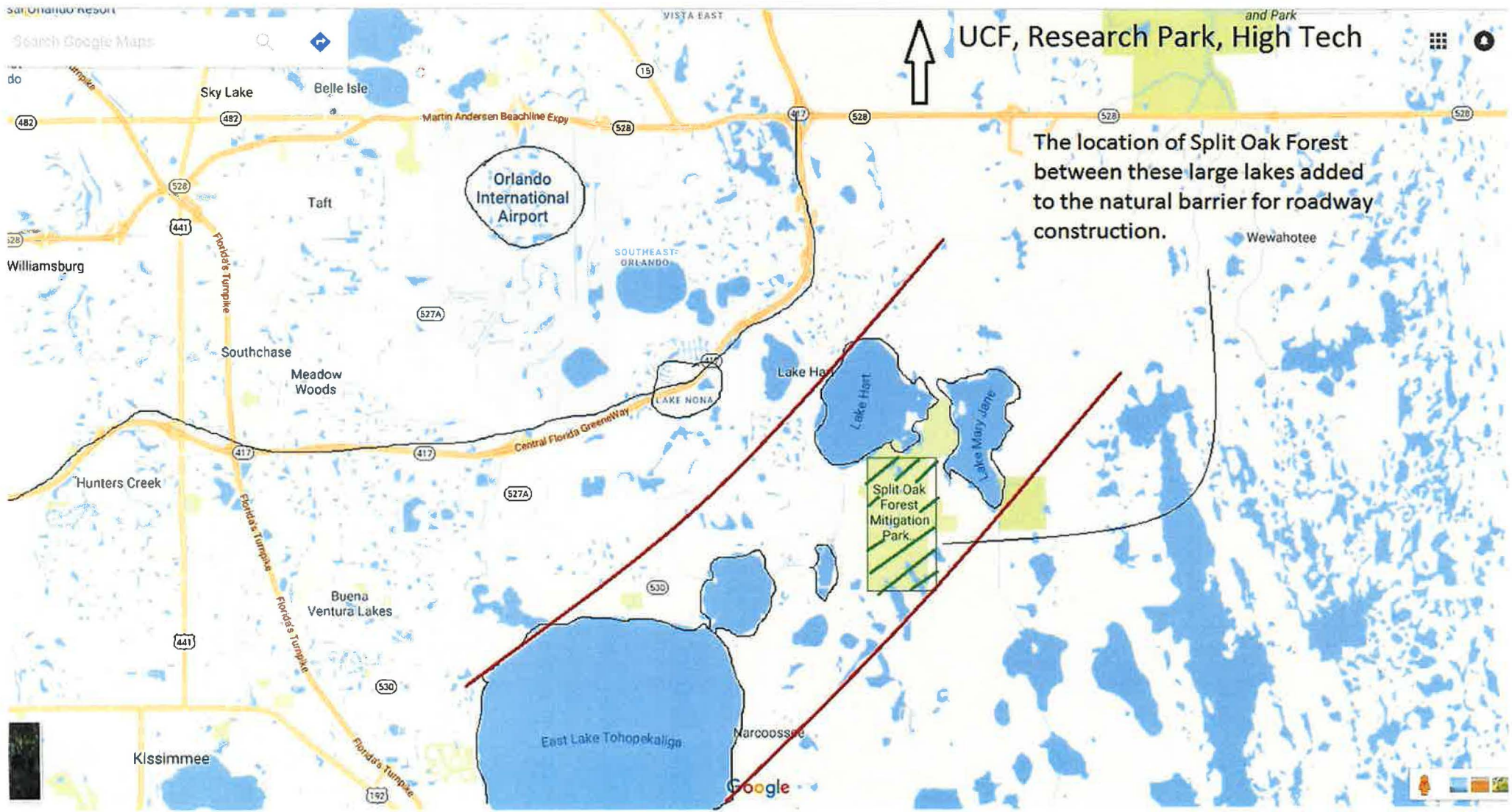


Exhibit "A"

ANNUAL MTG 11/15  
MEET & GREET 6:30  
MEETING 7  
EAGLECREEK GOLF CLUB  
10350 EMERSON BLVD

YARD SALE  
11/10 8-2

FRIENDSGIVING  
11/17 2-5  
BOAT RAMP  
\$5 PP

ACC  
MEETING

Monday, 11/12/18

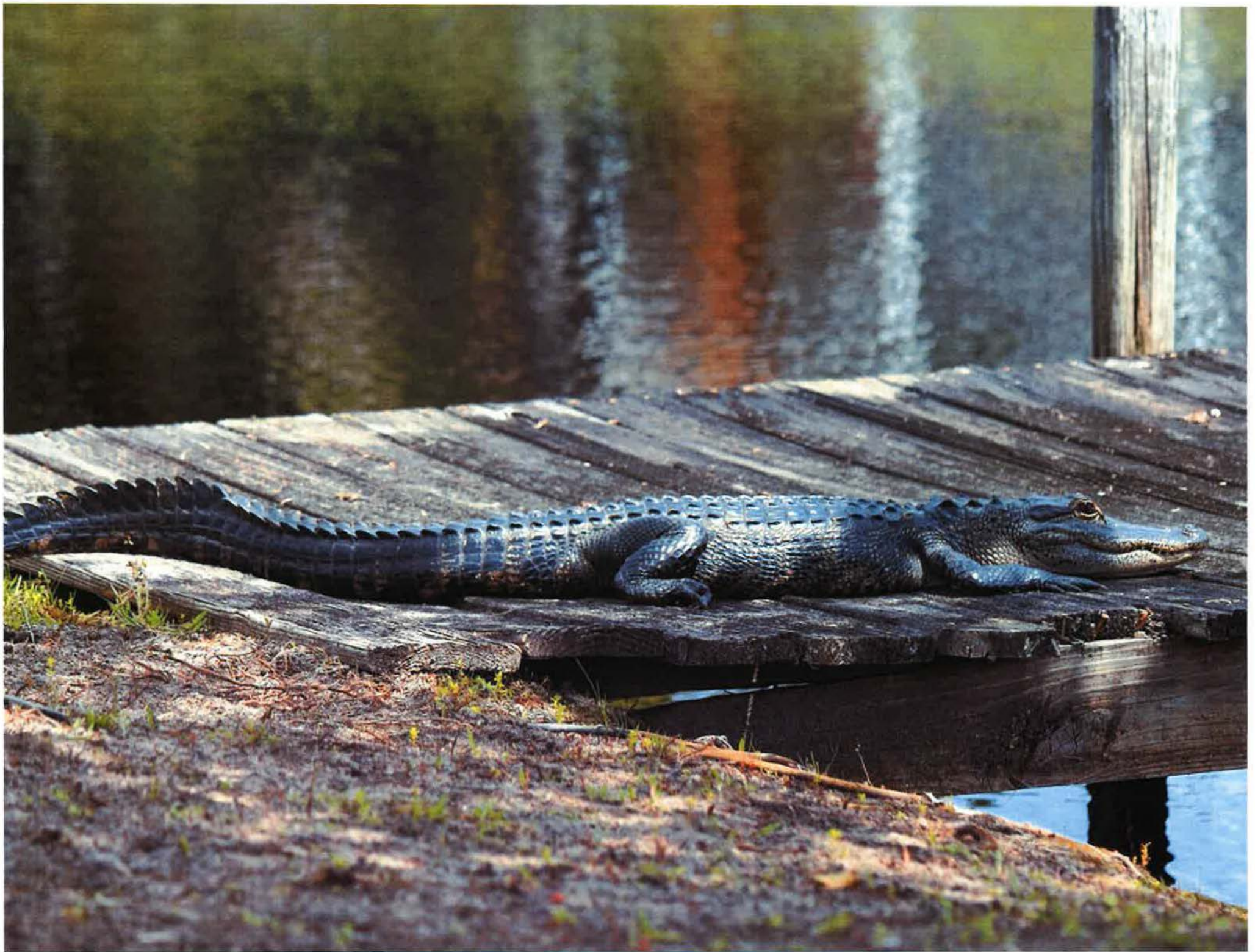
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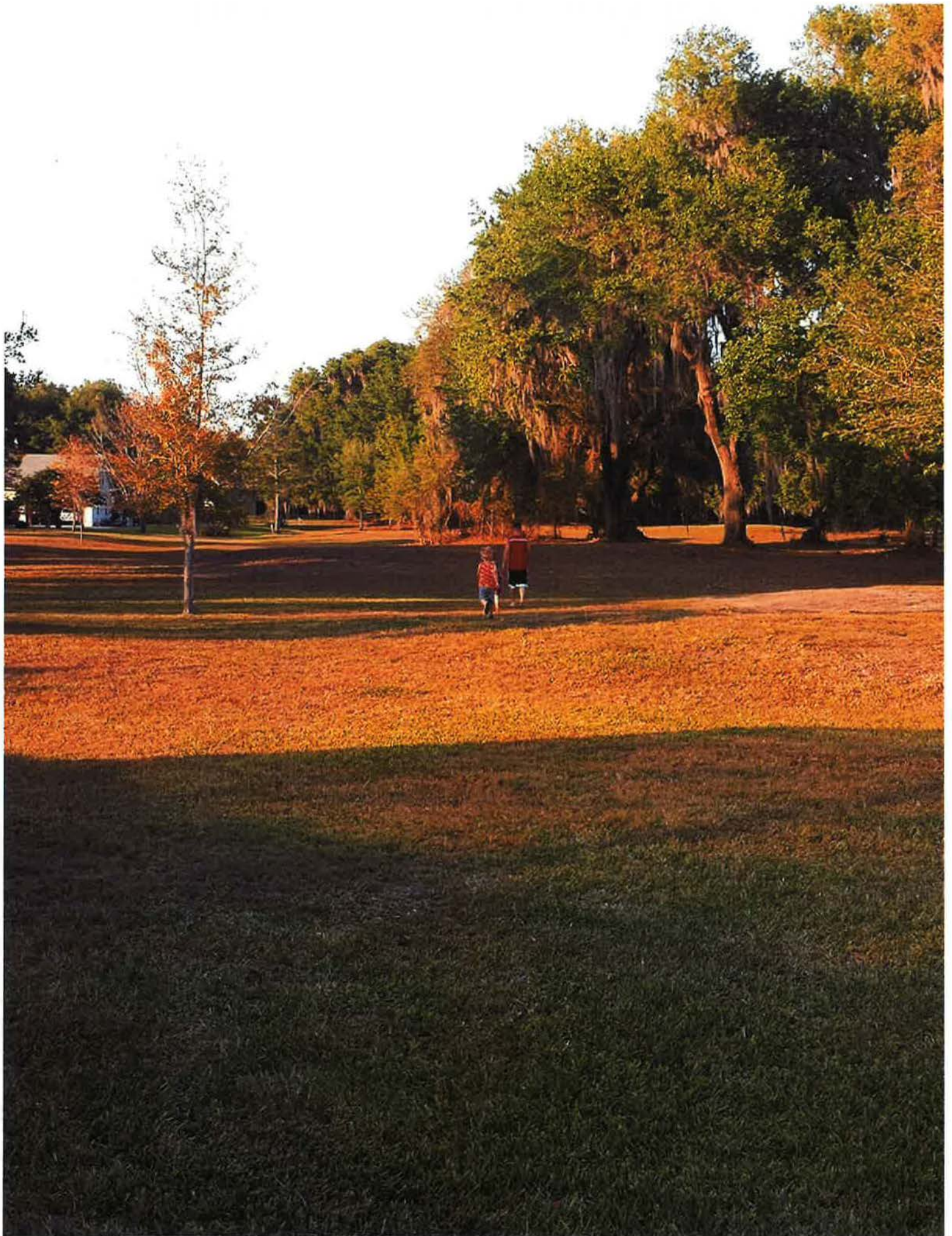


















# Exhibit "B"

## FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME VANDERLEY - BETSY - KAY		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE CENTRAL FLORIDA EXPRESSWAY AUTHORITY	
MAILING ADDRESS 201 S. ROSALIND AVE.		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY ORLANDO	COUNTY ORANGE	<input type="checkbox"/> CITY	<input type="checkbox"/> COUNTY
DATE ON WHICH VOTE OCCURRED 3/14/2019		NAME OF POLITICAL SUBDIVISION:	
		MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTEE	

### WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

### INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

#### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

#### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

### APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

### DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, BETSY VANDERLEY, hereby disclose that on MARCH 14TH, 20 19 :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_ ;
- inured to the special gain or loss of my relative, \_\_\_\_\_ ;
- inured to the special gain or loss of DRMP, INC., by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

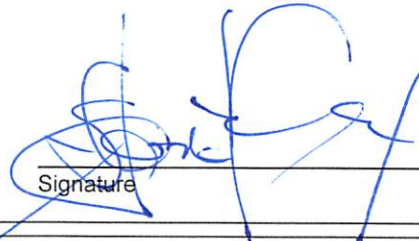
(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

Date Filed

3/18/19

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.



**D.**

Consent Agenda

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## CONSENT AGENDA April 11, 2019

### CONSTRUCTION

1. Approval of Construction Contract Modifications on the following projects:
  - a. Project 599-547 United Signs & Signals, Inc. \$ 38,570.02
  - b. Project 599-734 Southern Road & Bridge, LLC (\$ 760,404.64)
  - c. Project 528-131 SEMA Construction, Inc. \$ 112,202.39
  - d. Project 408-742A Preferred Materials, Inc. (\$ 221,302.96)

### ENGINEERING

2. Approval of Greenfield Diversified, LLC dba Consulex as a Subconsultant for the Miscellaneous Design Consultant Services Contract with Protean Design Group, Contract No. 001208
3. Approval of Supplemental Agreement No. 1 with DRMP, Inc. for Additional Design Services for SR 528/ SR 436 Interchange Improvements and SR 528 Widening from SR 436 to Goldenrod Road, Project 528-143, Contract No. 001314 (Agreement Value: \$526,668.10)
4. Approval of Contract Award to Preferred Materials, Inc. for SR 528 Milling & Resurfacing from Innovation Way to Dallas Boulevard, Project 528-749, Contract No. 001469 (Agreement Value: \$7,826,000.00)
5. Approval of Contract Award to Preferred Materials, Inc. for SR 528 Milling & Resurfacing from Dallas Boulevard to SR 520, Project 528-750, Contract No. 001470 (Agreement Value: \$7,829,000.00)
6. Approval of Contract Award to The Balmoral Group, LLC for Miscellaneous Design Consultant Services (SSBE), Contract No. 001497 (Agreement Value: not-to-exceed \$3,000,000.00)

### FINANCE

7. Approval of Contract Award for Banking Services to Wells Fargo Bank, N.A., Contract No. 001496 (Agreement Value: \$4,402,000.00)

### LEGAL

8. Approval of Negotiated Settlement Agreement with William H. Kelly a/k/a William Harvey Kelly, Sr.; William H. Kelly, Sr. a/k/a William H. Kelly a/k/a William Harvey Kelly; and William H. Kelly, Sr., as Trustee of the William H. Kelly, Sr. Revocable Trust, Project 429-204, Parcels 209 and 221 (Agreement Value: \$157,000)
9. Acceptance of Delivery of Quit Claim Deed from Orange County, Florida for the Partial Relocation and Sale of a Limited Access Line along Narcoossee Road, Project 455, Parcel 45-502 (Partial)
10. Approval of Right of Way Transfer Agreement with the City of Apopka, Project 429-604

TOLL OPERATIONS/TECHNOLOGY

11. Approval of Purchase Order to PC Solutions & Integrations, Inc. for Vendor Network Support and Maintenance (Agreement Value: not-to-exceed \$155,653.96)
12. Approval of Purchase Order to Dasher Technologies for Hewlett Packard Enterprise Server Storage Hardware and Installation Services, Project 599-533 (Agreement Value: not-to-exceed \$159,807.22)
13. Approval of Purchase Order to TransCore, LP for E-PASS Xtra Transponders (Agreement Value: \$568,200.00)

The following item is for information only:

14. The following is a list of advertisement(s) from March 5, 2019 through April 1, 2019:
  - a. SR 528 Milling & Resurfacing from SR 417 to Innovation Way
  - b. Construction Engineering & Inspection (CEI) Services for SR 528/SR 436 Interchange Improvements and SR 528 Widening from SR 436 to Goldenrod Road

**CONSENT AGENDA ITEM  
#1**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Ben Dreiling, P.E.  
 Director of Construction 

DATE: March 21, 2019

SUBJECT: Construction Contract Modifications

Authorization is requested to execute the following Construction Contract Modifications. Supporting detailed information is attached.

Project No.	Contractor	Contract Description	Original Contract Amount (\$)	Previous Authorized Adjustments (\$)	Requested (\$) April 2019	Total Amount (\$) to Date*	Time Increase or Decrease
599-547	United Signs & Signals, Inc.	Wekiva Parkway	\$ 1,118,178.09	\$ -	\$ 38,570.02	\$ 1,156,748.11	0
599-734	Southern Road & Bridge, LLC	Aesthetic Coatings Renewal	\$ 3,471,026.00	\$ -	\$ (760,404.64)	\$ 2,710,621.36	0
528-131	SEMA Construction, Inc.	SR 528 Econlockhatchee River Bridge Replacement	\$ 17,777,000.00	\$ 155,908.92	\$ 112,202.39	\$ 18,045,111.31	35
408-742A	Preferred Materials, Inc.	SR 408 Milling & Resurfacing, SR 50 to Ortman Dr.	\$ 8,590,671.59	\$ 731,760.42	\$ (221,302.96)	\$ 9,101,129.05	0
<b>TOTAL</b>					<b>\$ (830,935.19)</b>		

\* Includes Requested Amount for this current month.

Reviewed By: \_\_\_\_\_  
 Joseph A. Berenis, P.E., Chief of Infrastructure

**Project 599-547: Wekiva Parkway**  
**United Signs & Signals, Inc.**  
**SA 599-547-0419-01**

Miscellaneous Signage and Overlays

This item encompasses the addition of six overhead, five ground mount signs on SR 429 and one multi-post ground mount guide sign assembly on SR 453.

ADD THE FOLLOWING ITEMS:

Mobilization	\$	5,502.00
Maintenance of Traffic	\$	13,261.00
Single Post Sign, F&I, Ground Mount, Less Than 12 SF	\$	2,475.00
Multi-Post Sign, F&I, Ground Mount, 31-50 SF	\$	5,924.00
Sign Panel, F&I, Ground Mount, Overlay, Less Than 12 SF	\$	683.00
Sign Panel, F&I, Ground Mount, Overlay, 51-100 SF	\$	4,466.00
Sign Panel, F&I, Overhead Mount, Less Than 12 SF	\$	<u>6,259.02</u>
	\$	38,570.02

**TOTAL AMOUNT FOR PROJECT 599-547**

**\$ 38,570.02**

**Project 599-734: Aesthetic Coatings Renewal**  
**Southern Road & Bridge, LLC**  
**SA 599-734-0419-01**

Adjustments to Final Quantities for Completed Contract Items

Adjust quantities for completed pay items in the contract to reflect the actual field measured quantities installed.

DECREASE THE FOLLOWING ITEMS:

Portable Changeable Message Sign, Temporary	\$ (15,600.00)
Cleaning and Coating Concrete Surface, Treatment Scope 1	\$ (106,840.30)
Cleaning and Coating Concrete Surface, Treatment Scope 2	\$ (9,352.00)
Cleaning and Coating Concrete Surface, Treatment Scope 3	\$ (82,870.92)
Cleaning and Coating Concrete Surface, Treatment Scope 5	\$ (3,594.00)
Cleaning and Coating Concrete Surface, Treatment Scope 6	\$ (66,577.50)
Cleaning and Coating Concrete Surface, Treatment Scope 7	\$ (129,862.50)
Cleaning and Coating Concrete Surface, Treatment Scope 8	\$ (19,743.00)
Allowance for Disputes Review Board	\$ (30,000.00)
Work Order Allowance	\$ (295,964.42)
	\$ (760,404.64)

**TOTAL AMOUNT FOR PROJECT 599-734**

**\$ (760,404.64)**

**Project 528-131: SR 528 Econlockhatchee River Bridge Replacement**  
**SEMA Construction, Inc.**  
**SA 528-131-0419-006**

Adjustments to Final Quantities for Completed Contract Items

Adjust quantities for completed pay items in the contract to reflect the actual field measured quantities installed.

INCREASE THE FOLLOWING ITEMS:

Superpave Asphaltic Conc, Traffic D	\$	5,954.90
Superpave Asph Conc, Traffic D, PG76-22, PMA	\$	17,735.06
Asphalt Conc Friction Course, FC-5, PG 76-22, PMA (Black Granite)	\$	18,562.60
Miscellaneous Asphalt Pavement	\$	30,785.00
Video Inspect Existing Pipe	\$	4,000.00
Bedding Stone	\$	8,373.30
Guardrail - Roadway	\$	5,244.00
Painting of Existing Sign Columns	\$	5,600.00
Conduit, F&I, Underground, 9-1&2" HDPE, F&I, Trench	\$	7,980.00
Conduit, Furnish & Install, Open Trench	\$	5,676.00
Fiber Optic Cable, SM, 12 Fiber, F&I	\$	112.20
Solid Traffic Stripe (PPRT) (White) (8")	\$	25.59
Skip Traffic Stripe (PPRT) (Contrast)(White/Black)(10'-30') (9")	\$	81.00
SKIP Traffic Stripe (PPRT) (White) (3'-12') (12")	\$	631.22
Lighting Conductors, F&I, Insulated, No 4 to No 2	\$	22,992.90
Conductors, F&I, Insulated, No. 2	\$	5,715.90
	\$	<u>139,469.67</u>

DECREASE THE FOLLOWING ITEMS:

Prestressed Concrete Piling, 30" SQ	\$	(6,600.00)
RipRap, Sand-Cement	\$	(3,888.00)
RipRap, Rubble, Bank & Shore	\$	(30,609.60)
Fencing, Type B, 5.1-6.0' W/Vinyl Coating	\$	(1,296.00)
Performance Turf, Sod	\$	(18,203.20)
Fiber Optic Splice Enclosure (Re-Entry)	\$	(1,200.00)
Fiber Optic Fusion Splice	\$	(12,300.00)
Fiber Optic Conduit, 9-1" HDPE, F&I, Trench	\$	(1,155.00)
Conduit, F&I, Underground, 1-2" HDPE, F&I, Trench	\$	(2,860.00)
Fiber Optic Conduit, 10-1" & 2" HDPE, F&I, Trench	\$	(1,095.00)
FO Conduit HDPE/SDR 11 Outer Duct W/ 9-1", F&I, Direct. Bore	\$	(1,470.00)
FO Conduit HDPE/SDR 11 Outer Duct W/ 9-1" & 2", F&I, Direct. Bore	\$	(1,500.00)
FO Conduit HDPE/SDR 11 Outer Duct W/ 10-1" & 2", F&I, Direct. Bore	\$	(1,500.00)
Solid Traffic Stripe (PPRT) (White) (18")	\$	(468.00)
Solid Traffic Stripe (PPRT) (Yellow) (6")	\$	(918.00)
	\$	<u>(85,062.80)</u>

Subtotal: Adjustments to Final Quantities for Completed Contract Items \$ 54,406.87



Fuel Adjustments

The contract contains provisions for fuel price index adjustments. In accordance with the contract specifications, the engineer has calculated adjustments for the period from April 2018 - February 2019. Adjustments are made only if the current month fuel price is greater than or less than 5% of bid/base fuel price. During this period of time \$17,748,481.11 of construction was performed/produced.

ADD THE FOLLOWING ITEM:

Fuel Price Index Adjustments: April 2018 - February 2019 \$ 6,746.74

Bituminous Adjustments

The contract contains provisions for indexed bituminous adjustments. In accordance with the contract specifications, the engineer has calculated adjustments for the period of August 2018 - February 2019.

ADD THE FOLLOWING ITEM:

Bituminous Price Index Adjustments: August 2018 - February 2019 \$ 51,048.78

SEMA Time Extension for Extra Work High Tension Cable Barrier

This extension is to adjust contract time due to the extra work for the installation of concrete encased foundations for the high tension cable barrier.

Increase Contract Time 35 Calendar Days

**TOTAL AMOUNT FOR PROJECT 528-131** **\$ 112,202.39**

**Project 408-742A: SR 408 Milling & Resurfacing, SR 50 to Ortman Dr.**  
**Preferred Materials, Inc.**  
**SA 408-742A-0419-03**

Composite Pay Factor (CPF) Adjustments

The contract contains provisions for CPF adjustments based on the quality of asphalt placed on the project. The engineer has calculated adjustments in accordance with contract specifications.

ADD THE FOLLOWING ITEM:

Composite Pay Factor Adjustments, Lot 1 - Lot 34	\$ 24,977.80
--	--------------

Adjustments to Final Quantities for Completed Contract Items

Adjust quantities for completed pay items in the contract to reflect the actual field measured quantities installed.

INCREASE THE FOLLOWING ITEMS:

Portable Changeable Message Sign, Temporary	\$ 13,068.00
Superpave Asphaltic Concrete, Traffic Level C	\$ 26,043.33
Superpave Asphaltic Concrete, Traffic Level C, PG 76-22	\$ 8,129.86
Superpave Asphaltic Concrete, Traffic Level D, PG 76-22	\$ 45,190.02
Asphaltic Concrete Friction Course FC-5, PG 76-22, Black Granite	\$ 45,618.38
Asphaltic Concrete Friction Course FC-5, PG 76-22, Black Granite, Traffic Level D	\$ 7,940.61
Miscellaneous Asphalt Pavement, 2"	\$ 1,476.00
Desilt Pipe, 25"-36"	\$ 6.75
Concrete Ditch Pavement, 4" Reinforced	\$ 1,523.20
Rip Rap Rubble, F&I, Ditch Lining	\$ 1,879.20
Delineator, Flexible Tubular	\$ 110.00
Thermoplastic, Standard, White, Solid, 12" for Crosswalk and Roundabout	\$ 248.00
Thermoplastic, Preformed, White, Solid, 12"	\$ 577.20
Pavement Markings, Traffic Stripe, PPRT, White, Solid, 8"	\$ 3,523.23
Pavement Markings, Traffic Stripe, PPRT, White, Solid, 12"	\$ 122.81
Pavement Markings, Traffic Stripe, PPRT, White, Solid, 18"	\$ 2,653.05
Pavement Markings, Traffic Stripe, PPRT, Yellow, Solid, 6"	\$ 18,097.03
Pavement Markings, Traffic Stripe, PPRT, Yellow, Solid, 8"	\$ 222.80
Pavement Markings, Traffic Stripe, PPRT, Yellow, Solid, 18"	\$ 1,322.50
Pavement Markings, Traffic Stripe, PPRT, Black/White Contrast, Solid, 9"	\$ 14,538.95
Pavement Markings, Traffic Stripe, PPRT, Black/White Contrast, 10'-30' Skip, 9"	\$ 10,354.40
	\$ 202,645.32

DECREASE THE FOLLOWING ITEMS:

Maintenance of Traffic for Roadway Repair Contingency	\$ (5,142.00)
Roadway Repair, Emergency Base Repair Contingency	\$ (16,057.19)
Desilt Pipe, 0"-24"	\$ (2,068.80)
Video Inspect Existing Pipe	\$ (2,223.20)
Performance Turf, Sod	\$ (19,695.55)
Fiber Optic Conduit, Black Steel Pipe Schedule 40, F&I, Trench or Plow	\$ (52,936.00)
Retro-Reflective Pavement Marker	\$ (13,559.40)
Thermoplastic, Standard, White, Solid, 24" for Stop Line and Crosswalk	\$ (16.00)
Thermoplastic, Standard, White, Message	\$ (550.00)
Thermoplastic, Preformed, White, Solid, 24"	\$ (5,553.60)
Pavement Markings, Traffic Stripe, PPRT, White, 3'-12' Skip, 12"	\$ (1,124.34)
Allowance for Disputes Review Board	\$ (30,000.00)
Work Order Allowance	\$ (300,000.00)
	\$ (448,926.08)

Subtotal: Adjustments to Final Quantities for Completed Contract Items	\$ (246,280.76)
--	-----------------

<b><u>TOTAL AMOUNT FOR PROJECT 408-742A</u></b>	<b><u>\$ (221,302.96)</u></b>
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**CONSENT AGENDA ITEM**

**#2**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: March 25, 2019

SUBJECT: Approval of Greenfield Diversified, LLC dba Consulex as a Subconsultant for the  
Miscellaneous Design Consultant Services Contract with Protean Design Group  
Contract No. 001208

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Protean Design Group, CFX's Miscellaneous Design Consultant, has requested approval to use Greenfield Diversified, LLC to assist with miscellaneous design projects. The cost is expected to exceed the \$25,000.00 threshold established by the Procurement Policy for subconsultants not disclosed by Protean Design Group when its contract with CFX was originally awarded.

Board approval of Greenfield Diversified, LLC dba Consulex as subconsultant to Protean Design Group is requested.

Reviewed by:   
for: Glenn Pressimone, PE  
Director of Engineering



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**REQUEST FOR AUTHORIZATION TO SUBLET SERVICES**

Consultant: Protean Design Group Date: March 22, 2019

CFX Contract Name: Miscellaneous Design Consultant Services CFX Contract No.: 001208

Authorization is requested to sublet the services identified below which are included in the above referenced Contract. Consultant requests approval to sublet services to:

Subconsultant Name: Greenfield Diversified, LLC dba Consulex

Address: 960 N Cocoa Boulevard, Cocoa, FL 32922

Phone No.: (321) 631-2659

Federal Employee ID No.: 20-4670267

Description of Services to Be Sublet: Miscellaneous Design Projects

Estimated Beginning Date of Sublet Services: April 15, 2019

Estimated Completion Date of Sublet Services: April 6, 2020

Estimated Value of Sublet Services\*: Greater than \$25,000.00

\*(Not to exceed \$25,000 without prior Board Approval)

Consultant hereby certifies that the proposed subconsultant has been advised of, and agrees to, the terms and conditions in the Consultant's Contract with the Authority that are applicable to the subconsultant and the services to be sublet:

Requested By:  \_\_\_\_\_  
(Signature of Consultant Representative)

Vice President

Title

Recommended by:  \_\_\_\_\_  
(Signature of Appropriate CFX Director/Manager)

Date: 3/25/2019

Approved by:  \_\_\_\_\_  
(Signature of Appropriate Chief)

Date: 4/11/19

**Attach Subconsultant's Certificate of Insurance to this Request.**

**CONSENT AGENDA ITEM  
#3**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: March 26, 2019

SUBJECT: Approval of Supplemental Agreement No. 1 with DRMP, Inc.  
for Additional Design Services for SR 528/SR 436 Interchange Improvements  
and SR 528 Widening from SR 436 to Goldenrod Road  
Project 528-143, Contract No. 001314

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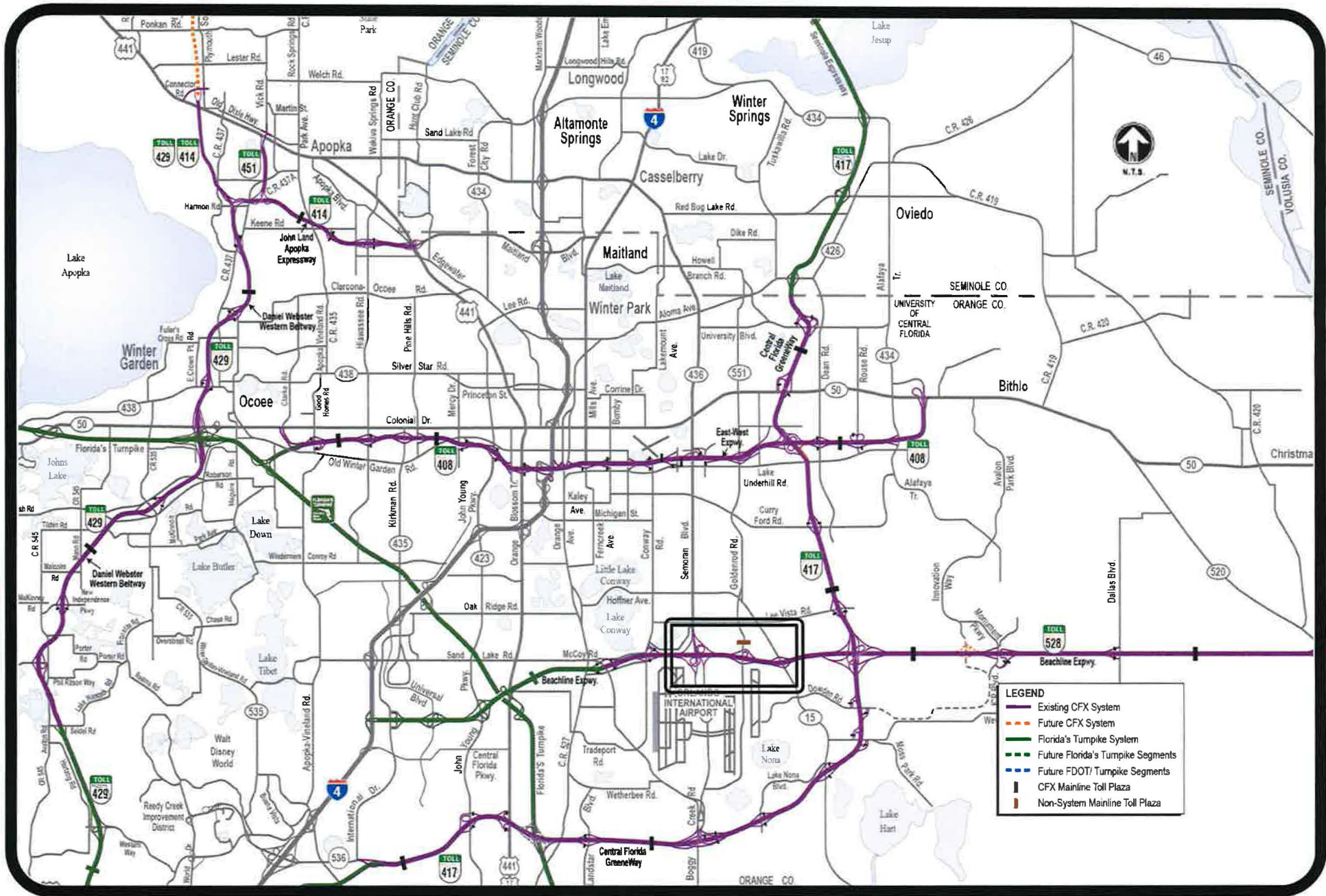
Board approval is requested for Supplemental Agreement No. 1 with DRMP, Inc., for a not-to-exceed amount of \$526,668.10. The original contract was for five years with five one-year renewals.

The services include design for a ramp realignment that was not included with the conceptual plans, additional aesthetic components and the conversion of existing conventional lighting to LED lighting along CFX's portion of SR 528.

Original Contract	\$6,050,000.00
Supplemental Agreement No. 1	<u>\$ 526,668.10</u>
Total	\$6,576,668.10

This project is included in the Five-Year Work Plan.

Reviewed by:   
For: Glenn Pressimone, PE  
Director of Engineering 



### Project Location Map for

S.R. 528 / S.R. 436 Interchange Improvements and S.R. 528 Widening from S.R. 436 to Narcoossee Road (528-143)



**SUPPLEMENTAL AGREEMENT NO. 1**

**TO**

**AGREEMENT FOR PROFESSIONAL SERVICES**

**FINAL DESIGN**

**S.R. 528 / S.R. 436 Interchange Improvements and S.R. 528 Widening from S.R. 436 to  
Goldenrod Road**

THIS SUPPLEMENTAL AGREEMENT is made and entered into this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019, by and between the CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY, a corporate body and agency of the State of Florida, hereinafter called "CFX"  
and the consulting firm of DRMP, INC. of Orlando, Florida, hereinafter called the  
"CONSULTANT".

WHEREAS, Articles 2.00 and 12.0 of the Agreement for Professional Services between  
CFX and the CONSULTANT, dated the 8<sup>th</sup> day of March 2018, provides that in the event that  
CFX shall change the amount of work in Exhibit "A" of the said Agreement for Professional  
Services, the fees to be paid to the CONSULTANT shall be subject to adjustment as shall be  
mutually agreed upon:

NOW, THEREFORE, BE IT RESOLVED THAT:

1. CFX hereby authorizes the CONSULTANT to proceed with additional services as outlined in the Consultant's April 1, 2019 letter to CFX, which is attached hereto and made a part of this Supplemental Agreement.
2. Exhibit "B", Article 2.00 of the Agreement for Professional Services is amended as follows:
  - a. The Salary Related Costs are adjusted upward by \$903,744.70 to \$4,591,729.85.
  - b. The Design Survey – Office (Prime) is adjusted upward by \$6,150.40 to \$65,525.48.
  - c. The Design Survey – Field (Prime) is adjusted upward by \$49,007.35 to \$266,197.83.
  - d. The Direct Expenses (Lump Sum) remains unchanged at \$49,962.89.
  - e. The Subcontract Items are adjusted upward by \$117,872.33 to \$1,603,252.05.

• Ardaman	\$66,758.07
• WBQ (Design)	\$51,114.26
  - f. The Allowance is adjusted downward by \$550,106.68 to \$0.00.

The Total Maximum Limiting Amount is adjusted upward by \$526,668.10 to \$6,576,668.10.

3. All provisions of said Agreement for Professional Services, or any Supplements thereto, not modified by the above, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and of the said Consultant Agreement, or any

Supplements thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, in quadruplicate, the day and year first above written.

CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
Director of Procurement

DRMP, INC.

Attest: \_\_\_\_\_  
Title:

By: \_\_\_\_\_  
Title:

Approved as to form and execution, only.

\_\_\_\_\_  
General Counsel for CFX

\\dfsprd1\Store\Departments\Engineering\General\528-143 SR 528 - SR 436 Interchange Imp & Wideing to Goldenrod\2 Contract\2.A Supplemental Agreements\SA 1\DRMP-528-143 -SA1.docx



**MEMORANDUM**

**Date:** April 2, 2019  
**To:** Will Hawthorne, PE CFX Manager of Engineering  
**From:** Scott Kamien<sup>SMK</sup>, PE  
**Subject:** Design Consultant Services - Contract 001314  
CFX Project No. 528-143  
SR 528 / SR 436 Interchange Improvements and SR 528 Widening from SR 436 to Goldenrod – Supplemental Agreement

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**Comments:**

I have reviewed the fee sheet and scope of services submitted by DRMP provided via email on March 21, 2019 and updated on April 2, 2019 for the SR 528 / SR 436 Interchange Improvements. This Supplemental Agreement request is to provide additional professional services including walls, aesthetics and median planter walls.

The Supplemental Agreement request is attached and costs are detailed below:

\$ 958,902.45	DRMP as Prime
\$ 117,872.33	<u>Total Subconsultant Fees</u>
\$ 1,076,774.78	Total Requested SA Amount

The total staff hours for each task are reasonable and acceptable, and the man hour rates are consistent with their contract; therefore, I recommend approval of this agreement in the amount of \$1,076,774.78

Should you have questions or need additional information, please call me at 321.354.9798.

**CC:**

Keith Jackson, PE Dewberry  
File

**DRMP, INC.**



**Principals**

Wayne D. Chalifoux  
Donaldson K. Barton, Jr.  
Glenn J. Lusink  
Jon S. Meadows  
Mark D. Prochak  
Mark E. Puckett  
Lawrence L. Smith, Jr.

April 1, 2019

**DRMP Job # 17-0167.000**

Mr. Will Hawthorne, P.E.  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807

**Subject: SR 528/SR 436 Interchange Improvements and SR 528 Widening from SR 436 to Goldenrod Road; CFX Contract No: 001314; Project 528-143 Supplemental Agreement #1**

Dear Mr. Hawthorne:

I have attached the SR 528/SR 436 Interchange Improvements and SR 528 Widening from SR 436 to Goldenrod Road (Project 528-143) Supplemental No. 1 scope and fee for your review. The Supplemental is for the additional work effort at the direction of CFX for modifications of the interchange configuration, addition of project aesthetics, R/W dgn creation, GOAA parcel sketches, pavement cores and design, lighting retrofits/extended lighting limits and ITS modifications. The added work includes engineering and plans for roadway, drainage, structures, lighting, ITS, geotechnical, field and office survey.

The attached scope includes all of the out of scope work, but the hours that are provided in the man hour forms account for efficiencies during design as modifications were being made throughout the project.

The supplemental includes numerous credits for items that were not included as originally negotiated. The credits are included as negative values in the man hour sheets.

Please contact me if you have any questions. My cell number is 407-923-8585.

Sincerely,  
**DRMP, Inc.**

TJ Lallathin, P.E.  
Senior Project Manager

941 Lake Baldwin Lane  
Orlando, Florida 32814  
Phone: 407.896.0594  
Fax: 407.896.4836

Boca Raton, Florida  
Charlotte, North Carolina  
ChIPLEY, Florida  
Gainesville, Florida  
Jacksonville, Florida  
Lakeland, Florida  
Melbourne, Florida  
Panama City, Florida  
Pensacola, Florida  
Raleigh, North Carolina  
Tallahassee, Florida  
Tampa, Florida

CC: Jon Meadows, P.E. (DRMP, Inc.)

Enclosures

1.800.375.3767  
[www.drmp.com](http://www.drmp.com)

P:\Projects\17\17-0167.000\_SR\_528\_SR\_436\_Interchange\01\_Admin\01-03-Supplemental-Agreement\SA#1\2019\_04\_01\_SA1\_Letter\_Hawthorne.docx

**PRINCIPALS**

Wayne D. Chalifoux  
Donaldson K. Barton, Jr.  
Glenn J. Lusink  
Jon S. Meadows  
Mark D. Prochak  
Mark E. Puckett  
Lawrence L. Smith, Jr.




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**SR 528 / SR 436 Interchange Improvements  
Central Florida Expressway Authority  
Project 528-143  
Contract No. 001314**

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Supplemental Agreement #1 – Out of scope elements

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**Project Description:**

Supplemental Agreement No. 1 is based on modifications to the Scope of Services at the direction of Central Florida Expressway Authority. The changes include modifications of the interchange configuration, addition of project aesthetics, R/W dgn creation, GOAA parcel sketches, pavement cores and design, lighting retrofits/extended LED lighting limits and ITS modifications.

**I. Survey & Geotechnical**

- a. Survey
  - i. NW pond bottom for Ramp A-2 impacts
  - ii. Sign structures on SR 436
  - iii. Additional point cloud extraction of bridge beams not included in Maser survey
  - iv. Extend survey of eastbound 528 ±1000' west.
- b. R/W Mapping
  - i. Prepare parcel sketches for 10'x10' parcels to be recorded in public records. Sketches will include 6 new easement locations.
  - ii. Prepare 6 new legal descriptions to accompany the parcel sketches to be recorded in public records.
  - iii. Create a dgn showing all the R/W and easements correctly
- c. Geotechnical
  - i. Roadway – Covered within current scope – able to shift locations of borings to accommodate revised layout
    1. Cores for pavement design, including LEO cost
  - ii. Structures – Additional bridges/walls. Credits were provided for the 4 span bridge
  - iii. Miscellaneous Structures/Traffic related items – Covered within current scope – able to shift locations of borings to accommodate revised layout

**II. Design**

- a. Roadway/MOT
  - i. Credit for Ramp B-2 (loop)
  - ii. Add Ramp A-2 (semi-directional)
  - iii. Credit for Ramp B-1A (over-over)
  - iv. Add Ramp B-2 (under-over)
  - v. Credit for Ramp B-1 (reconstruct)
  - vi. Add Ramp B-1 (resurface)
  - vii. Add Ramp B-1 (overbuild details)
  - viii. Pavement Design
  - ix. Median barrier wall construction and shoulder reconstruction

**OFFICES**

Atlanta, Georgia  
Boca Raton, Florida  
Charlotte, North Carolina  
Chipley, Florida  
Fort Myers, Florida  
Gainesville, Florida  
Jacksonville, Florida  
Lakeland, Florida  
Melbourne, Florida  
Orlando, Florida  
Panama City, Florida  
Pensacola, Florida  
Raleigh, North Carolina  
Tallahassee, Florida  
Tampa, Florida

1.800.375.3767  
www.DRMP.com



- x. Incorporation of Part Time Shoulder Usage in median
  
- b. Drainage/Permitting
  - i. Ramp A-2
    - 1. Add Box Culvert Extension under Ramp A-2 North of SR 528
    - 2. Add Box Culvert under Ramp A-2 South of SR 528
    - 3. Additional Drainage Structures due to Ramp Length
      - a. Credit for loop and add for Ramp A-2
  - ii. Modification of ponds for planter walls/revised geometry
  - iii. AAF – Review and Exhibits
  
- c. Structures
  - i. Bridge
    - 1. BCR's
      - a. Ramp B-2 over NB SR 528: 2 span to 3 span
      - b. Ramp B-2 over SR 436: Credit from 4 span to single span
      - c. SB SR 436 over Ramp B-2: New bridge
      - d. Ramp A-2 over SR 528: New bridge
    - 2. Design & Plans
      - a. Ramp B-2 over NB SR 528: Add 1 Span Curved Steel Box Girder
      - b. Bridge 3
        - i. Modify Steel Box Girder Ramp B-2 (formerly B1-A) over SR 528 from 2 Span Tangent Alignment to 3 Span Curved Alignment
      - c. Bridge 5
        - i. Credit for 4 Span Curved Steel Box Girder Ramp B1-A (now B-2) over SB & NB SR 436
        - ii. Add 1 Span Curved Steel Box Girder Ramp B-2 over NB SR 436
      - d. Bridge 6
        - i. Add 1 Span Skewed/Flared Florida U-Beam SB SR 436 over Ramp B-2
      - e. Bridge 7
        - i. Add 2 Span Curved Steel Box Girder Ramp A-2 over SR 528
  - ii. Walls
    - 1. Permanent MSE walls – Modified bridge locations, add 4 walls
    - 2. CIP retaining walls (planter walls) – Add 30 walls
    - 3. Temporary sheet pile walls – To accommodate bridge/wall construction and box culverts, add 14 walls
  - iii. Miscellaneous Structures
    - 1. Add Box Culvert Extension under Ramp A-2 North of SR 528
    - 2. Add new Box Culvert under Ramp A-2 South of SR 528
    - 3. CCTV foundation designs
    - 4. Spread footing to accommodate FAA approach lighting
  - iv. Aesthetics
    - 1. Add pylons at select bridge abutments
    - 2. Add bird grating to bridges



- d. Lighting
  - i. SR 528 retrofits from just east of the Conway Road interchange to the CFX maintenance jurisdiction line
  - ii. Sign lighting east of the SR 528/436 interchange to SR 417 interchange will be retrofitted
  - iii. Remote drivers for all sign lighting
- e. ITS
  - i. 1 additional CCTV near Goldenrod
  - ii. 2 additional CCTVs within SR 528/436 interchange



# **AGREEMENT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
DRMP, INC.**

**S.R. 528 / S.R. 436 INTERCHANGE IMPROVEMENTS  
AND S.R. 528 WIDENING FROM S.R. 436 TO GOLDENROD**

**PROJECT NO. 528-143, CONTRACT NO. 001314**

**CONTRACT DATE: MARCH 08, 2018  
CONTRACT AMOUNT: \$6,050,000.00**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF  
COMPENSATION, DETAILS OF COSTS AND FEES,  
PROJECT ORGANIZATIONAL CHART AND  
PROJECT SCHEDULE**

**AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS OF  
COSTS AND FEES, PROJECT ORGANIZATIONAL CHART AND PROJECT  
SCHEDULE**

**FOR**

**S.R. 528 / S.R. 436 INTERCHANGE IMPROVEMENTS  
AND S.R. 528 WIDENING FROM S.R. 436 TO GOLDENROD**

**PROJECT NO. 528-143, CONTRACT NO. 001314**

**MARCH 2018**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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<u>Section</u>	<u>Title</u>	
AG	Agreement	1-19
A	Exhibit "A", Scope of Services	
B	Exhibit "B", Method of Compensation	
C	Exhibit "C", Details of Cost and Fees	
D	Exhibit "D", Project Organization Chart	
E	Exhibit "E", Project Location Map	
F	Exhibit "F", Schedule	

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT, made and entered into this 8<sup>th</sup> day of March, 2018, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter "CFX," and DRMP, Inc., hereinafter called "CONSULTANT," registered and authorized to conduct business in the State of Florida, carrying on professional practice in engineering, with offices located at 941 Lake Baldwin Lane, Orlando, FL. 32814.

WITNESSETH:

WHEREAS, CONSULTANT represents that it is fully qualified and authorized to render the professional services contracted herein.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, CFX and CONSULTANT agree as follows:

1.0. DEFINITIONS.

Reference herein to the Project Manager shall mean CFX's Director of Engineering or his authorized designee. The Project Manager shall provide the management and technical direction for this Agreement on behalf of CFX. All technical and administrative provisions of this Agreement shall be managed by the Project Manager and the CONSULTANT shall comply with all of the directives of the Project Manager that are within the purview of this Agreement. Decisions concerning Agreement amendments and adjustments, such as time extensions and supplemental agreements shall be made by the Project Manager.

2.0. SCOPE OF SERVICES.

CFX does hereby retain the CONSULTANT to furnish certain professional services in connection with the design of S.R. 528 / S.R. 436 Interchange Improvements and S.R. 528 Widening from S.R. 436 to Goldenrod Road in Orange County, Florida identified as Project No. 528-143 and Contract No. 001314.

The CONSULTANT and CFX mutually agree to furnish, each to the other, the respective services, information and items as described in **Exhibit "A"**, Scope of Services, attached hereto and made a part hereof.

Before rendering any of the services, any additions or deletions to the work described in **Exhibit "A"**, and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into a Supplemental Amendment covering such modifications and the compensation to be paid therefore.

This Agreement is considered a non-exclusive Agreement between the parties.

### 3.0 TERM OF AGREEMENT AND RENEWALS

Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a five (5) year term from the date of the Notice to Proceed for the required project services as detailed in **Exhibit "A,"** with five one-year renewals at CFX's option. 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 CONSULTANT are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide CONSULTANT with written notice of its intent at least thirty (30) days prior to the expiration of the original term and subsequent renewal, if any.

The CONSULTANT agrees to commence the scheduled project services to be rendered within ten (10) calendar days from the date specified in the written Notice to Proceed from the Project Manager, which Notice to Proceed will become part of this Agreement. The CONSULTANT shall complete scheduled project services within the timeframe(s) specified in **Exhibit "A"**, or as may be modified by subsequent Supplemental Agreement.

### 4.0 PROJECT SCHEDULE

The CONSULTANT agrees to provide Project Schedule progress reports for each project in a format acceptable to CFX and at intervals established by CFX. CFX will be entitled at all times to be advised, at its request, as to the status of work being done by the CONSULTANT and of the details thereof. Coordination shall be maintained by the CONSULTANT with representatives of CFX, or of other agencies interested in the project on behalf of CFX. Either party to the Agreement may request and be granted a conference.

In the event there are delays on the part of CFX as to the approval of any of the materials submitted by the CONSULTANT or if there are delays occasioned by circumstances beyond the control of the CONSULTANT, which delay the scheduled project completion date, CFX may grant to the CONSULTANT by "Letter of Time Extension" an extension of the scheduled project completion date equal to the aforementioned delays. The letter will be for time only and will not include any additional compensation.

It shall be the responsibility of the CONSULTANT to ensure at all times that sufficient time remains within the project schedule within which to complete the services on the project. In the event there have been delays which would affect the scheduled project completion date, the CONSULTANT shall submit a written request to CFX which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one

another. CFX will review the request and make a determination as to granting all or part of the requested extension.

In the event the scheduled project completion date is reached and the CONSULTANT has not requested, or if CFX has denied, an extension of the completion date, partial progress payments will be stopped when the scheduled project completion date is met. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by CFX.

## 5.0 PROFESSIONAL STAFF

The CONSULTANT shall maintain an adequate and competent professional staff to enable the CONSULTANT to timely perform under this Agreement. The CONSULTANT shall continue to be authorized to do business within the State of Florida. In the performance of these professional services, the CONSULTANT shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The CONSULTANT shall use due care in performing in a design capacity and shall have due regard for acceptable standards of design principles. The CONSULTANT may associate with it such specialists, for the purpose of its services hereunder, without additional cost to CFX, other than those costs negotiated within the limits and terms of this Agreement. Should the CONSULTANT desire to utilize specialists, the CONSULTANT shall be fully responsible for satisfactory completion of all subcontracted work. The CONSULTANT, however, shall not sublet, assign or transfer any work under this Agreement to other than the associate consultants listed below without the written consent of CFX. It is understood and agreed that CFX will not, except for such services so designated herein, permit or authorize the CONSULTANT to perform less than the total contract work with other than its own organization.

Antillian Engineering Associates, Inc. (Class II)	Ardaman & Associates, Inc. (Class II)
Base Consultants, Inc.	EPG Engineering (Class II)
Moffat & Nichol, Inc.	WBQ Design & Engineering, Inc. (Class I & II)

CONSULTANT shall not further sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONSULTANT's right, title, or interest therein without the written consent of CFX, which may be withheld in CFX's sole and absolute discretion. Any attempt by CONSULTANT to dispose of this Contract as described above, in part or in whole, without CFX's written consent shall be null and void and shall, at CFX's option, constitute a default under the Contract.

If, during the term of the Contract, CONSULTANT desires to subcontract any portion(s) of the work to a subconsultant that was not disclosed by the CONSULTANT to CFX at the time that the Contract was originally awarded, and such subcontract would, standing alone or aggregated with prior subcontracts awarded to the proposed subconsultant, equal or exceed twenty five thousand dollars (\$25,000.00), the CONSULTANT 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 his/her designee, no such subcontract shall be executed by the CONSULTANT

until it has been approved by CFX Board. In the event of a designated emergency, the CONSULTANT may enter into such a subcontract with the prior written approval of the Executive Director or his/her designee, but such subcontract shall contain a provision that provides that it shall be automatically terminated if not approved by CFX Board at its next regularly scheduled meeting.

#### 6.0 SERVICES TO BE PROVIDED

The work covered by this Agreement as described in **Exhibit "A,"** includes the preparation of construction plans for one construction project. If the work is divided into more than one construction project by CFX's Project Manager, then the CONSULTANT shall supply construction plans for each project. A Supplemental Agreement will be required for the additional work.

All construction plans, documents, reports, studies and other data prepared by the CONSULTANT shall bear the endorsement of a person in the full employ of the CONSULTANT and duly registered by the State of Florida in the appropriate professional category.

After CFX's acceptance of construction plans and documents for the project, the original set of CONSULTANT's drawings, tracings, plans, maps and CADD files shall be provided to CFX, along with one record set of the final plans. The CONSULTANT shall signify, by affixing an endorsement (seal/signature, as appropriate) on every sheet of the record set, that the work shown on the endorsed sheets was produced by the CONSULTANT. With the tracings and the record set of prints, the CONSULTANT shall submit a final set of design computations. The computations shall be bound in an 8-1/2 x 11" format and shall be endorsed (seal/signature, as appropriate) by the CONSULTANT. Refer to **Exhibit "A"** for the computation data required for this Agreement.

The CONSULTANT shall submit a final set of reports and studies which shall be endorsed (seal/signature) by the CONSULTANT.

The CONSULTANT shall not be liable for use by CFX of said plans, documents, reports, studies or other data for any purpose other than intended by the terms of this Agreement.

#### 7.0 COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in **Exhibit "B,"** Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$6,050,000 for the initial five-year term of this Agreement. Bills for fees or other compensation for services or expenses shall be submitted to CFX in detail sufficient for a proper pre-audit and post audit thereof.

The CONSULTANT may be liable for CFX costs resulting from errors or deficiencies in designs furnished under this Agreement. CFX may enforce such liability and collect the amount due if the recoverable cost will exceed the administrative cost involved or is otherwise in CFX's best interest.

Records of costs incurred by the CONSULTANT under terms of this Agreement shall be maintained and made available upon request to CFX at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to CFX upon request. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed. The obligations in this paragraph survive the termination of the Agreement and continue in full force and effect.

Records of costs incurred includes the CONSULTANT's general accounting records and the project records, together with supporting documents and records, of the CONSULTANT and all subconsultants performing work on the project, and all other records of the CONSULTANT and subconsultants considered necessary by CFX for a proper audit of project costs.

The general cost principles and procedures for the negotiation and administration, and the determination or allowance of costs under this Agreement shall be as set forth in the Code of Federal Regulations, Titles 23, 48, 49, and other pertinent Federal and State Regulations, as applicable, with the understanding that there is no conflict between State and Federal regulations in that the more restrictive of the applicable regulations will govern. Whenever travel costs are included in **Exhibit "B"**, the provisions of Section 112.061, Florida Statutes, shall govern as to reimbursable costs.

#### 8.0 DOCUMENT OWNERSHIP AND RECORDS

All plans, documents, reports, studies, and/or other data prepared or obtained under this Agreement shall be considered instruments made for services and shall become the property of CFX without restriction or limitation on their use on this project; and shall be made available, upon request, to CFX at any time. CFX will have the right to visit the site for inspection of the work and the drawings of the CONSULTANT at any time. Unless changed by written agreement of the parties, said site shall be at 941 Lake Baldwin Lane, Orlando, FL. 32814.

Notwithstanding Section 17, entitled "Communications, Public Relations, and Use of Logos," CONSULTANT acknowledges that CFX is a body politic and corporate, an agency of the State of Florida, and is subject to the Public Records Act codified in Chapter 119, Florida Statutes. To the extent that the CONSULTANT is in the possession of documents that fall within the definition of public records subject to the Public Records Act, which public records have not yet been delivered to CFX, CONSULTANT agrees to comply with Section 119.0701, Florida Statutes.

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'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.**

An excerpt of Section 119.0701, Florida Statutes is below.

Per Section 119.0701(1), "Contractor" means an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency as provided under s. 119.011(2).

Per Section 119.0701(b). The 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.

The obligations in Section 8.0, Document Ownership and Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

The CONSULTANT shall allow public access to all documents, papers, letters, or other material as approved and authorized by CFX and subject to the provisions of Chapter 119, Florida Statutes, and

made or received by the CONSULTANT in conjunction with this Agreement. Failure by the CONSULTANT to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by CFX.

#### 9.0 COMPLIANCE WITH LAWS

The CONSULTANT shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this contract.

The CONSULTANT shall keep fully informed regarding and shall fully and timely comply with all current laws and future laws that may affect those engaged or employed in the performance of this Agreement.

#### 10.0 WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

The CONSULTANT hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached **Exhibit "C"**, Details of Costs and Fees, supporting the compensation provided in Section 7.0 are accurate, complete and current as of the date of this Agreement. It is further agreed that said price provided in Section 7.0 hereof 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.

#### 11.0 TERMINATION

CFX may terminate this Agreement in whole or in part, for any reason or no reason, at any time the interest of CFX requires such termination.

If CFX determines that the performance of the CONSULTANT is not satisfactory, CFX shall have the option of (a) immediately terminating the Agreement or (b) notifying the CONSULTANT of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time.

If CFX requires termination of the Agreement for reasons other than unsatisfactory performance of the CONSULTANT, CFX shall notify the CONSULTANT in writing of such termination, not less than seven (7) calendar days as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

If CFX abandons the work or subtracts from the work, suspends, or terminates the Agreement as presently outlined, the CONSULTANT shall be compensated in accordance with **Exhibit "B"** for work properly performed by the CONSULTANT prior to abandonment or termination of the Agreement. The

ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be transferred to and retained by CFX.

CFX reserves the right to cancel and terminate this Agreement in the event the CONSULTANT or any employee, servant, or agent of the CONSULTANT 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 CONSULTANT for or on behalf of CFX, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans, specifications, maps, and data prepared or obtained under this Agreement shall immediately be turned over to CFX. The CONSULTANT shall be compensated for work properly performed rendered up to the time of any such termination in accordance with Section 7.0 hereof. CFX also reserves the right to terminate or cancel this Agreement in the event the CONSULTANT shall be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. CFX further reserves the right to suspend the qualifications of the CONSULTANT to do business with CFX upon any such indictment or direct information. In the event that any such person against whom any such indictment or direct information is brought shall have such indictment or direct information dismissed or be found not guilty, such suspension on account thereof may be lifted by CFX.

## 12.0 ADJUSTMENTS

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the Project Manager who shall decide all questions, difficulties and dispute of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof. Adjustments of compensation and term of the Agreement, 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 Supplemental Agreement(s) of such a nature as required may be entered into by the parties in accordance herewith. Disputes between the Project Manager and the CONSULTANT that cannot be resolved shall be referred to the Executive Director whose decision shall be final.

In the event that the CONSULTANT and CFX are not able to reach an agreement as to the amount of compensation to be paid to the CONSULTANT for supplemental work desired by CFX, the CONSULTANT shall be obligated to proceed with the supplemental work in a timely manner for the amount determined by CFX to be reasonable. In such event, the CONSULTANT will have the right to file a claim with CFX for such additional amounts as the CONSULTANT deems reasonable for consideration by the Executive Director; however, in no event will the filing of the claim or the resolution or litigation thereof, through administrative procedures or the courts, relieve the CONSULTANT from the obligation to timely perform the supplemental work.

### 13.0 CONTRACT LANGUAGE AND INTERPRETATION

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

If the CONSULTANT discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the CONSULTANT shall immediately notify CFX and request clarification of CFX's interpretation of this Agreement.

The Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

### 14.0 HOLD HARMLESS AND INDEMNIFICATION

The CONSULTANT shall indemnify, defend, and hold harmless CFX, and its officers, and employees from any claim, liabilities, losses, damages, and costs, including, but not limited to, reasonable attorneys' fees, caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the Agreement. The CONSULTANT shall indemnify and hold harmless CFX and all of its officers and employees from any liabilities, losses, damages, costs, including, but not limited to reasonable attorneys' fee, arising out of any negligent act, error, omission by the CONSULTANT, its agents, employees, or subcontractors during the performance of the Agreement, except that neither the CONSULTANT, its agents, employees nor any of its subconsultants will be liable under this paragraph for any claim, loss, damage, cost, charge or expense arising solely out of any act, error, omission or negligent act by CFX or any of its officers, agents or employees during the performance of the Agreement.

When CFX receives a notice of claim for damages that may have been caused by the CONSULTANT in the performance of services required by the CONSULTANT under this Agreement, CFX will immediately forward the notice of claim to the CONSULTANT. The CONSULTANT and the AUTHORITY will evaluate the notice of claim and report their findings to each other within fourteen (14) calendar days.

In the event a lawsuit is filed against CFX alleging negligence or wrongdoing by the CONSULTANT, CFX and the CONSULTANT will jointly discuss options in defending the lawsuit. After reviewing the lawsuit, CFX will determine whether to request the participation of the

CONSULTANT in the defense of the lawsuit or to request that the CONSULTANT defend CFX in such lawsuit as described in this section. CFX's failure to notify the CONSULTANT of a notice of claim will not release the CONSULTANT from any of the requirements of this section upon subsequent notification by CFX to the CONSULTANT of the notice of claim or filing of a lawsuit. CFX and the CONSULTANT will pay their own cost for the evaluation, settlement negotiations and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all of its costs, but if the verdict determines that there is joint responsibility, the costs of defense and liability for damages will be shared in the same percentage as that judicially established, provided that CFX's liability does not exceed the limits and limitations arising from Section 768.28, Florida Statutes, the doctrine of sovereign immunity, and law.

CFX is an agency of the State of Florida whose limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the limits of liability of CFX beyond that provided in Section 768.28, Florida Statutes. Nothing herein is intended as a waiver of CFX's sovereign immunity under Section 768.28, Florida Statutes, or law. Nothing hereby shall inure to the benefit of any third party for any purpose, which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of CFX's obligations are limited to the payment of no more than the amount limitation per person and in the aggregate contained in Section 768.28, Florida Statutes, except for payments for work properly performed, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

The CONSULTANT shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. The CONSULTANT shall, at its expense, hold harmless and defend CFX against any claim, suit or proceeding brought against CFX which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this Agreement, constitute an infringement of any patent or copyright of the United States. The CONSULTANT shall pay all damages and costs awarded against CFX.

The obligations in Section 14.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 15.0 THIRD PARTY BENEFICIARY

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

Agreement without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

## 16.0 INSURANCE

The CONSULTANT, at its own expense, shall keep in force and at all times maintain during the term of this Agreement all insurance of the types and to the limits specified herein.

The CONSULTANT shall require and ensure that each of its subconsultants providing services hereunder procures and maintains, until the completion of the services, insurance of the requirements, types and to the limits specified herein. Upon request from CFX, the CONSULTANT shall furnish copies of certificates of insurance and endorsements evidencing coverage of each subconsultant.

The CONSULTANT shall require all insurance policies in any way related to the work and secured and maintained by the CONSULTANT to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against CFX. The CONSULTANT shall require of subconsultants, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section. When required by the insurer, or should a policy condition not permit an endorsement, the CONSULTANT agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the CONSULTANT enter into such an agreement on a pre-loss basis. At the CONSULTANT's expense, all limits must be maintained.

16.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be listed as an additional insured. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

16.2 Business Automobile Liability coverage shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its

equivalent. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Each of the above insurance policies shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; (2) The stated limits of liability coverage for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard "supplementary payments" clause will pay in addition to the applicable limits of liability and that these supplementary payments are not included as part of the insurance policies limits of liability.

16.3 Workers' Compensation and Employer's Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer's Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for bodily injury by disease, and \$500,000 policy limit by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the CONSULTANT, its employees, agents and subconsultants.

16.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

The CONSULTANT shall provide CFX with Certificate(s) of Insurance with required endorsements on all the policies of insurance and renewals thereof in a form(s) acceptable to CFX. CFX shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

All insurance policies shall be issued by responsible companies who are acceptable to CFX and licensed to do business under the laws of the State of Florida. Each Insurance company shall minimally have an A.M. Best rating of A-VII. If requested by CFX, CFX shall have the right to examine copies and relevant provisions of the insurance policies required by this Agreement, subject to the appropriate confidentiality provisions to safeguard the proprietary nature of CONSULTANT manuscript policies.

Any deductible or self-insured retention must be declared to and approved by CFX. At the option of CFX, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as requests CFX, or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All such insurance required by the CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by CFX.

Compliance with these insurance requirements shall not relieve or limit the CONSULTANT'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 CONSULTANT'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.

#### 17.0 COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CFX and securing its consent in writing, except as required by law. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data, documents, reports, or other written or electronic materials furnished in compliance with this Agreement, it being understood that, under Section 8.0 hereof, such data or information is the property of CFX.

Regarding the use of logos, printed documents and presentations produced for CFX shall not contain the name or logo of the CONSULTANT unless approved by CFX's Public Affairs Officer or his/her designee. Prior approval by CFX's Public Affairs Officer or his/her designee is required if a copy of the CFX logo or any CFX mark, including trademarks, service marks, or any other mark, collectively referred as "Marks," is to be used in a document or presentation. The Marks shall not be altered in any way. The width and height of the Marks shall be of equal proportions. If a black and white Mark is utilized, the Mark shall be properly screened to insure all layers of the Mark are visible. The proper presentation of CFX Marks is of utmost importance to CFX. Any questions regarding the use of CFX Marks shall be directed to the CFX Public Affairs Officer or his/her designee.

#### 18.0 STANDARD OF CONDUCT

The CONSULTANT covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 and the CFX Code of Ethics 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. The CONSULTANT agrees to complete the Potential Conflict Disclosure Form with contract execution, annually by July 1, and in the event of changed circumstances.



The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

The CONSULTANT acknowledges that it has read CFX's Code of Ethics and the referenced statutes and to the extent applicable to the CONSULTANT, agrees to abide with such policy.

#### 19.0 DOCUMENTED ALIENS

The CONSULTANT warrants that all persons performing work for CFX under this Agreement, regardless of the nature or duration of such work, shall be United States citizens or properly authorized and documented aliens. The CONSULTANT shall comply with all federal, state and local laws and regulations pertaining to the employment of unauthorized or undocumented aliens at all times during the performance of this Agreement and shall indemnify and hold CFX harmless for any violations of the same. Furthermore, if CFX determines that CONSULTANT has knowingly employed any unauthorized alien in the performance of this Agreement, CFX may immediately and unilaterally terminate this Agreement for cause.

#### 20.0 E-VERIFY CLAUSE

CONSULTANT 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 CONSULTANT during the term of the contract. CONSULTANT shall require all of its subconsultants to verify the employment eligibility of all new employees hired by the subconsultants during the term of the Agreement.

#### 21.0 CONFLICT OF INTEREST

The CONSULTANT shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Executive Director for resolution.

During the term of this Agreement:

The CONSULTANT is NOT eligible to pursue any advertised construction engineering and inspection projects of CFX as either a prime or subconsultant where the CONSULTANT participated in the oversight of the projects or for any project which the CONSULTANT prepared plans and/or specifications. Subconsultants are also ineligible to pursue construction engineering and inspection projects where they

participated in the oversight of the projects or for any project which the subconsultant was involved in the preparation of plans and/or specifications.

## 22.0 INSPECTOR GENERAL

CONSULTANT 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. CONSULTANT agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

## 23.0 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."

## 24.0 INTEGRATION

This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no other agreements between the parties in connection with the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

## 25.0 ASSIGNMENT

This Agreement may not be assigned without the written consent of CFX.

## 26.0 AVAILABILITY OF FUNDS

CFX's performance and obligation to pay under this Agreement are contingent upon an annual budget appropriation by its Board. The parties agree that in the event funds are not appropriated, this Agreement may be terminated, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

## 27.0 SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

## 28.0 AUDIT AND EXAMINATION OF RECORDS

### 28.1 Definition of Records:

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

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

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

28.3 If CFX requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review, or delays such access or review for over ten (10) calendar days, CONSULTANT shall be in default under its Contract with CFX, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall also preclude the CONSULTANT from acting in the future as a subcontractor of another contractor doing work for CFX during the period of disqualification or suspension. Disqualification shall mean the CONSULTANT is not eligible for and shall be precluded from doing future work for CFX until reinstated by CFX.

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

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

28.6 The obligations in Section 28.0, Audit and Examination of Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

## 29.0 NOTICE

All notices required pursuant to the terms hereof shall be sent by First Class United States Mail. Unless prior written notification of an alternate address for notices is sent, all notices shall be sent to the following addresses:

To CFX:                      Central Florida Expressway Authority  
                                    4974 ORL Tower Road  
                                    Orlando, FL 32807  
                                    Attn: Chief of Infrastructure

Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807  
Attn: General Counsel

To CONSULTANT: DRMP, Inc.  
941 Lake Baldwin Lane  
Orlando, FL 32814  
Attn: Timothy "TJ" Lallathin, Jr., P.E.

DRMP, Inc.  
941 Lake Baldwin Lane  
Orlando, FL 32814  
Attn: Jon S. Meadows, P.E.

### 30.0 GOVERNING LAW AND VENUE

This Agreement shall be governed by and constructed in accordance with the laws of the State of Florida. The parties consent to the exclusive jurisdiction of the courts located in Orange County, Florida. The obligations in Section 30.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

### 31.00 ATTACHMENTS

Exhibit "A", Scope of Services  
Exhibit "B", Method of Compensation  
Exhibit "C", Details of Cost and Fees  
Exhibit "D", Project Organization Chart  
Exhibit "E", Project Location Map  
Exhibit "F", Project Schedule


[ SIGNATURES TO FOLLOW ]

IN WITNESS WHEREOF, the CONSULTANT and CFX have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written. This Contract was awarded by CFX's Board of Directors at its meeting on March 08, 2017.

**DRMP, INC.**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

BY:   
Authorized Signature


BY:   
Director of Procurement

Print Name: Jon S Meadows

Print Name: Aneth Williams

Title: Vice President

Effective Date: \_\_\_\_\_

ATTEST:  (Seal)  
Secretary or Notary

*Approved as to form and execution, only.*

  
General Counsel for CFX

**EXHIBIT A**

**SCOPE OF SERVICES**

**Exhibit A**

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

**SCOPE OF SERVICES**

**FOR**

**S.R. 528 / S.R. 436 INTERCHANGE  
IMPROVEMENTS AND S.R. 528 WIDENING  
FROM S.R. 436 TO GOLDENROD ROAD**

**PROJECT NO. 528-143**

**IN ORANGE COUNTY, FLORIDA**

**MARCH 2018**



Exhibit A

SCOPE OF SERVICES

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## 1.0 GENERAL

### 1.01 Location

- A. See EXHIBIT "E", Project Location Map.

### 1.02 Description

The services will include final design and preparation of construction drawings / specifications for the proposed SR 528 / SR 436 Interchange Improvements and SR 528 Widening. Specifically, the project will provide for demolition of the existing bridges at the following locations: the southbound S.R. 436 Bridge over S.R. 528, the southbound S.R. 436 Bridge over Ramp M and the northbound S.R. 436 Bridge over S.R. 528. In addition, five (5) new bridges will be provided at the following locations: southbound S.R. 436 over S.R. 528, Ramp B-1A over southbound S.R. 436, Ramp B-1A over northbound S.R. 436, Ramp B-1A over S.R. 528, northbound S.R. 436 over SR 528, and Ramp C-2 over S.R. 528. Widening of S.R. 528 to provide six (6) general use lanes through the interchange area as well as an auxiliary lane eastbound to Goldenrod Road and westbound to Conway Road. Additional elements include surveying, drainage evaluation and design, permitting, lighting, signing and pavement markings, maintenance of traffic, utility design and coordination, geotechnical analysis, scheduling and project control, progress reporting and other tasks and associated activities.

### 1.03 Purpose

- A. The purpose of this Exhibit is to describe the scope of work and responsibilities required in connection with Final Engineering and Final Construction Drawings and Documents for the proposed S.R. 528 / S.R. 436 Interchange Improvements and S.R. 528 Widening from Conway Road to Goldenrod Road.
- B. The Consultant shall perform those engineering services as required for final roadway/drainage plans, final bridge plans, final lighting plans, final traffic control plans, final utility plans, final fiber optic network plans, final signing and pavement marking plans and preparation of a complete environmental resource application (or permit modification) including storm water management calculations.
- C. CFX's Project Manager will provide contract administration, management services and technical reviews of all work associated with the preliminary and final designs.
- D. It is understood that references throughout this document to items of work and services to be performed are the responsibility of the Consultant unless otherwise expressly stated as the responsibility of others.

1.04 Organization

- A. CFX's Project Manager will administer the Consultant services detailed in this scope. The following sections define the duties and obligations of CFX and the Consultant.

1.05 Term of Agreement for Design Services

- A. The term of the Agreement to perform the required design services shall be within fifteen (15) months from notice to proceed, including all reviews. Any fast track of services will be at the direction of CFX's Project Manager.
- B. The Consultant may continue the design efforts while design submittals are being reviewed. Doing so, however, in no way relieves the Consultant of the responsibility to incorporate review comments into the design, nor does it entitle the Consultant to any additional design fees as a result of making changes due to review comments.

- 1. Project Milestones:

- The Consultant will prepare a tabulation of major project milestones.

- 2. Project Schedule:

- The Consultant shall include a schedule of major design tasks.

## **2.0 STANDARDS**

- A. The applicable design and construction standards and policies of the Florida Department of Transportation, Federal Highway Administration (FHWA), American Association of State Highway and Transportation Officials (AASHTO), Transportation Research Board (TRB), Standard Building Code, CFX's Design Practices and Standard Notes and CFX's Guidelines for Preparation of Signing and Pavement Marking Plans shall be followed throughout the design and construction of the project unless specifically stated otherwise. The editions of the applicable standards and policies in effect at the time of Contract execution shall be used except as follows:
1. Division II, Construction Details, and Division III, Materials, of the FDOT Standard Specifications for Road and Bridge Construction, 2018 edition, and updates thereafter, shall be used for this project.
  2. The FDOT Standard Plans for Road and Bridge Construction (Index Drawings), latest edition and subsequent interim indexes and updates, shall be used for this project.
  3. The FDOT Design Manual, latest edition, shall be used for this project.
  4. The FDOT Basis of Estimates Manual, latest edition, shall be used for this project.
  5. The AASHTO Policy on Geometric Design of Highway and Streets (Green Book), 2004 edition, shall be used for this project.
  6. The FHWA Manual on Uniform Traffic Control Devices (MUTCD), 2009 edition, as amended, shall be used for this project.

### **3.0 DESIGN CRITERIA**

#### 3.01 General

Design of this project will be guided by the basic design criteria listed below.

- A. The design criteria listed in this section and Project Design Directives, provided by CFX during the course of the project, may supplement the Project Design Guidelines.
- B. Design year – 2045
- C. Design vehicle – WB-62FL
- D. Along with the 30% design submittal, the Consultant shall provide a tabulation of all applicable drainage and stormwater management criteria from Federal, State and local agencies and indicated which will be used for all segments and portions of the project. Unless otherwise directed by CFX, the Consultant shall use the most restrictive or conservative criteria applicable.

#### 3.02 Geometry

The following criteria are to be incorporated into the design:

<b><u>DESIGN ELEMENT</u></b>	<b><u>EXPRESSWAY</u></b>		<b><u>CROSSROADS/ COLLECTORS</u></b>
	<b><u>MAINLINE</u></b>	<b><u>RAMPS</u></b>	
<b><u>Design Speed, MPH</u></b>	70 mph	30 mph (Loop) 50 mph (Diamond) 50 mph (Directional)	30 Local 45 Urban 50 Rural
<b><u>Horizontal Alignment</u></b>			
a. Max. Curve, Degrees	3° 30'	24° 45' Loop 8° 15' Diamond 8° 15' Directional	20°
b. Max. Superelevation, ft. /ft.	0.10	0.10	0.05 Urban 0.10 Rural
c. Lane Drop Tapers	70:1	50:1	
d. Transitions	Use spirals for curves > 1° 30'	Use spirals for curves > 1° 30'	Use spirals for curves > 1° 30'
<b><u>Vertical Alignment</u></b>			
a. Max. Grade	3%	5% to 7% (30 mph) 3% to 5% (50 mph)	5% Arterial Rural 7% Collector

<u>DESIGN ELEMENT</u>	<u>EXPRESSWAY</u>		<u>CROSSROADS/ COLLECTORS</u>
	<u>MAINLINE</u>	<u>RAMPS</u>	
b. Vertical Curvature (K) (K=Len./%grade change)			Rural
Crest	506 FDOT 290 to 540 AASHTO	31 (30 mph) 136 (50 mph) 110 to 160 Other (AASHTO)	31 to 136
Sag	206 FDOT 150 to 200 AASHTO	31 (30 mph) 136 (50 mph) 90 to 110 Other (AASHTO)	37 to 96
c. Decision Sight Dist., ft.	Refer to AASHTO	N/A	N/A
<u>Cross Sections</u>			
a. Lane Widths, ft.	12	12 dual lanes 15 min. single lane	12 inner lanes 12-16 outer lanes
b. Shoulder width, ft.	<u>4-Lane</u>	<u>Single Lane</u>	
Right	12 (10 paved)	6 (4 paved)	8 (4*paved)
Left	8 (4 paved)	6 (2 paved)	8 (2 paved)
			* min. 5' paved FDOT
Right	<u>6-Lane</u>	<u>Dual Lane</u>	
Left	12 (10 paved)	10* (8* paved)	
	12 (10 paved)	8 (4 paved)	
		(* add 2' for interstate)	
<u>Bridges, ft.</u>	<u>4-Lane</u>	<u>Single-Lane</u>	
Right	10	6	
Left	6	6	
	<u>6-Lane</u>	<u>Dual Lane</u>	
Right	10	10	
Left	10	6	
c. Cross Slopes			
1. Traffic Lanes	2% (4-lane) 3% or tbd (6-lane)	2%	2%
2. Bridge Lanes	2% typ. (no break)		



<u>DESIGN ELEMENT</u>	<u>EXPRESSWAY</u>		<u>CROSSROADS/ COLLECTORS</u>
	<u>MAINLINE</u>	<u>RAMPS</u>	
3. Left Shoulder 4. Right Shoulder	5% 6%	5% 6%	5% 6%
d. Median Width (4-lane), ft. (E.O.P./E.O.P.)	64' (typical) 26' (with barrier)	N/A	22' or 40'
<u>Horizontal Clearance</u>	FDM Table 215.2.1	FDM Table 215.2.1	FDM Table 215.2.1
<u>Vertical Clearance, ft.</u>			
a. Over Roadway*	16.5	16.5	
b. Overhead Signs	17.5	17.5	16.5
c. Over Railroad	23.5	23.5	17.5
			N/A

#### Ramp Operations

- a. Two thousand (2,000) ft. between entrance and exit terminals – full freeways
- b. Six hundred (600) ft. between exit and entrance terminals
- c. Single Lane Entrance Ramp Parallel
- d. Exit Ramp Taper of 550 ft. (3° – divergence)

#### Right of Way

- a. Ten (10) ft. from back of walls or limit of construction.
- b. Two (2) ft. from back of sidewalk on frontage roads.
- c. Drainage and construction easements as required
- d. Limited access right-of-way limits per Index 450
- e. Right of way limits for ramps is based upon limit of construction plus 10 feet.

#### 3.03 Bridge and Other Structures

- A. All plans and designs shall be prepared in accordance with the latest standard specifications adopted by AASHTO, FDOT Structures Design Guidelines (Manual), FDOT Structures Manual, FDOT Design Manual, FDOT Standard Plans for Road and Bridge Construction, etc., except as otherwise directed by CFX.

#### **4.0 WORK PERFORMED BY CONSULTANT**

- ✓ The Consultant shall be responsible for the work outlined in this Section. The work shall conform to the standards, criteria, and requirements of this Scope of Services.

##### 4.01 Design Features

- A. The work required for this project includes preparation of final construction drawings and specifications as well as the preparation of a complete environmental resource application.

- B. Major elements of the work include the following:

The services will include final design and preparation of construction drawings / specifications for the proposed SR 528 / SR 436 Interchange Improvements and SR 528 Widening. Specifically, the project will provide for demolition of the existing bridges at the following locations: the southbound S.R. 436 Bridge over S.R. 528, the southbound S.R. 436 Bridge over Ramp M and the northbound S.R. 436 Bridge over S.R. 528. In addition, five (5) new bridges will be provided at the following locations: southbound S.R. 436 over S.R. 528, Ramp B-1A over southbound S.R. 436, Ramp B-1A over northbound S.R. 436, Ramp B-1A over S.R. 528, northbound S.R. 436 over SR 528, and Ramp C-2 over S.R. 528. Widening of S.R. 528 to provide six (6) general use lanes through the interchange area as well as an auxiliary lane eastbound to Goldenrod Road and westbound to Conway Road. Additional elements include surveying, drainage evaluation and design, permitting, lighting, signing and pavement markings, maintenance of traffic, utility design and coordination, geotechnical analysis, scheduling and project control, progress reporting and other tasks and associated activities.

##### 4.02 Governmental Agencies

- A. The Consultant shall coordinate with and assist in securing the approval of all interested agencies involved. These agencies may include, but are not necessarily limited to GOAA, FDEP and applicable Water Management District(s), Orange County, FDOT District 5, and the City of Orlando.

##### 4.03 Preliminary Design Report - Review

- A. The Consultant shall review the project concept for proposed alternatives with regard to proposed design criteria, maintenance of traffic and construction feasibility.

At the completion of this review, the Consultant shall submit to CFX a written list of recommendations and proposed revisions, if any, to the basic layout. A conference will be scheduled by CFX's Project Manager with the Consultant to resolve any outstanding differences and agree upon a final layout for the project.

#### 4.04 Surveys and Mapping

- A. All Surveying and Mapping shall be performed under the direction of a Surveyor and Mapper properly licensed with the Florida Board of Professional Surveyors and Mappers, under Chapter 472, Florida Statutes. The Consultant shall review data provided by CFX and provide complete field surveys suitable for contract document preparation.

Survey activities shall be coordinated with the Consultant's design team including roadway, drainage, structures, geotechnical, and other disciplines as required.

Field surveys shall be performed with minimal disruption of the normal traffic flow for the project. Field personnel shall use safety devices such as warning signs, traffic cones, warning lights, and safety vests at all times, according to the Florida Department of Transportation requirements. Advanced warning signs required when survey crews are working on CFX's system shall be made with 3M Scotchlite Diamond Grade Fluorescent orange roll up sign sheeting.

#### B. Alignment

1. Establish Survey Centerline by establishing the tangent lines of existing Right of Way maps if such maps exist, or in the center of dedicated Right of Way as per subdivision plats, or in the center of the pavement when no Right of Way map or dedication exists. Set alignment points Begin, End, PC's, PT's, PI's and at maximum 1400-foot intervals along alignment.
2. Establish and set alignment in the same manner on cross roads and major adjacent alignments.
3. Station all alignments at 100' intervals.
4. Meet with CFX's Project Manager to discuss methods for determining alignments prior to staking.

#### C. Reference Points

1. Set at all alignment points, left and right at 90-degrees to alignment where possible, outside the proposed construction limits.
2. Show obstructions where alternate references are set.

#### D. Bench Levels

1. The Consultant shall establish new benchmarks at 1000' intervals, along all alignments, using stable points.

#### E. Topography

1. Planimetric mapping and a digital terrain model (DTM), suitable for

1"=50' display scale shall be conducted by the Consultant.

2. The Consultant will obtain existing pavement elevations and cross-slopes along the inside travel lane and outside travel lane every 100'.
3. Additional topographic and DTM surveys, as needed for the project design, are the responsibility of the Consultant. These may include existing water bodies and pavement elevations.

F. Drainage Survey

Perform a drainage survey including pipe type, location, size and flow line elevations as needed for design.

G. Underground Utilities

Locate all underground utilities, horizontally and vertically as flagged by respective utility companies or a qualified utility marking consultant. Provide soft excavation verifications as needed to verify location and at utility conflict areas.

H. Side Street Surveys

Perform topographic and utility surveys of side streets as may be needed for engineering design.

I. Bridge Survey

Provide bridge survey data as needed for engineering design.

J. Jurisdictional Line Surveys

Perform Jurisdictional Line Surveys as needed for engineering design and permitting.

K. Geotechnical Surveys

Locate and/or stake boring locations as needed for geotechnical investigations.

L. Right-of-Way Ties

Locate right-of-way limits for construction purposes. No new right-of-way is anticipated.

- M. Prior to construction, the Consultant shall re-flag and reset alignment control points, references and benchmarks and meet with the construction contractor to review these points.

N. CFX ITS/FON

CFX will locate the FON one time at the beginning of design during the survey phase. Once the FON/ITS lines are flagged, the Consultant shall survey the located FON/ITS locations in the field. The survey data collected will be included in the 30% plans submittal package.

The CFX GSC will review the plan submittals to ensure that the FON is shown correctly as actually located in the field. The CFX GSC will also determine if there are any overlapping projects that need to be represented in the design plans as a part of the ITS Component review of the 30% plans.

SUE will be done as required based on the Design Project Manager's recommendations and provided to CFX for their information.

#### 4.05 Geotechnical Investigation

- A. The Consultant shall perform a geotechnical investigation of the project in accordance with the requirements of CFX.
- B. Investigations shall be performed with minimal disruption of the normal traffic flow for the project. Field personnel shall use safety devices such as warning signs, traffic cones, warning lights, and safety vests at all times, according to CFX requirements. The Consultant shall adhere to all traffic control requirements when taking samples on existing roadways. A traffic control plan and permit may be required. Any advanced warning signs required when crews are working on CFX system shall be made with 3M Scotchlite Diamond Grade Fluorescent orange roll up sign sheeting.
- C. The work includes, but is not limited to, LBR testing, design methods for the selected foundation, external stability evaluation at proprietary retaining walls, groundwater and estimated seasonal high groundwater level, pH and resistivity conditions requiring design considerations, soil shrinkage/swell characteristics, slope stability and benching in embankment/excavation locations, location and depths of unsuitable material (muck), and design alternatives based on geotechnical findings; design values for active, at rest, and passive soil pressures; allowable design loads or pressures for each foundation type, corrosion testing for structures and provision of recommended design soil parameters for design of foundations for sign structures.
- D. The results of the geotechnical investigation shall be contained in a Geotechnical Report which shall be submitted to CFX's Project Manager for approval. The geotechnical investigation shall include all necessary laboratory testing of materials.
- E. Upon approval of the Geotechnical Report, the Consultant shall proceed with preparation of the pavement and foundation designs.

- F. Boring profiles shall be included on cross-section sheets in the contract plans and include the boring number, station, offset, soil legend, observed water table, design high water elevation and geotechnical consultant's address. A boring number and target symbol shall be shown at the appropriate location on the roadway and bridge plans.
- G. Roadway core samples shall be taken to determine the existing pavement section. The Consultant shall submit a plan to CFX for location approval.

#### 4.06 Contamination Impact Analysis

- A. The Consultant may perform a contamination impact analysis of the project in accordance with the applicable rules and regulations of the FDOT Project Development and Environment Guidelines, Chapter 22, the Florida Department of Environmental Protection (FDEP), and all other pertinent State or Federal agencies having jurisdiction, and the requirements of CFX.
- B. If required, the Consultant shall conduct a windshield survey along the project corridor to identify any new sources of environmental contamination not reported in the referenced document(s).
- C. The testing of any sites including the use of ground penetrating radar, if required to complete the design and/or construction of the project, will be added to the Scope of Services by Supplemental Agreement.

#### 4.07 Pavement Design

- A. The Consultant shall prepare the pavement design as appropriate in accordance with the requirements of the FDOT for SR 436 and SR 528 mainline and interchange ramps impacted. Milling and resurfacing for traffic control purposes only will remove friction course only.
- B. The proposed pavement design recommendation, resulting from the Consultant's analysis of the various alternatives, shall be contained in a Pavement Design Summary.

#### 4.08 Borrow Pits

- A. The Consultant's geotechnical investigation may include the investigation of current borrow pits. The location and testing of any new borrow pits if required to complete the construction of the project shall be added to the Scope of Services by Supplemental Agreement. The analysis and test results shall be contained in a separate report submitted not later than the preliminary submittal.

#### 4.09 Governmental Agency and Public Meetings

- A. Except as may be provided elsewhere in this Scope of Services, the

Consultant shall have appropriate representatives present at such meetings, conferences or hearings as CFX may direct to secure necessary approvals and/or support of the project by county, municipal, or other governmental agencies. If so directed, the Consultant shall also have appropriate representatives present at meetings or conferences of CFX, its Chairman or staff.

- B. The Consultant shall assist CFX in presentations to various parties. The Consultant shall prepare exhibits pertaining to basic roadway and noise wall elements. CFX will prepare exhibits pertaining to aesthetic treatments and other design issues if applicable. This scope assumes presentations at one meeting with adjacent property owners.

#### 4.10 Environmental Permits

- A. CFX's Project Manager will review, coordinate and submit the applications for all environmental permits, including EPA's NPDES General Permits for Stormwater Discharges from Construction Sites. The Consultant shall provide all information, permit applications and data relating to Stormwater Management and Floodplain Impacts required for the permits to CFX. (CFX will be responsible for preparing all of the Wetlands and Protected Species analysis and documentation required for the permits.) The Consultant shall:
  - 1. Attend the pre-application meetings and site visits with CFX and regulatory agencies.
  - 2. Provide additional information requested at the pre-application by regulatory agencies for permits.
  - 3. Provide aerial maps at a 1"=400' scale which include SCS soils data, 100-year floodplain limits and proposed project.
  - 4. Provide all plans, calculations, sketches and reports required for permits except as described above.
  - 5. Provide copies of all drainage calculation, including pond routing nodal diagrams, for the project.
  - 6. Assist CFX in responding to any requests for additional information made by regulatory agencies after the permit application is submitted.
  - 7. Incorporate any changes required by changes in regulatory agency requirements during the course of the project. If this requires additional work by the Consultant a Supplemental Agreement will be prepared.

8. Prepare a list of adjacent landowners along with address and nine-digit zip code at all wetland encroachment sites.
9. Provide all permit application material in .pdf format and 7 hard copies.
10. The Consultant will provide dredge and fill sketched as required by the permitting agencies if applicable. Mitigation plans, if required, may be added as a supplemental service.
11. Determine extent of floodplain impacts, if any, and provide compensatory flood stages as required.

#### 4.11 Utilities

##### A. Location

The Consultant shall obtain available utility mapping and information and identify all utilities within the general project limits to determine potential conflicts and relocations. Where a potential conflict exists, the Consultant may need to arrange to probe or expose ("pothole") the utility and survey the horizontal and vertical location of the utility line. The Consultant shall coordinate this effort with involved utility companies. All existing utilities shall be shown on appropriate preliminary construction plans. The Consultant's notes shall include the name and telephone number of contact persons for the construction contractor's use.

##### B. Utility Coordination

1. The Consultant shall prepare reproducible utility adjustments plans based on information provided by respective utility companies.
2. Private utilities will prepare design plans for the relocation of their facilities. If a utility cannot or will not prepare these design plans, the work shall be added to the scope by Supplemental Agreement and the Consultant shall prepare design plans for utility relocation for approval of the utility and review by CFX.
3. Where utility conflicts occur which require utility relocation agreements between the affected utility and CFX, the Consultant shall prepare the necessary data/plans required for the agreements. The Consultant shall advise CFX seven days in advance of meetings with utility companies/agencies scheduled to discuss utility relocations.
4. The preparation and negotiation of the agreement will be performed by CFX's Project Manager. After approval of the agreement by the utility and CFX, the Consultant shall prepare reproducible utility



adjustment sheets identifying proposed relocations with respect to the construction plans.

5. The Consultant shall prepare a utility conflict matrix to assist in identifying and resolving conflicts between utilities and proposed construction prior to completion of the plans.
6. The Consultant shall obtain utility work schedules from the utility companies.
7. The Consultant shall prepare the Utility Certification Letter certifying that all utility negotiations (full execution of each agreement, approved utility work schedule, technical special provisions written, etc.) have been completed with arrangements made for utility work to be undertaken and completed as required.

#### 4.12 Roadway Design

- A. A Typical Section Package will not be prepared for this project. Rather, typical sections for SR 436 and SR 528 mainlines and impacted interchange ramps will be prepared as part of the Preliminary Design Report and submitted to CFX for review and approval.
- B. The Consultant shall design the geometrics for this project using the design standards included in the scope. The design elements shall include, but not be limited to, the horizontal and vertical alignments, cross section template development, lane width, shoulder widths, cross slopes, borders, sight distance, side slopes, lane transitions, superelevations, features of intersections, ramp terminal details, interchanges, and limited access points.
- C. The Consultant shall prepare designs and contract documents for the roadway improvements, including, but not necessarily limited to:
  1. Cover sheet (key sheet)
  2. Summary of Pay Items
  3. General notes
  4. Summary Quantities sheets
  5. Project Layout
  6. Typical roadway sections
  7. Plans and profiles (plans at 1"=50' scale)
  8. Interchange plans, profiles, alignment and plan index sheets

9. Interchange layout plans
10. Intersection plans and profiles or spot elevations
11. Interchange curve and coordinate data sheets
12. Ramp Terminal Details
13. Crossroad plans and profiles (1"= 50' scale)
14. Cross-sections (with pattern plan) (1" = 20' horiz.) (1" = 5' vert.)
15. Earthwork quantities
16. Traffic Control Sheets including Erosion Control/Temp. Drainage
17. Utility Adjustment Sheets as deemed necessary
18. Details
19. Special provisions
20. Special specifications

#### 4.13 Structures Design

- A. Prior to commencement of final design, the consultant shall prepare a Bridge Concept Report which documents a limited range of structural alternatives and identifies preferred alternatives. Specifically, the alternatives to be examined include beam type, wall type / configuration and foundation pile type.
- B. The Consultant shall prepare designs and contract documents for structural design including, but not necessarily limited to the following items.
  1. Complete Bridge designs will be provided for all bridges
  2. Retaining walls
  3. Box Culverts
  4. Slope protection
  5. Approach slabs
  6. Details

7. Summary quantity tables
8. Special provisions and specifications
9. Stage construction-sequencing details (if applicable).
10. Sign\Signal structures.
11. Noise walls (N/A)
12. The Consultant shall perform Load Rating Analysis per FDOT criteria for bridges at the 90% design phase. The Load Rating Analysis packages shall be submitted to FDOT for their review and approval.

#### 4.14 Drainage Design

- A. As part of the drainage design requirements, the Consultant shall:
1. Perform all drainage design in accordance with the approved criteria from Section 3.01.
  2. Finalize the pond design at the 30% submittal.
  3. Have its chief drainage engineer available at the scheduled (bi-weekly/monthly) team meetings to review progress and discuss problems.
  4. Notify CFX's Project Manager immediately if any deviation from approved design criteria is anticipated.
  5. Provide drainage/contour maps as needed used in the development of the drainage design to CFX for use in scheduled reviews. These maps will be returned to the Consultant along with review comments at the end of the review process.
  6. Provide copies of its internal quality control comments and calculations at the scheduled reviews.
- Critical duration analysis is not included in this effort and, if required, shall be added to the scope by Supplemental Agreement. A pond siting report is not required.
- B. The Consultant shall prepare designs and contract documents for drainage features including, but not necessarily limited to:
1. Connector pipes
  2. Drainage structure details

3. Storm drain and culvert profiles and/or drainage cross-sections
4. Lateral ditches/channels
5. Outfall ditches/channels
6. Retention/detention ponds/exfiltration system

#### 4.15 Roadway Lighting

- A. The Consultant shall provide a complete set of final roadway lighting documents in accordance with FDOT and CFX design criteria. The work shall include coordination with the local utility to provide electrical service. Plan sheet scale shall be at 1"=50' scale.
- B. If required, CFX will provide a cut sheet for the type of lighting fixtures to be used for this project.
- C. The Consultant will prepare designs and contract documents for lighting design including, but not necessarily limited to the following items.
  1. Cover sheet (key sheet)
  2. Tabulation of Quantities
  3. General notes
  4. Pole data and Legend sheet
  5. Project Layout sheet
  6. Plans sheets (plans at 1"=50' scale)
  7. Service point detail
  8. Special Details

#### 4.16 Traffic Engineering

- A. Traffic Data will be furnished by CFX.
- B. Maintenance of Traffic Plans
  1. The Consultant shall prepare maintenance of traffic plans at scale of 1"=100' to safely and effectively move vehicular and pedestrian traffic during all phases of construction. The designs shall include construction phasing of roadways ingress and egress to existing property owners and businesses, routing, signing and pavement markings, and detour quantity tabulations. Special consideration shall be given to the construction of the drainage system when developing the construction phases. Positive drainage must be maintained at all times.
  2. The Consultant shall investigate the need for temporary traffic signals,

signs, alternative detour roads, arrow boards, flagging operations, and the use of materials such as sheet pilings in the analysis. A certified designer who has completed the FDOT training course shall prepare the maintenance of traffic plan.

3. Traffic shall be maintained during all phases of project construction at all locations, including existing posted speed, lane widths and number of lanes entering and leaving Orlando International Airport unless determined by CFX and other governmental agencies. This includes meeting with the governmental agencies which may be impacted by the maintenance of traffic plans.

#### 4.17 Signing Plans

- A. The Consultant shall prepare designs and contract documents for final signing plans including layouts showing the locations of ground mounted and overhead signs, special sign details, lighting, and any structural or foundation requirements in accordance with applicable design standards. Any requirements for electric service shall be coordinated with the local electric utility.
- B. CFX will provide conceptual signing plans for the project as deemed necessary.
- C. CFX in coordination with Orlando International Airport will provide preliminary aesthetic input for the architectural modification of any details necessary for sign structures possibly impacted representing Orlando International Airport signage.
- D. Plan sheets will be developed at a scale of 1"=50' (11"x17" format).
- F. For the purposes of this proposal, two (2) overhead truss signs are assumed to be required for the traffic control improvements. Also, two (2) existing overhead trusses along the project will be affected by the improvements and are assumed to require reconstruction since they do not meet current wind load criteria. Propose to relocate and reuse existing structures if they meet current wind load criteria.

#### 4.18 Pavement Marking Plans

- A. The Consultant shall prepare designs and contract documents for final pavement marking plans, including striping, crosswalks, intersection details, reflective pavement markers and traffic delineators.
- B. The pavement marking design will be shown on the same plan sheets as the signing design.

4.19 Right-of-Way Surveys

- A. No additional right-of-way is anticipated for this project.

4.20 Cost Estimates

- A. The Consultant shall prepare and submit to CFX construction cost estimates at the 60%, 90%, 100%, Pre-Bid and Bid Set submittals outlined herein. The estimate shall be based on the current unit prices as applied to the latest concept of the proposed construction.

4.21 Special Provisions and Specifications

- A. The Consultant shall prepare and submit at the 90% level special provisions, special specifications, and technical special provisions for items, details and procedures not adequately covered by CFX's Technical Specifications. Technical Special Provisions for all Fiber Optic/ ITS infrastructure shall be developed by the CFX GSC and provided for review by the Consultant for inclusion in the Bidding Documents Package.

4.22 Fiber Optic Network (FON)

A. Fiber Optic Infrastructure Plans

1. The site construction plans shall be developed at a scale of 1" equals 50 feet. These plans shall include the relocation/replacement of all existing fiber optic ductbanks, cables, manholes, and pull boxes in areas where the existing locations conflict with construction. The Consultant shall identify existing physical features and utilities that will impact the construction and installation of the equipment. The Consultant shall review and modify standard FON details as necessary.
2. Fiber optic network (FON) plans shall include the following:
  - a. Roadway geometry
  - b. Rights-of-Way
  - c. Existing utilities within the right-of-way including CFX's FON
  - d. Physical features affecting construction/installation (sign structures, light poles, fences, etc.)
  - e. Manhole/Pull box locations and stub-out details (standard details provided)
  - f. Device layout
  - g. Device installation details
  - h. Conduit installation details (standard details provided)
  - i. Fiber optic cable route marker detail (standard details provided)
  - j. Fiber count per conduit

- k. Communications interconnect
- l. Connectivity with the FON backbone conduits
- m. Fiber cable routing summaries, fiber cable allocation charts, and splice details and tables for new or relocated fiber optic cabling.
- n. Controller cabinet, CCTV/ TMS pole, and foundation details for proposed CCTV/ TMS sites.
- o. Power interconnect, calculations to support conductor size, and details. Power conductors to each device location shall be sized to the capacity of the main breaker in the cabinet. Determination on conductor sizing and voltage drop limits are only required for proposed sites and existing sites where the total site load is being significantly modified.
- p. Grounding
- q. Table of quantities
- r. Special notes
- s. Maintenance of fiber operations (protection of existing FON through all phases of construction and cutover phasing to ensure continuous operation of existing ITS devices)
- t. All existing and proposed FON to be included and shown with roadway cross sections and drainage cross sections
- u. Relocation/replacement of existing CCTV sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing CCTV is not compatible with proposed construction.
- v. Relocation/replacement of existing data collection sensor (DCS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing DCS would not survive project construction.
- w. Relocation/ replacement of existing GOAA dynamic message sign (DMS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing DMS would not survive project construction.
- x. Relocation/ replacement of existing traffic monitoring sites (TMS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing TMS would not survive project construction.
- y. Upgrading other cabinet equipment as needed to meet current CFX ITS equipment standards within the project limits.
- z. Wrong-Way Detection RRFBs for SR 408 off-ramps to Goldenrod road.

3. The Consultant shall take the following information into consideration when developing the site construction plans:
  - a. Minimize utility conflicts and adjustments.
  - b. Minimize traffic impact.
  - c. Accessibility and ease of equipment maintenance.
  - d. Safety of equipment maintenance personnel and the traveling public.
  - e. Maintain the existing FON system through all phases of construction.
  - f. Environmental conditions.
  - g. Concurrent/future CFX projects.
  - h. Compatibility with existing and proposed ITS infrastructure (e.g. CFX enhanced grounding standards for ITS devices, CFX transient voltage surge suppression (TVSS) standards for ITS devices, etc.)
  - i. Leased conduits in CFX FON duct bank that are occupied by the fiber optic cable of other agencies or entities.

#### B. Splice and Cable Routing Details

1. The Consultant shall provide splicing detail diagrams to document proposed fiber optic splices within and between manholes, ITS devices, tollbooths, and other junction points.
2. Proposed splicing tables shall include ITS device connectivity, fiber use, drop cable fiber identification, drop cable identification, backbone cable identification, translateral cable identification, backbone into mainline cable identification, and toll plaza patch panel jack.
3. The Consultant shall provide cable routing diagrams and fiber allocation charts in CFX's standard format to document the functional connectivity between proposed fiber optic conduit and splices.

#### C. Maintenance Of Fiber Operations

1. The Consultant shall provide a plan of action to ensure existing fiber optic network is not disrupted during construction operations.
2. The Consultant shall determine the sequence of fiber optic cable splices to minimize disruption to communications.

#### D. Inside Plant Plans

1. Not Applicable. This proposal does not include modifications and/or improvements to any of the existing toll plazas, including any associated communications, equipment and gantry systems.



- E. Standard CFX specifications/special provisions will be provided to the Consultant. The Consultant shall review the specifications/ special provisions and provide recommended modifications as necessary. CFX shall provide the final approved specifications/ special provisions to be included in the Bidding Documents Package.

#### 4.23 Toll Plazas

- A. This project does not include modifications and/or improvements to any of the existing toll plazas, including any associated equipment and gantry systems.

#### 4.24 Post-Design Services

- A. Services shall begin after authorization by CFX. The Consultant compensation for post-design services may be added by Supplemental Agreement and shall be at an hourly rate, inclusive of overhead, profit and expenses, and exclusive of travel. No compensation will be made for correction of errors and omissions.
- B. The Consultant shall support the post design process as follows:
  - a. Answer questions relative to the plans, typical sections, quantities and special provisions.
  - b. Make any necessary corrections to the plans, typical sections, quantities, notes, etc., as may be required.
  - c. Attend pre-award meeting with construction contractor, CFX, and CFX's CEI.
- C. The Consultant shall, prior to the pre-bid conference, be prepared to walk the project with CFX's CEI to discuss the plans and details. The Consultant shall be prepared to attend the pre-bid conference and respond to questions related to the plans, details, and special provisions.
- D. The Consultant shall prepare any addenda required to clarify the work included in the construction contract documents. Addenda may be required based on the project inspection with the CEI, or questions developed in the pre-bid conference, or conditions discovered by bidders during the bid period.
- E. The Consultant shall be available to respond to questions in the field that may arise relative to the plans, details or special provisions during construction. The Consultant shall periodically visit the project site to observe the progress of construction on the project. This visit will not replace the formal construction inspection by CFX. It is intended to provide the opportunity of the design team to observe whether the work is being performed in general conformance with the project plans. Written memos of all such field trips shall be submitted to CFX within five working days of the trip.

- F. The Consultant shall review and approve shop drawings for structural, lighting, signing, traffic signal elements, and toll plaza shop drawings. This work will include the erection procedure plans, review proposals for substitutions, develop supplemental agreements, and provide other engineering services required to facilitate construction of the project. Reviews will be conducted and returned within two weeks from receipt of information.
- G. The Consultant shall appoint a responsible member of the firm to be the contact person for all post-design services. The person should be continually available during the course of construction for review of design plans.
- H. The Consultant shall make every reasonable effort to process any material presented for review in a prompt manner recognizing a construction contract is underway.
- I. The Consultant shall attend partnering meetings as requested by CFX's Project Manager. The Consultant shall also attend progress/coordination meetings as requested by CFX's Project Manager including, but not limited to, the Notice to Proceed meeting.
- J. Approved design bridge load ratings were obtained by the Consultant under the final design phase of this contract. The Contractor shall be responsible for revising and resubmitting the load ratings if changes to the bridge design occur during construction. Otherwise, the Consultant shall provide written correspondence to FDOT when construction is complete that the bridges were constructed in accordance with the plans and the design load ratings still apply.
- K. The Consultant shall provide geotechnical engineering services as needed by CFX, relative to pile driving, earthwork, embankment and MSE wall construction.
- L. The Consultant shall provide utility consulting services as needed by CFX, relative to proposed utility adjustments within the project limits.
- M. The Consultant shall prepare Record Drawings in electronic format following completion of the construction phase. CFX shall provide all As-Built drawings from the Contractor / CEI to the Consultant for their use in preparation of the Record Drawings.

## **5.0 MATERIALS FURNISHED BY CFX OR ITS DESIGNEE**

### 5.01 Record Documents

- A. CFX will provide the Consultant, within ten working days of a written request, the following items:
  - 1. Available record drawings of existing conditions
  - 2. Available right-of-way plans of existing conditions
  - 3. Current list available to CFX of owners of all affected properties within the section.
  - 4. Sample plans to be used as guidelines for format, organization and content.
  - 5. Title searches of all affected properties for use by the Consultant in the preparation of the right-of-way maps.
  - 6. Contract unit prices from latest CFX construction projects.

### 5.02 Traffic Data

- A. CFX will provide the following design traffic data:
  - 1. Current and design year ADT
  - 2. Current and design year peak hour volumes
  - 3. Turning movements at each intersection/interchange
  - 4. K, D and T factors
  - 5. Design speed - See Section 3.02, Geometry.
  - 6. AVI Percentages

### 5.03 Other

- 1. Utility designates for the FON and roadway lighting within CFX right-of-way.

## **6.0 WORK PERFORMED BY CFX OR ITS DESIGNEE**

### 6.01 Right-of-Way Acquisition

- A. If necessary, CFX, or its designee, will review all right-of-way plans, parcel sketches and legal descriptions prepared by the Consultant. CFX will handle all appraisals, negotiations, relocations, condemnation, and property settlements.

### 6.02 Utility Agreements

- A. CFX will support, as necessary, the Consultant's acquisition of information required for utility agreements.

### 6.03 Public Involvement

- A. CFX will provide a moderator for all required public meetings and provide guidelines for the Public Involvement aspects of the project. The need for public meetings or public hearings will be determined by CFX. CFX will be responsible for mailings and advertisements for the public meetings.

### 6.04 Contracts and Specifications Services

- A. CFX will prepare the necessary bid documents for the construction contract using plans, technical special provisions, and special specifications prepared by the Consultant.

### 6.05 Post-Design Services

- A. CFX will be the principal initial contact for post-design questions and answer questions on a limited scope.

### 6.06 Environmental Permits

- A. CFX will review and submit the environmental permit applications and coordinate with the Consultant on requests for additional information from the regulatory agencies.
- B. CFX will stake wetland lines and coordinate agency site visits. CFX will also prepare the wetland and wildlife analysis and documentation for the permits.

### 6.07 Conceptual Specialty Design

- A. CFX will provide a conceptual major guide signing plan.
- B. CFX will provide conceptual aesthetics design and treatments for structures.

## **7.0 ADMINISTRATION**

### **7.01 Central Florida Expressway Authority**

- A. CFX's Project Manager will administer the Consultant services detailed in this scope.
- B. All contractual payments and changes shall be reviewed and approved by CFX's Project Manager.

### **7.02 CFX's Project Manager**

CFX's Project Manager will:

- A. Conduct ongoing reviews of the Consultant's progress in performing the work and furnish technical comments in a timely manner.
- B. Review the Consultant's billings.
- C. Review and evaluate the Consultant's requests for extension of time and supplemental agreements and recommend appropriate action.
- D. Review all correspondence with public agencies prior to the Consultant's mailing of any correspondence except for requests for information.
- E. Coordinate the distribution of public information.
- F. Coordinate the data (including documentation of prior rights, cost estimates and plans) necessary for CFX to prepare and execute all utility and railroad agreements.
- G. Conduct an introductory meeting to deliver relevant information and explain the administration process.
- H. Review the Consultant's Quality Control program and the Consultant's conformance to the Quality Control Program.
- I. Provide a focal point contact for all questions, requests, and submittals.
- J. Provide a system to monitor the Consultant's schedule, progress and key milestone submittal dates.

### **7.03 Consultant**

- A. The Consultant has total responsibility for the accuracy and completeness of the construction contract documents and related design prepared under

this project and shall check all such material accordingly. The plans will be reviewed by CFX for conformity with CFX procedures and the terms of the Contract, as well as coordination with adjacent design contracts. Review by CFX does not include detailed review or checking of design of major components and related details or the accuracy with which such designs are depicted on the plans. The responsibility for accuracy and completeness of such items remains solely that of the Consultant. The Consultant shall:

1. Establish, furnish and maintain suitable office facilities to serve as the project office for the duration of the project at a location acceptable to CFX.
2. Maintain an adequate staff of qualified support personnel to perform the work necessary to complete the project.
3. Establish internal accounting methods and procedures for documenting and monitoring project costs.
4. Establish and maintain contract administration procedures, which will include supplemental agreements, time extensions and subcontracts.

#### 7.04 Project Control

- A. The Consultant shall provide data for CFX's Management Information System to monitor costs and manpower, and report progress. This project control system may include features to:
  1. Determine and highlight critical path work from initial plans as work progresses.
  2. Identify progress against schedule for each identified work item.
  3. Forecast completion dates from current progress.
  4. Highlight rescheduled work in any area which is out of required sequence.
  5. Highlight rescheduling that has overloaded any physical area that requires more resources than originally allocated.
  6. Forecast future conflicts in any area.

#### 7.05 Work Progress

- A. The Consultant shall meet with CFX's Project Manager on a bi-weekly

basis (or more often if necessary) and provide written progress reports which describe the work performed on each task. The dates and times of these meetings will be established by CFX. Two working days prior to each progress meeting, the Consultant shall provide CFX's Project Manager with a draft copy of the Progress Report and a typewritten agenda for the meeting. The Consultant shall prepare typewritten meeting minutes and submit them to CFX's Project Manager within five working days after the meeting. The minutes shall indicate issues discussed and the resolution or action required to resolve any issues.

#### 7.06 Schedule

- A. Within twenty (20) calendar days after receipt of the Notice to Proceed, the Consultant shall provide a schedule of calendar deadlines in a format prescribed by CFX.

#### 7.07 Project Related Correspondence

- A. The Consultant shall furnish copies of all written correspondence between the Consultant and any party pertaining specifically to this project to CFX for its records within one (1) week of the receipt or mailing of said correspondence. The Consultant shall record and distribute the minutes of all meetings pertaining to this project.

#### 7.08 Quality Control

- A. The Consultant has total responsibility for the accuracy and completeness of the plans and related designs prepared under this project and shall check all such material accordingly. Consultant shall have a quality control plan in effect during the entire time work is being performed under the Contract. The plan shall establish a process whereby calculations are independently checked, plans checked, corrected and back checked. All plans, calculations, and documents submitted for review shall be clearly marked as being fully checked by a qualified individual other than the originator. The FDOT plan review checklist shall be attached and appropriate items checked.
- B. The Consultant's quality control plan shall be submitted to CFX within fifteen (15) working days of receipt of written notice to proceed.

#### 7.09 Consultant Personnel

- A. The Consultant's work shall be performed and/or directed by the key personnel identified in Exhibit "D". Any changes in the indicated key personnel or the Consultant's office in charge of the work shall be subject to review and approval by CFX.

#### 7.10 Site Visit

- A. The Consultant shall arrange a site visit within ten (10) calendar days of receipt of written Notice to Proceed, if necessary. Consultant personnel assigned to perform the work on the project shall attend. CFX representatives will be present. Within seven calendar days of the site visit, the Consultant shall issue to CFX a brief written report including observations, discussions, and any questions pertaining to the scope or level of effort of the project. The purpose of this visit is to acquaint key personnel with the details and features of the project to facilitate the design process.

#### 7.11 Acceptability of the Work

- A. The plans, design, calculations, reports and other documents furnished under this Scope of Services shall conform to the "standards-of-the industry" quality as acceptable to CFX. The criteria for acceptance shall be a product of neat appearance, well organized, accurate and complete, technically and grammatically correct, checked in accordance with the approved Quality Control program, and have the maker and checker identified. The minimum standard of appearance, organization and content of drawings shall be similar to the type produced by the Florida Department of Transportation and CFX.

#### 7.12 Design Documentation

- A. The Consultant shall submit any design notes, sketches, worksheets, and computations to document the design conclusions reached during the development of the construction contract documents to CFX for review.
- B. The design notes and computations shall be recorded on 8-1/2" x 11" computation sheets, appropriately titled, numbered, dated, indexed and signed by the designer and checker. Computer output forms and other oversized sheets shall be folded or legibly reduced to 8-1/2" x 11" size. The data shall be bound in a hard-back folder for submittal to CFX.
- C. A CD/DVD with electronic (PDF Format) copies of the design notes and computations shall be submitted to CFX with each review submittal. When the plans are submitted for 90% review, the design notes and computations corrected for any CFX comments shall be resubmitted. At the project completion (bid set), one (1) hard copy of the final set of the design notes and computations, sealed by a Professional Engineer, registered in the State of Florida, shall be submitted with the record set of plans and tracings.
- D. Design notes and calculations shall include, but are not necessarily limited to, the following data:



1. Field survey notes and computations.
2. Design criteria used for the project.
3. Geometric design calculations for horizontal alignment.
4. Vertical geometry calculations.
5. Right-of-way calculations.
6. Drainage computations.
7. Structural design calculations.
8. Geotechnical report.
9. Hydraulics Report for each bridged stream crossing.
10. Earthwork calculations not included in the quantity computation booklet.
11. Calculations showing cost comparisons of various alternatives considered.
12. Calculations of quantities.
13. Documentation of decisions reached resulting from meetings, telephone conversations or site visits.
14. Lighting and voltage drop calculations.
15. Lighting service letter from the power company stating the following: service voltage, type of service (overhead or underground), location of power company service point, and any other power company requirements.

#### 7.13 Reviews and Submittals

- A. Review and coordination of the Consultant's work by CFX shall continue through the project development process
- B. Formal submittals for review shall be made to CFX when the plans have been developed to the following levels of completion:
  1. Preliminary Engineering (Memorandum) (1 CD/DVD with all files,

3 sets and 1 .PDF required)

2. 30% Roadway Plans (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  3. 30% Bridge and Structural Plans (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  4. 60% Roadway and specifications, Geotechnical Report (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  5. 60% Bridge Plans required only on Category 2 bridges.
  6. 90% Bridge and Structural Plans (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  7. 90% Roadway and specifications (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  8. 100% Roadway, Bridge and specifications, Geotechnical Report (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  9. Pre-Bid Plans (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  10. Bid Set (1 set signed and sealed plans, 1 set "clean" plans, 1 set signed and sealed reports and one (1) CD/DVD with .PDF of all plans and reports)
- C. Formal review submittals shall include copies as listed above. 8-1/2" x 11" and 11" x 17" documents do not require reproducible copies.
- D. Preparation and distribution of roadway and ROW plans to other than CFX or CFX GEC will not be made until approved by CFX.
- E. The format of review submittal plans shall conform to the FDOT Plans Preparation Manual, except as amended by CFX.

- F. Due to the compact schedule of the design, review and construction process, any modification to the agreed submittal dates will require a letter from the Consultant to CFX giving:
  - 1. The reason for the delay.
  - 2. The design components impacted.
  - 3. Proposed methods to maintain submittal dates.
- G. The Consultant shall submit all CADD files, including GEOPAK files, use in the preparation of the plans and right of way mapping on compact disk with the final submittal.

7.14 30% Roadway Plan Submittal

- A. At the completion of this phase, design and plan development should be approximately 30 percent complete except stormwater pond designs. The designs of the stormwater ponds shall be at 90% complete. The following material shall be developed and submitted for review:
  - 1. Key Map Prepared
    - a) Location map shown complete with destinations, ranges and townships.
    - b) Beginning and ending stations shown.
    - c) Any equations on project shown.
    - d) Project numbers and title shown.
    - e) Index shown.
  - 2. Drainage Map Prepared
    - a) Existing culvert sizes and elevations.
    - b) Horizontal alignment shown.
    - c) Drainage areas and flow arrows shown.
    - d) High water information shown.
    - e) Beginning and end stations shown along with any equations on project.

f) Interchange supplemental maps prepared.

3. Typical Section Sheets

a) Ramp typical sections developed.

b) Pavement structure shown.

c) Special details developed.

d) General notes shown.

4. Plan and Profile Sheets

a) Centerline plotted.

b) Reference points and bench marks shown.

c) Existing topography.

d) Base line of surveys, curve data, bearings, etc. shown.

e) Beginning and end stations (project and construction).

f) Geometric dimensions.

g) Proposed and existing limited access right-of-way lines.

h) Existing ground line.

i) Proposed profile grade.

j) Type, size and horizontal location of existing utilities.

k) Drainage structures and numbers are shown

l) Drainage ponds are shown.

5. Cross Sections

a) Existing ground line.

b) Preliminary templates at critical locations (not to exceed 500 feet).

c) Existing utilities shown.

6. Interchange Layout and Ramp Profiles
  - a) Geometric dimensions.
  - b) Proposed profile grades.
7. Right-of-Way Control Survey
8. Signing and Pavement Markings
  - a) Striping layout.
  - b) Sign structure locations.

7.15 30% Bridge and Structural Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 30 percent complete. The Consultant shall refer to FDOT Structural Design Guidelines for plan contents and submittal requirements. Preliminary geotechnical results and recommendations should also be included with this submittal.

7.16 60% Roadway Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 60 percent complete except stormwater pond designs. The designs of the stormwater ponds shall be at 100% complete. The following material shall be developed and submitted for review:

1. Key Map

- a) Project description and number shown.
- b) Equations, exceptions and bridge stations shown.
- c) North arrow and scale included.
- d) Consultant and CFX sign-off included.
- e) Contract set index complete.
- f) Index of sheets updated.

2. Drainage Maps

- a) Flood data shown.
  - b) Cross drains and storm sewer shown.
  - c) Bridges shown with beginning and ending stations.
  - d) Interchange supplemental sheets updated.
3. Typical Section Sheets
- a) All required typical sections are included.
  - b) Limited access right-of-way lines are shown.
  - c) Design speed and traffic are shown.
  - d) Special details have been completed.
  - e) Station limits of each typical section are shown.
4. Plan and Profile Sheets
- a) Match lines shown.
  - b) Limited access right-of-way lines shown.
  - c) Stations and offset shown for all fence corners and angles.
  - d) All work shown should be within right-of-way or proposed easement.
  - e) Drainage structures and numbers are shown.
  - f) Drainage ponds shown.
  - g) Curve data and superelevation included.
  - h) Pavement edges, shoulders and dimensions shown.
  - i) Project and construction limits shown.
  - j) Bridges shown with beginning and ending stations.
  - k) General Notes.
5. Drainage Structures

- a) Drainage structures plotted and numbered.
  - b) Station location and offsets identified.
6. Cross Sections
- a) Templates are shown at all stations.
  - b) Limited access right-of-way lines are shown.
  - c) Cross section pattern sheet included.
  - d) Miscellaneous notes included.
  - e) Boring profiles.
7. Interchange Layouts, Ramp Profiles and Intersection Details
- a) Geometric data shown.
  - b) Profiles finalized.
  - c) Coordinate data shown.
  - d) Limited access right-of-way lines shown.
  - e) Curve data shown.
  - f) Bearings and bridges shown.
  - g) Cross roads, frontage roads, and access roads shown.
  - h) Intersection details shown.
8. Traffic Control Plans
9. Utility Adjustments
10. Signing and Pavement Marking Plans
11. Highway Lighting Plans
12. Selective Clearing and Grubbing (if required)

7.17 90 % Bridge and Structure Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 90 percent complete. The Consultant shall refer to FDOT Structural Design Guidelines for plan contents and submittal requirements.

7.18 90% Roadway Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 90 percent complete. The following material shall be developed and submitted for review:

- 1. Key Map

- a) Length of Project with exceptions shown.
- b) Index of sheets updated.

- 2. Drainage Maps

- a) Drainage divides, areas and flow arrows shown.
- b) Elevation datum and design high water information shown.
- c) Disclaimer and other appropriate notes added.

- 3. Typical Section Sheets

- 4. Plan and Profile Sheets

- a) Curve Control Points (P.C., P.I., P.T.) flagged and labeled.
- b) Limits of side road construction.
- c) Angle and stationing for intersections.
- d) Treatment for non-standard superelevation transitions diagramed.
- e) General notes shown.
- f) Special ditches profiled.

- 5. Drainage Structures

- a) Existing structures requiring modifications are shown.




- b) Existing and proposed utilities are shown.
  - 6 Soil Borings
    - a) Soils data and estimated high seasonal groundwater table shown.
  - 7. Cross Section Sheets
    - a) Scale and special ditch grades shown.
    - b) Utilities plotted.
    - c) Sub-excavation shown.
    - d) Volumes computed and shown.
  - 8. Utility Relocation Plans
    - a) Utility relocation plans prepared.
  - 9. Traffic Control Plans
  - 10. Signing and Pavement Marking Plans
  - 11. Highway Lighting Plans
  - 12. Selective Clearing and Grubbing (if required)
- 7.19 100% Roadway, Bridge, Structural and Right-of-Way Plans
- A. At the completion of this phase, the design plans and special provisions shall be 100 percent complete.
- 7.20 Pre-Bid Plans
- 7.21 Bid Set

**CONSENT AGENDA ITEM  
#4**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 2, 2019

SUBJECT: Approval of Contract Award to Preferred Materials, Inc. for SR 528 Milling & Resurfacing from Innovation Way to Dallas Boulevard  
Project 528-749, Contract No. 001469

An Invitation to Bid for the referenced project was advertised on February 24, 2019. Responses to the invitation were received from three (3) contractors by the April 2, 2019 deadline.

Bid results were as follows:

<u>Bidder</u>	<u>Bid Amount</u>
1. Preferred Materials, Inc.	\$7,826,000.00
2. Middlesex Corporation	\$8,368,081.50
3. Hubbard Construction Company	\$9,631,198.79

The engineer's estimate for this project is \$8,847,483.41 and \$8,226,000.00 is included in the Five-Year Work Plan.

The Engineer of Record for Project 528-749 has reviewed the low bid submitted by Preferred Materials, Inc. and determined that the low bid unit prices are not unbalanced.

This project consists of providing all labor, materials, equipment and incidentals necessary to mill and resurface SR 528 from Innovation Way to Dallas Boulevard.

The Procurement Department has evaluated the bids and has determined the bid from Preferred Materials, Inc. to be responsible and responsive to the bidding requirements. Board award of the contract to Preferred Materials, Inc. in the amount of \$7,826,000.00 is recommended.

This project is included in the Five-Year Work Plan.

Reviewed by:   
Ben Dreffling, P.E.  
Director of Construction

# **CONTRACT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
PREFERRED MATERIALS, INC.**

**SR 528 MILLING & RESURFACING FROM  
INNOVATION WAY TO DALLAS BOULEVARD**

**PROJECT 528-749  
CONTRACT NO. 001469**

**CONTRACT DATE: APRIL 11, 2019  
CONTRACT AMOUNT: \$7,826,000.00**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

**CONTRACT, MEMORANDUM OF AGREEMENT, GENERAL  
SPECIFICATIONS, TECHNICAL SPECIFICATIONS, SPECIAL  
PROVISIONS, PROPOSAL, ADDENDA, PUBLIC CONSTRUCTION  
BOND AND FORMS**

# **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**CONTRACT, MEMORANDUM OF AGREEMENT, GENERAL SPECIFICATIONS,  
TECHNICAL SPECIFICATIONS, SPECIAL PROVISIONS, PROPOSAL, PUBLIC  
CONSTRUCTION BOND AND FORMS**

**FOR**

**SR 528 MILLING & RESURFACING FROM INNOVATION WAY TO DALLAS  
BOULEVARD**

**PROJECT 528-749  
CONTRACT NO. 001469**

**APRIL 2019**

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VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2
PCB	PUBLIC CONSTRUCTION BOND	PCB-1 to PCB-4

**Attached compact disk contains the following and are incorporated herein**

TS	TECHNICAL SPECIFICATIONS	TS-1 to TS-8
	(See Technical Specifications Table of Contents for listing of individual specifications sections.)	
SP	SPECIAL PROVISIONS	SP-1 to SP-28
	(See Special Provisions Table of Contents for listing of each special provision.)	

Addendum No. 1  
Addendum No. 2  
Addendum No. 3

Plans

## CONTRACT

This Contract No. 001469 (the "Contract"), made this 11<sup>th</sup> day of April 2019, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and Preferred Materials, Inc., of 1806 33<sup>Rd</sup>, Suite 150, Orlando, FL. 32839, hereinafter the CONTRACTOR:

WITNESSETH: The CONTRACTOR shall, for the consideration herein mentioned 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 (and under security as set forth in the attached Public Construction Bond) all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed to the satisfaction of the duly authorized representatives of CFX, who shall have at all times full opportunity to inspect the materials furnished and the work done under this Contract.

The work to be done under this Contract includes construction of all items associated with Project 528-749, S.R. 528 Milling and Resurfacing from Innovation Way to Dallas Boulevard, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 210 calendar days. The Contract Amount is \$7,826,000.00. This Contract was awarded by the Governing Board of CFX at its meeting on April 11, 2019.

The Contract Documents consist of:

1. The Contract,
2. The Memorandum of Agreement,
3. The Addenda (if any), modifying the General Specifications, Technical Specifications, Special Provisions, Plans or other Contract Documents,
4. The Plans,
5. The Special Provisions,
6. The Technical Specifications,
7. The General Specifications,
8. The Standard Specifications,
9. The Design Standards, and
10. The Proposal.

In consideration of the foregoing premises, CFX agrees to pay the CONTRACTOR for work performed and materials furnished at the unit and lump sum prices, and under the conditions set forth, in the Proposal.

IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties on the date set forth below.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
Director of Procurement

DATE: \_\_\_\_\_

PREFERRED MATERIALS, INC.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

ATTEST: \_\_\_\_\_ (Seal)

DATE: \_\_\_\_\_

Approved as to form and execution, only.

General Counsel for CFX

\_\_\_\_\_



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# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## GENERAL SPECIFICATIONS

### SECTION 1 - ABBREVIATIONS AND DEFINITIONS

#### 1.1 General

These General Specifications are intended for use on all construction projects awarded by CFX. However, each Article, subarticle or paragraph of the General Specifications may not be relevant or applicable to every project. It is the responsibility of the Contractor to submit to the CEI any questions regarding relevance or applicability of any article or sub-article prior to the Pre-Construction conference. The CEI will respond with a determination which will be binding and final.

#### 1.2 Abbreviations

Whenever in these General Specifications or in other documents pertaining to the Contract the following terms and abbreviations appear, their intent and meaning shall, unless specifically stated otherwise, be interpreted as shown in this Section.

AAN	American Association of Nurserymen, Inc.
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AGC	The Associated General Contractors of America, Inc.
AIA	American Institute of Architects
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
AREA	American Railway Engineering Association
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWS	American Welding Society
AWPA	American Wood Preservers Association
AWWA	American Water Works Association
CRSI	Concrete Reinforcing Steel Institute
FDOT	Florida Department of Transportation
FNGA	Florida Nursery Growers Association
FSS	Federal Specifications and Standards
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
IPCEA	Insulated Power Cable Engineers Association
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code (as recommended by the National Fire Protection Association)
NEMA	National Electrical Manufacturers Association
SSPC	Steel Structures Painting Council

When any of the above abbreviations is followed by a number or letter designation, or combination of numbers or letters, it is understood to designate a specification, test method or other code or recommendation of the particular organization so shown.

### 1.3 Definitions

Wherever used in these General Specifications or in the other Contract Documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof and all genders:

1.3.1 **Article** - The prime subdivision of a Section of the General and/or Technical Specifications.

1.3.2 **Bid** - The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed. All Bids will include a Bid Bond in the amount of 5% of the total bid as a surety to CFX that the Bidder will honor the Bid and enter into a Contract with CFX.

1.3.3 **Bridge** - A structure, including supports, erected over a depression or over an obstruction such as water, highway, railway, or for elevated roadway, for carrying traffic or other moving loads and having a length, measured along the center of the roadway, of more than 20 feet between the inside faces of bridge supports. A multi-span box culvert is considered a bridge when the length between the extreme ends of the openings exceeds 20 feet.

1.3.4 **Calendar Day** - Every day shown on the calendar, ending and beginning at midnight.

1.3.5 **CFX** - The Central Florida Expressway Authority. To avoid unnecessary repetition of expressions, whenever in the General Specifications, Technical Specifications or Special Provisions the term "CFX" is used, it is understood that "or designated representative" is a part of the term unless specifically indicated otherwise. Such designated representative may be the "Engineer", the "CEI", the "Resident Engineer" or other individual or entity identified by CFX and defined herein.

1.3.6 **Construction Engineering & Inspection (CEI) Consultant** - The firm employed by CFX to observe the progress and quality of the Work being performed by the Contractor.

1.3.7 **Consultant** - The Professional Engineer or engineering firm, registered in the State of Florida, under contract to CFX to perform professional services for CFX. The Consultant may be the Engineer of Record or may provide services through and be subcontracted to the Engineer of Record.

1.3.8 **Contract** - The written agreement between CFX and the Contractor setting forth the obligations of the parties thereto including but not limited to, the performance of the Work, the furnishing of labor and materials and the basis of payment.

1.3.9 **Contract Claim (Claim)** - A written demand submitted to CFX by the Contractor in compliance with Article 2.4 of these General Specifications seeking additional monetary compensation, time and/or other adjustments to the Contract, the entitlement or impact of which is disputed by CFX.

1.3.10 **Contract Documents** - The Contract, addenda (which pertain to the Contract Documents), the Memorandum of Agreement, Contractor's Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award), the Notice to Proceed, the Public Construction Bond, these General Specifications, the Technical Specifications, the Standard Specifications, the Contractor's certification required pursuant to Article 3.4 of these General Specifications, the Special Provisions, the Plans, any supplemental agreements required to complete the construction of the Project and elements incorporated by reference including, but not necessarily limited to, the FDOT Design Standards (January 2015 edition).

1.3.11 **Contract Price** - The money payable by CFX to the Contractor for completion of the Work in accordance with the Contract Documents.

1.3.12 **Contract Time** - The number of calendar days allowed for completion of the Work including authorized time extensions.

1.3.13 **Contractor** - The person, firm or corporation with whom CFX has entered into the Contract.

1.3.14 **Controlling Work Items** - The activity or work item on the critical path having the least amount of total float. The controlling item of work will also be referred to as a Critical Activity.

1.3.15 **Culverts** - Any structure not classified as a bridge, which provides an opening under the roadway.

1.3.16 **Delay** - With the exception of the items listed in Subarticle 6.7.3.1 of these General Specifications, any unanticipated event, action, force or factor which extends the Contractor's time of performance of any critical path activity under the Contract. The term delay is intended to cover all such events, actions, forces or factors, whether styled "delay", "disruption", "interference", "impedance", "hindrance" or otherwise, which are beyond the control of and not caused by the Contractor or Contractor's subcontractors, materialmen, suppliers or other agents. This term does not include Extra Work.

1.3.17 **Director of Construction** - Director of Construction, Central Florida Expressway Authority, acting directly or through an authorized representative.

1.3.18 **Engineer** - The term as may be used in various documents is understood to mean CFX or designated representative.

1.3.19 **Engineer of Record** - The professional engineer or engineering firm, contracted with by CFX and registered in the State of Florida, who develops criteria and concept for the Project, performs the analysis and is responsible for the preparation of the plans and specifications.

1.3.20 **Equipment** - The machinery and equipment, together with the necessary supplies for upkeep and maintenance thereof, the tools and all other apparatus necessary for the construction and acceptable completion of the Work.

1.3.21 **Executive Director** - Executive Director, Central Florida Expressway Authority, acting directly or through an authorized representative.

1.3.22 **Extra Work** - Any Work which is required by CFX to be performed and which is not otherwise covered or included in the project by the existing Contract Documents, whether it be in the nature of additional work, altered work, deleted work, work due to differing site conditions or otherwise. This term does not include a "delay".

1.3.23 **Force Account** – Work authorized by CFX and performed in addition to that set forth in the original Contract and is paid on an actual cost basis plus a fixed percent markup and stipulated rental rates for equipment. All costs paid under Force Account will be fully documented and signed by both parties not later than the following work day.

1.3.24 **Holidays** - Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Labor Day; the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Thanksgiving Day; the Friday, Saturday and Sunday immediately following Thanksgiving Day; and December 24 through January 2, inclusive.

1.3.25 **Inspector** – Agent of CFX through the CEI that will record day-to-day activities of construction and advise the Contractor regarding compliance with the Plans and Specifications of the Contract.

1.3.24 **Invitation to Bid** - The invitation by which the Contractor submitted its Bid for the Work.

1.3.26 **Laboratory** – A Testing facility certified with the Florida Department of Transportation.

1.3.25 **Major Item of Work** - Any item of Work having an original Contract value in excess of 5% of the original Contract amount.

1.3.26 **Materials** - Any substances to be incorporated in the Work.

1.3.27 **Median** - The portion of a divided highway or street separating the traveled ways for traffic moving in opposite directions.

1.3.28 **Notice to Proceed** - A written notice given by CFX to the Contractor fixing the latest date on which the Contract Time will commence to run and on which the Contractor shall start to perform the Contractor's obligations under the Contract Documents.

1.3.29 **Plans** - The drawings which show the scope, extent and character of the Work to be furnished and performed by the Contractor and which are referred to in the Contract Documents.

1.3.30 **Project** - The total construction of which the Work to be provided under the Contract Documents may be the whole or a part as indicated elsewhere in the Contract Documents.

1.3.31 **Public Construction Bond** - The security furnished by the Contractor and the surety as a guaranty that the Contractor will fulfill the terms of the Contract in accordance with the Contract Documents and pay all legal debts pertaining to the construction of the Project.

1.3.32 **Resident Project Representative** - The authorized representative of the CEI who may be assigned to the site or any part thereof.

1.3.33 **Right of Way** - The land to which CFX has title or right of use for the road and its structures and appurtenances and for material pits furnished or to be furnished by CFX.

1.3.34 **Roadbed** - That portion of the roadway occupied by the subgrade and shoulders.

1.3.35 **Roadway** - The portion of a highway within the limits of construction.

1.3.36 **Shop Drawings** - All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for the Contractor and submitted by the Contractor to illustrate some portion of the Work.

1.3.37 **Shoulder** - That portion of the roadbed outside the edges of the travel way (or back of curb) and extending to the top of front slopes. The shoulders may be either paved or unpaved.

1.3.38 **Special Provisions** - Specific requirements for the Project not otherwise addressed in the General Specifications, Technical Specifications or Standard Specifications.

1.3.39 **Specialty Engineer** - A Professional Engineer registered in the State of Florida (specifically other than the Engineer of Record or its subcontracted consultant) who undertakes the design and drawing preparation of components, systems or installation methods and equipment for specific portions of the Project Work. The Specialty Engineer may be an employee or officer of the Contractor or a fabricator, an employee or officer of an entity providing components to a fabricator or an independent consultant.

A Specialty Engineer shall be qualified in accordance with the Rules of the Florida Department of Transportation, Chapter 14-75, Florida Administrative Code. Any corporation or partnership, which offers engineering services, must hold a current Certification of Authorization from the Florida State Board of Professional Engineers. Prior approval by CFX is required if the Contractor wishes to use a Specialty Engineer not qualified in accordance with Chapter 14-75. Approval must be received prior to proceeding with the specialty design.

For items of Work not specifically covered by Chapter 14-75, a Specialty Engineer will be considered qualified if he/she has the following qualifications:

- 1) Registration as a Professional Engineer in the State of Florida
- 2) Education and experience necessary to perform the submitted design as required by the Florida Department of Professional Regulation.

1.3.40 **Specifications** - The directions, provisions and requirements contained in the General Specifications, Technical Specifications, Special Provisions and Standard Specifications.

1.3.41 **Standard Specifications** - The FDOT Standard Specifications for Road and Bridge Construction, 2015 edition, Divisions II and III, hereby incorporated by reference and as may be amended in the Technical Specifications and Plans. Division I of the FDOT Standard Specifications is specifically not included in this definition and is not a part of the Contract Documents.

1.3.42 **State** - State of Florida

1.3.43 **Subarticle** - Any headed subdivision of an Article of the General Specifications, Technical Specifications, or Standard Specifications.

1.3.44 **Subgrade** - That portion of the roadbed immediately below the base course or pavement (including below the curb and gutter, valley gutter, shoulder and driveway pavement), the limits of which will ordinarily include those portions of the roadway bed shown in the plans to be constructed to a design bearing value or to be otherwise specially treated. Where no limits are shown in the plans, the subgrade section shall be considered to extend to a depth of 12 inches below the bottom of the base or pavement and outward to 6 inches beyond the base, pavement or curb and gutter.

1.3.45 **Subcontractor** - An individual, firm or corporation having a direct contract with the Contractor or with any other subcontractor for performance of a part of the Work at the site.

1.3.46 **Substantial Completion** - The completion of all pay item Work in their entirety in conjunction with the performance of the inspection for Substantial Completion. As a minimum the following conditions apply;

1. All pay item work is installed and functioning including Supplemental Agreement Work, Force Account, or Extra Work.
2. All disturbed areas have been restored and vegetative growth is emerging including landscaping.
3. All erosion control measures have been taken up, and sediments removed from traps and drainage structures.
4. All pavement areas are complete and final signing and stripping in place.
5. All Signals, Lighting, ITS, and Tolling systems are tested, commissioned, and operating.
6. All roadway appurtenances are installed, intact and functioning such as signs, guardrail, stripping, rumble strips, curbing, sidewalk, etc.
7. All structures such as bridges, walls, barriers, attenuators, overhead trusses, toll buildings, tolling gantries, etc. are in place with their final coatings applied, and devoid of blemishes or graffiti.
8. All temporary traffic control devices are removed, and traffic is using the facility as designed.
9. All testing is complete, and documentation has been received.

The inspection for Substantial Completion may generate a punch list that will be provided to the Contractor within seven (7) calendar days following the conclusion of the inspection. Direction by CFX to open a bridge or roadway or portion thereof does not constitute an acceptance or Substantial Completion of the Project or portion or waive any part of the Contract provisions.

1.3.47 **Substructure** - All of that part of a bridge structure below the bridge seats including the parapets, backwalls and wingwalls of abutments.

1.3.48 **Superintendent** - The Contractor's authorized representative responsible and in charge of the Work.

1.3.49 **Superstructure** - The entire bridge structure above the substructure including anchorage and anchor bolts but excluding the parapets, backwalls, and wingwalls of abutments.

1.3.50 **Supplemental Agreement** - A written agreement between CFX and the Contractor modifying the Contract within the limitations set forth in these specifications.

1.3.51 **Surety** - The corporate body, bound by the Public Construction Bond with and for the Contractor, who agrees to be responsible for acceptable performance of the Work by the Contractor and for payment of all debts pertaining thereto.

1.3.52 **Supplier** - A manufacturer, fabricator, supplier, distributor, materialmen or vendor having a direct contract with the Contractor or with any subcontractor to furnish materials or equipment to be incorporated in the Work by the Contractor or any subcontractor.

1.3.53 **Technical Specifications** - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work associated with road and bridge construction.

1.3.54 **Travel Way** - The portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

1.3.55 **Unilateral Adjustment**- A payment of money or granting of Contract time made to the Contractor by CFX for sums CFX determines to be due to the Contractor for work performed on the project, and whereby the Contractor by acceptance of such payment does not waive any rights the Contractor may otherwise have against CFX for payment of any additional sums the Contractor claims are due for the work.

1.3.56 **Work** - The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work includes and is the result of performing or furnishing labor and furnishings and incorporating materials and equipment into the construction and performing or furnishing services and furnishing documents all as required by the Contract Documents.

**1.3.57 Work Order Allowance** - A monetary amount established by CFX and included in the Contract Price to cover the cost of Work, that may or may not be anticipated, but is not otherwise defined by defined by the Drawings or Specifications. No Work paid for under the Work Order Allowance shall be performed until written authorization is given to the Contractor by CFX. Any amount remaining in the Allowance upon completion and acceptance of the project remains the property of CFX.

END OF SECTION 1



## SECTION 2 - SCOPE OF WORK

### 2.1 Intent of Contract

It is the intent of the Contract Documents to provide for the construction and completion of every detail of the Work described in the Contract Documents. Any labor, documentation, services, Materials, or Equipment that may be reasonably inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result shall be provided whether or not specifically called for, at no additional cost to CFX.

### 2.2 Work Not Covered by the General Specifications

Proposed construction and any contractual requirements not covered by these General Specifications may be covered by notes shown on the Plans or by the Technical Specifications or Special Provisions for the Contract.

### 2.3 Alteration of Plans

2.3.1 General: CFX reserves the right to make, at any time prior to or during the progress of the Work, such increases or decreases in quantities, whether a significant change or not, and such alterations in the details of construction, whether a significant change or not, including but not limited to alteration in the grade or alignment of the road or structure or both, as may be found necessary or desirable by CFX. Such increases, decreases or alterations shall not constitute a breach of Contract, shall not invalidate the Contract, nor release the Surety from any liability arising out of this Contract or the Surety bond. The Contractor agrees to perform the Work, as altered, the same as if it had been part of the original Contract.

The term "significant change" applies only when:

- A) CFX determines that the Work as altered differs materially in kind or nature from that involved or included in the original proposed construction or
- B) A Major Item of Work, as defined in Section 1, is increased in excess of 125% or decreased below 75% of the original Contract quantity. CFX will apply any price adjustment for an increase in quantity only to that portion in excess of 125% of the original Contract item quantity, or in case of a decrease below 75% to the actual amount of work performed, such allowance to be determined in accordance with 2.3.2, below.

In the instance of A) above, the determination by CFX shall be final and shall not be subject to challenge by the Contractor except through the claims procedure as described herein.

- 2.3.2 Increase, Decrease or Alteration in the Work: CFX reserves the right to make alterations in the character of the Work which involve a substantial change in the nature of the design or in the type of construction or which materially increases or decreases the cost or time of performance. Such alteration shall not constitute a breach of Contract, shall not invalidate the Contract or release the Surety.

Notwithstanding that the Contractor shall have no formal right whatsoever to any extra compensation or time extension deemed due by the Contractor for any cause unless and until the Contractor follows the procedures set forth in 2.4.2 for preservation, presentation and resolution of the claim, the Contractor may at any time, after having otherwise timely provided a notice of intent to claim or preliminary time extension request pursuant to 2.4.2, submit to CFX a request for equitable adjustment of compensation or time or other dispute resolution proposal. The Contractor shall in any request for equitable adjustment of compensation, time, or other dispute resolution proposal certify under oath and in writing, in accordance with the formalities required by Florida law, that the request is made in good faith, that any supportive data provided are accurate and complete to the Contractor's best knowledge and belief, and that the amount of the request accurately reflects what the Contractor in good faith believes to be CFX's responsibility. Such certification must be made by an officer or director of the Contractor with the authority to bind the Contractor. Any such certified statements of entitlement and costs shall be subject to the audit provisions set forth in 2.4.14. While the submittal or review of a duly certified request for equitable adjustment shall neither create, modify, nor activate any legal rights or obligations as to the Contractor or CFX, CFX will review the content of any duly certified request for equitable adjustment or other dispute resolution proposal, with any further action or inaction by CFX thereafter being in its sole discretion. Any request for equitable adjustment that fails to fully comply with the certification requirements will not be reviewed by CFX.

The monetary compensation provided for below constitutes full and complete payment for such additional work and the Contractor shall have no right to any additional monetary compensation for any direct or indirect costs or profit for any such additional work beyond that expressly provided below. The Contractor shall be entitled to a time extension only to the extent that the performance of any portion of the additional work is a controlling work item and the performance of such controlling work item actually extends completion of the project due to no fault of the Contractor. All time related costs for actual performance of such additional work are included in the compensation already provided below and any time extension entitlement hereunder will be without additional monetary compensation. The Contractor shall have no right to any monetary

compensation or damages whatsoever for any direct or indirect delay to a controlling work item arising out of or in any way related to the circumstances leading up to or resulting from additional work (but not relating to the actual performance of the additional work, which is paid for as otherwise provided herein), except only as provided for under 2.4.5.3.

2.3.2.1 Allowable Costs for Extra Work: The CEI may direct in writing that extra work be done and, at the CEI's sole discretion, the Contractor will be paid pursuant to an agreed Supplemental Agreement or in the following manner:

- (a) Labor and Burden: The Contractor will receive payment for actual costs of direct labor and burden for the additional or unforeseen work. Labor includes foremen actually engaged in the work; and will not include project supervisory personnel nor necessary on-site clerical staff, except when the additional or unforeseen work is a controlling work item and the performance of such controlling work item actually extends completion of the project due to no fault of the Contractor. Compensation for project supervisory personnel, but in no case higher than a Project Manager's position, shall only be for the pro-rata time such supervisory personnel spent on the contract. In no case shall an officer or director of the Company, nor those persons who own more than 1 % of the Company, be considered as project supervisory personnel, direct labor or foremen hereunder.

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Payment for burden shall be limited solely to the following:

Table 2.3.2.1

Item	Rate
FICA	Rate established by Law
FUTA/SUTA	Rate established by Law
Medical Insurance	Actual
Holidays, Sick & Vacation benefits	Actual
Retirement benefits	Actual
Workers Compensation	Rates based on the National Council on Compensation Insurance basic rate tables adjusted by Contractor's actual experience modification factor in effect at the time of the additional work or unforeseen work.
Per Diem	Actual but not to exceed State of Florida's rate
Insurance*	Actual

\*Compensation for Insurance is limited solely to General Liability Coverage and does not include any other insurance coverage (such as, but not limited to, Umbrella Coverage, Automobile Insurance, etc.).

At the pre-construction conference, certify to the CEI the following:

- (1) A listing of on-site clerical staff, supervisory personnel and their pro-rated time assigned to the Contract,
- (2) Actual Rate for items listed in Table 2.3.2.1,
- (3) Existence of employee benefit plan for Holiday, Sick and Vacation benefits and a Retirement Plan, and,
- (4) Payment of Per Diem is a company practice for instances when compensation for Per Diem is requested.

Such certification must be made by an officer or director of the Contractor with authority to bind the Contractor. Timely certification is a condition precedent to any right of the Contractor to recover compensations for such costs, and failure to timely submit the certification will constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to recover such costs. Any subsequent changes shall be certified to the CEI as part of the cost proposal or seven calendar days in advance of performing such extra work.

- (b) **Materials and Supplies:** For materials accepted by the CEI and used on the project, the Contractor will receive the actual cost of such materials incorporated into the work, including Contractor paid transportation charges (exclusive of equipment as hereinafter set forth). For supplies reasonably needed for performing the work, the Contractor will receive the actual cost of such supplies.
  
- (c) **Equipment:** For any machinery or special equipment (other than small tools), including fuel and lubricant, the Contractor will receive 100% of the "Rental Rate Blue Book" for the actual time that such equipment is in operation on the work, and 50% of the "Rental Rate Blue Book" for the time the equipment is directed to standby and remain on the project site, to be calculated as indicated below. The equipment rates will be based on the latest edition (as of the date the work to be performed begins) of the "Rental Rate Blue Book for Construction Equipment" or the "Rental Rate Blue Book for Older Construction Equipment," whichever is applicable, as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at the time of bid), using all instructions and adjustments contained therein and as modified below. On all projects, the CEI will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the Blue Book.

Allowable Equipment Rates will be established as set out below:

(1) Allowable Hourly Equipment Rate = Monthly Rate/176 x Adjustment Factors x 100%.

(2) Allowable Hourly Operating Cost = Hourly Operating Cost x 100%.

(3) Allowable Rate Per Hour = Allowable Hourly Equipment Rate + Allowable Hourly Operating Cost.

(4) Standby Rate = Allowable Hourly Equipment Rate x 50%.

The Monthly Rate is The Basic Machine Rate Plus Any Attachments. Standby rates will apply when equipment is not in operation and is directed by the CEI to standby at the project site when needed again to complete work and the cost of moving the equipment will exceed the accumulated standby cost. Standby rates will not apply on any day the equipment operates for eight or more hours. Standby payment will be limited to only that number of hours which, when added to the operating time for that day equals eight hours. Standby payment will not be made on days that are not normally considered work days on the project.

CFX will allow for the cost of transporting the equipment to and from the location at which it will be used. If the equipment requires assembly or disassembly for transport, CFX will pay for the time to perform this work at the rate for standby equipment.

Equipment may include vehicles utilized only by Labor, as defined above.

- (d) Indirect Costs, Expenses, and Profit: Compensation for all indirect costs, expenses, and profit of the Contractor, including but not limited to overhead of any kind, whether jobsite, field office, division office, regional office, home office, or otherwise, is expressly limited to the greater of either (1) or (2) below:

- (1) Solely a mark-up on the payments in (a) through (c), above in accordance with the corresponding portions of section 7.4.

- (i) Bond: The Contractor will receive compensation for any premium for acquiring a bond for such additional or unforeseen work; provided, however, that such payment for additional bond will only be paid upon presentment to CFX of clear and convincing proof that the Contractor has actually provided and paid for separate bond premiums for such additional or unforeseen work in such amount. Should the Contractor elect to provide subguard coverage in lieu of requiring a bond from a sub, the Contractor shall be entitled to reimbursement for the subguard premium for the added work upon proof of said premium.

- (ii) The Contractor will be allowed a markup of 10% on the first \$50,000 and a markup of 5% on any amount over \$50,000 on any subcontract directly related to the additional or unforeseen work. Any such subcontractor mark-up will be allowed only by the prime Contractor and a first tier subcontractor, and the Contractor must elect the markup for any eligible first tier subcontractor to do so.

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(2) Solely the formula set forth below and only as applied solely as to such number of calendar days of entitlement that are in excess of ten cumulative calendar days as defined below.

$$D = \frac{A \times C}{B}$$

Where A = Original Contract Amount

B = Original Contract Time

C = 8%

D = Average Overhead Per Day

Cumulative Calendar Days is defined as the cumulative total number of calendar days granted for time extension due to delay of a controlling work item caused solely by CFX is, or the cumulative total number of calendar days for which entitlement to a time extension due to delay of a controlling work item caused solely by CFX is otherwise ultimately determined in favor of the Contractor to be.

Further, in the event there are concurrent delays to one or more controlling work items, one or more being caused by CFX and one or more being caused by the Contractor, the Contractor shall be entitled to a time extension for each day that a controlling work item is delayed by CFX but shall have no right to nor receive any monetary compensation for any indirect costs for any days of concurrent delay. No compensation will be paid to the Contractor for any jobsite overhead and other indirect impacts when the total number of calendar days granted for time extension due to delay of a controlling work item is equal to or less than ten calendar days and the Contractor also fully assumes all monetary risk of any and all partial or single calendar day delay periods, due to delay of a controlling work item that when cumulatively totaled together are equal to or less than ten calendar days. All calculations under this provision shall exclude days granted for performing additional work.

2.3.2.2 Subcontracted Work: For work performed by a subcontractor, compensation for the additional or unforeseen work shall be solely limited to as provided for in 2.3.2.1 (a), (b), (c) and (d)(1), with the exception of, in the instance of subcontractor performed work only, the subcontractor may receive compensation for any premium for acquiring a bond for the additional or unforeseen work; provided, however, that such payment for additional subcontractor bond will only be paid upon presentment to CFX of clear and convincing proof that the subcontractor has actually provided and paid for separate bond premiums for such additional or unforeseen work in such amount. The Contractor shall require the subcontractor to provide a certification, in

accordance with 2.3.2.1(a), as part of the cost proposal and provide such to the CEI. Such certification must be made by an officer or director of the subcontractor with authority to bind the subcontractor. Timely certification is a condition precedent to any right of the Contractor to recover compensation for such subcontractor costs, and failure to timely submit the certification will constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to recover such subcontractor costs.

2.3.2.3 No Waiver of Contract: Changes made by CFX will not be considered to waive any of the provisions of the Contract, nor may the Contractor make any claim for loss of anticipated profits because of the changes or by reason of any variation between the approximate quantities and the quantities of Work actually performed. All Work shall be performed as directed by CFX and in accordance with the Contract Documents.

2.3.2.4 Suspensions of Work Ordered by CFX: If the performance of all or any portion of the Work is suspended or delayed by CFX, in writing, for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes additional compensation is due as a result of such suspension or delay, the Contractor shall submit to CFX in writing a request for adjustment within 7 calendar days of receipt of the notice to resume Work. The request shall be complete, set forth all the reasons and support for such adjustment.

CFX will evaluate the Contractor's request. If CFX agrees the cost and/or time required for the performance of the Contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the Contractor, its suppliers or subcontractors at any approved tier (and not caused by weather), CFX will make an adjustment (excluding profit) and modify the Contract in writing accordingly. CFX will notify the Contractor whether an adjustment of the Contract is warranted.

No Contract adjustment will be allowed unless the Contractor has submitted the complete request for adjustment within the time prescribed.

No Contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for, excluded under, or effectively precluded by any other term or condition of the Contract.

2.3.2.5 Conditions Requiring Supplemental Agreement: A Supplemental Agreement will be used to clarify the Plans and Specifications of the Contract; to document quantities that deviate from the original Contract amount; to provide for unforeseen Work, grade changes or alterations in Plans which could not reasonably have been contemplated or foreseen in the original Plans and Specifications; to change the



limits of construction to meet field conditions; to provide a safe and functional connection to an existing pavement; to make the project functionally operational in accordance with the intent of the original Contract and subsequent amendments thereto; to settle Contract claims.

No Work covered by a Supplemental Agreement shall be performed before written authorization is given by CFX. Such written authorization will set forth the prices and other pertinent information and will be promptly reduced to written Contract document form.

2.3.2.6 Unilateral Payments: Unilateral Payments will be used to pay the Contractor for Work performed on the Project when:

- a) The Contractor agrees to perform the Work at an agreed upon cost but refuses to timely execute a Supplemental Agreement so as to allow timely payment for the Work by CFX or,
- b) CFX and the Contractor cannot agree on the cost of the Work and the Contractor refuses to execute a Supplemental Agreement or,
- c) CFX determines it is in the best interest to make a Unilateral Payment for Work CFX directed to be performed in lieu of pursuing a Supplemental Agreement.

2.3.2.7 Extra Work: Alterations, changes, additional or unforeseen Work of the type already provided by the Contract for which there is a Contract Price will be paid for at such Contract price.

Alterations, changes, additional or unforeseen Work having no quantity or price provided in the Contract will be paid at a negotiated price. Where the cost is negotiated, the Contractor shall submit an estimate to CFX in terms of labor, Materials, Equipment, overhead with a time impact analysis and other expenses incurred solely as a result of the alteration, change, additional or unforeseen Work as stipulated in 2.3.2.

Where a price cannot be negotiated for alterations, changes, additional or unforeseen Work having no quantity or price provided in the Contract, payment will be made in accordance with 2.3.2.

- 2.3.3 Connections to Existing Pavements, Drives and Walks: Limits of construction at the beginning and end of the Project are detailed in the Plans and will generally be adhered to; however, where in the opinion of CFX it is necessary to extend the construction in order to make suitable connections to existing pavement, such change may be permitted upon written authorization.

For any connections to existing walks and drives which are necessary although not indicated on the Plans, proper connections shall be made at the direction of CFX in accordance with the FDOT's Design Standards identified in the Contract Documents.

- 2.3.4 Differing Site Conditions: During the progress of the Work, if subsurface or latent conditions are encountered at the site differing materially from those indicated on the Plans or in the Specifications or if unknown physical conditions of an unusual nature (differing materially from those ordinarily encountered and generally recognized as inherent in the Work) are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before they are disturbed and before the affected Work is performed.

Upon written notification from the Contractor, CFX will have the conditions investigated and if it is determined that the conditions differ materially and cause an increase or decrease in the cost or time required for the performance of any Work under the Contract, an adjustment (excluding loss of anticipated profits) will be made and the Contract modified in writing accordingly. CFX will notify the Contractor whether an adjustment of the Contract is warranted.

No Contract adjustment that results in a benefit to the Contractor will be allowed unless the Contractor has provided the required written notice.

No Contract adjustment will be allowed under this clause for any impacts caused to or by any other projects.

- 2.3.5 Changes Affecting Utilities: The Contractor shall be responsible for identifying and assessing any potential impacts to a utility that may be caused by the changes proposed by the Contractor and the Contractor shall, at the time of making the request for change, notify CFX in writing of any such potential impacts to utilities.

CFX approval of a Contractor proposed change does not relieve the Contractor of sole responsibility for all utility impacts, costs, delays or damages, whether direct or indirect, resulting from Contractor initiated changes in the design or construction activities from those in the original Contract, design plans (including traffic control

plans) or other Contract Documents and which effect a change in utility work different from that shown in the utility plans, joint project agreements or utility relocation schedules.

### 2.3.6 Cost Savings Initiative Proposal

2.3.6.1 Intent and Objective: This subarticle applies to any Cost Savings Initiative Proposal (CSIP) that the Contractor initiates and develops for the purpose of refining the Contract to increase cost effectiveness or significantly improve the quality of the end result. Any potential CSIPs being considered by the Contractor shall NOT be discussed at the pre-award meeting, as this meeting is for the sole purpose of discussing the Contractor's bid and the documents on which the bid is based. Subsequent to Contract execution and prior to Contract Time beginning, a mandatory Cost Savings Initiative Workshop will be held for the Contractor and CFX to discuss potential Proposals.

This subarticle does not apply to any CSIP unless the Contractor identifies it at the time of its submission to CFX as a CSIP submitted in accordance with this subarticle.

CFX will consider CSIPs that, in the sole opinion of CFX, will result in net savings to CFX by providing a decrease on the cost of the Contract. Additionally, the CSIP must result in savings without impairing essential functions and characteristics such as safety, service life, reliability, economy of operation, ease of maintenance, aesthetics and necessary standard design features. CFX will not recognize the Contractor's elimination of work, or correction of plan errors that result in a cost reduction as a CSIP.

CFX reserves the right to reject, at its sole discretion, any CSIP submitted that proposes a change in the design of the pavement system or that would require additional right-of-way. Pending CFX's execution of a formal supplemental agreement implementing an approved CSIP, the Contractor shall remain obligated to perform the Work in accordance with the terms of the Contract. CFX is under no obligation to grant time extensions to allow for the time required to develop and review a CSIP.

For potential CSIPs not discussed between Contract Execution and Contract Time beginning, a mandatory concept meeting will be held between CFX and the Contractor to discuss the potential CSIP prior to its development.

2.3.6.2 Data Requirements: As a minimum, the Contractor shall submit the following information with each CSIP:

1. a description of the differences between the existing Contract requirements, including any time extension request, and the proposed change, and the comparative advantages and disadvantages.
2. separate detailed (Labor, Equipment, Material and Subcontract) cost estimates for both the existing Contract requirement and the proposed change. Allocate the above detailed cost estimates by pay item numbers indicating quantity increases or decreases and deleted pay items. Identify additional proposed work not covered by pay items within the Contract, by using pay item numbers in the FDOT Basis of Estimates Manual. In preparing the estimates, include overhead, profit, and bond within pay items in the Contract. Separate pay item(s) for the cost of overhead, profit, and bond will not be allowed.
3. an itemization of the changes, deletions or additions to plan details, plan sheets, design standards and Specifications that are required to implement the CSIP if CFX adopts it. Provide preliminary plan drawings sufficient to describe the proposed changes.
4. engineering or other analysis in sufficient detail to identify and describe specific features of the Contract that must be changed if CFX accepts the CSIP with a proposal as to how the changes can be accomplished and an assessment of their effect on other Project elements. CFX may require that engineering analyses be performed by a Specialty Engineer in the applicable class of work. Support all design changes that result from the CSIP with prints of drawings and computations signed and sealed by the Contractor's Specialty Engineer. Written documentation or drawings shall be provided that clearly delineate the responsibility of the Contractor's Specialty Engineer.
5. the date by which CFX must approve the CSIP to obtain the total estimated cost reduction during the remainder of the Contract, noting any effect on the Contract completion time or delivery schedule.
6. a revised Project schedule that would be followed upon approval of the CSIP. The schedule shall include submittal dates and review time for CFX review.

2.3.6.3 Processing Procedures: The Contractor shall submit five (5) copies of the CSIP to CFX. CFX will process the CSIP expeditiously; however, CFX is not liable for any delay in acting upon a CSIP submitted pursuant to this subarticle. The

Contractor may withdraw, in whole or in part, a CSIP not accepted by CFX within the period specified in the CSIP. CFX is not liable for any CSIP development cost in the case where CFX rejects, or the Contractor withdraws, a CSIP.

CFX is the sole judge of the acceptability of a CSIP and of the estimated net savings in construction costs from the adoption of all or any part of the CSIP. In determining the estimated net savings, CFX reserves the right to disregard the Contract bid prices if, in the judgment of CFX, such prices do not represent a fair measure of the value of the Work to be performed or to be deleted.

Prior to approval, CFX may modify a CSIP, with the concurrence of the Contractor, to make it acceptable. If any modification increases or decreases the net savings resulting from the CSIP, CFX will determine the Contractor's fair share upon the basis of the CSIP as modified and upon final quantities. CFX will compute the net savings by subtracting the revised total cost of all bid items affected by the CSIP from the total cost of the same bid items as represented in the Contract, provided that in the sole judgment of CFX that such bid item prices represent fair measure of the value of the associated work.

Prior to approval of the CSIP that initiates the supplemental agreement, provide acceptable Contract-quality plan sheets revised to show all details consistent with the CSIP design.

2.3.6.4 Computation for Change in Contract Cost Performance: If the CSIP is adopted, the Contractor's share of the net savings as defined hereinafter represents full compensation to the Contractor for the CSIP.

CFX will include its cost to process and implement a CSIP in the estimate.

2.3.6.5 Conditions of Acceptance for Major Design Modifications of Category 2 Bridges: A CSIP that proposes major design modifications of a category 2 bridge, as determined by CFX, shall have the following conditions of acceptance:

1. All bridge plans relating to the CSIP shall undergo an independent peer review conducted by a single independent engineering firm referred to for the purpose of this requirement as the Independent Review Engineer (IRE). The IRE shall not be the originator of the CSIP design and shall be pre-qualified by FDOT in accordance with Rule 14-75, Florida Administrative Code. The independent peer review is intended to be a comprehensive and thorough verification of the original Work, giving assurance that the design is in compliance with all CFX requirements. The IRE's comments, along with the resolution of each comment, shall be submitted to CFX. The IRE shall sign and seal the submittal cover letter stating that all comments have been adequately addressed and the design is in

compliance with CFX's requirements. If there are any unresolved comments, the IRE shall specifically list all unresolved issues in the signed and sealed cover letter.

2. CFX reserves the right to require the Contractor's Specialty Engineer to assume responsibility for the design of the entire structure.

3. New designs and independent peer reviews shall be in compliance with all applicable CFX, FDOT and AASHTO criteria requirements including bridge loading ratings.

2.3.6.6 Sharing Arrangements: If CFX approves a CSIP, the Contractor will receive 50% of the net reduction in the cost of performance of the Contract as determined by the final negotiated agreement between the Contractor and CFX. The net reduction will be determined by subtracting from the savings of the construction costs the reasonable documented engineering costs incurred by the Contractor to design and develop a CSIP and CFX's direct costs for reviewing the CSIP. Contractor's engineering costs will be based on the Specialty Engineer's certified invoice and may include the costs of the IRE. The Contractor's total engineering costs to be subtracted from the savings to determine the net reduction will be limited to 25% of the construction savings and will not include any markup by the Contractor for the costs for engineering services performed by the Contractor.

2.3.6.7 Notice of Intellectual Property Interests and CFX's Future Rights to a CSIP: The Contractor's CSIP submittal shall identify with specificity any and all forms of intellectual property rights that either the Contractor or any officer, shareholder, employee, consultant, or affiliate, of the Contractor, or any other entity who contributed in any measure to the substance of the Contractor's CSIP development, have or may have that are in whole or in part implicated in the CSIP. Such required intellectual property rights notice includes, but is not limited to, disclosure of any: issued patents, copyrights, or licenses; pending patent, copyright or license applications; and any intellectual property right that though not yet issued, applied for or intended to be pursued, could nevertheless otherwise be subsequently the subject of patent, copyright or license protection by the Contractor or others in the future. The notice requirement does not extend to intellectual property rights as to stand-alone or integral components of the CSIP that are already on the FDOT's APL or design standard indexes, or are otherwise generally known in the industry as being subject to patent or copyright protection.

Notwithstanding Article 5.3 of the General Specifications nor any provisions of the Standard Specifications, upon acceptance of the CSIP, the Contractor grants to CFX and its contractors (such grant being expressly limited solely to any and all existing or future CFX construction projects and any other CFX projects that are partially or

wholly funded by or for CFX) a royalty-free and perpetual license under all forms of intellectual property rights to manufacture, to use, to design, to construct, to disclose, to reproduce, to prepare and fully utilize derivative works, to distribute, display and publish, in whole or in part, and to permit others to do any of the above, and to otherwise in any manner and for any purpose whatsoever do anything reasonably necessary to fully utilize any and all aspects of such CSIP on any and all existing and future construction projects and any other CFX projects.

The Contractor shall hold harmless and indemnify CFX and its contractors and others in privity therewith from and against any and all claims, liabilities, other obligations or losses, and reasonable expenses related thereto (including reasonable attorney's fees) which are incurred or are suffered by any breach of the foregoing grants, and regardless of whether such intellectual property rights were or were not disclosed by the Contractor pursuant to the language herein, unless CFX has by express written exception in the CSIP acceptance process specifically released the Contractor from such obligation to hold harmless and indemnify as to one or more disclosed intellectual property rights.

## 2.4 Claims by Contractor

2.4.1 General: When the Contractor deems that extra compensation, or a time extension is due beyond that agreed to by CFX, whether due to delay, additional Work, altered Work, differing site conditions, breach of Contract, or for any other cause, the Contractor shall follow the procedures set forth herein for preservation, presentation and resolution of the claim.

### 2.4.2 Notice of Claim:

2.4.2.1 Claims For Extra Work: Where the Contractor deems that additional compensation or a time extension is due for Work or Materials not expressly provided for in the Contract or which is by written directive expressly ordered by CFX pursuant to 2.3, the Contractor shall notify CFX in writing, including the words "NOTICE OF CLAIM" in the document heading of the intention to make a claim for additional compensation before beginning the Work on which the claim is based, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 6.7.3 within ten (10) calendar days after commencement of a delay. If such notification is not given and CFX is not afforded the opportunity for keeping strict account of actual labor, Materials, Equipment, and time, the Contractor waives the claim for additional compensation or a time extension. Such notice by the Contractor, and the fact that CFX has kept account of the labor, Materials and Equipment, and time, shall not in any way be construed as establishing the validity of the claim or method for computing any compensation or time extension for such claim. Notice of the amount of the claim with supporting data

shall be delivered within sixty days after the start of such occurrence or event (unless CFX allows additional time for the Contractor to submit additional or more accurate data in support of the claim) and shall be accompanied by the Contractor's written statement that the adjustment claimed covers all known amounts to which the Contractor is entitled as a result of said occurrence or event. For any claim or part of a claim that pertains solely to final estimate quantity disputes the Contractor shall submit full and complete claim documentation as described in 2.4.3, as to such final estimate claim dispute issues, within 30 calendar days of the Contractor's receipt of CFX's Offer of Final Payment. Submission of timely notice of intent to file a claim, preliminary time extension request, time extension request, and the claim, together with full and complete claim documentation, are each a condition precedent to the Contractor bringing any arbitration or other formal claims resolution proceeding against CFX for the items and for the sums or time set forth in the Contractor's written claim, and the failure to provide such notice of intent, preliminary time extension request, time extension request, claim and full and complete claim documentation within the time required shall constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to additional compensation or a time extension for such claim.

2.4.2.2 Claims For Delay: Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for Work or Materials not expressly provided for in the Contract (Extra Work) or which is by written directive of CFX expressly ordered by CFX pursuant to 2.3, the Contractor shall submit a written notice of intent to CFX within 48 hours after commencement of a delay to a Work item on the critical path expressly notifying CFX that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 6.7.3 within 48 hours after commencement of a delay to a Work item on the critical path, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's Work by such delay. The timely providing of a written notice of intent or preliminary time extension request to CFX are each a condition precedent to any right on behalf of the Contractor to request additional compensation or an extension of Contract Time for that delay, and the failure of the Contractor to provide such written notice of intent or preliminary time extension request within the time required shall constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to additional compensation or a time extension for that delay. Notice of the amount of the claim with supporting data shall be delivered within sixty days after the start of such occurrence or event (unless CFX allows additional time for the Contractor to submit additional or more accurate data in support of the claim) and shall be accompanied by the Contractor's written statement that the adjustment claimed covers all known amounts to which the Contractor is entitled as a result of said occurrence or event. There shall be no



Contractor entitlement to any monetary compensation or time extension for any delays or delay impacts, whatsoever, that are not related to a Work item on the critical path, and then as to any such delay to such item entitlement to any monetary compensation or time extension shall only be to the extent such is otherwise provided for expressly under 2.3 or 2.4, except that in the instance of delay to an item of Work not on the critical path the Contractor may be compensated for the direct costs of idle labor or Equipment only, at the rates set forth in 2.3, and then only to the extent the Contractor could not reasonably mitigate such idleness. The existence of an accepted schedule, including any required update(s), as stated in Article 6.3.3, is a condition precedent to the Contractor having any right to the granting of an extension of Contract Time arising out of any delay. Contractor failure to have an accepted schedule, including any required update(s), for the period of potential impact, or in the event the currently accepted schedule and applicable update(s) do not accurately reflect the actual status of the project or fail to accurately show the true controlling or non-controlling work activities for the period of potential impact, will result in any entitlement determination as to time or money for such period of potential impact being limited solely to CFX's analysis and identification of the actual controlling or non-controlling work activities. Further, in such instances, CFX's determination as to entitlement as to either time or compensability will be final, unless the Contractor can prove by clear and convincing evidence to a Disputes Review Board that the CFX's determination was without any reasonable factual basis.

2.4.3 Content of Written Claim: As a condition precedent to the Contractor being entitled to additional compensation or a time extension under the Contract for any claim, the Contractor shall submit a written claim to CFX which will include for each individual claim, at a minimum, the following information:

- (a) A detailed factual statement of the claim providing all relevant dates, locations, and items of Work affected and included in each claim;
- (b) The date or dates on which actions or events resulting in the claim occurred or conditions resulting in the claim became evident;
- (c) Identification of all pertinent documents and the substance of any material oral communications relating to such claim and the name of the persons making such material oral communications;
- (d) Identification of the provisions of the Contract which support the claim and a statement of the reasons why such provisions support the claim, or alternatively, the provisions of the Contract which allegedly have been breached and the actions constituting such breach;
- (e) A detailed compilation of the amount of additional compensation sought and a breakdown of the amount sought as follows:
  - (1) documented additional job site labor expenses;
  - (2) documented additional cost of Materials and supplies;

- (3) a list of additional Equipment costs claimed, including each piece of Equipment and the rental rate claimed for each;
  - (4) any other additional direct costs or damages and the documents in support thereof;
  - (5) any additional indirect costs or damages and all documentation in support thereof;
- (f) A detailed compilation of the specific dates and the exact number of calendar days sought for a time extension, the basis for entitlement to time for each day, all documentation of the delay, and a breakout of the number of days claimed for each identified event, circumstance or occurrence.

Further, the Contractor shall be prohibited from amending either the basis of entitlement or the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder, and any arbitration or other formal claims resolution proceeding shall be limited solely to the basis of entitlement and the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder. This shall not, however, preclude the Contractor from withdrawing or reducing any of the basis of entitlement and the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder at any time.

2.4.4 Action on Claim: CFX will respond within 30 calendar days of receipt of a complete claim submitted by Contractor in compliance with 2.4.3. Failure by CFX to respond to a claim within 30 calendar days after receipt of a complete claim in compliance with 2.4.3 constitutes a denial of the claim by CFX. If CFX finds the claim or any part thereof to be valid, such partial or whole claim will be allowed and paid for to the extent deemed valid and any time extension granted, if applicable, as provided in the Contract.

2.4.5 Compensation for Extra Work or Delay:

2.4.5.1 Compensation for Extra Work: Notwithstanding anything to the contrary contained in the Contract Documents, the Contractor shall not be entitled to any compensation beyond that provided for in 2.3.2.

2.4.5.2 Compensation for Delay: Notwithstanding anything to the contrary contained in the Contract Documents, the additional compensation set forth in 2.4.5.3 shall be the Contractor's sole monetary remedy for any delay other than to perform extra work caused by CFX unless the delay shall have been caused by acts constituting willful or intentional interference by CFX with the Contractor's performance of the work and then only where such acts continue after Contractor's written notice to CFX of such interference. The parties anticipate that delays may be caused by or arise from any

number of events during the term of the Contract, including, but not limited to, work performed, work deleted, change orders, supplemental agreements, disruptions, differing site conditions, utility conflicts, design changes or defects, time extensions, extra work, right-of-way issues, permitting issues, actions of suppliers, subcontractors or other contractors, actions by third parties, suspensions of work by the CEI pursuant to Article 6.6 of the General Specifications, shop drawing approval process delays, expansion of the physical limits of the project to make it functional, weather, weekends, holidays, special events, suspension of Contract time, or other events, forces or factors sometimes experienced in construction work. Such delays or events and their potential impacts on the performance by the Contractor are specifically contemplated and acknowledged by the parties in entering into this Contract, and shall not be deemed to constitute willful or intentional interference with the Contractor's performance of the work without clear and convincing proof that they were the result of a deliberate act, without reasonable and good-faith basis, and specifically intended to disrupt the Contractor's performance.

2.4.5.3 Compensation for Direct Costs, Indirect Costs, Expenses, and Profit thereon, of or from Delay: For any delay claim, the Contractor shall only be entitled to monetary compensation for the actual idle labor and equipment, and indirect costs, expenses, and profit thereon, as provided for in 2.3.2.1(d) and solely for costs incurred beyond what reasonable mitigation thereof the Contractor could have undertaken.

2.4.6 Mandatory Claim Records: After giving CFX notice of intent to file a claim for Extra Work or delay, the Contractor shall keep daily records of all labor, Materials and Equipment costs incurred for operations affected by the Extra Work or delay. These daily records shall identify each operation affected by the Extra Work or delay and the specific locations where Work is affected by the Extra Work or delay, as nearly as possible. CFX may also keep records of all labor, Materials and Equipment used on the operations affected by the Extra Work or delay. The Contractor shall, once a notice of intent to claim has been timely filed, and not less than weekly thereafter as long as appropriate, provide CFX with a copy of the Contractor's daily records and be likewise entitled to receive a copy of CFX's daily records. The copies of daily records to be provided hereunder shall be provided at no cost to the recipient.

2.4.7 Claims For Acceleration: CFX shall have no liability for any constructive acceleration of the Work, nor shall the Contractor have any right to make any claim for constructive acceleration nor include the same as an element of any claim the Contractor may otherwise submit under this Contract. If CFX gives express written direction for the Contractor to accelerate its efforts, such written direction will set forth the prices and other pertinent information and will be reduced to a written Contract Document promptly. No payment will be made on a Supplemental Agreement for acceleration prior to CFX's approval of the documents.

2.4.8 Certificate of Claim: When submitting any claim, the Contractor shall certify under oath and in writing, in accordance with the formalities required by Florida law, that the claim is made in good faith, that the supportive data are accurate and complete to the Contractor's best knowledge and belief, and that the amount of the claim accurately reflects what the Contractor in good faith believes to be CFX's liability. Such certification must be made by an officer or director of the Contractor with the authority to bind the Contractor.

2.4.9 Non-Recoverable Items: The parties agree that for any claim CFX will not have liability for the following items of damages or expense:

- a. Loss of profit, incentives, or bonuses;
- b. Any claim for other than Extra Work or delay;
- c. Consequential damages including, but not limited to, loss of bonding capacity, loss of bidding opportunities, loss of credit standing, cost of financing, interest paid, loss of other work or insolvency;
- d. Acceleration costs and expenses, except where CFX has expressly and specifically directed the Contractor in writing "to accelerate at CFX's expense";
- e. Attorney fees except in accordance with 3.12, claims preparation expenses and costs of litigation.

2.4.10 Exclusive Remedies: Notwithstanding any other provision of the Contract, the parties agree that CFX shall have no liability to the Contractor for expenses, costs, or items of damages other than those which are specifically identified as payable under 2.4. In the event of any formal claims resolution process for additional compensation, whether on account of delay, acceleration, breach of Contract, or otherwise, the Contractor agrees that CFX's liability will be limited to those items which are specifically identified as payable in 2.4.

2.4.11 Settlement Discussions: The content of any discussions or meetings held between CFX and the Contractor to settle or resolve any claims submitted by the Contractor against CFX shall be inadmissible in any legal, equitable, arbitration or administrative proceedings, including the Disputes Review Board, brought by the Contractor against CFX for payment of such claim. Dispute Review Board proceedings are not settlement discussions, for purposes of this provision.

2.4.12 Personal Liability of Public Officials: In carrying out any of the provisions of the Contract or in exercising any power or authority granted to the Central Florida Expressway Authority, its employees, members, officers, agents, consultants and successors, there shall be no liability of any employee, officer, official agent or consultant of CFX either personally or as officials or representatives of CFX. It is understood that in all such matters such individuals act solely as agents and representatives of CFX.

2.4.13 Auditing of Claims: All claims filed against CFX shall be subject to audit at any time following the filing of the claim, whether or not such claim is part of a suit pending in the Courts of the State of Florida. The audit may be performed at CFX's sole discretion by employees of CFX or by any independent auditor appointed by CFX, or both. The audit may begin after ten days written notice to the Contractor, subcontractor, or supplier. The Contractor, subcontractor, or supplier shall make a good faith effort to cooperate with the auditors. As a condition precedent to recovery on any claim, the Contractor, subcontractor, or supplier must retain sufficient records, and provide full and reasonable access to such records to allow the CFX auditors to verify the claim. Failure to retain sufficient records of the claim or failure to provide full and reasonable access to such records shall constitute a waiver of that portion of such claim that cannot be verified and shall bar recovery thereunder. Further, and in addition to such audit access, upon the Contractor submitting a written claim, CFX shall have the right to request and receive, and the Contractor shall have the affirmative obligation to provide to CFX, copies of any and all documents in the possession of the Contractor or its subcontractors, materialmen or suppliers as may be deemed relevant by CFX in its review of the basis, validity or value of the Contractor's claim.

Without limiting the generality of the foregoing, the Contractor shall upon written request of CFX make available to CFX auditors, or upon CFX's written request for copies, provide copies at CFX's expense, any or all of the following documents:

1. Daily time sheets and superintendent's daily reports and diaries;
2. Insurance, welfare and benefits records;
3. Payroll registers;
4. Earnings records;
5. Payroll tax returns;
6. Materials invoices, purchase orders, and all Materials and supply acquisition contracts;
7. Materials cost distribution worksheets;
8. Equipment records (list of company owned, rented or other Equipment used)
9. Vendor rental agreements and subcontractor invoices;
10. Subcontractor payment certificates;
11. Canceled checks for the project, including payroll and vendors;
12. Job cost reports;
13. Job payroll ledgers;
14. General ledger, general journal, (if used) and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in these ledgers and journals;
15. Cash disbursements journal;
16. Financial statements for all years reflecting the operations on the Project;
17. Income tax returns for all years reflecting the operations on the Project;
18. All documents which reflect the Contractor's actual profit and overhead during the years the Contract was being performed and for each of the five years prior to the commencement of the Contract;

19. All documents related to the preparation of the Contractor's bid including the final calculations on which the bid was based;
20. All documents that relate to each and every claim together with all documents which support the amount of damages as to each claim;
21. Worksheets used to prepare the claim establishing the cost components for items of the claim including, but not limited to, labor, benefits and insurance, Materials, Equipment, subcontractors, and all documents that establish which time periods and individuals were involved, and the hours and rates for such individuals.
22. Electronic Payment Transfers and like records

## 2.5 Unforeseeable Work

When Work is required which is not covered by a price in the Contract and such Work does not constitute a "significant change" as defined in 2.3.1, and such Work is found essential to the satisfactory completion of the Contract within its intended scope, an adjustment will be made to the Contract. The basis of payment for such adjustment will be in an amount as CFX may determine to be fair and equitable.

## 2.6 Right To and Use of Materials Found at the Site of the Work

2.6.1 Ownership and Disposal of Existing Materials: Except as might be stipulated or implied otherwise on the Plans or in the Specifications, all Materials which are not the property of other parties (in both roadway and structures) found on the right of way and all material in structures removed by the Contractor, shall become the property of the Contractor and shall be properly disposed of by the Contractor. Such Materials shall not include earth or other excavated material required for the construction of the Project. Materials from existing structures required to be removed and which are designated to remain the property of CFX may generally be used by the Contractor during construction. Such material shall not be cut or otherwise damaged during removal unless permission is given and shall subsequently be stored in an accessible location if so directed by CFX.

2.6.2 Ornamental Trees and Shrubs: Any ornamental trees or shrubs existing in the right-of-way (which are required to be removed for the construction operations and which are not specifically designated on the Plans to be reset or to be removed by others prior to the construction operations) shall remain the property of CFX, and shall be relocated by the Contractor as directed. The Contractor shall be fully responsible for maintaining in good condition all grass plots, trees and shrubs outside the limits of construction as shown on the Plans. Tree limbs that interfere with Equipment operation and are approved for pruning shall be neatly trimmed and the tree cut coated with tree paint.

## 2.7 Restoration of Right of Way

Areas outside the Project limits within CFX right of way used as a plant site be shaped and dressed so as not to present an objectionable appearance and grassed. The Work of grassing will not be paid for separately but will be considered incidental to the other items of Work for which payment is made. Property outside CFX's right of way that is damaged due to the activities of the Contractor shall be immediately restored, at Contractor's expense, to a condition similar or equal to that existing before such damage or injury was done by the Contractor.

Upon completion of the Work and before final acceptance and final payment will be made, the Contractor shall remove from the right of way and adjacent property all falsework, Equipment, surplus and discarded Materials, rubbish and temporary structures; shall restore in an acceptable manner all property, both public and private, which has been damaged during the prosecution of the Work, and shall leave the roadway in a neat and presentable condition throughout the entire length of the Work under the Contract. The placing of Materials of any character, rubbish or Equipment, on abutting property, with or without the consent of the property owners, shall not constitute satisfactory disposal. However, the Contractor will be allowed to temporarily store Equipment, surplus Materials, usable forms, etc., on a well-kept site owned or leased by the Contractor, adjacent to the Project, but no discarded Equipment or Materials or rubbish shall be placed on such site.

END OF SECTION 2

## SECTION 3 - CONTROL OF WORK

### 3.1 Plans and Working Drawings

3.1.1 Plans and Contract Documents: The Contractor will be supplied, without charge, one (1) set of Plans and Contract Documents on electronic media and one (1) hard copy set of "Approved for Construction" documents including the Plans, General Specifications, Technical Specifications and Special Provisions and addenda, if any. Copies of the FDOT Standard Specifications and Design Standards are available from the FDOT.

3.1.2 CFX Plans: The Plans furnished by CFX consist of general drawings showing such details as are necessary to give a comprehensive idea of the construction contemplated. Roadway plans will show in general, alignment, profile grades, typical cross sections and general cross sections. Structure plans, in general, will show in detail all dimensions of the Work contemplated. When the structure plans do not show the dimensions in detail, they will show general features and such details as are necessary to give a comprehensive idea of the structure.

Grades shown are finished grades and B.M. Datum is National Geodetic Vertical Datum of 1929 (NGVD-1929), North American Vertical Datum 1988 (NAVD-1988), or other datum as noted in the Plans.

3.1.3 Alterations in the Plans: All authorized alterations affecting the requirements and information given on the approved Plans shall be in writing. No changes shall be made on any plan or drawing after its approval by CFX, except by direction of CFX.

#### 3.1.4 Shop Drawings

##### 3.1.4.1. Definitions:

(a) Shop Drawings include all working, shop and erection drawings, associated trade literature, calculations, schedules, manuals or similar documents submitted by the Contractor to define some portion of the Work. The type of Work includes both permanent and temporary Work.

(b) Permanent Work is the term deemed to include all the permanent structure and parts thereof required of the completed Contract.

(c) Temporary Work is the term deemed to include any temporary construction work necessary for the construction of the permanent Work. This includes falsework, formwork, scaffolding, shoring, temporary earthworks, sheeting, cofferdams, special erection equipment and the like.



(d) Construction Affecting Public Safety applies to construction that may jeopardize public safety such as structures spanning functioning vehicular roadways, pedestrian walkways, railroads, navigation channels, navigable waterways and walls or other structure's foundations located in embankments immediately adjacent to functioning roadways. It does not apply to those areas of the site under the Contractor's control and outside the limits of normal public access.

(e) Major and unusual structures include bridges of complex geometry and/or complex design. Generally, this includes the following types of structures:

Bridges with an individual span longer than 300 feet.

Structurally continuous superstructures with spans over 50 feet.

Steel box and plate girder bridges.

Steel truss bridges.

Concrete segmental and longitudinally post-tensioned continuous girder bridges.

Cable stayed or suspension bridges.

Curved girder bridges.

Arch bridges.

Tunnels.

Movable bridges (specifically electrical and mechanical components).

Rehabilitation, widening or lengthening of any of the above.

(f) Special Erection Equipment includes launching gantries, beam and winch Equipment, form travelers, stability towers, strongbacks, erection trusses, launching noses or similar items made purposely for construction of the structure. It does not apply to commonly available proprietary construction Equipment such as cranes.

(g) Falsework includes any temporary construction Work used to support the permanent structure until it becomes self-supporting. Falsework includes steel or timber beams, girders, columns, piles and foundations and any proprietary Equipment including modular shoring frames, post shores and adjustable horizontal shoring.

(h) Formwork includes any temporary structure or mold used to retain plastic or fluid concrete in its designated shape until it hardens. Formwork comprises common materials such as wood or metal sheets, battens, soldiers and walers, ties, proprietary forming systems such as stay-in-place metal forms, and proprietary supporting bolts, hangers and brackets.

(i) Scaffolding is an elevated work platform used to support workmen, Materials and Equipment but not intended to support the structure.

(j) Shoring is a component of falsework such as horizontal, vertical or inclined support members. In this specification, this term is used interchangeably with falsework.

3.1.4.2. Work Items Requiring Shop Drawings: The requirement for submittals for certain items may be waived by other provisions of these specifications; i.e. items constructed from standard drawings or those complying with alternate details for prestressed members under Section 450. Precast components that are not detailed in the Plans or Standard Drawings will require approved shop drawings. The Contractor shall review the Plans and Specifications to determine the submittals required.

The following signing and lighting items are defined as structural items:

- Lighting: poles, bracket arms, frangible bases and foundations.
- Signing: Mounting brackets for bridge mounted signs, overhead cantilever structures, overhead truss structures, overhead sequential sign structures and multiple post sign supports, along with applicable foundations.

In general, shop drawings shall be required for:

- (a) Bridge, Bulkhead and Retaining Wall Structures, cofferdams, Lighting and Signing Structural Items along with applicable foundations.
- (b) Signing, Lighting, Drainage Structures and Attenuators and other nonstructural items.
- (c) Building Structures.
- (d) Contractor Originated Re-Design.
- (e) Design and/or structural details furnished by the Contractor in compliance with the Contract, according to the sections of the Specifications pertaining to the Work, to the Plans or other Contract Documents.
- (f) Special Erection Equipment.
- (g) Falsework and Shoring.

Additional clarification for certain types of bridge structures is provided in 3.1.4.9.

3.1.4.3 Schedule of Submittals: The Contractor shall prepare and submit to the CEI a schedule of submittals identifying the Work for which Contractor intends to submit shop drawings, the type, approximate number of drawings or other documents and

approximate dates of anticipated submittals with due regard to processing requirements herein. The schedule of submittals shall be submitted to the CEI within 15 days of the start of the date of the Notice to Proceed, and prior to the submission of any shop drawings.

Subsequent submittals shall be coordinated with construction schedules to allow sufficient time for review, approval and re-submittal as necessary.

#### 3.1.4.4 Style, Numbering and Material of Submittals:

3.1.4.4.1 Drawings: The Contractor shall furnish such shop drawings as may be required to complete the structure in compliance with the design shown on the Plans. Drawings shall be prepared or reproduced on permanent material made for the purpose, such as tracing cloth, plastic, mylar or xerographic bond paper, hereafter referred to as masters. The size of the sheets shall be no larger than 24 by 36 inches. Each sheet shall be numbered consecutively for the series and the sheet number shall indicate the total number in the series (e.g., 1 of 12, 2 of 12, ... 12 of 12). Each shop drawing shall contain the following items as a minimum requirement: the CFX Project Number, drawing title and number, a title block showing the names of the fabricator or producer and the Contractor for which the Work is being done, the initials of the person(s) responsible for the drawing, the date on which the Work was performed, the location of the item(s) within the Project, the Contractor's approval stamp and initials and when applicable, the signature and embossed seal of the Contractor's Florida registered Specialty Engineer. The absence of any of this minimum information may be cause for a request for a re-submittal.

3.1.4.4.2 Other Documents: Documents other than drawings, such as trade literature, catalogue information, calculations and manuals shall be original copies or clearly legible photographic or xerographic copies. The size shall be no larger than 11 by 17 inches. Such information shall be clearly labeled and numbered and the sheet numbers shall indicate the total number of sheets in the series (e.g., 1 of 12, 2 of 12, .... 12 of 12).

All documents shall be bound and submitted with a Table of Contents cover sheet. The cover sheet shall list the total number of pages and appendices and shall also include the CFX Project Number, a title to reference the item(s) for which it is submitted, the name of the firm and person(s) responsible for the preparation of the document, the Contractor's approval stamp and initials and, when applicable, the signature and embossed seal of the Contractor's Florida registered Specialty Engineer.

The calculations or manuals shall clearly outline the design criteria and shall be appropriately prepared and checked. The internal sheets shall include the complete CFX Project Number and initials of the persons responsible for preparing and checking the document.

Trade literature and catalogue information shall be clearly labeled with the title, CFX Project Number, date and name of the firm and person responsible for that document displayed on the front cover.

Documents other than drawings may be on xerographic paper or glossy paper material as appropriate. For the purpose of this specification, the term "shop drawings" shall be deemed to include these other documents.

#### 3.1.4.5 Submittal Paths and Copies:

3.1.4.5.1 Bridge, Bulkhead and Retaining Wall Structures and Lighting and Signing Structural Items with appropriate foundations: Shop drawings for pre-qualified items, excluding their corresponding foundations, are not required.

The Contractor shall submit one (1) set of prints along with one (1) set of reproducible copies of each series of shop drawings to the CEI with a copy of the letter of transmittal sent to the Consultant. For Work requiring other documentation (e.g. catalog data, material certifications, material tests, procedure manuals, fabrication / welding procedures, and maintenance and operating manuals) a minimum of eight (8) copies of each document shall be submitted with the prints. The mailing address of the Consultant will be furnished by CFX.

3.1.4.5.2 Signing, Lighting, Drainage Structures, Attenuators and other nonstructural items: The Contractor shall submit seven (7) sets of prints of each shop drawing to the CEI with a copy of the transmittal letter sent to the Consultant.

3.1.4.5.3 Building Structures: One (1) set of prints and one (1) set of reproducible copies of each series of working, shop and erection drawings and all correspondence related to building structures shall be submitted to the CEI with a copy of the transmittal sent to the Consultant.

3.1.4.5.4 Contractor Originated Design or Redesign: The Contractor shall submit to the CEI one (1) set of prints along with one (1) reproducible copy of each series of shop drawings and four (4) copies of applicable calculations. Each print and the cover sheet of each copy of applicable calculations shall

be signed and sealed by the Contractor's Specialty Engineer. The submittal and copies of the transmittal letters shall be transmitted in accordance with the requirements of 3.1.4.5.1 through 3.1.4.5.3, as appropriate.

3.1.4.5.5 Special Erection Equipment: For (a) Construction Affecting Public Safety and (b) Major or Unusual Structures: The Contractor shall submit to the CEI, one (1) set of prints along with one (1) reproducible copy of each series of shop drawings and four (4) copies of applicable calculations. Each print and the cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer. The submittal and copies of the transmittal letters shall be transmitted in accordance with the requirements of 3.1.4.5.1 through 3.1.4.5.3, as appropriate.

3.1.4.5.6 Falsework and Shoring: For (a) Construction Affecting Public Safety and (b) Major and Unusual Structures: The Contractor shall submit to the CEI one (1) set of prints along with one (1) reproducible copy of each series of shop drawings and four (4) copies of applicable calculations. Each print and the cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer. The submittal and copies of the transmittal letters shall be transmitted in accordance with the requirements of 3.1.4.5.1 through 3.1.4.5.3, as appropriate.

3.1.4.5.7 Formwork: Formwork shall be in accordance with Section 400-5 of the Standard Specifications.

3.1.4.5.8 Scaffolding: The Contractor shall be responsible for the safe installation and use of all scaffolding. No submittals are required.

3.1.4.5.9 Other miscellaneous design and/or structural details furnished by the Contractor in compliance with the contract: The Contractor shall submit to the CEI one (1) set of prints along with one (1) reproducible copy of each series of shop drawings and four (4) copies of applicable calculations. Each print and the cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer. The submittal and copies of the transmittal letters shall be transmitted in accordance with the requirements of 3.1.4.5.1 through 3.1.4.5.3, as appropriate.

3.1.4.5.10 Beam and Girder Temporary Bracing: The Contractor is solely responsible for ensuring stability of beams and girders during all handling, storage, shipping and erection. Adequately brace beams and girders to resist wind, weight of forms and other temporary loads, especially those eccentric to the vertical axis of the products, considering actual beam geometry and support conditions during all stages of erection and deck construction.

Develop the required designs following the AASHTO Guide Design Specifications for Bridge Temporary Works and Construction Handbook for Bridge Temporary Works and the Contract Documents.

For Construction Affecting Public Safety, submit signed and sealed calculations for stability of all beams and girders.

#### 3.1.4.6 Certifications:

3.1.4.6.1 Special Erection Equipment: Prior to its use, special erection Equipment shall be personally inspected by the Specialty Engineer who shall certify to the CEI in writing that the Equipment has been fabricated in accordance with the submitted drawings and calculations. In addition, after assembly, the Specialty Engineer shall observe the Equipment in use and shall certify to the CEI in writing that it is being utilized as intended and in accordance with the submitted drawings and calculations. In each case, the Specialty Engineer shall also sign and seal the letter of certification.

3.1.4.6.2 Falsework and Shoring requiring shop drawings per 3.1.4.5.6: After its erection or installation but prior to the application of any superimposed load, the falsework shall be personally inspected by the Specialty Engineer who shall certify to the CEI in writing that the falsework has been constructed in accordance with the Materials and details shown on the submitted drawings and calculations. The Specialty Engineer shall also sign and seal the letter of certification.

3.1.4.6.3 Formwork: For Construction Affecting Public Safety, prior to the placement of any concrete, the Contractor shall certify to the CEI in writing that formwork has been constructed to safely withstand the superimposed loads to which it will be subjected.

#### 3.1.4.7 Processing of Shop Drawings:

3.1.4.7.1 Contractor Responsibility for Accuracy and Coordination of Shop Drawings: The Contractor shall coordinate, schedule and control all submittals including those of its various subcontractors, suppliers and engineers to provide for an orderly and balanced distribution of the Work.

All shop drawings prepared by the Contractor or its agents (subcontractor, fabricator, supplier and etc.) shall be coordinated, reviewed, dated, stamped, approved and signed by the Contractor prior to submission to the CEI for review. The Contractor's signed approval of drawings submitted shall confirm the Contractor has verified the Work requirements, field

measurements, construction criteria, sequence of assembly and erection, access and clearances, catalog numbers and other similar data. Each series of drawings shall indicate the specification section and page or drawing number of the Contract plans to which the submission applies. The Contractor shall indicate on the shop drawings all deviations from the Contract drawings and shall itemize all deviations in the letter of transmittal. Likewise, whenever a submittal does not deviate from the Contract plans, the Contractor shall also clearly state so in the transmittal letter.

The Contractor shall schedule the submission of shop drawings to allow for a 45 calendar day review period by the CEI. The review period commences upon receipt of the Contractor's submittal by the CEI as stipulated in 3.1.4.5 and terminates upon transmittal of the submittal back to the Contractor by the CEI. The Contractor shall adjust its schedules so that a 30 calendar day period is provided for each re-submittal.

It is incumbent upon the Contractor to submit shop drawings to facilitate expeditious review. Voluminous submittals of shop drawings at one time are discouraged and may result in increased review time. The submittal/re-submittal clock will start upon receipt of a valid submittal. A valid submittal shall include all the minimum requirements outlined in 3.1.4.4. CFX will not be liable to the Contractor for resulting delays, added costs and/or related damages when the actual time required for approval extends beyond the 45 and 30 day review periods shown above.

Only CEI approvals of miscellaneous submittals and red ink stamps on shop drawings are valid and any Work performed in advance of approval will be at the Contractor's risk.

3.1.4.7.2 Scope of Review by CEI: The review of the shop drawings by the CEI shall be for conformity to the Contract requirements and intent of design and not for the adequacy of the means, methods, techniques, sequences and procedures proposed for construction. Review by the CEI does not relieve the Contractor of responsibility for dimensional accuracy to assure field fit and for conformity of the various components and details.

3.1.4.7.3 Special Review by CEI of Shop Drawings for Construction Affecting Public Safety: For Construction Affecting Public Safety, the CEI will make an independent review of all relevant shop drawings and similar documents in order to verify the safety of the intended construction and construction of the permanent Work shall not proceed until receipt of the

CEI's approval. The requirement herein does not supercede the Contractor's duty and responsibility for all safety provisions, public and/or otherwise, for the Project.

3.1.4.8 Avoidance of Conflict of Interest: Neither the CEI, the Consultant nor any design engineer who participated in the design phase of the Project can be engaged by the Contractor to perform Work as the Contractor's Specialty Engineer unless expressly approved in writing by CFX.

3.1.4.9 Other Requirements for Shop Drawings for Bridges:

3.1.4.9.1 Shop Drawings for Structural Steel and Miscellaneous Metals: Shop drawings shall be furnished by the Contractor for structural steel and miscellaneous metals. Shop drawings shall consist of working, shop and erection drawings, welding procedures and other working plans, showing details, dimensions, sizes of material, and other information necessary for the complete fabrication and erection of the metal work.

3.1.4.9.2 Shop Drawings for Concrete Structures: Shop drawings shall be furnished by the Contractor for such details as may reasonably be required for the effective prosecution of the Work and which are not included in the plans furnished by CFX. These may include details of falsework, shoring, special erection Equipment, bracing, centering, formwork, masonry layout diagrams and diagrams for bending reinforcing steel in addition to any details required for concrete components for the permanent Work.

3.1.4.9.3 Shop Drawings for Major and Unusual Structures: In addition to any other requirements, no less than 60 days from the start of Work as shown in the latest CPM, the Contractor shall submit information to the CEI outlining Contractor's overall approach to the Project. Where applicable to the Project, this information shall include but need not be limited to items such as:

- (1) Overall construction program for the duration of the Contract. milestone dates should be clearly shown. (For example; the need to open a structure by a certain time for traffic operations.)
- (2) Overall construction sequence. The order in which individual structures are to be built, the sequence in which individual spans of girders or cantilevers are erected and the sequence in which spans are to be made continuous.
- (3) The general location of any physical obstacles to construction that might impose restraints or otherwise affect the construction and an



outline of how the Contractor intends to deal with such obstacles as it builds the structure(s). (For example; obstacles might include road, rail and waterway clearances, temporary diversions, transmission lines, utilities, property and the Contractor's own temporary Work such as haul roads, cofferdams, plant clearances and the like.)

(4) The approximate location of any special lifting Equipment in relation to the structure including clearances required for the operation of the Equipment. (For example; crane positions and operating radii and the like.)

(5) The approximate location of any temporary falsework and conceptual outline of any special erection Equipment. (The precise locations and details of attachments, fixing devices, loads etc. will be covered under later detailed submittals.)

(6) An outline of the handling, transportation and storage of fabricated components, such as girders or concrete segments. (Precise details will be covered under later detailed submittals).

(7) Any other information pertinent to the Contractor's proposed scheme or intentions.

The above information shall be clear and concise and shall be presented on as few drawings as possible in order to provide an overall, integrated summary of the Contractor's intentions and approach to the Project. These drawings are for information, review planning and to assess the Contractor's approach in relation to the intent of the original design. Their delivery to and receipt by the CEI shall not constitute any acceptance or approval to the proposals shown thereon. The details of such proposals shall be the subject of subsequent detailed shop drawing submittals. Variations from these overall scheme proposals shall be covered by timely revisions and re-submittals.

3.1.4.10 Corrections for Construction Errors: For Work that is constructed incorrectly or does not conform to the requirements of the Contract drawings or Specifications, the Contractor has the prerogative to submit an acceptance proposal to the CEI for review and disposition. Any such proposal will be judged both for its effect on the integrity and maintainability of the structure or component thereof and also for its effect on Contract administration.

Any proposal judged by the CEI to infringe on the structural integrity or maintainability of the structure will require a technical assessment and submittal by the Contractor's Specialty Engineer as described in 3.1.4.5.4.

The cost of carrying out all approved corrective construction measures shall be entirely at the Contractor's expense.

Notwithstanding any disposition on the compensation aspects of the defective Work, the CEI's decision on the technical merits of a proposal shall be final.

3.1.4.11 Modifications for Construction: Where the Contractor is permitted to make modifications to the permanent Work for the purposes of expediting the Contractor's chosen construction methods, Contractor shall submit its proposals to the CEI for review and approval. Proposals for modifications shall be submitted under the shop drawing process.

Minor modifications shall be limited to those items that in the opinion of the CEI do not significantly affect the quantity of measured Work nor the integrity or maintainability of the structure or its components.

Major modifications are any modifications that in the opinion of the CEI significantly affect the quantity of measured Work or the integrity or maintainability of the structure or its components. (For example, substitutions of alternative beam sizes and spacing, change of material strength or type, and the like.)

The CEI's decision on the delineation between a minor and a major modification and disposition on a proposal shall be final.

3.1.4.12 Cost of Shop Drawings: The Contract Prices shall include the cost of furnishing shop and working drawings and the Contractor will be allowed no extra compensation for such drawings.

### 3.2 Coordination of Plans and Specifications

The Plans, Specifications and all supplementary documents are integral parts of the Contract and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete Work. In addition to the Work and Materials specifically identified as being included in any specific pay item, additional incidental Work not specifically mentioned will be included in such pay item when shown in the Plans or if indicated or obvious and apparent as being necessary for proper completion of the Work.

In case of discrepancy, the governing order of the documents shall be as follows:

1. The Contract,
2. The Memorandum of Agreement,
3. The Addenda (if any), modifying the General Specifications, Technical

- Specifications, Special Provisions, Technical Special Provisions (if any),  
Plans or other Contract Documents,
4. The Plans,
  5. The Special Provisions,
  6. The Technical Special Provisions (if any),
  7. The Technical Specifications,
  8. The General Specifications,
  9. The Standard Specifications,
  10. The Design Standards, and
  11. The Proposal.

Computed dimensions shall govern over scaled dimensions.

### 3.3 Conformity of Work with Plans

All Work performed, and all Materials furnished shall be in reasonably close conformity with the lines, grades, cross sections, dimensions and material requirements, including tolerances, shown on the Plans or indicated in the Specifications.

In the event CFX finds that the Materials or the finished product in which the Materials are used are not within reasonable close conformity with the Plans and Specifications, but that reasonably acceptable Work has been produced, CFX will make a determination if the Work will be accepted and remain in place. In this event, CFX will document the basis of acceptance by Contract modification which will provide for an appropriate adjustment in the Contract price for such Work or Materials as CFX deems necessary to conform to CFX's determination based on engineering judgment.

In the event CFX finds that the Materials or the finished product in which the Materials are used, or the Work performed are not in reasonable close conformity with the Plans and Specifications and have resulted in an inferior or unsatisfactory product, the Work or Materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.

For base and surface courses, the finished grade may vary as much as 0.1 foot from the grade shown on the Plans, provided that all template and straightedge requirements are met and that suitable transitions are affected.

3.3.1 Record Drawings: During the entire construction operation, the Contractor shall maintain records of all deviations from the plans and specifications including Request for Information (RFI), field directives, sketches, etc., and shall submit those deviations to the CEI. The submittal shall also include cross-sections, prepared by a registered surveyor, of all retention ponds in the Project limits. A minimum submittal would be full-sized prints in good condition with all changes in red, accurately

plotted. The print shall be in good condition as determined by the CEI. The marked up prints shall be submitted within 15 days of the Project acceptance or termination of Work. Preparation of the record drawings shall be the responsibility of CFX. Retainage will not be released by CFX until the marked up prints and records have been submitted and accepted by CFX.

### 3.4 Pre-Award Meeting

The Plans and Specifications will be reviewed in a joint pre-award meeting between the Contractor's key personnel and CFX representatives. The purpose of the meeting will be to address all questions or differences in interpretations of the documents and to provide clarifications. The meeting will also provide the opportunity for the Contractor to disclose advantages that may have been gained through a strict and literal interpretation of the bid documents. If the Contractor suspects or believes, based on its prior experience, or on the overall specifications, that a literal interpretation of one or more specifications may not reflect CFX's intentions or desires, the Contractor shall disclose such belief at this meeting. CFX will make a determination as to whether or not any adjustments to the Plans, Specifications and/or bid price are appropriate and desired and will make such corrections and interpretations as CFX deems necessary to reflect the intent of the Plans and Specifications.

A Memorandum of Agreement will be prepared by CFX summarizing the results of the meeting. Except as noted in the Memorandum of Agreement, the Contractor shall certify there are no known errors or omissions in the Plans, Specifications and other Contract Documents before the Contract is executed. The memorandum will be signed by CFX and a representative of the Contractor authorized to act on behalf of the Contractor and will be made a part of the Contract Documents.

Notwithstanding that the pre-award meeting is mandatory as to the Contractor, and notwithstanding that the items to be agreed upon at the pre-award meeting shall become terms of the ultimate Contract, the Contractor expressly acknowledges and agrees that all of the essential terms of the ultimate Contract are contained in the Bid and Bidding Documents, and all issues addressed at the pre-award meeting are deemed non-essential to the existence of the Contract, unless (i) it is discovered that the Contractor misrepresented any item of the Bid, or (ii) CFX determines that the Bid does not conform to the specifications of the Bidding Documents.

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### 3.5 Orders and Instructions

The supervision of the execution of the Contract is vested wholly in the Contractor. The orders, instructions, directions or requests of CFX may come directly from CFX or may be given through CFX's designated representative. The Contractor shall designate a representative to receive such instructions, directions or requests and failing to do so, will be held responsible for the execution of them.

CFX will have the right to suspend the Work wholly or in part for such period or periods as may be deemed necessary due to failure on the part of the Contractor to carry out orders given to perform any or all provisions of the Contract. The Contractor shall not suspend the Work and shall not remove any Equipment, tools, lumber or other Materials without the written permission of CFX.

- 3.5.1 Observation of the Work: CFX will have free access to the Materials and the Work at all times for measuring or observing the same, and the Contractor shall afford either or both all necessary facilities and assistance for so doing.

After written authorization to proceed with the Work, CFX or its designated representative will:

3.5.1.1 Make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine in general if the Work is proceeding in accordance with the Plans and Specifications. CFX will not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the Work, will not be responsible for the construction means, methods, procedures, techniques and will not be responsible for the Contractor's failure to perform the construction Work in accordance with the Plans and Specifications. CFX will not be responsible for safety precautions and procedures concerning the Work. During such visits and based on on-site observations, CFX may disapprove Work as failing to conform to the Plans and Specifications.

3.5.1.2 Check and approve samples, catalog data, schedules, shop drawings, laboratory, shop and mill tests of Materials and Equipment and other data which the Contractor is required to submit, only for conformance with the design concept of the Project and compliance with the information given by the Plans and Specifications.

3.5.1.3 Conduct, in company with the Contractor, a final inspection of the Project for conformance with the design concept of the Project and compliance with the information given by the Plans and Specifications.

#### 3.5.1.4 Prepare final record drawings.

- 3.5.2 Examination of the Work: The authority and duties of the CEI, if one is so designated by CFX, are limited to examining the material furnished, observing the Work done and reporting its findings to CFX. Neither CFX nor the CEI underwrites, guarantees or ensures the Work done by the Contractor. It is the Contractor's responsibility to perform the Work in all details in accordance with the Plans and Specifications. Failure by any representative of CFX engaged in on-the-site observation to discover defects or deficiencies in the Work of the Contractor shall never, under any circumstances, relieve the Contractor from the Contractor's liability therefore.

The CEI will have no authority to permit deviation from or to modify any of the provisions of the Plans or Specifications without the written permission or instruction of CFX or to delay the Contractor by failure to observe the Materials and Work with reasonable promptness.

The CEI will not have authority to supervise, direct, expedite or otherwise control the Contractor's means, methods, techniques or sequences of construction. The CEI may only advise the Contractor when it appears that the Work and/or Materials do not conform to the requirements of the Contract Documents.

The payment of any compensation, irrespective of its character or form or the giving of any gratuity, or the granting of any valuable favor, directly or indirectly, by the Contractor to any project representative is strictly prohibited, and any such act on the part of the Contractor will constitute a violation of the Contract.

If the Plans, Specifications, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested or approved by someone other than the Contractor, the Contractor shall give CFX timely notice of readiness therefore. The Contractor shall furnish CFX the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials, and/or the American Association of State Highway and Transportation Officials, such other applicable organizations as may be required by law, or the Plans and Specifications. If any such Work required so to be inspected, tested or approved is covered without written approval of CFX, it must, if requested by CFX, be uncovered for observation at the Contractor's expense. The cost of all such inspections, tests and approvals shall be borne by the Contractor unless otherwise provided.

- 3.5.3 Communications: Prior to the start of the Work, CFX will advise the Contractor as to how communications between CFX and Contractor will be handled. Thereafter, whenever reference is made to required communication between the Contractor and CFX, such communication, to be given consideration, must be addressed in accordance with the approved procedure.

### 3.6 Engineering and Layout

#### 3.6.1 Control Points Furnished by CFX

CFX will provide control points and benchmarks as identified in the Plans along the line of the Project to facilitate the proper layout of the Work. A walk-through of the Project by the Consultant's surveyor will be provided to the Contractor to facilitate field location of these points. The Contractor shall preserve all reference points and benchmarks furnished by CFX.

As an exception to the above, if the Plans do not show a centerline or other survey control line for construction of the Work (e.g., resurfacing, safety modifications, etc.) CFX will provide only points marking the beginning and ending of the Project and all exceptions.

#### 3.6.2 Furnishing of Stake Material

The Contractor shall furnish all stakes, templates and other Materials necessary to establish and maintain the lines and grades necessary for control and construction of the Work.

#### 3.6.3 Layout of Work

Using the control points furnished by CFX in accordance with 3.6.1 above, the Contractor shall establish all horizontal and vertical controls necessary to construct the Work in conformance with the Plans and Specifications. The horizontal and vertical controls shall include performing all calculations required and setting all stakes needed such as grade stakes, offset stakes, reference point stakes, slope stakes and other reference points or marks necessary to provide lines and grades for construction of all roadway, bridge and miscellaneous items. The Contractor shall also establish all horizontal and vertical controls necessary to perform utility construction required to be performed by the Contractor. The Contractor shall maintain and protect the required station identification stakes in their correct and appropriate locations. Failure to comply with this provision will result in the withholding of the Contractor's partial payments.

The Contractor shall provide CFX with survey assistance for subsoil excavation quantities and other Project quantities as required by CFX.

#### 3.6.4 Specific Staking Requirements

In circumstances involving new base construction, the Contractor shall set stakes to establish lines and grades for subgrade base, curb and related items at intervals along the line of Work no greater than 50 feet on tangents and 25 feet on curves. Grade stakes shall be set at locations directed by the CEI to facilitate checking of subgrade, base and pavement elevations in crossovers, intersections and irregular shaped areas. If Automated Machine Guidance (AMG) is utilized, set stakes as needed to document quantities. Use of AMG will require an approved Work Plan that describes portions of Work performed with AMG, system components including software, prior experience using this AMG system, site calibration procedures, and quality control procedures. Provide a man rover and a digital model for CEI verification.

For bridge construction stakes and other controls, the Contractor shall set references at intervals sufficient to assure that all components of the structure are constructed in accordance with the lines and grades shown on the Plans.

If the Plans do not show a centerline or other survey control line for construction of the Work (e.g., resurfacing, safety modifications, etc.), only such stakes as are necessary for horizontal and vertical control of Work items will be required.

For resurfacing and resurfacing/widening Work, the Contractor shall establish horizontal controls adequate to assure that the asphalt mix added coincides with the existing pavement. In tangent sections, horizontal control points shall be set at 100-foot intervals by an instrument survey. In curve sections, horizontal control points shall be set at 25-foot intervals by locating and referencing the centerline of the existing pavement.

The Contractor shall establish, by an instrument survey, and mark on the surface of the finished pavement at 25-foot intervals, points necessary for striping of the finished roadway. For resurfacing and resurfacing/widening Work these points shall be established in the same manner as for horizontal control of paving operations. Marks shall be made in white paint. If striping is included in the Work to be done by the Contractor an alternate method of layout of striping may be approved by the CEI provided that the alignment achieved is equal to or better than that which would be achieved using an instrument survey.



A station identification stake shall be set at each right of way line at 100-foot intervals and at all locations where a change in right of way width occurs. Each stake shall be marked with painted numerals of sufficient size to be readable from the roadway and corresponding to the Project station at which it is located. Where Plans do not show right of way lines, station identification stakes shall be set at locations and intervals appropriate to the type of Work being done. For resurfacing and resurfacing/widening Work, station identification stakes shall be set at 200-foot intervals.

### 3.6.5 Personnel, Equipment, and Record Requirements

The Contractor shall employ only competent personnel and use only suitable equipment in performing layout Work. The Contractor shall not engage the services of any person or persons in the employ of CFX for performance of layout Work.

Adequate field notes and records shall be kept as layout Work is accomplished. These field notes and records shall be available for review by the CEI as the Work progresses and copies shall be furnished to the CEI at the time of completion of the Project. Any review of the Contractor's field notes or layout Work by CFX and the acceptance of all or any part thereof, shall not relieve the Contractor of responsibility to achieve the lines, grades, and dimensions shown in the plans and indicated in the specifications.

Prior to final acceptance of the Project, the Contractor shall mark in a permanent manner on the surface of the completed Work all horizontal control points originally furnished by CFX.

### 3.6.6 Payment

The cost of performing the layout Work as described above shall be included in the Contract unit prices for the various items of Work to which it is incidental.

## 3.7 Contractor's Supervision

### 3.7.1 Prosecution of Work

The Contractor shall give the Work the attention necessary to assure the scheduled progress is maintained. The Contractor shall cooperate with CFX and other contractors at Work in the vicinity of the Project.

### 3.7.2 Contractor's Superintendent

The Contractor shall have a competent superintendent on the Project at all times with the ability to speak and understand the English language. The superintendent shall be thoroughly experienced in the type of Work being performed and shall have full authority to execute the orders or directions of the CEI and to promptly supply or have supplied, any Materials, tools, equipment, labor and incidentals which may be required. The superintendent shall be provided regardless of the amount of Work sublet.

Prior to commencement of Work on the Project, the Contractor shall provide CFX with a written list of supervisory personnel that will be assigned to the Project. The Contractor shall not replace any of the listed personnel without written notice to CFX except under extraordinary circumstances. The Contractor shall not assign any supervisory personnel to the Project, whether initially or as a substitute, against whom CFX may have reasonable objection. CFX's acceptance of any supervisory personnel may be revoked based on reasonable objection after due investigation, in which case the Contractor shall submit an acceptable substitute. No acceptance by CFX of any such supervisory personnel shall constitute a waiver of any right of CFX to reject defective Work. The foregoing requirement shall also extend to Subcontractor's supervisory personnel.

### 3.7.3 Supervision for Emergencies

The Contractor shall have a responsible person available at or reasonably near the Work site on a 24-hour basis, 7 days per week. This individual shall be designated as the Contractor's contact in emergencies and in cases where immediate action must be taken to maintain traffic or to handle any other problem that might arise. The contact person shall have the ability to speak and understand the English language.

The Contractor shall submit by certified mail to the Florida Highway Patrol and other local law enforcement agencies, a description of the Project location and the name(s) and telephone number(s) of individual(s) designated to be contacted in cases of emergencies. A copy of these submittals shall also be provided to the CEI as part of the Contractor's Maintenance of Traffic Plan. Approval of the Maintenance of Traffic Plan will be withheld until these submittals are provided.

### 3.7.4 Worksite Traffic Supervisor

The Contractor shall have a Worksite Traffic Supervisor who shall be responsible for initiating, installing and maintaining all traffic control devices required for maintenance of traffic. The Worksite Traffic Supervisor shall have at least 1 year of

experience directly related to worksite traffic control in a supervisory or responsible capacity and shall be certified by the American Traffic Safety Services Association under its Worksite Traffic Supervisor Certification Program, or an FDOT-approved advanced training Provider. Approved advanced training Providers will be posted on the FDOT's web site at the following URL address: <http://www.dot.state.fl.us/rddesign/MOT/MOT.shtm>.

The Worksite Traffic Supervisor shall be available on a 24-hour per day basis and shall be present to direct the initial setup of the traffic control plan. The Worksite Traffic Supervisor shall review the Project daily, be involved in all changes to traffic control and have access to all equipment and Materials needed to maintain traffic control and handle traffic related situations.

The Worksite Traffic Supervisor shall ensure that safety deficiencies are corrected immediately. In no case shall minor deficiencies, which are not immediate safety hazards, remain uncorrected for more than 24 hours. The Worksite Traffic Supervisor shall be available on the site within 45 minutes after notification of an emergency and be prepared to positively respond to repair the Work zone traffic control or to provide alternate traffic arrangements.

Failure by the Contractor to maintain a designated Worksite Traffic Supervisor may result in temporary suspension by CFX of all activities except traffic and erosion control and such other activities deemed necessary for Project maintenance and safety.

### 3.8 General Inspection Requirements

#### 3.8.1 Cooperation by Contractor

The Contractor shall provide CFX with every reasonable facility for ascertaining whether the Work performed and Materials used are in accordance with the requirements and intent of the Plans and Specifications. If CFX so requests, the Contractor shall, at any time before final acceptance of the Work, remove or uncover such portions of the finished Work as may be directed. After examination, the Contractor shall restore the uncovered portions of the Work to the standard required by the Specifications. If the exposed or examined Work is determined to be unacceptable, the cost of uncovering and/or removal and replacement of the covering or making good of the parts removed, shall be at the Contractor's expense. The Contractor shall revise and upgrade both construction and testing procedures to prevent a recurrence of the conditions that contributed to the unacceptable Work. If the exposed or examined Work is determined to be acceptable, the cost of uncovering and/or removal and replacement of the covering or making good of the parts removed, shall be paid for as unforeseeable Work.

The Contractor shall give the CEI 24 hours advance notice whenever the Contractor intends to perform Work during other than normal daylight hours. On such occasions, the Contractor's supervisor and sufficient workmen shall be present to undertake the Work in a satisfactory manner. No additional compensation will be made to the Contractor for Work performed during such off periods.

The Contractor shall notify the CEI in writing prior to beginning pumping or dewatering activity in any new location on the project or the resumption of pumping after an interruption in any location. Pumping and discharge activities shall be discussed at each weekly progress meeting. Contractor will satisfy permit requirements at any pumping or dewatering activity.

### 3.8.2 Failure of CFX to Reject Work During Construction

If CFX should fail to reject defective Work or Materials, whether from lack of discovery of such defect or for any other reason, such failure to reject will not prevent CFX from subsequently rejecting defective Work when such defective Work is discovered or obligate CFX to final acceptance of the defective Work. The Contractor shall make no claim for losses suffered due to any necessary removals or repairs of such defects.

### 3.8.3 Failure to Remove and Renew Defective Materials and Work

If, within the time frame indicated in writing from CFX, the Contractor fails or refuses to remove and renew any defective Materials used or Work performed or fails or refuses to make necessary repairs in an acceptable manner, CFX shall have the right to repair or replace or have repaired or replaced, the unacceptable or defective Materials or Work. All costs incurred by CFX for repairs or replacements shall be paid for from moneys due, or which may become due, the Contractor, or may be charged against the Contractor's Public Construction Bond.

Continued failure or refusal by the Contractor to make necessary repairs promptly, fully and in an acceptable manner shall be sufficient cause for CFX, at its sole discretion and option, to perform the Work with its own forces or to contract with any individual, firm or corporation to perform the Work. Costs incurred by CFX shall be paid for from moneys due or which may become due the Contractor or may be charged against the Contractor's Public Construction Bond.

### 3.9 Final Inspection and Acceptance

#### 3.9.1 Maintenance Until Final Acceptance

Until final acceptance by CFX, the Work shall be under the charge and custody of the Contractor. The Contractor shall take every necessary precaution against injury or damage to the Work by the action of the elements or from any other cause whatsoever arising either from the execution or non-execution of the Work and shall rebuild, repair, restore and make good, without additional compensation, all injury or damage to any portion of the Work including extensive or catastrophic damages.

The Contractor shall provide, at Contractor's expense, all temporary electrical power and lighting necessary for Contractor's operations under the Contract.

On new alignments, the Contractor shall be responsible for all electric bills until Final Acceptance of the project or until such time as CFX takes beneficial use of the alignment or portion thereof, whichever occurs first. Once installed, the roadway lighting shall remain in use and be maintained by the Contractor until Final Acceptance. The Contractor shall be responsible for payment of the electric bills until Final Acceptance at which time payment will be the responsibility of CFX.

#### 3.9.2 Inspection for Substantial Completion

The CEI will make a semi-final inspection within 7 days after written notice from the Contractor of completion of the Project in its entirety. If, at the semi-final inspection, it is determined that all pay item work has been installed and other conditions as defined in Section 1.3, the project will be deemed Substantially Complete. Further, if all construction provided for and contemplated by the Contract is complete and acceptable to the CEI, such inspection shall constitute the final inspection as described below.

If any Work is determined to be unsatisfactory by the CEI, in whole or in part, the CEI will give the Contractor the necessary instructions as to repair and/or replacement of material and the prerequisites to final completion and acceptance. Upon satisfactory completion of repairs and/or replacements, the Contractor shall notify the CEI and request another inspection for Substantial Completion. Such inspection will constitute the final inspection if the required material has been repaired and/or replaced and the Work is acceptable to the CEI.

Prior to the inspection for Substantial Completion, the CEI may provide the Contractor with various deficiency lists. These lists are intended to assist the Contractor in preparing for Substantial Completion and are not to be considered as punch lists.

### 3.9.3 Final Inspection

When, in the opinion of the Contractor, all Materials have been furnished, all Work has been performed and the construction contemplated by the Contract has been satisfactorily completed, the Contractor shall request that the CEI make the final inspection.

### 3.9.4 Final Acceptance

When the entire Work of the Project contemplated by the Contract has been completed acceptably, as determined by the CEI, the Contractor will be given a written notice of final acceptance.

### 3.9.5 Recovery Rights Subsequent to Final Payment

CFX reserves the right for a period of 60 months following Final Acceptance, if CFX or its agents discovers an error in the partial or final estimates, or discovers that the Contractor performed defective Work or used defective materials, after the final payment has been made, to claim and recover from the Contractor or Contractor's surety, or both, by process of law, such sums as may be sufficient to correct the error or make good the defects in the Work and materials.

## 3.10 Audit and Examination of Contract Records and Bid Records

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 Bid Records (as herein defined) of the Contractor or any subcontractor. By submitting a Bid, the Contractor or any first or second tier subcontractor submits to and agrees to comply with the provisions of this Article. In addition, the Contractor shall be entitled to enter into subcontracts with proper CFX approval provided that all subcontracts shall include the same or similar terms as are in this Contract with respect to subcontractors, providing CFX with equal or greater protections than herein.

If CFX requests access to (or review and copy of) any Contract Records or Bid Records and the Contractor refuses such access or review, the Contractor shall be in default under its Contract with CFX. Such refusal shall, without any other or additional actions, constitute grounds for disqualification of the Contractor. This provision shall not be limited in any

manner by the existence of any Contractor claims or pending disputes resolution or arbitration 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.

Disqualification shall mean the Contractor is not eligible for and shall be precluded from continuing current Work or doing future work for CFX until reinstated by CFX.

The Contractor shall preserve all Bid Records and Contract Records for the entire term of the Contract and for a period of three years after the later of: (i) final acceptance of the Project by CFX or (ii) until all claims (if any) regarding the Contract are resolved.

Contract Records shall include but not be limited to, all information, letters, 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, agreements, supporting documents, any other papers or preserved data related to the Contract or the Contractor's performance of the Contract determined necessary by CFX for any purpose. Bid 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 the Contractor in determining labor, unit price, or any other component of a bid submitted to CFX. Bid Records shall also 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, truckers or material suppliers, profit contingencies and any manuals standard in the industry that may be used by the Contractor in determining its bid. These manuals shall be included in the Bid Records by reference and shall show the name and date of the publication and the publisher.

As a condition precedent to Contractor initially filing (and thereafter processing) any claim with CFX for additional compensation, damages, costs, time extensions or other matters in the nature of a Supplemental Agreement or which will have monetary consequences to CFX, Contractor shall (before and after filing a claim) fully comply with CFX's request to audit or examine the Contractor's Contract Records or Bid Records. Non-compliance shall be the basis for and result in dispute resolution being abated or the claim being dismissed until compliance occurs. Re-filing of the claim (and removal of disqualification) shall not occur unless the Contractor also reimburses CFX for costs and attorney's fees incurred in connection with the audit request and disqualification.

The purpose of this provision and requirement is to assure that CFX has full information with respect to any Contractor claims so as to expedite dispute resolution, processing and satisfying bona fide claims.

### 3.11 Escrow of Bid Records

Prior to the Contract becoming binding on CFX, the following procedure shall have been timely implemented to secure the Contractor's Bid Records to the satisfaction of CFX:

1. The Contractor, in the company of the CEI, shall rent a safe deposit box, at a bank in Orange or Seminole County, of adequate size to hold the original or a legible copy of the Bid Records used by the Contractor and all subcontractors to prepare its bid. The Bid Records, enclosed in a separate sealed container or containers, shall be deposited in the box at that time. The container(s) shall be clearly marked "Bid Records" with the face of the container(s) showing the Contractor's name, address, date of submittal and Project number.
2. Only the Contractor's representative(s) shall sign the signature card required by the bank to allow subsequent access to the box. The Contractor shall request a maximum of two keys to the box which shall be given to the CEI. The CEI will tag the keys, in the presence of the Contractor, with the name of the Contractor, the Project number, the name and location of the bank and the box number.
3. At the time the Bid Records are secured in the safe deposit box, the Contractor shall submit to the CEI an affidavit, signed under oath by the Contractor, listing each Bid Record submitted by author, date, nature and subject matter. By executing this affidavit, the Contractor waives the right to use, directly or indirectly, any Bid Record, other than the Bid Records placed in escrow in the sealed container(s), in any dispute arising out of the Contract. Failure by the Contractor to provide the affidavit will be sufficient cause for CFX to nullify the award of the Contract to the Contractor. The Contractor's Proposal Bond shall be forfeited, and the full amount of the bond shall be paid to CFX as stipulated for liquidated damages.
4. The CEI will transport the keys to CFX's office where the Director of Construction or his authorized representative will sign a receipt acknowledging acceptance of the keys on behalf of CFX. A copy of the receipt will be transmitted to the Contractor.

The keys will be stored in a secure location in CFX's office until such time as any of the following occurs: (i) the Contractor requests that the Bid Records be released to CFX in support of a claim by the Contractor for an adjustment in time or money under Article 2.4 of these General Specifications; (ii) the Contractor requests that the Bid Records be released to CFX as a result of the Contractor initiating arbitration against CFX; (iii) the Contractor requests that the Bid Records be released to CFX for any other reason; or (iv) the Contract has been satisfactorily completed and the Project accepted by CFX, in writing, and the Contractor has executed a binding release of all claims and potential causes of action related to the Contract. Under any of these circumstances, the CEI will obtain the keys from CFX's



office and, in the company of the Contractor's representative authorized by the bank signature card to access the safe deposit box, retrieve the Bid Records. The records will be transmitted by the CEI to the party requesting the release.

If the records are being returned as a result of acceptance of the Project by CFX, the Contractor shall sign a receipt acknowledging that the sealed container(s) has/have been returned to the Contractor unopened.

If the Bid Records are opened for any reason, CFX reserves the right to reveal the contents of the records to consultants, experts and legal counsel retained by CFX to assist with claims evaluation and arbitration preparation. Confidentiality of the Bid Records will be protected by CFX insofar as such protection does not conflict with the requirements of the Florida Public Records Act and Florida Sunshine laws.

All costs and fees associated with the rental and maintenance of the safe deposit box shall be paid by the Contractor.

### 3.12 Prevailing Party Attorney's Fees

If any dispute regarding Contractor claims arising hereunder or relating to the Contract (and the Contractor's Work hereunder) results in binding arbitration, the prevailing party in such arbitration shall be entitled to recover reasonable attorney's fees and costs including costs and expenses of expert witnesses.

In order for the Contractor to be the prevailing party, the 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 in such arbitration proceedings.

For purposes of determining whether the judgment or 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 the 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 the Contractor in connection with the Contract, and (ii) any amount offered in settlement prior to initiation of Contractor arbitration claims (exclusive of interest, cost or expenses).

The term "contested claim" or "claims" shall mean the initial written claim(s) submitted to CFX by the Contractor (disputed by CFX) which have not otherwise been resolved prior to the initiation of binding arbitration. Contractor claims or portions thereof which CFX agreed to pay or offered to pay, in writing, prior to initiation of arbitration shall not be deemed contested claims for purposes of this provision. If the 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 the Contractor's claim(s).

Attorney's 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 through and including the arbitration hearing, 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 such original claim amount is ultimately used in determining if the judgment or award is at least eighty percent (80%) of the cumulative claims.

The term "costs" shall include any and all costs incurred, including without limitation consultant fees, expert witness fees, court reporter costs, photocopy costs, telephone charges and travel expenses, whether or not such costs are provided by statute or contained in the State-Wide Guidelines.

The purpose of this provision is to discourage frivolous or overstated claims and, as a result thereof, CFX and the 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 is being served by this provision.

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

END OF SECTION 3

## SECTION 4 - CONTROL OF MATERIALS

### 4.1 Acceptance Criteria

4.1.1 General: Acceptance of materials is based on the following criteria. All requirements may not apply to all materials. Use only materials in the work that meet the requirements of these Specifications. The CEI may inspect and test any material, at points of production, distribution and use.

4.1.2 Sampling and Testing: Use the CFX current sample identification and tracking system to provide related information and attach the information to each sample.

Restore immediately any site from which material has been removed for sampling purposes to the pre-sampled condition with materials and construction methods used in the initial construction, at no additional cost to CFX.

Ensure when a material is delivered to the location as described in the Contract Documents, there is enough material delivered to take samples, at no expense to CFX.

4.1.2.1 Pretest by Manufacturers: Submit certified manufacturer's test results to the CEI for qualification and use on CFX projects. Testing will be as specified in the Contract Documents. CFX may require that manufacturers submit samples of materials for independent verification purposes.

4.1.2.2 Point of Production Test: Test the material during production as specified in the Contract Documents.

4.1.2.3 Point of Distribution Test: Test the material at distribution facilities as specified in the Contract Documents.

4.1.2.4 Point of Use Test: Test the material immediately following placement as specified in the Specifications. After delivery to the project, CFX may require the retesting of materials that have been tested and accepted at the source of supply, or may require the testing of materials that are to be accepted by Producer Certification. CFX may reject all materials that, when retested, do not meet the requirements of these Specifications.

#### 4.1.3 Certification:

4.1.3.1 Approved Products List: An Approved Products List (APL) is published and maintained by the FDOT and may be referenced in the Plans and Specifications. The items on the list have basic approval and are generally acceptable to CFX. However, the Contractor is advised that products on the APL are still subject to final approval and acceptance by CFX. The Contractor shall make no claim for additional compensation or extension of Contract time to replace an item on the APL that is rejected by CFX subsequent to execution of the Contract.

4.1.3.2 Contractor Installation Certification: Provide installation certifications as required by the Contract Documents.

4.1.4 Warranty and Guaranty: CFX may require the Contractor to warrant and guaranty that certain Materials used in the construction of the Project meet all specification requirements for a specified time period. Warranty and guaranty requirements are specified in the appropriate Specifications sections governing the Materials.

#### 4.2 Designation of a Specific Product as a Criterion (“Or Equal” Clause)

Reference in the Plans or Specifications to any proprietary article, device, product, material or fixture or any form or type of construction, by name, make or catalog number, with or without the words “or equal”, shall be interpreted as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may use any article, device, product, material or fixture or any form or type of construction, which in the sole opinion of CFX (expressed in writing) is equal, for the purpose intended, to that named and compatible with existing equipment.

#### 4.3 Source of Supply and Quality Requirements

4.3.1 Only Approved Materials to be Used: Only Materials conforming to the requirements of the Specifications, holding a current approval for manufacturing and/or fabrication by the FDOT and approved by CFX shall be used in the Work. Any Materials proposed for use by the Contractor may be inspected or tested by CFX at any time during preparation or use. No material shall be used in the Work that becomes unfit after approval. Materials containing asbestos will not be allowed.

4.3.2 Notification of Placing Order: The Contractor shall notify the CEI at least 15 days prior to ordering Materials to allow CFX time for sampling and testing.

4.3.2.1 Notification of Quality Assurance Inspection Arrangements for Fabrication of Critical Items: To facilitate quality assurance inspection of critical items, the Contractor shall submit a fabrication schedule for all items requiring commercial inspection. The fabrication schedule shall be submitted to the CEI before or at the pre-construction conference. Fabrication of critical items include, but is not limited to, steel bridge components, overhead cantilevered sign supports with cantilevered arms exceeding 45 feet, movable bridge components or any other item identified as a critical item in the Plans or Specifications.

4.3.3 Approval of Source of Supply: The source of supply for material proposed for use shall be submitted by the Contractor to the CEI for approval. Delivery of material shall not begin until approval of the CEI is received.

Representative preliminary samples of the character and quantity prescribed shall be submitted by the Contractor for examination and testing. If, after trial, the source of supply does not furnish a uniform product or if the product from any source proves unacceptable at any time, the Contractor shall furnish material from other approved sources.

The production of mineral aggregates shall be under a Producer Quality Control Program approved by the FDOT. Proof of such approval shall be submitted to the CEI. The program shall be in accordance with FDOT requirements and procedures for obtaining and maintaining FDOT approval of developed and operational mineral aggregate sources (mines and redistribution terminals) and the FDOT Mineral Aggregate Manual. Individual certification shall be furnished with each haul unit load of Materials shipped attesting that those specific Materials were produced under an FDOT-approved Producer Quality Control Program. Any haul unit load of mineral aggregates received by the Contractor without an individual certification being made available to the CEI will be considered defective.

#### 4.4 Inspection and Tests at Source of Supply

4.4.1 General: If the volume, progress of Work and other considerations warrant, CFX may elect to inspect Materials at the source of supply. However, CFX assumes no obligation to inspect Materials at the source of supply. The responsibility for assuring that Materials are satisfactory rests entirely with the Contractor.

4.4.2 Cooperation by Contractor: The Contractor shall ensure that CFX has free entry and access at all times to the areas of the plant engaged in the manufacture or production of the Materials ordered. Contractor shall bear all costs incurred to provide all reasonable facilities to assist in determining whether the material furnished complies with the requirements of the Specifications.

4.4.3 Retest of Materials: CFX may retest or may require retesting of any Materials which have been tested and accepted at the source of supply after the same have been delivered to the job site. All Materials, which, when retested, do not comply with the requirements of the Specifications, will be rejected; in which case the cost of such retesting shall be at the expense of the Contractor.

#### 4.5 Storage of Materials and Samples

4.5.1 Method of Storage: Store materials in such a manner as to preserve their quality and fitness for the work, to facilitate prompt inspection, and to minimize noise impacts on sensitive receivers. More detailed specifications concerning the storage of specific materials are prescribed under the applicable Specifications. CFX may reject improperly stored materials.

4.5.2 Use of Right-of-Way for Storage: If the CEI allows, the Contractor may use a portion of the right-of-way for storage purposes and for placing the Contractor's plant and equipment. Use only the portion of the right-of-way that is outside the clear zone, which is the portion not required for public vehicular or pedestrian travel. When used, restore the right-of-way to pre-construction condition at no additional cost to CFX or as specified in the Contract Documents. Provide any additional space required at no expense to CFX.

4.5.3 Responsibility for Stored Materials: Accept responsibility for the protection of stored materials. CFX is not liable for any loss of materials, by theft or otherwise, or for any damage to the stored materials.

4.5.4 Storage Facilities for Samples: Provide facilities for storage of samples as described in the Contract Documents and warranted by the test methods and Specifications.

#### 4.6 Defective Materials

Materials not meeting the requirements of these Specifications will be considered defective. The CEI will reject all such materials, whether in place or not. Remove all rejected material immediately from the site of the work and from storage areas, at no expense to CFX.

Do not use material that has been rejected and the defects corrected, until the CEI has approved the material's use. Upon failure to comply promptly with any order of the CEI made under the provisions of this Article, the CEI will remove and replace defective material and deduct the cost of removal and replacement from any moneys due or to become due the Contractor.

As an exception to the above, the Contractor may submit, upon approval of the CEI, an engineering and/or laboratory analysis to evaluate the effect of defective in place materials. A Specialty Engineer, who is an independent consultant or the Contractor's Engineer of Record as stated within each individual Section, shall perform any such analysis. The CEI will determine the final disposition of the material after review of the information submitted by the Contractor. No additional monetary compensation or time extension will be granted for the impact of any such analysis or review.

END OF SECTION 4

## SECTION 5 - LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC

### 5.1 Laws to be Observed

- 5.1.1 General: The Contractor shall comply with all Federal, State, county and city laws, by-laws, ordinances and regulations which control the action or operation of those engaged or employed in the Work or which affect Materials used. CFX will acquire environmental permits required by federal, State, County, and local regulatory agencies for all final improvements. CFX will not provide permits for construction means and methods (burning, dewatering, etc.). The Contractor shall be responsible for these.

The Contractor shall indemnify and hold harmless CFX and all its officers, agents, consultants and employees, in the amount of the Contract, against any claims or liability arising from or based on the violation of any such laws, by-laws, ordinances, regulations, orders or decrees by the Contractor or its subcontractors and suppliers.

- 5.1.2 Plant Quarantine Regulations: The Contractor shall contact the local or other available representatives of the U.S. Department of Agriculture Animal and Plant Health Inspection Service and the Florida Department of Agriculture and Consumer Services to ascertain any current restrictions regarding plant pests which may be imposed by those agencies. Contractor shall remain current with regard to the latest quarantine boundary lines during the construction period. Any restrictions imposed by authorized agencies may affect Contractor's operations involving items such as clearing and grubbing, earthwork, grassing and mulching, sodding, landscaping and other items that may involve the movement of Materials containing plant pests across quarantine lines. Any infringement, damages, remedial activities and/or costs thereof associated with imposed agency restrictions will be borne by the Contractor.

- 5.1.3 Introduction or Release of Prohibited Aquatic Plants, Plant Pests or Noxious Weeds: The Contractor shall not introduce or release prohibited aquatic plants, plant pests or noxious weeds into the Project limits for any reason. The Contractor shall immediately notify the CEI upon discovery of any prohibited aquatic plants, plant pests or noxious weeds within the Project limits. The Contractor shall not move prohibited aquatic plants, plant pests or noxious weeds and their reproductive parts without a permit from the respective State and/or Federal agency. Prohibited aquatic plants, plant pests and noxious weeds are defined in Rule 16C-52 and Rule 5B-57, Florida Administrative Code. Furnish the CEI, prior to incorporation into the project, with a certification from the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, stating that the sod, hay, straw, and mulch materials are free of noxious weeds, including Tropical Soda Apple.



- 5.1.4 Compliance with Federal Endangered Species Act: Prior to establishing any off-project activity in conjunction with the Project (e.g., borrow pits, concrete or asphalt plant sites, material or Equipment storage sites), the Contractor shall certify to CFX that the Contractor has made, through the use of a qualified environmental scientist, such investigations as may be necessary to comply with the Federal Endangered Species Act. The Contractor shall immediately notify CFX if the Contractor's investigation reveals the need for a biological assessment to determine what measures, if any, are necessary to mitigate the impact on endangered species. The cost for any required biological assessment or subsequent measures required to mitigate the impact on endangered species shall be solely at the Contractor's expense.

No Work shall be performed on site preparation for any off-project activity until CFX receives the Contractor's certification.

- 5.1.5 Occupational Safety and Health Requirements: The Contractor shall take precautions necessary for the protection of life, health and general occupational welfare of all persons (including employees of both the Contractor, CFX and all of its officers, agents and consultants) until the Work has been completed and accepted by CFX.

The Contractor and all Subcontractors shall not allow any person employed in performance of the Work to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to health or safety, as determined under the safety and health standards, set forth in Title 29, Code of Federal Regulations, Part 1518 published in the Federal Register on April 17, 1971, as promulgated by the United States Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act, (83 Stat. 96) including any subsequent revisions and updates.

- 5.1.6 Discovery of Unmarked Human Burial Site: The Contractor shall notify the CEI within two hours of the Contractor's or subcontractor's discovery of an unmarked human burial site. All Contractor or subcontractor activity that may disturb the site shall cease immediately upon discovery of the site. The Contractor shall not resume activity at the burial site until written authorization is received from the CEI.

- 5.1.7 Insecticides and Herbicides: Contractor shall contact the Local County Extension Office for a list of approved Insecticides or Herbicides. Contractor shall: adhere to all labeling instructions; exercise extreme caution to prevent damage to vegetation adjacent to the treated area; and replace any damage as the result of these Materials being applied outside the designated treatment area at no expense to CFX.

## 5.2 Permits and Licenses

- 5.2.1 General: Except as specifically provided for elsewhere in the Specifications, the Contractor shall secure all permits and licenses and give all notices necessary and incidental to the due and lawful prosecution of the Work. The Contractor shall pay all charges and fees for any required licenses and permits.
- 5.2.2 Whenever the Work under or incidental to the Project requires structures and/or dredge/fill/construction activities within the Project limits in waters of the State, CFX will obtain the necessary permits. Any modifications or revisions to an original permit will also be obtained by CFX provided that it is shown that such modifications or revisions are required to complete the construction operations specifically called for in the Plans or Specifications and within the right-of-way limits.

The Contractor shall be responsible to obtain any permits that may be required for Work performed by the Contractor outside the right-of-way or easements for the Project.

In performing the Work, when under the jurisdiction of any environmental regulatory agency, the Contractor shall comply with all regulations issued by such agencies and with all general, special and particular conditions relating to construction activities of any kind and all permits issued to CFX as though such conditions were issued to the Contractor. The Contractor will be responsible for posting any permit placards in a protected location at the worksite.

In case of any discrepancy between any permit condition and a requirement of the Plans or Specifications, the permit condition shall prevail.

If the permit conditions require Work or the furnishing of Materials not specifically provided for in the basis of payment clause for a pay item, such Work or furnishing of Materials will be considered unforeseeable Work by CFX and the Contractor will be compensated in accordance with Article 2.5 of these General Specifications. Special sequencing or scheduling of operations that may be required by permit conditions will not be considered unforeseeable Work by CFX and no additional compensation will be made to the Contractor.

## 5.3 Patented Devices, Materials and Processes

Payments to the Contractor are understood to include all royalties and costs arising from patents, trademarks and copyrights in any way involved with the Work. Whenever the Contractor is required or desires to use any design, device, material or process covered by letters of patent, trademark, trade secret or copyright, CFX's and the Contractor's right for

such use shall be provided by suitable legal agreement with the patentee or owner of the copyright. A copy of such agreement shall be submitted to CFX; however, whether or not such agreement is made or filed, the Contractor and its surety, in all cases, shall indemnify and hold harmless CFX and all of its officers, agents, consultants and employees, from any and all claims for infringement by reason of the use of any such patented design, device, material or process, on the Work and shall indemnify CFX and all of its officers, agents, consultants and employees for any costs, expenses and damages which CFX may be obligated to pay by reason of any such infringement, at any time during the Work and for a period of three years after completion and acceptance of the Project by CFX.

#### 5.4 Right-of-Way Furnished by CFX

Except as may be otherwise stipulated in the Specifications or as may be shown on the Plans, all right-of-way necessary for completion of the Project will be furnished by CFX without cost to the Contractor. If borrow material areas furnished by CFX contain limerock, such material shall not be removed from the pit without specific written approval from CFX.

#### 5.5 Sanitary Provisions

The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of Contractor's employees as are necessary to comply with the requirements and regulations of the State and local boards of health. The Contractor shall not create any public nuisance.

#### 5.6 Control of the Contractor's Equipment

5.6.1 Traffic Interference: Contractor shall not permit Equipment to unreasonably interfere with traffic while the Equipment is on or traversing a road or street.

5.6.2 Overloaded Equipment: Any hauling unit or Equipment loaded in excess of the maximum weights set out in the Florida Uniform Traffic Control Law (or lower weights that may be legally established for any section of road or bridge by the FDOT or local authorities) shall not be operated on any road or street except as provided in subarticle 5.6.3 below for crossings or as provided by a special permit issued by the governmental unit having jurisdiction over a particular road or bridge. This restriction applies to all roads and bridges inside and outside the Project limits as long as these roads and bridges are open for public use. Roads and bridges, which are to be demolished, may be overloaded after they are permanently closed to the public. All liability for loss or damages resulting from Equipment operated on a structure permanently closed to the public shall be the responsibility of the Contractor.

- 5.6.3 Crossings: Where it is necessary to cross an existing road, including specifically the existing travel lanes of a divided highway within the limits of the Project, the Contractor shall obtain the necessary permits from the governmental unit having jurisdiction. The Contractor shall comply with all permit conditions at no additional cost to CFX. The Contractor will be required to provide flagging and watchman service or approved signal devices, for the protection of traffic at all such crossings, in accordance with an approved written plan for that activity.
- 5.6.4 Protection from Damage by Tractor-Type Equipment: Positive measures shall be taken by the Contractor to assure that tractor-type Equipment does not cause damage to roads. If any such damage occurs, the Contractor shall immediately repair the damage to the satisfaction of the governmental unit having jurisdiction over the road and at no cost to CFX.
- 5.6.5 Contractor's Equipment on Bridge Structures: The Contractor, through its Specialty Engineer, shall analyze the effect of imposed loads on bridge structures, within the limits of the Project, resulting from the following operations:
- 1) Overloaded Equipment as defined in subarticle 5.6.2 above:
    - a) Operating on or crossing over completed bridge structures.
    - b) Operating on or crossing over partially completed bridge structures.
  - 2) Equipment within legal load limits:
    - a) Operating on or crossing over partially completed bridge structures.
  - 3) Construction cranes:
    - a) Operating on completed bridge structures.
    - b) Operating on partially completed bridge structures.

Any pipe culvert or box culvert qualifying as a bridge, as defined under subarticle 1.3.3 of these General Specifications is excluded from the above requirements.

A completed bridge structure is a structure in which all elemental components comprising the load carrying assembly have been completed, assembled and connected in their final position. The components to be considered shall also include any related mediums transferring load to any bridge structure.

The Contractor shall determine the effect the Equipment loads have on the bridge structure and the procedures by which the loaded Equipment can be used without exceeding the load capacity for which the structure was designed.

The Contractor shall submit to the CEI for approval eight (8) copies of design calculations, layout drawings and erection drawings showing how the Contractor's Equipment will be used so that the bridge structure will not be overstressed. One (1) of the eight (8) copies of the drawings and the cover sheet of one (1) of the eight (8) copies of the calculations shall be signed and sealed by the Contractor's Specialty Engineer as the CFX record set.

- 5.6.6 Posting of the Legal Gross Vehicular Weight: The maximum legal gross weight, as set out in the Florida Uniform Traffic Code, shall be displayed in a permanent manner on each side of any dump truck or any dump type tractor-trailer unit hauling embankment material, construction aggregates, road base material or hot bituminous mixture to the Project over any public road. The weight shall be displayed in a location clearly visible to the scale operator, in numbers that contrast in color with the background and are readily visible and readable from a distance of 50 feet.

## 5.7 Structures Over Navigable Waters

- 5.7.1 Compliance with Jurisdictional Regulations: Where structures are erected in, adjacent to or over navigable waters, the Contractor shall observe all regulations and instructions of jurisdictions having control over such waters. The Contractor shall not obstruct navigation channels without permission from the proper authority and shall provide and maintain navigation lights and signals in accordance with jurisdictional requirements.

## 5.8 Use of Explosives

The use of explosives will not be allowed.

## 5.9 Preservation of Property

- 5.9.1 General: The Contractor shall preserve from damage all property along the line of Work or which is in the vicinity of or is any way affected by the Work, the removal or destruction of which is not called for by the Plans. This requirement shall apply to public and private property, public and private utilities (except as modified by subarticle 5.9.6 below), trees, shrubs, crops, signs, monuments, fences, guardrail, pipe, underground structures, public highways (except natural wear and tear of highway resulting from legitimate use thereof by the Contractor) and the like. Property damaged due to the activities of the Contractor shall be immediately restored, at Contractor's expense, to a condition similar or equal to that existing before such damage or injury was done by the Contractor.

The Contractor shall protect existing bridges from damage caused by Contractor's operations during the entire construction period. The Contractor will not be required to provide routine repairs or maintenance for such structures but will be required, at Contractor's expense, to make immediate repairs of any damage caused by the Contractor's operations.

The Contractor shall protect all geodetic monuments, horizontal or vertical, located within the limits of construction.

5.9.2 Failure to Restore Damaged Property: If the Contractor fails to restore such property, bridge or road CFX may, at its sole option and with 48 hours notice to the Contractor, proceed to repair, rebuild or otherwise restore the damaged property, bridge or road at Contractor's cost or expense. The cost of such repairs will be deducted by CFX from any monies due or which may become due the Contractor.

#### 5.9.3 Contractor's Use of Streets and Roads

5.9.3.1 On Systems Other than the CFX System: Where the Contractor hauls material or Equipment to the Project over roads and bridges on the state park road system, state highway system, county road system or city street system and such hauling causes damage, the Contractor, at Contractor's cost and expense, shall immediately repair such roads or bridges to as good a condition as existed before the hauling began.

5.9.3.2 On the CFX System: The Contractor shall also be responsible for repairing damage caused by hauling Materials to the Project along roads and bridges outside the limits of the Project which are on the CFX system (roads under the jurisdiction of CFX) or are specifically designated in the Plans as haul roads from CFX furnished Materials pits.

5.9.3.3 Within the Limits of the Project: The Contractor shall not operate Equipment or hauling units of such weight as to cause damage to previously constructed elements of the Project including but not necessarily limited to, bridges, drainage structures, base course and pavement. Equipment or hauling units loaded in excess of the maximum weights set out in subarticle 5.6.2 above shall not be operated on existing pavements that are to remain in place (including pavement being resurfaced), cement-treated subgrades and bases, concrete pavement, any course of asphalt pavement and bridges. Exceptions to these weight restrictions may be allowed for movement of necessary Equipment to and from its work site, for hauling of offsite fabricated components to be incorporated into the Project and for crossings as detailed in subarticle 5.6.3 above.

5.9.3.4 Cleaning and Maintenance of Streets and Roads: Whenever the Contractor utilizes any streets or roads, whether on the CFX system or otherwise, for cyclical material hauling operations, for example embankment, excavation, etc., the condition of all affected streets or roads will be assessed by the Contractor through an initial video survey with the CEI prior to hauling operations. Throughout the hauling operations or when changes to haul routes occur, the Contractor shall provide updated video surveys performed every two weeks to monitor the current street, road and/or facility conditions. The video survey will be submitted in duplicate to the CEI and narrated to identify the respective street, road or facility, with detail of specific features, condition, etc. Any deterioration, whatsoever, to the condition of the streets or roads from this initial video survey and subsequent two-week updates will be viewed as being a result of the Contractor's operations and shall be repaired to equal or better condition, at the Contractor's expense, within two weeks after notification by the CEI. The Contractor will be responsible to prevent, clean and replace areas of the travel ways and appurtenances (including but not limited to bridge decks, drainage, roadway surface, striping) utilized by the Contractor where tracking and/or spillage of materials have occurred. Cleaning and preventive measures that will not deteriorate the existing facility conditions will be utilized and may include pressure washing, sanding etc.

- 5.9.4 Traffic Signs, Signal Equipment, Highway Lighting, and Guardrail: Contractor shall protect all existing roadside signs, signal equipment, highway lighting and guardrail, for which permanent removal is not indicated, against damage or displacement. Whenever such signs, signal equipment, highway lighting or guardrail lie within the limits of construction, or wherever so directed by the CEI due to urgency of construction operations, take up and properly store the existing roadside signs, signal equipment, highway lighting and guardrail and subsequently reset them at their original locations or, in the case of widened pavement or roadbed, at locations designated by the CEI.

If CFX determines that damage to such existing or permanent installations of traffic signs, signal equipment, highway lighting or guardrail is caused by a third party(ies), and is not otherwise due to any fault or activities of the Contractor, CFX will, except for any damage resulting from vandalism, compensate the Contractor for the costs associated with the repairs. Contractor shall repair damage caused by vandalism at no expense to CFX.

## 5.9.5 Operations Within Railroad Right of Way

5.9.5.1 Notification to the Railroad Company: The Contractor shall notify the CEI and the railroad company's division engineer or superintendent a minimum of 72 hours in advance of beginning any operations within the limits of the railroad right of way, any operations requiring movement of employees, trucks or other Equipment across the tracks of the railroad company at other than established public crossings, and any other Work which may affect railroad operations or property.

5.9.5.2 Contractor's Responsibilities: The Contractor shall comply with the requirements that the railroad company's division engineer or superintendent considers necessary to safeguard the railroad's property and operations. Any damage, delay or injury and any suits, actions or claims made because of damages or injuries resulting from the Contractor's operations within or adjacent to railroad right of way shall be the Contractor's responsibility.

5.9.5.3 Watchman or Flagging Services: When protective services are necessary during certain periods of the Project to provide safety for railroad operations, the railroad company will provide such services (watchman or flagging) and CFX will reimburse the railroad company for the cost thereof. The Contractor shall schedule Work that affects railroad operations to minimize the need for protective services by the railroad company.

## 5.9.6 Utilities

5.9.6.1 Arrangements for Protection or Adjustment: Work shall not commence at points where the Contractor's operations adjacent to utility facilities may result in expense, loss or disruption of service to the public or owners of the utilities until the Contractor has made all arrangements necessary for the protection of the utilities. The Contractor shall be solely and directly responsible to the owners and operators of such utilities for any damage, injury, expense, loss, inconvenience, or delay caused by the Contractor's operations.

CFX will make the necessary arrangements with the utilities owners for removal or adjustment of utilities where such removal or adjustment is determined by CFX to be essential to the performance of the Work. Relocations or adjustments requested by the Contractor based on the Contractor's proposed use of a particular method of construction or type of Equipment will not be considered as being essential to the Work if other commonly used methods and Equipment could be used without the necessity of relocating or adjusting the utility. CFX will determine the responsibility for any such required adjustments of utilities. Relocations or adjustments requested because of delivery to the Project of Materials furnished by the Contractor shall be the responsibility and expense of the Contractor.



Circumstance under which CFX will consider utility relocations or adjustments essential include, but are not necessarily limited to, the following:

1) Utilities lying within the vertical and horizontal construction limits plus the reasonably required working room necessary for operation of Equipment normally used for the particular type of construction except as provide in subparagraph 4 below. In the case of overhead electrical conductors which carry more than 400 volts, a minimum of 10 feet clearance between the conductor and the nearest possible approach of any part of the Equipment will be required, except where the utility owner effects safeguards approved by the Florida Department of Labor and Employment Security.

2) Utilities lying within the horizontal limits of the Project and within 12 inches below the ground surface or the excavation surface on which the construction Equipment is to be operated or within 12 inches below the bottom of any stabilizing course called for on the Plans.

3) Utilities lying within the normal limits of excavation for underground drainage facilities or other structures (except as provided in subparagraph 4 below). Such normal limits shall extend to side slopes along the angle of repose as established by sound engineering practice, unless the Plans or Specifications require the sides of the excavation to be supported by sheeting or the Contractor elects to sheet such excavation for the Contractor's convenience.

4) Where utilities cross pipe trenches transversely within the excavation area but not within positions from which relocation or removal is necessary, the utility owner will be responsible for providing and effecting all reasonable measures for their support and protection during construction operations. The Contractor shall cooperate with the utility owner in the owner's effecting such support and protective measures. The Contractor shall be responsible for any damage to the utility that is caused by neglect or failure on the Contractor's part to cooperate and to use proper precaution in performing the Work.

In the event that a temporary relocation of a utility or a particular sequence of timing in the relocation of a utility is necessary, such relocation shall be done only as directed by CFX. CFX will not be responsible for utility adjustments or temporary relocation work or for the conditions resulting therefrom, where such adjustments are: not necessitated by the construction of the Project; or done solely for the benefit or convenience of the utility owner or its contractor (or the Contractor where

Contractor's construction procedures are considered by CFX to be other than normal); or not shown on the approved Plans for the utilities relocation or the construction.

5.9.6.2 Cooperation with Utility Owners: The Contractor shall cooperate with the utility owners in the removal and/or rearrangement of utilities. If utility service is interrupted due to construction operations, the Contractor shall immediately notify the owner of the utility and the CEI and cooperate in the prompt restoration of service. If water service is interrupted, the Contractor's repair work shall be continuous until the service is restored. No Work shall be undertaken around fire hydrants until the local fire authority has approved provisions for continued service.

5.9.6.3 Utility Adjustments: Utility adjustments and reconstruction Work may be underway during the Work. The Contractor shall effectively cooperate, coordinate, and schedule utility adjustments with utility construction crews in maintaining utility service. The Contractor shall use caution when working adjacent to utilities that have been relocated. The Contractor shall repair, at Contractor's expense, damages to relocated utilities resulting from Contractor's operations.

5.9.6.4 Weekly Meetings: Contractor shall conduct weekly meetings on the job site with all the affected utility companies and the CEI in attendance to coordinate Project construction and utility relocation, and shall submit a list of all attendees one week in advance to the CEI for approval.

Provide the approved Work Progress Schedule and Work Plan for the project to document the schedule and plan for road construction and utility adjustments. When utility relocations no longer affect construction activities, the Contractor may discontinue the meetings with the CEI's approval.

## 5.10 Responsibility for Damages, Claims, etc.

5.10.1 Contractor to Provide Defense Against Claims and Suits: To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless CFX (its officers, agents and employees) from and against claims, damages, losses and expenses (including but not limited to attorneys' fees), arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom. However, the indemnification herein provided is only to the extent caused in whole or in part by any act, omission or default of the Contractor, subcontractor, sub-subcontractor, materialman, agents of any tier, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified

hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described herein. The monetary limit on the indemnification provided herein to CFX or its officers, agents and employees shall be the total amount of the Agreement in aggregate or the insurance policy amount as required in article 5.11 herein, whichever is greater. The total amount of the Agreement in aggregate will be determined by the date the notice of claim was received by CFX.

In claims against any person or entity indemnified under this subarticle by an employee of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this subarticle shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

The obligations of the Contractor under this subarticle shall not extend to the liability of the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, designs or specification, or (2) the giving of or the failure to give direction or instructions by the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

The Contractor's obligation to indemnify and pay for the defense or, at CFX's option, to participate and associate with CFX in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within seven (7) days of receipt by the Contractor of the CFX notice of claim for indemnification to the Contractor. The notice of claim for indemnification will be served by certified mail. The Contractor's obligation to indemnify within seven (7) days of receipt of such notice will not be excused because of the Contractor's inability to evaluate liability or because the Contractor evaluates liability and determines the Contractor is not liable or determines CFX is solely negligent. The Contractor will pay all costs and fees related to this obligation and its enforcement by CFX.

This Contract shall not create in the public or any member thereof, a third party beneficiary hereunder or to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Contract.

5.10.2 Guaranty of Payment for Claims: The Contractor guarantees the payment of all just claims for Materials, Equipment, supplies, tools or labor and other just claims against the Contractor or any subcontractor in connection with the Contract. Final acceptance and payment by CFX will not release the Contractor's bond until all such claims are paid or released.

#### 5.11 Insurance

Anything contained herein to the contrary notwithstanding, during the term of the Contract and for such additional time as may be further required, the Contractor shall provide, pay for and maintain in full force and effect insurance outlined in subarticles 5.11.1 through 5.11.9 below for coverage at not less than the prescribed minimum limits of liability, covering the Contractor's activities and those of any and all subcontractors (including officers, directors, employees or agents of each and their successors). All insurance shall be provided through companies authorized to do business in the State of Florida and considered acceptable by CFX.

Upon execution of the Contract, the Contractor shall furnish to CFX, Certificates of Insurance bearing an original manual signature of the authorized representative of the insurance company. No Work shall commence under the Contract unless and until the required Certificates of Insurance described herein are in effect and have been approved by CFX. The Certificate of Insurance shall be issued to CFX and shall reference the complete and correct Project number, as well as the full and complete name of each insurance company, including city and state of domicile, as listed by A.M. Best Company. 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. Such Certificates shall provide that in the event of cancellation, non-renewal or material reduction in coverage (including any material reduction of limits of Liability), the insurer will provide thirty (30) days prior notice of such cancellation, non-renewal or material reduction by certified mail to CFX. In addition, certified true copies of all policies shall be provided to CFX upon specific written request. Renewal Certificates of Insurance for all policies shall be submitted by the Contractor so that they are received by CFX no later than thirty (30) calendar days prior to the expiration of existing insurance coverage. Failure by the Contractor to meet this required timeframe will result in suspension of partial payments on monthly estimates until the certificates are received and accepted by CFX.

All insurance coverage required of the Contractor shall be primary and noncontributory over any insurance or self-insurance program carried by CFX.

Excluding Professional and Pollution liability insurance, no liability insurance required herein shall be written under a "claims made" form.

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

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 and endorsement 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 and endorsements are in compliance with the requirements.

Neither approval by CFX of insurance supplied by the Contractor nor disapproval of that insurance, shall release the Contractor of full responsibility for liability, damages and accidents as otherwise provided by the Contract. The requirement of insurance will not be deemed a waiver of sovereign immunity by CFX.

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.

5.11.1 Schedule of Required Limits for Workers' Compensation, General Liability and Automobile Liability:

<b>Contract Amount</b>	<b>Workers' Comp/ Employer's Liability</b>	<b>General Liability (per occurrence/ aggregate)</b>	<b>Automobile Liability</b>
Up to \$3 million	Statutory / \$500,000	\$1,000,000 / \$2,000,000	\$1,000,000
\$3 million and Up	Statutory / \$1,000,000	\$5,000,000 / \$10,000,000	\$5,000,000

5.11.2 Worker's Compensation and Employer's Liability Insurance: The Contractor shall maintain coverage for its employees in accordance with the laws of the State of Florida. The amount of coverage shall not be less than the limits of insurance as required in subarticle 5.11.1.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the Contractor, its employees, agents and subcontractors.

- 5.11.3 Comprehensive General Liability Insurance: Coverage shall be maintained by the Contractor providing Comprehensive General Liability Insurance as provided on Insurance Services Office form GC 00 01 or an equivalent thereof. Limits of Liability for Bodily Injury Liability and/or Property Damage Liability shall not be less than the limits of insurance as required in Section 5.11.1.

The policy shall contain an endorsement providing for Aggregate Limits of Liability to be on a per Project basis. This endorsement shall state that Aggregate Limits as specified herein apply separately and specifically to this Project.

Products and Completed Operations coverage, evidenced by a Certificate of Insurance, shall be maintained for a period of not less than two (2) years following completion of the Work to which the Contract applies.

If watercrafts are to be used in the performance of any Work under the Contract, watercraft operations shall be covered under the Comprehensive General Liability policy providing limits in accordance with the General Liability requirements.

If the Project involves Work or operations by the Contractor within the limits of the railroad right-of-way, including any encroachments thereon from Work or operations in the vicinity of the railroad right-of-way, the railroad shall be named as an Additional Insured under this policy.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy. Insurance Services Office endorsement CG 20 10 (11 85 edition date) or both CG 20 10 and CG 20 37(10 01 edition dates) forms (if later edition dates are used), shall be used to meet these requirements and a photocopy of same shall be provided with the Certificate.

- 5.11.4 Comprehensive Automobile Liability Insurance: The Contractor shall maintain coverage applicable to the ownership, maintenance, use, loading and unloading of any owned, non-owned, leased or hired vehicle issued on Insurance Services Office form CA 00 01 or its equivalent. The amount of coverage shall not be less than the limits of insurance as required in subarticle 5.11.1.

This policy shall include coverage for liability assumed under contract (if not provided for under the Comprehensive General Liability policy). In the event the Contractor does not own automobiles, the Contractor shall maintain coverage for

hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or through a separate Business Auto Liability policy.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

- 5.11.5 Umbrella/Excess Liability Insurance: If an Umbrella or Excess Liability Insurance policy is used to attain the required limits of liability, the sum of the limits provided by the Primary insurance and the Umbrella or Excess Liability insurance must at least equal the Limits of Liability as required by subarticle 5.11.1

The Umbrella/Excess Liability Insurance policy or Excess policy shall afford coverage equivalent to the required coverage as set forth in this Article 5.11. Policy inception date must also be concurrent with the inception dates of the underlying General Liability and Automobile Liability policies.

Umbrella or Excess policy Certificate of Insurance shall stipulate the underlying limits of liability applicable. A photocopy of the endorsement so evidencing shall be attached to the Certificate.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

- 5.11.6 Builder's Risk: If this Contract includes: (1) construction of a new above-ground structure or structures, (2) any addition, improvement, alteration, or repair to an existing structure or structures, or (3) the installation of machinery or equipment into an existing structure or structures, the Contractor shall maintain builders' risk insurance providing coverage to equally protect the interests of CFX, the Contractor and subcontractors of any tier.

Coverage shall be written on a completed value form in an amount at least equal to 100% of the estimated completed value of the project plus any subsequent modifications of that sum. The coverage shall be written on an "all-risk" basis and shall, at a minimum, cover the perils insured under the Insurance Services Office CP 10 30 Special Causes of Loss Form and shall include property in transit and property stored on or off premises that shall become part of the project.

The Contractor agrees not to maintain a wind or flood sub-limit less than 25% of the estimated completed value of the project. The Contractor agrees any flat deductible(s) shall not exceed \$25,000, and any windstorm percentage deductible (when applicable) shall not exceed five-percent (5%).

The coverage shall not be subject to automatic termination of coverage in the event the project/building is occupied in whole or in part, or put to its intended use, or partially accepted by CFX. If such restriction exists the Contractor shall request that the carrier endorse the policy to amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, CFX's interest in the project ceases, or the project is accepted and insured by CFX.

5.11.7 Railroad Insurance: When the Contractor performs Work on, adjacent to, over or under a railroad, railroad property or railroad right-of-way, the Contractor shall furnish CFX (for transmittal to the railroad company) an insurance certificate with the railroad named as the insured which (with respect to the operations the Contractor or any of its subcontractors perform) will provide for Railroad Protective Liability insurance providing coverage for bodily injury, death and property damage of a combined single limit of Five Million Dollars (\$5,000,000.00) per occurrence, with an aggregate limit of Ten Million Dollars (\$10,000,000.00) for the term of the policy. The policy shall be written on the ISO/RIMA (CG 00 3S 11 85) with Pollution Exclusions Amendment (CG 28 31 11 85) endorsement deleting Common Policy Conditions (CG 99 01) if Common Policy Conditions are included in the policy and Broad Form Nuclear Exclusion (IC 00 21). CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

5.11.8 Pollution Legal/Environmental Legal Liability Insurance (CPL) - The Contractor agrees to maintain Contractor's Pollution Legal/Environmental Legal Liability Insurance on a per-project basis. Coverage shall be for pollution losses arising from all services performed to comply with this contract. Coverage shall apply to sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants, or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in Bodily Injury or Property Damage.

If policy is written on a Claims Made form, a retroactive date prior to or equal to the effective date of the Contract is required, and coverage must be maintained for 3 years after completion of contract or "tail coverage" must be purchased. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the Contractor agrees to purchase the SERP with a minimum reporting period of not less than three years. Purchase of the SERP shall not relieve the Contractor of the obligation to provide replacement coverage.



Coverage should include and be for the at least the minimum limits listed below:

- 1) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- 2) Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensation damages.
- 3) Cost of Cleanup/Remediation.

**Limits**

Each Occurrence - \$ 2,000,000

General Aggregate - \$ 4,000,000

For acceptance of Pollution Legal/Environmental Legal Liability coverage included within another policy coverage required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Pollution Legal/Environmental Legal Liability and other coverage combined.

If the CGL and CPL policy is issued by the same issuer, a total pollution exclusion shall be attached to the Contractor's CGL policy and an appropriate premium credit provided from the issuer to the Contractor.

CFX, its employees, members, officers, agents, consultants and successors shall be named as Additional Insured under this policy.

5.11.9 Professional Liability- If the construction method is "design-build" the Contractor agrees to maintain Professional Liability on a per-project basis. The Contractor agrees that the policy shall include a minimum three-year extended reporting period. The Contractor agrees that the Retroactive Date equals or precedes the execution date of this Contract or the performance of services specified hereunder. The Contractor agrees to provide coverage with limits and deductibles as prescribed below.

<b>Contract Amount</b>	<b>Minimum Limit</b>	<b>Maximum Deductible</b>
Up to \$1 million	50% of project cost, minimum of \$100,000 per occurrence	10% of project cost or \$25,000, whichever is smaller
\$1 million and Up	\$1,000,000	\$100,000

## 5.12 Contract Bond (Public Construction Bond) Required

- 5.12.1 General Requirements of the Bond: The Contractor shall furnish to CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by CFX. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to CFX. The name, address and telephone number of the surety agent shall be clearly stated on the face of the Public Construction Bond.
- 5.12.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after CFX's initial approval of the company, then CFX may require that the Contractor immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to CFX. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the Contractor from its payment of premium on the defaulting bond, will be borne by CFX.

## 5.13 Contractor's Responsibility for Work

Until final acceptance by CFX, the Work shall be under the charge and custody of the Contractor. The Contractor shall take every necessary precaution against injury or damage to the Work by the action of the elements or from any other cause whatsoever arising either from the execution or non-execution of the Work and shall rebuild, repair, restore and make good, without additional compensation, all injury or damage to any portion of the Work including extensive or catastrophic damages.

The Contractor will not be held responsible for damage to any landscape items caused by an officially declared hurricane that occurs after the final acceptance of the entire Work but during any remaining portion of the 90-day establishment period.

## 5.14 Opening Section of Highway to Traffic

When any bridge or section of roadway is, in the opinion of CFX, acceptable for travel, CFX may direct that the bridge or roadway be opened to traffic. Such opening shall not be considered, in any way, to be an acceptance of the bridge or roadway or any part thereof or as a waiver of any provision of the Contract. The Contractor shall make all repairs or renewals due to defective Work or Materials (or for any cause other than ordinary wear and tear) on such opened sections without additional compensation.

## 5.15 Scales for Weighing Materials

- 5.15.1 **Applicable Regulations:** Prior to the use of any scales, the Contractor shall submit to the CEI a copy of a certificate of accuracy for the scales that is not more than 1 year old. All scales which are used for the determination of the weight of Materials upon which compensation will be made by CFX shall conform to the requirements of Chapter 531, Florida Statutes, pertaining to specifications, tolerances and regulations as administered by the Bureau of Weights and Measures of the Florida Department of Agriculture. CFX reserves the right to perform scale checks/inspections at its sole discretion.
- 5.15.2 **Base for Scales:** Such scales shall be placed on a substantial horizontal base that will assure proper support, rigidity and maintenance of level of the scales.
- 5.15.3 **Protection and Maintenance:** All scale parts shall be in proper condition as to level and vertical alignment and shall be fully protected against contamination by dust, dirt and other matter which might affect operation of the parts.

## 5.16 Source of Forest Products

As required by Section 255.20, Florida Statutes, all timber, timber piling or other forest products which are used in the construction of the Project shall be produced and manufactured in the State of Florida, price and quality being equal and provided such Materials produced and manufactured in Florida are available.

## 5.17 Regulations of Air Pollution

- 5.17.1 **General:** All Work shall be done in accordance with all Federal, State and local laws and regulations regarding air pollution and burning.
- 5.17.2 **Dust Control:** The Contractor shall ensure that excessive dust is not transported beyond the limits of construction in populated areas. Dust control for embankment or other cleared or unsurfaced areas may be by application of water or calcium chloride, as directed by CFX. Any use of calcium chloride shall be in accordance with Section 102 of the Technical Specifications. When included in the Plans, mulch, seed, sod or temporary paving shall be installed as early as practical. Dust control for storage and handling of dusty materials may be made by wetting, covering or other means as approved by the CEI.

5.17.3 Asphalt Material: Any asphalt used shall be emulsified asphalt unless otherwise stated in the Plans and allowed by Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. Asphalt materials and components shall be stored and handled to minimize unnecessary release of hydrocarbon vapors.

5.17.4 Asphalt Plants: The operation and maintenance of asphalt plants shall be in accordance with Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. A valid permit as required under Chapter 17-2 shall be available at the plant site prior to the start of Work.

#### 5.18 Dredging and Filling

If required by the Work, the Contractor shall comply with Section 370.033, Florida Statutes, regarding obtaining a certificate of registration from the Florida Department of Environmental Protection and keeping accurate records and logs of all dredge and fill activities.

#### 5.19 Erosion Control

This Project will be constructed on properties that may be subject to environmental permits and regulation promulgated by city, county, state, federal, and regional authorities. Requirements for erosion control are included in the Technical Specifications.

#### 5.20 Contractor's Motor Vehicle Registration

The Contractor shall provide proof to CFX that all motor vehicles operated or caused to be operated by the Contractor are registered in compliance with Chapter 320, Florida Statutes. Such proof of registration shall be submitted in the form of a notarized affidavit to CFX. No payment will be made to the Contractor until the required proof of registration is on file with CFX.

#### 5.21 Internal Revenue Service Form W-9

The Contractor shall complete and return with the executed Contract, Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.

## 5.22 Tolls and Access

The Contractor shall pay all tolls incurred from using CFX's Expressway System to transport personnel, equipment, or materials to and from the site of Work. Any costs incurred by the Contractor in payment of tolls shall be considered incidental and included in associated items. The term "equipment" in this context includes loaders, graders and similar self-propelled equipment, operating under their own power, passing through a toll plaza.

Contractor shall access the Project by existing expressway ramps. No access will be allowed through the right-of-way fence.

## 5.23 Requests for References or Performance Evaluations

In the event CFX at any time receives any direct or third party inquiry or request concerning the Contractor, its employees or sub-contractors, or the performance of the Contractor, its employees or sub-contractors under this Contract, CFX, at any time and in all cases, may, but shall not be obligated to respond to any such inquiry or request, with or without notice to the Contractor, its employees, or subcontractors, as the case may be, but, in all cases, such response shall be limited to: (1) acknowledging that the Contractor has, or in the past has had, a contract with CFX; (2) the date, term and type of such contract; (3) whether a specified employee or subcontractor worked on the Contract, and if so, in what capacity; (4) whether such contract was terminated early for any reason other than the convenience of CFX; (5) whether such contract was eligible for renewal or extension; and, (6) if such contract was eligible for renewal or extension, whether in fact such contract was renewed or extended. Should the Contractor, its employees, its agents or subcontractors request that any further information be provided in response to such an inquiry or request, such additional information may be provided by CFX, in its sole discretion. Contractor for itself, its employees, its agents and sub-contractors, hereby expressly waives any and all claims of whatever kind or nature that the Contractor, its employees, its agents or sub-contractors may have, or may hereafter acquire, against CFX relating to, or arising out of CFX's response to any and all requests or inquiries concerning the Contractor, its employees or subcontractors under this Contract, or the performance of the Contractor, its employees or subcontractors under this Contract.

## 5.24 Unauthorized Aliens

Contractor warrants that all persons performing work for CFX under this Contract, regardless of the nature or duration of such work, shall be United States citizens or properly authorized and documented aliens. Contractor shall comply with all federal, state and local laws and regulations pertaining to the employment of unauthorized or undocumented aliens at all times during the performance of this Contract and shall indemnify and hold CFX harmless for any violations of the same. Furthermore, if CFX determines that Contractor has

knowingly employed any unauthorized alien in the performance of the Contract, CFX may immediately and unilaterally terminate the Contract for cause.

#### 5.25 Public Records

**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 (407-690-5000, [publicrecords@CFXWay.com](mailto:publicrecords@CFXWay.com), and 4974 ORL Tower Road, Orlando, FL. 32807).**

CONTRACTOR acknowledges that CFX is a body politic and corporate, an agency of the State of Florida, and is subject to the Public Records Act codified in Chapter 119, Florida Statutes. To the extent that the CONTRACTOR is in the possession of documents fall within the definition of public records subject to the Public Records Act, which public records have not yet been delivered to CFX, CONTRACTOR agrees to comply with Section 119.0701, Florida Statutes, and 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.

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

#### 5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

#### 5.27 Convicted Vendor List

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 for a period of 36 months following the date of being placed on the convicted vendor list.

#### 5.28 Discriminatory Vendor List

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.

5.29 Severability

If any section of the Contract Documents that are incorporated into this Contract be judged void, unenforceable or illegal, then the illegal provision will 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 will remain in full force and effect and will be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

END OF SECTION 5



## SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

### 6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without written consent of CFX. With CFX written consent, the Contractor will be permitted to sublet a portion of the Work but shall perform, with its own organization, Work amounting to not less than 50% of the total Contract amount less the total amount for those Contract items specifically designated as "Specialty Work" below or as otherwise designated as Specialty Work by CFX. The granting or denying of consent under this provision is at CFX's sole discretion.

The total Contract amount shall include the cost of Materials, manufactured component products and their transportation to the Project site. Off-site commercial production of Materials and manufactured component products purchased by the Contractor and their transportation to the Project will not be considered subcontracted Work.

If a part of a Contract item is sublet, only its proportional cost will be used in determining the percentage of subcontracted normal Work.

All subcontracts entered into by the Contractor shall be in writing and shall contain all pertinent provisions and applicable requirements of the Contract. All subcontracts shall require subcontractor to indemnify and hold harmless CFX on the same terms as contained in the General Specifications and the Contract. The Contractor shall furnish CFX with a copy of any subcontract requested by CFX. Subletting of Work shall not relieve the Contractor or surety of their respective liabilities.

The Contractor shall ensure that all Subcontractors are competent, careful and reliable. The Contractor shall submit the names and qualifications of all first and second tier subcontractors to CFX for approval prior to their beginning Work on the Project. All first and second tier subcontractors shall have the skills and experience necessary to properly perform the Work assigned and as required by the plans and specifications.

If, in the opinion of CFX, any Subcontractor employed by the Contractor is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such first or second tier subcontractor shall be immediately removed from the Project by the Contractor upon written direction from CFX. Such subcontractor shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such subcontractor, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the subcontractor is removed. The

Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Subcontractor based on the direction of CFX. All subcontracts shall expressly include an acknowledgment of CFX's right to remove any Subcontractor in accordance with this paragraph.

A Subcontractor shall be recognized only in the capacity of an employee or agent of the Contractor.

If the aggregate total of the dollar amount of Work performed by a subcontractor, including equipment rental agreements, equals or exceeds \$20,000, a formal subcontract agreement shall be entered into between the Contractor and the Subcontractor.

6.1.2 Specialty Work: The following Work is designated as Specialty Work:

- Auxiliary Power Unit
- Cleaning, Coating, Injection, Grouting, Grinding, Grooving or Sealing Concrete Surfaces
- Deep Well Installation
- Electrical Work
- Fencing
- Highway Lighting
- Installing Pipe or Pipe Liner by Jacking and Boring
- Installing Structural Plate Pipe Structure
- Landscaping
- Painting
- Plugging Water Wells
- Pressure Grouting
- Pumping Equipment
- Roadway Signing and Pavement Marking
- Riprap
- Removal of Buildings
- Rumble Strips
- Sealing Wells by Injection
- Septic Tank and Disposal System
- Signalization
- Utility Works
- Vehicular Impact Attenuator
- Water and Sewage Treatment Systems

## 6.2 Work Performed by Equipment Rental Agreement

The limitations set forth in 6.1, regarding the amount of Work that may be subcontracted, do not apply to Work performed by Equipment rental agreements. The Contractor shall notify CFX, in writing, if the Contractor intends to perform any Work through an Equipment rental agreement. The notification shall be submitted to CFX before any rental Equipment is used on the Project. The notification shall include a list of the Equipment being rented, the Work to be performed by the Equipment and whether the rental includes an Equipment operator. Notification to CFX will not be required for Equipment being rented (without operators) from an Equipment dealer or from a firm whose principle business is renting or leasing Equipment.

## 6.3 Prosecution of Work

6.3.1 Sufficient Labor, Materials and Equipment: The Contractor shall provide sufficient labor, Materials and Equipment to ensure the completion of the Work no later than the Contract completion date.

6.3.2 Impacts by Adjacent Projects: When there is a potential impact between two or more projects due to close proximity or due to logistics in moving labor, Materials, and Equipment between projects, all authorized representatives of the parties performing the projects have a responsibility to communicate and coordinate their work so that impacts to either party are eliminated or mitigated and do not endanger, delay, or create additional work or costs to either party. The Contractor shall not be compensated for any additional costs or delays so incurred by either party.

6.3.3 Submission of Preliminary, Baseline, Updated Baseline, and Two-Week Look-Ahead Schedules:

### 6.3.3.1 Scheduling Terminology

Accepted Baseline Schedule: The Accepted Baseline Schedule is the Baseline Schedule submitted by the Contractor and accepted by CFX. Review and acceptance of the schedule by CFX will be for the sole purpose of determining if the schedule is in substantial compliance with the General Specifications and does not mean that CFX agrees or disagrees, approves or disapproves of the constructability, means and methods, validity and accuracy of the submitted baseline schedule. The Contractor is solely responsible for the constructability, means and methods, validity and accuracy of the submitted baseline schedule.

Acknowledged Receipt of the Updated Baseline Schedule: The Contractor is solely responsible for the constructability, means and methods, validity and accuracy of the updated baseline schedule. CFX does not accept or reject, agree or disagree, approve or disapprove of the constructability, means and methods, validity or accuracy of the

Updated Baseline Schedule. Instead, CFX will transmit a letter acknowledging receipt of the Contractor's submittal of the Updated Baseline Schedule.

**Baseline Schedule:** The Baseline Schedule does not contain any progressed activities. Therefore, each activity's early and late dates are planned dates, not actual dates. The Baseline Schedule contains the necessary breakdown of activities to adequately track the progress of the project. Activities in the Baseline Schedule shall include, but not be limited to, activities for all work to be performed. In addition, the baseline schedule should include milestone activities, and activities for the procurement of significant equipment and materials, including activities for submittals and approvals, orders, fabrication, request for delivery and delivery. Procurement activities should be logically tied to their respective work activities.

**Contract Completion Date:** Also called the Approved Contract Completion Date or the Authorized Contract Completion Date or the Last Chargeable Contract Date.

The Contract Completion Date is calculated by adding the number of calendar days stated in the contract to complete all work, to the first chargeable day of the Contract, less one day.

For time extensions granted by CFX, the Contract Completion Date is calculated by adding the number of calendar days granted to the Contract Completion Date.

If a critical activity is delayed, the Contract Completion Date(s) may also be delayed if the durations on the remaining activities on the critical path are accurate. The Contractor acknowledges and agrees that actual delays to activities which, according to the CPM schedule, do not directly affect the main project critical path, do not have any effect on the Contract Completion Date(s) and shall not be the basis for a change therein.

**CPM:** Critical Path Method of scheduling.

**Early Dates:** The earliest scheduled start and/or finish date assigned to a CPM scheduled activity.

**Excusable Delay:** As defined in subarticle 6.7.3.1.

**Adjustments to Contract Time.**

**Extra Work:** Any Work which is required by CFX to be performed and which is not otherwise covered or included in the existing Contract Documents, whether it be additional Work, altered Work, deleted Work, Work due to differing site conditions, or otherwise. This term does not include a delay.

Lag: An undefined delay between two scheduled activities. For instance, a 5 day lag between activity A (the predecessor) and activity B (the successor) with a Finish to Start (FS) relationship would mean that activity B would not start until 5 days after the finish of activity A.

Late Dates: The latest scheduled start and/or finish date assigned to a CPM scheduled activity.

Longest Path: In a Baseline Schedule, the Longest Path of the CPM schedule is a continuous series of activities starting from the first scheduled activity and ending with the last scheduled activity, that are linked in a logical sequence and where each activity in the sequence has the least value of total float in the schedule. If each of the longest path activities were assigned the same calendar, then each activity on the longest path would have the same value of total float. In an Updated Baseline Schedule (a baseline with actual progress recorded), the Longest Path will begin at the data date (also known as the cut-off date) and extend to the last activity scheduled in the Contract. The Contractor shall sequence work so that only one Longest Path is created in the Baseline or Updated Baseline schedule.

Negative Total Float: Also called Negative Float. The greatest number of days, stated as a negative number, that the Contract Completion Date is delayed. When an activity has negative total float, the activities with negative total float have early dates scheduled later than their late dates.

Planned Dates: Also called early and late dates.

P6: The scheduling software Primavera Project Planner, produced by Primavera Systems, Inc., which shall be used by the Contractor for all CPM scheduling tasks.

Preliminary Schedule: The Preliminary Schedule is a bar chart schedule submitted at the Pre-Construction Conference. Refer also to specification section 6.3.3.3.

Revised Baseline Schedule: The Baseline Schedule shall only be revised with the approval of CFX.

Total Float: Also called Float. The number of days an activity can be delayed without delaying the Contract completion date.

CFX and Contractor agree that float is not for the exclusive use or benefit of either the Contractor or CFX and must be used in the best interest of completing the Project on time. The Contractor agrees that: 1) float time may be used by CFX; and 2) there shall be no basis for a Project time extension as a result of any Project problem, change order or delay which only results in the loss of available positive float, or negative float that is greater than the most negative float in the CPM. The Contractor

will not be permitted to alter float through such applications as extending duration estimates or to change sequence relationships, etc., to consume available positive float.

**Time Impact Analysis:** If the Contractor requests a time extension to any required milestone date for changes in the Work ordered by CFX, the Contractor shall furnish such justification and supporting evidence in the form of a Time Impact Analysis illustrating the influence of the change on the Contract time such that CFX can evaluate the request. This Time Impact Analysis shall include a network analysis demonstrating how the Contractor has incorporated the change in the schedule. Each such Time Impact Analysis shall demonstrate the time impact of the performance of the changed Work as the date upon which the change arose or was otherwise ordered, the status of the Work at that time based upon the CPM schedule update prevailing at that time and the duration or logic computations for all of the affected activities. The Time Impact Analysis shall be submitted within ten (10) calendar days following the commencement of the delay event. Failure to make notification in the time and manner required shall be considered a waiver of the Contractor's entitlement to any time extension resulting from such delay. No time extension will be considered unless it specifically contains at least the following detailed information:

1. Date delay began;
2. Date delay impact was resolved;
3. Detailed chronology of delay including the dates of all applicable notifications and submittals;
4. Specific critical activities affected and the dates of impact;
5. The activity durations used in the Time Impact Analysis shall be those reflected by the latest Project schedule update prevailing at the time of the initiation of the delay event.

**Updated Baseline Schedule:** Also called the Schedule Update, is a copy of the Baseline Schedule with activities updated for actual start and/or finish dates and percent completion.

**Weather Event:** As defined in 6.7.3

#### 6.3.3.2 General Requirements for all Scheduling Tasks and Submittals:

**Schedule Content:** Failure to include any element of required Work in the schedule shall not relieve the Contractor from completing all Work necessary to complete the Project on time.

**Scheduling Costs:** All costs incurred by the Contractor to create and maintain the Preliminary and CPM schedules including, but not limited to, updates, revisions, time impact analyses, and any additional required scheduling data shall be borne by the Contractor and are part of the Contract requirements.

**Utility Coordination, Permits and Licenses:** Sufficient liaison shall be conducted and information obtained at the utility pre-construction conference to coordinate activities with utility owners having facilities within the Project limits. The schedule shall conform to the utility adjustments and Maintenance of Traffic sequencing included in the Contract Documents unless changed by mutual agreement of the utility company, the Contractor, and CFX. The schedule shall show any utility adjustments that start or continue after the Contract time has started. In addition, the Contractor shall show the acquisition of permits or licenses needed for the Project.

**Required Labeling of all Correspondence and Associated Documents:** All Schedule related correspondence, including transmittals and attachments, shall have the Schedule number and cut-off date (data date) entered in the document heading. A sample format to be used is as follows: "0303-25AUG15", where 0303 is the schedule update number and 25AUG15 is the cut-off date (data date).

#### 6.3.3.3 Submission of the Preliminary Schedule:

The Contractor shall submit to CFX with the executed Contract the following documents:

The Preliminary Schedule shall cover the entire scope of the Contractor's responsibilities for the entire Contract time. The Preliminary Schedule is either a CPM or a NON-CPM generated bar chart schedule. The Preliminary Schedule shall present the Contractor's general approach to the Project and show adequate detail for Work, procurement, and submittal and approval activities covering the first 120 days of Work from the First Chargeable Contract day. The remainder of the Contract time shall be represented by summary activities.

**Written Narrative:** The written narrative shall explain the preliminary schedule's scope and approach to the Project in sufficient detail to demonstrate that the Contractor has a reasonable and workable plan to complete the Project within the Contract time allowed.

**Geographical Layout of the Project:** The geographical layout graphic of the project shall be suitable in size and content for presentation purposes. The Contractor shall also submit a copy of the geographical layout of the project in a legal landscape format.

Contractor's Oral Presentation: At the pre-construction conference, the Contractor shall show and refer to the geographical layout of the Project in an oral presentation of the Contractor's approach to performing the Work under the Contract. The Contractor's oral presentation shall conform to the format and content of the written narrative.

Within five (5) days after receipt of the Preliminary Schedule, CFX will either accept or reject the schedule. If the Preliminary Schedule is rejected, CFX and Contractor will meet within 3 days after notice of rejection at which time CFX will present the Contractor with a list of required changes to the Preliminary Schedule. The Contractor shall make the changes and submit a revised preliminary schedule acceptable to CFX within 3 days after receipt of the required changes.

Updating the Preliminary Schedule: The Contractor shall update each activity in the Preliminary Schedule with an actual start date, actual finish date, percent complete, and remaining duration each month until the accepted Baseline Schedule is updated and submitted to CFX. The cut-off date and submittal date for the Updated Preliminary Schedule shall be established by CFX and the Contractor shall submit the Updated Preliminary Schedule on that date. The Contractor shall include a written narrative with the Updated Preliminary Schedule explaining the progress made, any delays that have occurred, and work planned to be accomplished in the next month.

Retainage for Non-Submittal: If the Contractor fails to update the Preliminary Schedule and submit a written narrative, CFX may retain 10% of the Contractor's next Monthly Payment Request and 10% of each subsequent monthly payment request until the Contractor complies.

6.3.3.4 Submission of the CPM Baseline and Updated Baseline Schedules: The Contractor's CPM schedule shall be a detailed CPM schedule. The CPM schedule shall be generated by the latest version of Primavera Project Planner (P6) by Primavera Systems, Inc. The Contractor shall pay the scheduling software yearly maintenance fees and maintain scheduling software upgrades throughout the duration of the contract. The Contractor shall use all default settings in Primavera Project Planner for all schedule submittals. This includes using the "Retained Logic" setting for all calculations, unless CFX chooses to allow the use of the P6 "Progress Override" setting.

Each Baseline and Updated Baseline schedule submittal shall include all reports and graphics listed in specification section 6.3.3.4.9. All Baseline Schedule submittals shall also include the Logic Diagram required under Item number 4.



The Contractor shall submit to CFX two copies of each of the above schedules created using the P6 Backup feature.

**Schedule Submittal Deadlines:** The Contractor shall prepare and submit a detailed CPM construction schedule. The schedule shall be prepared according to the specifications and submitted no later than 45 calendar days after the Notice to Proceed date. The CEI shall have 30 calendar days from the Contractor's submittal date to review and notify the Contractor in writing of its findings. The Contractor shall have 15 calendar days from the date of the CEI's written notice to make all requested modifications to the schedule and re-submit the schedule.

**Retainage for Non-Submittal:** If the Contractor fails to submit a schedule that fully complies with the specifications within 90 calendar days from the Notice to Proceed date, CFX will automatically retain 10% of the Contractor's Current Period Monthly Payment Request amount in addition to other retainage.

CFX may retain an additional 10% of the Contractor's Period Monthly Payment Request amount for each successive month that the Contractor fails to submit any schedule on time in addition to other retainage. The Contractor must submit an Updated Baseline Schedule for each month of the Contract starting from the first chargeable day of the contract. The Due Date for the Updated Baseline Schedule shall be the Cut-Off Date established by CFX for submittal of the Contractor's Monthly Payment Request. The Due Date for the Updated Baseline Schedule may be changed from time to time by CFX. The Contractor's submitted schedule shall have a data date matching the cut-off date established by CFX.

**Milestones:** Construction and maintenance of traffic milestones, including completion of construction on roadway sections, building and removing temporary detours, bridges, traffic shifts, and road closures and openings shall be adequately shown in the schedule.

**Measurement of Progress:** As the contract work progresses and the baseline schedule is updated with progress, each subsequent schedule update shall become the schedule upon which all Work progress will be measured.

6.3.3.4.1 CPM Activity Creation: Each schedule activity shall include the following detail in P6:

A.) ID Number - The format followed shall be uniform throughout the schedule. The activity number shall not exceed 6 digits.

B.) Original Duration (Working Days): No activity shall have a duration greater than 20 working days unless approved by CFX. However, activities such as long-term procurement, certain approvals and submittals may have durations greater than 20 working days or have a 7-day calendar assignment.

At the minimum, the schedule shall include, but not be limited to the following activities:

Bridge Activities:

Test Pile installation per bent per structure.  
Production Pile installation per bent per structure.  
Drilled shaft installation per pier per structure.  
Pile caps per bent per structure.  
Footings per pier per structure.  
Columns per pier per structure.  
Caps per pier per structure.  
End bents per structure.  
Beam or girder erection-span by span per structure.  
Diaphragms.  
Deck placement-span by span per structure.  
Parapets-span by span per structure.

Roadway Activities:

Internal access and haul roads (location and duration in-place).  
Utility relocation work by utility and by stationing and roadway.  
Clearing and grubbing by stationing and roadway.  
Excavation by stationing and roadway.  
Embankment for each abutment location.  
Embankment placed for each roadway by stationing and roadway.  
Drainage by run with stationing and roadway.  
Box Culvert or other large Pre-cast structure with stationing and roadway.  
Reinforced Earth Wall leveling pad per bent per structure.  
Reinforced Earth Wall per bent per structure.  
Reinforced Earth Wall Coping per bent per structure.  
Retaining walls by stationing and roadway.  
Stabilization/Subgrade by stationing and roadway.  
Limerock Base by stationing and roadway.  
Asphalt Base by stationing and roadway.  
Curb and Gutter by stationing and roadway.  
Structural Pavement (asphalt and/or concrete) by stationing and roadway.  
Bridge approach slabs per bridge and roadway.  
Guardrail by stationing and roadway.  
Slope pavement or riprap by stationing and roadway.

Roadway lighting by stationing and roadway.  
Signing for each sign structure by stationing and roadway.  
Striping by stationing and roadway.  
Traffic signals by stationing and roadway.  
Topsoil, sodding, seeding and mulching by stationing and roadway.  
Landscaping by stationing and roadway.  
Architectural Treatments.  
Sound Walls.  
Fiber Optic.  
Concrete Removal and Replacement.  
Milling and Resurfacing.  
Ponds.  
Planter Walls.

**Building Activities:**

Sitework, including, but not limited to clearing, excavation, storm and sanitary drainage, utility work, fill, grading, curb & gutter, sidewalks, asphalt and concrete paving, striping, retention pond excavation and grading, sodding.  
Foundation work, including, but not limited to, piling, building pads, column, stem wall, slab work, conduit and piping.  
Concrete work, including, but not limited to, stairwells, stairs, elevator shafts, tunnels.  
Exterior Structures, including, but not limited to structural steel bridges, walkways, railings.  
Exterior Walls, including, but not limited to, block, brick, pre-cast, poured-in-place concrete, wood and metal stud, stucco.  
Roof, including, but not limited to, structural steel framing, wood framing, pre-cast, parapet walls, metal, poured-in-place, sheathing, underlayment, built-up, roof drainage, and soffits.  
Exterior doors, windows, and store-front framing.  
Interior Build-out, including, but not limited to, wood and metal stud, interior doors and windows, cabinetry, specialty work, drywall, insulation, sound proofing, carpet, tile, painting, furnishings, and miscellaneous finishes.  
Electrical, including, but not limited to conduit, power supply, fixtures, wiring, finishes, and testing.  
Plumbing, including, but not limited to, piping, sanitary sewer, water supply, fixtures, finishes, and testing.  
HVAC, including, but not limited to, air handlers, compressors, duct work, finishes, and testing.  
Fire Systems, including, but not limited to piping, sprinkler heads, and testing.

Security Systems, including, but not limited to, control panels, wiring, sensors, alarms, communications, and testing.

Specialty Work, including, but not limited to, elevators, escalators, toll booth facilities, electronic toll equipment, conduit, wiring, voice and data communication systems, and testing.

The Contractor agrees to submit for acceptance a CPM baseline schedule showing Work commencing on the first chargeable Contract day and finishing on the last chargeable Contract day, thereby showing zero total float.

The Contractor shall sequence work so that only one Longest Path is created in the Baseline or Updated Baseline schedule.

The Contractor must submit evidence to CFX that any activity to be added or removed from the schedule is a logical and reasonable change. If CFX decides that the activity is not sufficiently supported and does not serve a useful purpose, CFX shall request that the Contractor remove the activity from the schedule, and the Contractor shall comply.

The schedule shall include a task activity for the first chargeable day of the Contract and a task activity for the last chargeable day of the Contract with a 1-day duration and a 7-day calendar assignment. The Contract Completion Date as defined in section 6.3.2.1 shall be entered into the Primavera Project Overview window under "Project must finish by".

Mobilization Activities: Activities representing Contract pay item 1-101-1, Mobilization, shall be divided into 1 work activity with a duration no greater than 20 work days and 4 mobilization payment milestones that are revenue loaded according to the specification payment schedule as follows: 5% of Contract earned = 25% payment, 10% of Contract earned = 50% payment, 25% of Contract earned = 75% payment and 50% of Contract earned = 100% payment. The payment milestones should not be tied to any activities, but constrained by a "start no earlier than" constraint. The dates they are constrained to should be based on the early dates shown in the schedule cash flow tabular report by day generated by P6.

6.3.3.4.2 Activity Codes: The following are the minimum required activity codes and their values that are to be assigned to each activity in P6:

Phase: Shall have a field length of 4 characters. If the Project has more than one maintenance of traffic (M.O.T.) phase, each phase shall be identified. Each activity shall show which M.O.T. Phase it belongs to as shown in the Plans and Specifications.

Area: Shall have a field length of 6 characters. The Contractor shall create Area activity code values for each of the following areas. Each schedule activity shall have an assigned Area activity code value

6.3.3.4.3 Activity Relationships: Relationships between activities shall be identified with the following information:

- A. Activity ID - Shall not exceed 6 characters in length.
- B. Predecessor and successor activity ID.
- C. Relationship types:
  - SS -Start to start
  - FF -Finish to finish
  - SF -Start to finish - This relationship is not allowed, unless authorized by CFX.
- D. Lag -Negative lag is not allowed, unless authorized by CFX.

6.3.3.4.4 Project Calendars: Calendars shall use day as the planning unit for the schedule. One of four calendars shall be used for each activity:

- A. Calendar 1: shall be used for 5-day workweek activities: Monday through Friday. All holidays and non-work days shall be assigned to this calendar. This calendar shall be used for all normal Work activities. Calendar 1 shall be the default calendar.
- B. Calendar 2: shall be used for 7-day workweek activities. No non-work days shall be entered into this calendar. Activities such as friction course curing shall use this calendar.
- C. Calendar 3: shall be used for 7-day workweek activities. All holidays shall be entered into this calendar.
- D. Calendar 4: shall be used for 6-day workweek activities. All holidays and non-work days shall be assigned to this calendar.

Global Calendar: The global P6 calendar shall have all holidays and non-work days assigned.

Additional calendars: May be assigned depending upon need. However, the Contractor shall consult with CFX before other calendars are entered and/or used in the Project schedule.

6.3.3.4.5 Revenue Loading the Schedule: Each Work activity in the schedule shall be revenue loaded using all the Contract pay items amounts related to the Work activity. The Contractor shall verify that each pay item is represented in the schedule. The total of all revenue loading shall equal the Contract amount.

If the monthly payment requests do not reasonably agree with the monthly schedule updates/budgeted revenue of Work performed, CFX may request that the Contractor revise its revenue loading in the accepted baseline schedule and the most current updated baseline schedule. In addition, CFX may request that the Contractor revise its revenue loading in the accepted baseline and updated baseline schedules to incorporate all Supplemental Agreement changes affecting the Contract amount.

6.3.3.4.6 Updating the Baseline Schedule

Monthly Schedule Update Meetings: Monthly Schedule Update meetings shall be set by CFX and shall be transmitted to the Contractor by written notice.

CFX will establish a schedule cut-off date for each month of the Contract.

The updated baseline schedule, project progress, issues, delays, claims, planned Work, Contractor's monthly pay estimate, and baseline schedule revisions shall be among the priority items addressed in detail.

Schedule Update Process: The schedule update process shall include updating the activity actual start and finish dates, percent completion, remaining duration, and adjusting schedule logic to correct for activities being performed out of sequence, adjusting resource allocations for activities, and changing the calendar assignments to activities as needed. The Contractor shall not change an activity original duration for any reason.

#### 6.3.3.4.7 Revisions to the Baseline Schedule

1. CFX will request in writing that the Contractor submit a proposed revision to the Accepted Baseline Schedule to incorporate a Board Approved Supplemental Agreement.
2. The Contractor shall have fifteen calendar days from receipt of CFX's request to submit a proposed revision to the Accepted Baseline Schedule.
3. The Contractor's proposed revision shall include all transmittals, reports, diagrams, and bar charts listed in specification section 6.3.2.4.9, unless CFX requests otherwise in writing.
4. The Contractor shall submit two Schedule Comparison reports. The first report shall be a comparison between the Accepted Baseline Schedule and the Revised Baseline Schedule. The second report shall be a comparison between the current updated baseline schedule and the proposed updated baseline schedule containing the proposed revision to the accepted baseline schedule.
5. In its required narrative report, the Contractor shall state whether or not the proposed changes affect the longest path of the accepted baseline schedule or the proposed updated baseline schedule, which contains progress.
6. CFX shall have 15 calendar days to review and transmit a written notice of acceptance or rejection of the Contractor's proposed revision. If CFX rejects the proposed revision, CFX shall state the reasons for rejection in the written notice. The Contractor shall have 5 calendar days to re-submit the proposed revision to CFX.
7. If the Contractor fails to submit a proposed revision that is accepted by CFX within 45 calendar days from CFX's original request date, CFX reserves the right to retain 10% of each of the Contractor's monthly payment requests until the Contractor submits a proposed revision that is accepted by CFX.
8. Upon acceptance of the proposed revision to the accepted baseline schedule, the proposed revision to the baseline schedule shall become the accepted baseline schedule. The Contractor shall incorporate the revision into the next scheduled updated baseline schedule.

6.3.3.4.8 Schedule Submittals: Each baseline, revised baseline, and updated baseline schedule submittal shall include the following documents, unless CFX sends and the Contractor receives a written request to limit the submittal to certain documents for a specific submittal.

1. Transmittal: Shall be signed by the Contractor's Schedule Engineer or Resident Engineer. Shall contain the following information:

Submittal date.

Contractor Name.

Complete CFX Contract Number.

Project Description.

Contract Resident Engineer.

Four character P6 Project Number - Data Date

2. Schedule Update Narrative Report: The Contractor shall prepare a written narrative to accompany the required reports and graphics for the schedule update submittal. The narrative shall have the following sections:

Schedule Status: The Schedule Status shall be a written narrative explaining the progress during the month in sufficient detail and referencing specific activities including longest path activities, milestones, design issues, means and methods issues, out of sequence activities, and actual production rates for various types of Work performed by the crews loaded as resources in the schedule.

Delays: If the Contractor has experienced any delay, the Contractor shall explain what activities in the current period were affected by the delay and what caused the delay and how the Contractor intends to address the delay.

Milestone Comparisons: Current period projected milestone dates versus previous period projected milestone dates, and current period projected contract completion date versus previous period projected contract completion date.

3. Schedule Comparison Report: The Contractor shall submit to CFX a detailed report showing all changes to the Project schedule since the previous monthly update, including, but not limited to the following information:



Activities worked out of sequence.  
Changes in Total Float.  
Changes in Early and Late Dates.  
Changes in Original and Remaining Duration.  
Changes in Activity Constraints.  
Changes in Activity Predecessors, Successors, Relationship Type, and Lags.  
Changes in Activity Resource Assignments.  
Changes in Activity Cost Loading.  
Changes in Activity percent completion.  
Changes in Longest Path Activities.

Longest Path Bar chart: Bar chart shall be time scaled and filtered on the Longest Path activities and sorted by early start.

Area Code Bar chart: Bar chart shall be time scaled and sorted by area code. The bar chart shall include:

- A. Each activity on a single line containing ID number, activity description, and a bar representing activity original duration, early start dates, early finish dates, late start dates, late finish dates and total float.
- B. Key to identify all components in the bar chart and CPM.
- C. Key to identify all the abbreviations used.

4. Revenue Loading Report: The Contractor shall submit to CFX a report entitled "Revenue Loading Report". The report shall include the following information:

- A. Activity ID number
- B. Description of activity
- C. List of pay items included in activity including:
  - 1. Pay item number
  - 2. Pay item description
  - 3. Quantity of pay item to be applied
  - 4. Unit measure of pay item
  - 5. Unit-price of pay item
  - 6. Total price for pay item to be applied
- D. Total revenue loading of activity (Sum of "C")

5. Revenue Flow Diagram: For any baseline Schedule, the Contractor shall submit to CFX a Revenue Flow Diagram by month. The Revenue Flow Diagram shall show the early and late curves representing the accumulated projected dollars to be earned for each month of the Contract.
6. Tabular Revenue Report: For any Baseline Schedule, the Contractor shall submit a Tabular Revenue Report by day. The tabular report shall show columns for the accumulated and incremental projected dollar amounts to be earned on the early and late curve for each Contract day.
7. P6 Schedule Backup: The Contractor shall submit to CFX two copies of each baseline, revised baseline, and updated baseline schedule using the P6 backup option. The backed up copies shall be compressed and without an access list. The backups shall be submitted on compact disk (cd). Each cd shall have a typed label showing the following information:

Contractor name  
The complete CFX Project number  
The four character P6 project number  
Data Date in format -> "01JAN15"  
Volume number \_of\_ total volume numbers (e.g., 1 of 5, 2 of 5)

8. Paper Sizes and Orientation: All printed reports shall be submitted on 8" x 11" portrait-bond paper. All printed bar charts and revenue flow diagrams shall be submitted on 8" x 11" landscape bond paper. All presentation layouts and logic diagrams shall be plotted in color with a color design jet plotter and submitted on ANSI E (34-inch x 44-inch) size coated paper.

6.3.3.4.9 Two Week Look Ahead Schedule: The Contractor shall submit a two-week look-ahead bar chart schedule produced in Microsoft Excel at the weekly project progress meeting. The bar chart shall show all major Work in progress.

The bar chart shall show at least one week behind for actual Work performed and two weeks ahead for planned Work.

The bar chart shall be date synchronized to the CEI's Weekly Summaries.

Changes and revisions that require the approval of CFX shall be brought forward for discussion.

6.3.3.4.10 Adjustments to Contract Time:

1. The Contract Completion Date shall not be changed in any schedule unless CFX approves a Supplemental Agreement granting an extension to the Contract Time.
2. The Contractor has the right to finish the Contract early; however, the Contractor agrees that any impact to the projected early completion date does not justify a request for a time extension because it would constitute changing the Contract completion date to match the Contractor's projected early completion date.
3. The Contractor acknowledges and agrees that for purposes of considering a time extension request, a schedule activity shall not be considered to have been subject to a claimed delay unless all originally and presently scheduled predecessor activities have been completed so that no other restraints to the performance of that activity exist in the CPM schedule at the time claimed for the delay impact. The Contractor agrees that a Contract time extension request shall only be considered for one of the following reasons:
  - A. The Contractor performed Extra Work that met all of the following conditions:
    1. CFX stated that the Extra Work was not to be performed concurrently with other Contract Work.
    2. The Extra Work delayed the Contract Completion Date.
    3. The Extra Work impacted one or more activities on the current CPM schedule longest path.
  - B. The Contractor experienced an Excusable Delay, as defined in subarticle 6.7.3.1, that met all of the following conditions:
    1. The Contract Completion Date was delayed due to circumstances beyond the control of the Contractor.

2. The Contractor took every reasonable action to prevent the delay.
3. The delay impacted one or more activities on the current CPM schedule longest path.
4. The Contractor agrees that there shall be no basis for a Contract Time extension as a result of any Contract problem, Supplemental Agreement, or delay, which only results in the loss of available positive float, or an increase of negative float belonging to activities that do not reside on the CPM schedule's Longest Path.

6.3.3.4.11 Supplemental Agreements: Supplemental Agreements shall include a time impact analysis from the Contractor as to the effect of the requested change on the detailed schedule. In cases where the requested change has no impact on the Project duration, the time impact analysis shall still be included. The time impact analysis shall include a listing of the activities that are affected by the requested changes and an analysis of the change on the longest path of the detailed schedule. The Contractor and the CEI shall agree upon the impact to the schedule before a Supplemental Agreement is approved.

The approved Supplemental Agreements shall be incorporated into the next monthly schedule update.

6.3.3.4.12 Adjustment to the Contract Time: Adjustments to the Contract time are detailed in subarticle 6.7.3.

6.3.3.4.13 CPM Recovery Schedule: Should any of the following conditions exist, the Contractor shall, at no extra cost to CFX, prepare a CPM Recovery Schedule:

1. Should the Contractor's monthly progress review indicate that a CPM Recovery Schedule is required;
2. Should the CPM schedule show the Contractor to be thirty (30) or more days behind schedule at any time during the construction period;
3. Should the Contractor request to make changes in the logic of the CPM schedule which, in the opinion of CFX, are of a major nature.

The same requirements and submittals for the CPM Recovery Schedule shall apply as the original baseline schedule.

- 6.3.4 Beginning Work: See Article 6.7 below.
- 6.3.5 Provisions for Convenience of the Public: The Contractor shall schedule operations to minimize any inconvenience to adjacent businesses, vehicular or pedestrian traffic or residences. CFX reserves the right to direct the Contractor as to the performance and scheduling of Work in any areas along the Project where restrictions caused by construction operations present significant hazards to the health and safety of the general public.

When working adjacent to or over travel lanes, the Contractor shall ensure that dust, mud and other debris from Contractor's operation does not interfere with normal traffic operations or adjacent properties. All debris shall be removed from the Work area and clear zone of the Project before Work ends for the day. Trash shall be picked up and removed daily from the job by the Contractor.

- 6.3.6 Pre-Construction Conference: Prior to Contractor's commencement of Work on the Project, the CEI will schedule a pre-construction conference with the Contractor, utility companies and other affected parties to review the proposed Work activities and schedule of events.

#### 6.4 Limitations of Operations

- 6.4.1 Night Work: In all areas where Work is being performed during the hours of dusk or darkness, the Contractor shall furnish, place and maintain lighting facilities capable of providing light of sufficient intensity (5 foot-candles minimum) to permit good workmanship and proper inspection at all times. The lighting shall be arranged so as not to interfere with or impede traffic approaching the Work site(s) from either direction or produce undue glare to property owners and traveling public.

Lighting of Work site(s) may be accomplished using any combination of portable floodlights, standard Equipment lights, existing street lights, temporary street lights, etc., that will provide the proper illumination. The Contractor shall provide a light meter to demonstrate that the minimum light intensity is being maintained. The Contractor shall provide sufficient fuel, spare lamps, generator, etc., to maintain lighting of the Work site.

The Contractor's lighting plan shall provide for and show the location of all lights necessary for every aspect of Work to be done at night. The plan shall be presented on standard size roadway plan sheets (no larger than 24" x 36") and on a scale of either 100' or 50' to the inch. The Contractor's lighting plan shall be submitted to the

CEI for review and approval at least 10 days prior to beginning any night Work. The CEI may require that modifications be made to the lighting setup to fit field conditions.

The Contractor shall furnish and place variable message signs to alert approaching motorists of lighted construction area(s) ahead.

The Contractor's pickups and automobiles used on the Project shall be provided with amber flashing lights or flashing white strobe lights. These lights shall be in operation at all times while in the Project limits and/or Work area.

The Contractor's Equipment shall be provided with a minimum of four square feet of reflective sheeting or flashing lights that will be visible to approaching motorists.

The Contractor shall provide its personnel with reflective safety vests. The Contractor shall ensure that all Subcontractors are also provided with reflective safety vests. Vests shall be worn at all times while workers are within the Work area.

The Contractor shall use padding, shielding or locate mechanical and electrical Equipment to minimize noise as directed by the CEI. Noise generated by portable generators shall comply with all applicable Federal, State and local environmental regulations.

The Contractor shall have a superintendent present to control all operations involved during night Work. The superintendent shall maintain contact with the CEI and ensure that all required actions are taken to correct any problem noted.

All required traffic control devices such as signs, stripes, etc., shall be in place before the Contractor commences Work for the night and before the Contractor leaves the Work site the next morning.

Work operations that result in traffic delays more than five minutes may be temporarily suspended by the CEI to minimize the impact on the traveling public.

No private vehicles shall be parked within the limited access right of way. The Contractor's Worksite Traffic Supervisor shall continually and adequately review traffic control devices to ensure proper installation and working order, including monitoring of lights.

Compensation for lighting for night Work shall be included in the Contract prices for the various items of the Contract. All lighting Equipment for night work shall remain the property of the Contractor.

- 6.4.2 Sequence of Operations: The Contractor shall not start new Work that will adversely impact Work in progress. Under such circumstances, CFX reserves the right to require the Contractor to finish a section on which Work is in progress before Work is started on any new section.
- 6.4.3 Interference with Traffic: The Contractor shall at all times conduct the Work in such a manner and such sequence as to ensure the least practicable interference with traffic. The Contractor's vehicles and other Equipment shall be operated in such a manner that they will not be a hazard or hindrance to the traveling public. Materials stored along the roadway shall be placed to minimize obstruction to the traveling public.

Where existing pavement is to be widened and stabilizing is not required, the Contractor shall schedule operations such that at the end of each workday the full thickness of the base for widening will be in place. Construction of the widening strips will not be permitted simultaneously on both sides of the road except where separated by a distance of at least one-fourth of a mile along the road, where either the Work of excavation has not been started or the base has been completed.

- 6.4.4 Coordination with Other Contractors: The right is reserved by CFX to have other work performed by other contractors and to permit public utility companies and others to do work during the construction of and within the limits of or adjacent to the Project. The Contractor shall arrange the Work and dispose of Materials so as not to interfere with the operations of other contractors engaged upon adjacent work and shall perform the Work in the proper sequence in relation to that of other contractors and shall join with and connect to the work of others as required by the Plans and Specifications all as may be directed by the CEI.

Contractor shall be responsible for any damage done by Contractor's operations to the work performed by other contractors. Similarly, other contractors will be held responsible for damage caused their operations to the Contractor's Work. The Contractor agrees to make no claims against CFX for additional compensation due to delays or other conditions created by the operations of such other parties. Should a difference of opinion arise as to the rights of the Contractor and others working within the limits of, or adjacent to, the Project, CFX will decide as to the relative priority of all concerned.

- 6.4.5 Drainage: The Contractor shall conduct operations and maintain the Work in such condition that adequate drainage will be in effect at all times. Existing functioning storm sewers, gutters, ditches and other runoff facilities shall not be obstructed.

- 6.4.6 Fire Hydrants: Fire hydrants on or adjacent to the roadway shall be kept accessible to fire apparatus at all times and no material or obstruction shall be placed within 15 feet of any such hydrant.
- 6.4.7 Protection of Structures: Heavy Equipment shall not be operated close enough to pipe headwalls or other structures to cause their displacement.
- 6.4.8 Fencing: The Contractor shall expedite the installation of fencing at those locations where, in the opinion of the CEI, such installation is necessary for the protection, health, and safety of the public. All fencing shall be maintained by the Contractor at all times. Fence cuts shall be immediately replaced. All fence removed during any one working day shall be replaced during that same day. While the fence is down, continuous security shall be provided by the Contractor to ensure that no pedestrians or vehicles enter or exit the roadway from the temporarily unfenced area. Specific attention shall be given to prevent any persons, animals, or vehicles moving from adjacent private property onto the roadway right-of-way.
- 6.4.9 Hazardous or Toxic Waste: When the Contractor's operations encounter or expose any abnormal condition which may indicate the presence of a hazardous substance, toxic waste or pollutants such operations shall be discontinued in the vicinity of the abnormal condition and the CEI shall be notified immediately. The presence of tanks or barrels; discolored earth, metal, wood, groundwater, etc.; visible fumes; abnormal odors; excessively hot earth; smoke; or other conditions which appear abnormal may be indicators of hazardous or toxic wastes or pollutants and shall be treated with extraordinary caution.

Every effort shall be made by the Contractor to minimize the spread of any hazardous substance, toxic waste or pollutant into uncontaminated areas.

The Contractor's operations in the affected area shall not resume until so directed by the CEI.

Disposition of the hazardous substance, toxic waste or pollutant shall be made in accordance with the laws, requirements and regulations of any local, state, or federal agency having jurisdiction. Where the Contractor performs Work necessary to dispose of hazardous substance, toxic waste or pollutant and the Contract does not include pay items for disposal, payment will be made, when approved in writing by a Supplemental Agreement, prior to the Work being performed.



6.4.10 Milling: The Contractor shall provide positive drainage of the remaining pavement after milling. This operation shall be done prior to opening to traffic.

The Contractor shall provide suitable transitions between milled areas of varying thickness in order to create a reasonably smooth longitudinal riding surface. In addition, the Contractor shall provide suitable transitions approaching all bridge ends at all times.

Wedges for Longitudinal and Transverse Joints: Asphalt Wedges for longitudinal and traverse joints shall be one foot wide or long, respectively, for each 1/4 inch of depth. The wedge must be installed prior to opening the lane to traffic.

The Contractor shall plan milling operations so that any lane milled will be repaved prior to opening to traffic.

## 6.5 Qualifications of Contractor's Personnel

The Contractor shall ensure that all of its employees are competent, careful, and reliable. All workers shall have the skills and experience necessary to properly perform the Work assigned and as required by the Plans and Specifications.

If, in the opinion of CFX, any person employed by the Contractor, or any Subcontractor, is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such person shall be immediately removed from the Project by the Contractor upon written direction from CFX. Such person shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such person, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the person is removed. The Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Contractor employee based on the direction of CFX.

## 6.6 Temporary Suspension of Contractor's Operations

6.6.1 Authority to Suspend Contractor's Operations: CFX, at its sole discretion, may suspend the Contractor's operations, wholly or in part, for such period(s) as CFX deems necessary. These periods of suspension may include adverse weather conditions, catastrophic occurrences and heavy traffic congestion caused by special events. Written notice, giving the particulars of the suspension, will be transmitted to the Contractor by CFX.

- 6.6.2 Prolonged Suspensions: If the suspension of operations is for an indefinite period of time, the Contractor shall store all Materials in such a manner that they will not become damaged or obstruct or impede the traveling public unnecessarily. The Contractor shall take reasonable precautions to prevent damage to or deterioration of the Work performed, shall provide suitable drainage of the roadway by opening ditches, shoulder drains, etc., and shall provide all temporary structures necessary for public travel and convenience.
- 6.6.3 Permission to Suspend Operations: The Contractor shall not suspend operations or remove Equipment or Materials necessary for the completion of the Work without the permission of CFX. All requests for suspension of the Contract time shall be in writing to CFX and shall identify specific dates to begin and end.
- 6.6.4 Suspension of Contractor's Operations - Holidays: Unless the Contractor submits a written request to work on a holiday at least ten days in advance of the requested date and receives written approval from the CEI, the Contractor shall not work on the following days: Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Labor Day; the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Thanksgiving Day; the Friday, Saturday and Sunday immediately following Thanksgiving Day; and December 24 through January 2, inclusive. Contract Time will be charged during these holiday periods regardless of whether or not the Contractor's operations have been suspended. The Contractor is not entitled to any additional compensation for suspension of operations during such holiday periods.

During such suspensions, the Contractor shall remove all Equipment and Materials from the clear zone, except those required for the safety of the traveling public and retain sufficient personnel at the job site to properly meet the requirements of Sections 102 and 104 of the Technical Specifications. The Contractor is not entitled to any additional compensation for removal of Equipment from clear zones or for compliance with Section 102 and Section 104 during such holiday periods.

Any special events known to CFX that may impact Contractor operations are shown on the Plans.

## 6.7 Contract Time

- 6.7.1 General: The Contractor shall complete the Work in accordance with the Plans and Specifications and within the Contract Time specified in the Special Provisions including approved extensions.

For scheduling purposes, the Contractor shall take into consideration holidays and all weather conditions (except those listed in subarticle 6.7.3) that may be encountered during the performance of the Work.

The effect on job progress of utility relocations and adjustments and scheduling of construction operations to maintain traffic shall also be considered by the Contractor in the scheduling of Contract time.

6.7.2 Date of Beginning of Contract Time: The date on which Contract time will begin shall be the date of notice to begin Work or as specified in the Notice to Proceed.

6.7.3 Adjusting Contract Time:

6.7.3.1 Contract Time Extension: CFX has established an allowable Contract duration, in terms of calendar days, sufficient to complete the Work covered by the Contract. By execution of the Contract, the Contractor agrees that the calendar days are sufficient to perform the Work and it has priced its bid considering the Contract duration. If the Contractor's Work (which Work is actually on the critical path) is impacted by one or more of the following events, CFX may (but is not obligated to) consider approving an extension of time:

1. War or other act of public enemies.
2. Riot that would endanger the well-being of Contractor's employees.
3. Earthquake.
4. Unpredictable acts of jurisdictional governmental authorities acting outside the scope of current laws and ordinances.
5. Hurricane (or other weather event) but only if the weather event results in the declaration of an emergency by the Governor of the State of Florida within the geographical area which includes the Work area.
6. Utility relocation and adjustment Work only if all the following criteria are met:
  - a. Utility work actually affected progress toward completion of Work on the critical path.

- b. The Contractor took all reasonable measures to minimize the effect of utility work on critical path activities including cooperative scheduling of his operations with the scheduled utility work.
7. Temperature restrictions that prohibit placement of friction course (FC-5 only) provided all other Work is completed.
8. Epidemics, quarantine restrictions, strikes (unless caused or provoked by actions of the Contractor, or its subcontractors, or its materialmen, or its suppliers or its agents), freight embargoes.
9. Impacts to the critical path caused by other contractors.

Time will not be granted for inclement weather other than as provided for in this section. In submitting a request for time extension, the Contractor shall comply with the following requirements:

1. Notify CFX in writing of the occurrence of a delay event within 48 hours of the beginning of the event.
2. Furnish a detailed written explanation of the impact of the delaying event on the scheduled Work with supporting documentation in the form of job records.
3. Provide proof that the Contractor has taken all necessary steps to protect the Work, the Contractor's employees, Materials and Equipment from the effects of the event.

CFX will consider the delays in delivery of materials or component equipment that affect progress on a controlling item of work as a basis for granting a time extension if such delays are beyond the control of the Contractor or supplier. Such delays may include an area-wide shortage, an industry-wide strike, or a natural disaster that affects all feasible sources of supply. In such cases, the Contractor shall furnish substantiating letters from a representative number of manufacturers of such materials or equipment clearly confirming that the delays in delivery were the result of an area-wide shortage, an industry-wide strike, etc. No additional compensation will be made for delays caused by delivery of materials or component equipment.

CFX will not consider requests for time extension due to delay in the delivery of custom manufactured equipment such as traffic signal equipment, highway lighting equipment, etc., unless the Contractor furnishes documentation that the Contractor placed the order for such equipment in a timely manner, the delay was caused by

factors beyond the manufacturer's control, and the lack of such equipment caused a delay in progress on a controlling item of work. No additional compensation will be paid for delays caused by delivery of custom manufactured equipment.

6.7.3.2 An extension of time (rather than monetary compensation) will be the Contractor's sole and exclusive remedy in the event that an extension of time is justified under subarticle 6.7.3.1. The Contractor shall not be entitled to damages when an extension of time is permitted or granted under said subarticle.

## 6.8 Failure of Contractor to Maintain Satisfactory Progress

6.8.1 General: Time is of the essence of the Contract. Unsatisfactory progress will be deemed to have occurred when:

1. The allowed Contract time for performing the Work has expired and the Contract Work is not complete; or
2. The specified time or date for performing a special milestone stage of the Work (as may be set forth in the Special Provisions) has expired and the Work for that milestone stage is not complete; or
3. The allowed Contract time has not expired and the net dollar value of completed Work (gross earnings less payment for stockpiled Materials) is 15 percentage points or more below the dollar value of Work that should have been completed according to the accepted working schedule for the Project. The dollar value of Work, which should have been completed, is defined as the average between the early start and late start scheduled earnings according to the approved working schedule. After falling 15 percent behind, the delinquency continues until the dollar value of Work is within 5 percentage points of the dollar value of Work that should be completed according to the accepted working schedule for the Project.

In addition to the retainage specified in Article 7.6 of these General Specifications, retainage may also be withheld on partial payments at any time throughout the duration of the Contract due to unsatisfactory progress. The amount of retainage withheld will be one (1) percent of the gross amount earned for the month for every one (1) percent the project is below the dollar value of the Work that should have been completed according to the accepted working schedule for the Project. Retainage held due to unsatisfactory progress will be returned once the delinquency has been cured.

## 6.9 Default and Termination of Contract

- 6.9.1 Determination of Default: CFX will give notice in writing to the Contractor and Contractor's surety of such delay, neglect, or default for the following:
- a. If the Contractor fails to begin the Work under the Contract within the time specified in the Notice to Proceed or;
  - b. fails to perform the Work with sufficient workmen and Equipment or with sufficient Materials to assure the prompt completion of the Contract as related to the schedule or;
  - c. performs the Work unsuitably or neglects or refuses to remove Materials or;
  - d. to perform anew such Work as may be rejected as unacceptable and unsuitable or;
  - e. discontinues the prosecution of the Work or;
  - f. fails to resume Work which has been discontinued within a reasonable time after notice to do so or;
  - g. fails to pay timely its subcontractors, suppliers or laborers or;
  - h. submits a false or fraudulent Certificate of Disbursement of Previous Payments form or;
  - i. becomes insolvent or is declared bankrupt or;
  - j. files for reorganization under the bankruptcy code or;
  - k. commits any act of bankruptcy or insolvency, either voluntarily or involuntarily or;
  - l. allows any final judgment to stand against it unsatisfied for a period of ten calendar days or;
  - m. makes an assignment for the benefit of creditors or;
  - n. for any other cause whatsoever, fails to carry on the Work in an acceptable manner or;
  - o. if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of CFX.
  - p. Failure to ensure that D/M/WBE firms have the maximum opportunity to participate in performance of the Contract shall constitute failing to prosecute the Work in an acceptable manner.

If the Contractor, within a period of 10 calendar days after the notice described above, does not proceed to correct the default, CFX may give notice of default in writing to the Contractor and the surety stating the nature of the default and providing the amount of time which will be allowed to correct the default.

If the Contractor (within the curative period described in the notice of default) does not correct the default, CFX will have full power and authority to remove the Work from the Contractor and to declare the Contract in default and terminated.

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.

CFX shall have no liability for profits related to unfinished Work on a Contract terminated for default.

- 6.9.2 Public Interest Termination of Contract: CFX may, by written notice, terminate the Contract or a portion thereof after determining that, for reasons beyond either CFX or Contractor control, the Contractor is prevented from proceeding with or completing the Work as originally contracted for, and that termination would therefore be in the public interest. Such reasons for termination may include but need not be necessarily limited to, executive orders of the President relating to prosecution of war or national defense, national emergency which creates a serious shortage of Materials, orders from duly constituted authorities relating to energy conservation and restraining order or injunctions obtained by third-party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor.

When the Contract or any portion thereof, is terminated (as aforesaid) before completion of all items of Work in the Contract, payment will be made for the actual number of units or items of Work completed, at the Contract unit price or as mutually agreed for items of Work partially completed. No claims for loss of anticipated profits will be considered.

Reimbursement for mobilization expenses (when not otherwise included in the Contract), including moving Equipment to the job, will be considered where the volume of Work completed is too small to compensate the Contractor for these expenses under the Contract unit prices; the intent being that an equitable settlement will be made with the Contractor.

Acceptable Materials procured by the Contractor for the Work, that have been inspected, tested, and approved by CFX and that are not incorporated in the Work, may be purchased from the Contractor at actual cost, as shown by receipted bills and actual cost records, at such points of delivery as may be designated by CFX.

Termination of the Contract or a portion thereof, under the provisions of this subarticle, shall not relieve the Contractor of Contractor's responsibilities for the completed portion nor shall it relieve Contractor's surety of its obligation for, and concerning any just claims arising out of, the Work performed.

CFX may also, upon seven days written notice to the Contractor, without cause and without prejudice to any other right or remedy of CFX, elect to terminate the Contract. In such case, the Contractor will be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, in accordance with existing pay items;
2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, Materials or Equipment as required by the Contract Documents in connection with uncompleted Work, plus mutually agreeable sums for overhead and profit on such expenses.

The Contractor shall not be paid because loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

6.9.3 Completion of Work by CFX: 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 which are suitable and acceptable 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 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.

#### 6.10 Liquidated Damages for Failure to Complete the Work

6.10.1 Liquidated Damages for Failure to Complete the Work: The Contractor shall pay to CFX liquidated damages in the amount specified in the Special Provisions per calendar day for failure of the Contractor to complete the Work within the Contract time stipulated or within such additional time as may have been granted by CFX.

6.10.2 Determination of Number of Days of Default: Default days shall be counted in calendar days.

6.10.3 Conditions Under Which Liquidated Damages are Imposed: If the Contractor (or in circumstance of the Contractor default, the surety) fails to complete the Work within the Contract time stipulated or within such extra time as may have been granted by CFX, the Contractor (or the surety) shall pay to CFX, not as a penalty but as liquidated damages, the amount due.

6.10.4 Right of Collection: CFX reserves the right, at its sole option, to apply as payment on liquidated damages due any money which is due the Contractor by CFX.



6.10.5 Allowing the Contractor to Finish Work: Allowing the Contractor to continue and to finish the Work or any part of it, after the expiration of the Contract time allowed, including time extensions, shall in no way act as a waiver on the part of CFX of the liquidated damages due under the Contract.

6.10.6 Liability for Liquidated Damages: In the event of default of the Contract and the completion of the Work by CFX, the Contractor and the Contractor's surety shall be liable for the liquidated damages under the Contract. No liquidated damages shall be chargeable for any delay in the final completion of the Work due to any unreasonable action or delay on the part of CFX.

#### 6.11 Release of Contractor's Responsibility

The Contract will be considered completed when all Work has been finally accepted, in writing, by CFX. The Contractor will then be released from further obligation except as set forth in the Public Construction Bond and as provided in subarticle 3.9.5, Recovery Rights Subsequent to Final Payment.

#### 6.12 Recovery of Damages Suffered by Third Parties

In addition to liquidated damages, CFX may recover from the Contractor amounts paid by CFX for damages suffered by third parties unless the failure to timely complete the Work was caused by CFX acts or omissions.

#### 6.13 Express Warranty

The Contractor warrants and guarantees the Work to the full extent provided for in and required by the Contract Documents. Without limiting the foregoing or any other liability or obligation with respect to the Work, the Contractor shall, at its expense and by reason of its express warranty, make good any faulty, defective, or improper parts of the Work discovered within one (1) year from the date of final acceptance of the Project, expressed in writing, by CFX. The Contractor also warrants that all materials furnished hereunder meet the requirements of the Contract Documents and expressly warrants that they are both merchantable and fit for the purpose for which they are to be used under the Contract Documents.

Should any subcontractor or material supplier of Contractor provide an express warranty for its work or materials to the Contractor which is thereafter assigned to CFX or provide a warranty for its work or materials directly to CFX, such warranty shall not preclude CFX from the exercise of any alternative means of relief against Contractor, whether contractual, extra-contractual, statutory, legal or equitable.

END OF SECTION 6

## SECTION 7 - MEASUREMENT AND PAYMENT

### 7.1 Measurement of Quantities

7.1.1 Measurement Standards: Unless otherwise stipulated, all Work completed under the Contract shall be measured by CFX according to United States Standard Measures.

7.1.2 Method of Measurements: All measurements shall be taken horizontally or vertically unless otherwise stipulated in the Specifications.

#### 7.1.3 Determination of Pay Areas:

7.1.3.1 Final Calculation: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is determined by calculation, the lengths and/or widths used in the calculations shall be either 1) the station to station dimensions shown on the Plans, 2) the station to station dimensions actually constructed within the limits designated by CFX or 3) the final dimensions measured along the surface of the completed Work within the neat lines shown on the Plans or designated by CFX. The method or combination of methods of measurement shall be those that reflect, with reasonable accuracy, the actual plane surface area, irrespective of surface and texture details of the finished Work as determined by CFX.

7.1.3.2 Plan Quantity: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is designated to be the plan quantity, the final pay quantity shall be the plan quantity subject to the provisions of subarticle 7.3.2. In general, the plan quantity shall be calculated using lengths based on station to station dimensions and widths based on neat lines shown on the Plans.

7.1.4 Construction Outside Authorized Limits: Except where such Work is performed upon written instruction of CFX, no payment will be made for surfaces constructed over a greater area than authorized or for material moved from outside of slope stakes and lines shown on the Plans.

#### 7.1.5 Truck Requirements:

The Contractor shall certify that all trucks used have a manufacturer's certification or permanent decal showing the truck capacity rounded to the nearest tenth of a cubic yard placed on both sides of the truck. The capacity shall include the truck body only and any side boards added shall not be included in the certified truck body capacity.

7.1.6 Ladders and Instrument Stands for Bridge Construction: To facilitate necessary measurements, the Contractor shall provide substantial ladders to the tops of piers and bents and shall place and move ladders as required by the CEI. For bridges crossing water or marshy areas, the Contractor shall provide fixed stands for instrument mounting and measurements.

## 7.2 Scope of Payments.

### 7.2.1 Items Included in Payment:

Accept the compensation as provided in the Contract as full payment for furnishing all materials and for performing all work contemplated and embraced under the Contract; also for all loss or damage arising out of the nature of the work or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its final acceptance; also for all other costs incurred under the provisions of the General Specifications.

For any item of work contained in the proposal, except as might be specifically provided otherwise in the basis of payment clause for the item, include in the Contract unit price (or lump sum price) for the pay item or items the cost of all labor, equipment, materials, tools, and incidentals required for the complete item of work, including all requirements of the Section specifying such item of work, except as specifically excluded from such payments.

7.2.1.1 Fuels: CFX will, in the Contract Documents, provide an estimated quantity for fuel requirements for gasoline and diesel to cover the work specified in the Contract. Price adjustments will be made only for the amount of gasoline and diesel fuel estimated by CFX as required to complete the Contract. The requirement of each type of fuel for each pay item is estimated by multiplying the CFX standard fuel factor for that pay item by the quantity of that pay item. Price adjustments made for fuel used after expiration of the last allowable Contract Day (including any time extensions) will be limited to the increases or decreases dictated by the index in effect on the last allowable Contract Day. On Contracts with an original Contract Time in excess of 120 calendar days, CFX will make price adjustments on each applicable progress estimate to reflect increases or decreases in the price of gasoline and diesel from those in effect during the month in which bids were received. The Contractor will not be given the option of accepting or rejecting these adjustments. Price adjustments for these fuels will be made only when the current fuel price (CFP) varies by more than 5% from the price published when bids were received (BFP), and then only on the portion that exceeds 5%. For definition purposes, should a project bid prior to the 15<sup>th</sup> of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14<sup>th</sup> of the month, the bid index will be the index for the month of the bid.

Price adjustments will be based on the monthly bulk average price for gas and diesel as derived by the FDOT. These average indexes shall be determined by averaging bulk fuel prices on the first day of each month as quoted by major oil companies that are reasonably expected to furnish fuel for projects in the State of Florida. Average price indices for gasoline and diesel will be available on the FDOT Construction Office website before the 15<sup>th</sup> of each month, at the following URL: [www.dot.state.fl.us/construction/fuel&Bit/Fuel&Bit.htm](http://www.dot.state.fl.us/construction/fuel&Bit/Fuel&Bit.htm).

Payment will be based on the quantities shown on the progress estimate on all items for which established standard fuel factors which are included in the bid documents or, if omitted, are on a file maintained by the FDOT at the time of bid.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for gasoline and diesel in accordance with the following:

When fuel prices have decreased between month of bid and month of this progress estimate:

$A_i = F_i (P_i - .95 P_b)$  during a period of decreasing prices.

$A_i$  = Total dollar amount - positive or negative - of the cost adjustment for each kind of fuel used by the Contractor during the month "i."

$F_i$  = Total gallons calculated as being used during the month (units produced/month x gallons/unit).

$P_i$  = Average price for fuel prevailing during month "i."

$P_b$  = Average price for fuel prevailing during the month "b" when bids were received on this Contract, as defined above

When fuel prices have increased between month of bid and month of this progress estimate:

$A_i = F_i (P_i - 1.05 P_b)$  during a period of increasing prices.

$A_i$  = Total dollar amount - positive or negative - of the cost adjustment for each kind of fuel used by the Contractor during the month "i."

$F_i$  = Total gallons calculated as being used during the month.

Pi = Average price for fuel prevailing during month “i.”

Pb = Average price for fuel prevailing during the month “b” when bids were received on this Contract, as defined above

Payment will be made on the current progress estimate to reflect the index difference at the time work was performed.

Adjustments will be paid or charged to the Contractor only. Contractors receiving an adjustment under this provision shall distribute the proper proportional part of such adjustment to subcontractors who perform applicable work.

7.2.1.2 Bituminous Material: On Contracts having an original Contract Time of more than 365 calendar days, or more than 5,000 tons of asphalt concrete, CFX will adjust the bid unit price for bituminous material, excluding cutback and emulsified asphalt to reflect increases or decreases in the Asphalt Price Index (API) of bituminous material from that in effect on the day on which bids were received. The Contractor will not be given the option of accepting or rejecting this adjustment. Bituminous adjustments will be made only when the current API (CAPI) varies by more than 5% of the API prevailing on the day on which bids were received (BAPI), and then only on the portion that exceeds 5%. For definition purposes, should a project bid prior to the 15<sup>th</sup> of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14<sup>th</sup> of the month, the bid index will be the index for the month of the bid.

CFX will determine the API for each month by checking the FDOT Contracts Office web site which averages quotations in effect on the first day of the month at all terminals that could reasonably be expected to furnish bituminous material to projects in the State of Florida.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for bituminous materials in accordance with the following:

$$\text{\$ Adjustment} = (\text{ID})(\text{Gallons})$$

Where ID = Index Difference = [CAPI - 0.95(BAPI)] when the API has decreased between the month of bid, as defined above, and month of this progress estimate.

Where ID = Index Difference = [CAPI - 1.05(BAPI)] when the API has increased between the month of bid, as defined above, and month of this progress estimate.

Payment will be made on the current progress estimate to reflect the index difference at the time work was performed.

For asphalt concrete items payable by the ton, and not containing Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 6.25% liquid asphalt weighing 8.58 lb/gal. For asphalt concrete items payable by the ton, that do contain Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 5% liquid asphalt weighing 8.58 lb/gal.

Asphalt concrete items payable by the square yard will be converted to equivalent tons assuming a weight of 100 lb/yd<sup>2</sup> per inch.

7.2.1.2 For FC-5 with granite, the number of gallons will be determined assuming a mix design with 5.5% liquid asphalt weighing 8.58 lb/gal.

7.2.2 Non-Duplication of Payment: In cases where the basis of payment clause in these Specifications relating to any unit price in the bid schedule requires that the unit price cover and be considered compensation for certain work or material essential to the item, CFX will not measure or pay for this same work or material under any other pay item that may appear elsewhere in these Specifications.

### 7.3 Compensation for Altered Quantities

7.3.1 General: When a change or combination of changes in the Plans results in an increase or decrease in the original Contract quantities and the Work added or deleted is of the same general character as that shown on the original Plans, the Contractor shall accept payment in full at the original Contract unit prices for the actual quantities of Work done. No allowance will be made for any loss of anticipated profits because of increase or decreases in quantities provided, however, that increased or decreased Work covered by a Supplemental Agreement will be paid for as stipulated in the Supplemental Agreement.

Compensation for alterations in Plans or quantities of Work requiring Supplemental Agreements shall be stipulated in such agreement, except when the Contractor proceeds with the Work without change of price being agreed upon. The Contractor shall be paid for such increased or decreased quantities at the Contract unit prices bid in the Proposal for the items of Work. If no Contract unit price is provided in the Contract, the Contractor agrees to do the Work in accordance with Subarticle 2.3.2 of these General Specifications.

### 7.3.2 Payment Based on Plan Quantity:

7.3.2.1 Error in Plan Quantity: When the pay quantity for an item is designated to be the original plan quantity, such quantity will be revised only in the event that the quantity increases or decreases by more than 5% of the original plan quantity or the amount due for the item increases or decreases by more than \$5,000, whichever is smaller. In general, such revisions will be determined by final measurement or plan calculations (or both) as additions to or deductions from plan quantities. Changes resulting in pay quantity increase or decrease in excess of 25% will be in accordance with the criteria for significant changes as defined in subarticle 2.3.1 of these General Specifications.

If the Contractor determines that the plan quantity for any item is in error and additional or less compensation is due, the Contractor shall submit evidence of such error to CFX in the form of acceptable and verifiable measurements and calculations. Similarly, if CFX determines an error or errors exist, it will make its measurements and calculations available to the Contractor. The plan quantity will not be revised solely on the basis of the Contractor's method of construction.

For earthwork items, the claimant must note any differences in the original ground surfaces from that shown in the original plan cross-sections that would result in a substantial error to the plan quantity, and must be properly documented by appropriate verifiable level notes, acceptable to both the Contractor and CFX, and provide sufficient opportunity to verify the data prior to disturbance of the original ground surface by construction operations. The claimant shall support any claim based upon a substantial error for differences in the original ground surface by documentation as provided above.

7.3.2.2 Authorized Changes in Limits of Work: When the pay quantity for an item is designated to be the original plan quantity and a plan change is authorized resulting in an increase or decrease in the quantity of an item, the plan quantity will be revised accordingly provided that such change will increase or decrease the amount due for more than \$100. In general, such revisions will be determined by final measurement or plan calculations or both, subject to the provisions of Subarticle 2.3.2 of these General Specifications.

7.3.2.3 Specified Adjustments to Pay Quantities: The limitations detailed in Subarticles 7.3.2.1 and 7.3.2.2 do not apply when 1) the Specifications provide that the pay quantity for an item to be paid for on the basis of area of finished Work is to be adjusted according to the ratio of measured thickness to nominal thickness, 2) the Specifications provide for a deduction due to test results falling outside of the allowable specification tolerance or 3) paying for extra length fence posts as detailed in the Standard Specifications Section 550, Fencing, sub article 550-6.3, Payment Rates for Extra-Length Posts.

### 7.3.3 Lump Sum Quantities:

7.3.3.1 Error in Plan Quantity: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated quantity, the lump sum compensation will be adjusted only in the event that either the Contractor submits satisfactory evidence or CFX determines and furnishes satisfactory evidence that the plan quantity shown is substantially in error as defined in 7.3.2.1.

7.3.3.2 Authorized Changes in the Work: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated plan quantity, compensation for that item will be adjusted proportionately when a plan change results in a significant increase or decrease in the quantity from the estimated plan quantity. When the Plans do not show an estimated plan quantity or the Specifications do not provide adjustments for contingencies, any authorized plan changes resulting in a significant increase or decrease in the cost of acceptably completing the item will be compensated for by establishing a new unit price through a Supplemental Agreement as provided in Subarticle 2.3.2. of these General Specifications.

7.3.4 Deviation from Plan Dimensions: If the Contractor fails to construct any item to plan or to authorized dimensions within the specified tolerances, the CEI, at his discretion will: require the Contractor to reconstruct the work to acceptable tolerances at no additional cost to CFX; accept the work and provide the Contractor no pay; or accept the work and provide the Contractor a reduced final pay quantity or reduced unit price. CFX will not make reductions to final pay quantities for those items designated to be paid on the basis of original plan quantity or a lump sum quantity under the provisions of this Article unless such reduction results in an aggregate monetary change per item of more than \$100, except that for earthwork items, the aggregate change must exceed \$5,000 or 5% of the original plan quantity, whichever is smaller. If, in the opinion of the CEI, the Contractor has made a deliberate attempt to take advantage of the construction tolerances as defined in Article 120-12.1 of the Standard Specifications to increase borrow excavation in fill sections or to decrease the required volume of roadway or lateral ditch excavation or embankment, CFX will



take appropriate measurements and will apply reductions in pay quantities. CFX will not use the construction tolerance, as defined in Article 120-12.1, as a pay tolerance. The construction tolerance is not to be construed as defining a revised authorized template.

7.4 Force Account Work: Work performed in addition to that set forth in the original Contract and which is paid for on the basis of actual cost of the Materials and labor, plus a fixed percentage of such costs, and at agreed rental rates for major Equipment used.

7.4.1 Method of Payment: All Work done on a force account basis performed by such labor, tools and Equipment as necessary to accomplish the Work, and authorized by CFX, will be paid for in the following manner:

(a) Labor:

Payment for labor and burden shall be based on actual costs of alteration, change, additional or unforeseen Work, plus a markup of 25%, agreed upon in writing before starting such Work, for every hour that the labor is actually engaged in such Work. Such amount shall be considered as full compensation for general supervision and the furnishing and repairing of small tools used on the Work. Agreed wage rates shall not be in excess of the rates paid for comparable Work on the Project.

(b) Materials and Supplies:

Payment for Materials and supplies, directly related to the alteration, change, additional or unforeseen Work, accepted by CFX and used on the Project shall be based on actual costs of such Materials incorporated into the Work, including Contractor paid transportation charges (exclusive of Equipment as hereinafter set forth), plus a markup of 17.5%. Material is defined as any item used in the Work that remains a part of the Project. The cost of supplies may be the pro-rata portion caused by the alteration, change, additional or unforeseen Work.

(c) Equipment:

The use of each piece of such machinery or Equipment and rental rates must be agreed upon in writing before the force account Work is begun.

Payment for Contractor owned machinery or Equipment (other than small tools) shall be determined as described below, plus a markup of 7.5%. Payment for rented Equipment shall be based on invoice cost plus 7.5%.

The portion of the cost for machinery or Equipment shall be based on the lesser of actual cost or "Rental Rate Blue Book for Construction Equipment" (RRBB) or "Rental Rate Blue Book for Older Construction Equipment" (RRBBOCE) as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at time of bid) using all instructions and adjustments contained therein and as modified below.

On all projects, CFX will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the RRBB and/or RRBBOCE. Allowable Machinery and Equipment Rates will be established as set out below:

- 1.) Reimbursement for the Equipment being operated shall be at a rate of 100% of the RRBB and/or RRBBOCE ownership cost plus 100% of the RRBB and/or RRBBOCE operating costs.
- 2.) Reimbursement for Equipment directed to standby and remain on the project site shall be at 50% of the lesser of the actual rental rate or RRBB and/or RRBBOCE ownership cost only. No more than 8 hours of standby will be paid in a single day.
- 3.) Costs shall be provided on an hourly basis. Hourly rates, for Equipment being operated or on standby, shall be established by dividing the lesser of actual monthly rental rate or the RRBB and/or RRBBOCE monthly rates by 176. The columns, itemizing rates, labeled "Weekly", "Daily" and "Hourly" shall not be used.
- 4.) No additional overhead will be allowed on Equipment costs.

Allowable Hourly Equipment Rate = Monthly Rate/176 x Adjustment Factors x 100%

Allowable Hourly Operating Cost = Hourly Operating Cost x 100%

Allowable Rate Per Hour = Allowable Hourly Equipment Rate + Allowable Hourly Operating Cost

Standby Rate = Allowable Hourly Equipment Rate x 50%

The Monthly Rate is the Basic Machine Rate plus any Attachments. Standby rates will apply when machinery or Equipment is not in operation and is directed by CFX to stand by at the Project site when needed again to complete work and the cost of moving the Equipment will exceed the

accumulated standby cost. Standby rates will not apply to any day the Equipment operates for eight or more hours. Standby payment will be limited to only the number of hours which, when added to the operating time for that day, equals eight hours. Standby payment will not be made on days that are not normally considered workdays on the project.

Transportation to and from the location at which the Equipment will be used will be allowed. If the Equipment requires assembly or disassembly for transport, the time for this will be paid at the rate for standby Equipment.

The markups in 1) through 4) above include all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

(d) Subcontractor Work

The Contractor will be allowed a markup of 10% on the first \$50,000 and a markup of 5% on any amount over \$50,000 on any subcontract directly related to the alteration, change, additional or unforeseen Work. A subcontractor mark-up will be allowed only by the prime Contractor and a first tier subcontractor.

(e) Insurance, Bond and Taxes:

A markup of 1.5% will be allowed on the overall total cost of the alteration, change, additional or unforeseen Work for insurance and bond on the prime Contractor's bond. The markup includes all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

Subcontractors who actually perform the alterations, changes, additional or unforeseen Work will be allowed all markups specified herein.

7.4.2 Records: The compensation as herein provided shall be accepted by the Contractor as payment in full for extra Work done on a force account basis. The Contractor and CFX shall compare records of extra Work done on a force account basis at the end of each day. Copies of these records shall be duplicated by CFX and signed by both CFX and the Contractor.

All claims for extra Work done on a force account basis shall be submitted by the Contractor upon certified statements, to which shall be attached original receipted bills covering the costs of the transportation charges on all Materials used in such Work. However, if Materials used on the force account Work are not specifically

purchased for such Work but are taken from the Contractor's stock, then in lieu of the invoices, the Contractor shall furnish an affidavit certifying that such Materials were taken from Contractor's stock, that the quantity claimed was actually used and that the price and transportation claimed represent actual cost to the Contractor.

7.4.3 Preliminary Order-of-Magnitude Estimate: As a condition precedent to beginning work designated as Force Account, the CEI in coordination with the Contractor will prepare a Preliminary Order-of-Magnitude Estimate of the contemplated work. The purpose of this Preliminary Order-of-Magnitude Estimate is to establish the scope of work, the approach, applicable rates, the estimated duration, and the required documentation necessary to monitor the work for final payment.

7.5 Deleted Work

CFX shall have the right to cancel the portions of the Contract relating to the construction of any acceptable item therein by payment to the Contractor of a fair and equitable amount covering all items of cost incurred prior to the date of cancellation or suspension of the Work by CFX.

7.6 Partial Payments

7.6.1 General: The Contractor will receive partial payments on monthly estimates, based on the amount of Work done or completed (including delivery of certain Materials as specified below) and reflected in the Application for Payment. The monthly payments shall be approximate only and all partial estimates and payments will be subject to correction in the subsequent estimates and the final estimate and payment.

The amount of such payments shall be the total value of the Work done to the date of the estimate based on the quantities and the Contract unit prices less an amount retained and less payments previously made. In addition to other retainage held as may be described elsewhere, the amount retained shall be determined in accordance with the following schedule:

<u>% Contract Amount Completed</u>	<u>Amount Retained</u>
0 to 75	None
75 to 100	10% of value of Work completed exceeding 75% of Contract amount

Contract amount is defined as the original Contract amount as adjusted by approved Supplemental Agreements.

Direct deposit of payments to the Contractor is available. If the Contractor elects to receive direct deposit of payments from CFX, CFX will provide the Contractor with the necessary Automatic Deposit Authorization Agreement form.

7.6.2 Unsatisfactory Payment Record: CFX reserves the right to disqualify the Contractor from bidding on future contracts by CFX if the Contractor's payment record relating to the Work becomes unsatisfactory. The Contractor's surety may also be disqualified from issuing bonds for future contracts by CFX should the surety similarly fail to perform under the terms of the bond.

7.6.3 Withholding Payment for Defective Work: Should any defective Work or Materials be discovered prior to final acceptance or should a reasonable doubt arise prior to final acceptance as to the integrity of any part of the completed Work, payment for such defective or questioned Work will not be allowed until the defect has been remedied and causes of doubt removed.

7.6.4 Partial Payments for Delivery of Certain Materials:

7.6.4.1 General: Partial payments will be allowed for certain Materials stockpiled in approved locations in the vicinity of the Project. For structural steel, precast drainage structures and precast/prestressed concrete elements, where off-site fabrication is required, the term "in the vicinity of the Project" will be interpreted to include a site remote from the Project provided that condition 1) listed below is satisfied.

The following conditions shall apply to all payments for stockpiled Materials:

- 1) There must be reasonable assurance that the stockpiled material will be incorporated into the specific project on which partial payment is made.
- 2) The stockpiled material must be approved as meeting applicable specifications.
- 3) The total quantity for which partial payment is made shall not exceed the estimated total quantity required to complete the project.
- 4) The Contractor shall furnish the CEI with copies of certified invoices to document the value of the materials received. The amount of the partial payment will be determined from invoices for the material up to the unit price in the Contract.

- 5) Delivery charges for materials delivered to the jobsite will be included in partial payments if properly documented.
- 6) Partial payments will not be made for materials which were stockpiled prior to award of the Contract for a project.

7.6.4.2 Partial Payment Amounts: The following partial payment restrictions apply:

- 1) Partial payments less than \$5,000 for any one month will not be processed.
- 2) Partial payments for structural steel and precast/prestressed items will not exceed 85% of the bid price for the item. Partial payments for all other items will not exceed 75% of the bid price of the item in which the material is to be used.
- 3) Partial payment will not be made for aggregate and base course material received after paving or base construction operations begin except when a construction sequence designated by the CEI requires suspension of paving and base construction after the initial paving operations, partial payments will be reinstated until the paving and base construction resumes.

7.6.4.3 Off Site Storage: If the conditions of subarticle 7.6.4.1 are satisfied, partial payments will be allowed for materials stockpiled in approved in-state locations. Additionally, partial payments for materials stockpiled in approved out-of-state locations will be allowed if the conditions of subarticle 7.6.4.1 and the following conditions are met:

- 1) Furnish CFX a Materials Bond stating the supplier guarantees to furnish the material described in the Contract to the Contractor and CFX. Under this bond, the Obligor shall be the material supplier and the Obligees shall be the Contractor and the Central Florida Expressway Authority. The bond shall be in the full dollar amount of the bid price for the materials described in the Contract Documents.
- 2) The following clauses shall be added to the contract between the Contractor and the supplier of the stockpiled materials:

“Notwithstanding anything to the contrary, <supplier> will be liable to the Contractor and the Central Florida Expressway Authority should <supplier> default in the performance of this agreement.”

“Notwithstanding anything to the contrary, this agreement, and the performance bond issued pursuant to this agreement, does not alter, modify, or otherwise change the Contractor’s obligation to furnish the materials described in this agreement to the Central Florida Expressway Authority.”

- 3) The agreement between the Contractor and the supplier of the stockpiled materials shall include provisions that the supplier will store the materials and that such materials are the property of the Contractor.

7.6.5 Certification of Payment to Subcontractors: Prior to receipt of any progress (partial) payment, the Contractor shall certify that all subcontractors having an interest in the Contract have received their pro rata share of previous progress payments from the Contractor for all work completed and Materials furnished the previous period. This certification shall be in the form designated by CFX. The term “subcontractor”, as used herein, shall also include persons or firms furnishing Materials or Equipment incorporated into the Work or stockpiled in the vicinity of the Project for which partial payment has been made by CFX and Work done under Equipment-rental agreements.

On initial payment, the Contractor shall assure that all subcontractors and Materials suppliers having an interest in the Contract receive their share of the payments due. CFX will not make any progress payments after the initial partial payment until the Contractor certifies pro rata shares of the payment out of previous progress payments received by the Contractor have been disbursed to all subcontractors and suppliers having an interest in the Contract, unless the Contractor demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both CFX and the affected subcontractors and suppliers. Contractor shall execute and submit a Certification of Disbursement of Previous Payments form, supplied by CFX, with each payment request after the initial request. Submitting a false or fraudulent certification will result in a determination of default by the Contractor in accordance with Article 6.9.1 of these General Specifications.

7.6.6 Reduction of Payment for Unsatisfactory Services or Products

If any defined action, duty or service, part or product required by the Contract is not performed by the Contractor, the value of such action, duty or service or part thereof will be determined by CFX and deducted from any invoice or monthly billing period claiming such items for payment.

If the action, duty or service, part or product thereof has been completed and is determined to be unsatisfactory by CFX, the Contractor will be notified and given the opportunity to correct any deficiencies within a time certain. Payment (for the unsatisfactory Work) will be withheld by CFX from any invoice or monthly billing period until the Work is determined to be acceptable.

## 7.7 Record of Construction Materials

7.7.1 General: For all construction Materials used in the construction of the Project (except Materials exempted by Subarticle 7.7.2), the Contractor shall preserve for inspection by CFX all invoices and records of the Materials for a period of 3 years from the date of completion of the Project. This requirement shall also apply to Materials purchased by subcontractors. The Contractor shall obtain the invoices and other Materials records from the subcontractors.

Not later than 30 days after the date of final completion of the Project, the Contractor shall furnish to CFX a certification of construction Materials procured for the Project by the Contractor and all subcontractors. The certification shall consist of an affidavit completed on a form furnished by CFX.

7.7.2 Non-Commercial Materials: The requirement to preserve invoices and records of Materials shall not apply to Materials generally classed as non-commercial such as fill Materials local sand, sand-clay or local Materials used as stabilizer.

## 7.8 Disputed Amounts Due Contractor

CFX reserves the right to withhold from the final estimate any disputed amounts between the Contractor and CFX. Release of all other amounts due shall be made as provided in Article 7.9.

## 7.9 Acceptance and Final Payment

When the Work of the Contract has been completed by the Contractor and the final inspection and final acceptance have been given by CFX, a tentative final estimate showing the value of the Work will be prepared by CFX as soon as the necessary measurements and computations can be made, usually within 30 days of final acceptance. All prior estimates and payments will be subject to correction in the final estimate and payment. The Contractor and CFX will have 30 days from the date of the tentative final estimate to resolve any outstanding issues. At the end of the 30 days, CFX will make a written Offer of Final



Payment. Provided that the requirements of A) through J) of this Article have been met, the amount of the Offer of Final Payment, less any sums that may have been deducted or retained under the provisions of the Contract will be paid to the Contractor as soon as practicable.

- A) The Contractor has submitted written acceptance of the balance due, as determined by CFX, as full settlement of the Contractor's account under the Contract and of all claims in connection therewith.

Or, the Contractor shall accept the balance due with the stipulation that acceptance of such payment will not constitute any bar, admission or estoppel or have any effect as to those payments in dispute or the subject of a pending claim between the Contractor and CFX. The Contractor shall define the dispute or pending claim in writing in the form of a qualified acceptance letter with full particulars of all items/issues in dispute including itemized amounts claimed. Failure by the Contractor to provide either a written acceptance letter or qualified acceptance letter within 60 calendar days of the Offer of Final Payment shall constitute full acceptance of the balance due without qualification.

If the Contractor provides a qualified acceptance letter, then the Contractor agrees that a complete claim package in accordance with Article 2.4 of the General Specifications, and limited to the particulars in the qualified acceptance letter, will be provided within 120 calendar days of the Offer of Final Payment. Additionally, the Contractor agrees that any pending or future arbitration must be limited to the particulars in the qualified acceptance letter and must begin within 210 calendar days from the date of the Offer of Final Payment.

- B) The Contractor has properly maintained the Project as specified hereinbefore.
- C) The Contractor has furnished a sworn affidavit to the effect that all bills are paid and no suits are pending (other than those exceptions listed if any) in connection with the Work of the Contract and that the Contractor has not offered or made any gift or gratuity to or made any financial transaction of any nature with, any employee of CFX. Tort liability exceptions, if any, shall be accompanied by evidence of adequate insurance as required in Article 5.11 of these General Specifications.
- D) The surety on the Public Construction Bond has consented (by completion of its portion of the affidavit and surety release) to final payment to the Contractor and agrees that the making of such payment shall not relieve the surety of any of its obligations under the bond.

- E) The Contractor has submitted all mill tests and analysis reports to CFX.
- F) The Contractor has submitted insurance certificates for extended coverage as required by Article 5.11 of these General Specifications.
- G) The Contractor has previously submitted Record Drawings as required by Article 3.3.1 of these General Specifications.
- H) The Contractor has submitted the completed density log book as required by Article 120-10.4.2 of the Technical Specifications.
- I) The Contractor has submitted the final material testing certification as required by Article 105-6 of the Technical Specifications.
- J) The Contractor has submitted all warranties and operation and maintenance manuals required by various Articles and Subarticles of Specifications.

If the Contractor fails to furnish all required Contract Documents listed in B) through J) of this Article within 90 calendar days of the Offer of Final Payment, CFX may deduct from the retainage due the Contractor, \$1,000 for each calendar day beyond the 90 calendar days that the Contractor fails to provide the required Contract Documents.

#### 7.10 Offsetting Payments

If payment of any amount due CFX after settlement or arbitration is not made by the Contractor within 60 days, CFX may, at its sole discretion, offset such amount from payments due the Contractor for Work performed under any other contract with CFX, excluding amounts owed to subcontractors, suppliers and laborers. Offsetting any amount in this manner shall not be considered a breach of the Contract by CFX.

END OF SECTION 7

SECTION 8 – DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE  
(D/M/WBE) PARTICIPATION

- 8.1 General: The Contractor is encouraged to continue to meet or demonstrate the participation objectives could not be met. At any time, CFX's Executive Director may grant a partial or complete waiver of the D/M/WBE objective for the Project due to consideration of property, public safety, and health, including financial impact to CFX.

CFX has provided an exception for the Contractor's failure to meet the participation objective established for this project. The exception requires that the Contractor provide CFX with documentation supporting the Contractor's Good Faith Effort to meet the stated objective. CFX will have the sole and final determination of whether the support documentation provided by the Contractor does, in fact, meet CFX's standard for a Good Faith Effort as detailed in this Section 8. The Contractor shall demonstrate, through documentation, that every reasonable effort has been made to achieve CFX's participation objective. The Contractor shall be responsible for securing proof of the D/M/WBE certification(s) for the proposed subcontractors/suppliers and be able to provide copies of the certification(s) to the CFX's Supplier Diversity Office.

The Contractor shall meet or exceed the commitment stated in the Contractor's D/M/WBE Utilization Summary (page P-6 of the Proposal). Should the Contractor's D/M/WBE participation fall below the approved level for any reason whatsoever, or should the Contractor substitute or self-perform work identified for a D/M/WBE subcontractor/supplier without prior written approval of CFX, the Contractor will be considered by CFX to be in material breach of the Contract. If found in breach of the Contract, the Contractor may be suspended from bidding on and/or participating in any further CFX projects for up to one (1) year as provided in Section 15 of CFX's Supplier Diversity Policy.

Any change in the D/M/WBE Utilization Summary will require prior approval by the CFX Director of Supplier Diversity. Should the Contractor determine that a subcontractor/supplier named in the Utilization Summary is unavailable or cannot perform the work, the Contractor shall request approval of a revised D/M/WBE Utilization Summary. The revised summary shall be submitted, in writing, to the CFX Supplier Diversity Office at 4974 ORL Tower Road, Orlando, Florida 32807, or by facsimile to (407) 690-5011.

The Contractor will not be allowed to perform Work with its forces that has been identified on the Utilization Form to be performed by D/M/WBE firms. If a D/M/WBE subcontractor is unable to successfully perform the Work, the Contractor shall make a Good Faith Effort to replace that firm with another D/M/WBE firm. In evaluating a Contractor's Good Faith Efforts, CFX will consider:

- (1) Whether the Contractor, provided written notice to certified D/M/WBEs performing the type of Work that the Contractor intends to subcontract, advising the D/M/WBEs (a) of the specific Work the Contractor intends to subcontract; and (b) that their interest in the Contract is being solicited;
- (2) Whether the Contractor provided interested D/M/WBEs assistance in reviewing the Contract Plans and Specifications;
- (3) Whether the Contractor assisted interested D/M/WBEs in obtaining any required bonding, lines of credit, or insurance;
- (4) Whether the Contractor's efforts were merely pro forma and given all relevant circumstances, could not reasonably be expected to produce sufficient D/M/WBE participation to meet the objective.

The above list is not intended to be exclusive or exhaustive and CFX will look not only at the different kinds of efforts that the Contractor has made but also the quality, quantity and intensity of these efforts.

## 8.2 Disadvantaged, Minority and Women Owned Businesses - Participation Objective

8.2.1 General: The Contractor shall ensure that D/M/WBE as defined herein will have the maximum opportunity to participate in the performance of subcontracts. In this regard, the Contractor shall take all necessary and reasonable steps to accomplish that result.

8.2.2 Definitions: The following words and phrases shall have the respective meanings set forth below unless a different meaning is plainly required by the context:

- (1) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States or lawfully admitted permanent residents and who are women, Black Americans, Hispanic American, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Individuals in the following groups are presumed to be socially and economically disadvantaged:
  - (a) "Black Americans", which includes persons having origins in any of the black racial groups of Africa;
  - (b) "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;

- (c) “Asian-Pacific Americans”, which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas;
  - (d) “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  - (e) “Asian-Indian Americans”, which includes persons whose origins are from India, Pakistan, and Bangladesh; and
  - (f) “Women”.
- (2) “Joint Venture” means an association of two or more firms to carry out a single business enterprise for which purpose the firms combined their property, money, effects, skills or knowledge.
  - (3) “Certified” means a finding by Orange County, Florida, the City of Orlando, Florida, and Florida Department of Transportation that the business is a bona fide Minority, Women or Disadvantaged owned and operated business.
  - (4) “Independently Owned and Operated” means a business that is not affiliated or associated with the general contractor or prime contractor providing work or services on CFX project(s) or procurement in which the D/M/WBE seeks to participate. Affiliated status may be determined through common ownership, management, employees, facilities, inventory or any other factors, which would prevent or inhibit independent status
  - (5) “Women Business Enterprise” comprises all women. All women business owners will be classified as a Women Business Enterprise.

8.2.3 Specific Requirements: The Contractor shall, among other things, implement techniques to facilitate D/M/WBE participation in contracting activities including, but not limited to:

- 1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations;
- 2. Providing assistance to D/M/WBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance;

3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate;
4. Contacting Minority Contractor Associations, city, and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible D/M/WBE contractors to apply for certification.
5. Meeting with appropriate officials of CFX, including its Supplier Diversity Office, to assist with the Contractor's efforts to locate D/M/WBEs and assist with developing joint ventures, partnering, and mentorship.

8.2.4 Qualified Participation: CFX will count D/M/WBE participation toward meeting D/M/WBE objective as follows:

1. The total dollar value of the contract to be awarded to the certified D/M/WBE will not be counted toward the applicable D/M/WBE objective unless approved by CFX.
2. A portion of the total dollar value of a contract, with an eligible joint venture, equal to the percentage of the ownership and control of the D/M/WBE partner in the joint venture may be counted toward the D/M/WBE objective.
3. Only expenditures to D/M/WBEs that perform a commercially useful function may be counted toward the D/M/WBE objective. A D/M/WBE is considered to perform a commercially useful function when it actually performs and manages at least 51 percent of the work subcontracted to it. To determine whether a D/M/WBE is performing a commercially useful function, CFX will evaluate all relevant factors such as the amount of Work subcontracted and industry practices.
4. Consistent with normal industry practices, a D/M/WBE may enter into subcontracts. If a D/M/WBE subcontracts 50 percent or more of the Work assigned to it, the D/M/WBE shall be presumed not to be performing a commercially useful function.
5. Expenditures for materials and supplies obtained from D/M/WBE suppliers and manufacturers may be counted toward the D/M/WBE objective, provided that the D/M/WBEs assume the actual and contractual responsibility for the provision of the materials and supplies. The percentage allowed toward the D/M/WBE objective is as follows:

- (a) All expenditures to a D/M/WBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale) may be counted toward the D/M/WBE objective.
- (b)
  - 1. A Contractor may count toward its D/M/WBE objective 60 percent of its expenditures for materials and supplies required under a contract and obtained from a D/M/WBE regular dealer, and 100 percent of such expenditures to a D/M/WBE manufacturer.
  - 2. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.
  - 3. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this Section.
- (c) A Contractor may count toward the D/M/WBE objective for the following expenditures to D/M/WBE firm(s) that are not manufacturers or regular dealers:
  - 1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials of supplies required for performance of the Contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.

2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
4. Those sums that, subsequent to the receipt of bids, CFX elects, under the provisions of the Direct Materials Purchase Option, to purchase materials originally proposed by the Contractor to CFX to have been an element of the Work of a certified D/M/WBE contractor/subcontractor/vendor.

8.2.5 Records and Reports: The Contractor shall develop a record keeping system to monitor its D/M/WBE participation and shall maintain the following records:

1. the procedures adopted to comply with these special provisions;
2. The number of subordinated contracts on CFX projects awarded to D/M/WBEs;
3. the dollar value of the contracts awarded to D/M/WBEs;
4. the percentage of the dollar value of all subordinate contracts awarded to D/M/WBEs as a percentage of the total contract amount;
5. a description of the general categories of contracts awarded to D/M/WBEs;
6. the specific efforts employed to identify and award contracts to D/M/WBEs;
7. maintenance of records of payments and monthly reports to CFX;
8. Subcontract Agreement between Contractor and D/M/WBE subcontractors;  
and



9. any other records required by CFX's Project Manager or Executive Director.

The records maintained by the Contractor in accordance with this Section shall be provided to CFX for review within 48 hours of the CFX request. The Contractor shall submit a properly executed D/M/WBE Payment Certification monthly during the life of the D/M/WBE subcontract whether payment is made or not.

### 8.3 Subletting of Contracts - Participation Objective

No request to sublet Work will be approved unless it is in compliance with the Contractor's approved D/M/WBE Utilization Form "Certification of Subcontract Amount to D/M/WBE Contractor", shall be completed and submitted with the Request For Authorization To Sublet Work. One copy of the certification will be attached to each copy of the Request For Authorization To Sublet Work.

END OF SECTION 8

## SECTION 9 - BINDING ARBITRATION

9.1 CFX and the Contractor shall submit any and all unsettled claims, counterclaims, and disputes to the Disputes Review Board (DRB) prior to initiating a demand for arbitration pursuant to this Section.

9.2 No demand for arbitration of any claim, dispute or other matter referred to the DRB initially for decision will be made until after final acceptance, per Article 3.9, of all Contract Work by CFX. The filing party shall pay all applicable fees associated with requested arbitration proceedings.

The failure to demand arbitration within thirty (30) days after final acceptance will result in the DRB's decision being final and binding upon CFX and Contractor.

9.3 Notice of the demand for arbitration is satisfied when it is filed in writing with the other party to the Contract and with the American Arbitration Association (including required fees). A copy will be sent to the Board for information.

9.4 The arbitration shall occur in Orlando, Florida and shall be conducted by a three (3) member panel pursuant to and under the auspices of the Construction Industry Arbitration Rules of the American Arbitration Association.

9.5 Procedure for Binding Arbitration

Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations of this Section. The agreement to arbitrate (and any other agreement or consent to arbitrate entered into in accordance herewith) will be specifically enforceable under the laws of Florida.

Arbitration shall include by consolidation, joinder or in any other manner any person or entity who is not a party to the Contract in circumstances where:

- the inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration, and
- such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings, and
- the written consent of the other person or entity sought to be included and of CFX and Contractor has been obtained for such inclusion, which consent shall make specific reference to this paragraph.

In order to assure complete resolution of any claim or controversy, the Contractor shall provide and require (in the agreements with subcontractors and material suppliers) for joinder in such arbitration proceedings. Therefore, if a claim, dispute or other matter in question between CFX and Contractor involves the work of a Subcontractor, either CFX or Contractor may join such subcontractor as a party to the arbitration. Nothing in this paragraph or in the provision of such subcontract consenting to joinder shall create any claim, right or cause of action in favor of subcontractor or supplier, and against CFX, CEI, or any of their consultants that does not otherwise exist.

In connection with the arbitration proceedings all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

END OF SECTION 9

## SECTION 10- PARTNERING AND DISPUTES RESOLUTION

### 10.1 Partnering

The objective of Partnering is to establish a partnership charter and action plan for the Contractor, CFX and other parties impacted by the activities covered under the Contract to identify and achieve reciprocal goals. These objectives may be met through participation in workshops held periodically throughout the duration of the Contract.

Prior to the pre-construction conference, CFX, the CEI, and the Contractor shall meet and plan an initial partnering/team building workshop. At this planning session, arrangements will be made to select a workshop facilitator, determine attendees, agenda, duration and location. Attendees should include representatives of CFX, the CEI, and other key Project personnel, the Contractor's superintendent and other key personnel as well as others mutually agreed upon by CFX and the Contractor. Additional workshops may be held periodically throughout the duration of the Contract if authorized by CFX.

CFX will arrange for and pay the cost of providing a facilitator and meeting room and for all other direct costs associated with the Partnering workshops. No separate compensation will be paid to the Contractor to attend partnering meetings

### 10.2 Disputes Resolution

#### 10.2.1 Disputes Review Board

A Disputes Review Board ("Board") will be established to assist in the resolution of disputes arising out of the Work on the Project. This document describes the purpose, procedure, function and features of the Board.

The Board will provide special expertise to assist and facilitate the timely and equitable resolution of disputes and controversies between CFX and the Contractor in an effort to avoid construction delays and future claims.

It is not intended for CFX or the Contractor to avoid the normal responsibility to cooperatively and fairly settle differences by indiscriminately requesting dispute resolution by the Board. It is intended the Board encourage CFX and the Contractor to first try resolving potential disputes without resorting to the procedure set forth herein.

The Board will be used only when the claims procedure detailed in the Contract has been followed and has been unsuccessful. It is a condition of the Contract that the parties use the Board. Adherence to the Contract claims procedure is a condition precedent to the submission of a dispute to the Board, and the submission of an unresolved dispute to the Board is, in turn, a condition precedent to arbitration of such issue.

The Board will fairly and impartially consider disputes referred to it. The Board will receive testimony and other relevant evidence regarding such disputes, will analyze the facts within the parameters of the Contract, and will then provide written recommendations (to CFX and Contractor) to assist in the resolution of the disputes. The recommendations of the Board will not be binding on either CFX or the Contractor; however, the Board's recommendations and findings shall be admissible for all purposes in any subsequent arbitration proceedings or the judicial enforcement thereof.

#### 10.2.2 Continuance of Work During Dispute

During the dispute resolution process the Contractor shall conform to the CEI's decision or order and continue with the Work as directed by the CEI in a diligent manner and without delay. Such Work will be governed by all applicable provisions of the Contract. With respect to any protested Work, the Contractor will keep complete records of extra costs and time incurred. Except for sealed Bid Records, the Contractor will permit CEI and the Board access to any records needed for evaluating the dispute, without any claim of privilege or confidentiality.

#### 10.2.3 Disputes Review Board Membership

The Board will consist of three Members, one Member selected by CFX and approved by the Contractor, and one Member selected by the Contractor and approved by CFX. The first two Members will mutually select and agree on the third Member, which third Member shall not be subject to approval by either the Contractor or CFX. Normally, the third Member will act as Chairman for all Board activities. If the third Member declines to act as Chairman, the Members shall select an alternative Chairman. Neither the Contractor nor CFX shall seek to influence the Chairman selection decision.

The Contractor and CFX shall each submit the name and credentials of their proposed Member to the other within ten (10) days of the Contract award. The two Members, upon acceptance, shall meet promptly and mutually agree on the third Member. A Notice to Proceed shall not be issued until the Board Members have been selected and have signed the Three-Party Agreement. All three Members shall attend the Pre-Construction Meeting.

All Board Members shall be experienced with major road and bridge construction and the associated construction methods involved in the Project, in the interpretation of contract documents and in contract dispute resolution. The goal in selecting the third Member is to complement the construction experience of the first two Members and to provide leadership of the Board's activities.

It is imperative that Board Members show no partiality to either the Contractor or CFX, or have any conflict of interest.

The criteria and limitations for membership will be as follows:

- a. The person selected will not have any direct or indirect ownership or financial interest in (i) the Contractor, (ii) CEI or the CFX General Engineering Consultant ("GEC"), (iii) any subcontractor or supplier of the Project, or (iv) the employer of other Board Members.
- b. Except for services as a Board Member on CFX projects, no Member shall have been an employee, contractor or consultant to the Contractor or CFX, CEI, the GEC or any subcontractor or supplier for the Project within a period of ten (10) years prior to the Contract award.
- c. No Member will have had a close personal, professional or business relationship with CFX or the Contractor (or an employee or officer of CFX or the Contractor).
- d. No Member will have had any prior involvement in the Project (other than as a dispute board member) of a nature which could be construed to compromise an ability to impartially resolve disputes.
- e. No Member will be employed by the Contractor, the CEI, the GEC or any subcontractor or supplier of the Project during the term of the Contract, except as a Board Member pursuant to the Three Party Agreement.
- f. During the term of the Contract no discussion or agreement will be made between a Board Member and CFX or Contractor regarding employment after the Contract is completed.
- g. During the term of the Contract, ex-parte communications between a Board Member and a party to the Three Party Agreement is prohibited.

Before appointments are final, the first two prospective Members will submit complete disclosure statements for the approval of both CFX and the Contractor. Each statement (in the form prepared by CFX) will include a statement of experience and a declaration describing all past, present and anticipated or planned future relationships to the Project and with the parties to the Contract. Disclosure of professional or personal relationships with parties to the Contract will be included. The third Board Member will supply a similar statement to the first two Board Members (and to CFX and the Contractor) before the third Member appointment is finalized.

CFX and the Contractor will each select a Member, execute the Three Party Agreement (described below) and assure the Members execute the Three-Party Agreement within the first three (3) weeks after Contract award. CFX and the Contractor will immediately notify the selected Members to begin selection of the third Member. The first two Members will ensure the third Member meets all of the criteria listed above. The third Member will be selected within two (2) weeks after the first two Members are notified to proceed with the selection of the third Member. If there is an impasse in the selection of the third Member, the third Member will be selected by CFX and the Contractor, with the first consideration to the nominees reviewed by the first two Members.

In the event of death, disability or resignation of a Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for whatever other reason a Member fails or is unable to serve, the Chairman (or failing the action of the Chairman, then either of the other Members) shall inform the parties and such non-serving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within fifteen (15) days after the event giving rise to the vacancy on the Board, failing which the replacement shall be made by the two remaining Members of the Board. Replacement shall be considered completed when the new Member executes the Dispute Review Board Three Party Agreement.

#### 10.2.4 Board Operations

The Board will formulate procedures of operation that shall be flexible with respect to the functioning of the Board. The Board may formulate new or revised procedures respecting its operation from time to time to accommodate the needs of the Board and the circumstances.

Each Board Member shall be provided a complete set of the Contract Documents. CFX and the Contractor shall keep the Board informed of construction activity and progress by submitting written progress reports and other relevant data at least monthly. The Board will visit the Project at regular intervals and/or at times of critical construction events and meet with CEI and the Contractor. In circumstances of unresolved disputes, the Board will meet at least monthly until the unresolved disputes are concluded. The frequency of visits will be agreed upon by CFX, the Contractor and the Board, depending upon the progress of the Work.

Regular meetings will be held at the job site. Each meeting will consist of an informal discussion and a field inspection of the Work. The informal discussion will be attended by selected personnel from CFX, the CEI and the Contractor. Agenda for regular meetings of the Board will generally include the following:

- a. Meeting opened by the Chairman of the Board.
- b. Remarks by the CEI.

- c. A description by the CEI and the Contractor of Work accomplished since the last meeting, current status of the Work schedule, schedule for the future, potential problems and proposed solutions to anticipated problems.
- d. Discussion by the CEI of Work schedule, potential new disputes or claims, status of past disputes and claims and other issues.
- e. Set a date for next meeting.

The CEI will prepare minutes of all Board meetings and circulate them for comments, revisions and/or approval by all concerned.

The field inspection will cover all active segments of the Work. The Board will be accompanied by representatives of both the CEI and the Contractor. Soliciting any Board Member's advice or consultation regarding the Work or the Contract is expressly prohibited.

#### 10.2.5 Procedure for Disputes Resolution

Disputes will be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Steps may be omitted as agreed by both parties and the time periods stated below may be shortened in order to hasten resolution.

- a. If either CFX or Contractor object to any decision of the CEI with respect to claims, change order requests, or other actions or orders of the CEI, the objecting party may file a written protest with the CEI within fifteen (15) days after the CEI's disputed decision, action or order. The written protest must clearly state in detail the basis for the objection.
- b. The CEI will consider the written protest to its decision or directive, and make a final decision on the basis of the pertinent Contract provisions, together with the facts and circumstances involved in the protest. The decision will be furnished to CFX and Contractor in writing within fifteen (15) days after receipt of the written protest.
- c. The CEI's decision with respect to the protest will be final, unless a written exception is filed by CFX or Contractor with the CEI within fifteen (15) days after receiving the protest decision. If either rejects the CEI's final decision, the disputed matter may be referred to the Board by either CFX or the Contractor.



- d. Upon receipt by the Board of a written dispute, the Board will first decide when to conduct the hearing. If the matter is not urgent, it may be heard at the next regularly scheduled Board meeting. For an urgent matter, the Board will meet at its earliest convenience.
- e. Either party furnishing written evidence or documentation to the Board will furnish copies of such information to the other party a minimum of fifteen (15) days prior to the date the Board sets to hear the dispute. If the Board requests additional documentation or evidence prior to, during or after the hearing, CFX and/or the Contractor will provide the requested information to the Board and to the other party. Because each side needs a reasonable opportunity to understand and rebut the opposing side's point of view, failure of either party to timely provide written documentation in accordance with this provision shall result in such written documentation being excluded from the hearing before the Board unless the other party consents to its admission or consents to a delay in the hearing.
- f. The Contractor and CFX will each be afforded an opportunity to be heard by the Board and to offer evidence. The Board will consider all relevant evidence presented and analyze the same solely within the parameters of the Contract. Hearsay evidence shall be admissible but shall not be the sole basis for any recommendation of the Board.
- g. The Board's recommendations for resolution of the dispute will be given in writing within fifteen (15) days of completion of the hearing(s). In cases of extreme complexity, both parties may agree to allow additional time for the Board to formulate its recommendations. Generally, the Board will initially focus its attention (in the written report) only to matters of entitlement, and allow the parties to thereafter determine the monetary relief. If both parties request, and sufficient documentation is available, the Board may also make a recommendation of monetary relief, but only after formulation of the entitlement recommendation and only after the parties have attempted to agree upon the monetary relief amount.
- h. If the Board's recommendation for resolution is not unanimous, the dissenting member shall prepare a separate written opinion.
- i. Within fifteen (15) days of receiving the Board's recommendations, both CFX and the Contractor will respond to the other and to the Board in writing, signifying either acceptance or rejection of the Board's recommendations. The failure of a party to respond within the fifteen (15) day period will be deemed an acceptance by such party of the Board's recommendations. If

CFX and the Contractor are able to resolve the dispute (with or without the aid of the Board's recommendations), CFX will promptly process any required Contract changes.

- j. If the dispute remains unresolved because of a bona fide lack of clear understanding of the recommendation, either party may request the Board clarify specific portions of its recommendations. Further, if new evidence becomes available, either party may request the Board reconsider its prior recommendation. Only evidence which did not exist at the time of the hearing, or which existed but which could not be discovered with reasonable and normal diligence shall be considered new evidence.
- k. If the Board's recommendation is rejected, either party may thereafter initiate resolution of the dispute by binding arbitration conducted pursuant to the Contract.

Both CFX and the Contractor should carefully consider the Board's recommendations, as the recommendations are binding unless written notice is provided to the other party within 30 days of the recommendations stating the party's intent to bring the disputed issue to arbitration. However, if the Board's recommendations do not resolve the dispute, all records and written recommendations, including any minority reports, will be admissible for informational purposes in any subsequent dispute resolution procedures. Such informational purposes shall include but not be limited to establishing that the Board considered the dispute, the qualifications of the Board Members, and the Board's recommendation that resulted from the dispute resolution process.

#### 10.2.6 Conduct of Disputes Hearings

Each party shall file three copies of its written arguments with the Board no less than seven days prior to the scheduled hearing and shall simultaneously deliver a copy of such written arguments to the opposing party. Each party shall also submit to the Board along with its written arguments copies of its written evidence and documentation which has been previously provided to the opposing party as provided above.

Normally, the hearing will be conducted at the job site. However, any location more convenient and which provides all required facilities and access to necessary documentation is satisfactory.

While the Board will keep a record of its sessions during consideration of a dispute, the Board will not be required to keep its record in any particular form. The nature and completeness of the record will depend upon the nature and magnitude of the dispute and the desires of the parties. If possible, the hearings shall be kept informal. Formal records of the Board meetings may be taken and transcribed by a court reporter if requested by a party (at the requesting party's cost). Audio and/or video recording of the meeting is discouraged and shall only be made with the prior agreement of all parties and a majority of the Board.

CFX and the Contractor will have representatives at all dispute resolution hearings. The party requesting Board review will first discuss the dispute, followed by the other party. Each party will then be allowed successive rebuttals until all aspects are fully covered to the Board's satisfaction. The Members and the parties may ask questions, request clarification or ask for additional data. In large or complex cases, additional hearings may be necessary in order to consider and fully understand all evidence presented by both parties.

During the hearings, no Member will express any opinion concerning the merit of any facet of the dispute.

After the hearings are concluded, the Board will meet in private to formulate recommendations supported by two or more Members. All Board deliberations will be conducted in private, with individual views kept strictly confidential. No minutes shall be prepared of the Board's private meetings. The Board's recommendations and discussions of its reasoning will be submitted as a written report to both parties. The recommendations will be based on the pertinent Contract provisions and the facts and circumstances involved in the dispute.

The Board will make every effort to reach a unanimous decision. If a unanimous decision is not possible, the dissenting Member may (but is not required to) prepare a minority report.

#### 10.2.7 Compensation

The Contractor shall pay the fees of all three Board Members for services rendered under the Three Party Agreement. An allowance pay item has been established in the Contract for the reimbursing the Contractor. Funds remaining in the pay item, if any, at the completion of the Project will belong to CFX. CFX and the Contractor shall agree on the procedures and method of processing payments made against the allowance. CFX or the CEI will mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services. If the Board desires special services, such as legal consultation, accounting, data research, etc., both parties must agree and the costs will be paid from the allowance.

#### 10.2.8 Three Party Agreement

The Contractor, CFX and the Members of the Board will execute the Dispute Review Board Three Party Agreement within four (4) weeks of the final selection of the third Member.

END OF SECTION 10

**ATTACHMENT A**

**DISPUTES REVIEW BOARD  
THREE PARTY AGREEMENT**

**THIS THREE PARTY AGREEMENT (“Agreement”)** made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”)**, \_\_\_\_\_ (**“Contractor”**) and the **DISPUTES REVIEW BOARD (“Board”)**, consisting of three members: \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ (**“Members”**).

WHEREAS, CFX is now engaged in the construction of the \_\_\_\_\_, and

WHEREAS, the \_\_\_\_\_ contract (“Contract”) provides for the establishment and operation of the Board to assist in resolving disputes and claims.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein (or attached, incorporated and made a part hereof), the parties agree as set forth herein.

**I  
DESCRIPTION OF PURPOSE**

To facilitate resolution of disputes between the Contractor and CFX, CFX has provided (in the Contract) for the establishment of the Board. The function of the Board is to fairly and impartially consider Contract disputes placed before it and provide written recommendations for resolution to both CFX and the Contractor. The Members of the Board shall perform the services designated in Section II, Scope of Work.

**II  
SCOPE OF WORK**

The Scope of Work includes, but is not limited to, the following items:

A. Third Board Member Selection. The first duty of CFX and the Contractor selected Members of the Board is to select the third Member. The third Member shall not have any current financial or employment ties with either the Contractor or CFX. The selection goal is to obtain a third Board Member who will complement the first two by furnishing expertise, leadership and experience to facilitate the Board’s operations. The first two Board Members selected shall proceed with the selection of the third Board Member

upon receiving their appointment. If the first two Members are unable to select a third Member within four (4) weeks, CFX and the Contractor will select the third Member.

B. Procedures. After selecting the third Board Member and prior to considering a dispute, the Board shall establish procedures to govern the conduct of its business and reporting procedures based on the Guidelines, attached as an Appendix to this Agreement. The Board recommendations (resulting from a consideration of a dispute) shall be furnished in writing to CFX and the Contractor. The recommendations shall be based solely on the pertinent Contract provisions and the facts as reasonably determined by the Board. The Board shall have no authority to disregard or unilaterally modify pertinent Contract provisions including, but not necessarily limited to, those provisions pertaining to notices and claims procedures.

C. Furnishing Documents. CFX shall, at the time of each Board Member's appointment, furnish such Member a copy of the Contract. Both CFX and the Contractor shall, no later than seven (7) days prior to the scheduled Board hearing, submit to the Board three copies of all written documents and arguments that such party wishes the Board to consider. Each party shall provide its written documentation to the other side no later than fifteen (15) days prior to the scheduled Board hearing and shall provide a copy of its written argument to the other side no later than seven (7) days before the hearing in order to afford the other side the opportunity to review such documents and prepare any necessary rebuttal for the hearing.

D. Site Visits. The Board shall visit the project site to: (i) keep abreast of construction activities, and (ii) develop a familiarity of the work in progress. The frequency, exact time and duration of visits shall be in accordance with the attached Guidelines or as mutually agreed between CFX, the Contractor and the Board.

In the circumstance of an alleged differing site condition (or specific construction problem), it will be advantageous for the Board to view any relevant conditions. If viewing by the Board would cause delay to the project, photographs and descriptions of conditions collected by either (or both) party will suffice.

E. Board Consideration of Disputes or Claims. Upon receipt by the Board of a written appeal of a dispute (from either the Contractor or CFX) the Board shall convene to review and consider the dispute. CFX, the Contractor and the Board shall determine the time and location of Board meetings. Both CFX and the Contractor shall be given the opportunity to present evidence and argument at such meetings. Absent good cause to the contrary, written evidence shall be limited to that evidence which was previously supplied to both the Board and the other party in accordance with the previous paragraph. Mere negligence in providing such written evidence shall not be considered good cause for its admission.

Hearsay evidence shall be permitted but shall not be the sole basis for any recommendation by the Board. Additionally, Board Members may rely on their personal knowledge based on prior site visits, ongoing document reviews, and general project familiarity. Each party may, but is not required to, submit its proposed recommendations for resolving the dispute to the Board for its consideration.

Board Members are to act impartially and independently in weighing the evidence and in considering the respective positions of the parties within the confines and literal interpretation of the Contract terms. The recommendations concerning any such dispute are advisory and not binding on either party. The Board shall make every effort to reach a unanimous recommendation. If a unanimous recommendation is not possible, the dissenting Member shall prepare a minority report.

The Board's recommendations, together with explanations of its reasoning, shall be submitted as a written report to both parties. The recommendation shall be based solely on the pertinent provisions of the Contract, applicable laws and regulations, and the relevant facts as determined by the Board based upon the evidence presented. It is important for the Board to express, clearly and completely, the logic and reasoning leading to the recommendation so that both parties fully understand the recommendation.

Either CFX or the Contractor may request the Board to reconsider its recommendation. However, reconsideration will only be allowed when there is new evidence to present, or a clarification is required.

F. Miscellaneous Board Responsibilities. In addition to the matters set forth above:

1. The Board Member shall become familiar with the Contract Documents, review periodic reports, and maintain a current file of the project.
2. Except for providing the services required in this Agreement, the Board and its individual Members shall refrain from giving any advice to either party concerning conduct of the work or the resolution of problems. Ex-parte communications between a party and a Board Member are prohibited.
3. The Board shall perform services not specifically listed herein to the extent necessary to achieve the purposes of this Agreement.

G. Board Member Replacement. If the need occurs to appoint a replacement Board Member, the replacement Board Member shall be appointed in the same manner as the original Board Members were appointed. The selection of a replacement Board Member shall begin promptly upon notification of the necessity for a replacement. The Agreement will be supplemented to indicate change in Board membership.

### III CONTRACTOR RESPONSIBILITY

A party shall furnish to each Board Member one copy of all pertinent documents that are or may become necessary for the Board to perform its function. Pertinent documents are any drawings or sketches, calculations, procedures, schedules, estimates or other documents that are used in the performance of the work or in justifying or substantiating the party's position. A copy of such pertinent documents must also be furnished to the other party.

### IV CFX RESPONSIBILITIES

CFX shall furnish the following services and items:

A. Contract Related Documents. CFX shall furnish the Board copies of all Contract Documents, Supplemental Agreements, written instructions issued by the CEI or CFX to the Contractor, or other documents pertinent to the performance of the Contract and necessary for the Board to perform its function.

B. Coordination and Services. CFX (in cooperation with the Contractor) will coordinate the operations of the Board. CFX, through the CEI, will arrange or provide conference facilities at or near the site and provide secretarial and copying services.

### V TIME FOR BEGINNING AND COMPLETION

The Board shall be in operation throughout the term of the Contract and, if needed, for a reasonable post-construction period.

The Board Members shall not begin any work under the terms of this Agreement until authorized by CFX in writing.



## **VI PAYMENT**

The fees and expenses of all three Board Members for services rendered under this Agreement will be an expense to the Contractor with reimbursement under the pay item allowance as provided below. Payment for services of the CFX-appointed, Contractor-appointed, and the third Board Members will be full compensation for work performed or services rendered, and for all expenses, such as food, lodging, travel, telephone, postage etc.

### A. Payment.

Each Board Member will be paid One Thousand Dollars (\$1,000.00) per day for each day the Board meets. This daily rate includes fees and expenses related to membership on the Board. Subsequent changes in the rate must be authorized by a Supplemental Agreement to this Agreement.

B. Inspection of Costs Records. The Board Members shall keep available the cost records and accounts pertaining to this Agreement for inspection by representatives of CFX for a period of three (3) years after final payment. If any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records is completed.

## **VII ASSIGNMENT OF TASKS OF WORK**

Neither the Board nor the Board Members may assign or delegate any of the work of this Agreement.

## **VIII TERMINATION OF AGREEMENT**

With the mutual consent of CFX and the Contractor, this Agreement may be terminated at any time. However, individual Board Members may be terminated with or without cause, but only by their original appointer, i.e., CFX may terminate the CFX appointed Member, the Contractor may terminate the Contractor's appointed Member, and the first two Members must agree to terminate the third Member.

**IX  
LEGAL RELATIONS**

A. Each Board Member in the performance of duties on the Board is acting in the capacity of an independent agent and not as an employee of either CFX or the Contractor.

B. CFX and the Contractor expressly acknowledge that each Board Member is acting in a capacity intended to facilitate resolution of disputes. Accordingly, to the fullest extent permitted by law, each Board Member shall be accorded quasi-judicial immunity for any actions or decisions associated with the consideration, hearing and recommendation of resolution for disputes referred to the Board.

C. Except for the negligent acts or omissions of a Board Member, or for activities outside of the scope of this Agreement, each Board Member shall be held harmless for any personal or professional liability arising from or related to Board activities. To the fullest extent permitted by law, CFX and the Contractor shall defend and indemnify all Board Members against claims, losses, demands, costs and damages (including reasonable attorney's fees) for bodily injury, property damage or economic loss arising out of or related to Board Members carrying out Board functions. The foregoing indemnity is a joint and several obligations of the Contractor and CFX.

**X  
ARBITRATION, VENUE, APPLICABLE LAW**

Any dispute, claim or controversy between the parties hereto arising out of or related to this Agreement shall be resolved by arbitration. The American Arbitration Association pursuant to its Construction Industry Arbitration Rules shall conduct such arbitration, and the arbitration proceeding shall occur in Orange County, Florida. All questions and issues respecting this Agreement and the arbitration shall be resolved by application of Florida law and the judgment of the arbitration panel shall be enforceable in accordance with the provisions of the Florida Arbitration Code.

**XI  
NO BONUS**

The Contractor and CFX shall not pay and the Members shall not receive any additional commission, percentage, bonus or consideration of any nature (other than the payment provided for in Section VI above) for performance and services under this Agreement.

**XII  
NO CONFLICT**

The Members of the Board agree individually they do not now and during the term of this Agreement will not have any direct or indirect ownership or financial interest in the Contractor, the Engineer of Record for the project, the CEI or any subcontractor or supplier of the project. The

Members of the Board affirm they have not for a period of ten (10) years prior to this Agreement been an employee, Contractor or consultant to the Contractor, the Engineer of Record for this project, the CEI or any subcontractor or supplier of the project, and that during the term of this Agreement they shall not become so employed. During the term of the Agreement no discussion or Agreement will be made between any Board Member and any party to this Agreement for employment after the Contract is completed.

By executing this Agreement the parties mutually agree that the Members of the Board identified herein are qualified and desirable and that the criteria and limitations detailed in subarticles 10.2.3 b and 10.2.3 c of the project General Specifications are satisfied or are hereby waived.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**CFX:**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BOARD:**

**DISPUTES REVIEW BOARD**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**CONTRACTOR:**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **APPENDIX**

### **PROCEDURE GUIDELINES**

#### **1. GENERAL MEETINGS**

General Meetings are defined as those meetings required for the Board to develop a familiarity of the work in progress and keep abreast of construction activities such as progress, status and nature of items in the earlier stages of escalation, changes to personnel, etc. General Meetings shall occur 60days after Notice to Proceed for the Project and every 120days thereafter, or as determined by the parties to be in the best interest of the project. Site visits as described in Subarticle II D above shall be considered General Meetings. Site visits may be coordinated to coincide with, or be replaced by, Board meetings to review disputes brought to the Board by CFX or Contractor.

#### **2. MONTHLY PROJECT DOCUMENT REVIEW**

In an effort to keep the Board closely and concurrently apprised of the progress of the Project, each member of the Board will be provided with copies of Project related documents. These documents may include minutes from progress meetings, schedule updates, CEI's weekly summaries, monthly progress summaries, selected correspondence, Supplemental Agreements to the Contract, Project photos, and any other information that may be requested by the Board or required to answer questions by the Board.

#### **3. REVIEW OF DISPUTES OR CLAIMS BY THE BOARD**

Disputes review meetings shall be at the time and frequency mutually agreed to by CFX and Contractor.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SR 528 MILLING & RESURFACING FROM  
INNOVATION WAY TO DALLAS BOULEVARD  
PROJECT NO. 528-749; CONTRACT NO. 001469

PROPOSAL OF

Preferred Materials, Inc.

(NAME)

1806 33rd Street Suite 150 Orlando, FL 32839

(ADDRESS)

407-343-7445

(TELEPHONE NO.)

Submitted

04/02/2019

Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

We, the undersigned, hereby declare that no person or persons, firm or corporation, other than the undersigned, are interested in this Proposal as principals, and that this Proposal is made without collusion with any person, firm or corporation. We have carefully and to our full satisfaction examined the approved project plans, General Specifications, Technical Specifications, Special Provisions, the form of Contract, and the Bond. We have made a full examination of the location of the proposed work and the sources of supply of materials. The examination of the Contract Documents and Site was conducted in accordance with Item 4., Examination of Contract Documents and Site of the Solicitation's Instructions to Bidders hereby incorporated herein by reference with the same force and effect as though fully set forth herein. We hereby agree to furnish all necessary labor, equipment, and materials, fully understanding that the quantities shown herewith are approximate only, and that we will fully complete all necessary work in accordance with the Plans, General Specifications, Technical Specifications, Special Provisions, Standard Specifications and addenda, if any; and the requirements under them for the prices shown on the Bid Form.

We, the undersigned, further declare that we fully agree and shall comply with Item 8., Substitute and "Or-Equal" Items of the Solicitation's Instructions to Bidders hereby incorporated herein by reference with the same force and effect as though fully set forth herein.

We, the undersigned, further understand and shall comply with subsection 20.055(5), Florida Statutes.

I (we) hereby acknowledge receipt of the following Addenda issued during the bidding period:

Addendum No. 1 Dated 03/14/2019 Bidder and/or Representative Initial MTF

Addendum No. 2 Dated 03/25/2019 Bidder and/or Representative Initial MTF

Addendum No. 3 Dated 03/28/2019 Bidder and/or Representative Initial MTF

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Bidder and/or Representative Initial MTF

Preferred Materials, Inc.

Name of Bidder and/or Representative

If awarded the Contract, the undersigned further agrees to: perform all necessary force account work, as provided for in the General Specifications; execute the Contract within 15 calendar days after the date on which the notice of award has been given; and fully complete all work within 210 calendar days (plus such additional time as may have been granted by CFX).

The undersigned states that it is prequalified by the Florida Department of Transportation under Administrative Rule 14-22, Florida Administrative Code, in in Hot Plant-Mixed Bituminous Course. Prequalification in Pavement Marking is also required; however, prequalification can be satisfied by the certification of the Bidder or by the certification of a subcontractor, a joint venture member or partner.

Copies of all required current Certificates of Qualification in the specified classes of work are attached to the Bid. The undersigned acknowledges that failure to submit the certificates may result in rejection of the Bid and that prequalification is required irrespective of the contract amount.

The undersigned further agrees to furnish a sufficient and satisfactory Public Construction Bond in the sum of not less than 100 percent of the Contract price of the work, as indicated by the approximate quantities shown here, on a bonding company authorized to do business in Florida and acceptable to CFX.

The undersigned acknowledges that the Central Florida Expressway Authority officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with the CFX.

Accompanying this Proposal is a Proposal Guaranty, made payable to the Central Florida Expressway Authority, of not less than five percent (5%) of the total actual bid which guaranty is to be forfeited as liquidated damages if, in case this Proposal is accepted, the undersigned shall fail to execute the attached Contract under the conditions of this proposal; otherwise, said guaranty will be returned to the undersigned upon the delivery of a satisfactory Public Construction Bond.

\*

\*

\*

\*

Preferred Materials, Inc.  
Name of Bidder and/or Representative

I (We), the undersigned, hereby certify that I (we) have carefully examined this proposal after the same was completed, and have verified each item placed thereon; and I (we) agree to indemnify, defend, and hold harmless CFX against any cost, damage, or expense which it may incur or be caused by any error or omission in my (our) preparation of same.

CORPORATION:

JOINT VENTURE:

Preferred Materials, Inc.

\_\_\_\_\_

Principal (Bidder)

By: \_\_\_\_\_

~~President or Vice President & Assistant Secretary~~

Principal (Bidder)

Attest: \_\_\_\_\_

~~Secretary (or Assistant Secretary)  
& Assistant Treasurer~~

By: \_\_\_\_\_

Attorney-in-Fact

(Affix  
Corporate  
Seal)

INDIVIDUAL OR FIRM TRADING AS:

PARTNERSHIP:

\_\_\_\_\_  
Principal (Bidder)

\_\_\_\_\_  
Principal (Bidder)

Signature: \_\_\_\_\_

Individual or Owner

Signature: (1) \_\_\_\_\_

Co-Partner or General Partner

Witness: \_\_\_\_\_

Signature: (2) \_\_\_\_\_

Co-Partner or General Partner

Witness: \_\_\_\_\_

Witness: (1) \_\_\_\_\_

Witness: (1) \_\_\_\_\_

Witness: (2) \_\_\_\_\_

Witness: (2) \_\_\_\_\_

(If Partnership, list names and address of  
each partner on a separate sheet)

**BIDDER MUST EXECUTE THE ATTACHED AFFIDAVIT**



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SR 528 MILLING & RESURFACING FROM  
INNOVATION WAY TO DALLAS BOULEVARD  
PROJECT NO. 528-749; CONTRACT NO. 001469

AFFIDAVIT

This Affidavit, executed by, or on behalf of the person, firm, association, corporation or joint venture submitting the Proposal, shall be sworn to before a person who is authorized by law to administer oaths.

STATE OF Florida COUNTY OF Orange

Before me, the undersigned authority, personally appeared Michael Iapaluccio, who being

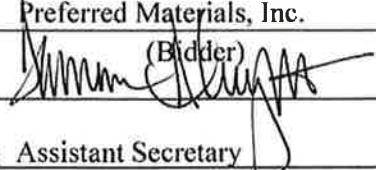
duly sworn, deposes and says he is Vice President & Assistant Secretary  
(Title)

of Preferred Materials, Inc. of Orlando, FL  
(Firm) (City and State)

the bidder submitting the attached Proposal for the work covered by CFX Project No. 528-749 in Orange County, Florida.

The affiant further states that no more than one proposal for the above referenced project will be submitted from the individual, his firm, corporation, or joint venture under the same or different name, and that such bidder has no financial interest in the firm of another bidder for the same work. That he, his firm, association, corporation, or joint venture has neither directly, nor indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this firm's bid on the above-named project. Furthermore, neither he, his firm, corporation, joint venture, nor any officers are debarred from participating in public contract lettings in any other state.

Corporation Must  
affix Seal

Preferred Materials, Inc.  
(Bidder)  
By:   
Title: Assistant Secretary

\*\*\*\*\*

STATE OF Florida

COUNTY OF Orange

The foregoing instrument was acknowledged before me this \_\_\_\_\_, (Date)

by Michael Iapaluccio - Vice President & Assistant Secretary (Name of Officer or agent, title of officer or agent)

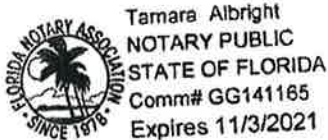
of Preferred Materials, Inc. (Name of Corporation acknowledging)

a Georgia corporation, on behalf of the corporation. He/she is (State or place of incorporation)

personally known to me or has produced 58-1401468 (Type of identification)

as identification and did (did not) take an oath.

[Signature] Notary Public, Commission No. GG141165 (Name of Notary typed, printed or stamped)



Title or Type of Document \_\_\_\_\_ (Optional)

Number of Pages \_\_\_\_\_ Date of Document \_\_\_\_\_ (Optional)

Signer(s) Other than Named Above \_\_\_\_\_ (Optional)

(SEAL ABOVE)

NOTICE: Any evidence of collusion among participating bidders will preclude their recognition as bidders on such job and subjects them to penalties under applicable State and Federal Law, both civil and criminal. CFX will also disqualify such bidders on any work of CFX until such participant shall have been reinstated as a qualified bidder.

\*\*\*\*\*

THE ABOVE FORM OF AFFIDAVIT IS REQUIRED TO BE EXECUTED AND ATTACHED TO EACH BID PROPOSAL FOR THE PROPOSAL TO BE CONSIDERED.

\*\*\*\*\*

Central Florida Expressway Authority  
 DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE (D/M/WBE)  
 UTILIZATION SUMMARY

Prime Contractor: Preferred Materials, Inc.

CFX Project No.: 528-749 Contract Amount \$ 7,826,000.00

Grand Total Anticipated Sublet \$ 3,211,685.05

D/M/WBE Subcontractors (Name Only)	\$ Amount for Objective
Transpremier, LLC	\$ 99,000.00
FCS Industries Corp.	\$ 99,000.00

Total Dollar Amount for D/M/WBE Participation Objective \$ 198,000.00

D/M/WBE Percentage of Total Project 2.53 %

NOTE: Participation Objective may be rounded to the nearest tenth %.

NOTE: If the Participation Objective is not achieved, documentation of Good Faith Efforts must be submitted.

---

FOR USE BY CFX ONLY

Participation Objective Achieved \$ \_\_\_\_\_ % \_\_\_\_\_

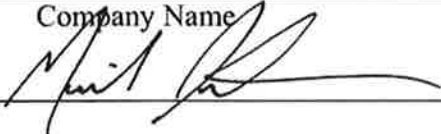
Date \_\_\_\_\_ APPROVED \_\_\_\_\_ DISAPPROVED \_\_\_\_\_

---

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
ACKNOWLEDGMENT OF STANDARD OF CONDUCT AND  
CODE OF ETHICS**

If awarded the Contract, the undersigned covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 and Sections 348.753, and 104.31, as it relates to work performed under the Contract, which standards will by reference be made a part of the Contract as though set forth in full. The undersigned agrees to incorporate the provisions of this requirement in any subcontract into which it might enter with reference to the work performed or services provided.


The undersigned further acknowledges that it has read the CFX Code of Ethics, a copy of which is available on the CFX web site at [www.CFXway.com](http://www.CFXway.com) and, to the extent applicable to the undersigned, agrees to abide with such policy.

Preferred Materials, Inc.  
\_\_\_\_\_  
Company Name  
By: \_\_\_\_\_  
Title: Vice President & Assistant Secretary  
\_\_\_\_\_

(Note: Failure to execute and submit this form may be cause for rejection of the bid as non-responsive.)

**CERTIFICATION REGARDING PROHIBITION AGAINST CONTRACTING WITH COMPANIES PURSUANT TO FLORIDA STATUTE SECTIONS 287.135 AND 215.473**

I hereby certify that neither the undersigned entity, nor any of its wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit, are not participating in a boycott of Israel; on the Scrutinized Companies that Boycott Israel List; the Scrutinized Companies with Activities in Sudan List; the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or do not have business operations in Cuba or Syria.

Preferred Materials, Inc.  
\_\_\_\_\_  
Company Name  
By: \_\_\_\_\_  
Title: Vice President & Assistant Secretary


(Note: Failure to execute and submit this form may be cause for rejection of the bid as non-responsive.)

**CONSENT AGENDA ITEM  
#5**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 1, 2019

SUBJECT: Approval of Contract Award to Preferred Materials, Inc. for SR 528 Milling & Resurfacing from Dallas Boulevard to SR 520  
Project 528-750, Contract No. 001470

---

An Invitation to Bid for the referenced project was advertised on February 24, 2019. Responses to the invitation were received from three (3) contractors by the April 1, 2019 deadline.

Bid results were as follows:

<u>Bidder</u>	<u>Bid Amount</u>
1. Preferred Materials, Inc.	\$7,829,000.00
2. Middlesex Corporation	\$8,131,693.87
3. Hubbard Construction Company	\$9,940,017.43

The engineer's estimate for this project is \$10,898,880.85 and \$14,396,000.00 is included in the Five-Year Work Plan.

The Engineer of Record for Project 528-750 has reviewed the low bid submitted by Preferred Materials, Inc. and determined that the low bid unit prices are not unbalanced.

This project consists of providing all labor, materials, equipment and incidentals necessary to mill and resurface SR 528 from east of Dallas Boulevard to SR 520.

The Procurement Department has evaluated the bids and has determined the bid from Preferred Materials, Inc. to be responsible and responsive to the bidding requirements. Board award of the contract to Preferred Materials, Inc. in the amount of \$7,829,000.00 is recommended.

This project is included in the Five-Year Work Plan.

Reviewed by:   
Ben Dreiling, P.E.  
Director of Construction

4974 ORL TOWER RD. ORLANDO, FL 32807 | PHONE: (407) 690-5000 | FAX: (407) 690-5011

# **CONTRACT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
PREFERRED MATERIALS, INC.**

**SR 528 MILLING & RESURFACING FROM DALLAS  
BOULEVARD TO SR 520**

**PROJECT 528-750  
CONTRACT NO. 001470**

**CONTRACT DATE: APRIL 11, 2019  
CONTRACT AMOUNT: \$7,829,000.00**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

**CONTRACT, MEMORANDUM OF AGREEMENT, GENERAL  
SPECIFICATIONS, TECHNICAL SPECIFICATIONS, SPECIAL  
PROVISIONS, PROPOSAL, ADDENDA, PUBLIC CONSTRUCTION  
BOND AND FORMS**



# **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**CONTRACT, MEMORANDUM OF AGREEMENT, GENERAL SPECIFICATIONS,  
TECHNICAL SPECIFICATIONS, SPECIAL PROVISIONS, PROPOSAL, PUBLIC  
CONSTRUCTION BOND AND FORMS**

**FOR**

**SR 528 MILLING & RESURFACING FROM DALLAS BOULEVARD TO SR 520**

**PROJECT 528-750  
CONTRACT NO. 001470**

**APRIL 2019**

## CONTRACT

This Contract No. 001470 (the "Contract"), made this 11<sup>th</sup> day of April 2019, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and Preferred Materials, Inc., of 1806 33Rd, Suite 150, Orlando, FL. 32839, hereinafter the CONTRACTOR:

WITNESSETH: The CONTRACTOR shall, for the consideration herein mentioned 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 (and under security as set forth in the attached Public Construction Bond) all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed to the satisfaction of the duly authorized representatives of CFX, who shall have at all times full opportunity to inspect the materials furnished and the work done under this Contract.

The work to be done under this Contract includes construction of all items associated with Project 528-750, S.R. 528 Milling and Resurfacing from Dallas Boulevard to SR520, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 210 calendar days. The Contract Amount is \$7,829,000.00. This Contract was awarded by the Governing Board of CFX at its meeting on April 11, 2019.

The Contract Documents consist of:

1. The Contract,
2. The Memorandum of Agreement,
3. The Addenda (if any), modifying the General Specifications, Technical Specifications, Special Provisions, Plans or other Contract Documents,
4. The Plans,
5. The Special Provisions,
6. The Technical Specifications,
7. The General Specifications,
8. The Standard Specifications,
9. The Design Standards, and
10. The Proposal.

In consideration of the foregoing premises, CFX agrees to pay the CONTRACTOR for work performed and materials furnished at the unit and lump sum prices, and under the conditions set forth, in the Proposal.

IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties on the date set forth below.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
Director of Procurement

DATE: \_\_\_\_\_

PREFERRED MATERIALS, INC.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

ATTEST: \_\_\_\_\_ (Seal)

DATE: \_\_\_\_\_

Approved as to form and execution, only.

General Counsel for CFX

\_\_\_\_\_

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# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## GENERAL SPECIFICATIONS

### SECTION 1 - ABBREVIATIONS AND DEFINITIONS

#### 1.1 General

These General Specifications are intended for use on all construction projects awarded by CFX. However, each Article, subarticle or paragraph of the General Specifications may not be relevant or applicable to every project. It is the responsibility of the Contractor to submit to the CEI any questions regarding relevance or applicability of any article or sub-article prior to the Pre-Construction conference. The CEI will respond with a determination which will be binding and final.

#### 1.2 Abbreviations

Whenever in these General Specifications or in other documents pertaining to the Contract the following terms and abbreviations appear, their intent and meaning shall, unless specifically stated otherwise, be interpreted as shown in this Section.

AAN	American Association of Nurserymen, Inc.
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AGC	The Associated General Contractors of America, Inc.
AIA	American Institute of Architects
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
AREA	American Railway Engineering Association
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWS	American Welding Society
AWPA	American Wood Preservers Association
AWWA	American Water Works Association
CRSI	Concrete Reinforcing Steel Institute
FDOT	Florida Department of Transportation
FNGA	Florida Nursery Growers Association
FSS	Federal Specifications and Standards
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
IPCEA	Insulated Power Cable Engineers Association
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code (as recommended by the National Fire Protection Association)
NEMA	National Electrical Manufacturers Association
SSPC	Steel Structures Painting Council

When any of the above abbreviations is followed by a number or letter designation, or combination of numbers or letters, it is understood to designate a specification, test method or other code or recommendation of the particular organization so shown.

### 1.3 Definitions

Wherever used in these General Specifications or in the other Contract Documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof and all genders:

1.3.1 **Article** - The prime subdivision of a Section of the General and/or Technical Specifications.

1.3.2 **Bid** - The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed. All Bids will include a Bid Bond in the amount of 5% of the total bid as a surety to CFX that the Bidder will honor the Bid and enter into a Contract with CFX.

1.3.3 **Bridge** - A structure, including supports, erected over a depression or over an obstruction such as water, highway, railway, or for elevated roadway, for carrying traffic or other moving loads and having a length, measured along the center of the roadway, of more than 20 feet between the inside faces of bridge supports. A multi-span box culvert is considered a bridge when the length between the extreme ends of the openings exceeds 20 feet.

1.3.4 **Calendar Day** - Every day shown on the calendar, ending and beginning at midnight.

1.3.5 **CFX** - The Central Florida Expressway Authority. To avoid unnecessary repetition of expressions, whenever in the General Specifications, Technical Specifications or Special Provisions the term "CFX" is used, it is understood that "or designated representative" is a part of the term unless specifically indicated otherwise. Such designated representative may be the "Engineer", the "CEI", the "Resident Engineer" or other individual or entity identified by CFX and defined herein.

1.3.6 **Construction Engineering & Inspection (CEI) Consultant** - The firm employed by CFX to observe the progress and quality of the Work being performed by the Contractor.

1.3.7 **Consultant** - The Professional Engineer or engineering firm, registered in the State of Florida, under contract to CFX to perform professional services for CFX. The Consultant may be the Engineer of Record or may provide services through and be subcontracted to the Engineer of Record.

1.3.8 **Contract** - The written agreement between CFX and the Contractor setting forth the obligations of the parties thereto including but not limited to, the performance of the Work, the furnishing of labor and materials and the basis of payment.

1.3.9 **Contract Claim (Claim)** - A written demand submitted to CFX by the Contractor in compliance with Article 2.4 of these General Specifications seeking additional monetary compensation, time and/or other adjustments to the Contract, the entitlement or impact of which is disputed by CFX.

1.3.10 **Contract Documents** - The Contract, addenda (which pertain to the Contract Documents), the Memorandum of Agreement, Contractor's Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award), the Notice to Proceed, the Public Construction Bond, these General Specifications, the Technical Specifications, the Standard Specifications, the Contractor's certification required pursuant to Article 3.4 of these General Specifications, the Special Provisions, the Plans, any supplemental agreements required to complete the construction of the Project and elements incorporated by reference including, but not necessarily limited to, the FDOT Design Standards (January 2015 edition).

1.3.11 **Contract Price** - The money payable by CFX to the Contractor for completion of the Work in accordance with the Contract Documents.

1.3.12 **Contract Time** - The number of calendar days allowed for completion of the Work including authorized time extensions.

1.3.13 **Contractor** - The person, firm or corporation with whom CFX has entered into the Contract.

1.3.14 **Controlling Work Items** - The activity or work item on the critical path having the least amount of total float. The controlling item of work will also be referred to as a Critical Activity.

1.3.15 **Culverts** - Any structure not classified as a bridge, which provides an opening under the roadway.

1.3.16 **Delay** - With the exception of the items listed in Subarticle 6.7.3.1 of these General Specifications, any unanticipated event, action, force or factor which extends the Contractor's time of performance of any critical path activity under the Contract. The term delay is intended to cover all such events, actions, forces or factors, whether styled "delay", "disruption", "interference", "impedance", "hindrance" or otherwise, which are beyond the control of and not caused by the Contractor or Contractor's subcontractors, materialmen, suppliers or other agents. This term does not include Extra Work.

1.3.17 **Director of Construction** - Director of Construction, Central Florida Expressway Authority, acting directly or through an authorized representative.

1.3.18 **Engineer** - The term as may be used in various documents is understood to mean CFX or designated representative.

1.3.19 **Engineer of Record** - The professional engineer or engineering firm, contracted with by CFX and registered in the State of Florida, who develops criteria and concept for the Project, performs the analysis and is responsible for the preparation of the plans and specifications.

1.3.20 **Equipment** - The machinery and equipment, together with the necessary supplies for upkeep and maintenance thereof, the tools and all other apparatus necessary for the construction and acceptable completion of the Work.

1.3.21 **Executive Director** - Executive Director, Central Florida Expressway Authority, acting directly or through an authorized representative.

1.3.22 **Extra Work** - Any Work which is required by CFX to be performed and which is not otherwise covered or included in the project by the existing Contract Documents, whether it be in the nature of additional work, altered work, deleted work, work due to differing site conditions or otherwise. This term does not include a "delay".

1.3.23 **Force Account** - Work authorized by CFX and performed in addition to that set forth in the original Contract and is paid on an actual cost basis plus a fixed percent markup and stipulated rental rates for equipment. All costs paid under Force Account will be fully documented and signed by both parties not later than the following work day.

1.3.24 **Holidays** - Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Labor Day; the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Thanksgiving Day; the Friday, Saturday and Sunday immediately following Thanksgiving Day; and December 24 through January 2, inclusive.

1.3.25 **Inspector** - Agent of CFX through the CEI that will record day-to-day activities of construction and advise the Contractor regarding compliance with the Plans and Specifications of the Contract.

1.3.24 **Invitation to Bid** - The invitation by which the Contractor submitted its Bid for the Work.

1.3.26 **Laboratory** - A Testing facility certified with the Florida Department of Transportation.

1.3.25 **Major Item of Work** - Any item of Work having an original Contract value in excess of 5% of the original Contract amount.

1.3.26 **Materials** - Any substances to be incorporated in the Work.

1.3.27 **Median** - The portion of a divided highway or street separating the traveled ways for traffic moving in opposite directions.

1.3.28 **Notice to Proceed** - A written notice given by CFX to the Contractor fixing the latest date on which the Contract Time will commence to run and on which the Contractor shall start to perform the Contractor's obligations under the Contract Documents.

1.3.29 **Plans** - The drawings which show the scope, extent and character of the Work to be furnished and performed by the Contractor and which are referred to in the Contract Documents.

1.3.30 **Project** - The total construction of which the Work to be provided under the Contract Documents may be the whole or a part as indicated elsewhere in the Contract Documents.

1.3.31 **Public Construction Bond** - The security furnished by the Contractor and the surety as a guaranty that the Contractor will fulfill the terms of the Contract in accordance with the Contract Documents and pay all legal debts pertaining to the construction of the Project.

1.3.32 **Resident Project Representative** - The authorized representative of the CEI who may be assigned to the site or any part thereof.

1.3.33 **Right of Way** - The land to which CFX has title or right of use for the road and its structures and appurtenances and for material pits furnished or to be furnished by CFX.

1.3.34 **Roadbed** - That portion of the roadway occupied by the subgrade and shoulders.

1.3.35 **Roadway** - The portion of a highway within the limits of construction.

1.3.36 **Shop Drawings** - All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for the Contractor and submitted by the Contractor to illustrate some portion of the Work.

1.3.37 **Shoulder** - That portion of the roadbed outside the edges of the travel way (or back of curb) and extending to the top of front slopes. The shoulders may be either paved or unpaved.

1.3.38 **Special Provisions** - Specific requirements for the Project not otherwise addressed in the General Specifications, Technical Specifications or Standard Specifications.

1.3.39 **Specialty Engineer** - A Professional Engineer registered in the State of Florida (specifically other than the Engineer of Record or its subcontracted consultant) who undertakes the design and drawing preparation of components, systems or installation methods and equipment for specific portions of the Project Work. The Specialty Engineer may be an employee or officer of the Contractor or a fabricator, an employee or officer of an entity providing components to a fabricator or an independent consultant.

A Specialty Engineer shall be qualified in accordance with the Rules of the Florida Department of Transportation, Chapter 14-75, Florida Administrative Code. Any corporation or partnership, which offers engineering services, must hold a current Certification of Authorization from the Florida State Board of Professional Engineers. Prior approval by CFX is required if the Contractor wishes to use a Specialty Engineer not qualified in accordance with Chapter 14-75. Approval must be received prior to proceeding with the specialty design.

For items of Work not specifically covered by Chapter 14-75, a Specialty Engineer will be considered qualified if he/she has the following qualifications:

- 1) Registration as a Professional Engineer in the State of Florida
- 2) Education and experience necessary to perform the submitted design as required by the Florida Department of Professional Regulation.



1.3.40 **Specifications** - The directions, provisions and requirements contained in the General Specifications, Technical Specifications, Special Provisions and Standard Specifications.

1.3.41 **Standard Specifications** - The FDOT Standard Specifications for Road and Bridge Construction, 2015 edition, Divisions II and III, hereby incorporated by reference and as may be amended in the Technical Specifications and Plans. Division I of the FDOT Standard Specifications is specifically not included in this definition and is not a part of the Contract Documents.

1.3.42 **State** - State of Florida

1.3.43 **Subarticle** - Any headed subdivision of an Article of the General Specifications, Technical Specifications, or Standard Specifications.

1.3.44 **Subgrade** - That portion of the roadbed immediately below the base course or pavement (including below the curb and gutter, valley gutter, shoulder and driveway pavement), the limits of which will ordinarily include those portions of the roadway bed shown in the plans to be constructed to a design bearing value or to be otherwise specially treated. Where no limits are shown in the plans, the subgrade section shall be considered to extend to a depth of 12 inches below the bottom of the base or pavement and outward to 6 inches beyond the base, pavement or curb and gutter.

1.3.45 **Subcontractor** - An individual, firm or corporation having a direct contract with the Contractor or with any other subcontractor for performance of a part of the Work at the site.

1.3.46 **Substantial Completion** - The completion of all pay item Work in their entirety in conjunction with the performance of the inspection for Substantial Completion. As a minimum the following conditions apply;

1. All pay item work is installed and functioning including Supplemental Agreement Work, Force Account, or Extra Work.
2. All disturbed areas have been restored and vegetative growth is emerging including landscaping.
3. All erosion control measures have been taken up, and sediments removed from traps and drainage structures.
4. All pavement areas are complete and final signing and stripping in place.
5. All Signals, Lighting, ITS, and Tolling systems are tested, commissioned, and operating.
6. All roadway appurtenances are installed, intact and functioning such as signs, guardrail, stripping, rumble strips, curbing, sidewalk, etc.
7. All structures such as bridges, walls, barriers, attenuators, overhead trusses, toll buildings, tolling gantries, etc. are in place with their final coatings applied, and devoid of blemishes or graffiti.
8. All temporary traffic control devices are removed, and traffic is using the facility as designed.
9. All testing is complete, and documentation has been received.

The inspection for Substantial Completion may generate a punch list that will be provided to the Contractor within seven (7) calendar days following the conclusion of the inspection. Direction by CFX to open a bridge or roadway or portion thereof does not constitute an acceptance or Substantial Completion of the Project or portion or waive any part of the Contract provisions.

1.3.47 **Substructure** - All of that part of a bridge structure below the bridge seats including the parapets, backwalls and wingwalls of abutments.

1.3.48 **Superintendent** - The Contractor's authorized representative responsible and in charge of the Work.

1.3.49 **Superstructure** - The entire bridge structure above the substructure including anchorage and anchor bolts but excluding the parapets, backwalls, and wingwalls of abutments.

1.3.50 **Supplemental Agreement** - A written agreement between CFX and the Contractor modifying the Contract within the limitations set forth in these specifications.

1.3.51 **Surety** - The corporate body, bound by the Public Construction Bond with and for the Contractor, who agrees to be responsible for acceptable performance of the Work by the Contractor and for payment of all debts pertaining thereto.

1.3.52 **Supplier** - A manufacturer, fabricator, supplier, distributor, materialmen or vendor having a direct contract with the Contractor or with any subcontractor to furnish materials or equipment to be incorporated in the Work by the Contractor or any subcontractor.

1.3.53 **Technical Specifications** - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work associated with road and bridge construction.

1.3.54 **Travel Way** - The portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

1.3.55 **Unilateral Adjustment**- A payment of money or granting of Contract time made to the Contractor by CFX for sums CFX determines to be due to the Contractor for work performed on the project, and whereby the Contractor by acceptance of such payment does not waive any rights the Contractor may otherwise have against CFX for payment of any additional sums the Contractor claims are due for the work.

1.3.56 **Work** - The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work includes and is the result of performing or furnishing labor and furnishings and incorporating materials and equipment into the construction and performing or furnishing services and furnishing documents all as required by the Contract Documents.

**1.3.57 Work Order Allowance** - A monetary amount established by CFX and included in the Contract Price to cover the cost of Work, that may or may not be anticipated, but is not otherwise defined by defined by the Drawings or Specifications. No Work paid for under the Work Order Allowance shall be performed until written authorization is given to the Contractor by CFX. Any amount remaining in the Allowance upon completion and acceptance of the project remains the property of CFX.

END OF SECTION 1

## SECTION 2 - SCOPE OF WORK

### 2.1 Intent of Contract

It is the intent of the Contract Documents to provide for the construction and completion of every detail of the Work described in the Contract Documents. Any labor, documentation, services, Materials, or Equipment that may be reasonably inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result shall be provided whether or not specifically called for, at no additional cost to CFX.

### 2.2 Work Not Covered by the General Specifications

Proposed construction and any contractual requirements not covered by these General Specifications may be covered by notes shown on the Plans or by the Technical Specifications or Special Provisions for the Contract.

### 2.3 Alteration of Plans

2.3.1 General: CFX reserves the right to make, at any time prior to or during the progress of the Work, such increases or decreases in quantities, whether a significant change or not, and such alterations in the details of construction, whether a significant change or not, including but not limited to alteration in the grade or alignment of the road or structure or both, as may be found necessary or desirable by CFX. Such increases, decreases or alterations shall not constitute a breach of Contract, shall not invalidate the Contract, nor release the Surety from any liability arising out of this Contract or the Surety bond. The Contractor agrees to perform the Work, as altered, the same as if it had been part of the original Contract.

The term "significant change" applies only when:

- A) CFX determines that the Work as altered differs materially in kind or nature from that involved or included in the original proposed construction or
- B) A Major Item of Work, as defined in Section 1, is increased in excess of 125% or decreased below 75% of the original Contract quantity. CFX will apply any price adjustment for an increase in quantity only to that portion in excess of 125% of the original Contract item quantity, or in case of a decrease below 75% to the actual amount of work performed, such allowance to be determined in accordance with 2.3.2, below.

In the instance of A) above, the determination by CFX shall be final and shall not be subject to challenge by the Contractor except through the claims procedure as described herein.

- 2.3.2 Increase, Decrease or Alteration in the Work: CFX reserves the right to make alterations in the character of the Work which involve a substantial change in the nature of the design or in the type of construction or which materially increases or decreases the cost or time of performance. Such alteration shall not constitute a breach of Contract, shall not invalidate the Contract or release the Surety.

Notwithstanding that the Contractor shall have no formal right whatsoever to any extra compensation or time extension deemed due by the Contractor for any cause unless and until the Contractor follows the procedures set forth in 2.4.2 for preservation, presentation and resolution of the claim, the Contractor may at any time, after having otherwise timely provided a notice of intent to claim or preliminary time extension request pursuant to 2.4.2, submit to CFX a request for equitable adjustment of compensation or time or other dispute resolution proposal. The Contractor shall in any request for equitable adjustment of compensation, time, or other dispute resolution proposal certify under oath and in writing, in accordance with the formalities required by Florida law, that the request is made in good faith, that any supportive data provided are accurate and complete to the Contractor's best knowledge and belief, and that the amount of the request accurately reflects what the Contractor in good faith believes to be CFX's responsibility. Such certification must be made by an officer or director of the Contractor with the authority to bind the Contractor. Any such certified statements of entitlement and costs shall be subject to the audit provisions set forth in 2.4.14. While the submittal or review of a duly certified request for equitable adjustment shall neither create, modify, nor activate any legal rights or obligations as to the Contractor or CFX, CFX will review the content of any duly certified request for equitable adjustment or other dispute resolution proposal, with any further action or inaction by CFX thereafter being in its sole discretion. Any request for equitable adjustment that fails to fully comply with the certification requirements will not be reviewed by CFX.

The monetary compensation provided for below constitutes full and complete payment for such additional work and the Contractor shall have no right to any additional monetary compensation for any direct or indirect costs or profit for any such additional work beyond that expressly provided below. The Contractor shall be entitled to a time extension only to the extent that the performance of any portion of the additional work is a controlling work item and the performance of such controlling work item actually extends completion of the project due to no fault of the Contractor. All time related costs for actual performance of such additional work are included in the compensation already provided below and any time extension entitlement hereunder will be without additional monetary compensation. The Contractor shall have no right to any monetary

compensation or damages whatsoever for any direct or indirect delay to a controlling work item arising out of or in any way related to the circumstances leading up to or resulting from additional work (but not relating to the actual performance of the additional work, which is paid for as otherwise provided herein), except only as provided for under 2.4.5.3.

2.3.2.1 Allowable Costs for Extra Work: The CEI may direct in writing that extra work be done and, at the CEI's sole discretion, the Contractor will be paid pursuant to an agreed Supplemental Agreement or in the following manner:

- (a) Labor and Burden: The Contractor will receive payment for actual costs of direct labor and burden for the additional or unforeseen work. Labor includes foremen actually engaged in the work; and will not include project supervisory personnel nor necessary on-site clerical staff, except when the additional or unforeseen work is a controlling work item and the performance of such controlling work item actually extends completion of the project due to no fault of the Contractor. Compensation for project supervisory personnel, but in no case higher than a Project Manager's position, shall only be for the pro-rata time such supervisory personnel spent on the contract. In no case shall an officer or director of the Company, nor those persons who own more than 1 % of the Company, be considered as project supervisory personnel, direct labor or foremen hereunder.

\*\*\*\*\* Area Intentionally Left Blank \*\*\*\*\*

Payment for burden shall be limited solely to the following:

Table 2.3.2.1

Item	Rate
FICA	Rate established by Law
FUTA/SUTA	Rate established by Law
Medical Insurance	Actual
Holidays, Sick & Vacation benefits	Actual
Retirement benefits	Actual
Workers Compensation	Rates based on the National Council on Compensation Insurance basic rate tables adjusted by Contractor's actual experience modification factor in effect at the time of the additional work or unforeseen work.
Per Diem	Actual but not to exceed State of Florida's rate
Insurance*	Actual

\*Compensation for Insurance is limited solely to General Liability Coverage and does not include any other insurance coverage (such as, but not limited to, Umbrella Coverage, Automobile Insurance, etc.).

At the pre-construction conference, certify to the CEI the following:

- (1) A listing of on-site clerical staff, supervisory personnel and their pro-rated time assigned to the Contract,
- (2) Actual Rate for items listed in Table 2.3.2.1,
- (3) Existence of employee benefit plan for Holiday, Sick and Vacation benefits and a Retirement Plan, and,
- (4) Payment of Per Diem is a company practice for instances when compensation for Per Diem is requested.

Such certification must be made by an officer or director of the Contractor with authority to bind the Contractor. Timely certification is a condition precedent to any right of the Contractor to recover compensations for such costs, and failure to timely submit the certification will constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to recover such costs. Any subsequent changes shall be certified to the CEI as part of the cost proposal or seven calendar days in advance of performing such extra work.

- (b) **Materials and Supplies:** For materials accepted by the CEI and used on the project, the Contractor will receive the actual cost of such materials incorporated into the work, including Contractor paid transportation charges (exclusive of equipment as hereinafter set forth). For supplies reasonably needed for performing the work, the Contractor will receive the actual cost of such supplies.
  
- (c) **Equipment:** For any machinery or special equipment (other than small tools), including fuel and lubricant, the Contractor will receive 100% of the "Rental Rate Blue Book" for the actual time that such equipment is in operation on the work, and 50% of the "Rental Rate Blue Book" for the time the equipment is directed to standby and remain on the project site, to be calculated as indicated below. The equipment rates will be based on the latest edition (as of the date the work to be performed begins) of the "Rental Rate Blue Book for Construction Equipment" or the "Rental Rate Blue Book for Older Construction Equipment," whichever is applicable, as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at the time of bid), using all instructions and adjustments contained therein and as modified below. On all projects, the CEI will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the Blue Book.

Allowable Equipment Rates will be established as set out below:

(1) Allowable Hourly Equipment Rate = Monthly Rate/176 x Adjustment Factors x 100%.

(2) Allowable Hourly Operating Cost = Hourly Operating Cost x 100%.

(3) Allowable Rate Per Hour = Allowable Hourly Equipment Rate + Allowable Hourly Operating Cost.

(4) Standby Rate = Allowable Hourly Equipment Rate x 50%.

The Monthly Rate is The Basic Machine Rate Plus Any Attachments. Standby rates will apply when equipment is not in operation and is directed by the CEI to standby at the project site when needed again to complete work and the cost of moving the equipment will exceed the accumulated standby cost. Standby rates will not apply on any day the equipment operates for eight or more hours. Standby payment will be limited to only that number of hours which, when added to the operating time for that day equals eight hours. Standby payment will not be made on days that are not normally considered work days on the project.



CFX will allow for the cost of transporting the equipment to and from the location at which it will be used. If the equipment requires assembly or disassembly for transport, CFX will pay for the time to perform this work at the rate for standby equipment.

Equipment may include vehicles utilized only by Labor, as defined above.

- (d) Indirect Costs, Expenses, and Profit: Compensation for all indirect costs, expenses, and profit of the Contractor, including but not limited to overhead of any kind, whether jobsite, field office, division office, regional office, home office, or otherwise, is expressly limited to the greater of either (1) or (2) below:

- (1) Solely a mark-up on the payments in (a) through (c), above in accordance with the corresponding portions of section 7.4.

- (i) Bond: The Contractor will receive compensation for any premium for acquiring a bond for such additional or unforeseen work; provided, however, that such payment for additional bond will only be paid upon presentment to CFX of clear and convincing proof that the Contractor has actually provided and paid for separate bond premiums for such additional or unforeseen work in such amount. Should the Contractor elect to provide subguard coverage in lieu of requiring a bond from a sub, the Contractor shall be entitled to reimbursement for the subguard premium for the added work upon proof of said premium.

- (ii) The Contractor will be allowed a markup of 10% on the first \$50,000 and a markup of 5% on any amount over \$50,000 on any subcontract directly related to the additional or unforeseen work. Any such subcontractor mark-up will be allowed only by the prime Contractor and a first tier subcontractor, and the Contractor must elect the markup for any eligible first tier subcontractor to do so.

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(2) Solely the formula set forth below and only as applied solely as to such number of calendar days of entitlement that are in excess of ten cumulative calendar days as defined below.

$$D = \frac{A \times C}{B}$$

Where A = Original Contract Amount

B = Original Contract Time

C = 8%

D = Average Overhead Per Day

Cumulative Calendar Days is defined as the cumulative total number of calendar days granted for time extension due to delay of a controlling work item caused solely by CFX is, or the cumulative total number of calendar days for which entitlement to a time extension due to delay of a controlling work item caused solely by CFX is otherwise ultimately determined in favor of the Contractor to be.

Further, in the event there are concurrent delays to one or more controlling work items, one or more being caused by CFX and one or more being caused by the Contractor, the Contractor shall be entitled to a time extension for each day that a controlling work item is delayed by CFX but shall have no right to nor receive any monetary compensation for any indirect costs for any days of concurrent delay. No compensation will be paid to the Contractor for any jobsite overhead and other indirect impacts when the total number of calendar days granted for time extension due to delay of a controlling work item is equal to or less than ten calendar days and the Contractor also fully assumes all monetary risk of any and all partial or single calendar day delay periods, due to delay of a controlling work item that when cumulatively totaled together are equal to or less than ten calendar days. All calculations under this provision shall exclude days granted for performing additional work.

2.3.2.2 Subcontracted Work: For work performed by a subcontractor, compensation for the additional or unforeseen work shall be solely limited to as provided for in 2.3.2.1 (a), (b), (c) and (d)(1), with the exception of, in the instance of subcontractor performed work only, the subcontractor may receive compensation for any premium for acquiring a bond for the additional or unforeseen work; provided, however, that such payment for additional subcontractor bond will only be paid upon presentment to CFX of clear and convincing proof that the subcontractor has actually provided and paid for separate bond premiums for such additional or unforeseen work in such amount. The Contractor shall require the subcontractor to provide a certification, in

accordance with 2.3.2.1(a), as part of the cost proposal and provide such to the CEI. Such certification must be made by an officer or director of the subcontractor with authority to bind the subcontractor. Timely certification is a condition precedent to any right of the Contractor to recover compensation for such subcontractor costs, and failure to timely submit the certification will constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to recover such subcontractor costs.

2.3.2.3 No Waiver of Contract: Changes made by CFX will not be considered to waive any of the provisions of the Contract, nor may the Contractor make any claim for loss of anticipated profits because of the changes or by reason of any variation between the approximate quantities and the quantities of Work actually performed. All Work shall be performed as directed by CFX and in accordance with the Contract Documents.

2.3.2.4 Suspensions of Work Ordered by CFX: If the performance of all or any portion of the Work is suspended or delayed by CFX, in writing, for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes additional compensation is due as a result of such suspension or delay, the Contractor shall submit to CFX in writing a request for adjustment within 7 calendar days of receipt of the notice to resume Work. The request shall be complete, set forth all the reasons and support for such adjustment.

CFX will evaluate the Contractor's request. If CFX agrees the cost and/or time required for the performance of the Contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the Contractor, its suppliers or subcontractors at any approved tier (and not caused by weather), CFX will make an adjustment (excluding profit) and modify the Contract in writing accordingly. CFX will notify the Contractor whether an adjustment of the Contract is warranted.

No Contract adjustment will be allowed unless the Contractor has submitted the complete request for adjustment within the time prescribed.

No Contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for, excluded under, or effectively precluded by any other term or condition of the Contract.

2.3.2.5 Conditions Requiring Supplemental Agreement: A Supplemental Agreement will be used to clarify the Plans and Specifications of the Contract; to document quantities that deviate from the original Contract amount; to provide for unforeseen Work, grade changes or alterations in Plans which could not reasonably have been contemplated or foreseen in the original Plans and Specifications; to change the

limits of construction to meet field conditions; to provide a safe and functional connection to an existing pavement; to make the project functionally operational in accordance with the intent of the original Contract and subsequent amendments thereto; to settle Contract claims.

No Work covered by a Supplemental Agreement shall be performed before written authorization is given by CFX. Such written authorization will set forth the prices and other pertinent information and will be promptly reduced to written Contract document form.

2.3.2.6 Unilateral Payments: Unilateral Payments will be used to pay the Contractor for Work performed on the Project when:

- a) The Contractor agrees to perform the Work at an agreed upon cost but refuses to timely execute a Supplemental Agreement so as to allow timely payment for the Work by CFX or,
- b) CFX and the Contractor cannot agree on the cost of the Work and the Contractor refuses to execute a Supplemental Agreement or,
- c) CFX determines it is in the best interest to make a Unilateral Payment for Work CFX directed to be performed in lieu of pursuing a Supplemental Agreement.

2.3.2.7 Extra Work: Alterations, changes, additional or unforeseen Work of the type already provided by the Contract for which there is a Contract Price will be paid for at such Contract price.

Alterations, changes, additional or unforeseen Work having no quantity or price provided in the Contract will be paid at a negotiated price. Where the cost is negotiated, the Contractor shall submit an estimate to CFX in terms of labor, Materials, Equipment, overhead with a time impact analysis and other expenses incurred solely as a result of the alteration, change, additional or unforeseen Work as stipulated in 2.3.2.

Where a price cannot be negotiated for alterations, changes, additional or unforeseen Work having no quantity or price provided in the Contract, payment will be made in accordance with 2.3.2.

- 2.3.3 Connections to Existing Pavements, Drives and Walks: Limits of construction at the beginning and end of the Project are detailed in the Plans and will generally be adhered to; however, where in the opinion of CFX it is necessary to extend the construction in order to make suitable connections to existing pavement, such change may be permitted upon written authorization.

For any connections to existing walks and drives which are necessary although not indicated on the Plans, proper connections shall be made at the direction of CFX in accordance with the FDOT's Design Standards identified in the Contract Documents.

- 2.3.4 Differing Site Conditions: During the progress of the Work, if subsurface or latent conditions are encountered at the site differing materially from those indicated on the Plans or in the Specifications or if unknown physical conditions of an unusual nature (differing materially from those ordinarily encountered and generally recognized as inherent in the Work) are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before they are disturbed and before the affected Work is performed.

Upon written notification from the Contractor, CFX will have the conditions investigated and if it is determined that the conditions differ materially and cause an increase or decrease in the cost or time required for the performance of any Work under the Contract, an adjustment (excluding loss of anticipated profits) will be made and the Contract modified in writing accordingly. CFX will notify the Contractor whether an adjustment of the Contract is warranted.

No Contract adjustment that results in a benefit to the Contractor will be allowed unless the Contractor has provided the required written notice.

No Contract adjustment will be allowed under this clause for any impacts caused to or by any other projects.

- 2.3.5 Changes Affecting Utilities: The Contractor shall be responsible for identifying and assessing any potential impacts to a utility that may be caused by the changes proposed by the Contractor and the Contractor shall, at the time of making the request for change, notify CFX in writing of any such potential impacts to utilities.

CFX approval of a Contractor proposed change does not relieve the Contractor of sole responsibility for all utility impacts, costs, delays or damages, whether direct or indirect, resulting from Contractor initiated changes in the design or construction activities from those in the original Contract, design plans (including traffic control

plans) or other Contract Documents and which effect a change in utility work different from that shown in the utility plans, joint project agreements or utility relocation schedules.

### 2.3.6 Cost Savings Initiative Proposal

2.3.6.1 Intent and Objective: This subarticle applies to any Cost Savings Initiative Proposal (CSIP) that the Contractor initiates and develops for the purpose of refining the Contract to increase cost effectiveness or significantly improve the quality of the end result. Any potential CSIPs being considered by the Contractor shall NOT be discussed at the pre-award meeting, as this meeting is for the sole purpose of discussing the Contractor's bid and the documents on which the bid is based. Subsequent to Contract execution and prior to Contract Time beginning, a mandatory Cost Savings Initiative Workshop will be held for the Contractor and CFX to discuss potential Proposals.

This subarticle does not apply to any CSIP unless the Contractor identifies it at the time of its submission to CFX as a CSIP submitted in accordance with this subarticle.

CFX will consider CSIPs that, in the sole opinion of CFX, will result in net savings to CFX by providing a decrease on the cost of the Contract. Additionally, the CSIP must result in savings without impairing essential functions and characteristics such as safety, service life, reliability, economy of operation, ease of maintenance, aesthetics and necessary standard design features. CFX will not recognize the Contractor's elimination of work, or correction of plan errors that result in a cost reduction as a CSIP.

CFX reserves the right to reject, at its sole discretion, any CSIP submitted that proposes a change in the design of the pavement system or that would require additional right-of-way. Pending CFX's execution of a formal supplemental agreement implementing an approved CSIP, the Contractor shall remain obligated to perform the Work in accordance with the terms of the Contract. CFX is under no obligation to grant time extensions to allow for the time required to develop and review a CSIP.

For potential CSIPs not discussed between Contract Execution and Contract Time beginning, a mandatory concept meeting will be held between CFX and the Contractor to discuss the potential CSIP prior to its development.

2.3.6.2 Data Requirements: As a minimum, the Contractor shall submit the following information with each CSIP:

1. a description of the differences between the existing Contract requirements, including any time extension request, and the proposed change, and the comparative advantages and disadvantages.
2. separate detailed (Labor, Equipment, Material and Subcontract) cost estimates for both the existing Contract requirement and the proposed change. Allocate the above detailed cost estimates by pay item numbers indicating quantity increases or decreases and deleted pay items. Identify additional proposed work not covered by pay items within the Contract, by using pay item numbers in the FDOT Basis of Estimates Manual. In preparing the estimates, include overhead, profit, and bond within pay items in the Contract. Separate pay item(s) for the cost of overhead, profit, and bond will not be allowed.
3. an itemization of the changes, deletions or additions to plan details, plan sheets, design standards and Specifications that are required to implement the CSIP if CFX adopts it. Provide preliminary plan drawings sufficient to describe the proposed changes.
4. engineering or other analysis in sufficient detail to identify and describe specific features of the Contract that must be changed if CFX accepts the CSIP with a proposal as to how the changes can be accomplished and an assessment of their effect on other Project elements. CFX may require that engineering analyses be performed by a Specialty Engineer in the applicable class of work. Support all design changes that result from the CSIP with prints of drawings and computations signed and sealed by the Contractor's Specialty Engineer. Written documentation or drawings shall be provided that clearly delineate the responsibility of the Contractor's Specialty Engineer.
5. the date by which CFX must approve the CSIP to obtain the total estimated cost reduction during the remainder of the Contract, noting any effect on the Contract completion time or delivery schedule.
6. a revised Project schedule that would be followed upon approval of the CSIP. The schedule shall include submittal dates and review time for CFX review.

2.3.6.3 Processing Procedures: The Contractor shall submit five (5) copies of the CSIP to CFX. CFX will process the CSIP expeditiously; however, CFX is not liable for any delay in acting upon a CSIP submitted pursuant to this subarticle. The

Contractor may withdraw, in whole or in part, a CSIP not accepted by CFX within the period specified in the CSIP. CFX is not liable for any CSIP development cost in the case where CFX rejects, or the Contractor withdraws, a CSIP.

CFX is the sole judge of the acceptability of a CSIP and of the estimated net savings in construction costs from the adoption of all or any part of the CSIP. In determining the estimated net savings, CFX reserves the right to disregard the Contract bid prices if, in the judgment of CFX, such prices do not represent a fair measure of the value of the Work to be performed or to be deleted.

Prior to approval, CFX may modify a CSIP, with the concurrence of the Contractor, to make it acceptable. If any modification increases or decreases the net savings resulting from the CSIP, CFX will determine the Contractor's fair share upon the basis of the CSIP as modified and upon final quantities. CFX will compute the net savings by subtracting the revised total cost of all bid items affected by the CSIP from the total cost of the same bid items as represented in the Contract, provided that in the sole judgment of CFX that such bid item prices represent fair measure of the value of the associated work.

Prior to approval of the CSIP that initiates the supplemental agreement, provide acceptable Contract-quality plan sheets revised to show all details consistent with the CSIP design.

2.3.6.4 Computation for Change in Contract Cost Performance: If the CSIP is adopted, the Contractor's share of the net savings as defined hereinafter represents full compensation to the Contractor for the CSIP.

CFX will include its cost to process and implement a CSIP in the estimate.

2.3.6.5 Conditions of Acceptance for Major Design Modifications of Category 2 Bridges: A CSIP that proposes major design modifications of a category 2 bridge, as determined by CFX, shall have the following conditions of acceptance:

1. All bridge plans relating to the CSIP shall undergo an independent peer review conducted by a single independent engineering firm referred to for the purpose of this requirement as the Independent Review Engineer (IRE). The IRE shall not be the originator of the CSIP design and shall be pre-qualified by FDOT in accordance with Rule 14-75, Florida Administrative Code. The independent peer review is intended to be a comprehensive and thorough verification of the original Work, giving assurance that the design is in compliance with all CFX requirements. The IRE's comments, along with the resolution of each comment, shall be submitted to CFX. The IRE shall sign and seal the submittal cover letter stating that all comments have been adequately addressed and the design is in



compliance with CFX's requirements. If there are any unresolved comments, the IRE shall specifically list all unresolved issues in the signed and sealed cover letter.

2. CFX reserves the right to require the Contractor's Specialty Engineer to assume responsibility for the design of the entire structure.

3. New designs and independent peer reviews shall be in compliance with all applicable CFX, FDOT and AASHTO criteria requirements including bridge loading ratings.

2.3.6.6 Sharing Arrangements: If CFX approves a CSIP, the Contractor will receive 50% of the net reduction in the cost of performance of the Contract as determined by the final negotiated agreement between the Contractor and CFX. The net reduction will be determined by subtracting from the savings of the construction costs the reasonable documented engineering costs incurred by the Contractor to design and develop a CSIP and CFX's direct costs for reviewing the CSIP. Contractor's engineering costs will be based on the Specialty Engineer's certified invoice and may include the costs of the IRE. The Contractor's total engineering costs to be subtracted from the savings to determine the net reduction will be limited to 25% of the construction savings and will not include any markup by the Contractor for the costs for engineering services performed by the Contractor.

2.3.6.7 Notice of Intellectual Property Interests and CFX's Future Rights to a CSIP: The Contractor's CSIP submittal shall identify with specificity any and all forms of intellectual property rights that either the Contractor or any officer, shareholder, employee, consultant, or affiliate, of the Contractor, or any other entity who contributed in any measure to the substance of the Contractor's CSIP development, have or may have that are in whole or in part implicated in the CSIP. Such required intellectual property rights notice includes, but is not limited to, disclosure of any: issued patents, copyrights, or licenses; pending patent, copyright or license applications; and any intellectual property right that though not yet issued, applied for or intended to be pursued, could nevertheless otherwise be subsequently the subject of patent, copyright or license protection by the Contractor or others in the future. The notice requirement does not extend to intellectual property rights as to stand-alone or integral components of the CSIP that are already on the FDOT's APL or design standard indexes, or are otherwise generally known in the industry as being subject to patent or copyright protection.

Notwithstanding Article 5.3 of the General Specifications nor any provisions of the Standard Specifications, upon acceptance of the CSIP, the Contractor grants to CFX and its contractors (such grant being expressly limited solely to any and all existing or future CFX construction projects and any other CFX projects that are partially or

wholly funded by or for CFX) a royalty-free and perpetual license under all forms of intellectual property rights to manufacture, to use, to design, to construct, to disclose, to reproduce, to prepare and fully utilize derivative works, to distribute, display and publish, in whole or in part, and to permit others to do any of the above, and to otherwise in any manner and for any purpose whatsoever do anything reasonably necessary to fully utilize any and all aspects of such CSIP on any and all existing and future construction projects and any other CFX projects.

The Contractor shall hold harmless and indemnify CFX and its contractors and others in privity therewith from and against any and all claims, liabilities, other obligations or losses, and reasonable expenses related thereto (including reasonable attorney's fees) which are incurred or are suffered by any breach of the foregoing grants, and regardless of whether such intellectual property rights were or were not disclosed by the Contractor pursuant to the language herein, unless CFX has by express written exception in the CSIP acceptance process specifically released the Contractor from such obligation to hold harmless and indemnify as to one or more disclosed intellectual property rights.

## 2.4 Claims by Contractor

2.4.1 General: When the Contractor deems that extra compensation, or a time extension is due beyond that agreed to by CFX, whether due to delay, additional Work, altered Work, differing site conditions, breach of Contract, or for any other cause, the Contractor shall follow the procedures set forth herein for preservation, presentation and resolution of the claim.

### 2.4.2 Notice of Claim:

2.4.2.1 Claims For Extra Work: Where the Contractor deems that additional compensation or a time extension is due for Work or Materials not expressly provided for in the Contract or which is by written directive expressly ordered by CFX pursuant to 2.3, the Contractor shall notify CFX in writing, including the words "NOTICE OF CLAIM" in the document heading of the intention to make a claim for additional compensation before beginning the Work on which the claim is based, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 6.7.3 within ten (10) calendar days after commencement of a delay. If such notification is not given and CFX is not afforded the opportunity for keeping strict account of actual labor, Materials, Equipment, and time, the Contractor waives the claim for additional compensation or a time extension. Such notice by the Contractor, and the fact that CFX has kept account of the labor, Materials and Equipment, and time, shall not in any way be construed as establishing the validity of the claim or method for computing any compensation or time extension for such claim. Notice of the amount of the claim with supporting data

shall be delivered within sixty days after the start of such occurrence or event (unless CFX allows additional time for the Contractor to submit additional or more accurate data in support of the claim) and shall be accompanied by the Contractor's written statement that the adjustment claimed covers all known amounts to which the Contractor is entitled as a result of said occurrence or event. For any claim or part of a claim that pertains solely to final estimate quantity disputes the Contractor shall submit full and complete claim documentation as described in 2.4.3, as to such final estimate claim dispute issues, within 30 calendar days of the Contractor's receipt of CFX's Offer of Final Payment. Submission of timely notice of intent to file a claim, preliminary time extension request, time extension request, and the claim, together with full and complete claim documentation, are each a condition precedent to the Contractor bringing any arbitration or other formal claims resolution proceeding against CFX for the items and for the sums or time set forth in the Contractor's written claim, and the failure to provide such notice of intent, preliminary time extension request, time extension request, claim and full and complete claim documentation within the time required shall constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to additional compensation or a time extension for such claim.

2.4.2.2 Claims For Delay: Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for Work or Materials not expressly provided for in the Contract (Extra Work) or which is by written directive of CFX expressly ordered by CFX pursuant to 2.3, the Contractor shall submit a written notice of intent to CFX within 48 hours after commencement of a delay to a Work item on the critical path expressly notifying CFX that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 6.7.3 within 48 hours after commencement of a delay to a Work item on the critical path, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's Work by such delay. The timely providing of a written notice of intent or preliminary time extension request to CFX are each a condition precedent to any right on behalf of the Contractor to request additional compensation or an extension of Contract Time for that delay, and the failure of the Contractor to provide such written notice of intent or preliminary time extension request within the time required shall constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to additional compensation or a time extension for that delay. Notice of the amount of the claim with supporting data shall be delivered within sixty days after the start of such occurrence or event (unless CFX allows additional time for the Contractor to submit additional or more accurate data in support of the claim) and shall be accompanied by the Contractor's written statement that the adjustment claimed covers all known amounts to which the Contractor is entitled as a result of said occurrence or event. There shall be no

Contractor entitlement to any monetary compensation or time extension for any delays or delay impacts, whatsoever, that are not related to a Work item on the critical path, and then as to any such delay to such item entitlement to any monetary compensation or time extension shall only be to the extent such is otherwise provided for expressly under 2.3 or 2.4, except that in the instance of delay to an item of Work not on the critical path the Contractor may be compensated for the direct costs of idle labor or Equipment only, at the rates set forth in 2.3, and then only to the extent the Contractor could not reasonably mitigate such idleness. The existence of an accepted schedule, including any required update(s), as stated in Article 6.3.3, is a condition precedent to the Contractor having any right to the granting of an extension of Contract Time arising out of any delay. Contractor failure to have an accepted schedule, including any required update(s), for the period of potential impact, or in the event the currently accepted schedule and applicable update(s) do not accurately reflect the actual status of the project or fail to accurately show the true controlling or non-controlling work activities for the period of potential impact, will result in any entitlement determination as to time or money for such period of potential impact being limited solely to CFX's analysis and identification of the actual controlling or non-controlling work activities. Further, in such instances, CFX's determination as to entitlement as to either time or compensability will be final, unless the Contractor can prove by clear and convincing evidence to a Disputes Review Board that the CFX's determination was without any reasonable factual basis.

2.4.3 Content of Written Claim: As a condition precedent to the Contractor being entitled to additional compensation or a time extension under the Contract for any claim, the Contractor shall submit a written claim to CFX which will include for each individual claim, at a minimum, the following information:

- (a) A detailed factual statement of the claim providing all relevant dates, locations, and items of Work affected and included in each claim;
- (b) The date or dates on which actions or events resulting in the claim occurred or conditions resulting in the claim became evident;
- (c) Identification of all pertinent documents and the substance of any material oral communications relating to such claim and the name of the persons making such material oral communications;
- (d) Identification of the provisions of the Contract which support the claim and a statement of the reasons why such provisions support the claim, or alternatively, the provisions of the Contract which allegedly have been breached and the actions constituting such breach;
- (e) A detailed compilation of the amount of additional compensation sought and a breakdown of the amount sought as follows:
  - (1) documented additional job site labor expenses;
  - (2) documented additional cost of Materials and supplies;

- (3) a list of additional Equipment costs claimed, including each piece of Equipment and the rental rate claimed for each;
  - (4) any other additional direct costs or damages and the documents in support thereof;
  - (5) any additional indirect costs or damages and all documentation in support thereof;
- (f) A detailed compilation of the specific dates and the exact number of calendar days sought for a time extension, the basis for entitlement to time for each day, all documentation of the delay, and a breakout of the number of days claimed for each identified event, circumstance or occurrence.

Further, the Contractor shall be prohibited from amending either the basis of entitlement or the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder, and any arbitration or other formal claims resolution proceeding shall be limited solely to the basis of entitlement and the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder. This shall not, however, preclude the Contractor from withdrawing or reducing any of the basis of entitlement and the amount of any compensation or time stated for any and all issues claimed in the Contractor's written claim submitted hereunder at any time.

2.4.4 Action on Claim: CFX will respond within 30 calendar days of receipt of a complete claim submitted by Contractor in compliance with 2.4.3. Failure by CFX to respond to a claim within 30 calendar days after receipt of a complete claim in compliance with 2.4.3 constitutes a denial of the claim by CFX. If CFX finds the claim or any part thereof to be valid, such partial or whole claim will be allowed and paid for to the extent deemed valid and any time extension granted, if applicable, as provided in the Contract.

2.4.5 Compensation for Extra Work or Delay:

2.4.5.1 Compensation for Extra Work: Notwithstanding anything to the contrary contained in the Contract Documents, the Contractor shall not be entitled to any compensation beyond that provided for in 2.3.2.

2.4.5.2 Compensation for Delay: Notwithstanding anything to the contrary contained in the Contract Documents, the additional compensation set forth in 2.4.5.3 shall be the Contractor's sole monetary remedy for any delay other than to perform extra work caused by CFX unless the delay shall have been caused by acts constituting willful or intentional interference by CFX with the Contractor's performance of the work and then only where such acts continue after Contractor's written notice to CFX of such interference. The parties anticipate that delays may be caused by or arise from any

number of events during the term of the Contract, including, but not limited to, work performed, work deleted, change orders, supplemental agreements, disruptions, differing site conditions, utility conflicts, design changes or defects, time extensions, extra work, right-of-way issues, permitting issues, actions of suppliers, subcontractors or other contractors, actions by third parties, suspensions of work by the CEI pursuant to Article 6.6 of the General Specifications, shop drawing approval process delays, expansion of the physical limits of the project to make it functional, weather, weekends, holidays, special events, suspension of Contract time, or other events, forces or factors sometimes experienced in construction work. Such delays or events and their potential impacts on the performance by the Contractor are specifically contemplated and acknowledged by the parties in entering into this Contract, and shall not be deemed to constitute willful or intentional interference with the Contractor's performance of the work without clear and convincing proof that they were the result of a deliberate act, without reasonable and good-faith basis, and specifically intended to disrupt the Contractor's performance.

2.4.5.3 Compensation for Direct Costs, Indirect Costs, Expenses, and Profit thereon, of or from Delay: For any delay claim, the Contractor shall only be entitled to monetary compensation for the actual idle labor and equipment, and indirect costs, expenses, and profit thereon, as provided for in 2.3.2.1(d) and solely for costs incurred beyond what reasonable mitigation thereof the Contractor could have undertaken.

2.4.6 Mandatory Claim Records: After giving CFX notice of intent to file a claim for Extra Work or delay, the Contractor shall keep daily records of all labor, Materials and Equipment costs incurred for operations affected by the Extra Work or delay. These daily records shall identify each operation affected by the Extra Work or delay and the specific locations where Work is affected by the Extra Work or delay, as nearly as possible. CFX may also keep records of all labor, Materials and Equipment used on the operations affected by the Extra Work or delay. The Contractor shall, once a notice of intent to claim has been timely filed, and not less than weekly thereafter as long as appropriate, provide CFX with a copy of the Contractor's daily records and be likewise entitled to receive a copy of CFX's daily records. The copies of daily records to be provided hereunder shall be provided at no cost to the recipient.

2.4.7 Claims For Acceleration: CFX shall have no liability for any constructive acceleration of the Work, nor shall the Contractor have any right to make any claim for constructive acceleration nor include the same as an element of any claim the Contractor may otherwise submit under this Contract. If CFX gives express written direction for the Contractor to accelerate its efforts, such written direction will set forth the prices and other pertinent information and will be reduced to a written Contract Document promptly. No payment will be made on a Supplemental Agreement for acceleration prior to CFX's approval of the documents.

2.4.8 Certificate of Claim: When submitting any claim, the Contractor shall certify under oath and in writing, in accordance with the formalities required by Florida law, that the claim is made in good faith, that the supportive data are accurate and complete to the Contractor's best knowledge and belief, and that the amount of the claim accurately reflects what the Contractor in good faith believes to be CFX's liability. Such certification must be made by an officer or director of the Contractor with the authority to bind the Contractor.

2.4.9 Non-Recoverable Items: The parties agree that for any claim CFX will not have liability for the following items of damages or expense:

- a. Loss of profit, incentives, or bonuses;
- b. Any claim for other than Extra Work or delay;
- c. Consequential damages including, but not limited to, loss of bonding capacity, loss of bidding opportunities, loss of credit standing, cost of financing, interest paid, loss of other work or insolvency;
- d. Acceleration costs and expenses, except where CFX has expressly and specifically directed the Contractor in writing "to accelerate at CFX's expense";
- e. Attorney fees except in accordance with 3.12, claims preparation expenses and costs of litigation.

2.4.10 Exclusive Remedies: Notwithstanding any other provision of the Contract, the parties agree that CFX shall have no liability to the Contractor for expenses, costs, or items of damages other than those which are specifically identified as payable under 2.4. In the event of any formal claims resolution process for additional compensation, whether on account of delay, acceleration, breach of Contract, or otherwise, the Contractor agrees that CFX's liability will be limited to those items which are specifically identified as payable in 2.4.

2.4.11 Settlement Discussions: The content of any discussions or meetings held between CFX and the Contractor to settle or resolve any claims submitted by the Contractor against CFX shall be inadmissible in any legal, equitable, arbitration or administrative proceedings, including the Disputes Review Board, brought by the Contractor against CFX for payment of such claim. Dispute Review Board proceedings are not settlement discussions, for purposes of this provision.

2.4.12 Personal Liability of Public Officials: In carrying out any of the provisions of the Contract or in exercising any power or authority granted to the Central Florida Expressway Authority, its employees, members, officers, agents, consultants and successors, there shall be no liability of any employee, officer, official agent or consultant of CFX either personally or as officials or representatives of CFX. It is understood that in all such matters such individuals act solely as agents and representatives of CFX.

2.4.13 Auditing of Claims: All claims filed against CFX shall be subject to audit at any time following the filing of the claim, whether or not such claim is part of a suit pending in the Courts of the State of Florida. The audit may be performed at CFX's sole discretion by employees of CFX or by any independent auditor appointed by CFX, or both. The audit may begin after ten days written notice to the Contractor, subcontractor, or supplier. The Contractor, subcontractor, or supplier shall make a good faith effort to cooperate with the auditors. As a condition precedent to recovery on any claim, the Contractor, subcontractor, or supplier must retain sufficient records, and provide full and reasonable access to such records to allow the CFX auditors to verify the claim. Failure to retain sufficient records of the claim or failure to provide full and reasonable access to such records shall constitute a waiver of that portion of such claim that cannot be verified and shall bar recovery thereunder. Further, and in addition to such audit access, upon the Contractor submitting a written claim, CFX shall have the right to request and receive, and the Contractor shall have the affirmative obligation to provide to CFX, copies of any and all documents in the possession of the Contractor or its subcontractors, materialmen or suppliers as may be deemed relevant by CFX in its review of the basis, validity or value of the Contractor's claim.

Without limiting the generality of the foregoing, the Contractor shall upon written request of CFX make available to CFX auditors, or upon CFX's written request for copies, provide copies at CFX's expense, any or all of the following documents:

1. Daily time sheets and superintendent's daily reports and diaries;
2. Insurance, welfare and benefits records;
3. Payroll registers;
4. Earnings records;
5. Payroll tax returns;
6. Materials invoices, purchase orders, and all Materials and supply acquisition contracts;
7. Materials cost distribution worksheets;
8. Equipment records (list of company owned, rented or other Equipment used)
9. Vendor rental agreements and subcontractor invoices;
10. Subcontractor payment certificates;
11. Canceled checks for the project, including payroll and vendors;
12. Job cost reports;
13. Job payroll ledgers;
14. General ledger, general journal, (if used) and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in these ledgers and journals;
15. Cash disbursements journal;
16. Financial statements for all years reflecting the operations on the Project;
17. Income tax returns for all years reflecting the operations on the Project;
18. All documents which reflect the Contractor's actual profit and overhead during the years the Contract was being performed and for each of the five years prior to the commencement of the Contract;



19. All documents related to the preparation of the Contractor's bid including the final calculations on which the bid was based;
20. All documents that relate to each and every claim together with all documents which support the amount of damages as to each claim;
21. Worksheets used to prepare the claim establishing the cost components for items of the claim including, but not limited to, labor, benefits and insurance, Materials, Equipment, subcontractors, and all documents that establish which time periods and individuals were involved, and the hours and rates for such individuals.
22. Electronic Payment Transfers and like records

## 2.5 Unforeseeable Work

When Work is required which is not covered by a price in the Contract and such Work does not constitute a "significant change" as defined in 2.3.1, and such Work is found essential to the satisfactory completion of the Contract within its intended scope, an adjustment will be made to the Contract. The basis of payment for such adjustment will be in an amount as CFX may determine to be fair and equitable.

## 2.6 Right To and Use of Materials Found at the Site of the Work

2.6.1 Ownership and Disposal of Existing Materials: Except as might be stipulated or implied otherwise on the Plans or in the Specifications, all Materials which are not the property of other parties (in both roadway and structures) found on the right of way and all material in structures removed by the Contractor, shall become the property of the Contractor and shall be properly disposed of by the Contractor. Such Materials shall not include earth or other excavated material required for the construction of the Project. Materials from existing structures required to be removed and which are designated to remain the property of CFX may generally be used by the Contractor during construction. Such material shall not be cut or otherwise damaged during removal unless permission is given and shall subsequently be stored in an accessible location if so directed by CFX.

2.6.2 Ornamental Trees and Shrubs: Any ornamental trees or shrubs existing in the right-of-way (which are required to be removed for the construction operations and which are not specifically designated on the Plans to be reset or to be removed by others prior to the construction operations) shall remain the property of CFX, and shall be relocated by the Contractor as directed. The Contractor shall be fully responsible for maintaining in good condition all grass plots, trees and shrubs outside the limits of construction as shown on the Plans. Tree limbs that interfere with Equipment operation and are approved for pruning shall be neatly trimmed and the tree cut coated with tree paint.

## 2.7 Restoration of Right of Way

Areas outside the Project limits within CFX right of way used as a plant site be shaped and dressed so as not to present an objectionable appearance and grassed. The Work of grassing will not be paid for separately but will be considered incidental to the other items of Work for which payment is made. Property outside CFX's right of way that is damaged due to the activities of the Contractor shall be immediately restored, at Contractor's expense, to a condition similar or equal to that existing before such damage or injury was done by the Contractor.

Upon completion of the Work and before final acceptance and final payment will be made, the Contractor shall remove from the right of way and adjacent property all falsework, Equipment, surplus and discarded Materials, rubbish and temporary structures; shall restore in an acceptable manner all property, both public and private, which has been damaged during the prosecution of the Work, and shall leave the roadway in a neat and presentable condition throughout the entire length of the Work under the Contract. The placing of Materials of any character, rubbish or Equipment, on abutting property, with or without the consent of the property owners, shall not constitute satisfactory disposal. However, the Contractor will be allowed to temporarily store Equipment, surplus Materials, usable forms, etc., on a well-kept site owned or leased by the Contractor, adjacent to the Project, but no discarded Equipment or Materials or rubbish shall be placed on such site.

END OF SECTION 2

## SECTION 3 - CONTROL OF WORK

### 3.1 Plans and Working Drawings

3.1.1 Plans and Contract Documents: The Contractor will be supplied, without charge, one (1) set of Plans and Contract Documents on electronic media and one (1) hard copy set of "Approved for Construction" documents including the Plans, General Specifications, Technical Specifications and Special Provisions and addenda, if any. Copies of the FDOT Standard Specifications and Design Standards are available from the FDOT.

3.1.2 CFX Plans: The Plans furnished by CFX consist of general drawings showing such details as are necessary to give a comprehensive idea of the construction contemplated. Roadway plans will show in general, alignment, profile grades, typical cross sections and general cross sections. Structure plans, in general, will show in detail all dimensions of the Work contemplated. When the structure plans do not show the dimensions in detail, they will show general features and such details as are necessary to give a comprehensive idea of the structure.

Grades shown are finished grades and B.M. Datum is National Geodetic Vertical Datum of 1929 (NGVD-1929), North American Vertical Datum 1988 (NAVD-1988), or other datum as noted in the Plans.

3.1.3 Alterations in the Plans: All authorized alterations affecting the requirements and information given on the approved Plans shall be in writing. No changes shall be made on any plan or drawing after its approval by CFX, except by direction of CFX.

#### 3.1.4 Shop Drawings

##### 3.1.4.1. Definitions:

(a) Shop Drawings include all working, shop and erection drawings, associated trade literature, calculations, schedules, manuals or similar documents submitted by the Contractor to define some portion of the Work. The type of Work includes both permanent and temporary Work.

(b) Permanent Work is the term deemed to include all the permanent structure and parts thereof required of the completed Contract.

(c) Temporary Work is the term deemed to include any temporary construction work necessary for the construction of the permanent Work. This includes falsework, formwork, scaffolding, shoring, temporary earthworks, sheeting, cofferdams, special erection Equipment and the like.

(d) Construction Affecting Public Safety applies to construction that may jeopardize public safety such as structures spanning functioning vehicular roadways, pedestrian walkways, railroads, navigation channels, navigable waterways and walls or other structure's foundations located in embankments immediately adjacent to functioning roadways. It does not apply to those areas of the site under the Contractor's control and outside the limits of normal public access.

(e) Major and unusual structures include bridges of complex geometry and/or complex design. Generally, this includes the following types of structures:

Bridges with an individual span longer than 300 feet.

Structurally continuous superstructures with spans over 50 feet.

Steel box and plate girder bridges.

Steel truss bridges.

Concrete segmental and longitudinally post-tensioned continuous girder bridges.

Cable stayed or suspension bridges.

Curved girder bridges.

Arch bridges.

Tunnels.

Movable bridges (specifically electrical and mechanical components).

Rehabilitation, widening or lengthening of any of the above.

(f) Special Erection Equipment includes launching gantries, beam and winch Equipment, form travelers, stability towers, strongbacks, erection trusses, launching noses or similar items made purposely for construction of the structure. It does not apply to commonly available proprietary construction Equipment such as cranes.

(g) Falsework includes any temporary construction Work used to support the permanent structure until it becomes self-supporting. Falsework includes steel or timber beams, girders, columns, piles and foundations and any proprietary Equipment including modular shoring frames, post shores and adjustable horizontal shoring.

(h) Formwork includes any temporary structure or mold used to retain plastic or fluid concrete in its designated shape until it hardens. Formwork comprises common materials such as wood or metal sheets, battens, soldiers and walers, ties, proprietary forming systems such as stay-in-place metal forms, and proprietary supporting bolts, hangers and brackets.

(i) Scaffolding is an elevated work platform used to support workmen, Materials and Equipment but not intended to support the structure.

(j) Shoring is a component of falsework such as horizontal, vertical or inclined support members. In this specification, this term is used interchangeably with falsework.

3.1.4.2. Work Items Requiring Shop Drawings: The requirement for submittals for certain items may be waived by other provisions of these specifications; i.e. items constructed from standard drawings or those complying with alternate details for pre-stressed members under Section 450. Precast components that are not detailed in the Plans or Standard Drawings will require approved shop drawings. The Contractor shall review the Plans and Specifications to determine the submittals required.

The following signing and lighting items are defined as structural items:

Lighting: poles, bracket arms, frangible bases and foundations.

Signing: Mounting brackets for bridge mounted signs, overhead cantilever structures, overhead truss structures, overhead sequential sign structures and multiple post sign supports, along with applicable foundations.

In general, shop drawings shall be required for:

(a) Bridge, Bulkhead and Retaining Wall Structures, cofferdams, Lighting and Signing Structural Items along with applicable foundations.

(b) Signing, Lighting, Drainage Structures and Attenuators and other nonstructural items.

(c) Building Structures.

(d) Contractor Originated Re-Design.

(e) Design and/or structural details furnished by the Contractor in compliance with the Contract, according to the sections of the Specifications pertaining to the Work, to the Plans or other Contract Documents.

(f) Special Erection Equipment.

(g) Falsework and Shoring.

Additional clarification for certain types of bridge structures is provided in 3.1.4.9.

3.1.4.3 Schedule of Submittals: The Contractor shall prepare and submit to the CEI a schedule of submittals identifying the Work for which Contractor intends to submit shop drawings, the type, approximate number of drawings or other documents and

approximate dates of anticipated submittals with due regard to processing requirements herein. The schedule of submittals shall be submitted to the CEI within 15 days of the start of the date of the Notice to Proceed, and prior to the submission of any shop drawings.

Subsequent submittals shall be coordinated with construction schedules to allow sufficient time for review, approval and re-submittal as necessary.

#### 3.1.4.4 Style, Numbering and Material of Submittals:

3.1.4.4.1 Drawings: The Contractor shall furnish such shop drawings as may be required to complete the structure in compliance with the design shown on the Plans. Drawings shall be prepared or reproduced on permanent material made for the purpose, such as tracing cloth, plastic, mylar or xerographic bond paper, hereafter referred to as masters. The size of the sheets shall be no larger than 24 by 36 inches. Each sheet shall be numbered consecutively for the series and the sheet number shall indicate the total number in the series (e.g., 1 of 12, 2 of 12, ... 12 of 12). Each shop drawing shall contain the following items as a minimum requirement: the CFX Project Number, drawing title and number, a title block showing the names of the fabricator or producer and the Contractor for which the Work is being done, the initials of the person(s) responsible for the drawing, the date on which the Work was performed, the location of the item(s) within the Project, the Contractor's approval stamp and initials and when applicable, the signature and embossed seal of the Contractor's Florida registered Specialty Engineer. The absence of any of this minimum information may be cause for a request for a re-submittal.

3.1.4.4.2 Other Documents: Documents other than drawings, such as trade literature, catalogue information, calculations and manuals shall be original copies or clearly legible photographic or xerographic copies. The size shall be no larger than 11 by 17 inches. Such information shall be clearly labeled and numbered and the sheet numbers shall indicate the total number of sheets in the series (e.g., 1 of 12, 2 of 12, .... 12 of 12).

All documents shall be bound and submitted with a Table of Contents cover sheet. The cover sheet shall list the total number of pages and appendices and shall also include the CFX Project Number, a title to reference the item(s) for which it is submitted, the name of the firm and person(s) responsible for the preparation of the document, the Contractor's approval stamp and initials and, when applicable, the signature and embossed seal of the Contractor's Florida registered Specialty Engineer.

The calculations or manuals shall clearly outline the design criteria and shall be appropriately prepared and checked. The internal sheets shall include the complete CFX Project Number and initials of the persons responsible for preparing and checking the document.

Trade literature and catalogue information shall be clearly labeled with the title, CFX Project Number, date and name of the firm and person responsible for that document displayed on the front cover.

Documents other than drawings may be on xerographic paper or glossy paper material as appropriate. For the purpose of this specification, the term “shop drawings” shall be deemed to include these other documents.

#### 3.1.4.5 Submittal Paths and Copies:

3.1.4.5.1 Bridge, Bulkhead and Retaining Wall Structures and Lighting and Signing Structural Items with appropriate foundations: Shop drawings for pre-qualified items, excluding their corresponding foundations, are not required.

The Contractor shall submit one (1) set of prints along with one (1) set of reproducible copies of each series of shop drawings to the CEI with a copy of the letter of transmittal sent to the Consultant. For Work requiring other documentation (e.g. catalog data, material certifications, material tests, procedure manuals, fabrication / welding procedures, and maintenance and operating manuals) a minimum of eight (8) copies of each document shall be submitted with the prints. The mailing address of the Consultant will be furnished by CFX.

3.1.4.5.2 Signing, Lighting, Drainage Structures, Attenuators and other nonstructural items: The Contractor shall submit seven (7) sets of prints of each shop drawing to the CEI with a copy of the transmittal letter sent to the Consultant.

3.1.4.5.3 Building Structures: One (1) set of prints and one (1) set of reproducible copies of each series of working, shop and erection drawings and all correspondence related to building structures shall be submitted to the CEI with a copy of the transmittal sent to the Consultant.

3.1.4.5.4 Contractor Originated Design or Redesign: The Contractor shall submit to the CEI one (1) set of prints along with one (1) reproducible copy of each series of shop drawings and four (4) copies of applicable calculations. Each print and the cover sheet of each copy of applicable calculations shall

be signed and sealed by the Contractor's Specialty Engineer. The submittal and copies of the transmittal letters shall be transmitted in accordance with the requirements of 3.1.4.5.1 through 3.1.4.5.3, as appropriate.

3.1.4.5.5 Special Erection Equipment: For (a) Construction Affecting Public Safety and (b) Major or Unusual Structures: The Contractor shall submit to the CEI, one (1) set of prints along with one (1) reproducible copy of each series of shop drawings and four (4) copies of applicable calculations. Each print and the cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer. The submittal and copies of the transmittal letters shall be transmitted in accordance with the requirements of 3.1.4.5.1 through 3.1.4.5.3, as appropriate.

3.1.4.5.6 Falsework and Shoring: For (a) Construction Affecting Public Safety and (b) Major and Unusual Structures: The Contractor shall submit to the CEI one (1) set of prints along with one (1) reproducible copy of each series of shop drawings and four (4) copies of applicable calculations. Each print and the cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer. The submittal and copies of the transmittal letters shall be transmitted in accordance with the requirements of 3.1.4.5.1 through 3.1.4.5.3, as appropriate.

3.1.4.5.7 Formwork: Formwork shall be in accordance with Section 400-5 of the Standard Specifications.

3.1.4.5.8 Scaffolding: The Contractor shall be responsible for the safe installation and use of all scaffolding. No submittals are required.

3.1.4.5.9 Other miscellaneous design and/or structural details furnished by the Contractor in compliance with the contract: The Contractor shall submit to the CEI one (1) set of prints along with one (1) reproducible copy of each series of shop drawings and four (4) copies of applicable calculations. Each print and the cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer. The submittal and copies of the transmittal letters shall be transmitted in accordance with the requirements of 3.1.4.5.1 through 3.1.4.5.3, as appropriate.

3.1.4.5.10 Beam and Girder Temporary Bracing: The Contractor is solely responsible for ensuring stability of beams and girders during all handling, storage, shipping and erection. Adequately brace beams and girders to resist wind, weight of forms and other temporary loads, especially those eccentric to the vertical axis of the products, considering actual beam geometry and support conditions during all stages of erection and deck construction.



Develop the required designs following the AASHTO Guide Design Specifications for Bridge Temporary Works and Construction Handbook for Bridge Temporary Works and the Contract Documents.

For Construction Affecting Public Safety, submit signed and sealed calculations for stability of all beams and girders.

#### 3.1.4.6 Certifications:

3.1.4.6.1 Special Erection Equipment: Prior to its use, special erection Equipment shall be personally inspected by the Specialty Engineer who shall certify to the CEI in writing that the Equipment has been fabricated in accordance with the submitted drawings and calculations. In addition, after assembly, the Specialty Engineer shall observe the Equipment in use and shall certify to the CEI in writing that it is being utilized as intended and in accordance with the submitted drawings and calculations. In each case, the Specialty Engineer shall also sign and seal the letter of certification.

3.1.4.6.2 Falsework and Shoring requiring shop drawings per 3.1.4.5.6: After its erection or installation but prior to the application of any superimposed load, the falsework shall be personally inspected by the Specialty Engineer who shall certify to the CEI in writing that the falsework has been constructed in accordance with the Materials and details shown on the submitted drawings and calculations. The Specialty Engineer shall also sign and seal the letter of certification.

3.1.4.6.3 Formwork: For Construction Affecting Public Safety, prior to the placement of any concrete, the Contractor shall certify to the CEI in writing that formwork has been constructed to safely withstand the superimposed loads to which it will be subjected.

#### 3.1.4.7 Processing of Shop Drawings:

3.1.4.7.1 Contractor Responsibility for Accuracy and Coordination of Shop Drawings: The Contractor shall coordinate, schedule and control all submittals including those of its various subcontractors, suppliers and engineers to provide for an orderly and balanced distribution of the Work.

All shop drawings prepared by the Contractor or its agents (subcontractor, fabricator, supplier and etc.) shall be coordinated, reviewed, dated, stamped, approved and signed by the Contractor prior to submission to the CEI for review. The Contractor's signed approval of drawings submitted shall confirm the Contractor has verified the Work requirements, field

measurements, construction criteria, sequence of assembly and erection, access and clearances, catalog numbers and other similar data. Each series of drawings shall indicate the specification section and page or drawing number of the Contract plans to which the submission applies. The Contractor shall indicate on the shop drawings all deviations from the Contract drawings and shall itemize all deviations in the letter of transmittal. Likewise, whenever a submittal does not deviate from the Contract plans, the Contractor shall also clearly state so in the transmittal letter.

The Contractor shall schedule the submission of shop drawings to allow for a 45 calendar day review period by the CEI. The review period commences upon receipt of the Contractor's submittal by the CEI as stipulated in 3.1.4.5 and terminates upon transmittal of the submittal back to the Contractor by the CEI. The Contractor shall adjust its schedules so that a 30 calendar day period is provided for each re-submittal.

It is incumbent upon the Contractor to submit shop drawings to facilitate expeditious review. Voluminous submittals of shop drawings at one time are discouraged and may result in increased review time. The submittal/re-submittal clock will start upon receipt of a valid submittal. A valid submittal shall include all the minimum requirements outlined in 3.1.4.4. CFX will not be liable to the Contractor for resulting delays, added costs and/or related damages when the actual time required for approval extends beyond the 45 and 30 day review periods shown above.

Only CEI approvals of miscellaneous submittals and red ink stamps on shop drawings are valid and any Work performed in advance of approval will be at the Contractor's risk.

3.1.4.7.2 Scope of Review by CEI: The review of the shop drawings by the CEI shall be for conformity to the Contract requirements and intent of design and not for the adequacy of the means, methods, techniques, sequences and procedures proposed for construction. Review by the CEI does not relieve the Contractor of responsibility for dimensional accuracy to assure field fit and for conformity of the various components and details.

3.1.4.7.3 Special Review by CEI of Shop Drawings for Construction Affecting Public Safety: For Construction Affecting Public Safety, the CEI will make an independent review of all relevant shop drawings and similar documents in order to verify the safety of the intended construction and construction of the permanent Work shall not proceed until receipt of the

CEI's approval. The requirement herein does not supercede the Contractor's duty and responsibility for all safety provisions, public and/or otherwise, for the Project.

3.1.4.8 Avoidance of Conflict of Interest: Neither the CEI, the Consultant nor any design engineer who participated in the design phase of the Project can be engaged by the Contractor to perform Work as the Contractor's Specialty Engineer unless expressly approved in writing by CFX.

3.1.4.9 Other Requirements for Shop Drawings for Bridges:

3.1.4.9.1 Shop Drawings for Structural Steel and Miscellaneous Metals: Shop drawings shall be furnished by the Contractor for structural steel and miscellaneous metals. Shop drawings shall consist of working, shop and erection drawings, welding procedures and other working plans, showing details, dimensions, sizes of material, and other information necessary for the complete fabrication and erection of the metal work.

3.1.4.9.2 Shop Drawings for Concrete Structures: Shop drawings shall be furnished by the Contractor for such details as may reasonably be required for the effective prosecution of the Work and which are not included in the plans furnished by CFX. These may include details of falsework, shoring, special erection Equipment, bracing, centering, formwork, masonry layout diagrams and diagrams for bending reinforcing steel in addition to any details required for concrete components for the permanent Work.

3.1.4.9.3 Shop Drawings for Major and Unusual Structures: In addition to any other requirements, no less than 60 days from the start of Work as shown in the latest CPM, the Contractor shall submit information to the CEI outlining Contractor's overall approach to the Project. Where applicable to the Project, this information shall include but need not be limited to items such as:

(1) Overall construction program for the duration of the Contract. milestone dates should be clearly shown. (For example; the need to open a structure by a certain time for traffic operations.)

(2) Overall construction sequence. The order in which individual structures are to be built, the sequence in which individual spans of girders or cantilevers are erected and the sequence in which spans are to be made continuous.

(3) The general location of any physical obstacles to construction that might impose restraints or otherwise affect the construction and an

outline of how the Contractor intends to deal with such obstacles as it builds the structure(s). (For example; obstacles might include road, rail and waterway clearances, temporary diversions, transmission lines, utilities, property and the Contractor's own temporary Work such as haul roads, cofferdams, plant clearances and the like.)

(4) The approximate location of any special lifting Equipment in relation to the structure including clearances required for the operation of the Equipment. (For example; crane positions and operating radii and the like.)

(5) The approximate location of any temporary falsework and conceptual outline of any special erection Equipment. (The precise locations and details of attachments, fixing devices, loads etc. will be covered under later detailed submittals.)

(6) An outline of the handling, transportation and storage of fabricated components, such as girders or concrete segments. (Precise details will be covered under later detailed submittals).

(7) Any other information pertinent to the Contractor's proposed scheme or intentions.

The above information shall be clear and concise and shall be presented on as few drawings as possible in order to provide an overall, integrated summary of the Contractor's intentions and approach to the Project. These drawings are for information, review planning and to assess the Contractor's approach in relation to the intent of the original design. Their delivery to and receipt by the CEI shall not constitute any acceptance or approval to the proposals shown thereon. The details of such proposals shall be the subject of subsequent detailed shop drawing submittals. Variations from these overall scheme proposals shall be covered by timely revisions and re-submittals.

3.1.4.10 Corrections for Construction Errors: For Work that is constructed incorrectly or does not conform to the requirements of the Contract drawings or Specifications, the Contractor has the prerogative to submit an acceptance proposal to the CEI for review and disposition. Any such proposal will be judged both for its effect on the integrity and maintainability of the structure or component thereof and also for its effect on Contract administration.

Any proposal judged by the CEI to infringe on the structural integrity or maintainability of the structure will require a technical assessment and submittal by the Contractor's Specialty Engineer as described in 3.1.4.5.4.

The cost of carrying out all approved corrective construction measures shall be entirely at the Contractor's expense.

Notwithstanding any disposition on the compensation aspects of the defective Work, the CEI's decision on the technical merits of a proposal shall be final.

3.1.4.11 Modifications for Construction: Where the Contractor is permitted to make modifications to the permanent Work for the purposes of expediting the Contractor's chosen construction methods, Contractor shall submit its proposals to the CEI for review and approval. Proposals for modifications shall be submitted under the shop drawing process.

Minor modifications shall be limited to those items that in the opinion of the CEI do not significantly affect the quantity of measured Work nor the integrity or maintainability of the structure or its components.

Major modifications are any modifications that in the opinion of the CEI significantly affect the quantity of measured Work or the integrity or maintainability of the structure or its components. (For example, substitutions of alternative beam sizes and spacing, change of material strength or type, and the like.)

The CEI's decision on the delineation between a minor and a major modification and disposition on a proposal shall be final.

3.1.4.12 Cost of Shop Drawings: The Contract Prices shall include the cost of furnishing shop and working drawings and the Contractor will be allowed no extra compensation for such drawings.

### 3.2 Coordination of Plans and Specifications

The Plans, Specifications and all supplementary documents are integral parts of the Contract and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete Work. In addition to the Work and Materials specifically identified as being included in any specific pay item, additional incidental Work not specifically mentioned will be included in such pay item when shown in the Plans or if indicated or obvious and apparent as being necessary for proper completion of the Work.

In case of discrepancy, the governing order of the documents shall be as follows:

1. The Contract,
2. The Memorandum of Agreement,
3. The Addenda (if any), modifying the General Specifications, Technical

- Specifications, Special Provisions, Technical Special Provisions (if any),  
Plans or other Contract Documents,
4. The Plans,
  5. The Special Provisions,
  6. The Technical Special Provisions (if any),
  7. The Technical Specifications,
  8. The General Specifications,
  9. The Standard Specifications,
  10. The Design Standards, and
  11. The Proposal.

Computed dimensions shall govern over scaled dimensions.

### 3.3 Conformity of Work with Plans

All Work performed, and all Materials furnished shall be in reasonably close conformity with the lines, grades, cross sections, dimensions and material requirements, including tolerances, shown on the Plans or indicated in the Specifications.

In the event CFX finds that the Materials or the finished product in which the Materials are used are not within reasonable close conformity with the Plans and Specifications, but that reasonably acceptable Work has been produced, CFX will make a determination if the Work will be accepted and remain in place. In this event, CFX will document the basis of acceptance by Contract modification which will provide for an appropriate adjustment in the Contract price for such Work or Materials as CFX deems necessary to conform to CFX's determination based on engineering judgment.

In the event CFX finds that the Materials or the finished product in which the Materials are used, or the Work performed are not in reasonable close conformity with the Plans and Specifications and have resulted in an inferior or unsatisfactory product, the Work or Materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.

For base and surface courses, the finished grade may vary as much as 0.1 foot from the grade shown on the Plans, provided that all template and straightedge requirements are met and that suitable transitions are affected.

3.3.1 Record Drawings: During the entire construction operation, the Contractor shall maintain records of all deviations from the plans and specifications including Request for Information (RFI), field directives, sketches, etc., and shall submit those deviations to the CEI. The submittal shall also include cross-sections, prepared by a registered surveyor, of all retention ponds in the Project limits. A minimum submittal would be full-sized prints in good condition with all changes in red, accurately

plotted. The print shall be in good condition as determined by the CEI. The marked up prints shall be submitted within 15 days of the Project acceptance or termination of Work. Preparation of the record drawings shall be the responsibility of CFX. Retainage will not be released by CFX until the marked up prints and records have been submitted and accepted by CFX.

### 3.4 Pre-Award Meeting

The Plans and Specifications will be reviewed in a joint pre-award meeting between the Contractor's key personnel and CFX representatives. The purpose of the meeting will be to address all questions or differences in interpretations of the documents and to provide clarifications. The meeting will also provide the opportunity for the Contractor to disclose advantages that may have been gained through a strict and literal interpretation of the bid documents. If the Contractor suspects or believes, based on its prior experience, or on the overall specifications, that a literal interpretation of one or more specifications may not reflect CFX's intentions or desires, the Contractor shall disclose such belief at this meeting. CFX will make a determination as to whether or not any adjustments to the Plans, Specifications and/or bid price are appropriate and desired and will make such corrections and interpretations as CFX deems necessary to reflect the intent of the Plans and Specifications.

A Memorandum of Agreement will be prepared by CFX summarizing the results of the meeting. Except as noted in the Memorandum of Agreement, the Contractor shall certify there are no known errors or omissions in the Plans, Specifications and other Contract Documents before the Contract is executed. The memorandum will be signed by CFX and a representative of the Contractor authorized to act on behalf of the Contractor and will be made a part of the Contract Documents.

Notwithstanding that the pre-award meeting is mandatory as to the Contractor, and notwithstanding that the items to be agreed upon at the pre-award meeting shall become terms of the ultimate Contract, the Contractor expressly acknowledges and agrees that all of the essential terms of the ultimate Contract are contained in the Bid and Bidding Documents, and all issues addressed at the pre-award meeting are deemed non-essential to the existence of the Contract, unless (i) it is discovered that the Contractor misrepresented any item of the Bid, or (ii) CFX determines that the Bid does not conform to the specifications of the Bidding Documents.

\*\*\*\*\* Area Intentionally Left Blank \*\*\*\*\*

### 3.5 Orders and Instructions

The supervision of the execution of the Contract is vested wholly in the Contractor. The orders, instructions, directions or requests of CFX may come directly from CFX or may be given through CFX's designated representative. The Contractor shall designate a representative to receive such instructions, directions or requests and failing to do so, will be held responsible for the execution of them.

CFX will have the right to suspend the Work wholly or in part for such period or periods as may be deemed necessary due to failure on the part of the Contractor to carry out orders given to perform any or all provisions of the Contract. The Contractor shall not suspend the Work and shall not remove any Equipment, tools, lumber or other Materials without the written permission of CFX.

- 3.5.1 Observation of the Work: CFX will have free access to the Materials and the Work at all times for measuring or observing the same, and the Contractor shall afford either or both all necessary facilities and assistance for so doing.

After written authorization to proceed with the Work, CFX or its designated representative will:

3.5.1.1 Make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine in general if the Work is proceeding in accordance with the Plans and Specifications. CFX will not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the Work, will not be responsible for the construction means, methods, procedures, techniques and will not be responsible for the Contractor's failure to perform the construction Work in accordance with the Plans and Specifications. CFX will not be responsible for safety precautions and procedures concerning the Work. During such visits and based on on-site observations, CFX may disapprove Work as failing to conform to the Plans and Specifications.

3.5.1.2 Check and approve samples, catalog data, schedules, shop drawings, laboratory, shop and mill tests of Materials and Equipment and other data which the Contractor is required to submit, only for conformance with the design concept of the Project and compliance with the information given by the Plans and Specifications.

3.5.1.3 Conduct, in company with the Contractor, a final inspection of the Project for conformance with the design concept of the Project and compliance with the information given by the Plans and Specifications.



#### 3.5.1.4 Prepare final record drawings.

- 3.5.2 Examination of the Work: The authority and duties of the CEI, if one is so designated by CFX, are limited to examining the material furnished, observing the Work done and reporting its findings to CFX. Neither CFX nor the CEI underwrites, guarantees or ensures the Work done by the Contractor. It is the Contractor's responsibility to perform the Work in all details in accordance with the Plans and Specifications. Failure by any representative of CFX engaged in on-the-site observation to discover defects or deficiencies in the Work of the Contractor shall never, under any circumstances, relieve the Contractor from the Contractor's liability therefore.

The CEI will have no authority to permit deviation from or to modify any of the provisions of the Plans or Specifications without the written permission or instruction of CFX or to delay the Contractor by failure to observe the Materials and Work with reasonable promptness.

The CEI will not have authority to supervise, direct, expedite or otherwise control the Contractor's means, methods, techniques or sequences of construction. The CEI may only advise the Contractor when it appears that the Work and/or Materials do not conform to the requirements of the Contract Documents.

The payment of any compensation, irrespective of its character or form or the giving of any gratuity, or the granting of any valuable favor, directly or indirectly, by the Contractor to any project representative is strictly prohibited, and any such act on the part of the Contractor will constitute a violation of the Contract.

If the Plans, Specifications, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested or approved by someone other than the Contractor, the Contractor shall give CFX timely notice of readiness therefore. The Contractor shall furnish CFX the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials, and/or the American Association of State Highway and Transportation Officials, such other applicable organizations as may be required by law, or the Plans and Specifications. If any such Work required so to be inspected, tested or approved is covered without written approval of CFX, it must, if requested by CFX, be uncovered for observation at the Contractor's expense. The cost of all such inspections, tests and approvals shall be borne by the Contractor unless otherwise provided.

3.5.3 Communications: Prior to the start of the Work, CFX will advise the Contractor as to how communications between CFX and Contractor will be handled. Thereafter, whenever reference is made to required communication between the Contractor and CFX, such communication, to be given consideration, must be addressed in accordance with the approved procedure.

### 3.6 Engineering and Layout

#### 3.6.1 Control Points Furnished by CFX

CFX will provide control points and benchmarks as identified in the Plans along the line of the Project to facilitate the proper layout of the Work. A walk-through of the Project by the Consultant's surveyor will be provided to the Contractor to facilitate field location of these points. The Contractor shall preserve all reference points and benchmarks furnished by CFX.

As an exception to the above, if the Plans do not show a centerline or other survey control line for construction of the Work (e.g., resurfacing, safety modifications, etc.) CFX will provide only points marking the beginning and ending of the Project and all exceptions.

#### 3.6.2 Furnishing of Stake Material

The Contractor shall furnish all stakes, templates and other Materials necessary to establish and maintain the lines and grades necessary for control and construction of the Work.

#### 3.6.3 Layout of Work

Using the control points furnished by CFX in accordance with 3.6.1 above, the Contractor shall establish all horizontal and vertical controls necessary to construct the Work in conformance with the Plans and Specifications. The horizontal and vertical controls shall include performing all calculations required and setting all stakes needed such as grade stakes, offset stakes, reference point stakes, slope stakes and other reference points or marks necessary to provide lines and grades for construction of all roadway, bridge and miscellaneous items. The Contractor shall also establish all horizontal and vertical controls necessary to perform utility construction required to be performed by the Contractor. The Contractor shall maintain and protect the required station identification stakes in their correct and appropriate locations. Failure to comply with this provision will result in the withholding of the Contractor's partial payments.

The Contractor shall provide CFX with survey assistance for subsoil excavation quantities and other Project quantities as required by CFX.

#### 3.6.4 Specific Staking Requirements

In circumstances involving new base construction, the Contractor shall set stakes to establish lines and grades for subgrade base, curb and related items at intervals along the line of Work no greater than 50 feet on tangents and 25 feet on curves. Grade stakes shall be set at locations directed by the CEI to facilitate checking of subgrade, base and pavement elevations in crossovers, intersections and irregular shaped areas. If Automated Machine Guidance (AMG) is utilized, set stakes as needed to document quantities. Use of AMG will require an approved Work Plan that describes portions of Work performed with AMG, system components including software, prior experience using this AMG system, site calibration procedures, and quality control procedures. Provide a man rover and a digital model for CEI verification.

For bridge construction stakes and other controls, the Contractor shall set references at intervals sufficient to assure that all components of the structure are constructed in accordance with the lines and grades shown on the Plans.

If the Plans do not show a centerline or other survey control line for construction of the Work (e.g., resurfacing, safety modifications, etc.), only such stakes as are necessary for horizontal and vertical control of Work items will be required.

For resurfacing and resurfacing/widening Work, the Contractor shall establish horizontal controls adequate to assure that the asphalt mix added coincides with the existing pavement. In tangent sections, horizontal control points shall be set at 100-foot intervals by an instrument survey. In curve sections, horizontal control points shall be set at 25-foot intervals by locating and referencing the centerline of the existing pavement.

The Contractor shall establish, by an instrument survey, and mark on the surface of the finished pavement at 25-foot intervals, points necessary for striping of the finished roadway. For resurfacing and resurfacing/widening Work these points shall be established in the same manner as for horizontal control of paving operations. Marks shall be made in white paint. If striping is included in the Work to be done by the Contractor an alternate method of layout of striping may be approved by the CEI provided that the alignment achieved is equal to or better than that which would be achieved using an instrument survey.

A station identification stake shall be set at each right of way line at 100-foot intervals and at all locations where a change in right of way width occurs. Each stake shall be marked with painted numerals of sufficient size to be readable from the roadway and corresponding to the Project station at which it is located. Where Plans do not show right of way lines, station identification stakes shall be set at locations and intervals appropriate to the type of Work being done. For resurfacing and resurfacing/widening Work, station identification stakes shall be set at 200-foot intervals.

### 3.6.5 Personnel, Equipment, and Record Requirements

The Contractor shall employ only competent personnel and use only suitable equipment in performing layout Work. The Contractor shall not engage the services of any person or persons in the employ of CFX for performance of layout Work.

Adequate field notes and records shall be kept as layout Work is accomplished. These field notes and records shall be available for review by the CEI as the Work progresses and copies shall be furnished to the CEI at the time of completion of the Project. Any review of the Contractor's field notes or layout Work by CFX and the acceptance of all or any part thereof, shall not relieve the Contractor of responsibility to achieve the lines, grades, and dimensions shown in the plans and indicated in the specifications.

Prior to final acceptance of the Project, the Contractor shall mark in a permanent manner on the surface of the completed Work all horizontal control points originally furnished by CFX.

### 3.6.6 Payment

The cost of performing the layout Work as described above shall be included in the Contract unit prices for the various items of Work to which it is incidental.

## 3.7 Contractor's Supervision

### 3.7.1 Prosecution of Work

The Contractor shall give the Work the attention necessary to assure the scheduled progress is maintained. The Contractor shall cooperate with CFX and other contractors at Work in the vicinity of the Project.

### 3.7.2 Contractor's Superintendent

The Contractor shall have a competent superintendent on the Project at all times with the ability to speak and understand the English language. The superintendent shall be thoroughly experienced in the type of Work being performed and shall have full authority to execute the orders or directions of the CEI and to promptly supply or have supplied, any Materials, tools, equipment, labor and incidentals which may be required. The superintendent shall be provided regardless of the amount of Work sublet.

Prior to commencement of Work on the Project, the Contractor shall provide CFX with a written list of supervisory personnel that will be assigned to the Project. The Contractor shall not replace any of the listed personnel without written notice to CFX except under extraordinary circumstances. The Contractor shall not assign any supervisory personnel to the Project, whether initially or as a substitute, against whom CFX may have reasonable objection. CFX's acceptance of any supervisory personnel may be revoked based on reasonable objection after due investigation, in which case the Contractor shall submit an acceptable substitute. No acceptance by CFX of any such supervisory personnel shall constitute a waiver of any right of CFX to reject defective Work. The foregoing requirement shall also extend to Subcontractor's supervisory personnel.

### 3.7.3 Supervision for Emergencies

The Contractor shall have a responsible person available at or reasonably near the Work site on a 24-hour basis, 7 days per week. This individual shall be designated as the Contractor's contact in emergencies and in cases where immediate action must be taken to maintain traffic or to handle any other problem that might arise. The contact person shall have the ability to speak and understand the English language.

The Contractor shall submit by certified mail to the Florida Highway Patrol and other local law enforcement agencies, a description of the Project location and the name(s) and telephone number(s) of individual(s) designated to be contacted in cases of emergencies. A copy of these submittals shall also be provided to the CEI as part of the Contractor's Maintenance of Traffic Plan. Approval of the Maintenance of Traffic Plan will be withheld until these submittals are provided.

### 3.7.4 Worksite Traffic Supervisor

The Contractor shall have a Worksite Traffic Supervisor who shall be responsible for initiating, installing and maintaining all traffic control devices required for maintenance of traffic. The Worksite Traffic Supervisor shall have at least 1 year of

experience directly related to worksite traffic control in a supervisory or responsible capacity and shall be certified by the American Traffic Safety Services Association under its Worksite Traffic Supervisor Certification Program, or an FDOT-approved advanced training Provider. Approved advanced training Providers will be posted on the FDOT's web site at the following URL address: <http://www.dot.state.fl.us/rddesign/MOT/MOT.shtm>.

The Worksite Traffic Supervisor shall be available on a 24-hour per day basis and shall be present to direct the initial setup of the traffic control plan. The Worksite Traffic Supervisor shall review the Project daily, be involved in all changes to traffic control and have access to all equipment and Materials needed to maintain traffic control and handle traffic related situations.

The Worksite Traffic Supervisor shall ensure that safety deficiencies are corrected immediately. In no case shall minor deficiencies, which are not immediate safety hazards, remain uncorrected for more than 24 hours. The Worksite Traffic Supervisor shall be available on the site within 45 minutes after notification of an emergency and be prepared to positively respond to repair the Work zone traffic control or to provide alternate traffic arrangements.

Failure by the Contractor to maintain a designated Worksite Traffic Supervisor may result in temporary suspension by CFX of all activities except traffic and erosion control and such other activities deemed necessary for Project maintenance and safety.

### 3.8 General Inspection Requirements

#### 3.8.1 Cooperation by Contractor

The Contractor shall provide CFX with every reasonable facility for ascertaining whether the Work performed and Materials used are in accordance with the requirements and intent of the Plans and Specifications. If CFX so requests, the Contractor shall, at any time before final acceptance of the Work, remove or uncover such portions of the finished Work as may be directed. After examination, the Contractor shall restore the uncovered portions of the Work to the standard required by the Specifications. If the exposed or examined Work is determined to be unacceptable, the cost of uncovering and/or removal and replacement of the covering or making good of the parts removed, shall be at the Contractor's expense. The Contractor shall revise and upgrade both construction and testing procedures to prevent a recurrence of the conditions that contributed to the unacceptable Work. If the exposed or examined Work is determined to be acceptable, the cost of uncovering and/or removal and replacement of the covering or making good of the parts removed, shall be paid for as unforeseeable Work.

The Contractor shall give the CEI 24 hours advance notice whenever the Contractor intends to perform Work during other than normal daylight hours. On such occasions, the Contractor's supervisor and sufficient workmen shall be present to undertake the Work in a satisfactory manner. No additional compensation will be made to the Contractor for Work performed during such off periods.

The Contractor shall notify the CEI in writing prior to beginning pumping or dewatering activity in any new location on the project or the resumption of pumping after an interruption in any location. Pumping and discharge activities shall be discussed at each weekly progress meeting. Contractor will satisfy permit requirements at any pumping or dewatering activity.

### 3.8.2 Failure of CFX to Reject Work During Construction

If CFX should fail to reject defective Work or Materials, whether from lack of discovery of such defect or for any other reason, such failure to reject will not prevent CFX from subsequently rejecting defective Work when such defective Work is discovered or obligate CFX to final acceptance of the defective Work. The Contractor shall make no claim for losses suffered due to any necessary removals or repairs of such defects.

### 3.8.3 Failure to Remove and Renew Defective Materials and Work

If, within the time frame indicated in writing from CFX, the Contractor fails or refuses to remove and renew any defective Materials used or Work performed or fails or refuses to make necessary repairs in an acceptable manner, CFX shall have the right to repair or replace or have repaired or replaced, the unacceptable or defective Materials or Work. All costs incurred by CFX for repairs or replacements shall be paid for from moneys due, or which may become due, the Contractor, or may be charged against the Contractor's Public Construction Bond.

Continued failure or refusal by the Contractor to make necessary repairs promptly, fully and in an acceptable manner shall be sufficient cause for CFX, at its sole discretion and option, to perform the Work with its own forces or to contract with any individual, firm or corporation to perform the Work. Costs incurred by CFX shall be paid for from moneys due or which may become due the Contractor or may be charged against the Contractor's Public Construction Bond.

### 3.9 Final Inspection and Acceptance

#### 3.9.1 Maintenance Until Final Acceptance

Until final acceptance by CFX, the Work shall be under the charge and custody of the Contractor. The Contractor shall take every necessary precaution against injury or damage to the Work by the action of the elements or from any other cause whatsoever arising either from the execution or non-execution of the Work and shall rebuild, repair, restore and make good, without additional compensation, all injury or damage to any portion of the Work including extensive or catastrophic damages.

The Contractor shall provide, at Contractor's expense, all temporary electrical power and lighting necessary for Contractor's operations under the Contract.

On new alignments, the Contractor shall be responsible for all electric bills until Final Acceptance of the project or until such time as CFX takes beneficial use of the alignment or portion thereof, whichever occurs first. Once installed, the roadway lighting shall remain in use and be maintained by the Contractor until Final Acceptance. The Contractor shall be responsible for payment of the electric bills until Final Acceptance at which time payment will be the responsibility of CFX.

#### 3.9.2 Inspection for Substantial Completion

The CEI will make a semi-final inspection within 7 days after written notice from the Contractor of completion of the Project in its entirety. If, at the semi-final inspection, it is determined that all pay item work has been installed and other conditions as defined in Section 1.3, the project will be deemed Substantially Complete. Further, if all construction provided for and contemplated by the Contract is complete and acceptable to the CEI, such inspection shall constitute the final inspection as described below.

If any Work is determined to be unsatisfactory by the CEI, in whole or in part, the CEI will give the Contractor the necessary instructions as to repair and/or replacement of material and the prerequisites to final completion and acceptance. Upon satisfactory completion of repairs and/or replacements, the Contractor shall notify the CEI and request another inspection for Substantial Completion. Such inspection will constitute the final inspection if the required material has been repaired and/or replaced and the Work is acceptable to the CEI.



Prior to the inspection for Substantial Completion, the CEI may provide the Contractor with various deficiency lists. These lists are intended to assist the Contractor in preparing for Substantial Completion and are not to be considered as punch lists.

### 3.9.3 Final Inspection

When, in the opinion of the Contractor, all Materials have been furnished, all Work has been performed and the construction contemplated by the Contract has been satisfactorily completed, the Contractor shall request that the CEI make the final inspection.

### 3.9.4 Final Acceptance

When the entire Work of the Project contemplated by the Contract has been completed acceptably, as determined by the CEI, the Contractor will be given a written notice of final acceptance.

### 3.9.5 Recovery Rights Subsequent to Final Payment

CFX reserves the right for a period of 60 months following Final Acceptance, if CFX or its agents discovers an error in the partial or final estimates, or discovers that the Contractor performed defective Work or used defective materials, after the final payment has been made, to claim and recover from the Contractor or Contractor's surety, or both, by process of law, such sums as may be sufficient to correct the error or make good the defects in the Work and materials.

## 3.10 Audit and Examination of Contract Records and Bid Records

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 Bid Records (as herein defined) of the Contractor or any subcontractor. By submitting a Bid, the Contractor or any first or second tier subcontractor submits to and agrees to comply with the provisions of this Article. In addition, the Contractor shall be entitled to enter into subcontracts with proper CFX approval provided that all subcontracts shall include the same or similar terms as are in this Contract with respect to subcontractors, providing CFX with equal or greater protections than herein.

If CFX requests access to (or review and copy of) any Contract Records or Bid Records and the Contractor refuses such access or review, the Contractor shall be in default under its Contract with CFX. Such refusal shall, without any other or additional actions, constitute grounds for disqualification of the Contractor. This provision shall not be limited in any

manner by the existence of any Contractor claims or pending disputes resolution or arbitration 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.

Disqualification shall mean the Contractor is not eligible for and shall be precluded from continuing current Work or doing future work for CFX until reinstated by CFX.

The Contractor shall preserve all Bid Records and Contract Records for the entire term of the Contract and for a period of three years after the later of: (i) final acceptance of the Project by CFX or (ii) until all claims (if any) regarding the Contract are resolved.

Contract Records shall include but not be limited to, all information, letters, 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, agreements, supporting documents, any other papers or preserved data related to the Contract or the Contractor's performance of the Contract determined necessary by CFX for any purpose. Bid 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 the Contractor in determining labor, unit price, or any other component of a bid submitted to CFX. Bid Records shall also 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, truckers or material suppliers, profit contingencies and any manuals standard in the industry that may be used by the Contractor in determining its bid. These manuals shall be included in the Bid Records by reference and shall show the name and date of the publication and the publisher.

As a condition precedent to Contractor initially filing (and thereafter processing) any claim with CFX for additional compensation, damages, costs, time extensions or other matters in the nature of a Supplemental Agreement or which will have monetary consequences to CFX, Contractor shall (before and after filing a claim) fully comply with CFX's request to audit or examine the Contractor's Contract Records or Bid Records. Non-compliance shall be the basis for and result in dispute resolution being abated or the claim being dismissed until compliance occurs. Re-filing of the claim (and removal of disqualification) shall not occur unless the Contractor also reimburses CFX for costs and attorney's fees incurred in connection with the audit request and disqualification.

The purpose of this provision and requirement is to assure that CFX has full information with respect to any Contractor claims so as to expedite dispute resolution, processing and satisfying bona fide claims.

### 3.11 Escrow of Bid Records

Prior to the Contract becoming binding on CFX, the following procedure shall have been timely implemented to secure the Contractor's Bid Records to the satisfaction of CFX:

1. The Contractor, in the company of the CEI, shall rent a safe deposit box, at a bank in Orange or Seminole County, of adequate size to hold the original or a legible copy of the Bid Records used by the Contractor and all subcontractors to prepare its bid. The Bid Records, enclosed in a separate sealed container or containers, shall be deposited in the box at that time. The container(s) shall be clearly marked "Bid Records" with the face of the container(s) showing the Contractor's name, address, date of submittal and Project number.
2. Only the Contractor's representative(s) shall sign the signature card required by the bank to allow subsequent access to the box. The Contractor shall request a maximum of two keys to the box which shall be given to the CEI. The CEI will tag the keys, in the presence of the Contractor, with the name of the Contractor, the Project number, the name and location of the bank and the box number.
3. At the time the Bid Records are secured in the safe deposit box, the Contractor shall submit to the CEI an affidavit, signed under oath by the Contractor, listing each Bid Record submitted by author, date, nature and subject matter. By executing this affidavit, the Contractor waives the right to use, directly or indirectly, any Bid Record, other than the Bid Records placed in escrow in the sealed container(s), in any dispute arising out of the Contract. Failure by the Contractor to provide the affidavit will be sufficient cause for CFX to nullify the award of the Contract to the Contractor. The Contractor's Proposal Bond shall be forfeited, and the full amount of the bond shall be paid to CFX as stipulated for liquidated damages.
4. The CEI will transport the keys to CFX's office where the Director of Construction or his authorized representative will sign a receipt acknowledging acceptance of the keys on behalf of CFX. A copy of the receipt will be transmitted to the Contractor.

The keys will be stored in a secure location in CFX's office until such time as any of the following occurs: (i) the Contractor requests that the Bid Records be released to CFX in support of a claim by the Contractor for an adjustment in time or money under Article 2.4 of these General Specifications; (ii) the Contractor requests that the Bid Records be released to CFX as a result of the Contractor initiating arbitration against CFX; (iii) the Contractor requests that the Bid Records be released to CFX for any other reason; or (iv) the Contract has been satisfactorily completed and the Project accepted by CFX, in writing, and the Contractor has executed a binding release of all claims and potential causes of action related to the Contract. Under any of these circumstances, the CEI will obtain the keys from CFX's

office and, in the company of the Contractor's representative authorized by the bank signature card to access the safe deposit box, retrieve the Bid Records. The records will be transmitted by the CEI to the party requesting the release.

If the records are being returned as a result of acceptance of the Project by CFX, the Contractor shall sign a receipt acknowledging that the sealed container(s) has/have been returned to the Contractor unopened.

If the Bid Records are opened for any reason, CFX reserves the right to reveal the contents of the records to consultants, experts and legal counsel retained by CFX to assist with claims evaluation and arbitration preparation. Confidentiality of the Bid Records will be protected by CFX insofar as such protection does not conflict with the requirements of the Florida Public Records Act and Florida Sunshine laws.

All costs and fees associated with the rental and maintenance of the safe deposit box shall be paid by the Contractor.

### 3.12 Prevailing Party Attorney's Fees

If any dispute regarding Contractor claims arising hereunder or relating to the Contract (and the Contractor's Work hereunder) results in binding arbitration, the prevailing party in such arbitration shall be entitled to recover reasonable attorney's fees and costs including costs and expenses of expert witnesses.

In order for the Contractor to be the prevailing party, the 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 in such arbitration proceedings.

For purposes of determining whether the judgment or 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 the 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 the Contractor in connection with the Contract, and (ii) any amount offered in settlement prior to initiation of Contractor arbitration claims (exclusive of interest, cost or expenses).

The term "contested claim" or "claims" shall mean the initial written claim(s) submitted to CFX by the Contractor (disputed by CFX) which have not otherwise been resolved prior to the initiation of binding arbitration. Contractor claims or portions thereof which CFX agreed to pay or offered to pay, in writing, prior to initiation of arbitration shall not be deemed contested claims for purposes of this provision. If the 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 the Contractor's claim(s).

Attorney's 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 through and including the arbitration hearing, 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 such original claim amount is ultimately used in determining if the judgment or award is at least eighty percent (80%) of the cumulative claims.

The term "costs" shall include any and all costs incurred, including without limitation consultant fees, expert witness fees, court reporter costs, photocopy costs, telephone charges and travel expenses, whether or not such costs are provided by statute or contained in the State-Wide Guidelines.

The purpose of this provision is to discourage frivolous or overstated claims and, as a result thereof, CFX and the 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 is being served by this provision.

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

END OF SECTION 3

## SECTION 4 - CONTROL OF MATERIALS

### 4.1 Acceptance Criteria

4.1.1 General: Acceptance of materials is based on the following criteria. All requirements may not apply to all materials. Use only materials in the work that meet the requirements of these Specifications. The CEI may inspect and test any material, at points of production, distribution and use.

4.1.2 Sampling and Testing: Use the CFX current sample identification and tracking system to provide related information and attach the information to each sample.

Restore immediately any site from which material has been removed for sampling purposes to the pre-sampled condition with materials and construction methods used in the initial construction, at no additional cost to CFX.

Ensure when a material is delivered to the location as described in the Contract Documents, there is enough material delivered to take samples, at no expense to CFX.

4.1.2.1 Pretest by Manufacturers: Submit certified manufacturer's test results to the CEI for qualification and use on CFX projects. Testing will be as specified in the Contract Documents. CFX may require that manufacturers submit samples of materials for independent verification purposes.

4.1.2.2 Point of Production Test: Test the material during production as specified in the Contract Documents.

4.1.2.3 Point of Distribution Test: Test the material at distribution facilities as specified in the Contract Documents.

4.1.2.4 Point of Use Test: Test the material immediately following placement as specified in the Specifications. After delivery to the project, CFX may require the retesting of materials that have been tested and accepted at the source of supply, or may require the testing of materials that are to be accepted by Producer Certification. CFX may reject all materials that, when retested, do not meet the requirements of these Specifications.

#### 4.1.3 Certification:

4.1.3.1 Approved Products List: An Approved Products List (APL) is published and maintained by the FDOT and may be referenced in the Plans and Specifications. The items on the list have basic approval and are generally acceptable to CFX. However, the Contractor is advised that products on the APL are still subject to final approval and acceptance by CFX. The Contractor shall make no claim for additional compensation or extension of Contract time to replace an item on the APL that is rejected by CFX subsequent to execution of the Contract.

4.1.3.2 Contractor Installation Certification: Provide installation certifications as required by the Contract Documents.

4.1.4 Warranty and Guaranty: CFX may require the Contractor to warrant and guaranty that certain Materials used in the construction of the Project meet all specification requirements for a specified time period. Warranty and guaranty requirements are specified in the appropriate Specifications sections governing the Materials.

#### 4.2 Designation of a Specific Product as a Criterion (“Or Equal” Clause)

Reference in the Plans or Specifications to any proprietary article, device, product, material or fixture or any form or type of construction, by name, make or catalog number, with or without the words “or equal”, shall be interpreted as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may use any article, device, product, material or fixture or any form or type of construction, which in the sole opinion of CFX (expressed in writing) is equal, for the purpose intended, to that named and compatible with existing equipment.

#### 4.3 Source of Supply and Quality Requirements

4.3.1 Only Approved Materials to be Used: Only Materials conforming to the requirements of the Specifications, holding a current approval for manufacturing and/or fabrication by the FDOT and approved by CFX shall be used in the Work. Any Materials proposed for use by the Contractor may be inspected or tested by CFX at any time during preparation or use. No material shall be used in the Work that becomes unfit after approval. Materials containing asbestos will not be allowed.

4.3.2 Notification of Placing Order: The Contractor shall notify the CEI at least 15 days prior to ordering Materials to allow CFX time for sampling and testing.

4.3.2.1 Notification of Quality Assurance Inspection Arrangements for Fabrication of Critical Items: To facilitate quality assurance inspection of critical items, the Contractor shall submit a fabrication schedule for all items requiring commercial inspection. The fabrication schedule shall be submitted to the CEI before or at the pre-construction conference. Fabrication of critical items include, but is not limited to, steel bridge components, overhead cantilevered sign supports with cantilevered arms exceeding 45 feet, movable bridge components or any other item identified as a critical item in the Plans or Specifications.

4.3.3 Approval of Source of Supply: The source of supply for material proposed for use shall be submitted by the Contractor to the CEI for approval. Delivery of material shall not begin until approval of the CEI is received.

Representative preliminary samples of the character and quantity prescribed shall be submitted by the Contractor for examination and testing. If, after trial, the source of supply does not furnish a uniform product or if the product from any source proves unacceptable at any time, the Contractor shall furnish material from other approved sources.

The production of mineral aggregates shall be under a Producer Quality Control Program approved by the FDOT. Proof of such approval shall be submitted to the CEI. The program shall be in accordance with FDOT requirements and procedures for obtaining and maintaining FDOT approval of developed and operational mineral aggregate sources (mines and redistribution terminals) and the FDOT Mineral Aggregate Manual. Individual certification shall be furnished with each haul unit load of Materials shipped attesting that those specific Materials were produced under an FDOT-approved Producer Quality Control Program. Any haul unit load of mineral aggregates received by the Contractor without an individual certification being made available to the CEI will be considered defective.

#### 4.4 Inspection and Tests at Source of Supply

4.4.1 General: If the volume, progress of Work and other considerations warrant, CFX may elect to inspect Materials at the source of supply. However, CFX assumes no obligation to inspect Materials at the source of supply. The responsibility for assuring that Materials are satisfactory rests entirely with the Contractor.

4.4.2 Cooperation by Contractor: The Contractor shall ensure that CFX has free entry and access at all times to the areas of the plant engaged in the manufacture or production of the Materials ordered. Contractor shall bear all costs incurred to provide all reasonable facilities to assist in determining whether the material furnished complies with the requirements of the Specifications.



4.4.3 Retest of Materials: CFX may retest or may require retesting of any Materials which have been tested and accepted at the source of supply after the same have been delivered to the job site. All Materials, which, when retested, do not comply with the requirements of the Specifications, will be rejected; in which case the cost of such retesting shall be at the expense of the Contractor.

#### 4.5 Storage of Materials and Samples

4.5.1 Method of Storage: Store materials in such a manner as to preserve their quality and fitness for the work, to facilitate prompt inspection, and to minimize noise impacts on sensitive receivers. More detailed specifications concerning the storage of specific materials are prescribed under the applicable Specifications. CFX may reject improperly stored materials.

4.5.2 Use of Right-of-Way for Storage: If the CEI allows, the Contractor may use a portion of the right-of-way for storage purposes and for placing the Contractor's plant and equipment. Use only the portion of the right-of-way that is outside the clear zone, which is the portion not required for public vehicular or pedestrian travel. When used, restore the right-of-way to pre-construction condition at no additional cost to CFX or as specified in the Contract Documents. Provide any additional space required at no expense to CFX.

4.5.3 Responsibility for Stored Materials: Accept responsibility for the protection of stored materials. CFX is not liable for any loss of materials, by theft or otherwise, or for any damage to the stored materials.

4.5.4 Storage Facilities for Samples: Provide facilities for storage of samples as described in the Contract Documents and warranted by the test methods and Specifications.

#### 4.6 Defective Materials

Materials not meeting the requirements of these Specifications will be considered defective. The CEI will reject all such materials, whether in place or not. Remove all rejected material immediately from the site of the work and from storage areas, at no expense to CFX.

Do not use material that has been rejected and the defects corrected, until the CEI has approved the material's use. Upon failure to comply promptly with any order of the CEI made under the provisions of this Article, the CEI will remove and replace defective material and deduct the cost of removal and replacement from any moneys due or to become due the Contractor.

As an exception to the above, the Contractor may submit, upon approval of the CEI, an engineering and/or laboratory analysis to evaluate the effect of defective in place materials. A Specialty Engineer, who is an independent consultant or the Contractor's Engineer of Record as stated within each individual Section, shall perform any such analysis. The CEI will determine the final disposition of the material after review of the information submitted by the Contractor. No additional monetary compensation or time extension will be granted for the impact of any such analysis or review.

END OF SECTION 4

## SECTION 5 - LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC

### 5.1 Laws to be Observed

5.1.1 General: The Contractor shall comply with all Federal, State, county and city laws, by-laws, ordinances and regulations which control the action or operation of those engaged or employed in the Work or which affect Materials used. CFX will acquire environmental permits required by federal, State, County, and local regulatory agencies for all final improvements. CFX will not provide permits for construction means and methods (burning, dewatering, etc.). The Contractor shall be responsible for these.

The Contractor shall indemnify and hold harmless CFX and all its officers, agents, consultants and employees, in the amount of the Contract, against any claims or liability arising from or based on the violation of any such laws, by-laws, ordinances, regulations, orders or decrees by the Contractor or its subcontractors and suppliers.

5.1.2 Plant Quarantine Regulations: The Contractor shall contact the local or other available representatives of the U.S. Department of Agriculture Animal and Plant Health Inspection Service and the Florida Department of Agriculture and Consumer Services to ascertain any current restrictions regarding plant pests which may be imposed by those agencies. Contractor shall remain current with regard to the latest quarantine boundary lines during the construction period. Any restrictions imposed by authorized agencies may affect Contractor's operations involving items such as clearing and grubbing, earthwork, grassing and mulching, sodding, landscaping and other items that may involve the movement of Materials containing plant pests across quarantine lines. Any infringement, damages, remedial activities and/or costs thereof associated with imposed agency restrictions will be borne by the Contractor.

5.1.3 Introduction or Release of Prohibited Aquatic Plants, Plant Pests or Noxious Weeds: The Contractor shall not introduce or release prohibited aquatic plants, plant pests or noxious weeds into the Project limits for any reason. The Contractor shall immediately notify the CEI upon discovery of any prohibited aquatic plants, plant pests or noxious weeds within the Project limits. The Contractor shall not move prohibited aquatic plants, plant pests or noxious weeds and their reproductive parts without a permit from the respective State and/or Federal agency. Prohibited aquatic plants, plant pests and noxious weeds are defined in Rule 16C-52 and Rule 5B-57, Florida Administrative Code. Furnish the CEI, prior to incorporation into the project, with a certification from the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, stating that the sod, hay, straw, and mulch materials are free of noxious weeds, including Tropical Soda Apple.

- 5.1.4 Compliance with Federal Endangered Species Act: Prior to establishing any off-project activity in conjunction with the Project (e.g., borrow pits, concrete or asphalt plant sites, material or Equipment storage sites), the Contractor shall certify to CFX that the Contractor has made, through the use of a qualified environmental scientist, such investigations as may be necessary to comply with the Federal Endangered Species Act. The Contractor shall immediately notify CFX if the Contractor's investigation reveals the need for a biological assessment to determine what measures, if any, are necessary to mitigate the impact on endangered species. The cost for any required biological assessment or subsequent measures required to mitigate the impact on endangered species shall be solely at the Contractor's expense.

No Work shall be performed on site preparation for any off-project activity until CFX receives the Contractor's certification.

- 5.1.5 Occupational Safety and Health Requirements: The Contractor shall take precautions necessary for the protection of life, health and general occupational welfare of all persons (including employees of both the Contractor, CFX and all of its officers, agents and consultants) until the Work has been completed and accepted by CFX.

The Contractor and all Subcontractors shall not allow any person employed in performance of the Work to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to health or safety, as determined under the safety and health standards, set forth in Title 29, Code of Federal Regulations, Part 1518 published in the Federal Register on April 17, 1971, as promulgated by the United States Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act, (83 Stat. 96) including any subsequent revisions and updates.

- 5.1.6 Discovery of Unmarked Human Burial Site: The Contractor shall notify the CEI within two hours of the Contractor's or subcontractor's discovery of an unmarked human burial site. All Contractor or subcontractor activity that may disturb the site shall cease immediately upon discovery of the site. The Contractor shall not resume activity at the burial site until written authorization is received from the CEI.

- 5.1.7 Insecticides and Herbicides: Contractor shall contact the Local County Extension Office for a list of approved Insecticides or Herbicides. Contractor shall: adhere to all labeling instructions; exercise extreme caution to prevent damage to vegetation adjacent to the treated area; and replace any damage as the result of these Materials being applied outside the designated treatment area at no expense to CFX.

## 5.2 Permits and Licenses

- 5.2.1 General: Except as specifically provided for elsewhere in the Specifications, the Contractor shall secure all permits and licenses and give all notices necessary and incidental to the due and lawful prosecution of the Work. The Contractor shall pay all charges and fees for any required licenses and permits.
- 5.2.2 Whenever the Work under or incidental to the Project requires structures and/or dredge/fill/construction activities within the Project limits in waters of the State, CFX will obtain the necessary permits. Any modifications or revisions to an original permit will also be obtained by CFX provided that it is shown that such modifications or revisions are required to complete the construction operations specifically called for in the Plans or Specifications and within the right-of-way limits.

The Contractor shall be responsible to obtain any permits that may be required for Work performed by the Contractor outside the right-of-way or easements for the Project.

In performing the Work, when under the jurisdiction of any environmental regulatory agency, the Contractor shall comply with all regulations issued by such agencies and with all general, special and particular conditions relating to construction activities of any kind and all permits issued to CFX as though such conditions were issued to the Contractor. The Contractor will be responsible for posting any permit placards in a protected location at the worksite.

In case of any discrepancy between any permit condition and a requirement of the Plans or Specifications, the permit condition shall prevail.

If the permit conditions require Work or the furnishing of Materials not specifically provided for in the basis of payment clause for a pay item, such Work or furnishing of Materials will be considered unforeseeable Work by CFX and the Contractor will be compensated in accordance with Article 2.5 of these General Specifications. Special sequencing or scheduling of operations that may be required by permit conditions will not be considered unforeseeable Work by CFX and no additional compensation will be made to the Contractor.

## 5.3 Patented Devices, Materials and Processes

Payments to the Contractor are understood to include all royalties and costs arising from patents, trademarks and copyrights in any way involved with the Work. Whenever the Contractor is required or desires to use any design, device, material or process covered by letters of patent, trademark, trade secret or copyright, CFX's and the Contractor's right for

such use shall be provided by suitable legal agreement with the patentee or owner of the copyright. A copy of such agreement shall be submitted to CFX; however, whether or not such agreement is made or filed, the Contractor and its surety, in all cases, shall indemnify and hold harmless CFX and all of its officers, agents, consultants and employees, from any and all claims for infringement by reason of the use of any such patented design, device, material or process, on the Work and shall indemnify CFX and all of its officers, agents, consultants and employees for any costs, expenses and damages which CFX may be obligated to pay by reason of any such infringement, at any time during the Work and for a period of three years after completion and acceptance of the Project by CFX.

#### 5.4 Right-of-Way Furnished by CFX

Except as may be otherwise stipulated in the Specifications or as may be shown on the Plans, all right-of-way necessary for completion of the Project will be furnished by CFX without cost to the Contractor. If borrow material areas furnished by CFX contain limerock, such material shall not be removed from the pit without specific written approval from CFX.

#### 5.5 Sanitary Provisions

The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of Contractor's employees as are necessary to comply with the requirements and regulations of the State and local boards of health. The Contractor shall not create any public nuisance.

#### 5.6 Control of the Contractor's Equipment

5.6.1 Traffic Interference: Contractor shall not permit Equipment to unreasonably interfere with traffic while the Equipment is on or traversing a road or street.

5.6.2 Overloaded Equipment: Any hauling unit or Equipment loaded in excess of the maximum weights set out in the Florida Uniform Traffic Control Law (or lower weights that may be legally established for any section of road or bridge by the FDOT or local authorities) shall not be operated on any road or street except as provided in subarticle 5.6.3 below for crossings or as provided by a special permit issued by the governmental unit having jurisdiction over a particular road or bridge. This restriction applies to all roads and bridges inside and outside the Project limits as long as these roads and bridges are open for public use. Roads and bridges, which are to be demolished, may be overloaded after they are permanently closed to the public. All liability for loss or damages resulting from Equipment operated on a structure permanently closed to the public shall be the responsibility of the Contractor.

- 5.6.3 Crossings: Where it is necessary to cross an existing road, including specifically the existing travel lanes of a divided highway within the limits of the Project, the Contractor shall obtain the necessary permits from the governmental unit having jurisdiction. The Contractor shall comply with all permit conditions at no additional cost to CFX. The Contractor will be required to provide flagging and watchman service or approved signal devices, for the protection of traffic at all such crossings, in accordance with an approved written plan for that activity.
- 5.6.4 Protection from Damage by Tractor-Type Equipment: Positive measures shall be taken by the Contractor to assure that tractor-type Equipment does not cause damage to roads. If any such damage occurs, the Contractor shall immediately repair the damage to the satisfaction of the governmental unit having jurisdiction over the road and at no cost to CFX.
- 5.6.5 Contractor's Equipment on Bridge Structures: The Contractor, through its Specialty Engineer, shall analyze the effect of imposed loads on bridge structures, within the limits of the Project, resulting from the following operations:
- 1) Overloaded Equipment as defined in subarticle 5.6.2 above:
    - a) Operating on or crossing over completed bridge structures.
    - b) Operating on or crossing over partially completed bridge structures.
  - 2) Equipment within legal load limits:
    - a) Operating on or crossing over partially completed bridge structures.
  - 3) Construction cranes:
    - a) Operating on completed bridge structures.
    - b) Operating on partially completed bridge structures.

Any pipe culvert or box culvert qualifying as a bridge, as defined under subarticle 1.3.3 of these General Specifications is excluded from the above requirements.

A completed bridge structure is a structure in which all elemental components comprising the load carrying assembly have been completed, assembled and connected in their final position. The components to be considered shall also include any related mediums transferring load to any bridge structure.

The Contractor shall determine the effect the Equipment loads have on the bridge structure and the procedures by which the loaded Equipment can be used without exceeding the load capacity for which the structure was designed.

The Contractor shall submit to the CEI for approval eight (8) copies of design calculations, layout drawings and erection drawings showing how the Contractor's Equipment will be used so that the bridge structure will not be overstressed. One (1) of the eight (8) copies of the drawings and the cover sheet of one (1) of the eight (8) copies of the calculations shall be signed and sealed by the Contractor's Specialty Engineer as the CFX record set.

- 5.6.6 Posting of the Legal Gross Vehicular Weight: The maximum legal gross weight, as set out in the Florida Uniform Traffic Code, shall be displayed in a permanent manner on each side of any dump truck or any dump type tractor-trailer unit hauling embankment material, construction aggregates, road base material or hot bituminous mixture to the Project over any public road. The weight shall be displayed in a location clearly visible to the scale operator, in numbers that contrast in color with the background and are readily visible and readable from a distance of 50 feet.

## 5.7 Structures Over Navigable Waters

- 5.7.1 Compliance with Jurisdictional Regulations: Where structures are erected in, adjacent to or over navigable waters, the Contractor shall observe all regulations and instructions of jurisdictions having control over such waters. The Contractor shall not obstruct navigation channels without permission from the proper authority and shall provide and maintain navigation lights and signals in accordance with jurisdictional requirements.

## 5.8 Use of Explosives

The use of explosives will not be allowed.

## 5.9 Preservation of Property

- 5.9.1 General: The Contractor shall preserve from damage all property along the line of Work or which is in the vicinity of or is any way affected by the Work, the removal or destruction of which is not called for by the Plans. This requirement shall apply to public and private property, public and private utilities (except as modified by subarticle 5.9.6 below), trees, shrubs, crops, signs, monuments, fences, guardrail, pipe, underground structures, public highways (except natural wear and tear of highway resulting from legitimate use thereof by the Contractor) and the like. Property damaged due to the activities of the Contractor shall be immediately restored, at Contractor's expense, to a condition similar or equal to that existing before such damage or injury was done by the Contractor.



The Contractor shall protect existing bridges from damage caused by Contractor's operations during the entire construction period. The Contractor will not be required to provide routine repairs or maintenance for such structures but will be required, at Contractor's expense, to make immediate repairs of any damage caused by the Contractor's operations.

The Contractor shall protect all geodetic monuments, horizontal or vertical, located within the limits of construction.

5.9.2 **Failure to Restore Damaged Property:** If the Contractor fails to restore such property, bridge or road CFX may, at its sole option and with 48 hours notice to the Contractor, proceed to repair, rebuild or otherwise restore the damaged property, bridge or road at Contractor's cost or expense. The cost of such repairs will be deducted by CFX from any monies due or which may become due the Contractor.

5.9.3 **Contractor's Use of Streets and Roads**

5.9.3.1 **On Systems Other than the CFX System:** Where the Contractor hauls material or Equipment to the Project over roads and bridges on the state park road system, state highway system, county road system or city street system and such hauling causes damage, the Contractor, at Contractor's cost and expense, shall immediately repair such roads or bridges to as good a condition as existed before the hauling began.

5.9.3.2 **On the CFX System:** The Contractor shall also be responsible for repairing damage caused by hauling Materials to the Project along roads and bridges outside the limits of the Project which are on the CFX system (roads under the jurisdiction of CFX) or are specifically designated in the Plans as haul roads from CFX furnished Materials pits.

5.9.3.3 **Within the Limits of the Project:** The Contractor shall not operate Equipment or hauling units of such weight as to cause damage to previously constructed elements of the Project including but not necessarily limited to, bridges, drainage structures, base course and pavement. Equipment or hauling units loaded in excess of the maximum weights set out in subarticle 5.6.2 above shall not be operated on existing pavements that are to remain in place (including pavement being resurfaced), cement-treated subgrades and bases, concrete pavement, any course of asphalt pavement and bridges. Exceptions to these weight restrictions may be allowed for movement of necessary Equipment to and from its work site, for hauling of offsite fabricated components to be incorporated into the Project and for crossings as detailed in subarticle 5.6.3 above.

5.9.3.4 Cleaning and Maintenance of Streets and Roads: Whenever the Contractor utilizes any streets or roads, whether on the CFX system or otherwise, for cyclical material hauling operations, for example embankment, excavation, etc., the condition of all affected streets or roads will be assessed by the Contractor through an initial video survey with the CEI prior to hauling operations. Throughout the hauling operations or when changes to haul routes occur, the Contractor shall provide updated video surveys performed every two weeks to monitor the current street, road and/or facility conditions. The video survey will be submitted in duplicate to the CEI and narrated to identify the respective street, road or facility, with detail of specific features, condition, etc. Any deterioration, whatsoever, to the condition of the streets or roads from this initial video survey and subsequent two-week updates will be viewed as being a result of the Contractor's operations and shall be repaired to equal or better condition, at the Contractor's expense, within two weeks after notification by the CEI. The Contractor will be responsible to prevent, clean and replace areas of the travel ways and appurtenances (including but not limited to bridge decks, drainage, roadway surface, striping) utilized by the Contractor where tracking and/or spillage of materials have occurred. Cleaning and preventive measures that will not deteriorate the existing facility conditions will be utilized and may include pressure washing, sanding etc.

- 5.9.4 Traffic Signs, Signal Equipment, Highway Lighting, and Guardrail: Contractor shall protect all existing roadside signs, signal equipment, highway lighting and guardrail, for which permanent removal is not indicated, against damage or displacement. Whenever such signs, signal equipment, highway lighting or guardrail lie within the limits of construction, or wherever so directed by the CEI due to urgency of construction operations, take up and properly store the existing roadside signs, signal equipment, highway lighting and guardrail and subsequently reset them at their original locations or, in the case of widened pavement or roadbed, at locations designated by the CEI.

If CFX determines that damage to such existing or permanent installations of traffic signs, signal equipment, highway lighting or guardrail is caused by a third party(ies), and is not otherwise due to any fault or activities of the Contractor, CFX will, except for any damage resulting from vandalism, compensate the Contractor for the costs associated with the repairs. Contractor shall repair damage caused by vandalism at no expense to CFX.

## 5.9.5 Operations Within Railroad Right of Way

5.9.5.1 Notification to the Railroad Company: The Contractor shall notify the CEI and the railroad company's division engineer or superintendent a minimum of 72 hours in advance of beginning any operations within the limits of the railroad right of way, any operations requiring movement of employees, trucks or other Equipment across the tracks of the railroad company at other than established public crossings, and any other Work which may affect railroad operations or property.

5.9.5.2 Contractor's Responsibilities: The Contractor shall comply with the requirements that the railroad company's division engineer or superintendent considers necessary to safeguard the railroad's property and operations. Any damage, delay or injury and any suits, actions or claims made because of damages or injuries resulting from the Contractor's operations within or adjacent to railroad right of way shall be the Contractor's responsibility.

5.9.5.3 Watchman or Flagging Services: When protective services are necessary during certain periods of the Project to provide safety for railroad operations, the railroad company will provide such services (watchman or flagging) and CFX will reimburse the railroad company for the cost thereof. The Contractor shall schedule Work that affects railroad operations to minimize the need for protective services by the railroad company.

## 5.9.6 Utilities

5.9.6.1 Arrangements for Protection or Adjustment: Work shall not commence at points where the Contractor's operations adjacent to utility facilities may result in expense, loss or disruption of service to the public or owners of the utilities until the Contractor has made all arrangements necessary for the protection of the utilities. The Contractor shall be solely and directly responsible to the owners and operators of such utilities for any damage, injury, expense, loss, inconvenience, or delay caused by the Contractor's operations.

CFX will make the necessary arrangements with the utilities owners for removal or adjustment of utilities where such removal or adjustment is determined by CFX to be essential to the performance of the Work. Relocations or adjustments requested by the Contractor based on the Contractor's proposed use of a particular method of construction or type of Equipment will not be considered as being essential to the Work if other commonly used methods and Equipment could be used without the necessity of relocating or adjusting the utility. CFX will determine the responsibility for any such required adjustments of utilities. Relocations or adjustments requested because of delivery to the Project of Materials furnished by the Contractor shall be the responsibility and expense of the Contractor.

Circumstance under which CFX will consider utility relocations or adjustments essential include, but are not necessarily limited to, the following:

- 1) Utilities lying within the vertical and horizontal construction limits plus the reasonably required working room necessary for operation of Equipment normally used for the particular type of construction except as provide in subparagraph 4 below. In the case of overhead electrical conductors which carry more than 400 volts, a minimum of 10 feet clearance between the conductor and the nearest possible approach of any part of the Equipment will be required, except where the utility owner effects safeguards approved by the Florida Department of Labor and Employment Security.
- 2) Utilities lying within the horizontal limits of the Project and within 12 inches below the ground surface or the excavation surface on which the construction Equipment is to be operated or within 12 inches below the bottom of any stabilizing course called for on the Plans.
- 3) Utilities lying within the normal limits of excavation for underground drainage facilities or other structures (except as provided in subparagraph 4 below). Such normal limits shall extend to side slopes along the angle of repose as established by sound engineering practice, unless the Plans or Specifications require the sides of the excavation to be supported by sheeting or the Contractor elects to sheet such excavation for the Contractor's convenience.
- 4) Where utilities cross pipe trenches transversely within the excavation area but not within positions from which relocation or removal is necessary, the utility owner will be responsible for providing and effecting all reasonable measures for their support and protection during construction operations. The Contractor shall cooperate with the utility owner in the owner's effecting such support and protective measures. The Contractor shall be responsible for any damage to the utility that is caused by neglect or failure on the Contractor's part to cooperate and to use proper precaution in performing the Work.

In the event that a temporary relocation of a utility or a particular sequence of timing in the relocation of a utility is necessary, such relocation shall be done only as directed by CFX. CFX will not be responsible for utility adjustments or temporary relocation work or for the conditions resulting therefrom, where such adjustments are: not necessitated by the construction of the Project; or done solely for the benefit or convenience of the utility owner or its contractor (or the Contractor where

Contractor's construction procedures are considered by CFX to be other than normal); or not shown on the approved Plans for the utilities relocation or the construction.

5.9.6.2 Cooperation with Utility Owners: The Contractor shall cooperate with the utility owners in the removal and/or rearrangement of utilities. If utility service is interrupted due to construction operations, the Contractor shall immediately notify the owner of the utility and the CEI and cooperate in the prompt restoration of service. If water service is interrupted, the Contractor's repair work shall be continuous until the service is restored. No Work shall be undertaken around fire hydrants until the local fire authority has approved provisions for continued service.

5.9.6.3 Utility Adjustments: Utility adjustments and reconstruction Work may be underway during the Work. The Contractor shall effectively cooperate, coordinate, and schedule utility adjustments with utility construction crews in maintaining utility service. The Contractor shall use caution when working adjacent to utilities that have been relocated. The Contractor shall repair, at Contractor's expense, damages to relocated utilities resulting from Contractor's operations.

5.9.6.4 Weekly Meetings: Contractor shall conduct weekly meetings on the job site with all the affected utility companies and the CEI in attendance to coordinate Project construction and utility relocation, and shall submit a list of all attendees one week in advance to the CEI for approval.

Provide the approved Work Progress Schedule and Work Plan for the project to document the schedule and plan for road construction and utility adjustments.

When utility relocations no longer affect construction activities, the Contractor may discontinue the meetings with the CEI's approval.

## 5.10 Responsibility for Damages, Claims, etc.

5.10.1 Contractor to Provide Defense Against Claims and Suits: To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless CFX (its officers, agents and employees) from and against claims, damages, losses and expenses (including but not limited to attorneys' fees), arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom. However, the indemnification herein provided is only to the extent caused in whole or in part by any act, omission or default of the Contractor, subcontractor, sub-subcontractor, materialman, agents of any tier, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified

hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described herein. The monetary limit on the indemnification provided herein to CFX or its officers, agents and employees shall be the total amount of the Agreement in aggregate or the insurance policy amount as required in article 5.11 herein, whichever is greater. The total amount of the Agreement in aggregate will be determined by the date the notice of claim was received by CFX.

In claims against any person or entity indemnified under this subarticle by an employee of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this subarticle shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

The obligations of the Contractor under this subarticle shall not extend to the liability of the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, designs or specification, or (2) the giving of or the failure to give direction or instructions by the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

The Contractor's obligation to indemnify and pay for the defense or, at CFX's option, to participate and associate with CFX in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within seven (7) days of receipt by the Contractor of the CFX notice of claim for indemnification to the Contractor. The notice of claim for indemnification will be served by certified mail. The Contractor's obligation to indemnify within seven (7) days of receipt of such notice will not be excused because of the Contractor's inability to evaluate liability or because the Contractor evaluates liability and determines the Contractor is not liable or determines CFX is solely negligent. The Contractor will pay all costs and fees related to this obligation and its enforcement by CFX.

This Contract shall not create in the public or any member thereof, a third party beneficiary hereunder or to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Contract.

5.10.2 Guaranty of Payment for Claims: The Contractor guarantees the payment of all just claims for Materials, Equipment, supplies, tools or labor and other just claims against the Contractor or any subcontractor in connection with the Contract. Final acceptance and payment by CFX will not release the Contractor's bond until all such claims are paid or released.

#### 5.11 Insurance

Anything contained herein to the contrary notwithstanding, during the term of the Contract and for such additional time as may be further required, the Contractor shall provide, pay for and maintain in full force and effect insurance outlined in subarticles 5.11.1 through 5.11.9 below for coverage at not less than the prescribed minimum limits of liability, covering the Contractor's activities and those of any and all subcontractors (including officers, directors, employees or agents of each and their successors). All insurance shall be provided through companies authorized to do business in the State of Florida and considered acceptable by CFX.

Upon execution of the Contract, the Contractor shall furnish to CFX, Certificates of Insurance bearing an original manual signature of the authorized representative of the insurance company. No Work shall commence under the Contract unless and until the required Certificates of Insurance described herein are in effect and have been approved by CFX. The Certificate of Insurance shall be issued to CFX and shall reference the complete and correct Project number, as well as the full and complete name of each insurance company, including city and state of domicile, as listed by A.M. Best Company. 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. Such Certificates shall provide that in the event of cancellation, non-renewal or material reduction in coverage (including any material reduction of limits of Liability), the insurer will provide thirty (30) days prior notice of such cancellation, non-renewal or material reduction by certified mail to CFX. In addition, certified true copies of all policies shall be provided to CFX upon specific written request. Renewal Certificates of Insurance for all policies shall be submitted by the Contractor so that they are received by CFX no later than thirty (30) calendar days prior to the expiration of existing insurance coverage. Failure by the Contractor to meet this required timeframe will result in suspension of partial payments on monthly estimates until the certificates are received and accepted by CFX.

All insurance coverage required of the Contractor shall be primary and noncontributory over any insurance or self-insurance program carried by CFX.

Excluding Professional and Pollution liability insurance, no liability insurance required herein shall be written under a “claims made” form.

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

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 and endorsement 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 and endorsements are in compliance with the requirements.

Neither approval by CFX of insurance supplied by the Contractor nor disapproval of that insurance, shall release the Contractor of full responsibility for liability, damages and accidents as otherwise provided by the Contract. The requirement of insurance will not be deemed a waiver of sovereign immunity by CFX.

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide CFX with certificates of same, CFX may obtain such polices and coverages at CONTRACTOR’s expense and deduct such costs from CONTRACTOR payments. Alternately, CFX may declare CONTRACTOR in default for cause.

5.11.1 Schedule of Required Limits for Workers’ Compensation, General Liability and Automobile Liability:

<b>Contract Amount</b>	<b>Workers’ Comp/ Employer’s Liability</b>	<b>General Liability (per occurrence/ aggregate)</b>	<b>Automobile Liability</b>
Up to \$3 million	Statutory / \$500,000	\$1,000,000 / \$2,000,000	\$1,000,000
\$3 million and Up	Statutory / \$1,000,000	\$5,000,000 / \$10,000,000	\$5,000,000

5.11.2 Worker’s Compensation and Employer’s Liability Insurance: The Contractor shall maintain coverage for its employees in accordance with the laws of the State of Florida. The amount of coverage shall not be less than the limits of insurance as required in subarticle 5.11.1.



The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the Contractor, its employees, agents and subcontractors.

- 5.11.3 Comprehensive General Liability Insurance: Coverage shall be maintained by the Contractor providing Comprehensive General Liability Insurance as provided on Insurance Services Office form GC 00 01 or an equivalent thereof. Limits of Liability for Bodily Injury Liability and/or Property Damage Liability shall not be less than the limits of insurance as required in Section 5.11.1.

The policy shall contain an endorsement providing for Aggregate Limits of Liability to be on a per Project basis. This endorsement shall state that Aggregate Limits as specified herein apply separately and specifically to this Project.

Products and Completed Operations coverage, evidenced by a Certificate of Insurance, shall be maintained for a period of not less than two (2) years following completion of the Work to which the Contract applies.

If watercrafts are to be used in the performance of any Work under the Contract, watercraft operations shall be covered under the Comprehensive General Liability policy providing limits in accordance with the General Liability requirements.

If the Project involves Work or operations by the Contractor within the limits of the railroad right-of-way, including any encroachments thereon from Work or operations in the vicinity of the railroad right-of-way, the railroad shall be named as an Additional Insured under this policy.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy. Insurance Services Office endorsement CG 20 10 (11 85 edition date) or both CG 20 10 and CG 20 37(10 01 edition dates) forms (if later edition dates are used), shall be used to meet these requirements and a photocopy of same shall be provided with the Certificate.

- 5.11.4 Comprehensive Automobile Liability Insurance: The Contractor shall maintain coverage applicable to the ownership, maintenance, use, loading and unloading of any owned, non-owned, leased or hired vehicle issued on Insurance Services Office form CA 00 01 or its equivalent. The amount of coverage shall not be less than the limits of insurance as required in subarticle 5.11.1.

This policy shall include coverage for liability assumed under contract (if not provided for under the Comprehensive General Liability policy). In the event the Contractor does not own automobiles, the Contractor shall maintain coverage for

hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or through a separate Business Auto Liability policy.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

- 5.11.5 Umbrella/Excess Liability Insurance: If an Umbrella or Excess Liability Insurance policy is used to attain the required limits of liability, the sum of the limits provided by the Primary insurance and the Umbrella or Excess Liability insurance must at least equal the Limits of Liability as required by subarticle 5.11.1

The Umbrella/Excess Liability Insurance policy or Excess policy shall afford coverage equivalent to the required coverage as set forth in this Article 5.11. Policy inception date must also be concurrent with the inception dates of the underlying General Liability and Automobile Liability policies.

Umbrella or Excess policy Certificate of Insurance shall stipulate the underlying limits of liability applicable. A photocopy of the endorsement so evidencing shall be attached to the Certificate.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

- 5.11.6 Builder's Risk: If this Contract includes: (1) construction of a new above-ground structure or structures, (2) any addition, improvement, alteration, or repair to an existing structure or structures, or (3) the installation of machinery or equipment into an existing structure or structures, the Contractor shall maintain builders' risk insurance providing coverage to equally protect the interests of CFX, the Contractor and subcontractors of any tier.

Coverage shall be written on a completed value form in an amount at least equal to 100% of the estimated completed value of the project plus any subsequent modifications of that sum. The coverage shall be written on an "all-risk" basis and shall, at a minimum, cover the perils insured under the Insurance Services Office CP 10 30 Special Causes of Loss Form and shall include property in transit and property stored on or off premises that shall become part of the project.

The Contractor agrees not to maintain a wind or flood sub-limit less than 25% of the estimated completed value of the project. The Contractor agrees any flat deductible(s) shall not exceed \$25,000, and any windstorm percentage deductible (when applicable) shall not exceed five-percent (5%).

The coverage shall not be subject to automatic termination of coverage in the event the project/building is occupied in whole or in part, or put to its intended use, or partially accepted by CFX. If such restriction exists the Contractor shall request that the carrier endorse the policy to amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, CFX's interest in the project ceases, or the project is accepted and insured by CFX.

5.11.7 Railroad Insurance: When the Contractor performs Work on, adjacent to, over or under a railroad, railroad property or railroad right-of-way, the Contractor shall furnish CFX (for transmittal to the railroad company) an insurance certificate with the railroad named as the insured which (with respect to the operations the Contractor or any of its subcontractors perform) will provide for Railroad Protective Liability insurance providing coverage for bodily injury, death and property damage of a combined single limit of Five Million Dollars (\$5,000,000.00) per occurrence, with an aggregate limit of Ten Million Dollars (\$10,000,000.00) for the term of the policy. The policy shall be written on the ISO/RIMA (CG 00 3S 11 85) with Pollution Exclusions Amendment (CG 28 31 11 85) endorsement deleting Common Policy Conditions (CG 99 01) if Common Policy Conditions are included in the policy and Broad Form Nuclear Exclusion (IC 00 21). CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

5.11.8 Pollution Legal/Environmental Legal Liability Insurance (CPL) - The Contractor agrees to maintain Contractor's Pollution Legal/Environmental Legal Liability Insurance on a per-project basis. Coverage shall be for pollution losses arising from all services performed to comply with this contract. Coverage shall apply to sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants, or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in Bodily Injury or Property Damage.

If policy is written on a Claims Made form, a retroactive date prior to or equal to the effective date of the Contract is required, and coverage must be maintained for 3 years after completion of contract or "tail coverage" must be purchased. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the Contractor agrees to purchase the SERP with a minimum reporting period of not less than three years. Purchase of the SERP shall not relieve the Contractor of the obligation to provide replacement coverage.

Coverage should include and be for the at least the minimum limits listed below:

- 1) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- 2) Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensation damages.
- 3) Cost of Cleanup/Remediation.

**Limits**

Each Occurrence - \$ 2,000,000

General Aggregate - \$ 4,000,000

For acceptance of Pollution Legal/Environmental Legal Liability coverage included within another policy coverage required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Pollution Legal/Environmental Legal Liability and other coverage combined.

If the CGL and CPL policy is issued by the same issuer, a total pollution exclusion shall be attached to the Contractor's CGL policy and an appropriate premium credit provided from the issuer to the Contractor.

CFX, its employees, members, officers, agents, consultants and successors shall be named as Additional Insured under this policy.

5.11.9 Professional Liability- If the construction method is "design-build" the Contractor agrees to maintain Professional Liability on a per-project basis. The Contractor agrees that the policy shall include a minimum three-year extended reporting period. The Contractor agrees that the Retroactive Date equals or precedes the execution date of this Contract or the performance of services specified hereunder. The Contractor agrees to provide coverage with limits and deductibles as prescribed below.

<b>Contract Amount</b>	<b>Minimum Limit</b>	<b>Maximum Deductible</b>
Up to \$1 million	50% of project cost, minimum of \$100,000 per occurrence	10% of project cost or \$25,000, whichever is smaller
\$1 million and Up	\$1,000,000	\$100,000

## 5.12 Contract Bond (Public Construction Bond) Required

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

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

## 5.13 Contractor's Responsibility for Work

Until final acceptance by CFX, the Work shall be under the charge and custody of the Contractor. The Contractor shall take every necessary precaution against injury or damage to the Work by the action of the elements or from any other cause whatsoever arising either from the execution or non-execution of the Work and shall rebuild, repair, restore and make good, without additional compensation, all injury or damage to any portion of the Work including extensive or catastrophic damages.

The Contractor will not be held responsible for damage to any landscape items caused by an officially declared hurricane that occurs after the final acceptance of the entire Work but during any remaining portion of the 90-day establishment period.

## 5.14 Opening Section of Highway to Traffic

When any bridge or section of roadway is, in the opinion of CFX, acceptable for travel, CFX may direct that the bridge or roadway be opened to traffic. Such opening shall not be considered, in any way, to be an acceptance of the bridge or roadway or any part thereof or as a waiver of any provision of the Contract. The Contractor shall make all repairs or renewals due to defective Work or Materials (or for any cause other than ordinary wear and tear) on such opened sections without additional compensation.

## 5.15 Scales for Weighing Materials

- 5.15.1 **Applicable Regulations:** Prior to the use of any scales, the Contractor shall submit to the CEI a copy of a certificate of accuracy for the scales that is not more than 1 year old. All scales which are used for the determination of the weight of Materials upon which compensation will be made by CFX shall conform to the requirements of Chapter 531, Florida Statutes, pertaining to specifications, tolerances and regulations as administered by the Bureau of Weights and Measures of the Florida Department of Agriculture. CFX reserves the right to perform scale checks/inspections at its sole discretion.
- 5.15.2 **Base for Scales:** Such scales shall be placed on a substantial horizontal base that will assure proper support, rigidity and maintenance of level of the scales.
- 5.15.3 **Protection and Maintenance:** All scale parts shall be in proper condition as to level and vertical alignment and shall be fully protected against contamination by dust, dirt and other matter which might affect operation of the parts.

## 5.16 Source of Forest Products

As required by Section 255.20, Florida Statutes, all timber, timber piling or other forest products which are used in the construction of the Project shall be produced and manufactured in the State of Florida, price and quality being equal and provided such Materials produced and manufactured in Florida are available.

## 5.17 Regulations of Air Pollution

- 5.17.1 **General:** All Work shall be done in accordance with all Federal, State and local laws and regulations regarding air pollution and burning.
- 5.17.2 **Dust Control:** The Contractor shall ensure that excessive dust is not transported beyond the limits of construction in populated areas. Dust control for embankment or other cleared or unsurfaced areas may be by application of water or calcium chloride, as directed by CFX. Any use of calcium chloride shall be in accordance with Section 102 of the Technical Specifications. When included in the Plans, mulch, seed, sod or temporary paving shall be installed as early as practical. Dust control for storage and handling of dusty materials may be made by wetting, covering or other means as approved by the CEI.

5.17.3 Asphalt Material: Any asphalt used shall be emulsified asphalt unless otherwise stated in the Plans and allowed by Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. Asphalt materials and components shall be stored and handled to minimize unnecessary release of hydrocarbon vapors.

5.17.4 Asphalt Plants: The operation and maintenance of asphalt plants shall be in accordance with Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. A valid permit as required under Chapter 17-2 shall be available at the plant site prior to the start of Work.

5.18 Dredging and Filling

If required by the Work, the Contractor shall comply with Section 370.033, Florida Statutes, regarding obtaining a certificate of registration from the Florida Department of Environmental Protection and keeping accurate records and logs of all dredge and fill activities.

5.19 Erosion Control

This Project will be constructed on properties that may be subject to environmental permits and regulation promulgated by city, county, state, federal, and regional authorities. Requirements for erosion control are included in the Technical Specifications.

5.20 Contractor's Motor Vehicle Registration

The Contractor shall provide proof to CFX that all motor vehicles operated or caused to be operated by the Contractor are registered in compliance with Chapter 320, Florida Statutes. Such proof of registration shall be submitted in the form of a notarized affidavit to CFX. No payment will be made to the Contractor until the required proof of registration is on file with CFX.

5.21 Internal Revenue Service Form W-9

The Contractor shall complete and return with the executed Contract, Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.

## 5.22 Tolls and Access

The Contractor shall pay all tolls incurred from using CFX's Expressway System to transport personnel, equipment, or materials to and from the site of Work. Any costs incurred by the Contractor in payment of tolls shall be considered incidental and included in associated items. The term "equipment" in this context includes loaders, graders and similar self-propelled equipment, operating under their own power, passing through a toll plaza.

Contractor shall access the Project by existing expressway ramps. No access will be allowed through the right-of-way fence.

## 5.23 Requests for References or Performance Evaluations

In the event CFX at any time receives any direct or third party inquiry or request concerning the Contractor, its employees or sub-contractors, or the performance of the Contractor, its employees or sub-contractors under this Contract, CFX, at any time and in all cases, may, but shall not be obligated to respond to any such inquiry or request, with or without notice to the Contractor, its employees, or subcontractors, as the case may be, but, in all cases, such response shall be limited to: (1) acknowledging that the Contractor has, or in the past has had, a contract with CFX; (2) the date, term and type of such contract; (3) whether a specified employee or subcontractor worked on the Contract, and if so, in what capacity; (4) whether such contract was terminated early for any reason other than the convenience of CFX; (5) whether such contract was eligible for renewal or extension; and, (6) if such contract was eligible for renewal or extension, whether in fact such contract was renewed or extended. Should the Contractor, its employees, its agents or subcontractors request that any further information be provided in response to such an inquiry or request, such additional information may be provided by CFX, in its sole discretion. Contractor for itself, its employees, its agents and sub-contractors, hereby expressly waives any and all claims of whatever kind or nature that the Contractor, its employees, its agents or sub-contractors may have, or may hereafter acquire, against CFX relating to, or arising out of CFX's response to any and all requests or inquiries concerning the Contractor, its employees or subcontractors under this Contract, or the performance of the Contractor, its employees or subcontractors under this Contract.

## 5.24 Unauthorized Aliens

Contractor warrants that all persons performing work for CFX under this Contract, regardless of the nature or duration of such work, shall be United States citizens or properly authorized and documented aliens. Contractor shall comply with all federal, state and local laws and regulations pertaining to the employment of unauthorized or undocumented aliens at all times during the performance of this Contract and shall indemnify and hold CFX harmless for any violations of the same. Furthermore, if CFX determines that Contractor has



knowingly employed any unauthorized alien in the performance of the Contract, CFX may immediately and unilaterally terminate the Contract for cause.

#### 5.25 Public Records

**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 (407-690-5000, [publicrecords@CFXWay.com](mailto:publicrecords@CFXWay.com), and 4974 ORL Tower Road, Orlando, FL. 32807).**

CONTRACTOR acknowledges that CFX is a body politic and corporate, an agency of the State of Florida, and is subject to the Public Records Act codified in Chapter 119, Florida Statutes. To the extent that the CONTRACTOR is in the possession of documents fall within the definition of public records subject to the Public Records Act, which public records have not yet been delivered to CFX, CONTRACTOR agrees to comply with Section 119.0701, Florida Statutes, and 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.

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

#### 5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

#### 5.27 Convicted Vendor List

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 for a period of 36 months following the date of being placed on the convicted vendor list.

#### 5.28 Discriminatory Vendor List

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.

## 5.29 Severability

If any section of the Contract Documents that are incorporated into this Contract be judged void, unenforceable or illegal, then the illegal provision will 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 will remain in full force and effect and will be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

## 5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

END OF SECTION 5

## SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

### 6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without written consent of CFX. With CFX written consent, the Contractor will be permitted to sublet a portion of the Work but shall perform, with its own organization, Work amounting to not less than 50% of the total Contract amount less the total amount for those Contract items specifically designated as "Specialty Work" below or as otherwise designated as Specialty Work by CFX. The granting or denying of consent under this provision is at CFX's sole discretion.

The total Contract amount shall include the cost of Materials, manufactured component products and their transportation to the Project site. Off-site commercial production of Materials and manufactured component products purchased by the Contractor and their transportation to the Project will not be considered subcontracted Work.

If a part of a Contract item is sublet, only its proportional cost will be used in determining the percentage of subcontracted normal Work.

All subcontracts entered into by the Contractor shall be in writing and shall contain all pertinent provisions and applicable requirements of the Contract. All subcontracts shall require subcontractor to indemnify and hold harmless CFX on the same terms as contained in the General Specifications and the Contract. The Contractor shall furnish CFX with a copy of any subcontract requested by CFX. Subletting of Work shall not relieve the Contractor or surety of their respective liabilities.

The Contractor shall ensure that all Subcontractors are competent, careful and reliable. The Contractor shall submit the names and qualifications of all first and second tier subcontractors to CFX for approval prior to their beginning Work on the Project. All first and second tier subcontractors shall have the skills and experience necessary to properly perform the Work assigned and as required by the plans and specifications.

If, in the opinion of CFX, any Subcontractor employed by the Contractor is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such first or second tier subcontractor shall be immediately removed from the Project by the Contractor upon written direction from CFX. Such subcontractor shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such subcontractor, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the subcontractor is removed. The

Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Subcontractor based on the direction of CFX. All subcontracts shall expressly include an acknowledgment of CFX's right to remove any Subcontractor in accordance with this paragraph.

A Subcontractor shall be recognized only in the capacity of an employee or agent of the Contractor.

If the aggregate total of the dollar amount of Work performed by a subcontractor, including equipment rental agreements, equals or exceeds \$20,000, a formal subcontract agreement shall be entered into between the Contractor and the Subcontractor.

6.1.2 Specialty Work: The following Work is designated as Specialty Work:

- Auxiliary Power Unit
- Cleaning, Coating, Injection, Grouting, Grinding, Grooving or Sealing Concrete Surfaces
- Deep Well Installation
- Electrical Work
- Fencing
- Highway Lighting
- Installing Pipe or Pipe Liner by Jacking and Boring
- Installing Structural Plate Pipe Structure
- Landscaping
- Painting
- Plugging Water Wells
- Pressure Grouting
- Pumping Equipment
- Roadway Signing and Pavement Marking
- Riprap
- Removal of Buildings
- Rumble Strips
- Sealing Wells by Injection
- Septic Tank and Disposal System
- Signalization
- Utility Works
- Vehicular Impact Attenuator
- Water and Sewage Treatment Systems

## 6.2 Work Performed by Equipment Rental Agreement

The limitations set forth in 6.1, regarding the amount of Work that may be subcontracted, do not apply to Work performed by Equipment rental agreements. The Contractor shall notify CFX, in writing, if the Contractor intends to perform any Work through an Equipment rental agreement. The notification shall be submitted to CFX before any rental Equipment is used on the Project. The notification shall include a list of the Equipment being rented, the Work to be performed by the Equipment and whether the rental includes an Equipment operator. Notification to CFX will not be required for Equipment being rented (without operators) from an Equipment dealer or from a firm whose principle business is renting or leasing Equipment.

## 6.3 Prosecution of Work

6.3.1 Sufficient Labor, Materials and Equipment: The Contractor shall provide sufficient labor, Materials and Equipment to ensure the completion of the Work no later than the Contract completion date.

6.3.2 Impacts by Adjacent Projects: When there is a potential impact between two or more projects due to close proximity or due to logistics in moving labor, Materials, and Equipment between projects, all authorized representatives of the parties performing the projects have a responsibility to communicate and coordinate their work so that impacts to either party are eliminated or mitigated and do not endanger, delay, or create additional work or costs to either party. The Contractor shall not be compensated for any additional costs or delays so incurred by either party.

6.3.3 Submission of Preliminary, Baseline, Updated Baseline, and Two-Week Look-Ahead Schedules:

### 6.3.3.1 Scheduling Terminology

Accepted Baseline Schedule: The Accepted Baseline Schedule is the Baseline Schedule submitted by the Contractor and accepted by CFX. Review and acceptance of the schedule by CFX will be for the sole purpose of determining if the schedule is in substantial compliance with the General Specifications and does not mean that CFX agrees or disagrees, approves or disapproves of the constructability, means and methods, validity and accuracy of the submitted baseline schedule. The Contractor is solely responsible for the constructability, means and methods, validity and accuracy of the submitted baseline schedule.

Acknowledged Receipt of the Updated Baseline Schedule: The Contractor is solely responsible for the constructability, means and methods, validity and accuracy of the updated baseline schedule. CFX does not accept or reject, agree or disagree, approve or disapprove of the constructability, means and methods, validity or accuracy of the

Updated Baseline Schedule. Instead, CFX will transmit a letter acknowledging receipt of the Contractor's submittal of the Updated Baseline Schedule.

Baseline Schedule: The Baseline Schedule does not contain any progressed activities. Therefore, each activity's early and late dates are planned dates, not actual dates. The Baseline Schedule contains the necessary breakdown of activities to adequately track the progress of the project. Activities in the Baseline Schedule shall include, but not be limited to, activities for all work to be performed. In addition, the baseline schedule should include milestone activities, and activities for the procurement of significant equipment and materials, including activities for submittals and approvals, orders, fabrication, request for delivery and delivery. Procurement activities should be logically tied to their respective work activities.

Contract Completion Date: Also called the Approved Contract Completion Date or the Authorized Contract Completion Date or the Last Chargeable Contract Date.

The Contract Completion Date is calculated by adding the number of calendar days stated in the contract to complete all work, to the first chargeable day of the Contract, less one day.

For time extensions granted by CFX, the Contract Completion Date is calculated by adding the number of calendar days granted to the Contract Completion Date.

If a critical activity is delayed, the Contract Completion Date(s) may also be delayed if the durations on the remaining activities on the critical path are accurate. The Contractor acknowledges and agrees that actual delays to activities which, according to the CPM schedule, do not directly affect the main project critical path, do not have any effect on the Contract Completion Date(s) and shall not be the basis for a change therein.

CPM: Critical Path Method of scheduling.

Early Dates: The earliest scheduled start and/or finish date assigned to a CPM scheduled activity.

Excusable Delay: As defined in subarticle 6.7.3.1.

Adjustments to Contract Time.

Extra Work: Any Work which is required by CFX to be performed and which is not otherwise covered or included in the existing Contract Documents, whether it be additional Work, altered Work, deleted Work, Work due to differing site conditions, or otherwise. This term does not include a delay.

**Lag:** An undefined delay between two scheduled activities. For instance, a 5 day lag between activity A (the predecessor) and activity B (the successor) with a Finish to Start (FS) relationship would mean that activity B would not start until 5 days after the finish of activity A.

**Late Dates:** The latest scheduled start and/or finish date assigned to a CPM scheduled activity.

**Longest Path:** In a Baseline Schedule, the Longest Path of the CPM schedule is a continuous series of activities starting from the first scheduled activity and ending with the last scheduled activity, that are linked in a logical sequence and where each activity in the sequence has the least value of total float in the schedule. If each of the longest path activities were assigned the same calendar, then each activity on the longest path would have the same value of total float. In an Updated Baseline Schedule (a baseline with actual progress recorded), the Longest Path will begin at the data date (also known as the cut-off date) and extend to the last activity scheduled in the Contract. The Contractor shall sequence work so that only one Longest Path is created in the Baseline or Updated Baseline schedule.

**Negative Total Float:** Also called Negative Float. The greatest number of days, stated as a negative number, that the Contract Completion Date is delayed. When an activity has negative total float, the activities with negative total float have early dates scheduled later than their late dates.

**Planned Dates:** Also called early and late dates.

**P6:** The scheduling software Primavera Project Planner, produced by Primavera Systems, Inc., which shall be used by the Contractor for all CPM scheduling tasks.

**Preliminary Schedule:** The Preliminary Schedule is a bar chart schedule submitted at the Pre-Construction Conference. Refer also to specification section 6.3.3.3.

**Revised Baseline Schedule:** The Baseline Schedule shall only be revised with the approval of CFX.

**Total Float:** Also called Float. The number of days an activity can be delayed without delaying the Contract completion date.

CFX and Contractor agree that float is not for the exclusive use or benefit of either the Contractor or CFX and must be used in the best interest of completing the Project on time. The Contractor agrees that: 1) float time may be used by CFX; and 2) there shall be no basis for a Project time extension as a result of any Project problem, change order or delay which only results in the loss of available positive float, or negative float that is greater than the most negative float in the CPM. The Contractor



will not be permitted to alter float through such applications as extending duration estimates or to change sequence relationships, etc., to consume available positive float.

**Time Impact Analysis:** If the Contractor requests a time extension to any required milestone date for changes in the Work ordered by CFX, the Contractor shall furnish such justification and supporting evidence in the form of a Time Impact Analysis illustrating the influence of the change on the Contract time such that CFX can evaluate the request. This Time Impact Analysis shall include a network analysis demonstrating how the Contractor has incorporated the change in the schedule. Each such Time Impact Analysis shall demonstrate the time impact of the performance of the changed Work as the date upon which the change arose or was otherwise ordered, the status of the Work at that time based upon the CPM schedule update prevailing at that time and the duration or logic computations for all of the affected activities. The Time Impact Analysis shall be submitted within ten (10) calendar days following the commencement of the delay event. Failure to make notification in the time and manner required shall be considered a waiver of the Contractor's entitlement to any time extension resulting from such delay. No time extension will be considered unless it specifically contains at least the following detailed information:

1. Date delay began;
2. Date delay impact was resolved;
3. Detailed chronology of delay including the dates of all applicable notifications and submittals;
4. Specific critical activities affected and the dates of impact;
5. The activity durations used in the Time Impact Analysis shall be those reflected by the latest Project schedule update prevailing at the time of the initiation of the delay event.

**Updated Baseline Schedule:** Also called the Schedule Update, is a copy of the Baseline Schedule with activities updated for actual start and/or finish dates and percent completion.

**Weather Event:** As defined in 6.7.3

#### 6.3.3.2 General Requirements for all Scheduling Tasks and Submittals:

**Schedule Content:** Failure to include any element of required Work in the schedule shall not relieve the Contractor from completing all Work necessary to complete the Project on time.

**Scheduling Costs:** All costs incurred by the Contractor to create and maintain the Preliminary and CPM schedules including, but not limited to, updates, revisions, time impact analyses, and any additional required scheduling data shall be borne by the Contractor and are part of the Contract requirements.

**Utility Coordination, Permits and Licenses:** Sufficient liaison shall be conducted and information obtained at the utility pre-construction conference to coordinate activities with utility owners having facilities within the Project limits. The schedule shall conform to the utility adjustments and Maintenance of Traffic sequencing included in the Contract Documents unless changed by mutual agreement of the utility company, the Contractor, and CFX. The schedule shall show any utility adjustments that start or continue after the Contract time has started. In addition, the Contractor shall show the acquisition of permits or licenses needed for the Project.

**Required Labeling of all Correspondence and Associated Documents:** All Schedule related correspondence, including transmittals and attachments, shall have the Schedule number and cut-off date (data date) entered in the document heading. A sample format to be used is as follows: "0303-25AUG15", where 0303 is the schedule update number and 25AUG15 is the cut-off date (data date).

#### 6.3.3.3 Submission of the Preliminary Schedule:

The Contractor shall submit to CFX with the executed Contract the following documents:

The Preliminary Schedule shall cover the entire scope of the Contractor's responsibilities for the entire Contract time. The Preliminary Schedule is either a CPM or a NON-CPM generated bar chart schedule. The Preliminary Schedule shall present the Contractor's general approach to the Project and show adequate detail for Work, procurement, and submittal and approval activities covering the first 120 days of Work from the First Chargeable Contract day. The remainder of the Contract time shall be represented by summary activities.

**Written Narrative:** The written narrative shall explain the preliminary schedule's scope and approach to the Project in sufficient detail to demonstrate that the Contractor has a reasonable and workable plan to complete the Project within the Contract time allowed.

**Geographical Layout of the Project:** The geographical layout graphic of the project shall be suitable in size and content for presentation purposes. The Contractor shall also submit a copy of the geographical layout of the project in a legal landscape format.

Contractor's Oral Presentation: At the pre-construction conference, the Contractor shall show and refer to the geographical layout of the Project in an oral presentation of the Contractor's approach to performing the Work under the Contract. The Contractor's oral presentation shall conform to the format and content of the written narrative.

Within five (5) days after receipt of the Preliminary Schedule, CFX will either accept or reject the schedule. If the Preliminary Schedule is rejected, CFX and Contractor will meet within 3 days after notice of rejection at which time CFX will present the Contractor with a list of required changes to the Preliminary Schedule. The Contractor shall make the changes and submit a revised preliminary schedule acceptable to CFX within 3 days after receipt of the required changes.

Updating the Preliminary Schedule: The Contractor shall update each activity in the Preliminary Schedule with an actual start date, actual finish date, percent complete, and remaining duration each month until the accepted Baseline Schedule is updated and submitted to CFX. The cut-off date and submittal date for the Updated Preliminary Schedule shall be established by CFX and the Contractor shall submit the Updated Preliminary Schedule on that date. The Contractor shall include a written narrative with the Updated Preliminary Schedule explaining the progress made, any delays that have occurred, and work planned to be accomplished in the next month.

Retainage for Non-Submittal: If the Contractor fails to update the Preliminary Schedule and submit a written narrative, CFX may retain 10% of the Contractor's next Monthly Payment Request and 10% of each subsequent monthly payment request until the Contractor complies.

6.3.3.4 Submission of the CPM Baseline and Updated Baseline Schedules: The Contractor's CPM schedule shall be a detailed CPM schedule. The CPM schedule shall be generated by the latest version of Primavera Project Planner (P6) by Primavera Systems, Inc. The Contractor shall pay the scheduling software yearly maintenance fees and maintain scheduling software upgrades throughout the duration of the contract. The Contractor shall use all default settings in Primavera Project Planner for all schedule submittals. This includes using the "Retained Logic" setting for all calculations, unless CFX chooses to allow the use of the P6 "Progress Override" setting.

Each Baseline and Updated Baseline schedule submittal shall include all reports and graphics listed in specification section 6.3.3.4.9. All Baseline Schedule submittals shall also include the Logic Diagram required under Item number 4.

The Contractor shall submit to CFX two copies of each of the above schedules created using the P6 Backup feature.

**Schedule Submittal Deadlines:** The Contractor shall prepare and submit a detailed CPM construction schedule. The schedule shall be prepared according to the specifications and submitted no later than 45 calendar days after the Notice to Proceed date. The CEI shall have 30 calendar days from the Contractor's submittal date to review and notify the Contractor in writing of its findings. The Contractor shall have 15 calendar days from the date of the CEI's written notice to make all requested modifications to the schedule and re-submit the schedule.

**Retainage for Non-Submittal:** If the Contractor fails to submit a schedule that fully complies with the specifications within 90 calendar days from the Notice to Proceed date, CFX will automatically retain 10% of the Contractor's Current Period Monthly Payment Request amount in addition to other retainage.

CFX may retain an additional 10% of the Contractor's Period Monthly Payment Request amount for each successive month that the Contractor fails to submit any schedule on time in addition to other retainage. The Contractor must submit an Updated Baseline Schedule for each month of the Contract starting from the first chargeable day of the contract. The Due Date for the Updated Baseline Schedule shall be the Cut-Off Date established by CFX for submittal of the Contractor's Monthly Payment Request. The Due Date for the Updated Baseline Schedule may be changed from time to time by CFX. The Contractor's submitted schedule shall have a data date matching the cut-off date established by CFX.

**Milestones:** Construction and maintenance of traffic milestones, including completion of construction on roadway sections, building and removing temporary detours, bridges, traffic shifts, and road closures and openings shall be adequately shown in the schedule.

**Measurement of Progress:** As the contract work progresses and the baseline schedule is updated with progress, each subsequent schedule update shall become the schedule upon which all Work progress will be measured.

6.3.3.4.1 CPM Activity Creation: Each schedule activity shall include the following detail in P6:

A.) ID Number - The format followed shall be uniform throughout the schedule. The activity number shall not exceed 6 digits.

B.) Original Duration (Working Days): No activity shall have a duration greater than 20 working days unless approved by CFX. However, activities such as long-term procurement, certain approvals and submittals may have durations greater than 20 working days or have a 7-day calendar assignment.

At the minimum, the schedule shall include, but not be limited to the following activities:

Bridge Activities:

Test Pile installation per bent per structure.  
Production Pile installation per bent per structure.  
Drilled shaft installation per pier per structure.  
Pile caps per bent per structure.  
Footings per pier per structure.  
Columns per pier per structure.  
Caps per pier per structure.  
End bents per structure.  
Beam or girder erection-span by span per structure.  
Diaphragms.  
Deck placement-span by span per structure.  
Parapets-span by span per structure.

Roadway Activities:

Internal access and haul roads (location and duration in-place).  
Utility relocation work by utility and by stationing and roadway.  
Clearing and grubbing by stationing and roadway.  
Excavation by stationing and roadway.  
Embankment for each abutment location.  
Embankment placed for each roadway by stationing and roadway.  
Drainage by run with stationing and roadway.  
Box Culvert or other large Pre-cast structure with stationing and roadway.  
Reinforced Earth Wall leveling pad per bent per structure.  
Reinforced Earth Wall per bent per structure.  
Reinforced Earth Wall Coping per bent per structure.  
Retaining walls by stationing and roadway.  
Stabilization/Subgrade by stationing and roadway.  
Limerock Base by stationing and roadway.  
Asphalt Base by stationing and roadway.  
Curb and Gutter by stationing and roadway.  
Structural Pavement (asphalt and/or concrete) by stationing and roadway.  
Bridge approach slabs per bridge and roadway.  
Guardrail by stationing and roadway.  
Slope pavement or riprap by stationing and roadway.

Roadway lighting by stationing and roadway.  
Signing for each sign structure by stationing and roadway.  
Striping by stationing and roadway.  
Traffic signals by stationing and roadway.  
Topsoil, sodding, seeding and mulching by stationing and roadway.  
Landscaping by stationing and roadway.  
Architectural Treatments.  
Sound Walls.  
Fiber Optic.  
Concrete Removal and Replacement.  
Milling and Resurfacing.  
Ponds.  
Planter Walls.

**Building Activities:**

Sitework, including, but not limited to clearing, excavation, storm and sanitary drainage, utility work, fill, grading, curb & gutter, sidewalks, asphalt and concrete paving, striping, retention pond excavation and grading, sodding.

Foundation work, including, but not limited to, piling, building pads, column, stem wall, slab work, conduit and piping.

Concrete work, including, but not limited to, stairwells, stairs, elevator shafts, tunnels.

Exterior Structures, including, but not limited to structural steel bridges, walkways, railings.

Exterior Walls, including, but not limited to, block, brick, pre-cast, poured-in-place concrete, wood and metal stud, stucco.

Roof, including, but not limited to, structural steel framing, wood framing, pre-cast, parapet walls, metal, poured-in-place, sheathing, underlayment, built-up, roof drainage, and soffits.

Exterior doors, windows, and store-front framing.

Interior Build-out, including, but not limited to, wood and metal stud, interior doors and windows, cabinetry, specialty work, drywall, insulation, sound proofing, carpet, tile, painting, furnishings, and miscellaneous finishes.

Electrical, including, but not limited to conduit, power supply, fixtures, wiring, finishes, and testing.

Plumbing, including, but not limited to, piping, sanitary sewer, water supply, fixtures, finishes, and testing.

HVAC, including, but not limited to, air handlers, compressors, duct work, finishes, and testing.

Fire Systems, including, but not limited to piping, sprinkler heads, and testing.

Security Systems, including, but not limited to, control panels, wiring, sensors, alarms, communications, and testing.

Specialty Work, including, but not limited to, elevators, escalators, toll booth facilities, electronic toll equipment, conduit, wiring, voice and data communication systems, and testing.

The Contractor agrees to submit for acceptance a CPM baseline schedule showing Work commencing on the first chargeable Contract day and finishing on the last chargeable Contract day, thereby showing zero total float.

The Contractor shall sequence work so that only one Longest Path is created in the Baseline or Updated Baseline schedule.

The Contractor must submit evidence to CFX that any activity to be added or removed from the schedule is a logical and reasonable change. If CFX decides that the activity is not sufficiently supported and does not serve a useful purpose, CFX shall request that the Contractor remove the activity from the schedule, and the Contractor shall comply.

The schedule shall include a task activity for the first chargeable day of the Contract and a task activity for the last chargeable day of the Contract with a 1-day duration and a 7-day calendar assignment. The Contract Completion Date as defined in section 6.3.2.1 shall be entered into the Primavera Project Overview window under "Project must finish by".

Mobilization Activities: Activities representing Contract pay item 1-101-1, Mobilization, shall be divided into 1 work activity with a duration no greater than 20 work days and 4 mobilization payment milestones that are revenue loaded according to the specification payment schedule as follows: 5% of Contract earned = 25% payment, 10% of Contract earned = 50% payment, 25% of Contract earned = 75% payment and 50% of Contract earned = 100% payment. The payment milestones should not be tied to any activities, but constrained by a "start no earlier than" constraint. The dates they are constrained to should be based on the early dates shown in the schedule cash flow tabular report by day generated by P6.

6.3.3.4.2 Activity Codes: The following are the minimum required activity codes and their values that are to be assigned to each activity in P6:

Phase: Shall have a field length of 4 characters. If the Project has more than one maintenance of traffic (M.O.T.) phase, each phase shall be identified. Each activity shall show which M.O.T. Phase it belongs to as shown in the Plans and Specifications.

Area: Shall have a field length of 6 characters. The Contractor shall create Area activity code values for each of the following areas. Each schedule activity shall have an assigned Area activity code value

6.3.3.4.3 Activity Relationships: Relationships between activities shall be identified with the following information:

- A. Activity ID - Shall not exceed 6 characters in length.
- B. Predecessor and successor activity ID.
- C. Relationship types:
  - SS -Start to start
  - FF -Finish to finish
  - SF -Start to finish - This relationship is not allowed, unless authorized by CFX.
- D. Lag -Negative lag is not allowed, unless authorized by CFX.

6.3.3.4.4 Project Calendars: Calendars shall use day as the planning unit for the schedule. One of four calendars shall be used for each activity:

- A. Calendar 1: shall be used for 5-day workweek activities: Monday through Friday. All holidays and non-work days shall be assigned to this calendar. This calendar shall be used for all normal Work activities. Calendar 1 shall be the default calendar.
- B. Calendar 2: shall be used for 7-day workweek activities. No non-work days shall be entered into this calendar. Activities such as friction course curing shall use this calendar.
- C. Calendar 3: shall be used for 7-day workweek activities. All holidays shall be entered into this calendar.
- D. Calendar 4: shall be used for 6-day workweek activities. All holidays and non-work days shall be assigned to this calendar.



Global Calendar: The global P6 calendar shall have all holidays and non-work days assigned.

Additional calendars: May be assigned depending upon need. However, the Contractor shall consult with CFX before other calendars are entered and/or used in the Project schedule.

6.3.3.4.5 Revenue Loading the Schedule: Each Work activity in the schedule shall be revenue loaded using all the Contract pay items amounts related to the Work activity. The Contractor shall verify that each pay item is represented in the schedule. The total of all revenue loading shall equal the Contract amount.

If the monthly payment requests do not reasonably agree with the monthly schedule updates/budgeted revenue of Work performed, CFX may request that the Contractor revise its revenue loading in the accepted baseline schedule and the most current updated baseline schedule. In addition, CFX may request that the Contractor revise its revenue loading in the accepted baseline and updated baseline schedules to incorporate all Supplemental Agreement changes affecting the Contract amount.

6.3.3.4.6 Updating the Baseline Schedule

Monthly Schedule Update Meetings: Monthly Schedule Update meetings shall be set by CFX and shall be transmitted to the Contractor by written notice.

CFX will establish a schedule cut-off date for each month of the Contract.

The updated baseline schedule, project progress, issues, delays, claims, planned Work, Contractor's monthly pay estimate, and baseline schedule revisions shall be among the priority items addressed in detail.

Schedule Update Process: The schedule update process shall include updating the activity actual start and finish dates, percent completion, remaining duration, and adjusting schedule logic to correct for activities being performed out of sequence, adjusting resource allocations for activities, and changing the calendar assignments to activities as needed. The Contractor shall not change an activity original duration for any reason.

#### 6.3.3.4.7 Revisions to the Baseline Schedule

1. CFX will request in writing that the Contractor submit a proposed revision to the Accepted Baseline Schedule to incorporate a Board Approved Supplemental Agreement.
2. The Contractor shall have fifteen calendar days from receipt of CFX's request to submit a proposed revision to the Accepted Baseline Schedule.
3. The Contractor's proposed revision shall include all transmittals, reports, diagrams, and bar charts listed in specification section 6.3.2.4.9, unless CFX requests otherwise in writing.
4. The Contractor shall submit two Schedule Comparison reports. The first report shall be a comparison between the Accepted Baseline Schedule and the Revised Baseline Schedule. The second report shall be a comparison between the current updated baseline schedule and the proposed updated baseline schedule containing the proposed revision to the accepted baseline schedule.
5. In its required narrative report, the Contractor shall state whether or not the proposed changes affect the longest path of the accepted baseline schedule or the proposed updated baseline schedule, which contains progress.
6. CFX shall have 15 calendar days to review and transmit a written notice of acceptance or rejection of the Contractor's proposed revision. If CFX rejects the proposed revision, CFX shall state the reasons for rejection in the written notice. The Contractor shall have 5 calendar days to re-submit the proposed revision to CFX.
7. If the Contractor fails to submit a proposed revision that is accepted by CFX within 45 calendar days from CFX's original request date, CFX reserves the right to retain 10% of each of the Contractor's monthly payment requests until the Contractor submits a proposed revision that is accepted by CFX.
8. Upon acceptance of the proposed revision to the accepted baseline schedule, the proposed revision to the baseline schedule shall become the accepted baseline schedule. The Contractor shall incorporate the revision into the next scheduled updated baseline schedule.

6.3.3.4.8 Schedule Submittals: Each baseline, revised baseline, and updated baseline schedule submittal shall include the following documents, unless CFX sends and the Contractor receives a written request to limit the submittal to certain documents for a specific submittal.

1. Transmittal: Shall be signed by the Contractor's Schedule Engineer or Resident Engineer. Shall contain the following information:

Submittal date.

Contractor Name.

Complete CFX Contract Number.

Project Description.

Contract Resident Engineer.

Four character P6 Project Number - Data Date

2. Schedule Update Narrative Report: The Contractor shall prepare a written narrative to accompany the required reports and graphics for the schedule update submittal. The narrative shall have the following sections:

Schedule Status: The Schedule Status shall be a written narrative explaining the progress during the month in sufficient detail and referencing specific activities including longest path activities, milestones, design issues, means and methods issues, out of sequence activities, and actual production rates for various types of Work performed by the crews loaded as resources in the schedule.

Delays: If the Contractor has experienced any delay, the Contractor shall explain what activities in the current period were affected by the delay and what caused the delay and how the Contractor intends to address the delay.

Milestone Comparisons: Current period projected milestone dates versus previous period projected milestone dates, and current period projected contract completion date versus previous period projected contract completion date.

3. Schedule Comparison Report: The Contractor shall submit to CFX a detailed report showing all changes to the Project schedule since the previous monthly update, including, but not limited to the following information:

Activities worked out of sequence.  
Changes in Total Float.  
Changes in Early and Late Dates.  
Changes in Original and Remaining Duration.  
Changes in Activity Constraints.  
Changes in Activity Predecessors, Successors, Relationship Type, and Lags.  
Changes in Activity Resource Assignments.  
Changes in Activity Cost Loading.  
Changes in Activity percent completion.  
Changes in Longest Path Activities.

Longest Path Bar chart: Bar chart shall be time scaled and filtered on the Longest Path activities and sorted by early start.

Area Code Bar chart: Bar chart shall be time scaled and sorted by area code. The bar chart shall include:

- A. Each activity on a single line containing ID number, activity description, and a bar representing activity original duration, early start dates, early finish dates, late start dates, late finish dates and total float.
  - B. Key to identify all components in the bar chart and CPM.
  - C. Key to identify all the abbreviations used.
4. Revenue Loading Report: The Contractor shall submit to CFX a report entitled "Revenue Loading Report". The report shall include the following information:
- A. Activity ID number
  - B. Description of activity
  - C. List of pay items included in activity including:
    - 1. Pay item number
    - 2. Pay item description
    - 3. Quantity of pay item to be applied
    - 4. Unit measure of pay item
    - 5. Unit-price of pay item
    - 6. Total price for pay item to be applied
  - D. Total revenue loading of activity (Sum of "C")

5. Revenue Flow Diagram: For any baseline Schedule, the Contractor shall submit to CFX a Revenue Flow Diagram by month. The Revenue Flow Diagram shall show the early and late curves representing the accumulated projected dollars to be earned for each month of the Contract.
6. Tabular Revenue Report: For any Baseline Schedule, the Contractor shall submit a Tabular Revenue Report by day. The tabular report shall show columns for the accumulated and incremental projected dollar amounts to be earned on the early and late curve for each Contract day.
7. P6 Schedule Backup: The Contractor shall submit to CFX two copies of each baseline, revised baseline, and updated baseline schedule using the P6 backup option. The backed up copies shall be compressed and without an access list. The backups shall be submitted on compact disk (cd). Each cd shall have a typed label showing the following information:

Contractor name

The complete CFX Project number

The four character P6 project number

Data Date in format -> "01JAN15"

Volume number \_of\_ total volume numbers (e.g., 1 of 5, 2 of 5)

8. Paper Sizes and Orientation: All printed reports shall be submitted on 8" x 11" portrait-bond paper. All printed bar charts and revenue flow diagrams shall be submitted on 8" x 11" landscape bond paper. All presentation layouts and logic diagrams shall be plotted in color with a color design jet plotter and submitted on ANSI E (34-inch x 44-inch) size coated paper.

6.3.3.4.9 Two Week Look Ahead Schedule: The Contractor shall submit a two-week look-ahead bar chart schedule produced in Microsoft Excel at the weekly project progress meeting. The bar chart shall show all major Work in progress.

The bar chart shall show at least one week behind for actual Work performed and two weeks ahead for planned Work.

The bar chart shall be date synchronized to the CEI's Weekly Summaries.

Changes and revisions that require the approval of CFX shall be brought forward for discussion.

6.3.3.4.10 Adjustments to Contract Time:

1. The Contract Completion Date shall not be changed in any schedule unless CFX approves a Supplemental Agreement granting an extension to the Contract Time.
2. The Contractor has the right to finish the Contract early; however, the Contractor agrees that any impact to the projected early completion date does not justify a request for a time extension because it would constitute changing the Contract completion date to match the Contractor's projected early completion date.
3. The Contractor acknowledges and agrees that for purposes of considering a time extension request, a schedule activity shall not be considered to have been subject to a claimed delay unless all originally and presently scheduled predecessor activities have been completed so that no other restraints to the performance of that activity exist in the CPM schedule at the time claimed for the delay impact. The Contractor agrees that a Contract time extension request shall only be considered for one of the following reasons:
  - A. The Contractor performed Extra Work that met all of the following conditions:
    1. CFX stated that the Extra Work was not to be performed concurrently with other Contract Work.
    2. The Extra Work delayed the Contract Completion Date.
    3. The Extra Work impacted one or more activities on the current CPM schedule longest path.
  - B. The Contractor experienced an Excusable Delay, as defined in subarticle 6.7.3.1, that met all of the following conditions:
    1. The Contract Completion Date was delayed due to circumstances beyond the control of the Contractor.

2. The Contractor took every reasonable action to prevent the delay.
3. The delay impacted one or more activities on the current CPM schedule longest path.
4. The Contractor agrees that there shall be no basis for a Contract Time extension as a result of any Contract problem, Supplemental Agreement, or delay, which only results in the loss of available positive float, or an increase of negative float belonging to activities that do not reside on the CPM schedule's Longest Path.

6.3.3.4.11 Supplemental Agreements: Supplemental Agreements shall include a time impact analysis from the Contractor as to the effect of the requested change on the detailed schedule. In cases where the requested change has no impact on the Project duration, the time impact analysis shall still be included. The time impact analysis shall include a listing of the activities that are affected by the requested changes and an analysis of the change on the longest path of the detailed schedule. The Contractor and the CEI shall agree upon the impact to the schedule before a Supplemental Agreement is approved.

The approved Supplemental Agreements shall be incorporated into the next monthly schedule update.

6.3.3.4.12 Adjustment to the Contract Time: Adjustments to the Contract time are detailed in subarticle 6.7.3.

6.3.3.4.13 CPM Recovery Schedule: Should any of the following conditions exist, the Contractor shall, at no extra cost to CFX, prepare a CPM Recovery Schedule:

1. Should the Contractor's monthly progress review indicate that a CPM Recovery Schedule is required;
2. Should the CPM schedule show the Contractor to be thirty (30) or more days behind schedule at any time during the construction period;
3. Should the Contractor request to make changes in the logic of the CPM schedule which, in the opinion of CFX, are of a major nature.

The same requirements and submittals for the CPM Recovery Schedule shall apply as the original baseline schedule.

6.3.4 Beginning Work: See Article 6.7 below.

6.3.5 Provisions for Convenience of the Public: The Contractor shall schedule operations to minimize any inconvenience to adjacent businesses, vehicular or pedestrian traffic or residences. CFX reserves the right to direct the Contractor as to the performance and scheduling of Work in any areas along the Project where restrictions caused by construction operations present significant hazards to the health and safety of the general public.

When working adjacent to or over travel lanes, the Contractor shall ensure that dust, mud and other debris from Contractor's operation does not interfere with normal traffic operations or adjacent properties. All debris shall be removed from the Work area and clear zone of the Project before Work ends for the day. Trash shall be picked up and removed daily from the job by the Contractor.

6.3.6 Pre-Construction Conference: Prior to Contractor's commencement of Work on the Project, the CEI will schedule a pre-construction conference with the Contractor, utility companies and other affected parties to review the proposed Work activities and schedule of events.

#### 6.4 Limitations of Operations

6.4.1 Night Work: In all areas where Work is being performed during the hours of dusk or darkness, the Contractor shall furnish, place and maintain lighting facilities capable of providing light of sufficient intensity (5 foot-candles minimum) to permit good workmanship and proper inspection at all times. The lighting shall be arranged so as not to interfere with or impede traffic approaching the Work site(s) from either direction or produce undue glare to property owners and traveling public.

Lighting of Work site(s) may be accomplished using any combination of portable floodlights, standard Equipment lights, existing street lights, temporary street lights, etc., that will provide the proper illumination. The Contractor shall provide a light meter to demonstrate that the minimum light intensity is being maintained. The Contractor shall provide sufficient fuel, spare lamps, generator, etc., to maintain lighting of the Work site.

The Contractor's lighting plan shall provide for and show the location of all lights necessary for every aspect of Work to be done at night. The plan shall be presented on standard size roadway plan sheets (no larger than 24" x 36") and on a scale of either 100' or 50' to the inch. The Contractor's lighting plan shall be submitted to the



CEI for review and approval at least 10 days prior to beginning any night Work. The CEI may require that modifications be made to the lighting setup to fit field conditions.

The Contractor shall furnish and place variable message signs to alert approaching motorists of lighted construction area(s) ahead.

The Contractor's pickups and automobiles used on the Project shall be provided with amber flashing lights or flashing white strobe lights. These lights shall be in operation at all times while in the Project limits and/or Work area.

The Contractor's Equipment shall be provided with a minimum of four square feet of reflective sheeting or flashing lights that will be visible to approaching motorists.

The Contractor shall provide its personnel with reflective safety vests. The Contractor shall ensure that all Subcontractors are also provided with reflective safety vests. Vests shall be worn at all times while workers are within the Work area.

The Contractor shall use padding, shielding or locate mechanical and electrical Equipment to minimize noise as directed by the CEI. Noise generated by portable generators shall comply with all applicable Federal, State and local environmental regulations.

The Contractor shall have a superintendent present to control all operations involved during night Work. The superintendent shall maintain contact with the CEI and ensure that all required actions are taken to correct any problem noted.

All required traffic control devices such as signs, stripes, etc., shall be in place before the Contractor commences Work for the night and before the Contractor leaves the Work site the next morning.

Work operations that result in traffic delays more than five minutes may be temporarily suspended by the CEI to minimize the impact on the traveling public.

No private vehicles shall be parked within the limited access right of way. The Contractor's Worksite Traffic Supervisor shall continually and adequately review traffic control devices to ensure proper installation and working order, including monitoring of lights.

Compensation for lighting for night Work shall be included in the Contract prices for the various items of the Contract. All lighting Equipment for night work shall remain the property of the Contractor.

- 6.4.2 Sequence of Operations: The Contractor shall not start new Work that will adversely impact Work in progress. Under such circumstances, CFX reserves the right to require the Contractor to finish a section on which Work is in progress before Work is started on any new section.
- 6.4.3 Interference with Traffic: The Contractor shall at all times conduct the Work in such a manner and such sequence as to ensure the least practicable interference with traffic. The Contractor's vehicles and other Equipment shall be operated in such a manner that they will not be a hazard or hindrance to the traveling public. Materials stored along the roadway shall be placed to minimize obstruction to the traveling public.

Where existing pavement is to be widened and stabilizing is not required, the Contractor shall schedule operations such that at the end of each workday the full thickness of the base for widening will be in place. Construction of the widening strips will not be permitted simultaneously on both sides of the road except where separated by a distance of at least one-fourth of a mile along the road, where either the Work of excavation has not been started or the base has been completed.

- 6.4.4 Coordination with Other Contractors: The right is reserved by CFX to have other work performed by other contractors and to permit public utility companies and others to do work during the construction of and within the limits of or adjacent to the Project. The Contractor shall arrange the Work and dispose of Materials so as not to interfere with the operations of other contractors engaged upon adjacent work and shall perform the Work in the proper sequence in relation to that of other contractors and shall join with and connect to the work of others as required by the Plans and Specifications all as may be directed by the CEI.

Contractor shall be responsible for any damage done by Contractor's operations to the work performed by other contractors. Similarly, other contractors will be held responsible for damage caused their operations to the Contractor's Work. The Contractor agrees to make no claims against CFX for additional compensation due to delays or other conditions created by the operations of such other parties. Should a difference of opinion arise as to the rights of the Contractor and others working within the limits of, or adjacent to, the Project, CFX will decide as to the relative priority of all concerned.

- 6.4.5 Drainage: The Contractor shall conduct operations and maintain the Work in such condition that adequate drainage will be in effect at all times. Existing functioning storm sewers, gutters, ditches and other runoff facilities shall not be obstructed.

- 6.4.6 Fire Hydrants: Fire hydrants on or adjacent to the roadway shall be kept accessible to fire apparatus at all times and no material or obstruction shall be placed within 15 feet of any such hydrant.
- 6.4.7 Protection of Structures: Heavy Equipment shall not be operated close enough to pipe headwalls or other structures to cause their displacement.
- 6.4.8 Fencing: The Contractor shall expedite the installation of fencing at those locations where, in the opinion of the CEI, such installation is necessary for the protection, health, and safety of the public. All fencing shall be maintained by the Contractor at all times. Fence cuts shall be immediately replaced. All fence removed during any one working day shall be replaced during that same day. While the fence is down, continuous security shall be provided by the Contractor to ensure that no pedestrians or vehicles enter or exit the roadway from the temporarily unfenced area. Specific attention shall be given to prevent any persons, animals, or vehicles moving from adjacent private property onto the roadway right-of-way.
- 6.4.9 Hazardous or Toxic Waste: When the Contractor's operations encounter or expose any abnormal condition which may indicate the presence of a hazardous substance, toxic waste or pollutants such operations shall be discontinued in the vicinity of the abnormal condition and the CEI shall be notified immediately. The presence of tanks or barrels; discolored earth, metal, wood, groundwater, etc.; visible fumes; abnormal odors; excessively hot earth; smoke; or other conditions which appear abnormal may be indicators of hazardous or toxic wastes or pollutants and shall be treated with extraordinary caution.

Every effort shall be made by the Contractor to minimize the spread of any hazardous substance, toxic waste or pollutant into uncontaminated areas.

The Contractor's operations in the affected area shall not resume until so directed by the CEI.

Disposition of the hazardous substance, toxic waste or pollutant shall be made in accordance with the laws, requirements and regulations of any local, state, or federal agency having jurisdiction. Where the Contractor performs Work necessary to dispose of hazardous substance, toxic waste or pollutant and the Contract does not include pay items for disposal, payment will be made, when approved in writing by a Supplemental Agreement, prior to the Work being performed.

6.4.10 Milling: The Contractor shall provide positive drainage of the remaining pavement after milling. This operation shall be done prior to opening to traffic.

The Contractor shall provide suitable transitions between milled areas of varying thickness in order to create a reasonably smooth longitudinal riding surface. In addition, the Contractor shall provide suitable transitions approaching all bridge ends at all times.

Wedges for Longitudinal and Transverse Joints: Asphalt Wedges for longitudinal and traverse joints shall be one foot wide or long, respectively, for each 1/4 inch of depth. The wedge must be installed prior to opening the lane to traffic.

The Contractor shall plan milling operations so that any lane milled will be repaved prior to opening to traffic.

## 6.5 Qualifications of Contractor's Personnel

The Contractor shall ensure that all of its employees are competent, careful, and reliable. All workers shall have the skills and experience necessary to properly perform the Work assigned and as required by the Plans and Specifications.

If, in the opinion of CFX, any person employed by the Contractor, or any Subcontractor, is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such person shall be immediately removed from the Project by the Contractor upon written direction from CFX. Such person shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such person, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the person is removed. The Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Contractor employee based on the direction of CFX.

## 6.6 Temporary Suspension of Contractor's Operations

6.6.1 Authority to Suspend Contractor's Operations: CFX, at its sole discretion, may suspend the Contractor's operations, wholly or in part, for such period(s) as CFX deems necessary. These periods of suspension may include adverse weather conditions, catastrophic occurrences and heavy traffic congestion caused by special events. Written notice, giving the particulars of the suspension, will be transmitted to the Contractor by CFX.

- 6.6.2 Prolonged Suspensions: If the suspension of operations is for an indefinite period of time, the Contractor shall store all Materials in such a manner that they will not become damaged or obstruct or impede the traveling public unnecessarily. The Contractor shall take reasonable precautions to prevent damage to or deterioration of the Work performed, shall provide suitable drainage of the roadway by opening ditches, shoulder drains, etc., and shall provide all temporary structures necessary for public travel and convenience.
- 6.6.3 Permission to Suspend Operations: The Contractor shall not suspend operations or remove Equipment or Materials necessary for the completion of the Work without the permission of CFX. All requests for suspension of the Contract time shall be in writing to CFX and shall identify specific dates to begin and end.
- 6.6.4 Suspension of Contractor's Operations - Holidays: Unless the Contractor submits a written request to work on a holiday at least ten days in advance of the requested date and receives written approval from the CEI, the Contractor shall not work on the following days: Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Labor Day; the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Thanksgiving Day; the Friday, Saturday and Sunday immediately following Thanksgiving Day; and December 24 through January 2, inclusive. Contract Time will be charged during these holiday periods regardless of whether or not the Contractor's operations have been suspended. The Contractor is not entitled to any additional compensation for suspension of operations during such holiday periods.

During such suspensions, the Contractor shall remove all Equipment and Materials from the clear zone, except those required for the safety of the traveling public and retain sufficient personnel at the job site to properly meet the requirements of Sections 102 and 104 of the Technical Specifications. The Contractor is not entitled to any additional compensation for removal of Equipment from clear zones or for compliance with Section 102 and Section 104 during such holiday periods.

Any special events known to CFX that may impact Contractor operations are shown on the Plans.

## 6.7 Contract Time

- 6.7.1 General: The Contractor shall complete the Work in accordance with the Plans and Specifications and within the Contract Time specified in the Special Provisions including approved extensions.

For scheduling purposes, the Contractor shall take into consideration holidays and all weather conditions (except those listed in subarticle 6.7.3) that may be encountered during the performance of the Work.

The effect on job progress of utility relocations and adjustments and scheduling of construction operations to maintain traffic shall also be considered by the Contractor in the scheduling of Contract time.

6.7.2 Date of Beginning of Contract Time: The date on which Contract time will begin shall be the date of notice to begin Work or as specified in the Notice to Proceed.

6.7.3 Adjusting Contract Time:

6.7.3.1 Contract Time Extension: CFX has established an allowable Contract duration, in terms of calendar days, sufficient to complete the Work covered by the Contract. By execution of the Contract, the Contractor agrees that the calendar days are sufficient to perform the Work and it has priced its bid considering the Contract duration. If the Contractor's Work (which Work is actually on the critical path) is impacted by one or more of the following events, CFX may (but is not obligated to) consider approving an extension of time:

1. War or other act of public enemies.
2. Riot that would endanger the well-being of Contractor's employees.
3. Earthquake.
4. Unpredictable acts of jurisdictional governmental authorities acting outside the scope of current laws and ordinances.
5. Hurricane (or other weather event) but only if the weather event results in the declaration of an emergency by the Governor of the State of Florida within the geographical area which includes the Work area.
6. Utility relocation and adjustment Work only if all the following criteria are met:
  - a. Utility work actually affected progress toward completion of Work on the critical path.

- b. The Contractor took all reasonable measures to minimize the effect of utility work on critical path activities including cooperative scheduling of his operations with the scheduled utility work.
7. Temperature restrictions that prohibit placement of friction course (FC-5 only) provided all other Work is completed.
8. Epidemics, quarantine restrictions, strikes (unless caused or provoked by actions of the Contractor, or its subcontractors, or its materialmen, or its suppliers or its agents), freight embargoes.
9. Impacts to the critical path caused by other contractors.

Time will not be granted for inclement weather other than as provided for in this section. In submitting a request for time extension, the Contractor shall comply with the following requirements:

1. Notify CFX in writing of the occurrence of a delay event within 48 hours of the beginning of the event.
2. Furnish a detailed written explanation of the impact of the delaying event on the scheduled Work with supporting documentation in the form of job records.
3. Provide proof that the Contractor has taken all necessary steps to protect the Work, the Contractor's employees, Materials and Equipment from the effects of the event.

CFX will consider the delays in delivery of materials or component equipment that affect progress on a controlling item of work as a basis for granting a time extension if such delays are beyond the control of the Contractor or supplier. Such delays may include an area-wide shortage, an industry-wide strike, or a natural disaster that affects all feasible sources of supply. In such cases, the Contractor shall furnish substantiating letters from a representative number of manufacturers of such materials or equipment clearly confirming that the delays in delivery were the result of an area-wide shortage, an industry-wide strike, etc. No additional compensation will be made for delays caused by delivery of materials or component equipment.

CFX will not consider requests for time extension due to delay in the delivery of custom manufactured equipment such as traffic signal equipment, highway lighting equipment, etc., unless the Contractor furnishes documentation that the Contractor placed the order for such equipment in a timely manner, the delay was caused by

factors beyond the manufacturer's control, and the lack of such equipment caused a delay in progress on a controlling item of work. No additional compensation will be paid for delays caused by delivery of custom manufactured equipment.

6.7.3.2 An extension of time (rather than monetary compensation) will be the Contractor's sole and exclusive remedy in the event that an extension of time is justified under subarticle 6.7.3.1. The Contractor shall not be entitled to damages when an extension of time is permitted or granted under said subarticle.

## 6.8 Failure of Contractor to Maintain Satisfactory Progress

6.8.1 General: Time is of the essence of the Contract. Unsatisfactory progress will be deemed to have occurred when:

1. The allowed Contract time for performing the Work has expired and the Contract Work is not complete; or
2. The specified time or date for performing a special milestone stage of the Work (as may be set forth in the Special Provisions) has expired and the Work for that milestone stage is not complete; or
3. The allowed Contract time has not expired and the net dollar value of completed Work (gross earnings less payment for stockpiled Materials) is 15 percentage points or more below the dollar value of Work that should have been completed according to the accepted working schedule for the Project. The dollar value of Work, which should have been completed, is defined as the average between the early start and late start scheduled earnings according to the approved working schedule. After falling 15 percent behind, the delinquency continues until the dollar value of Work is within 5 percentage points of the dollar value of Work that should be completed according to the accepted working schedule for the Project.

In addition to the retainage specified in Article 7.6 of these General Specifications, retainage may also be withheld on partial payments at any time throughout the duration of the Contract due to unsatisfactory progress. The amount of retainage withheld will be one (1) percent of the gross amount earned for the month for every one (1) percent the project is below the dollar value of the Work that should have been completed according to the accepted working schedule for the Project. Retainage held due to unsatisfactory progress will be returned once the delinquency has been cured.



## 6.9 Default and Termination of Contract

- 6.9.1 Determination of Default: CFX will give notice in writing to the Contractor and Contractor's surety of such delay, neglect, or default for the following:
- a. If the Contractor fails to begin the Work under the Contract within the time specified in the Notice to Proceed or;
  - b. fails to perform the Work with sufficient workmen and Equipment or with sufficient Materials to assure the prompt completion of the Contract as related to the schedule or;
  - c. performs the Work unsuitably or neglects or refuses to remove Materials or;
  - d. to perform anew such Work as may be rejected as unacceptable and unsuitable or;
  - e. discontinues the prosecution of the Work or;
  - f. fails to resume Work which has been discontinued within a reasonable time after notice to do so or;
  - g. fails to pay timely its subcontractors, suppliers or laborers or;
  - h. submits a false or fraudulent Certificate of Disbursement of Previous Payments form or;
  - i. becomes insolvent or is declared bankrupt or;
  - j. files for reorganization under the bankruptcy code or;
  - k. commits any act of bankruptcy or insolvency, either voluntarily or involuntarily or;
  - l. allows any final judgment to stand against it unsatisfied for a period of ten calendar days or;
  - m. makes an assignment for the benefit of creditors or;
  - n. for any other cause whatsoever, fails to carry on the Work in an acceptable manner or;
  - o. if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of CFX.
  - p. Failure to ensure that D/M/WBE firms have the maximum opportunity to participate in performance of the Contract shall constitute failing to prosecute the Work in an acceptable manner.

If the Contractor, within a period of 10 calendar days after the notice described above, does not proceed to correct the default, CFX may give notice of default in writing to the Contractor and the surety stating the nature of the default and providing the amount of time which will be allowed to correct the default.

If the Contractor (within the curative period described in the notice of default) does not correct the default, CFX will have full power and authority to remove the Work from the Contractor and to declare the Contract in default and terminated.

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.

CFX shall have no liability for profits related to unfinished Work on a Contract terminated for default.

- 6.9.2 Public Interest Termination of Contract: CFX may, by written notice, terminate the Contract or a portion thereof after determining that, for reasons beyond either CFX or Contractor control, the Contractor is prevented from proceeding with or completing the Work as originally contracted for, and that termination would therefore be in the public interest. Such reasons for termination may include but need not be necessarily limited to, executive orders of the President relating to prosecution of war or national defense, national emergency which creates a serious shortage of Materials, orders from duly constituted authorities relating to energy conservation and restraining order or injunctions obtained by third-party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor.

When the Contract or any portion thereof, is terminated (as aforesaid) before completion of all items of Work in the Contract, payment will be made for the actual number of units or items of Work completed, at the Contract unit price or as mutually agreed for items of Work partially completed. No claims for loss of anticipated profits will be considered.

Reimbursement for mobilization expenses (when not otherwise included in the Contract), including moving Equipment to the job, will be considered where the volume of Work completed is too small to compensate the Contractor for these expenses under the Contract unit prices; the intent being that an equitable settlement will be made with the Contractor.

Acceptable Materials procured by the Contractor for the Work, that have been inspected, tested, and approved by CFX and that are not incorporated in the Work, may be purchased from the Contractor at actual cost, as shown by receipted bills and actual cost records, at such points of delivery as may be designated by CFX.

Termination of the Contract or a portion thereof, under the provisions of this subarticle, shall not relieve the Contractor of Contractor's responsibilities for the completed portion nor shall it relieve Contractor's surety of its obligation for, and concerning any just claims arising out of, the Work performed.

CFX may also, upon seven days written notice to the Contractor, without cause and without prejudice to any other right or remedy of CFX, elect to terminate the Contract. In such case, the Contractor will be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, in accordance with existing pay items;
2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, Materials or Equipment as required by the Contract Documents in connection with uncompleted Work, plus mutually agreeable sums for overhead and profit on such expenses.

The Contractor shall not be paid because loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

6.9.3 Completion of Work by CFX: 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 which are suitable and acceptable 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 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.

#### 6.10 Liquidated Damages for Failure to Complete the Work

6.10.1 Liquidated Damages for Failure to Complete the Work: The Contractor shall pay to CFX liquidated damages in the amount specified in the Special Provisions per calendar day for failure of the Contractor to complete the Work within the Contract time stipulated or within such additional time as may have been granted by CFX.

6.10.2 Determination of Number of Days of Default: Default days shall be counted in calendar days.

6.10.3 Conditions Under Which Liquidated Damages are Imposed: If the Contractor (or in circumstance of the Contractor default, the surety) fails to complete the Work within the Contract time stipulated or within such extra time as may have been granted by CFX, the Contractor (or the surety) shall pay to CFX, not as a penalty but as liquidated damages, the amount due.

6.10.4 Right of Collection: CFX reserves the right, at its sole option, to apply as payment on liquidated damages due any money which is due the Contractor by CFX.

6.10.5 Allowing the Contractor to Finish Work: Allowing the Contractor to continue and to finish the Work or any part of it, after the expiration of the Contract time allowed, including time extensions, shall in no way act as a waiver on the part of CFX of the liquidated damages due under the Contract.

6.10.6 Liability for Liquidated Damages: In the event of default of the Contract and the completion of the Work by CFX, the Contractor and the Contractor's surety shall be liable for the liquidated damages under the Contract. No liquidated damages shall be chargeable for any delay in the final completion of the Work due to any unreasonable action or delay on the part of CFX.

6.11 Release of Contractor's Responsibility

The Contract will be considered completed when all Work has been finally accepted, in writing, by CFX. The Contractor will then be released from further obligation except as set forth in the Public Construction Bond and as provided in subarticle 3.9.5, Recovery Rights Subsequent to Final Payment.

6.12 Recovery of Damages Suffered by Third Parties

In addition to liquidated damages, CFX may recover from the Contractor amounts paid by CFX for damages suffered by third parties unless the failure to timely complete the Work was caused by CFX acts or omissions.

6.13 Express Warranty

The Contractor warrants and guarantees the Work to the full extent provided for in and required by the Contract Documents. Without limiting the foregoing or any other liability or obligation with respect to the Work, the Contractor shall, at its expense and by reason of its express warranty, make good any faulty, defective, or improper parts of the Work discovered within one (1) year from the date of final acceptance of the Project, expressed in writing, by CFX. The Contractor also warrants that all materials furnished hereunder meet the requirements of the Contract Documents and expressly warrants that they are both merchantable and fit for the purpose for which they are to be used under the Contract Documents.

Should any subcontractor or material supplier of Contractor provide an express warranty for its work or materials to the Contractor which is thereafter assigned to CFX or provide a warranty for its work or materials directly to CFX, such warranty shall not preclude CFX from the exercise of any alternative means of relief against Contractor, whether contractual, extra-contractual, statutory, legal or equitable.

END OF SECTION 6

## SECTION 7 - MEASUREMENT AND PAYMENT

### 7.1 Measurement of Quantities

7.1.1 Measurement Standards: Unless otherwise stipulated, all Work completed under the Contract shall be measured by CFX according to United States Standard Measures.

7.1.2 Method of Measurements: All measurements shall be taken horizontally or vertically unless otherwise stipulated in the Specifications.

#### 7.1.3 Determination of Pay Areas:

7.1.3.1 Final Calculation: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is determined by calculation, the lengths and/or widths used in the calculations shall be either 1) the station to station dimensions shown on the Plans, 2) the station to station dimensions actually constructed within the limits designated by CFX or 3) the final dimensions measured along the surface of the completed Work within the neat lines shown on the Plans or designated by CFX. The method or combination of methods of measurement shall be those that reflect, with reasonable accuracy, the actual plane surface area, irrespective of surface and texture details of the finished Work as determined by CFX.

7.1.3.2 Plan Quantity: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is designated to be the plan quantity, the final pay quantity shall be the plan quantity subject to the provisions of subarticle 7.3.2. In general, the plan quantity shall be calculated using lengths based on station to station dimensions and widths based on neat lines shown on the Plans.

7.1.4 Construction Outside Authorized Limits: Except where such Work is performed upon written instruction of CFX, no payment will be made for surfaces constructed over a greater area than authorized or for material moved from outside of slope stakes and lines shown on the Plans.

#### 7.1.5 Truck Requirements:

The Contractor shall certify that all trucks used have a manufacturer's certification or permanent decal showing the truck capacity rounded to the nearest tenth of a cubic yard placed on both sides of the truck. The capacity shall include the truck body only and any side boards added shall not be included in the certified truck body capacity.

7.1.6 Ladders and Instrument Stands for Bridge Construction: To facilitate necessary measurements, the Contractor shall provide substantial ladders to the tops of piers and bents and shall place and move ladders as required by the CEI. For bridges crossing water or marshy areas, the Contractor shall provide fixed stands for instrument mounting and measurements.

## 7.2 Scope of Payments.

### 7.2.1 Items Included in Payment:

Accept the compensation as provided in the Contract as full payment for furnishing all materials and for performing all work contemplated and embraced under the Contract; also for all loss or damage arising out of the nature of the work or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its final acceptance; also for all other costs incurred under the provisions of the General Specifications.

For any item of work contained in the proposal, except as might be specifically provided otherwise in the basis of payment clause for the item, include in the Contract unit price (or lump sum price) for the pay item or items the cost of all labor, equipment, materials, tools, and incidentals required for the complete item of work, including all requirements of the Section specifying such item of work, except as specifically excluded from such payments.

7.2.1.1 Fuels: CFX will, in the Contract Documents, provide an estimated quantity for fuel requirements for gasoline and diesel to cover the work specified in the Contract. Price adjustments will be made only for the amount of gasoline and diesel fuel estimated by CFX as required to complete the Contract. The requirement of each type of fuel for each pay item is estimated by multiplying the CFX standard fuel factor for that pay item by the quantity of that pay item. Price adjustments made for fuel used after expiration of the last allowable Contract Day (including any time extensions) will be limited to the increases or decreases dictated by the index in effect on the last allowable Contract Day. On Contracts with an original Contract Time in excess of 120 calendar days, CFX will make price adjustments on each applicable progress estimate to reflect increases or decreases in the price of gasoline and diesel from those in effect during the month in which bids were received. The Contractor will not be given the option of accepting or rejecting these adjustments. Price adjustments for these fuels will be made only when the current fuel price (CFP) varies by more than 5% from the price published when bids were received (BFP), and then only on the portion that exceeds 5%. For definition purposes, should a project bid prior to the 15<sup>th</sup> of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14<sup>th</sup> of the month, the bid index will be the index for the month of the bid.

Price adjustments will be based on the monthly bulk average price for gas and diesel as derived by the FDOT. These average indexes shall be determined by averaging bulk fuel prices on the first day of each month as quoted by major oil companies that are reasonably expected to furnish fuel for projects in the State of Florida. Average price indices for gasoline and diesel will be available on the FDOT Construction Office website before the 15<sup>th</sup> of each month, at the following URL: [www.dot.state.fl.us/construction/fuel&Bit/Fuel&Bit.htm](http://www.dot.state.fl.us/construction/fuel&Bit/Fuel&Bit.htm).

Payment will be based on the quantities shown on the progress estimate on all items for which established standard fuel factors which are included in the bid documents or, if omitted, are on a file maintained by the FDOT at the time of bid.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for gasoline and diesel in accordance with the following:

When fuel prices have decreased between month of bid and month of this progress estimate:

$A_i = F_i (P_i - .95 P_b)$  during a period of decreasing prices.

$A_i$  = Total dollar amount - positive or negative - of the cost adjustment for each kind of fuel used by the Contractor during the month "i."

$F_i$  = Total gallons calculated as being used during the month (units produced/month x gallons/unit).

$P_i$  = Average price for fuel prevailing during month "i."

$P_b$  = Average price for fuel prevailing during the month "b" when bids were received on this Contract, as defined above

When fuel prices have increased between month of bid and month of this progress estimate:

$A_i = F_i (P_i - 1.05 P_b)$  during a period of increasing prices.

$A_i$  = Total dollar amount - positive or negative - of the cost adjustment for each kind of fuel used by the Contractor during the month "i."

$F_i$  = Total gallons calculated as being used during the month.

Pi = Average price for fuel prevailing during month “i.”

Pb = Average price for fuel prevailing during the month “b” when bids were received on this Contract, as defined above

Payment will be made on the current progress estimate to reflect the index difference at the time work was performed.

Adjustments will be paid or charged to the Contractor only. Contractors receiving an adjustment under this provision shall distribute the proper proportional part of such adjustment to subcontractors who perform applicable work.

7.2.1.2 Bituminous Material: On Contracts having an original Contract Time of more than 365 calendar days, or more than 5,000 tons of asphalt concrete, CFX will adjust the bid unit price for bituminous material, excluding cutback and emulsified asphalt to reflect increases or decreases in the Asphalt Price Index (API) of bituminous material from that in effect on the day on which bids were received. The Contractor will not be given the option of accepting or rejecting this adjustment. Bituminous adjustments will be made only when the current API (CAPI) varies by more than 5% of the API prevailing on the day on which bids were received (BAPI), and then only on the portion that exceeds 5%. For definition purposes, should a project bid prior to the 15<sup>th</sup> of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14<sup>th</sup> of the month, the bid index will be the index for the month of the bid.

CFX will determine the API for each month by checking the FDOT Contracts Office web site which averages quotations in effect on the first day of the month at all terminals that could reasonably be expected to furnish bituminous material to projects in the State of Florida.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for bituminous materials in accordance with the following:

$$\text{\$ Adjustment} = (\text{ID})(\text{Gallons})$$

Where ID = Index Difference = [CAPI - 0.95(BAPI)] when the API has decreased between the month of bid, as defined above, and month of this progress estimate.

Where ID = Index Difference = [CAPI - 1.05(BAPI)] when the API has increased between the month of bid, as defined above, and month of this progress estimate.



Payment will be made on the current progress estimate to reflect the index difference at the time work was performed.

For asphalt concrete items payable by the ton, and not containing Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 6.25% liquid asphalt weighing 8.58 lb/gal. For asphalt concrete items payable by the ton, that do contain Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 5% liquid asphalt weighing 8.58 lb/gal.

Asphalt concrete items payable by the square yard will be converted to equivalent tons assuming a weight of 100 lb/yd<sup>2</sup> per inch.

7.2.1.2 For FC-5 with granite, the number of gallons will be determined assuming a mix design with 5.5% liquid asphalt weighing 8.58 lb/gal.

7.2.2 Non-Duplication of Payment: In cases where the basis of payment clause in these Specifications relating to any unit price in the bid schedule requires that the unit price cover and be considered compensation for certain work or material essential to the item, CFX will not measure or pay for this same work or material under any other pay item that may appear elsewhere in these Specifications.

### 7.3 Compensation for Altered Quantities

7.3.1 General: When a change or combination of changes in the Plans results in an increase or decrease in the original Contract quantities and the Work added or deleted is of the same general character as that shown on the original Plans, the Contractor shall accept payment in full at the original Contract unit prices for the actual quantities of Work done. No allowance will be made for any loss of anticipated profits because of increase or decreases in quantities provided, however, that increased or decreased Work covered by a Supplemental Agreement will be paid for as stipulated in the Supplemental Agreement.

Compensation for alterations in Plans or quantities of Work requiring Supplemental Agreements shall be stipulated in such agreement, except when the Contractor proceeds with the Work without change of price being agreed upon. The Contractor shall be paid for such increased or decreased quantities at the Contract unit prices bid in the Proposal for the items of Work. If no Contract unit price is provided in the Contract, the Contractor agrees to do the Work in accordance with Subarticle 2.3.2 of these General Specifications.

### 7.3.2 Payment Based on Plan Quantity:

7.3.2.1 Error in Plan Quantity: When the pay quantity for an item is designated to be the original plan quantity, such quantity will be revised only in the event that the quantity increases or decreases by more than 5% of the original plan quantity or the amount due for the item increases or decreases by more than \$5,000, whichever is smaller. In general, such revisions will be determined by final measurement or plan calculations (or both) as additions to or deductions from plan quantities. Changes resulting in pay quantity increase or decrease in excess of 25% will be in accordance with the criteria for significant changes as defined in subarticle 2.3.1 of these General Specifications.

If the Contractor determines that the plan quantity for any item is in error and additional or less compensation is due, the Contractor shall submit evidence of such error to CFX in the form of acceptable and verifiable measurements and calculations. Similarly, if CFX determines an error or errors exist, it will make its measurements and calculations available to the Contractor. The plan quantity will not be revised solely on the basis of the Contractor's method of construction.

For earthwork items, the claimant must note any differences in the original ground surfaces from that shown in the original plan cross-sections that would result in a substantial error to the plan quantity, and must be properly documented by appropriate verifiable level notes, acceptable to both the Contractor and CFX, and provide sufficient opportunity to verify the data prior to disturbance of the original ground surface by construction operations. The claimant shall support any claim based upon a substantial error for differences in the original ground surface by documentation as provided above.

7.3.2.2 Authorized Changes in Limits of Work: When the pay quantity for an item is designated to be the original plan quantity and a plan change is authorized resulting in an increase or decrease in the quantity of an item, the plan quantity will be revised accordingly provided that such change will increase or decrease the amount due for more than \$100. In general, such revisions will be determined by final measurement or plan calculations or both, subject to the provisions of Subarticle 2.3.2 of these General Specifications.

7.3.2.3 Specified Adjustments to Pay Quantities: The limitations detailed in Subarticles 7.3.2.1 and 7.3.2.2 do not apply when 1) the Specifications provide that the pay quantity for an item to be paid for on the basis of area of finished Work is to be adjusted according to the ratio of measured thickness to nominal thickness, 2) the Specifications provide for a deduction due to test results falling outside of the allowable specification tolerance or 3) paying for extra length fence posts as detailed in the Standard Specifications Section 550, Fencing, sub article 550-6.3, Payment Rates for Extra-Length Posts.

7.3.3 Lump Sum Quantities:

7.3.3.1 Error in Plan Quantity: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated quantity, the lump sum compensation will be adjusted only in the event that either the Contractor submits satisfactory evidence or CFX determines and furnishes satisfactory evidence that the plan quantity shown is substantially in error as defined in 7.3.2.1.

7.3.3.2 Authorized Changes in the Work: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated plan quantity, compensation for that item will be adjusted proportionately when a plan change results in a significant increase or decrease in the quantity from the estimated plan quantity. When the Plans do not show an estimated plan quantity or the Specifications do not provide adjustments for contingencies, any authorized plan changes resulting in a significant increase or decrease in the cost of acceptably completing the item will be compensated for by establishing a new unit price through a Supplemental Agreement as provided in Subarticle 2.3.2. of these General Specifications.

7.3.4 Deviation from Plan Dimensions: If the Contractor fails to construct any item to plan or to authorized dimensions within the specified tolerances, the CEI, at his discretion will: require the Contractor to reconstruct the work to acceptable tolerances at no additional cost to CFX; accept the work and provide the Contractor no pay; or accept the work and provide the Contractor a reduced final pay quantity or reduced unit price. CFX will not make reductions to final pay quantities for those items designated to be paid on the basis of original plan quantity or a lump sum quantity under the provisions of this Article unless such reduction results in an aggregate monetary change per item of more than \$100, except that for earthwork items, the aggregate change must exceed \$5,000 or 5% of the original plan quantity, whichever is smaller. If, in the opinion of the CEI, the Contractor has made a deliberate attempt to take advantage of the construction tolerances as defined in Article 120-12.1 of the Standard Specifications to increase borrow excavation in fill sections or to decrease the required volume of roadway or lateral ditch excavation or embankment, CFX will

take appropriate measurements and will apply reductions in pay quantities. CFX will not use the construction tolerance, as defined in Article 120-12.1, as a pay tolerance. The construction tolerance is not to be construed as defining a revised authorized template.

7.4 Force Account Work: Work performed in addition to that set forth in the original Contract and which is paid for on the basis of actual cost of the Materials and labor, plus a fixed percentage of such costs, and at agreed rental rates for major Equipment used.

7.4.1 Method of Payment: All Work done on a force account basis performed by such labor, tools and Equipment as necessary to accomplish the Work, and authorized by CFX, will be paid for in the following manner:

(a) Labor:

Payment for labor and burden shall be based on actual costs of alteration, change, additional or unforeseen Work, plus a markup of 25%, agreed upon in writing before starting such Work, for every hour that the labor is actually engaged in such Work. Such amount shall be considered as full compensation for general supervision and the furnishing and repairing of small tools used on the Work. Agreed wage rates shall not be in excess of the rates paid for comparable Work on the Project.

(b) Materials and Supplies:

Payment for Materials and supplies, directly related to the alteration, change, additional or unforeseen Work, accepted by CFX and used on the Project shall be based on actual costs of such Materials incorporated into the Work, including Contractor paid transportation charges (exclusive of Equipment as hereinafter set forth), plus a markup of 17.5%. Material is defined as any item used in the Work that remains a part of the Project. The cost of supplies may be the pro-rata portion caused by the alteration, change, additional or unforeseen Work.

(c) Equipment:

The use of each piece of such machinery or Equipment and rental rates must be agreed upon in writing before the force account Work is begun.

Payment for Contractor owned machinery or Equipment (other than small tools) shall be determined as described below, plus a markup of 7.5%. Payment for rented Equipment shall be based on invoice cost plus 7.5%.

The portion of the cost for machinery or Equipment shall be based on the lesser of actual cost or "Rental Rate Blue Book for Construction Equipment" (RRBB) or "Rental Rate Blue Book for Older Construction Equipment" (RRBBOCE) as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at time of bid) using all instructions and adjustments contained therein and as modified below.

On all projects, CFX will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the RRBB and/or RRBBOCE. Allowable Machinery and Equipment Rates will be established as set out below:

- 1.) Reimbursement for the Equipment being operated shall be at a rate of 100% of the RRBB and/or RRBBOCE ownership cost plus 100% of the RRBB and/or RRBBOCE operating costs.
- 2.) Reimbursement for Equipment directed to standby and remain on the project site shall be at 50% of the lesser of the actual rental rate or RRBB and/or RRBBOCE ownership cost only. No more than 8 hours of standby will be paid in a single day.
- 3.) Costs shall be provided on an hourly basis. Hourly rates, for Equipment being operated or on standby, shall be established by dividing the lesser of actual monthly rental rate or the RRBB and/or RRBBOCE monthly rates by 176. The columns, itemizing rates, labeled "Weekly", "Daily" and "Hourly" shall not be used.
- 4.) No additional overhead will be allowed on Equipment costs.

Allowable Hourly Equipment Rate = Monthly Rate/176 x Adjustment Factors x 100%

Allowable Hourly Operating Cost = Hourly Operating Cost x 100%

Allowable Rate Per Hour = Allowable Hourly Equipment Rate + Allowable Hourly Operating Cost

Standby Rate = Allowable Hourly Equipment Rate x 50%

The Monthly Rate is the Basic Machine Rate plus any Attachments. Standby rates will apply when machinery or Equipment is not in operation and is directed by CFX to stand by at the Project site when needed again to complete work and the cost of moving the Equipment will exceed the

accumulated standby cost. Standby rates will not apply to any day the Equipment operates for eight or more hours. Standby payment will be limited to only the number of hours which, when added to the operating time for that day, equals eight hours. Standby payment will not be made on days that are not normally considered workdays on the project.

Transportation to and from the location at which the Equipment will be used will be allowed. If the Equipment requires assembly or disassembly for transport, the time for this will be paid at the rate for standby Equipment.

The markups in 1) through 4) above include all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

(d) Subcontractor Work

The Contractor will be allowed a markup of 10% on the first \$50,000 and a markup of 5% on any amount over \$50,000 on any subcontract directly related to the alteration, change, additional or unforeseen Work. A subcontractor mark-up will be allowed only by the prime Contractor and a first tier subcontractor.

(e) Insurance, Bond and Taxes:

A markup of 1.5% will be allowed on the overall total cost of the alteration, change, additional or unforeseen Work for insurance and bond on the prime Contractor's bond. The markup includes all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

Subcontractors who actually perform the alterations, changes, additional or unforeseen Work will be allowed all markups specified herein.

7.4.2 Records: The compensation as herein provided shall be accepted by the Contractor as payment in full for extra Work done on a force account basis. The Contractor and CFX shall compare records of extra Work done on a force account basis at the end of each day. Copies of these records shall be duplicated by CFX and signed by both CFX and the Contractor.

All claims for extra Work done on a force account basis shall be submitted by the Contractor upon certified statements, to which shall be attached original receipted bills covering the costs of the transportation charges on all Materials used in such Work. However, if Materials used on the force account Work are not specifically

purchased for such Work but are taken from the Contractor's stock, then in lieu of the invoices, the Contractor shall furnish an affidavit certifying that such Materials were taken from Contractor's stock, that the quantity claimed was actually used and that the price and transportation claimed represent actual cost to the Contractor.

7.4.3 Preliminary Order-of-Magnitude Estimate: As a condition precedent to beginning work designated as Force Account, the CEI in coordination with the Contractor will prepare a Preliminary Order-of-Magnitude Estimate of the contemplated work. The purpose of this Preliminary Order-of-Magnitude Estimate is to establish the scope of work, the approach, applicable rates, the estimated duration, and the required documentation necessary to monitor the work for final payment.

7.5 Deleted Work

CFX shall have the right to cancel the portions of the Contract relating to the construction of any acceptable item therein by payment to the Contractor of a fair and equitable amount covering all items of cost incurred prior to the date of cancellation or suspension of the Work by CFX.

7.6 Partial Payments

7.6.1 General: The Contractor will receive partial payments on monthly estimates, based on the amount of Work done or completed (including delivery of certain Materials as specified below) and reflected in the Application for Payment. The monthly payments shall be approximate only and all partial estimates and payments will be subject to correction in the subsequent estimates and the final estimate and payment.

The amount of such payments shall be the total value of the Work done to the date of the estimate based on the quantities and the Contract unit prices less an amount retained and less payments previously made. In addition to other retainage held as may be described elsewhere, the amount retained shall be determined in accordance with the following schedule:

<u>% Contract Amount Completed</u>	<u>Amount Retained</u>
0 to 75	None
75 to 100	10% of value of Work completed exceeding 75% of Contract amount

Contract amount is defined as the original Contract amount as adjusted by approved Supplemental Agreements.

Direct deposit of payments to the Contractor is available. If the Contractor elects to receive direct deposit of payments from CFX, CFX will provide the Contractor with the necessary Automatic Deposit Authorization Agreement form.

- 7.6.2 Unsatisfactory Payment Record: CFX reserves the right to disqualify the Contractor from bidding on future contracts by CFX if the Contractor's payment record relating to the Work becomes unsatisfactory. The Contractor's surety may also be disqualified from issuing bonds for future contracts by CFX should the surety similarly fail to perform under the terms of the bond.
- 7.6.3 Withholding Payment for Defective Work: Should any defective Work or Materials be discovered prior to final acceptance or should a reasonable doubt arise prior to final acceptance as to the integrity of any part of the completed Work, payment for such defective or questioned Work will not be allowed until the defect has been remedied and causes of doubt removed.
- 7.6.4 Partial Payments for Delivery of Certain Materials:

7.6.4.1 General: Partial payments will be allowed for certain Materials stockpiled in approved locations in the vicinity of the Project. For structural steel, precast drainage structures and precast/prestressed concrete elements, where off-site fabrication is required, the term "in the vicinity of the Project" will be interpreted to include a site remote from the Project provided that condition 1) listed below is satisfied.

The following conditions shall apply to all payments for stockpiled Materials:

- 1) There must be reasonable assurance that the stockpiled material will be incorporated into the specific project on which partial payment is made.
- 2) The stockpiled material must be approved as meeting applicable specifications.
- 3) The total quantity for which partial payment is made shall not exceed the estimated total quantity required to complete the project.
- 4) The Contractor shall furnish the CEI with copies of certified invoices to document the value of the materials received. The amount of the partial payment will be determined from invoices for the material up to the unit price in the Contract.



- 5) Delivery charges for materials delivered to the jobsite will be included in partial payments if properly documented.
- 6) Partial payments will not be made for materials which were stockpiled prior to award of the Contract for a project.

7.6.4.2 Partial Payment Amounts: The following partial payment restrictions apply:

- 1) Partial payments less than \$5,000 for any one month will not be processed.
- 2) Partial payments for structural steel and precast/prestressed items will not exceed 85% of the bid price for the item. Partial payments for all other items will not exceed 75% of the bid price of the item in which the material is to be used.
- 3) Partial payment will not be made for aggregate and base course material received after paving or base construction operations begin except when a construction sequence designated by the CEI requires suspension of paving and base construction after the initial paving operations, partial payments will be reinstated until the paving and base construction resumes.

7.6.4.3 Off Site Storage: If the conditions of subarticle 7.6.4.1 are satisfied, partial payments will be allowed for materials stockpiled in approved in-state locations. Additionally, partial payments for materials stockpiled in approved out-of-state locations will be allowed if the conditions of subarticle 7.6.4.1 and the following conditions are met:

- 1) Furnish CFX a Materials Bond stating the supplier guarantees to furnish the material described in the Contract to the Contractor and CFX. Under this bond, the Obligor shall be the material supplier and the Obligees shall be the Contractor and the Central Florida Expressway Authority. The bond shall be in the full dollar amount of the bid price for the materials described in the Contract Documents.
- 2) The following clauses shall be added to the contract between the Contractor and the supplier of the stockpiled materials:

“Notwithstanding anything to the contrary, <supplier> will be liable to the Contractor and the Central Florida Expressway Authority should <supplier> default in the performance of this agreement.”

“Notwithstanding anything to the contrary, this agreement, and the performance bond issued pursuant to this agreement, does not alter, modify, or otherwise change the Contractor’s obligation to furnish the materials described in this agreement to the Central Florida Expressway Authority.”

- 3) The agreement between the Contractor and the supplier of the stockpiled materials shall include provisions that the supplier will store the materials and that such materials are the property of the Contractor.

7.6.5 Certification of Payment to Subcontractors: Prior to receipt of any progress (partial) payment, the Contractor shall certify that all subcontractors having an interest in the Contract have received their pro rata share of previous progress payments from the Contractor for all work completed and Materials furnished the previous period. This certification shall be in the form designated by CFX. The term “subcontractor”, as used herein, shall also include persons or firms furnishing Materials or Equipment incorporated into the Work or stockpiled in the vicinity of the Project for which partial payment has been made by CFX and Work done under Equipment-rental agreements.

On initial payment, the Contractor shall assure that all subcontractors and Materials suppliers having an interest in the Contract receive their share of the payments due. CFX will not make any progress payments after the initial partial payment until the Contractor certifies pro rata shares of the payment out of previous progress payments received by the Contractor have been disbursed to all subcontractors and suppliers having an interest in the Contract, unless the Contractor demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both CFX and the affected subcontractors and suppliers. Contractor shall execute and submit a Certification of Disbursement of Previous Payments form, supplied by CFX, with each payment request after the initial request. Submitting a false or fraudulent certification will result in a determination of default by the Contractor in accordance with Article 6.9.1 of these General Specifications.

7.6.6 Reduction of Payment for Unsatisfactory Services or Products

If any defined action, duty or service, part or product required by the Contract is not performed by the Contractor, the value of such action, duty or service or part thereof will be determined by CFX and deducted from any invoice or monthly billing period claiming such items for payment.

If the action, duty or service, part or product thereof has been completed and is determined to be unsatisfactory by CFX, the Contractor will be notified and given the opportunity to correct any deficiencies within a time certain. Payment (for the unsatisfactory Work) will be withheld by CFX from any invoice or monthly billing period until the Work is determined to be acceptable.

## 7.7 Record of Construction Materials

7.7.1 General: For all construction Materials used in the construction of the Project (except Materials exempted by Subarticle 7.7.2), the Contractor shall preserve for inspection by CFX all invoices and records of the Materials for a period of 3 years from the date of completion of the Project. This requirement shall also apply to Materials purchased by subcontractors. The Contractor shall obtain the invoices and other Materials records from the subcontractors.

Not later than 30 days after the date of final completion of the Project, the Contractor shall furnish to CFX a certification of construction Materials procured for the Project by the Contractor and all subcontractors. The certification shall consist of an affidavit completed on a form furnished by CFX.

7.7.2 Non-Commercial Materials: The requirement to preserve invoices and records of Materials shall not apply to Materials generally classed as non-commercial such as fill Materials local sand, sand-clay or local Materials used as stabilizer.

## 7.8 Disputed Amounts Due Contractor

CFX reserves the right to withhold from the final estimate any disputed amounts between the Contractor and CFX. Release of all other amounts due shall be made as provided in Article 7.9.

## 7.9 Acceptance and Final Payment

When the Work of the Contract has been completed by the Contractor and the final inspection and final acceptance have been given by CFX, a tentative final estimate showing the value of the Work will be prepared by CFX as soon as the necessary measurements and computations can be made, usually within 30 days of final acceptance. All prior estimates and payments will be subject to correction in the final estimate and payment. The Contractor and CFX will have 30 days from the date of the tentative final estimate to resolve any outstanding issues. At the end of the 30 days, CFX will make a written Offer of Final

Payment. Provided that the requirements of A) through J) of this Article have been met, the amount of the Offer of Final Payment, less any sums that may have been deducted or retained under the provisions of the Contract will be paid to the Contractor as soon as practicable.

- A) The Contractor has submitted written acceptance of the balance due, as determined by CFX, as full settlement of the Contractor's account under the Contract and of all claims in connection therewith.

Or, the Contractor shall accept the balance due with the stipulation that acceptance of such payment will not constitute any bar, admission or estoppel or have any effect as to those payments in dispute or the subject of a pending claim between the Contractor and CFX. The Contractor shall define the dispute or pending claim in writing in the form of a qualified acceptance letter with full particulars of all items/issues in dispute including itemized amounts claimed. Failure by the Contractor to provide either a written acceptance letter or qualified acceptance letter within 60 calendar days of the Offer of Final Payment shall constitute full acceptance of the balance due without qualification.

If the Contractor provides a qualified acceptance letter, then the Contractor agrees that a complete claim package in accordance with Article 2.4 of the General Specifications, and limited to the particulars in the qualified acceptance letter, will be provided within 120 calendar days of the Offer of Final Payment. Additionally, the Contractor agrees that any pending or future arbitration must be limited to the particulars in the qualified acceptance letter and must begin within 210 calendar days from the date of the Offer of Final Payment.

- B) The Contractor has properly maintained the Project as specified hereinbefore.
- C) The Contractor has furnished a sworn affidavit to the effect that all bills are paid and no suits are pending (other than those exceptions listed if any) in connection with the Work of the Contract and that the Contractor has not offered or made any gift or gratuity to or made any financial transaction of any nature with, any employee of CFX. Tort liability exceptions, if any, shall be accompanied by evidence of adequate insurance as required in Article 5.11 of these General Specifications.
- D) The surety on the Public Construction Bond has consented (by completion of its portion of the affidavit and surety release) to final payment to the Contractor and agrees that the making of such payment shall not relieve the surety of any of its obligations under the bond.

- E) The Contractor has submitted all mill tests and analysis reports to CFX.
- F) The Contractor has submitted insurance certificates for extended coverage as required by Article 5.11 of these General Specifications.
- G) The Contractor has previously submitted Record Drawings as required by Article 3.3.1 of these General Specifications.
- H) The Contractor has submitted the completed density log book as required by Article 120-10.4.2 of the Technical Specifications.
- I) The Contractor has submitted the final material testing certification as required by Article 105-6 of the Technical Specifications.
- J) The Contractor has submitted all warranties and operation and maintenance manuals required by various Articles and Subarticles of Specifications.

If the Contractor fails to furnish all required Contract Documents listed in B) through J) of this Article within 90 calendar days of the Offer of Final Payment, CFX may deduct from the retainage due the Contractor, \$1,000 for each calendar day beyond the 90 calendar days that the Contractor fails to provide the required Contract Documents.

#### 7.10 Offsetting Payments

If payment of any amount due CFX after settlement or arbitration is not made by the Contractor within 60 days, CFX may, at its sole discretion, offset such amount from payments due the Contractor for Work performed under any other contract with CFX, excluding amounts owed to subcontractors, suppliers and laborers. Offsetting any amount in this manner shall not be considered a breach of the Contract by CFX.

END OF SECTION 7

SECTION 8 – DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE  
(D/M/WBE) PARTICIPATION

- 8.1 General: The Contractor is encouraged to continue to meet or demonstrate the participation objectives could not be met. At any time, CFX's Executive Director may grant a partial or complete waiver of the D/M/WBE objective for the Project due to consideration of property, public safety, and health, including financial impact to CFX.

CFX has provided an exception for the Contractor's failure to meet the participation objective established for this project. The exception requires that the Contractor provide CFX with documentation supporting the Contractor's Good Faith Effort to meet the stated objective. CFX will have the sole and final determination of whether the support documentation provided by the Contractor does, in fact, meet CFX's standard for a Good Faith Effort as detailed in this Section 8. The Contractor shall demonstrate, through documentation, that every reasonable effort has been made to achieve CFX's participation objective. The Contractor shall be responsible for securing proof of the D/M/WBE certification(s) for the proposed subcontractors/suppliers and be able to provide copies of the certification(s) to the CFX's Supplier Diversity Office.

The Contractor shall meet or exceed the commitment stated in the Contractor's D/M/WBE Utilization Summary (page P-6 of the Proposal). Should the Contractor's D/M/WBE participation fall below the approved level for any reason whatsoever, or should the Contractor substitute or self-perform work identified for a D/M/WBE subcontractor/supplier without prior written approval of CFX, the Contractor will be considered by CFX to be in material breach of the Contract. If found in breach of the Contract, the Contractor may be suspended from bidding on and/or participating in any further CFX projects for up to one (1) year as provided in Section 15 of CFX's Supplier Diversity Policy.

Any change in the D/M/WBE Utilization Summary will require prior approval by the CFX Director of Supplier Diversity. Should the Contractor determine that a subcontractor/supplier named in the Utilization Summary is unavailable or cannot perform the work, the Contractor shall request approval of a revised D/M/WBE Utilization Summary. The revised summary shall be submitted, in writing, to the CFX Supplier Diversity Office at 4974 ORL Tower Road, Orlando, Florida 32807, or by facsimile to (407) 690-5011.

The Contractor will not be allowed to perform Work with its forces that has been identified on the Utilization Form to be performed by D/M/WBE firms. If a D/M/WBE subcontractor is unable to successfully perform the Work, the Contractor shall make a Good Faith Effort to replace that firm with another D/M/WBE firm. In evaluating a Contractor's Good Faith Efforts, CFX will consider:

- (1) Whether the Contractor, provided written notice to certified D/M/WBEs performing the type of Work that the Contractor intends to subcontract, advising the D/M/WBEs (a) of the specific Work the Contractor intends to subcontract; and (b) that their interest in the Contract is being solicited;
- (2) Whether the Contractor provided interested D/M/WBEs assistance in reviewing the Contract Plans and Specifications;
- (3) Whether the Contractor assisted interested D/M/WBEs in obtaining any required bonding, lines of credit, or insurance;
- (4) Whether the Contractor's efforts were merely pro forma and given all relevant circumstances, could not reasonably be expected to produce sufficient D/M/WBE participation to meet the objective.

The above list is not intended to be exclusive or exhaustive and CFX will look not only at the different kinds of efforts that the Contractor has made but also the quality, quantity and intensity of these efforts.

## 8.2 Disadvantaged, Minority and Women Owned Businesses - Participation Objective

8.2.1 General: The Contractor shall ensure that D/M/WBE as defined herein will have the maximum opportunity to participate in the performance of subcontracts. In this regard, the Contractor shall take all necessary and reasonable steps to accomplish that result.

8.2.2 Definitions: The following words and phrases shall have the respective meanings set forth below unless a different meaning is plainly required by the context:

- (1) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States or lawfully admitted permanent residents and who are women, Black Americans, Hispanic American, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Individuals in the following groups are presumed to be socially and economically disadvantaged:
  - (a) "Black Americans", which includes persons having origins in any of the black racial groups of Africa;
  - (b) "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;

- (c) “Asian-Pacific Americans”, which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas;
  - (d) “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  - (e) “Asian-Indian Americans”, which includes persons whose origins are from India, Pakistan, and Bangladesh; and
  - (f) “Women”.
- (2) “Joint Venture” means an association of two or more firms to carry out a single business enterprise for which purpose the firms combined their property, money, effects, skills or knowledge.
  - (3) “Certified” means a finding by Orange County, Florida, the City of Orlando, Florida, and Florida Department of Transportation that the business is a bona fide Minority, Women or Disadvantaged owned and operated business.
  - (4) “Independently Owned and Operated” means a business that is not affiliated or associated with the general contractor or prime contractor providing work or services on CFX project(s) or procurement in which the D/M/WBE seeks to participate. Affiliated status may be determined through common ownership, management, employees, facilities, inventory or any other factors, which would prevent or inhibit independent status
  - (5) “Women Business Enterprise” comprises all women. All women business owners will be classified as a Women Business Enterprise.

8.2.3 Specific Requirements: The Contractor shall, among other things, implement techniques to facilitate D/M/WBE participation in contracting activities including, but not limited to:

- 1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations;
- 2. Providing assistance to D/M/WBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance;



3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate;
4. Contacting Minority Contractor Associations, city, and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible D/M/WBE contractors to apply for certification.
5. Meeting with appropriate officials of CFX, including its Supplier Diversity Office, to assist with the Contractor's efforts to locate D/M/WBEs and assist with developing joint ventures, partnering, and mentorship.

8.2.4 Qualified Participation: CFX will count D/M/WBE participation toward meeting D/M/WBE objective as follows:

1. The total dollar value of the contract to be awarded to the certified D/M/WBE will not be counted toward the applicable D/M/WBE objective unless approved by CFX.
2. A portion of the total dollar value of a contract, with an eligible joint venture, equal to the percentage of the ownership and control of the D/M/WBE partner in the joint venture may be counted toward the D/M/WBE objective.
3. Only expenditures to D/M/WBEs that perform a commercially useful function may be counted toward the D/M/WBE objective. A D/M/WBE is considered to perform a commercially useful function when it actually performs and manages at least 51 percent of the work subcontracted to it. To determine whether a D/M/WBE is performing a commercially useful function, CFX will evaluate all relevant factors such as the amount of Work subcontracted and industry practices.
4. Consistent with normal industry practices, a D/M/WBE may enter into subcontracts. If a D/M/WBE subcontracts 50 percent or more of the Work assigned to it, the D/M/WBE shall be presumed not to be performing a commercially useful function.
5. Expenditures for materials and supplies obtained from D/M/WBE suppliers and manufacturers may be counted toward the D/M/WBE objective, provided that the D/M/WBEs assume the actual and contractual responsibility for the provision of the materials and supplies. The percentage allowed toward the D/M/WBE objective is as follows:

- (a) All expenditures to a D/M/WBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale) may be counted toward the D/M/WBE objective.
  
- (b)
  - 1. A Contractor may count toward its D/M/WBE objective 60 percent of its expenditures for materials and supplies required under a contract and obtained from a D/M/WBE regular dealer, and 100 percent of such expenditures to a D/M/WBE manufacturer.
  
  - 2. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.
  
  - 3. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this Section.
  
- (c) A Contractor may count toward the D/M/WBE objective for the following expenditures to D/M/WBE firm(s) that are not manufacturers or regular dealers:
  - 1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials of supplies required for performance of the Contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.

2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
4. Those sums that, subsequent to the receipt of bids, CFX elects, under the provisions of the Direct Materials Purchase Option, to purchase materials originally proposed by the Contractor to CFX to have been an element of the Work of a certified D/M/WBE contractor/subcontractor/vendor.

8.2.5 Records and Reports: The Contractor shall develop a record keeping system to monitor its D/M/WBE participation and shall maintain the following records:

1. the procedures adopted to comply with these special provisions;
2. The number of subordinated contracts on CFX projects awarded to D/M/WBEs;
3. the dollar value of the contracts awarded to D/M/WBEs;
4. the percentage of the dollar value of all subordinate contracts awarded to D/M/WBEs as a percentage of the total contract amount;
5. a description of the general categories of contracts awarded to D/M/WBEs;
6. the specific efforts employed to identify and award contracts to D/M/WBEs;
7. maintenance of records of payments and monthly reports to CFX;
8. Subcontract Agreement between Contractor and D/M/WBE subcontractors; and

9. any other records required by CFX's Project Manager or Executive Director.

The records maintained by the Contractor in accordance with this Section shall be provided to CFX for review within 48 hours of the CFX request. The Contractor shall submit a properly executed D/M/WBE Payment Certification monthly during the life of the D/M/WBE subcontract whether payment is made or not.

### 8.3 Subletting of Contracts - Participation Objective

No request to sublet Work will be approved unless it is in compliance with the Contractor's approved D/M/WBE Utilization Form "Certification of Subcontract Amount to D/M/WBE Contractor", shall be completed and submitted with the Request For Authorization To Sublet Work. One copy of the certification will be attached to each copy of the Request For Authorization To Sublet Work.

END OF SECTION 8

## SECTION 9 - BINDING ARBITRATION

9.1 CFX and the Contractor shall submit any and all unsettled claims, counterclaims, and disputes to the Disputes Review Board (DRB) prior to initiating a demand for arbitration pursuant to this Section.

9.2 No demand for arbitration of any claim, dispute or other matter referred to the DRB initially for decision will be made until after final acceptance, per Article 3.9, of all Contract Work by CFX. The filing party shall pay all applicable fees associated with requested arbitration proceedings.

The failure to demand arbitration within thirty (30) days after final acceptance will result in the DRB's decision being final and binding upon CFX and Contractor.

9.3 Notice of the demand for arbitration is satisfied when it is filed in writing with the other party to the Contract and with the American Arbitration Association (including required fees). A copy will be sent to the Board for information.

9.4 The arbitration shall occur in Orlando, Florida and shall be conducted by a three (3) member panel pursuant to and under the auspices of the Construction Industry Arbitration Rules of the American Arbitration Association.

9.5 Procedure for Binding Arbitration

Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations of this Section. The agreement to arbitrate (and any other agreement or consent to arbitrate entered into in accordance herewith) will be specifically enforceable under the laws of Florida.

Arbitration shall include by consolidation, joinder or in any other manner any person or entity who is not a party to the Contract in circumstances where:

- the inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration, and
- such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings, and
- the written consent of the other person or entity sought to be included and of CFX and Contractor has been obtained for such inclusion, which consent shall make specific reference to this paragraph.

In order to assure complete resolution of any claim or controversy, the Contractor shall provide and require (in the agreements with subcontractors and material suppliers) for joinder in such arbitration proceedings. Therefore, if a claim, dispute or other matter in question between CFX and Contractor involves the work of a Subcontractor, either CFX or Contractor may join such subcontractor as a party to the arbitration. Nothing in this paragraph or in the provision of such subcontract consenting to joinder shall create any claim, right or cause of action in favor of subcontractor or supplier, and against CFX, CEI, or any of their consultants that does not otherwise exist.

In connection with the arbitration proceedings all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

END OF SECTION 9

## SECTION 10- PARTNERING AND DISPUTES RESOLUTION

### 10.1 Partnering

The objective of Partnering is to establish a partnership charter and action plan for the Contractor, CFX and other parties impacted by the activities covered under the Contract to identify and achieve reciprocal goals. These objectives may be met through participation in workshops held periodically throughout the duration of the Contract.

Prior to the pre-construction conference, CFX, the CEI, and the Contractor shall meet and plan an initial partnering/team building workshop. At this planning session, arrangements will be made to select a workshop facilitator, determine attendees, agenda, duration and location. Attendees should include representatives of CFX, the CEI, and other key Project personnel, the Contractor's superintendent and other key personnel as well as others mutually agreed upon by CFX and the Contractor. Additional workshops may be held periodically throughout the duration of the Contract if authorized by CFX.

CFX will arrange for and pay the cost of providing a facilitator and meeting room and for all other direct costs associated with the Partnering workshops. No separate compensation will be paid to the Contractor to attend partnering meetings

### 10.2 Disputes Resolution

#### 10.2.1 Disputes Review Board

A Disputes Review Board ("Board") will be established to assist in the resolution of disputes arising out of the Work on the Project. This document describes the purpose, procedure, function and features of the Board.

The Board will provide special expertise to assist and facilitate the timely and equitable resolution of disputes and controversies between CFX and the Contractor in an effort to avoid construction delays and future claims.

It is not intended for CFX or the Contractor to avoid the normal responsibility to cooperatively and fairly settle differences by indiscriminately requesting dispute resolution by the Board. It is intended the Board encourage CFX and the Contractor to first try resolving potential disputes without resorting to the procedure set forth herein.

The Board will be used only when the claims procedure detailed in the Contract has been followed and has been unsuccessful. It is a condition of the Contract that the parties use the Board. Adherence to the Contract claims procedure is a condition precedent to the submission of a dispute to the Board, and the submission of an unresolved dispute to the Board is, in turn, a condition precedent to arbitration of such issue.

The Board will fairly and impartially consider disputes referred to it. The Board will receive testimony and other relevant evidence regarding such disputes, will analyze the facts within the parameters of the Contract, and will then provide written recommendations (to CFX and Contractor) to assist in the resolution of the disputes. The recommendations of the Board will not be binding on either CFX or the Contractor; however, the Board's recommendations and findings shall be admissible for all purposes in any subsequent arbitration proceedings or the judicial enforcement thereof.

#### 10.2.2 Continuance of Work During Dispute

During the dispute resolution process the Contractor shall conform to the CEI's decision or order and continue with the Work as directed by the CEI in a diligent manner and without delay. Such Work will be governed by all applicable provisions of the Contract. With respect to any protested Work, the Contractor will keep complete records of extra costs and time incurred. Except for sealed Bid Records, the Contractor will permit CEI and the Board access to any records needed for evaluating the dispute, without any claim of privilege or confidentiality.

#### 10.2.3 Disputes Review Board Membership

The Board will consist of three Members, one Member selected by CFX and approved by the Contractor, and one Member selected by the Contractor and approved by CFX. The first two Members will mutually select and agree on the third Member, which third Member shall not be subject to approval by either the Contractor or CFX. Normally, the third Member will act as Chairman for all Board activities. If the third Member declines to act as Chairman, the Members shall select an alternative Chairman. Neither the Contractor nor CFX shall seek to influence the Chairman selection decision.

The Contractor and CFX shall each submit the name and credentials of their proposed Member to the other within ten (10) days of the Contract award. The two Members, upon acceptance, shall meet promptly and mutually agree on the third Member. A Notice to Proceed shall not be issued until the Board Members have been selected and have signed the Three-Party Agreement. All three Members shall attend the Pre-Construction Meeting.

All Board Members shall be experienced with major road and bridge construction and the associated construction methods involved in the Project, in the interpretation of contract documents and in contract dispute resolution. The goal in selecting the third Member is to complement the construction experience of the first two Members and to provide leadership of the Board's activities.

It is imperative that Board Members show no partiality to either the Contractor or CFX, or have any conflict of interest.



The criteria and limitations for membership will be as follows:

- a. The person selected will not have any direct or indirect ownership or financial interest in (i) the Contractor, (ii) CEI or the CFX General Engineering Consultant ("GEC"), (iii) any subcontractor or supplier of the Project, or (iv) the employer of other Board Members.
- b. Except for services as a Board Member on CFX projects, no Member shall have been an employee, contractor or consultant to the Contractor or CFX, CEI, the GEC or any subcontractor or supplier for the Project within a period of ten (10) years prior to the Contract award.
- c. No Member will have had a close personal, professional or business relationship with CFX or the Contractor (or an employee or officer of CFX or the Contractor).
- d. No Member will have had any prior involvement in the Project (other than as a dispute board member) of a nature which could be construed to compromise an ability to impartially resolve disputes.
- e. No Member will be employed by the Contractor, the CEI, the GEC or any subcontractor or supplier of the Project during the term of the Contract, except as a Board Member pursuant to the Three Party Agreement.
- f. During the term of the Contract no discussion or agreement will be made between a Board Member and CFX or Contractor regarding employment after the Contract is completed.
- g. During the term of the Contract, ex-parte communications between a Board Member and a party to the Three Party Agreement is prohibited.

Before appointments are final, the first two prospective Members will submit complete disclosure statements for the approval of both CFX and the Contractor. Each statement (in the form prepared by CFX) will include a statement of experience and a declaration describing all past, present and anticipated or planned future relationships to the Project and with the parties to the Contract. Disclosure of professional or personal relationships with parties to the Contract will be included. The third Board Member will supply a similar statement to the first two Board Members (and to CFX and the Contractor) before the third Member appointment is finalized.

CFX and the Contractor will each select a Member, execute the Three Party Agreement (described below) and assure the Members execute the Three-Party Agreement within the first three (3) weeks after Contract award. CFX and the Contractor will immediately notify the selected Members to begin selection of the third Member. The first two Members will ensure the third Member meets all of the criteria listed above. The third Member will be selected within two (2) weeks after the first two Members are notified to proceed with the selection of the third Member. If there is an impasse in the selection of the third Member, the third Member will be selected by CFX and the Contractor, with the first consideration to the nominees reviewed by the first two Members.

In the event of death, disability or resignation of a Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for whatever other reason a Member fails or is unable to serve, the Chairman (or failing the action of the Chairman, then either of the other Members) shall inform the parties and such non-serving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within fifteen (15) days after the event giving rise to the vacancy on the Board, failing which the replacement shall be made by the two remaining Members of the Board. Replacement shall be considered completed when the new Member executes the Dispute Review Board Three Party Agreement.

#### 10.2.4 Board Operations

The Board will formulate procedures of operation that shall be flexible with respect to the functioning of the Board. The Board may formulate new or revised procedures respecting its operation from time to time to accommodate the needs of the Board and the circumstances.

Each Board Member shall be provided a complete set of the Contract Documents. CFX and the Contractor shall keep the Board informed of construction activity and progress by submitting written progress reports and other relevant data at least monthly. The Board will visit the Project at regular intervals and/or at times of critical construction events and meet with CEI and the Contractor. In circumstances of unresolved disputes, the Board will meet at least monthly until the unresolved disputes are concluded. The frequency of visits will be agreed upon by CFX, the Contractor and the Board, depending upon the progress of the Work.

Regular meetings will be held at the job site. Each meeting will consist of an informal discussion and a field inspection of the Work. The informal discussion will be attended by selected personnel from CFX, the CEI and the Contractor. Agenda for regular meetings of the Board will generally include the following:

- a. Meeting opened by the Chairman of the Board.
- b. Remarks by the CEI.

- c. A description by the CEI and the Contractor of Work accomplished since the last meeting, current status of the Work schedule, schedule for the future, potential problems and proposed solutions to anticipated problems.
- d. Discussion by the CEI of Work schedule, potential new disputes or claims, status of past disputes and claims and other issues.
- e. Set a date for next meeting.

The CEI will prepare minutes of all Board meetings and circulate them for comments, revisions and/or approval by all concerned.

The field inspection will cover all active segments of the Work. The Board will be accompanied by representatives of both the CEI and the Contractor. Soliciting any Board Member's advice or consultation regarding the Work or the Contract is expressly prohibited.

#### 10.2.5 Procedure for Disputes Resolution

Disputes will be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Steps may be omitted as agreed by both parties and the time periods stated below may be shortened in order to hasten resolution.

- a. If either CFX or Contractor object to any decision of the CEI with respect to claims, change order requests, or other actions or orders of the CEI, the objecting party may file a written protest with the CEI within fifteen (15) days after the CEI's disputed decision, action or order. The written protest must clearly state in detail the basis for the objection.
- b. The CEI will consider the written protest to its decision or directive, and make a final decision on the basis of the pertinent Contract provisions, together with the facts and circumstances involved in the protest. The decision will be furnished to CFX and Contractor in writing within fifteen (15) days after receipt of the written protest.
- c. The CEI's decision with respect to the protest will be final, unless a written exception is filed by CFX or Contractor with the CEI within fifteen (15) days after receiving the protest decision. If either rejects the CEI's final decision, the disputed matter may be referred to the Board by either CFX or the Contractor.

- d. Upon receipt by the Board of a written dispute, the Board will first decide when to conduct the hearing. If the matter is not urgent, it may be heard at the next regularly scheduled Board meeting. For an urgent matter, the Board will meet at its earliest convenience.
- e. Either party furnishing written evidence or documentation to the Board will furnish copies of such information to the other party a minimum of fifteen (15) days prior to the date the Board sets to hear the dispute. If the Board requests additional documentation or evidence prior to, during or after the hearing, CFX and/or the Contractor will provide the requested information to the Board and to the other party. Because each side needs a reasonable opportunity to understand and rebut the opposing side's point of view, failure of either party to timely provide written documentation in accordance with this provision shall result in such written documentation being excluded from the hearing before the Board unless the other party consents to its admission or consents to a delay in the hearing.
- f. The Contractor and CFX will each be afforded an opportunity to be heard by the Board and to offer evidence. The Board will consider all relevant evidence presented and analyze the same solely within the parameters of the Contract. Hearsay evidence shall be admissible but shall not be the sole basis for any recommendation of the Board.
- g. The Board's recommendations for resolution of the dispute will be given in writing within fifteen (15) days of completion of the hearing(s). In cases of extreme complexity, both parties may agree to allow additional time for the Board to formulate its recommendations. Generally, the Board will initially focus its attention (in the written report) only to matters of entitlement, and allow the parties to thereafter determine the monetary relief. If both parties request, and sufficient documentation is available, the Board may also make a recommendation of monetary relief, but only after formulation of the entitlement recommendation and only after the parties have attempted to agree upon the monetary relief amount.
- h. If the Board's recommendation for resolution is not unanimous, the dissenting member shall prepare a separate written opinion.
- i. Within fifteen (15) days of receiving the Board's recommendations, both CFX and the Contractor will respond to the other and to the Board in writing, signifying either acceptance or rejection of the Board's recommendations. The failure of a party to respond within the fifteen (15) day period will be deemed an acceptance by such party of the Board's recommendations. If

CFX and the Contractor are able to resolve the dispute (with or without the aid of the Board's recommendations), CFX will promptly process any required Contract changes.

- j. If the dispute remains unresolved because of a bona fide lack of clear understanding of the recommendation, either party may request the Board clarify specific portions of its recommendations. Further, if new evidence becomes available, either party may request the Board reconsider its prior recommendation. Only evidence which did not exist at the time of the hearing, or which existed but which could not be discovered with reasonable and normal diligence shall be considered new evidence.
- k. If the Board's recommendation is rejected, either party may thereafter initiate resolution of the dispute by binding arbitration conducted pursuant to the Contract.

Both CFX and the Contractor should carefully consider the Board's recommendations, as the recommendations are binding unless written notice is provided to the other party within 30 days of the recommendations stating the party's intent to bring the disputed issue to arbitration. However, if the Board's recommendations do not resolve the dispute, all records and written recommendations, including any minority reports, will be admissible for informational purposes in any subsequent dispute resolution procedures. Such informational purposes shall include but not be limited to establishing that the Board considered the dispute, the qualifications of the Board Members, and the Board's recommendation that resulted from the dispute resolution process.

#### 10.2.6 Conduct of Disputes Hearings

Each party shall file three copies of its written arguments with the Board no less than seven days prior to the scheduled hearing and shall simultaneously deliver a copy of such written arguments to the opposing party. Each party shall also submit to the Board along with its written arguments copies of its written evidence and documentation which has been previously provided to the opposing party as provided above.

Normally, the hearing will be conducted at the job site. However, any location more convenient and which provides all required facilities and access to necessary documentation is satisfactory.

While the Board will keep a record of its sessions during consideration of a dispute, the Board will not be required to keep its record in any particular form. The nature and completeness of the record will depend upon the nature and magnitude of the dispute and the desires of the parties. If possible, the hearings shall be kept informal. Formal records of the Board meetings may be taken and transcribed by a court reporter if requested by a party (at the requesting party's cost). Audio and/or video recording of the meeting is discouraged and shall only be made with the prior agreement of all parties and a majority of the Board.

CFX and the Contractor will have representatives at all dispute resolution hearings. The party requesting Board review will first discuss the dispute, followed by the other party. Each party will then be allowed successive rebuttals until all aspects are fully covered to the Board's satisfaction. The Members and the parties may ask questions, request clarification or ask for additional data. In large or complex cases, additional hearings may be necessary in order to consider and fully understand all evidence presented by both parties.

During the hearings, no Member will express any opinion concerning the merit of any facet of the dispute.

After the hearings are concluded, the Board will meet in private to formulate recommendations supported by two or more Members. All Board deliberations will be conducted in private, with individual views kept strictly confidential. No minutes shall be prepared of the Board's private meetings. The Board's recommendations and discussions of its reasoning will be submitted as a written report to both parties. The recommendations will be based on the pertinent Contract provisions and the facts and circumstances involved in the dispute.

The Board will make every effort to reach a unanimous decision. If a unanimous decision is not possible, the dissenting Member may (but is not required to) prepare a minority report.

#### 10.2.7 Compensation

The Contractor shall pay the fees of all three Board Members for services rendered under the Three Party Agreement. An allowance pay item has been established in the Contract for the reimbursing the Contractor. Funds remaining in the pay item, if any, at the completion of the Project will belong to CFX. CFX and the Contractor shall agree on the procedures and method of processing payments made against the allowance. CFX or the CEI will mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services. If the Board desires special services, such as legal consultation, accounting, data research, etc., both parties must agree and the costs will be paid from the allowance.

#### 10.2.8 Three Party Agreement

The Contractor, CFX and the Members of the Board will execute the Dispute Review Board Three Party Agreement within four (4) weeks of the final selection of the third Member.

END OF SECTION 10

**ATTACHMENT A**

**DISPUTES REVIEW BOARD  
THREE PARTY AGREEMENT**

**THIS THREE PARTY AGREEMENT (“Agreement”)** made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”)**, \_\_\_\_\_ (**“Contractor”**) and the **DISPUTES REVIEW BOARD (“Board”)**, consisting of three members: \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ (**“Members”**).

WHEREAS, CFX is now engaged in the construction of the \_\_\_\_\_, and

WHEREAS, the \_\_\_\_\_ contract (“Contract”) provides for the establishment and operation of the Board to assist in resolving disputes and claims.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein (or attached, incorporated and made a part hereof), the parties agree as set forth herein.

**I  
DESCRIPTION OF PURPOSE**

To facilitate resolution of disputes between the Contractor and CFX, CFX has provided (in the Contract) for the establishment of the Board. The function of the Board is to fairly and impartially consider Contract disputes placed before it and provide written recommendations for resolution to both CFX and the Contractor. The Members of the Board shall perform the services designated in Section II, Scope of Work.

**II  
SCOPE OF WORK**

The Scope of Work includes, but is not limited to, the following items:

A. Third Board Member Selection. The first duty of CFX and the Contractor selected Members of the Board is to select the third Member. The third Member shall not have any current financial or employment ties with either the Contractor or CFX. The selection goal is to obtain a third Board Member who will complement the first two by furnishing expertise, leadership and experience to facilitate the Board’s operations. The first two Board Members selected shall proceed with the selection of the third Board Member



upon receiving their appointment. If the first two Members are unable to select a third Member within four (4) weeks, CFX and the Contractor will select the third Member.

B. Procedures. After selecting the third Board Member and prior to considering a dispute, the Board shall establish procedures to govern the conduct of its business and reporting procedures based on the Guidelines, attached as an Appendix to this Agreement. The Board recommendations (resulting from a consideration of a dispute) shall be furnished in writing to CFX and the Contractor. The recommendations shall be based solely on the pertinent Contract provisions and the facts as reasonably determined by the Board. The Board shall have no authority to disregard or unilaterally modify pertinent Contract provisions including, but not necessarily limited to, those provisions pertaining to notices and claims procedures.

C. Furnishing Documents. CFX shall, at the time of each Board Member's appointment, furnish such Member a copy of the Contract. Both CFX and the Contractor shall, no later than seven (7) days prior to the scheduled Board hearing, submit to the Board three copies of all written documents and arguments that such party wishes the Board to consider. Each party shall provide its written documentation to the other side no later than fifteen (15) days prior to the scheduled Board hearing and shall provide a copy of its written argument to the other side no later than seven (7) days before the hearing in order to afford the other side the opportunity to review such documents and prepare any necessary rebuttal for the hearing.

D. Site Visits. The Board shall visit the project site to: (i) keep abreast of construction activities, and (ii) develop a familiarity of the work in progress. The frequency, exact time and duration of visits shall be in accordance with the attached Guidelines or as mutually agreed between CFX, the Contractor and the Board.

In the circumstance of an alleged differing site condition (or specific construction problem), it will be advantageous for the Board to view any relevant conditions. If viewing by the Board would cause delay to the project, photographs and descriptions of conditions collected by either (or both) party will suffice.

E. Board Consideration of Disputes or Claims. Upon receipt by the Board of a written appeal of a dispute (from either the Contractor or CFX) the Board shall convene to review and consider the dispute. CFX, the Contractor and the Board shall determine the time and location of Board meetings. Both CFX and the Contractor shall be given the opportunity to present evidence and argument at such meetings. Absent good cause to the contrary, written evidence shall be limited to that evidence which was previously supplied to both the Board and the other party in accordance with the previous paragraph. Mere negligence in providing such written evidence shall not be considered good cause for its admission.

Hearsay evidence shall be permitted but shall not be the sole basis for any recommendation by the Board. Additionally, Board Members may rely on their personal knowledge based on prior site visits, ongoing document reviews, and general project familiarity. Each party may, but is not required to, submit its proposed recommendations for resolving the dispute to the Board for its consideration.

Board Members are to act impartially and independently in weighing the evidence and in considering the respective positions of the parties within the confines and literal interpretation of the Contract terms. The recommendations concerning any such dispute are advisory and not binding on either party. The Board shall make every effort to reach a unanimous recommendation. If a unanimous recommendation is not possible, the dissenting Member shall prepare a minority report.

The Board's recommendations, together with explanations of its reasoning, shall be submitted as a written report to both parties. The recommendation shall be based solely on the pertinent provisions of the Contract, applicable laws and regulations, and the relevant facts as determined by the Board based upon the evidence presented. It is important for the Board to express, clearly and completely, the logic and reasoning leading to the recommendation so that both parties fully understand the recommendation.

Either CFX or the Contractor may request the Board to reconsider its recommendation. However, reconsideration will only be allowed when there is new evidence to present, or a clarification is required.

F. Miscellaneous Board Responsibilities. In addition to the matters set forth above:

1. The Board Member shall become familiar with the Contract Documents, review periodic reports, and maintain a current file of the project.
2. Except for providing the services required in this Agreement, the Board and its individual Members shall refrain from giving any advice to either party concerning conduct of the work or the resolution of problems. Ex-parte communications between a party and a Board Member are prohibited.
3. The Board shall perform services not specifically listed herein to the extent necessary to achieve the purposes of this Agreement.

G. Board Member Replacement. If the need occurs to appoint a replacement Board Member, the replacement Board Member shall be appointed in the same manner as the original Board Members were appointed. The selection of a replacement Board Member shall begin promptly upon notification of the necessity for a replacement. The Agreement will be supplemented to indicate change in Board membership.

### III CONTRACTOR RESPONSIBILITY

A party shall furnish to each Board Member one copy of all pertinent documents that are or may become necessary for the Board to perform its function. Pertinent documents are any drawings or sketches, calculations, procedures, schedules, estimates or other documents that are used in the performance of the work or in justifying or substantiating the party's position. A copy of such pertinent documents must also be furnished to the other party.

### IV CFX RESPONSIBILITIES

CFX shall furnish the following services and items:

A. Contract Related Documents. CFX shall furnish the Board copies of all Contract Documents, Supplemental Agreements, written instructions issued by the CEI or CFX to the Contractor, or other documents pertinent to the performance of the Contract and necessary for the Board to perform its function.

B. Coordination and Services. CFX (in cooperation with the Contractor) will coordinate the operations of the Board. CFX, through the CEI, will arrange or provide conference facilities at or near the site and provide secretarial and copying services.

### V TIME FOR BEGINNING AND COMPLETION

The Board shall be in operation throughout the term of the Contract and, if needed, for a reasonable post-construction period.

The Board Members shall not begin any work under the terms of this Agreement until authorized by CFX in writing.

## **VI PAYMENT**

The fees and expenses of all three Board Members for services rendered under this Agreement will be an expense to the Contractor with reimbursement under the pay item allowance as provided below. Payment for services of the CFX-appointed, Contractor-appointed, and the third Board Members will be full compensation for work performed or services rendered, and for all expenses, such as food, lodging, travel, telephone, postage etc.

### A. Payment.

Each Board Member will be paid One Thousand Dollars (\$1,000.00) per day for each day the Board meets. This daily rate includes fees and expenses related to membership on the Board. Subsequent changes in the rate must be authorized by a Supplemental Agreement to this Agreement.

B. Inspection of Costs Records. The Board Members shall keep available the cost records and accounts pertaining to this Agreement for inspection by representatives of CFX for a period of three (3) years after final payment. If any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records is completed.

## **VII ASSIGNMENT OF TASKS OF WORK**

Neither the Board nor the Board Members may assign or delegate any of the work of this Agreement.

## **VIII TERMINATION OF AGREEMENT**

With the mutual consent of CFX and the Contractor, this Agreement may be terminated at any time. However, individual Board Members may be terminated with or without cause, but only by their original appointer, i.e., CFX may terminate the CFX appointed Member, the Contractor may terminate the Contractor's appointed Member, and the first two Members must agree to terminate the third Member.

**IX  
LEGAL RELATIONS**

A. Each Board Member in the performance of duties on the Board is acting in the capacity of an independent agent and not as an employee of either CFX or the Contractor.

B. CFX and the Contractor expressly acknowledge that each Board Member is acting in a capacity intended to facilitate resolution of disputes. Accordingly, to the fullest extent permitted by law, each Board Member shall be accorded quasi-judicial immunity for any actions or decisions associated with the consideration, hearing and recommendation of resolution for disputes referred to the Board.

C. Except for the negligent acts or omissions of a Board Member, or for activities outside of the scope of this Agreement, each Board Member shall be held harmless for any personal or professional liability arising from or related to Board activities. To the fullest extent permitted by law, CFX and the Contractor shall defend and indemnify all Board Members against claims, losses, demands, costs and damages (including reasonable attorney's fees) for bodily injury, property damage or economic loss arising out of or related to Board Members carrying out Board functions. The foregoing indemnity is a joint and several obligations of the Contractor and CFX.

**X  
ARBITRATION, VENUE, APPLICABLE LAW**

Any dispute, claim or controversy between the parties hereto arising out of or related to this Agreement shall be resolved by arbitration. The American Arbitration Association pursuant to its Construction Industry Arbitration Rules shall conduct such arbitration, and the arbitration proceeding shall occur in Orange County, Florida. All questions and issues respecting this Agreement and the arbitration shall be resolved by application of Florida law and the judgment of the arbitration panel shall be enforceable in accordance with the provisions of the Florida Arbitration Code.

**XI  
NO BONUS**

The Contractor and CFX shall not pay and the Members shall not receive any additional commission, percentage, bonus or consideration of any nature (other than the payment provided for in Section VI above) for performance and services under this Agreement.

**XII  
NO CONFLICT**

The Members of the Board agree individually they do not now and during the term of this Agreement will not have any direct or indirect ownership or financial interest in the Contractor, the Engineer of Record for the project, the CEI or any subcontractor or supplier of the project. The

Members of the Board affirm they have not for a period of ten (10) years prior to this Agreement been an employee, Contractor or consultant to the Contractor, the Engineer of Record for this project, the CEI or any subcontractor or supplier of the project, and that during the term of this Agreement they shall not become so employed. During the term of the Agreement no discussion or Agreement will be made between any Board Member and any party to this Agreement for employment after the Contract is completed.

By executing this Agreement the parties mutually agree that the Members of the Board identified herein are qualified and desirable and that the criteria and limitations detailed in subarticles 10.2.3 b and 10.2.3 c of the project General Specifications are satisfied or are hereby waived.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**CFX:**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BOARD:**

**DISPUTES REVIEW BOARD**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**CONTRACTOR:**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **APPENDIX**

### **PROCEDURE GUIDELINES**

#### **1. GENERAL MEETINGS**

General Meetings are defined as those meetings required for the Board to develop a familiarity of the work in progress and keep abreast of construction activities such as progress, status and nature of items in the earlier stages of escalation, changes to personnel, etc. General Meetings shall occur 60days after Notice to Proceed for the Project and every 120days thereafter, or as determined by the parties to be in the best interest of the project. Site visits as described in Subarticle II D above shall be considered General Meetings. Site visits may be coordinated to coincide with, or be replaced by, Board meetings to review disputes brought to the Board by CFX or Contractor.

#### **2. MONTHLY PROJECT DOCUMENT REVIEW**

In an effort to keep the Board closely and concurrently apprised of the progress of the Project, each member of the Board will be provided with copies of Project related documents. These documents may include minutes from progress meetings, schedule updates, CEI's weekly summaries, monthly progress summaries, selected correspondence, Supplemental Agreements to the Contract, Project photos, and any other information that may be requested by the Board or required to answer questions by the Board.

#### **3. REVIEW OF DISPUTES OR CLAIMS BY THE BOARD**

Disputes review meetings shall be at the time and frequency mutually agreed to by CFX and Contractor.



CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SR 528 MILLING & RESURFACING FROM  
DALLAS BOULEVARD TO SR 520  
PROJECT NO. 528-750; CONTRACT NO. 001470

PROPOSAL OF

Preferred Materials, Inc.

(NAME)

1806 33rd Street, Suite 150, Orlando, FL 32839

(407) 343-7445

(ADDRESS)

(TELEPHONE NO.)

Submitted

4/1/19

Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

We, the undersigned, hereby declare that no person or persons, firm or corporation, other than the undersigned, are interested in this Proposal as principals, and that this Proposal is made without collusion with any person, firm or corporation. We have carefully and to our full satisfaction examined the approved project plans, General Specifications, Technical Specifications, Special Provisions, the form of Contract, and the Bond. We have made a full examination of the location of the proposed work and the sources of supply of materials. The examination of the Contract Documents and Site was conducted in accordance with Item 4., Examination of Contract Documents and Site of the Solicitation's Instructions to Bidders hereby incorporated herein by reference with the same force and effect as though fully set forth herein. We hereby agree to furnish all necessary labor, equipment, and materials, fully understanding that the quantities shown herewith are approximate only, and that we will fully complete all necessary work in accordance with the Plans, General Specifications, Technical Specifications, Special Provisions, Standard Specifications and addenda, if any; and the requirements under them for the prices shown on the Bid Form.

We, the undersigned, further declare that we fully agree and shall comply with Item 8., Substitute and "Or-Equal" Items of the Solicitation's Instructions to Bidders hereby incorporated herein by reference with the same force and effect as though fully set forth herein.

We, the undersigned, further understand and shall comply with subsection 20.055(5), Florida Statutes.

I (we) hereby acknowledge receipt of the following Addenda issued during the bidding period:

Addendum No. 1 Dated 03/15/19 Bidder and/or Representative Initial MR

Addendum No. 2 Dated 03/25/19 Bidder and/or Representative Initial MSF

Addendum No. 3 Dated 03/28/19 Bidder and/or Representative Initial MBL

Addendum No. 4 Dated 04/01/19 Bidder and/or Representative Initial MSF

Addendum No. 2, Project 528-750, Contract No. 001470

March 25, 2019

Preferred Materials, Inc.  
Name of Bidder and/or Representative

If awarded the Contract, the undersigned further agrees to: perform all necessary force account work, as provided for in the General Specifications; execute the Contract within 15 calendar days after the date on which the notice of award has been given; and fully complete all work within 210 calendar days (plus such additional time as may have been granted by CFX).

The undersigned states that it is prequalified by the Florida Department of Transportation under Administrative Rule 14-22, Florida Administrative Code, in in Hot Plant-Mixed Bituminous Course. Prequalification in Pavement Marking is also required; however, prequalification can be satisfied by the certification of the Bidder or by the certification of a subcontractor, a joint venture member or partner.

Copies of all required current Certificates of Qualification in the specified classes of work are attached to the Bid. The undersigned acknowledges that failure to submit the certificates may result in rejection of the Bid and that prequalification is required irrespective of the contract amount.

The undersigned further agrees to furnish a sufficient and satisfactory Public Construction Bond in the sum of not less than 100 percent of the Contract price of the work, as indicated by the approximate quantities shown here, on a bonding company authorized to do business in Florida and acceptable to CFX.

The undersigned acknowledges that the Central Florida Expressway Authority officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with the CFX.

Accompanying this Proposal is a Proposal Guaranty, made payable to the Central Florida Expressway Authority, of not less than five percent (5%) of the total actual bid which guaranty is to be forfeited as liquidated damages if, in case this Proposal is accepted, the undersigned shall fail to execute the attached Contract under the conditions of this proposal; otherwise, said guaranty will be returned to the undersigned upon the delivery of a satisfactory Public Construction Bond.

\*

\*

\*

\*

Preferred Materials, Inc.  
Name of Bidder and/or Representative

I (We), the undersigned, hereby certify that I (we) have carefully examined this proposal after the same was completed, and have verified each item placed thereon; and I (we) agree to indemnify, defend, and hold harmless CFX against any cost, damage, or expense which it may incur or be caused by any error or omission in my (our) preparation of same.

CORPORATION:

JOINT VENTURE:

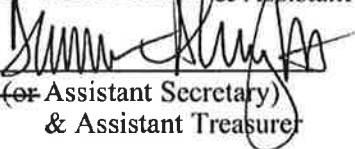
Preferred Materials, Inc.  
Principal (Bidder)

\_\_\_\_\_

By:   
~~President or Vice President~~ & Assistant Secretary

\_\_\_\_\_

Principal (Bidder)

Attest:   
Secretary (or Assistant Secretary)  
& Assistant Treasurer

By: \_\_\_\_\_  
Attorney-in-Fact

(Affix  
Corporate  
Seal)

INDIVIDUAL OR FIRM TRADING AS:

PARTNERSHIP:

\_\_\_\_\_  
Principal (Bidder)

\_\_\_\_\_  
Principal (Bidder)

Signature: \_\_\_\_\_  
Individual or Owner

Signature: (1) \_\_\_\_\_  
Co-Partner or General Partner

Witness: \_\_\_\_\_

Signature: (2) \_\_\_\_\_  
Co-Partner or General Partner

Witness: \_\_\_\_\_

Witness: (1) \_\_\_\_\_

Witness: (1) \_\_\_\_\_

Witness: (2) \_\_\_\_\_

Witness: (2) \_\_\_\_\_

(If Partnership, list names and address of  
each partner on a separate sheet)

**BIDDER MUST EXECUTE THE ATTACHED AFFIDAVIT**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SR 528 MILLING & RESURFACING FROM  
DALLAS BOULEVARD TO SR 520  
PROJECT NO. 528-750; CONTRACT NO. 001470

AFFIDAVIT

This Affidavit, executed by, or on behalf of the person, firm, association, corporation or joint venture submitting the Proposal, shall be sworn to before a person who is authorized by law to administer oaths.

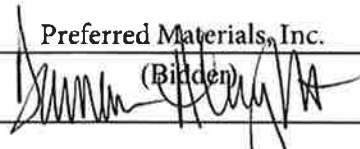
STATE OF Florida COUNTY OF Orange

Before me, the undersigned authority, personally appeared Michael Iapaluccio, who being  
duly sworn, deposes and says he is Vice President & Assistant Secretary  
(Title)  
of Preferred Materials, Inc. of Orlando, FL  
(Firm) (City and State)

the bidder submitting the attached Proposal for the work covered by CFX Project No. 528-750 in Orange County, Florida.

The affiant further states that no more than one proposal for the above referenced project will be submitted from the individual, his firm, corporation, or joint venture under the same or different name, and that such bidder has no financial interest in the firm of another bidder for the same work. That he, his firm, association, corporation, or joint venture has neither directly, nor indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this firm's bid on the above-named project. Furthermore, neither he, his firm, corporation, joint venture, nor any officers are debarred from participating in public contract lettings in any other state.

Corporation Must  
affix Seal

Preferred Materials, Inc.  
(Bidder)  
By:   
Title: Assistant Secretary

\*\*\*\*\*

STATE OF Florida

COUNTY OF Orange

The foregoing instrument was acknowledged before me this \_\_\_\_\_,

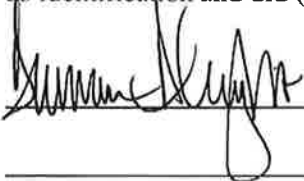
by \_\_\_\_\_ Michael Iapaluccio - Vice President & Assistant Secretary \_\_\_\_\_  
(Date)  
(Name of Officer or agent, title of officer or agent)

of \_\_\_\_\_ Preferred Materials, Inc. \_\_\_\_\_  
(Name of Corporation acknowledging)

a Georgia \_\_\_\_\_ corporation, on behalf of the corporation. He/she is  
(State or place of incorporation)

personally known to me or has produced \_\_\_\_\_ 58-1401468 \_\_\_\_\_  
(Type of identification)

as identification and did (did not) take an oath.

 \_\_\_\_\_ Notary Public, Commission No. GG141165  
\_\_\_\_\_ (Name of Notary typed, printed or stamped)



Tamara Albright  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# GG141165  
Expires 11/3/2021

Title or Type of Document \_\_\_\_\_ (Optional)

Number of Pages \_\_\_\_\_ Date of Document \_\_\_\_\_ (Optional)

Signer(s) Other than Named Above \_\_\_\_\_ (Optional)

(SEAL ABOVE)

NOTICE: Any evidence of collusion among participating bidders will preclude their recognition as bidders on such job and subjects them to penalties under applicable State and Federal Law, both civil and criminal. CFX will also disqualify such bidders on any work of CFX until such participant shall have been reinstated as a qualified bidder.

\*\*\*\*\*

THE ABOVE FORM OF AFFIDAVIT IS REQUIRED TO BE EXECUTED AND ATTACHED TO EACH BID PROPOSAL FOR THE PROPOSAL TO BE CONSIDERED.

\*\*\*\*\*

Central Florida Expressway Authority  
 DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE (D/M/WBE)  
 UTILIZATION SUMMARY

Prime Contractor: Preferred Materials, Inc.

CFX Project No.: 528-750 Contract Amount \$ 7,829,000.00

Grand Total Anticipated Sublet \$ 2,728,866.17

D/M/WBE Subcontractors (Name Only)	\$ Amount for Objective
Transpremier, LLC	\$115,500.00
FCS Industries Corp.	\$115,500.00

Total Dollar Amount for D/M/WBE Participation Objective \$ 231,000.00

D/M/WBE Percentage of Total Project 2.9 %  
 NOTE: Participation Objective may be rounded to the nearest tenth %.

NOTE: If the Participation Objective is not achieved, documentation of Good Faith Efforts must be submitted.

---

FOR USE BY CFX ONLY

Participation Objective Achieved \$ \_\_\_\_\_ % \_\_\_\_\_


Date \_\_\_\_\_ APPROVED \_\_\_\_\_ DISAPPROVED \_\_\_\_\_

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**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
ACKNOWLEDGMENT OF STANDARD OF CONDUCT AND  
CODE OF ETHICS**

If awarded the Contract, the undersigned covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 and Sections 348.753, and 104.31, as it relates to work performed under the Contract, which standards will by reference be made a part of the Contract as though set forth in full. The undersigned agrees to incorporate the provisions of this requirement in any subcontract into which it might enter with reference to the work performed or services provided.

The undersigned further acknowledges that it has read the CFX Code of Ethics, a copy of which is available on the CFX web site at [www.CFXway.com](http://www.CFXway.com) and, to the extent applicable to the undersigned, agrees to abide with such policy.

Preferred Materials, Inc.  
\_\_\_\_\_  
Company Name  
By:   
\_\_\_\_\_  
Title: Vice President & Assistant Secretary  
\_\_\_\_\_

(Note: Failure to execute and submit this form may be cause for rejection of the bid as non-responsive.)

**CERTIFICATION REGARDING PROHIBITION AGAINST CONTRACTING WITH COMPANIES PURSUANT TO FLORIDA STATUTE SECTIONS 287.135 AND 215.473**

I hereby certify that neither the undersigned entity, nor any of its wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit, are not participating in a boycott of Israel; on the Scrutinized Companies that Boycott Israel List; the Scrutinized Companies with Activities in Sudan List; the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or do not have business operations in Cuba or Syria.

Preferred Materials, Inc.

\_\_\_\_\_  
Company Name

By: \_\_\_\_\_

Title: Vice President & Assistant Secretary

(Note: Failure to execute and submit this form may be cause for rejection of the bid as non-responsive.)




**CONSENT AGENDA ITEM  
#6**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: March 26, 2019

SUBJECT: Approval of Contract Award to The Balmoral Group, LLC for Miscellaneous Design Consultant Services  
Contract No. 001497

Letters of Interest for the referenced project was advertised on February 3, 2019. Staff identified these services and the resulting contract as appropriate for our Small Sustainable Business Enterprise (SSBE) program. Only those firms who were registered with CFX for SSBE status were allowed to participate. Responses were received from nine (9) firms by the deadline. Those firms were: Brindley Pieters & Associates, Inc., Harris Civil Engineers, LLC, Kelly, Collins & Gentry, Inc., KPM Franklin, OM Engineering Services, Inc., Patel, Greene and Associates, PLLC, Protean Design Group, Inc., Scalar Consulting Group, Inc. and The Balmoral Group, LLC.

The Evaluation Committee met on March 8, 2019 and after reviewing the Letters of Interest shortlisted Kelly, Collins & Gentry, Inc., Patel, Greene and Associates, PLLC, Scalar Consulting Group, Inc. and The Balmoral Group, Inc.

The Technical Review Committee met March 21, 2019 to score the technical proposals and ranked the firms. The result of that process was as follows:

<u>Ranking</u>	<u>Firm</u>
1	The Balmoral Group, LLC
2	Scalar Consulting Group, Inc.
3	Kelly, Collins & Gentry, Inc.

Board award of the contract to The Balmoral Group, LLC for a not-to-exceed amount of \$3,000,000.00 is requested. The contract will be task-order driven with manhours and fees negotiated for each project. The contract will be for an initial three-year term with two one-year renewal options.

Services provided under the contract will be on an as-needed basis for miscellaneous design projects and will include preparation of plans and specifications for various roadway, bridge and toll plaza projects identified by CFX.

This contract is a component of projects included in the Five-Year Work Plan.

Reviewed by:   
For: Glenn Pressimone, PE  
Director of Engineering 

**LOI-001497 Committee Meeting March 21, 2019 Minutes**

Technical Review Committee for **Miscellaneous Design Consultant Services (SSBE); Contract No. 001497**, held a duly noticed meeting on Thursday, March 21, 2019, commencing at 09:00 a.m. Ibis Conference Room, at the CFX Administrative Bldg., Orlando, Florida.

**Committee Members Present:**

Glenn Pressimone, Director of Engineering  
Joe Berenis, Chief of Infrastructure  
Will Hawthorne, Manager of Engineering

**Other Attendees:**

Robert Johnson, Manager of Procurement

Robert Johnson commenced the meeting by collecting the disclosure form from Joe Berenis. Robert stated that since the short-listing of firms, one of the firms, Patel, Greene and Associates LLC, had submitted a request for an approval of project team changes as required by CFX. The request for changes to the project team were significant and therefore disapproved. Because of the disapproval, Patel, Greene and Associates LLC was removed from further evaluation in the selection process. Robert collected the evaluation forms and tallied the score sheets utilizing the rankings assigned by each committee member based on the raw scores each Proposer received. Below are the results:

<u>FIRM</u>	<u>Points</u>	<u>Ranking</u>
The Balmoral Group, LLC	03	01
Scalar Consulting Group, Inc.	06	02
Kelly, Collins & Gentry, Inc.	09	03

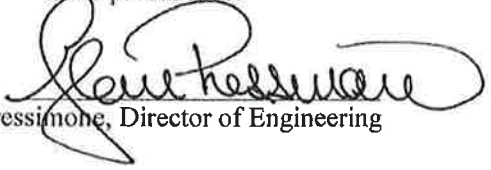
Committee recommends CFX Board approve ranking and authorize negotiations in ranked order. The committee agreed that Glenn Pressimone would review and approve the minutes on behalf of the committee.

They're being no other business to come before the Committee; the meeting was adjourned at 9:05 a.m. These minutes are considered to be the official minutes of the Technical Review Committee meeting held Thursday, March 21, 2019, and no other notes, tapes, etc., taken by anyone takes precedence.

Submitted by:

  
Robert Johnson

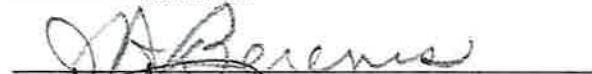

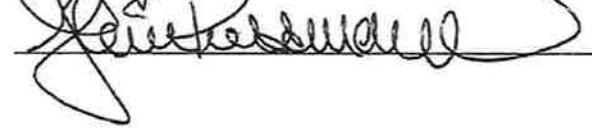
Approved by:

  
Glenn Pressimone, Director of Engineering

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
 TECHNICAL COMMITTEE MEMBER FINAL SUMMARY RANKING  
 MISCELLANEOUS DESIGN CONSULTANT SERVICES (SSBE)  
 CONTRACT NO. 001497

CONSULTANT	Joe Berenis Score	Glenn Pressimone Score	Will Hawthorne Score		TOTAL SCORE	RANKING
The Balmoral Group LLC	1	1	1		3	1
Scalar Consulting Group, Inc.	2	2	2		6	2
Kelly, Collins & Gentry, Inc.	3	3	3		9	3

EVALUATION COMMITTEE MEMBERS:

  
 \_\_\_\_\_  
  
 \_\_\_\_\_  
  
 \_\_\_\_\_

Date: Thursday, March 21, 2019

Date: Thursday, March 21, 2019

Date: Thursday, March 21, 2019

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT, made and entered into this 11<sup>th</sup> day of April, 2019, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter "CFX," and The Balmoral Group, LLC, hereinafter called "CONSULTANT," registered and authorized to conduct business in the State of Florida, carrying on professional practice in engineering, with offices located at 165 Lincoln Avenue, Winter Park, FL. 32789.

WITNESSETH:

WHEREAS, CONSULTANT represents that it is fully qualified and authorized to render the professional services contracted herein.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, CFX and CONSULTANT agree as follows:

1.0. DEFINITIONS.

Reference herein to the Project Manager shall mean CFX's Director of Engineering or his authorized designee. The Project Manager shall provide the management and technical direction for this Agreement on behalf of CFX. All technical and administrative provisions of this Agreement shall be managed by the Project Manager and the CONSULTANT shall comply with all of the directives of the Project Manager that are within the purview of this Agreement. Decisions concerning Agreement amendments and adjustments, such as time extensions and supplemental agreements shall be made by the Project Manager.

2.0. SERVICES TO BE PROVIDED

CFX does hereby retain the CONSULTANT to furnish certain miscellaneous design consultant services identified as Contract No. 001487.

The CONSULTANT and CFX mutually agree to furnish, each to the other, the respective services, information and items as described in **Exhibit "A"**, Scope of Services, attached hereto and made a part hereof.

Before rendering any of the services, any additions or deletions to the work described in **Exhibit "A"**, and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into a Supplemental Amendment covering such modifications and the compensation to be paid therefore.

The work covered by this Agreement as described in **Exhibit "A,"** includes the preparation of construction plans for one construction project. If the work is divided into more than one construction

project by CFX's Project Manager, then the CONSULTANT shall supply construction plans for each project. A Supplemental Agreement will be required for the additional work.

All construction plans, documents, reports, studies and other data prepared by the CONSULTANT shall bear the endorsement of a person in the full employ of the CONSULTANT and duly registered by the State of Florida in the appropriate professional category.

After CFX's acceptance of construction plans and documents for the project, the original set of CONSULTANT's drawings, tracings, plans, maps and CADD files shall be provided to CFX, along with one record set of the final plans. The CONSULTANT shall signify, by affixing an endorsement (seal/signature, as appropriate) on every sheet of the record set, that the work shown on the endorsed sheets was produced by the CONSULTANT. With the tracings and the record set of prints, the CONSULTANT shall submit a final set of design computations. The computations shall be bound in an 8-1/2 x 11" format and shall be endorsed (seal/signature, as appropriate) by the CONSULTANT. Refer to **Exhibit "A"** for the computation data required for this Agreement.

The CONSULTANT shall submit a final set of reports and studies which shall be endorsed (seal/signature) by the CONSULTANT.

The CONSULTANT shall not be liable for use by CFX of said plans, documents, reports, studies or other data for any purpose other than intended by the terms of this Agreement.

This Agreement is considered a non-exclusive Agreement between the parties.

### 3.0. TERM OF AGREEMENT AND RENEWALS

Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a three (3) year term from the date of the Notice to Proceed for the required project services as detailed in **Exhibit "A,"** with two one-year renewals at CFX's option. 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 CONSULTANT are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide CONSULTANT with written notice of its intent at least thirty (30) days prior to the expiration of the original term and subsequent renewal, if any.

The CONSULTANT agrees to commence the scheduled project services to be rendered within ten (10) calendar days from the date specified in the written Notice to Proceed from the Project Manager, which Notice to Proceed will become part of this Agreement. The CONSULTANT shall complete scheduled project services within the timeframe(s) specified in **Exhibit "A"**, or as may be modified by subsequent Supplemental Agreement.

### 4.0. PROJECT SCHEDULE

The CONSULTANT agrees to provide Project Schedule progress reports for each project in a format acceptable to CFX and at intervals established by CFX. CFX will be entitled at all times to be advised, at its request, as to the status of work being done by the CONSULTANT and of the details thereof. Coordination shall be maintained by the CONSULTANT with representatives of CFX, or of other agencies interested in the project on behalf of CFX. Either party to the Agreement may request and be granted a conference.

In the event there are delays on the part of CFX as to the approval of any of the materials submitted by the CONSULTANT or if there are delays occasioned by circumstances beyond the control of the CONSULTANT, which delay the scheduled project completion date, CFX may grant to the CONSULTANT by "Letter of Time Extension" an extension of the scheduled project completion date equal to the aforementioned delays. The letter will be for time only and will not include any additional compensation.

It shall be the responsibility of the CONSULTANT to ensure at all times that sufficient time remains within the project schedule within which to complete the services on the project. In the event there have been delays which would affect the scheduled project completion date, the CONSULTANT shall submit a written request to CFX which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another. CFX will review the request and make a determination as to granting all or part of the requested extension.

In the event the scheduled project completion date is reached and the CONSULTANT has not requested, or if CFX has denied, an extension of the completion date, partial progress payments will be stopped when the scheduled project completion date is met. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by CFX.

#### 5.0. PROFESSIONAL STAFF

The CONSULTANT shall maintain an adequate and competent professional staff to enable the CONSULTANT to timely perform under this Agreement. The CONSULTANT shall continue to be authorized to do business within the State of Florida. In the performance of these professional services, the CONSULTANT shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The CONSULTANT shall use due care in performing in a design capacity and shall have due regard for acceptable standards of design principles. The CONSULTANT may associate with it such specialists, for the purpose of its services hereunder, without additional cost to CFX, other than those costs negotiated within the limits and terms of this Agreement. Should the CONSULTANT desire to utilize specialists, the CONSULTANT shall be fully responsible for satisfactory completion of all subcontracted work. The CONSULTANT, however, shall not sublet, assign or transfer any work under this Agreement to other than the associate consultants listed below without the written consent of CFX. It is understood and agreed that CFX will not, except for such services so designated herein, permit or authorize the CONSULTANT to perform less than the total contract work with other than its own organization.

Prior to retaining a subconsultant, or assigning any work to a subconsultant, the CONSULTANT shall verify that the subconsultant does not have any conflicts and acknowledges its duty to comply with CFX's Code of Ethics. The CONSULTANT shall ensure that each subconsultant adheres to, and cause all subconsultants to be bound by, all requirements, conditions, and standards set forth herein. The CONSULTANT shall collect and maintain the necessary subconsultant compliance and acknowledgement documentation and remove any subconsultant immediately, if the necessary said documentation is unavailable or the subconsultant is not adhering to the requirements and standards herein. The CONSULTANT shall provide subconsultant compliance and acknowledgement documentation to CFX upon request.

The approved subconsultants are:

Base Consultants, Inc.(Class I)	Comprehensive Engineering Services, Inc. (Class I)
DRMP, Inc. (Class I)	Geotechnical & Environmental Consultants, Inc. (Class II)
DRMP, Inc. (Survey) (Class II)	Reynolds, Smith & Hills, Inc. (Class I)
Greenman-Pedersen, Inc.(Class I)	Scalar Consulting Group, Inc.(Class I)
WBQ Design & Engineering, Inc. (Survey) (Class II)	

CONSULTANT shall not further sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONSULTANT's right, title, or interest therein without the written consent of CFX, which may be withheld in CFX's sole and absolute discretion. Any attempt by CONSULTANT to dispose of this Contract as described above, in part or in whole, without CFX's written consent shall be null and void and shall, at CFX's option, constitute a default under the Contract.

If, during the term of the Contract, CONSULTANT desires to subcontract any portion(s) of the work to a subconsultant that was not disclosed by the CONSULTANT to CFX at the time that the Contract was originally awarded, and such subcontract would, standing alone or aggregated with prior subcontracts awarded to the proposed subconsultant, equal or exceed twenty five thousand dollars (\$25,000.00), the CONSULTANT 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 his/her designee, no such subcontract shall be executed by the CONSULTANT until it has been approved by CFX Board. In the event of a designated emergency, the CONSULTANT may enter into such a subcontract with the prior written approval of the Executive Director or his/her designee, but such subcontract shall contain a provision that provides that it shall be automatically terminated if not approved by CFX Board at its next regularly scheduled meeting.

## 6.0. COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in **Exhibit "B"**, Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$3,000,00.00 for the initial three-year term of this Agreement. Bills for fees or other compensation for services or expenses shall be submitted to CFX in detail sufficient for a proper pre-audit and post audit thereof.

The CONSULTANT may be liable for CFX costs resulting from errors or deficiencies in designs furnished under this Agreement. CFX may enforce such liability and collect the amount due if the recoverable cost will exceed the administrative cost involved or is otherwise in CFX's best interest. Records of costs incurred by the CONSULTANT under terms of this Agreement shall be maintained and made available upon request to CFX at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to CFX upon request. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed. Records of costs incurred includes the CONSULTANT's general accounting records and the project records, together with supporting documents and records, of the CONSULTANT and all subconsultants performing work on the project, and all other records of the CONSULTANT and subconsultants considered necessary by CFX for a



proper audit of project costs. The obligations in this paragraph shall survive the termination of the Agreement and continue in full force and effect.

The general cost principles and procedures for the negotiation and administration, and the determination or allowance of costs under this Agreement shall be as set forth in the Code of Federal Regulations, Titles 23, 48, 49, and other pertinent Federal and State Regulations, as applicable, with the understanding that there is no conflict between State and Federal regulations in that the more restrictive of the applicable regulations will govern. Whenever travel costs are included in **Exhibit "B"**, the provisions of Section 112.061, Florida Statutes, shall govern as to reimbursable costs.

Payments shall be made in accordance with the Local Government Prompt Payment Act in part VII, Section 218, Florida Statutes.

#### 7.0. DOCUMENT OWNERSHIP AND RECORDS

All plans, documents, reports, studies, and/or other data prepared or obtained under this Agreement shall be considered instruments made for services and shall become the property of CFX without restriction or limitation on their use on this project; and shall be made available, upon request, to CFX at any time. CFX will have the right to visit the site for inspection of the work and the drawings of the CONSULTANT at any time. Unless changed by written agreement of the parties, said site shall be 165 Lincoln Avenue, Winter Park, FL. 32789.

Notwithstanding Section 17, entitled "Communications, Public Relations, and Use of Logos," CONSULTANT acknowledges that CFX is a body politic and corporate, an agency of the State of Florida, and is subject to the Public Records Act codified in Chapter 119, Florida Statutes. To the extent that the CONSULTANT is in the possession of documents that fall within the definition of public records subject to the Public Records Act, which public records have not yet been delivered to CFX, CONSULTANT agrees to comply with Section 119.0701, Florida Statutes.

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'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.**

An excerpt of Section 119.0701, Florida Statutes is below.

Per Section 119.0701(1), "Contractor" means an individual, partnership, corporation, or business entity that enters into a contract for services with a public agency and is acting on behalf of the public agency as provided under s. 119.011(2).

Per Section 119.0701(b). The 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.

The CONSULTANT shall allow public access to all documents, papers, letters, or other material as approved and authorized by CFX and subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONSULTANT in conjunction with this Agreement. Failure by the CONSULTANT to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by CFX.

The obligations in Section 7.0, Document Ownership and Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 8.0. COMPLIANCE WITH LAWS

The CONSULTANT shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this contract.

The CONSULTANT shall keep fully informed regarding and shall fully and timely comply with all current laws and future laws that may affect those engaged or employed in the performance of this Agreement.

## 9.0. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

The CONSULTANT hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached **Exhibit "C"**, Details of Costs and Fees, supporting the compensation provided in Section 6.0 are accurate, complete and current as of the date of this Agreement. It is further agreed that said price provided in Section 6.0 hereof 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.

## 10.0. TERMINATION

CFX may terminate this Agreement in whole or in part, for any reason or no reason, at any time the interest of CFX requires such termination.

If CFX determines that the performance of the CONSULTANT is not satisfactory, CFX shall have the option of (a) immediately terminating the Agreement or (b) notifying the CONSULTANT of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time.

If CFX requires termination of the Agreement for reasons other than unsatisfactory performance of the CONSULTANT, CFX shall notify the CONSULTANT in writing of such termination, not less than seven (7) calendar days as to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

If CFX abandons the work or subtracts from the work, suspends, or terminates the Agreement as presently outlined, the CONSULTANT shall be compensated in accordance with **Exhibit "B"** for work properly performed by the CONSULTANT prior to abandonment or termination of the Agreement. The ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be transferred to and retained by CFX.

CFX reserves the right to cancel and terminate this Agreement in the event the CONSULTANT or any employee, servant, or agent of the CONSULTANT 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 CONSULTANT for or on behalf of CFX, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans, specifications, maps, and data prepared or obtained under this Agreement shall immediately be turned over to CFX. The CONSULTANT shall be compensated for work properly performed rendered up to the time of any such termination in accordance with Section 7.0 hereof. CFX also reserves the right to terminate or cancel this Agreement in the event the CONSULTANT shall be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. CFX further reserves the right to suspend the qualifications of the CONSULTANT to do business with CFX upon any such indictment or direct information. In the event that any such person against whom any such indictment or direct information is brought shall have such indictment or direct information dismissed or be found not guilty, such suspension on account thereof may be lifted by CFX.

## 11.0. ADJUSTMENTS

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the Project Manager who shall decide all questions, difficulties and dispute of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof. Adjustments of compensation and term of the Agreement, 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 Supplemental Agreement(s) of such a nature as required may be entered into by the parties in accordance herewith. Disputes between the Project Manager and the CONSULTANT that cannot be resolved shall be referred to the Executive Director whose decision shall be final.

In the event that the CONSULTANT and CFX are not able to reach an agreement as to the amount of compensation to be paid to the CONSULTANT for supplemental work desired by CFX, the CONSULTANT shall be obligated to proceed with the supplemental work in a timely manner for the amount determined by CFX to be reasonable. In such event, the CONSULTANT will have the right to file a claim with CFX for such additional amounts as the CONSULTANT deems reasonable for consideration by the Executive Director; however, in no event will the filing of the claim or the resolution or litigation thereof, through administrative procedures or the courts, relieve the CONSULTANT from the obligation to timely perform the supplemental work.

## 12.0. HOLD HARMLESS AND INDEMNIFICATION, SOVEREIGN IMMUNITY

The CONSULTANT shall indemnify and hold harmless CFX, and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT and other persons employed or utilized by the design professional in the performance of the Agreement.

Subject to the provisions and limitations set forth in law, the CONSULTANT expressly agrees to indemnify, defend, and hold harmless CFX, and its officers, and employees, from any claim, liabilities, losses, damages, and costs, including, but not limited to, reasonable attorneys' fees, arising from any act, error or omission of the CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the Agreement, except that the CONSULTANT will not be liable under this paragraph for claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of CFX, its officers, or employees during the performance of the Agreement.

When CFX receives a notice of claim for damages that may have been caused by the CONSULTANT in the performance of services required by the CONSULTANT under this Agreement, CFX will immediately forward the notice of claim to the CONSULTANT. The CONSULTANT and the AUTHORITY will evaluate the notice of claim and report their findings to each other within fourteen (14) calendar days.

In the event a lawsuit is filed against CFX alleging negligence or wrongdoing by the CONSULTANT, CFX and the CONSULTANT will jointly discuss options in defending the lawsuit. After reviewing the lawsuit, CFX will determine whether to request the participation of the CONSULTANT in the defense of the lawsuit or to request that the CONSULTANT defend CFX in such lawsuit as described in this section. CFX's failure to notify the CONSULTANT of a notice of claim will

not release the CONSULTANT from any of the requirements of this section upon subsequent notification by CFX to the CONSULTANT of the notice of claim or filing of a lawsuit. CFX and the CONSULTANT will pay their own cost for the evaluation, settlement negotiations and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all of its costs, but if the verdict determines that there is joint responsibility, the costs of defense and liability for damages will be shared in the same percentage as that judicially established, provided that CFX's liability does not exceed the limits and limitations arising from Section 768.28, Florida Statutes, the doctrine of sovereign immunity, and law.

CFX is an agency of the State of Florida whose limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the limits of liability of CFX beyond that provided in Section 768.28, Florida Statutes. Nothing herein is intended as a waiver of CFX's sovereign immunity under Section 768.28, Florida Statutes, or law. Nothing hereby shall inure to the benefit of any third party for any purpose, which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of CFX's obligations are limited to the payment of no more than the amount limitation per person and in the aggregate contained in Section 768.28, Florida Statutes, except for payments for work properly performed, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

The obligations in Section 12.0, Hold Harmless and Indemnification, shall survive the expiration or termination of this Agreement and continue in full force and effect.

### 13.0. INFRINGEMENT OF PATENTS AND COPYRIGHTS

The CONSULTANT shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product or device which is the subject of patent rights or copyrights. The CONSULTANT shall, at its expense, hold harmless and defend CFX against any claim, suit or proceeding brought against CFX which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under this Agreement, constitute an infringement of any patent or copyright of the United States. The CONSULTANT shall pay all damages and costs awarded against CFX. The obligations in Section 13.0, Infringement of Patents and Copyrights, shall survive the expiration or termination of this Agreement and continue in full force and effect.

### 14.0. INSURANCE

The CONSULTANT, at its own expense, shall keep in force and at all times maintain during the term of this Agreement all insurance of the types and to the limits specified herein.

The CONSULTANT shall require and ensure that each of its subconsultants providing services hereunder procures and maintains, until the completion of the services, insurance of the requirements, types and to the limits specified herein. Upon request from CFX, the CONSULTANT shall furnish copies of certificates of insurance and endorsements evidencing coverage of each subconsultant.

The CONSULTANT shall require all insurance policies in any way related to the work and secured and maintained by the CONSULTANT to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against CFX. The CONSULTANT shall require of subconsultants, by appropriate written agreements, similar waivers each in favor of all parties enumerated

in this section. When required by the insurer, or should a policy condition not permit an endorsement, the CONSULTANT agrees to notify the insurer and request that the policy(ies) be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement or voids coverage should the CONSULTANT enter into such an agreement on a pre-loss basis. At the CONSULTANT's expense, all limits must be maintained.

14.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be listed as an additional insured. ISO Form CG 20 10 11 85 or if not available, ISO Forms CG 20 10 10 01 and CG 20 37 10 01, or if not available, their equivalent acceptable to CFX, shall be used to meet these requirements and a photocopy of same shall be provided with the Certificate. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

14.2 Business Automobile Liability coverage shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Each of the above insurance policies shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies had been issued to each insured; (2) The stated limits of liability coverage for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard "supplementary payments" clause will pay in addition to the applicable limits of liability and that these supplementary payments are not included as part of the insurance policies limits of liability.

14.3 Workers' Compensation and Employer's Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer's Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for bodily injury by disease, and \$500,000 policy limit by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the CONSULTANT, its employees, agents and subconsultants.

14.4 Professional Liability Coverage shall have limits of not less than One Million Dollars

(\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

The CONSULTANT shall provide CFX with Certificate(s) of Insurance with required endorsements on all the policies of insurance and renewals thereof in a form(s) acceptable to CFX. CFX shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action.

All insurance policies shall be issued by responsible companies who are acceptable to CFX and licensed to do business under the laws of the State of Florida. Each Insurance company shall minimally have an A.M. Best rating of A-VII. If requested by CFX, CFX shall have the right to examine copies and relevant provisions of the insurance policies required by this Agreement, subject to the appropriate confidentiality provisions to safeguard the proprietary nature of CONSULTANT manuscript policies.

In the event any of the aforementioned insurance policies provide greater coverage or greater limits than the minimum requirements set forth herein, then CFX shall be entitled to the full coverage and limits of such policies, and these insurance requirements will be deemed to require such greater coverage and greater limits.

Any deductible or self-insured retention must be declared to and approved by CFX. At the option of CFX, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as requests CFX, or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All such insurance required by the CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by CFX.

Compliance with these insurance requirements shall not relieve or limit the CONSULTANT'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 CONSULTANT'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.

#### 15.0. COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

The CONSULTANT agrees that it shall make no statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying CFX and securing its consent in writing, except as required by law. The CONSULTANT also agrees that it shall not publish, copyright or patent any of the data, documents, reports, or other written or electronic materials furnished in compliance with this Agreement, it being understood that, under Section 7.0 hereof, such data or information is the property of CFX.

Regarding the use of logos, printed documents and presentations produced for CFX shall not contain the name or logo of the CONSULTANT unless approved by CFX's Public Affairs Officer or his/her designee. Prior approval by CFX's Public Affairs Officer or his/her designee is required if a copy of the CFX logo or any CFX mark, including trademarks, service marks, or any other mark, collectively referred as "Marks," is to be used in a document or presentation. The Marks shall not be altered in any way. The width and height of the Marks shall be of equal proportions. If a black and white Mark is utilized, the Mark shall be properly screened to insure all layers of the Mark are visible. The proper presentation of CFX Marks is of utmost importance to CFX. Any questions regarding the use of CFX Marks shall be directed to the CFX Public Affairs Officer or his/her designee.

#### 16.0. CONFLICT OF INTEREST AND STANDARD OF CONDUCT

No Contingent Fees. CONSULTANT warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Contract, and that CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For breach of this provision, CFX shall have the right to terminate this Contract without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

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

As required by Section 348.753, Florida Statutes, and CFX's Code of Ethics, CONSULTANT agrees to complete CFX's Potential Conflict Disclosure Form prior to the execution of the Contract, upon the occurrence of an event that requires disclosure, and annually, not later than July 1st.

CONSULTANT covenants and agrees that it and its employees, officers, agents, and subconsultants shall be bound by the standards of conduct provided in Section 112.313, Florida Statutes, 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. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

CONSULTANT hereby certifies that no officer, agent or employee of CFX has any "material interest" (as defined in Section 112.312(15), Florida Statutes) either directly or indirectly, in the business of CONSULTANT, and that no such person shall have any such interest at any time during the term of this Agreement.

The CONSULTANT shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the services provided herein. Likewise, subconsultants shall not knowingly enter into any other contract with CFX during the term of this Agreement which would create or involve a conflict of interest with the service provided herein and as described below. Questions regarding potential conflicts of interest shall be addressed to the Executive Director for resolution.



During the term of this Agreement the CONSULTANT is NOT eligible to pursue any advertised construction engineering and inspection projects of CFX as either a prime or subconsultant where the CONSULTANT participated in the oversight of the projects or for any project which the CONSULTANT prepared plans and/or specifications. Subconsultants are also ineligible to pursue construction engineering and inspection projects where they participated in the oversight of the projects or for any project which the subconsultant was involved in the preparation of plans and/or specifications.

#### 17.0. DOCUMENTED ALIENS

The CONSULTANT warrants that all persons performing work for CFX under this Agreement, regardless of the nature or duration of such work, shall be United States citizens or properly authorized and documented aliens. The CONSULTANT shall comply with all federal, state and local laws and regulations pertaining to the employment of unauthorized or undocumented aliens at all times during the performance of this Agreement and shall indemnify and hold CFX harmless for any violations of the same. Furthermore, if CFX determines that CONSULTANT has knowingly employed any unauthorized alien in the performance of this Agreement, CFX may immediately and unilaterally terminate this Agreement for cause.

The obligations in Section 17.0, Documented Aliens, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 18.0. E-VERIFY CLAUSE

CONSULTANT 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 CONSULTANT during the term of the contract. CONSULTANT shall require all of its subconsultants to verify the employment eligibility of all new employees hired by the subconsultants during the term of the Agreement.

#### 19.0. INSPECTOR GENERAL

CONSULTANT 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. CONSULTANT agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 20.0. 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.”

#### 21.0. COMPANIES PURSUANT TO SECTION 287.135 AND 215.473

CFX may terminate this Agreement for breach of contract if the Consultant:

- 21.1. submitted a false certification as provided under Florida Statute 287.135(5); or
- 21.2. been placed on the Scrutinized Companies with Activities in Sudan List; or
- 21.3. been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- 21.4. been engaged in business operations in Cuba or Syria; or
- 21.5. found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

#### 22.0. AVAILABILITY OF FUNDS

CFX’s performance and obligation to pay under this Agreement are contingent upon an annual budget appropriation by its Board. The parties agree that in the event funds are not appropriated, this Agreement may be terminated, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

#### 23.0. AUDIT AND EXAMINATION OF RECORDS

##### 23.1 Definition of Records:

(i) “Contract Records” shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Contract or the CONSULTANT’s performance of the Contract determined necessary or desirable by CFX for any purpose. Proposal Records shall include, but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer

printouts, charts or other data compilations that contain or reflect information, data or calculations used by CONSULTANT in determining labor, unit price, or any other component of a bid submitted to CFX.

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

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

23.3 If CFX requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review or delays such access or review for over ten (10) calendar days, CONSULTANT shall be in default under its Contract with CFX, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall also preclude the CONSULTANT from acting in the future as a subcontractor of another contractor doing work for CFX during the period of disqualification or suspension. Disqualification shall mean the CONSULTANT is not eligible for and shall be precluded from doing future work for CFX until reinstated by CFX.

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

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

23.6 The obligations in Section 24.0, Audit and Examination of Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 24.0. GOVERNING LAW AND VENUE

This Agreement shall be governed by and constructed in accordance with the laws of the State of Florida. The parties consent to the exclusive jurisdiction of the courts located in Orange County, Florida.

The obligations in Section 24.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 25.0. NOTICE

All notices required pursuant to the terms hereof shall be sent by First Class United States Mail. Unless prior written notification of an alternate address for notices is sent, all notices shall be sent to the following addresses:

To CFX:                   Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807  
Attn: Chief of Infrastructure

Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807  
Attn: General Counsel

To CONSULTANT: The Balmoral Group, LLC  
165 Lincoln Avenue  
Winter Park, FL. 32789  
Attn: Sherman Klaus, P.E.

The Balmoral Group, LLC  
165 Lincoln Avenue  
Winter Park, FL. 32789  
Attn: Gregory Seidel, P.E.

#### 26.0. HEADINGS

Headings are given to the sections of the Agreement solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Agreement.

#### 27.0. CONTRACT LANGUAGE AND INTERPRETATION

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined

that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

If the CONSULTANT discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the CONSULTANT shall immediately notify CFX and request clarification of CFX's interpretation of this Agreement.

The Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

#### 28.0. ASSIGNMENT

This Agreement may not be assigned without the written consent of CFX.

#### 29.0. SEVERABILITY

The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

#### 30.0. INTEGRATION

This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no other agreements between the parties in connection with the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

#### 31.0. ATTACHMENTS

Exhibit "A", Scope of Services  
Exhibit "B", Method of Compensation  
Exhibit "C", Details of Cost and Fees  
Exhibit "D", Project Organization Chart  
Exhibit "E", Potential Conflict Disclosure Form

[ SIGNATURES TO FOLLOW ]

IN WITNESS WHEREOF, the CONSULTANT and CFX have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written. This Contract was awarded by CFX's Board of Directors at its meeting on April 11, 2019.

**THE BALMORAL GROUP, LLC**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

BY: \_\_\_\_\_  
Authorized Signature

BY: \_\_\_\_\_  
Director of Procurement

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_ (Seal)  
Secretary or Notary

*Approved as to form and execution, only.*

\_\_\_\_\_  
*General Counsel for CFX*

# **EXHIBIT A**

## **SCOPE OF SERVICES**

**Exhibit A**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

**SCOPE OF SERVICES**

**FOR**

**MISCELLANEOUS DESIGN CONSULTANT  
SERVICES**

**CONTRACT NO. 001497 (SSBE)**

**MARCH 2019**



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SCOPE OF SERVICES  
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## 1.0 GENERAL

### 1.01 Location

- A. Projects (and project locations) to be identified on an individual basis per each Work Authorizations

### 1.02 Description

The work to be performed under this contract includes the final design and preparation of construction drawings and specifications for miscellaneous design projects on CFX's system. Potential scope elements may include, but are not limited to the following: minor highway design, major highway design, miscellaneous structures, minor bridge design, traffic engineering studies, traffic signal timing, intelligent transportation systems analysis and design, signing, pavement marking and channelization, lighting, signalization, control surveying, soil exploration, geotechnical classification lab testing, standard foundation studies, architecture and landscape architecture. All work on this contract will be requested and approved by means of individual Work Authorizations

### 1.03 Purpose

- A. The purpose of this Exhibit is to describe the scope of work and responsibilities required in connection with final engineering and final construction drawings and documents for the miscellaneous design services contract. It should be noted that this Exhibit covers a full range of possible scope elements that may arise as part of this contract. This Exhibit is provided as a guide to be used by the CONSULTANT in preparation of individual Work Authorizations as requested by CFX. It is further understood that elements of this Exhibit may not be applicable to all Work Authorizations Work Authorizations approved under this contract
- B. As necessary, the Consultant shall perform those engineering services required for final roadway plans, final bridge plans, and the preparation of a complete environmental resource application including 100% storm water management, final lighting plans, final traffic control plans, final utility, final fiber optic network relocation plans and final signing and pavement marking plans
- C. CFX's Project Manager will provide contract administration, management services and technical reviews of all work associated with the preliminary and final designs
- D. It is understood that references throughout this document to items of work and services to be performed are the responsibility of the Consultant unless otherwise expressly stated as the responsibility of others

1.04 Organization

- A. CFX's Project Manager will administer the Consultant services detailed in this scope. The following sections define the duties and obligations of CFX and the Consultant

1.05 Term of Agreement for Design Services

- A. The term of the Agreement shall be for three (3) years from the notice to proceed. The Agreement is further eligible for two (2), one (1) year renewals following the initial three (3) year period
- B. The Consultant may continue the design efforts while design submittals are being reviewed. Doing so, however, in no way relieves the Consultant of the responsibility to incorporate review comments into the design, nor does it entitle the Consultant to any additional design fees as a result of making changes due to review comments

## 2.0 STANDARDS

- A. The applicable design and construction standards and policies of the Florida Department of Transportation, Federal Highway Administration (FHWA), American Association of State Highway and Transportation Officials (AASHTO), Transportation Research Board (TRB), Standard Building Code, CFX's Design Practices and Standard Notes and CFX's Guidelines for Preparation of Signing and Pavement Marking Plans shall be followed throughout the design and construction of the project unless specifically stated otherwise. The editions of the applicable standards and policies in effect at the time of Contract execution shall be used except as follows:
1. Division II, Construction Details, and Division III, Materials, of the FDOT Standard Specifications for Road and Bridge Construction, 2019 edition, and updates thereafter, shall be used for this project.
  2. The FDOT Standard Plans for Road and Bridge Construction, latest edition and subsequent interim or Developmental Standard Plans and updates, shall be used for this project.
  3. The FDOT Design Manual (FDM), latest edition, shall be used for this project.
  4. The FDOT Basis of Estimates Handbook, latest edition, shall be used for this project.
  5. The AASHTO Policy on Geometric Design of Highway and Streets (Green Book), 2011 edition, shall be used for this project.
  6. The FHWA Manual on Uniform Traffic Control Devices (MUTCD), 2009 edition, as amended, shall be used for this project.

### 3.0 DESIGN CRITERIA

#### 3.01 General

Design of the projects will be guided by the basic design criteria listed below.

- A. The design criteria listed in this section and Project Design Directives, provided by CFX during the course of the project, may supplement the Project Design Guidelines.
- B. Along with the 30% design submittal, the Consultant shall provide a tabulation of all applicable drainage and stormwater management criteria from Federal, State and local agencies and indicated which will be used for all segments and portions of the project. Unless otherwise directed by CFX, the Consultant shall use the most restrictive or conservative criteria applicable.

#### 3.02 Geometry

The following criteria are to be incorporated into the design:

DESIGN ELEMENT	EXPRESSWAY		CROSSROADS/ COLLECTORS
	MAINLINE	RAMPS	
Design Speed, MPH	70 mph	30 mph (Loop) 50 mph (Diamond) 50 mph (Directional)	30 Local 45 Urban 50 Rural
Horizontal Alignment Max. Curve, Degrees	3° 30'	24° 45' Loop 8° 15' Diamond 8° 15' Directional	20°
Max. Superelevation, ft/ft.	0.10	0.10	0.05 Urban 0.10 Rural
Lane Drop Tapers			
Transitions	70:1	50:1	
	Use spirals for curves > 1° 30'	Use spirals for curves > 1° 30'	Use spirals for curves > 1° 30'
Vertical Alignment Max. Grade	3%	5% to 7% (30 mph) 3% to 5% (50 mph)	5% Arterial Rural 7% Collector Rural
Vertical Curvature (K) (K=Len./%grade change) Crest	506 FDOT	31 (30 mph)	

DESIGN ELEMENT	EXPRESSWAY		CROSSROADS/ COLLECTORS
	MAINLINE	RAMPS	
Sag  c. Decision Sight Dist., ft.	290 to 540 AASHTO	136 (50 mph) 110 to 160 Other (AASHTO)	31 to 136
	206 FDOT 150 to 200 AASHTO	31 (30 mph) 136 (50 mph) 90 to 110 Other (AASHTO)	37 to 96
	Refer to AASHTO	N/A	N/A
Cross Sections Lane Widths, ft.	12	12 dual lanes 15 min. single lane	12 inner lanes 12-16 outer lanes
Shoulder width, ft. Right Left	4-Lane 12 (10 paved) 8 (4 paved)	Single Lane 6 (4 paved) 6 (2 paved)	8 (4*paved) (2 paved)  * min. 5' paved FDOT
Right Left	6-Lane 12 (10 paved) 12 (10 paved)	Dual Lane 10* (8* paved) 8 (4 paved) (* add 2' for interstate)	
Bridges, ft. Right Left	4-Lane 10 6	Single-Lane 6 6	
Right Left	6-Lane 10 10	Dual Lane 10 6	
Cross Slopes Traffic Lanes	2% (4-lane) 3% or tbd (6- lane)	2%	2%
Bridge Lanes	2% typ. (no break)	5%	5%



DESIGN ELEMENT	EXPRESSWAY		CROSSROADS/ COLLECTORS
	MAINLINE	RAMPS	
Left Shoulder	5%	6%	6%
Right Shoulder	6%	N/A	22' or 40'
d. Median Width (4-lane), ft. (E.O.P./E.O.P.)	64' (typical) 26' (with barrier)		
Horizontal Clearance	PPM 1-2.11	PPM 1-2.11	PPM 1-2.11
Vertical Clearance, ft.			
Over Roadway*	16.5	16.5	16.5
Overhead Signs	17.5	17.5	17.5
Over Railroad	23.5	23.5	N/A

### Ramp Operations

- a. Two thousand (2,000) ft. between entrance and exit terminals – full freeways
- b. Six hundred (600) ft. between exit and entrance terminals
- c. Single Lane Entrance Ramp Parallel
- d. Exit Ramp Taper of 550 ft. (3° – divergence)

### Right of Way

- a. Ten (10) ft. from back of walls or limit of construction.
- b. Two (2) ft. from back of sidewalk on frontage roads.
- c. Drainage and construction easements as required
- d. Limited access right-of-way limits per Index 450
- e. Right of way limits for ramps is based upon limit of construction plus 10 feet.

### 3.03 Bridge and Other Structures

- A. All plans and designs shall be prepared in accordance with the latest standard specifications adopted by AASHTO, FDOT Structures Design Guidelines (Manual), FDOT Structures Detailing Manual, FDOT Plans Preparation Manual, FDOT Standard Drawings, FDOT Indices, etc., except as otherwise directed by CFX.

## 4.0 WORK PERFORMED BY CONSULTANT

The Consultant shall be responsible for the work outlined in this Section. The work shall conform to the standards, criteria, and requirements of this Scope of Services. As this is a miscellaneous design services contract, it is understood that not all of the work outlined in this Section is applicable to every project task authorization.

### 4.01 Design Features

- A. The work required for this project includes preparation of final construction drawings and specifications as well as the preparation of a complete environmental resource application (as necessary)
- B. Major elements of the work include the following:

The work to be performed under this contract includes the final design and preparation of construction drawings and specifications for miscellaneous design projects on CFX's system. Potential scope elements may include, but are not limited to the following: minor highway design, major highway design, miscellaneous structures, minor bridge design, traffic engineering studies, traffic signal timing, intelligent transportation systems analysis and design, signing, pavement marking and channelization, lighting, signalization, control surveying, soil exploration, geotechnical classification lab testing, standard foundation studies, architecture and landscape architecture. All work on this contract will be requested and approved by means of individual Work Authorizations

### 4.02 Governmental Agencies

- A. The Consultant shall coordinate with and assist in securing the approval of all interested agencies involved. These agencies include, but are not necessarily limited to GOAA, City of Orlando, Orange County, FDOT, Florida's Turnpike Enterprise, FDEP, City of Apopka etc.

### 4.03 Surveys and Mapping

- A. All Surveying and Mapping shall be performed under the direction of a Surveyor and Mapper properly licensed with the Florida Board of Professional Surveyors and Mappers, under Chapter 472, Florida Statutes. The Consultant shall review data provided by CFX and provide complete field surveys suitable for contract document preparation

Survey activities shall be coordinated with the Consultant's design team including roadway, drainage, structures, geotechnical, and other disciplines as required

Field surveys shall be performed with minimal disruption of the normal traffic flow for the project. Field personnel shall use safety devices such as warning signs, traffic cones, warning lights, and safety vests at all times, according to the Florida Department of Transportation requirements. Advanced warning signs required when survey crews are working on CFX's system shall be made with 3M Scotchlite Diamond Grade Fluorescent orange roll up sign sheeting.

B. Alignment

1. Establish Survey Centerline by establishing the tangent lines of existing Right of Way maps if such maps exist, or in the center of dedicated Right of Way as per subdivision plats, or in the center of the pavement when no Right of Way map or dedication exists. Set alignment points Begin, End, PC's, PT's, PI's and at maximum 1400-foot intervals along alignment
2. Establish and set alignment in the same manner on cross roads and major adjacent alignments
3. Station all alignments at 100' intervals
4. Meet with CFX's Project Manager to discuss methods for determining alignments prior to staking

C. Reference Points

1. Set at all alignment points, left and right at 90-degrees to alignment where possible, outside the proposed construction limits
2. Show obstructions where alternate references are set

D. Bench Levels

1. The Consultant shall establish new benchmarks at 1000' intervals, along all alignments, using stable points.

E. Topography

1. Planimetric mapping and a digital terrain model (DTM), suitable for 1"=50' display scale shall be conducted by the Consultant
2. The Consultant will obtain existing pavement elevations and cross-slopes along the inside travel lane and outside travel lane every 100'
3. Additional topographic and DTM surveys, as needed for the project design, are the responsibility of the Consultant. These may include

existing water bodies and pavement elevations

F. Drainage Survey

Perform a drainage survey including pipe type, location, size and flow line elevations as needed for design.

G. Underground Utilities

Locate all underground utilities, horizontally and vertically as flagged by respective utility companies or a qualified utility marking consultant. Provide soft excavation verifications as needed to verify location and at utility conflict areas.

H. Side Street Surveys

Perform topographic and utility surveys of side streets as may be needed for engineering design.

I. Bridge Survey

Provide bridge survey data as needed for engineering design.

J. Jurisdictional Line Surveys

Perform Jurisdictional Line Surveys as needed for engineering design and permitting.

K. Geotechnical Surveys

Locate and/or stake boring locations as needed for geotechnical investigations.

L. Right-of-Way Ties

Locate right-of-way limits for construction purposes. No new right-of-way is anticipated.

M. Prior to construction, the Consultant shall re-flag and reset alignment control points, references and benchmarks and meet with the construction contractor to review these points.

N. CFX ITS/FON

CFX will locate the FON one time at the beginning of design during the survey phase. Once the FON/ITS lines are flagged, the Consultant shall

survey the located FON/ITS locations in the field. The survey data collected will be included in the 30% plans submittal package.

The CFX GSC will review the plan submittals to ensure that the FON is shown correctly as actually located in the field. The CFX GSC will also determine if there are any overlapping projects that need to be represented in the design plans as a part of the ITS Component review of the 30% plans.

SUE will be done as required based on the Design Project Manager's recommendations and provided to CFX for their information.

#### 4.04 Geotechnical Investigation

- A. The Consultant shall perform a geotechnical investigation of the project in accordance with the requirements of CFX.
- B. Investigations shall be performed with minimal disruption of the normal traffic flow for the project. Field personnel shall use safety devices such as warning signs, traffic cones, warning lights, and safety vests at all times, according to CFX requirements. The Consultant shall adhere to all traffic control requirements when taking samples on existing roadways. A traffic control plan and permit may be required. Any advanced warning signs required when crews are working on CFX system shall be made with 3M Scotchlite Diamond Grade Fluorescent orange roll up sign sheeting.
- C. The work includes, but is not limited to, the following elements:
  - a. Roadway and Drainage
    - i. Document collection and review
    - ii. Soil boring location plan
    - iii. Boring location and utility clearance
    - iv. Traffic control for field operations
    - v. Soil borings for roadway and stormwater pond design
    - vi. Pavement Cores
    - vii. ASCII files of soil borings for inclusion on plan cross sections
    - viii. Groundwater measurement at boring locations
    - ix. Estimation of seasonal high groundwater levels at boring locations
    - x. Soil classification laboratory testing
    - xi. Soil corrosion series laboratory testing for optional pipe materials
    - xii. Limerock Bearing Ratio (LBR) testing to develop Resilient Modulus for pavement design
    - xiii. Suitability of soil excavated from ponds for use in embankment construction

- xiv. Delineation of organic and/or plastic soil and recommendations for removal
- xv. Unconfined aquifer parameters for stormwater ponds
- xvi. Stormwater volume recovery or background seepage analysis for stormwater ponds
- xvii. Embankment settlement analysis
- xviii. Slope stability evaluation of embankment slopes including benching recommendations

b. Structures

- i. Document collection and review
- ii. Soil boring location plan
- iii. Boring location and utility clearance
- iv. Traffic control for field operations
- v. Soil borings for bridge foundations, box culverts, MSE walls, and sign foundations.
- vi. Traffic control for field operations
- vii. Groundwater measurement at boring locations
- viii. Estimation of seasonal high groundwater levels at boring locations and design high water level for foundation design
- ix. Soil classification laboratory testing
- x. Soil consolidation laboratory testing on undisturbed samples of plastic material at bridge abutments
- xi. Soil corrosion series testing for bridge substructure environmental classification
- xii. Evaluation of bridge foundation alternatives
- xiii. Detailed analysis of selected bridge foundation and design recommendations
- xiv. FBPIer parameters for bridge foundation lateral load analysis
- xv. Bridge foundation construction recommendations
- xvi. Box culvert foundation design recommendations and lateral earth pressures
- xvii. Analysis of temporary walls (sheet pile, lagging wall, soil nail, etc.) needed to facilitate widening of existing bridges and walls
- xviii. MSE wall external stability analysis and minimum reinforcement lengths for final wall design
- xix. Soil parameters for design of sign and ITS structure foundations
- xx. Drilled shaft construction recommendations for sign and ITS structure foundations

D. The results of the geotechnical investigation shall be contained in a Geotechnical Report which shall be submitted to CFX's Project Manager for approval. The geotechnical investigation shall include all necessary laboratory testing of materials.

- a. Reports (Roadway and Drainage, Bridge and Wall, Miscellaneous Structures)
  - i. Summary of reviewed documents
  - ii. USGS Quadrangle and NRCS Soil Survey maps
  - iii. Existing conditions
  - iv. Proposed improvements
  - v. Subsurface exploration plan
  - vi. Laboratory soil testing program
  - vii. Drafted soil boring logs
  - viii. Pavement core results
  - ix. Laboratory test results
  - x. Geotechnical analyses
  - xi. Soil and groundwater design parameters
  - xii. Design recommendations
  - xiii. Construction recommendations
  
- E. Upon approval of the Geotechnical Report, the Consultant shall proceed with preparation of the pavement and foundation designs.
  
- F. Boring profiles shall be included on cross-section sheets in the contract plans and include the boring number, station and offset, soil legend, observed water table, estimated seasonal high elevation and geotechnical consultant's address. A boring number and target symbol shall be shown at the appropriate location on the roadway and bridge plans.
  
- G. Roadway core samples shall be taken to determine the existing pavement section. The Consultant shall submit a plan to CFX for location approval.

#### 4.05 Contamination Impact Analysis

- A. The Consultant shall perform a Contamination Screening Evaluation of the project in accordance the FDOT Project Development and Environment Guidelines, Chapter 20 (FPDEG20) and the requirements of CFX.
  
- B. The results of the assessment will be presented in the Contamination Screening Evaluation Report (CSER). The CSER will rank potential contamination sites as No, Low, Medium or High risk in accordance with FPDEG20. Recommendations for sampling and testing at sites, if warranted, shall be included in the report.
  
- C. The sampling and testing of any sites, including the use of ground penetrating radar, if required to complete the design and/or construction of the project, will be added to the Scope of Services by Supplemental Agreement.

#### 4.06 Pavement Design

- A. The Consultant shall prepare the pavement design as appropriate in accordance with the requirements of the FDOT for mainline and interchange ramps impacted..
- B. The proposed pavement design recommendation, resulting from the Consultant's analysis of the various alternatives, shall be contained in a Pavement Design Summary.

#### 4.07 Borrow Pits

- A. The Consultant's geotechnical investigation may include the investigation of current borrow pits. The location and testing of any new borrow pits if required to complete the construction of the project shall be added to the Scope of Services by Supplemental Agreement. The analysis and test results shall be contained in a separate report submitted not later than the preliminary submittal.

#### 4.08 Governmental Agency and Public Meetings

- A. Except as may be provided elsewhere in this Scope of Services, the Consultant shall have appropriate representatives present at such meetings, conferences or hearings as CFX may direct to secure necessary approvals and/or support of the project by county, municipal, or other governmental agencies. If so directed, the Consultant shall also have appropriate representatives present at meetings or conferences of CFX, its Chairman or staff.
- B. The Consultant shall assist CFX in presentations to various parties. The Consultant shall prepare exhibits pertaining to basic roadway and noise wall elements. CFX will prepare exhibits pertaining to aesthetic treatments and other design issues if applicable.

#### 4.09 Environmental Permits

- A. CFX's Project Manager will review, coordinate and submit the applications for all environmental permits, including EPA's NPDES General Permits for Stormwater Discharges from Construction Sites. The Consultant shall provide all information, permit applications and data relating to Stormwater Management and Floodplain Impacts required for the permits to CFX. (CFX will be responsible for preparing all of the Wetlands and Protected Species analysis and documentation required for the permits.) The Consultant shall:

- 1 Attend the pre-application meetings and site visits with CFX and



regulatory agencies.

2. Provide additional information requested at the pre-application by regulatory agencies for permits.
3. Provide aerial maps at a 1"=400' scale which include SCS soils data, 100-year floodplain limits and proposed project.
4. Provide all plans, calculations, sketches and reports required for permits except as described above.
5. Provide copies of all drainage calculation, including pond routing nodal diagrams, for the project.
6. Assist CFX in responding to any requests for additional information made by regulatory agencies after the permit application is submitted.
7. Incorporate any changes required by changes in regulatory agency requirements during the course of the project. If this requires additional work by the Consultant a Supplemental Agreement will be prepared.
8. Prepare a list of adjacent landowners along with address and nine-digit zip code at all wetland encroachment sites.
9. Provide all permit application material in .pdf format and 7 hard copies.
10. The Consultant will provide dredge and fill sketched as required by the permitting agencies if applicable. Mitigation plans, if required, may be added as a supplemental service.
11. Determine extent of floodplain impacts, if any, and provide compensatory flood stages as required.

#### 4.10 Utilities

##### A. Location

The Consultant shall obtain available utility mapping and information and identify all utilities within the general project limits to determine potential conflicts and relocations. Where a potential conflict exists, the Consultant may need to arrange to probe or expose ("pothole") the utility and survey the horizontal and vertical location of the utility line. The Consultant shall coordinate this effort with involved utility companies. All existing utilities

shall be shown on appropriate preliminary construction plans. The Consultant's notes shall include the name and telephone number of contact persons for the construction contractor's use.

B. Utility Coordination

1. The Consultant shall identify utility owners within the project limits and contact each to obtain utility system maps, plan mark-ups or equivalent utility sketches and/or as-built drawings depicting the location of their facilities. The Consultant shall prepare reproducible utility adjustments plans based on information provided by respective utility owners.
2. Private utilities will prepare design plans for the relocation of their facilities. If a utility cannot or will not prepare these design plans, the work shall be added to the scope by Supplemental Agreement and the Consultant shall prepare design plans for utility relocation for approval of the utility and review by CFX.
3. Where utility conflicts occur which require utility relocation agreements between the affected utility and CFX, the Consultant shall prepare the necessary data/plans required for the agreements. The Consultant shall advise CFX seven days in advance of meetings with utility companies/agencies scheduled to discuss utility relocations.
4. The preparation and negotiation of the agreement will be performed by CFX's Project Manager. After approval of the agreement by the utility and CFX, the Consultant shall prepare reproducible utility adjustment sheets identifying proposed relocations with respect to the construction plans.
5. The Consultant shall prepare a utility conflict matrix to assist in identifying and resolving conflicts between utilities and proposed construction prior to completion of the plans.
6. The Consultant shall obtain all necessary utility work schedules from the utility owners for all utility relocation or adjustments required to accommodate construction.
7. The Consultant shall prepare the Utility Certification Letter certifying that all utility negotiations (full execution of each agreement, approved utility work schedule, technical special provisions written, etc.) have been completed with arrangements made for utility work to be undertaken and completed as required.

#### 4.11 Roadway Design

- A. A Typical Section Package will not be prepared. Rather, typical sections for mainline and impacted interchange ramps will be prepared as part of the 30% submittal and submitted to CFX for review and approval.
- B. The Consultant shall design the geometrics for this project using the design standards included in the scope. The design elements shall include, but not be limited to, the horizontal and vertical alignments, cross section template development, lane width, shoulder widths, cross slopes, borders, sight distance, side slopes, lane transitions, superelevations, features of intersections, ramp terminal details, interchanges, and limited access points.
- C. The Consultant shall prepare designs and contract documents for the roadway improvements, including, but not necessarily limited to:
  - 1. Cover sheet (key sheet)
  - 2. Summary of Pay Items
  - 3. General notes
  - 4. Summary Quantities sheets
  - 5. Project Layout
  - 6. Typical roadway sections
  - 7. Plans and profiles (plans at 1"=50' scale)
  - 8. Interchange plans, profiles, alignment and plan index sheets
  - 9. Interchange layout plans
  - 10. Intersection plans and profiles or spot elevations
  - 11. Interchange curve and coordinate data sheets
  - 12. Ramp Terminal Details
  - 13. Crossroad plans and profiles (1"= 50' scale)
  - 14. Cross-sections (with pattern plan) (1" = 20' horiz.) (1" = 5' vert.)
  - 15. Earthwork quantities

16. Traffic Control Sheets including Erosion Control
17. Utility Adjustment Sheets as deemed necessary
18. Details
19. Special provisions
20. Special specifications

#### 4.12 Structures Design

- A. Prior to commencement of final design, the consultant shall prepare a Bridge Concept Memorandum which documents a limited range of structural alternatives and identifies preferred alternatives. Specifically, the alternatives to be examined include Type III vs Type IV beams, slope walls vs vertical retaining walls, and concrete vs steel H-piles
- B. The Consultant shall prepare designs and contract documents for structural design including, but not necessarily limited to the following items.
  1. Complete Bridge designs will be provided for all bridges.
  2. Retaining walls
  3. Box Culverts
  4. Slope protection
  5. Approach slabs
  6. Details
  7. Summary quantity tables
  8. Special provisions and specifications
  9. Stage construction-sequencing details (if applicable).
  10. Sign\Signal structures.
  11. Sound walls.
  12. The Consultant shall perform Load Rating Analysis per FDOT criteria for bridges at the 90% design phase. The Load Rating Analysis

packages shall be submitted to FDOT for their review and approval.

#### 4.13 Drainage Design

A. As part of the drainage design requirements, the Consultant shall:

1. Perform all drainage design in accordance with the approved criteria from Section 3.01C.
2. Design the drainage and stormwater management facilities for the 6-lane section widened to the outside. Assume the median of the 6-lane section is pervious (sodded).
3. Have its chief drainage engineer available at the scheduled (bi-weekly/monthly) team meetings to review progress and discuss problems.
4. Notify CFX's Project Manager immediately if any deviation from approved design criteria is anticipated.
5. Provide drainage/contour maps as needed used in the development of the drainage design to CFX for use in scheduled reviews. These maps will be returned to the Consultant along with review comments at the end of the review process.
6. Provide copies of its internal quality control comments and calculations at the scheduled reviews.

Critical duration analysis is not included in this effort and, if required, shall be added to the scope by Supplemental Agreement. A pond siting report is not required.

B. The Consultant shall prepare designs and contract documents for drainage features including, but not necessarily limited to:

1. Connector pipes
2. Drainage structure details
3. Storm drain and culvert profiles and/or drainage cross-sections
4. Lateral ditches/channels
5. Outfall ditches/channels
6. Retention/detention ponds/exfiltration system

#### 4.14 Roadway Lighting

- A. The Consultant shall provide a complete set of final roadway lighting documents in accordance with FDOT and CFX design criteria. The work shall include coordination with the local utility to provide electrical service. Plan sheet scale shall be at 1"=50' scale.
- B. If required, CFX will provide a cut sheet for the type of lighting fixtures to be used for this project.
- C. The Consultant will prepare designs and contract documents for lighting design including, but not necessarily limited to the following items.
  - 1. Cover sheet (key sheet)
  - 2. Tabulation of Quantities
  - 3. General notes
  - 4. Pole data and Legend sheet
  - 5. Project Layout sheet
  - 6. Plans sheets (plans at 1"=50' scale)
  - 7. Service point detail
  - 8. Special Details

#### 4.15 Traffic Engineering

- A. Traffic Data will be furnished by CFX.
- B. Maintenance of Traffic Plans
  - 1. The Consultant shall prepare maintenance of traffic plans at scale of 1"=100' to safely and effectively move vehicular and pedestrian traffic during all phases of construction. The designs shall include construction phasing of roadways ingress and egress to existing property owners and businesses, routing, signing and pavement markings, and detours. Special consideration shall be given to the construction of the drainage system when developing the construction phases. Positive drainage must be maintained at all times.
  - 2. The Consultant shall investigate the need for temporary traffic signals, signs, alternative detour roads, arrow boards, flagging operations, and the use of materials such as sheet pilings in the analysis. A certified designer who has completed the FDOT training course shall prepare the maintenance of traffic plan.
  - 3. Traffic shall be maintained during all phases of project construction at all locations, including existing posted speed, lane widths and number of lanes, unless determined by CFX and other governmental agencies.

This includes meeting with the governmental agencies which may be impacted by the maintenance of traffic plans.

#### 4.16 Signing Plans

- A. The Consultant shall prepare designs and contract documents for final signing plans including layouts showing the locations of ground mounted and overhead signs, special sign details, lighting, and any structural or foundation requirements in accordance with applicable design standards. Any requirements for electric service shall be coordinated with the local electric utility.
- B. CFX will provide conceptual signing plans for the project
- C. Plan sheets will be developed at a scale of 1"=50' (11"x17" format).
- D. CFX will provide preliminary aesthetic input for the architectural modification of standard FDOT details for sign structures

#### 4.17 Pavement Marking Plans

- A. The Consultant shall prepare designs and contract documents for final pavement marking plans, including striping, crosswalks, intersection details, reflective pavement markers and traffic delineators.
- B. The pavement marking design will be shown on the same plan sheets as the signing design.

#### 4.18 Signalization Plans

- A. The Consultant shall prepare designs and contract documents for final signalization plans including layouts showing the locations of mast arms and pedestrian features, special signal details, lighting, and any structural or foundation requirements in accordance with applicable design standards. Any requirements for electric service shall be coordinated with the local electric utility.
- B. Plan sheets will be developed at a scale of 1"=50' (11"x17" format).

#### 4.19 Right-of-Way Surveys

- A. No additional right-of-way is anticipated as part of this contract. Should right-of-way surveys become necessary, a Supplemental Agreement will be made to address the scope required for the services

#### 4.20 Cost Estimates

- A. The Consultant shall prepare and submit to CFX construction cost estimates at the 60%, 90%, 100%, Pre-Bid and Bid Set submittals outlined herein. The estimate shall be based on the current unit prices as applied to the latest concept of the proposed construction.

#### 4.21 Special Provisions and Specifications

- A. The Consultant shall prepare and submit at the 90% level special provisions, special specifications, and technical special provisions for items, details and procedures not adequately covered by CFX's Technical Specifications.

#### 4.22 Fiber Optic Network (FON)

##### A. Fiber Optic Infrastructure Plans

1. The site construction plans shall be developed at a scale of 1" equals 50 feet. These plans shall include the relocation of all existing fiber optic ductbanks, cables, manholes, and pull boxes in areas where the existing locations conflict with construction and as necessary to relocate the FON into the new paved shoulder. The Consultant shall identify existing physical features and utilities that will impact the construction and installation of the equipment. The Consultant shall review and modify standard FON details as necessary.
2. Fiber optic network (FON) plans shall include the following:
  - a. Roadway geometry
  - b. Rights-of-Way
  - c. Existing utilities within the right-of-way including CFX's FON
  - d. Physical features affecting construction/installation (sign structures, light poles, fences, etc.)
  - e. Manhole/Pull box locations and stub-out details (standard details provided)
  - f. Device layout
  - g. Device installation details
  - h. Conduit installation details (standard details provided)
  - i. Fiber optic cable route marker detail (standard details provided)
  - j. Fiber count per conduit
  - k. Communications interconnect
  - l. Connectivity with the FON backbone conduits
  - m. Fiber cable design to include link loss budget calculations, per Corning standard recommended procedure for new or relocated fiber optic cabling.



- n. Fiber cable routing summaries, fiber cable allocation charts, and splice details and tables for new or relocated fiber optic cabling.
- o. Controller cabinet, structure, and foundation details for proposed CFX device sites.
- p. Power interconnect, calculations to support conductor size, and details. Power conductors to each device location shall be sized to the capacity of the main breaker in the cabinet. Determination on conductor sizing and voltage drop limits are only required for proposed sites and existing sites where the total site load is being significantly modified.
- q. Grounding
- r. Table of quantities
- s. Special notes
- t. Maintenance of fiber operations (protection of existing FON through all phases of construction and cutover phasing to ensure continuous operation of existing ITS devices)
- u. All existing and proposed FON to be included and shown with roadway cross sections and drainage cross sections
- v. Relocation of the existing FON to inside of the new paved shoulder, along with installation of fiber optic manholes in the paved shoulder.
- w. Relocation of existing CCTV sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing CCTV is not compatible with proposed construction. .
- x. Relocation of existing data collection sensor (DCS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing DCS would not survive project construction.
- y. Relocation of existing traffic monitoring sites (TMS) and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing TMS would not survive project construction.
- z. Relocation of existing one-line and three-line dynamic message sign (DMS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing DMS would not survive project construction
- aa. Relocation of existing wrong way detection system (WWDS) sites and any necessary structures, foundations, attachments details, power service, fiber optic connections, and cabinets (standard

details provided), in the event existing WWDS would not survive project construction.

- bb. Conversion of any existing ITS devices within the project limits from point-to-point fiber optic modems to gigabit Ethernet field switches, relocation of video encoders from the mainline toll plazas to the CCTV cabinets, and upgrading other cabinet equipment as needed to meet current CFX ITS equipment standards.
  - cc. Install new Wrong Way Detection Systems (WWDS) at the following off-ramps where applicable.
  - dd. Conduits and pull boxes to facilitate future installation of hard shoulder running ITS devices, based on conceptual device layouts provided by CFX, or their representative, to the Consultant.
3. The Consultant shall take the following information into consideration when developing the site construction plans:
- a. Minimize utility conflicts and adjustments.
  - b. Minimize traffic impact.
  - c. Accessibility and ease of equipment maintenance.
  - d. Safety of equipment maintenance personnel and the traveling public.
  - e. Maintain the existing FON system through all phases of construction.
  - f. Environmental conditions.
  - g. Concurrent/future CFX projects.
  - h. Compatibility with existing and proposed ITS infrastructure (e.g. CFX enhanced grounding standards for ITS devices, CFX transient voltage surge suppression (TVSS) standards for ITS devices, etc.)
  - i. Leased conduits in CFX FON duct bank that are occupied by the fiber optic cable of other agencies or entities.
  - j. Location of proposed sound walls.

#### B. Splice and Cable Routing Details

- 1. The Consultant shall provide splicing detail diagrams to document proposed fiber optic splices within and between manholes, ITS devices, tollbooths, and other junction points.
- 2. Proposed splicing tables shall include ITS device connectivity, fiber use, drop cable fiber identification, drop cable identification, backbone cable identification, translateral cable identification, backbone into mainline cable identification, and toll plaza patch panel jack.

3. The Consultant shall provide cable routing diagrams and fiber allocation charts in CFX's standard format to document the functional connectivity between proposed fiber optic conduit and splices.

C. Maintenance Of Fiber Operations

1. The Consultant shall provide a plan of action to ensure existing fiber optic network is not disrupted during construction operations.
2. The Consultant shall determine the sequence of fiber optic cable splices to minimize disruption to communications.

D. Inside Plant Plans

1. The Consultant shall be responsible for any data collection necessary to complete its design.
2. All equipment shown on the inside-plant construction plans shall be clearly delineated as existing, proposed, or by-others. The Consultant shall be responsible for identifying and detailing on the inside-plant construction plans with notes and drawings any make-ready work required. The Consultant shall also provide a table of quantities for all materials and equipment specified in the inside-plant construction plans.
3. The Consultant shall sign and seal final inside-plant construction plans by a licensed professional Electrical Engineer registered in the state of Florida. The inside-plant construction plans shall be subject to the review and approval of CFX.

- E. Standard CFX specifications will be provided to the Consultant. The Consultant shall review the specifications and modify them as necessary.

4.23 Toll Plazas

- A. This contract may include modifications and/or improvements to any of the existing toll plazas, including any associated equipment and gantry systems.

4.24 Post-Design Services (as necessary)

- A. Services shall begin after authorization by CFX. The Consultant compensation for post-design services may be added by Supplemental Agreement and shall be at an hourly rate, inclusive of overhead, profit and expenses, and exclusive of travel. No compensation will be made for correction of errors and omissions.

- B. The Consultant shall support the post design process as follows:

- a. Answer questions relative to the plans, typical sections, quantities and special provisions.
  - b. Make any necessary corrections to the plans, typical sections, quantities, notes, etc., as may be required.
  - c. Attend pre-award meeting with construction contractor, CFX, and CFX's CEI.
- C. The Consultant shall, prior to the pre-bid conference, be prepared to walk the project with CFX's CEI to discuss the plans and details. The Consultant shall be prepared to attend the pre-bid conference and respond to questions related to the plans, details, and special provisions.
- D. The Consultant shall prepare any addenda required to clarify the work included in the construction contract documents. Addenda may be required based on the project inspection with the CEI, or questions developed in the pre-bid conference, or conditions discovered by bidders during the bid period.
- E. The Consultant shall be available to respond to questions in the field that may arise relative to the plans, details or special provisions during construction. The Consultant shall periodically visit the project site to observe the progress of construction on the project. This visit will not replace the formal construction inspection by CFX. It is intended to provide the opportunity of the design team to observe whether the work is being performed in general conformance with the project plans. Written memos of all such field trips shall be submitted to CFX within five working days of the trip.
- F. The Consultant shall review and approve shop drawings for structural, lighting, signing, traffic signal elements, and toll plaza shop drawings. This work will include the erection procedure plans, review proposals for substitutions, develop supplemental agreements, and provide other engineering services required to facilitate construction of the project. Reviews will be conducted and returned within two weeks from receipt of information.
- G. The Consultant shall appoint a responsible member of the firm to be the contact person for all post-design services. The person should be continually available during the course of construction for review of design plans.
- H. The Consultant shall make every reasonable effort to process any material presented for review in a prompt manner recognizing a construction contract is underway.
- I. The Consultant shall attend partnering meetings as requested by CFX's Project Manager. The Consultant shall also attend progress/coordination meetings as requested by CFX's Project Manager including, but not limited

to, the Notice to Proceed meeting.

- J. Approved design bridge load ratings were obtained by the Consultant under the final design phase of this contract. The Contractor shall be responsible for revising and resubmitting the load ratings if changes to the bridge design occur during construction. Otherwise, the Consultant shall provide written correspondence to FDOT when construction is complete that the bridges were constructed in accordance with the plans and the design load ratings still apply.
- K. The Consultant shall provide geotechnical engineering services as needed by CFX, relative to pile driving, earthwork, embankment and MSE wall construction.
- L. The Consultant shall provide utility consulting services as needed by CFX, relative to proposed utility adjustments within the project limits.
- M. The Consultant shall prepare Record Drawings in electronic format following completion of the construction phase. CFX shall provide all As-Built drawings from the Contractor / CEI to the Consultant for their use in preparation of the Record Drawings.

## 5.0 MATERIALS FURNISHED BY CFX OR ITS DESIGNEE

### 5.01 Record Documents

- A. CFX will provide the Consultant, within ten working days of a written request, the following items:
1. Available record drawings of existing conditions
  2. Available shop drawings of existing conditions
  3. Available right-of-way plans of existing conditions
  4. Current list available to CFX of owners of all affected properties within the section.
  5. Sample plans to be used as guidelines for format, organization and content.
  6. Title searches of all affected properties for use by the Consultant in the preparation of the right-of-way maps.
  7. Contract unit prices from latest CFX construction projects.

### 5.02 Traffic Data

- A. CFX will provide the following design traffic data:
1. Current and design year ADT
  2. Current and design year peak hour volumes
  3. Turning movements at each intersection/interchange
  4. K, D and T factors
  5. Design speed - See Section 3.02, Geometry.
  6. AVI Percentages

### 5.03 Other

- A. Utility designates for the FON and roadway lighting within CFX right-of-way.

## **6.0 WORK PERFORMED BY CFX OR ITS DESIGNEE**

### **6.01 Right-of-Way Acquisition**

- A. If necessary, CFX, or its designee, will review all right-of-way plans, parcel sketches and legal descriptions prepared by the Consultant. CFX will handle all appraisals, negotiations, relocations, condemnation, and property settlements.

### **6.02 Utility Agreements**

- A. CFX will support, as necessary, the Consultant's acquisition of information required for utility agreements.

### **6.03 Public Involvement**

- A. CFX will provide a moderator for all required public meetings and provide guidelines for the Public Involvement aspects of the project. The need for public meetings or public hearings will be determined by CFX. CFX will be responsible for mailings and advertisements for the public meetings.

### **6.04 Contracts and Specifications Services**

- A. CFX will prepare the necessary bid documents for the construction contract using plans, technical special provisions, and special specifications prepared by the Consultant.

### **6.05 Post-Design Services**

- A. CFX will be the principal initial contact for post-design questions and answer questions on a limited scope.

### **6.06 Environmental Permits**

- A. CFX will review and submit the environmental permit applications and coordinate with the Consultant on requests for additional information from the regulatory agencies.
- B. CFX will stake wetland lines and coordinate agency site visits. CFX will also prepare the wetland and wildlife analysis and documentation for the permits.

### **6.07 Conceptual Specialty Design**

- A. CFX will provide a conceptual major guide signing plan.
- B. CFX will provide conceptual aesthetics design and treatments for structures.

## 7.0 ADMINISTRATION

### 7.01 Central Florida Expressway Authority

- A. CFX's Project Manager will administer the Consultant services detailed in this scope.
- B. All contractual payments and changes shall be reviewed and approved by CFX's Project Manager.

### 7.02 CFX's Project Manager

CFX's Project Manager will:

- A. Conduct ongoing reviews of the Consultant's progress in performing the work and furnish technical comments in a timely manner.
- B. Review the Consultant's billings.
- C. Review and evaluate the Consultant's requests for extension of time and supplemental agreements and recommend appropriate action.
- D. Review all correspondence with public agencies prior to the Consultant's mailing of any correspondence except for requests for information.
- E. Coordinate the distribution of public information.
- F. Coordinate the data (including documentation of prior rights, cost estimates and plans) necessary for CFX to prepare and execute all utility and railroad agreements.
- G. Conduct an introductory meeting to deliver relevant information and explain the administration process.
- H. Review the Consultant's Quality Control program and the Consultant's conformance to the Quality Control Program.
- I. Provide a focal point contact for all questions, requests, and submittals.
- J. Provide a system to monitor the Consultant's schedule, progress and key milestone submittal dates.

### 7.03 Consultant

- A. The Consultant has total responsibility for the accuracy and completeness of the construction contract documents and related design prepared under



this project and shall check all such material accordingly. The plans will be reviewed by CFX for conformity with CFX procedures and the terms of the Contract, as well as coordination with adjacent design contracts. Review by CFX does not include detailed review or checking of design of major components and related details or the accuracy with which such designs are depicted on the plans. The responsibility for accuracy and completeness of such items remains solely that of the Consultant. The Consultant shall:

1. Establish, furnish and maintain suitable office facilities to serve as the project office for the duration of the project at a location acceptable to CFX.
2. Maintain an adequate staff of qualified support personnel to perform the work necessary to complete the project.
3. Establish internal accounting methods and procedures for documenting and monitoring project costs.
4. Establish and maintain contract administration procedures, which will include supplemental agreements, time extensions and subcontracts.

#### 7.04 Project Control

- A. The Consultant shall provide data for CFX's Management Information System to monitor costs and manpower, and report progress. This project control system may include features to:
  1. Determine and highlight critical path work from initial plans as work progresses.
  2. Identify progress against schedule for each identified work item.
  3. Forecast completion dates from current progress.
  4. Highlight rescheduled work in any area which is out of required sequence.
  5. Highlight rescheduling that has overloaded any physical area that requires more resources than originally allocated.
  6. Forecast future conflicts in any area.

#### 7.05 Work Progress

- A. The Consultant shall meet with CFX's Project Manager on a bi-weekly

basis (or more often if necessary) and provide written progress reports which describe the work performed on each task. The dates and times of these meetings will be established by CFX. Two working days prior to each progress meeting, the Consultant shall provide CFX's Project Manager with a draft copy of the Progress Report and a typewritten agenda for the meeting. The Consultant shall prepare typewritten meeting minutes and submit them to CFX's Project Manager within five working days after the meeting. The minutes shall indicate issues discussed and the resolution or action required to resolve any issues.

7.06 Schedule

- A. Within twenty (20) calendar days after receipt of the Notice to Proceed, the Consultant shall provide a schedule of calendar deadlines in a format prescribed by CFX.

7.07 Project Related Correspondence

- A. The Consultant shall furnish copies of all written correspondence between the Consultant and any party pertaining specifically to this project to CFX for its records within one (1) week of the receipt or mailing of said correspondence. The Consultant shall record and distribute the minutes of all meetings pertaining to this project.

7.08 Quality Control

- A. The Consultant has total responsibility for the accuracy and completeness of the plans and related designs prepared under this project and shall check all such material accordingly. Consultant shall have a quality control plan in effect during the entire time work is being performed under the Contract. The plan shall establish a process whereby calculations are independently checked, plans checked, corrected and back checked. All plans, calculations, and documents submitted for review shall be clearly marked as being fully checked by a qualified individual other than the originator. The FDOT plan review checklist shall be attached and appropriate items checked.

7.09 Consultant Personnel

- A. The Consultant's work shall be performed and/or directed by the key personnel identified in Exhibit "D". Any changes in the indicated key personnel or the Consultant's office in charge of the work shall be subject to review and approval by CFX.

7.10 Site Visit

- A. The Consultant shall arrange a site visit within ten (10) calendar days of receipt of written Notice to Proceed. Consultant personnel assigned to perform the work on the project shall attend. CFX representatives will be present. Within seven calendar days of the site visit, the Consultant shall issue to CFX a brief written report including observations, discussions, and any questions pertaining to the scope or level of effort of the project. The purpose of this visit is to acquaint key personnel with the details and features of the project to facilitate the design process.

#### 7.11 Acceptability of the Work

- A. The plans, design, calculations, reports and other documents furnished under this Scope of Services shall conform to the "standards-of-the industry" quality as acceptable to CFX. The criteria for acceptance shall be a product of neat appearance, well organized, accurate and complete, technically and grammatically correct, checked in accordance with the approved Quality Control program, and have the maker and checker identified. The minimum standard of appearance, organization and content of drawings shall be similar to the type produced by the Florida Department of Transportation and CFX.

#### 7.12 Design Documentation

- A. The Consultant shall submit any design notes, sketches, worksheets, and computations to document the design conclusions reached during the development of the construction contract documents to CFX for review.
- B. The design notes and computations shall be recorded on 8-1/2" x 11" computation sheets, appropriately titled, numbered, dated, indexed and signed by the designer and checker. Computer output forms and other oversized sheets shall be folded or legibly reduced to 8-1/2" x 11" size. The data shall be bound in a hard-back folder for submittal to CFX.
- C. A CD/DVD with electronic (PDF Format) copies of the design notes and computations shall be submitted to CFX with each review submittal. When the plans are submitted for 90% review, the design notes and computations corrected for any CFX comments shall be resubmitted. At the project completion (bid set), one (1) hard copy of the final set of the design notes and computations, sealed by a Professional Engineer, registered in the State of Florida, shall be submitted with the record set of plans and tracings.
- D. Design notes and calculations shall include, but are not necessarily limited to, the following data:
  - 1. Field survey notes and computations.

2. Design criteria used for the project.
3. Geometric design calculations for horizontal alignment.
4. Vertical geometry calculations.
5. Right-of-way calculations.
6. Drainage computations.
7. Structural design calculations.
8. Geotechnical report.
9. Hydraulics Report for each bridged stream crossing.
10. Earthwork calculations not included in the quantity computation booklet.
11. Calculations showing cost comparisons of various alternatives considered.
12. Calculations of quantities.
13. Documentation of decisions reached resulting from meetings, telephone conversations or site visits.
14. Lighting and voltage drop calculations.
15. Lighting service letter from the power company stating the following: service voltage, type of service (overhead or underground), location of power company service point, and any other power company requirements.

#### 7.13 Reviews and Submittals

- A. Review and coordination of the Consultant's work by CFX shall continue through the project development process
- B. Formal submittals for review shall be made to CFX when the plans have been developed to the following levels of completion:
  1. Preliminary Engineering (Memorandum) (1 CD/DVD with all files, 3 sets and 1 .PDF required)
  2. 30% Roadway Plans (1 CD/DVD with PDF's of submittal package,

one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)

3. 30% Bridge and Structural Plans (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  4. 60% Roadway and specifications, Geotechnical Report (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  5. 60% Bridge Plans required only on Category 2 bridges.
  6. 90% Bridge and Structural Plans (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  7. 90% Roadway and specifications (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  8. 100% Roadway, Bridge and specifications, Geotechnical Report (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  9. Pre-Bid Plans (1 CD/DVD with PDF's of submittal package, one (1) hard copy of plans to CFX GEC and two (2) hard copies of plans to the CFX project manager)
  10. Bid Set (1 set signed and sealed plans, 1 set "clean" plans, 1 set signed and sealed reports and one (1) CD/DVD with .PDF of all plans and reports)
- C. Formal review submittals shall include copies as listed above. 8-1/2" x 11" and 11" x 17" documents do not require reproducible copies.
- D. Preparation and distribution of roadway and ROW plans to other than CFX or CFX GEC will not be made until approved by CFX.
- E. The format of review submittal plans shall conform to the FDOT Plans Preparation Manual, except as amended by CFX.
- F. Due to the compact schedule of the design, review and construction process, any modification to the agreed submittal dates will require a letter from the Consultant to CFX giving:

1. The reason for the delay.
  2. The design components impacted.
  3. Proposed methods to maintain submittal dates.
- G. The Consultant shall submit all CADD files, including GEOPAK files, use in the preparation of the plans and right of way mapping on compact disk with the final submittal.

#### 7.14 30% Roadway Plan Submittal

- A. At the completion of this phase, design and plan development should be approximately 30 percent complete except stormwater pond designs. The designs of the stormwater ponds shall be at 90% complete. The following material shall be developed and submitted for review:
1. Key Map Prepared
    - a) Location map shown complete with destinations, ranges and townships.
    - b) Beginning and ending stations shown.
    - c) Any equations on project shown.
    - d) Project numbers and title shown.
    - e) Index shown.
  2. Drainage Map Prepared
    - a) Existing culvert sizes and elevations.
    - b) Horizontal alignment shown.
    - c) Drainage areas and flow arrows shown.
    - d) High water information shown.
    - e) Beginning and end stations shown along with any equations on project.
    - f) Interchange supplemental maps prepared.

3. Typical Section Sheets
  - a) Ramp typical sections developed.
  - b) Pavement structure shown.
  - c) Special details developed.
  - d) General notes shown.
4. Plan and Profile Sheets
  - a) Centerline plotted.
  - b) Reference points and bench marks shown.
  - c) Existing topography.
  - d) Base line of surveys, curve data, bearings, etc. shown.
  - e) Beginning and end stations (project and construction).
  - f) Geometric dimensions.
  - g) Proposed and existing limited access right-of-way lines.
  - h) Existing ground line.
  - i) Proposed profile grade.
  - j) Type, size and horizontal location of existing utilities.
  - k) Drainage structures and numbers are shown
  - l) Drainage ponds are shown.
5. Cross Sections
  - a) Existing ground line.
  - b) Preliminary templates at critical locations (not to exceed 500 feet).
  - c) Existing utilities shown.
6. Interchange Layout and Ramp Profiles

- a) Geometric dimensions.
- b) Proposed profile grades.
- 7. Right-of-Way Control Survey
- 8. Signing and Pavement Markings
  - a) Striping layout.
  - b) Sign structure locations.

7.15 30% Bridge and Structural Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 30 percent complete. The Consultant shall refer to FDOT Structural Design Guidelines for plan contents and submittal requirements. Preliminary geotechnical results and recommendations should also be included with this submittal.

7.16 60% Roadway Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 60 percent complete except stormwater pond designs. The designs of the stormwater ponds shall be at 100% complete. The following material shall be developed and submitted for review:

- 1. Key Map
  - a) Project description and number shown.
  - b) Equations, exceptions and bridge stations shown.
  - c) North arrow and scale included.
  - d) Consultant and CFX sign-off included.
  - e) Contract set index complete.
  - f) Index of sheets updated.
- 2. Drainage Maps
  - a) Flood data shown.



- b) Cross drains and storm sewer shown.
  - c) Bridges shown with beginning and ending stations.
  - d) Interchange supplemental sheets updated.
3. Typical Section Sheets
- a) All required typical sections are included.
  - b) Limited access right-of-way lines are shown.
  - c) Design speed and traffic are shown.
  - d) Special details have been completed.
  - e) Station limits of each typical section are shown.
4. Plan and Profile Sheets
- a) Match lines shown.
  - b) Limited access right-of-way lines shown.
  - c) Stations and offset shown for all fence corners and angles.
  - d) All work shown should be within right-of-way or proposed easement.
  - e) Drainage structures and numbers are shown.
  - f) Drainage ponds shown.
  - g) Curve data and superelevation included.
  - h) Pavement edges, shoulders and dimensions shown.
  - i) Project and construction limits shown.
  - j) Bridges shown with beginning and ending stations.
  - k) General Notes.
5. Drainage Structures
- a) Drainage structures plotted and numbered.

- b) Station location and offsets identified.
6. Cross Sections
- a) Templates are shown at all stations.
  - b) Limited access right-of-way lines are shown.
  - c) Cross section pattern sheet included.
  - d) Miscellaneous notes included.
  - e) Boring profiles.
7. Interchange Layouts, Ramp Profiles and Intersection Details
- a) Geometric data shown.
  - b) Profiles finalized.
  - c) Coordinate data shown.
  - d) Limited access right-of-way lines shown.
  - e) Curve data shown.
  - f) Bearings and bridges shown.
  - g) Cross roads, frontage roads, and access roads shown.
  - h) Intersection details shown.
8. Traffic Control Plans
9. Utility Adjustments
10. Signing and Pavement Marking Plans
11. Highway Lighting Plans
12. Selective Clearing and Grubbing (if required)

7.17 90 % Bridge and Structure Plan Submittal

- A. At completion of this phase, design and plan development should be

approximately 90 percent complete. The Consultant shall refer to FDOT Structural Design Guidelines for plan contents and submittal requirements.

#### 7.18 90% Roadway Plan Submittal

A. At completion of this phase, design and plan development should be approximately 90 percent complete. The following material shall be developed and submitted for review:

1. Key Map
  - a) Length of Project with exceptions shown.
  - b) Index of sheets updated.
2. Drainage Maps
  - a) Drainage divides, areas and flow arrows shown.
  - b) Elevation datum and design high water information shown.
  - c) Disclaimer and other appropriate notes added.
3. Typical Section Sheets
4. Plan and Profile Sheets
  - a) Curve Control Points (P.C., P.I., P.T.) flagged and labeled.
  - b) Limits of side road construction.
  - c) Angle and stationing for intersections.
  - d) Treatment for non-standard superelevation transitions diagramed.
  - e) General notes shown.
  - f) Special ditches profiled.
5. Drainage Structures
  - a) Existing structures requiring modifications are shown.
  - b) Existing and proposed utilities are shown.

6. Soil Borings
  - a) Soils data and estimated high seasonal groundwater table shown.
7. Cross Section Sheets
  - a) Scale and special ditch grades shown.
  - b) Utilities plotted.
  - c) Sub-excavation shown.
  - d) Volumes computed and shown.
8. Utility Relocation Plans
  - a) Utility relocation plans prepared.
9. Traffic Control Plans
10. Signing and Pavement Marking Plans
11. Highway Lighting Plans
12. Selective Clearing and Grubbing (if required)

7.19 100% Roadway, Bridge, Structural and Right-of-Way Plans

- A. At the completion of this phase, the design plans and special provisions shall be 100 percent complete.

7.20 Schematic Toll Plaza Plans

- A. At the completion of this phase, the toll plaza layout should be complete with lane and island configurations shown. The following material shall be developed and submitted for review:
  1. Plan view of toll plaza with dimensions showing lane and island widths with column configuration and express lane layout.
  2. East and west elevation views of the canopy including concept for overhead structure for express lane ETC equipment.
  3. Construction phasing plan.

4. Description of improvements required for the administration building to accommodate installation of toll equipment.

7.21 60% Toll Plaza Plans

- A. At the completion of this phase, the toll plaza plans should be developed to 60% completion. The following material, as a minimum, shall be developed and submitted for review:
  1. Key sheet with sheet index
  2. Architectural, structural, mechanical, plumbing and electrical general notes, abbreviations and symbols
  3. Plan view
  4. Exterior elevations
  5. Canopy sections and details
  6. Canopy reflected ceiling plan
  7. Roof plan and details
  8. Canopy framing and foundation plan
  9. Concrete pavement plan
  10. Express lane overhead structure plan and details
  11. Tunnel sections and details
  12. Structural sections and details
  13. Plumbing plan and diagrams
  14. Lighting plan
  15. Power plan and diagram
  16. Lightning protection plan and details
  17. Demolition and construction phasing plan
  18. Plans and details for improvements to the administration building (as needed by discipline) to accommodate installation of toll equipment

19. All calculations and design data to support the design for each discipline

20. Technical specifications

7.22 90% and 100% Toll plaza plans

A. At the completion of this phase, the toll plaza plans should be developed to 90% and 100% completion respectively. The material listed with the 60% submittal shall be developed along with additional details required for construction and submitted for review.

B. The 90% and 100% submittals shall also include the technical specifications and special provisions required for construction

C. A detailed estimate of construction costs shall be included with the 100% submittal.

7.23 Pre-Bid Plans


7.24 Bid Set

**CONSENT AGENDA ITEM  
#7**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: March 25, 2019

SUBJECT: Approval of Contract Award for Banking Services to Wells Fargo Bank, N.A.  
Contract No. 001496

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Request for Proposals (RFP) from qualified firms to provide banking services for CFX was advertised on February 10, 2019. Only one response was received from Wells Fargo Bank, N.A., by the deadline.

As required by the Procurement Procedures Manual when only one proposal is received, the Director of Procurement met with the Director of Finance and Accounting and the Chief Financial Officer to discuss CFX's option. They agreed to open the proposal and follow the evaluation and review process for an RFP.

Discussions with other banks who did not submit revealed that those banks could not or would not offer armored car services required by the scope of services. Staff believes that the best interests of CFX are served by continuing to combine the banking and courier/armored car services under one contract to maintain a single point of responsibility. Since the scope includes the armored car requirement it was confirmed that this requirement was the reason no other banks submitted proposals. Based on this information, the decision was made to open the Technical Proposal and follow the evaluation and scoring process for competitive sealed proposals.

The Evaluation Committee met on March 25, 2019, to open and review the Price Proposal. The Committee unanimously agreed to accept Wells Fargo Bank, N.A proposal and recommends award of the contract.

Board award of the contract to Wells Fargo Bank, N.A. in the amount of \$4,402,000.00 for a three (3) year term with two one-year renewals is requested.

This contract is budgeted in the OM&A Budget.

Reviewed by   
Michael Carlisle  
Director of Accounting and Finance





**RFP-001496 Committee Meeting March 25, 2019 Minutes**

Evaluation Committee for **Banking Services; Contract No. 001496**, held a duly noticed meeting on Monday, March 25, 2019, commencing at 9:00 a.m. in the Pelican Conference Room at the CFX Administrative Bldg., Orlando, Florida.

**Committee Members Present:**

Michael Carlisle, Director of Finance & Accounting  
Marc Ventura, Manager of Finance & Accounting  
Emily Rouse, Supervisor of Accounting  
Paul Schatz, Manager of VES & Special Projects

**Other Attendees:**

Aneth Williams, Director of Procurement

**Discussion and Motions:**

Aneth commenced the meeting collecting the Evaluation Committee Members disclosure forms and explained that today's meeting was to evaluate the proposal and opened the Price Proposal.

Furthermore, Aneth stated the use of scoring sheets was like a checklist for the committee members during the review and that due to receiving only one submittal the actual scoring would be up to the committee to utilize the score sheets or vote verbally. The committee unanimously decided to vote verbally.


Aneth then opened the floor for discussion by the committee on the technical proposal submitted. Committee members agreed that there was no concerns found during the review and unanimously agreed to shortlist the sole submittal, Wells Fargo.

Aneth then opened the Price Proposal and passed out the copies for the committee to review. General discussion ensued and the committee unanimously agreed to accept the Price Proposal in the amount of \$4,589,500.00.

The committee then voted and unanimously agreed to recommend to the Board award of the Agreement to Wells Fargo.

There being no further business to come before the Committee, the meeting was adjourned at 9:22 a.m. These minutes are considered to be the official minutes of the Evaluation Committee of its meeting held Monday, March 25, 2019.

Submitted by:

  
Aneth Williams, Director of Procurement

On behalf of the Evaluation Committee these minutes have been review and approved by:

  
Michael Carlisle, Director of Accounting and Finance

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**TECHNICAL AND PRICE PROPOSAL SCORING SUMMARY**  
**BANKING SERVICES, RFP-001496**

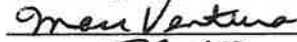


EVALUATOR	Wells Fargo		Submittal B		Submittal C		TECHNICAL	PRICE	TECHNICAL	PRICE
	TECHNICAL	PRICE	TECHNICAL	PRICE	TECHNICAL	PRICE				
Emily Rouse	0		0		0					
Michael Carlisle	0		0		0					
Marc Ventura	0		0		0					
Paul Schatz	0		0		0					
TOTAL	0		0		0					
AVG. TECH. POINTS	0.00		0.00		0.00					

PRICE PROPOSAL SUMMARY		
PROPOSER	PROPOSAL AMOUNT	POINT VALUE
Wells Fargo	\$4,589,500.00	50.00
Submittal B	\$0.00	
Submittal C	\$0.00	

POINT TOTALS AND FINAL RANKING				
PROPOSER	TECHNICAL POINTS	PRICE POINTS	TOTAL POINTS	FINAL RANKING
Wells Fargo	0.00	50.00	50.00	
Submittal B	0.00			
Submittal C	0.00			

Committee Members:   
  
  


Monday, March 25, 2019  
Monday, March 25, 2019  
Monday, March 25, 2019  
Monday, March 25, 2019

## CFX BANKING SERVICES AGREEMENT

THIS AGREEMENT (the "Agreement") is made this 11th day of April, 2019, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter "CFX," and WELLS FARGO, National Association a national banking association (the "Bank"), registered and authorized to do business in the State of Florida, whose principal address is 800 n. Magnolia Avenue, Seventh Avenue, Orlando, Florida 32803.

### WITNESSETH:

**WHEREAS**, CFX issued its Requests for Proposals for Banking Services on February 10, 2019 (the "RFP"), to solicit proposals to serve as CFX's primary relationship bank; and

**WHEREAS**, the Bank responded to the RFP by submitting its Technical and Price Proposal for Banking Services dated March 11, 2019 (the "Proposal"), which Proposal was duly accepted by CFX as the most favorable proposal submitted; and

**WHEREAS**, the Bank shall be providing banking services to CFX under the terms of this Agreement, the Scope of Services and the Proposal (hereinafter sometimes collectively called the "Contract").

**WHEREAS**, although the Scope of Services and the Proposal address in some detail the banking services to be provided, there are a number of operational issues not addressed by either the Scope of Services or the Proposal which the parties desired to address;

**NOW, THEREFORE**, in consideration of the foregoing premises and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, CFX and the Bank hereby covenant and agree as follows:

Section 1. Purpose and Effect of this Agreement: Delineation of Banking Services

The banking services to be provided to CFX by the Bank shall consist of:

- (a) Each of the specific requirements, terms and conditions set forth in the Scope of Services and any addenda thereto, which are hereby incorporated by reference in its entirety; and
- (b) Each of the services, terms and conditions set forth in the Proposal, which is hereby incorporated by reference in its entirety; and

- (c) Unless the context requires otherwise, all references to “this Agreement,” and use of the terms “herein,” “hereby,” “hereof,” “hereto,” “hereunder” and the like shall be deemed to include the Scope of Services, the Proposal, this Agreement and addenda.

Section 2. Controlling Provisions

Except as otherwise specifically provided in Section 6 hereof, in the event of any conflict between the specific provisions of this Agreement or any of the Exhibits hereto, and the requirements or provisions of the Scope of Services and/or Proposal, the requirements or provisions of the latter documents shall control. In circumstances of a conflict between the Proposal and Scope of Services, the Scope of Services shall prevail. Wherever possible, the provisions of all documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents. It is the intention of the parties that the Exhibits hereto set forth the day-to-day operational procedures to be complied with in connection with CFX’s ordering of and the Bank’s provision of specific banking services covered by the Proposal. If CFX elects to use any of the Bank’s services not set forth in the Proposal, or the Bank, in the normal course of its business, develops specific service agreements in the future for banking services requested by CFX (in addition to those covered by the Exhibits hereto), the parties will execute specific service agreements with respect thereto in form and substance reasonably acceptable to the parties. Such agreements shall be deemed to be part of and subject to this Master Banking Services Agreement, whether or not so stated in such service agreement.

Section 3. Services to be Rendered

- (a) The Bank shall provide CFX with the banking services set forth in the Proposal, as more fully defined herein. With respect to CFX’s depository demand deposit accounts, CFX funds collected daily shall be deposited in the accounts as described in the Scope of Services on the same day. Checks deposited shall be available as outlined in the Bank’s Proposal if deposited in the Bank before it normally closes its transactions for the day, which is currently 2:00 p.m.
- (b) CFX will attempt to limit the number of bank accounts maintained with the Bank; however, where legal requirements dictate, separate bank accounts will be maintained with the Bank. If CFX uses services not requested in the Scope of Services, the Bank reserves the right to charge for those services in accord with its current published charges for said services.
- (c) In rendering the services requested in the Scope of Services, the Bank shall be responsible for compliance with all licensing agreements and the payment of all costs for licensing fees and royalties for all software, intellectual property

and other protected or copyrighted materials or hardware used or provided in connection with its performance under this Agreement, and shall be further responsible for any costs, damages, claims or liabilities arising from the violation of any license agreement, copyright, trademark or other protection of property.

- (d) If, during the life of this Agreement and any renewals hereof, the Bank desires to subcontract any portion(s) of the services to a subcontractor that was not disclosed by the Bank 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 Bank shall first submit a request to CFX's Chief Financial Officer for authorization to enter into such subcontract. Except in the case of an emergency, as determined by CFX's Executive Director or his/her designee, no such subcontract shall be executed by the Bank until it has been approved by CFX Board. In the event of a designated emergency, the Bank may enter into such a subcontract with the prior written approval of CFX's Executive Director or his/her designee, but such subcontract shall contain a provision that provides that it shall be automatically terminated if not approved by CFX Board at its next regularly scheduled meeting.

#### Section 4. Compensation for Services

The not-to-exceed contract amount for the initial three-year term of this Agreement will be \$4,402,000.00. The Bank will prepare a monthly billing for services rendered in accordance with the Method of Compensation and Price Proposal. No other charges will be billed to CFX without prior and specific written authorization from CFX's Chief Financial Officer or Executive Director.

#### Section 5. Representations, Warranties and Covenants

- (a) The Bank represents and warrants to CFX it has full power and authority to enter into this Agreement and fully perform its obligations hereunder without the need for any further corporate or governmental consents or approvals, and that the persons executing this Agreement are authorized to execute and deliver it. Assuming the due authorization, execution, delivery, legality and enforceability hereof by or against CFX when executed and delivered by the parties, this Agreement will constitute a valid and binding agreement of the Bank, enforceable against it in accordance with its terms, subject only to the application of general principles of equity and limitations arising from bankruptcy, insolvency, moratorium and other similar laws affecting the rights of creditors generally.
- (b) The Bank has not employed or retained any person employed by CFX to solicit or secure this Agreement and it has not offered to pay, paid, or agreed

to pay any person employed by CFX any fee, commission percentage, brokerage fee, or gift of any kind contingent upon or resulting from the award of this Agreement.

- (c) The Bank is aware of the conflict of interest laws and policies of CFX, and the State of Florida, and covenants that it, the Bank, will fully comply in all material respects with the terms thereof.
- (d) CFX represents and warrants to the Bank it has full power and authority to enter into and perform all of its obligations under this Agreement without the need for any further bids, notices or other actions by Board or any other governmental authority. When executed and delivered by the parties, this Agreement will constitute a valid and binding agreement of CFX, enforceable against it in accordance with its terms, subject only to the application of general law and principles of equity and limitations arising from bankruptcy, insolvency, moratorium and other similar laws affecting the rights of creditors generally. CFX further represents and warrants to the Bank it has authorized CFX's Executive Director, Chief Financial Officer or persons designated by them in writing, to execute and deliver documents to the Bank as necessary hereunder or reasonably deemed appropriate by such officials to affect the transactions contemplated hereby. CFX acknowledges and agrees the Bank is fully authorized and directed to accept orders, requests and authorizations from such officials on CFX's behalf in connection with the implementation or provision of any of the banking services covered by the Proposal. Such authorization and direction shall not be deemed to prohibit or preclude the Bank from relying upon actions or requests of other CFX personnel so long as the Bank reasonably believes, in good faith, that such persons have been authorized in writing to act on behalf of CFX or by any of such officials.
- (e) At the request of the Bank, CFX agrees to cause its designated officials or their designees to execute such signature cards and other signature and identification verification documents as the Bank deems reasonably necessary for purposes of establishing appropriate security measures in connection with the banking services to be provided hereunder.

Section 6. Indemnification

- (a) The Bank shall indemnify and save harmless CFX, its agents and employees from or on account of any losses or damages resulting from any breach of fiduciary duty committed during or on account of any operations connected with this Agreement or by any act of negligence in connection with the same; or by or on account of any negligent act or omission of the Bank or its subcontractors, agents, servants or employees. The Bank further agrees to indemnify and save harmless CFX, its agents or employees against any claims or liability arising from or based upon the violation of any federal, state, or

county laws, by-laws, ordinances or regulations by the Bank, its agents, servants or employees.

- (b) To the extent of the monetary limits allowed pursuant to Section 768.28(5), Florida Statutes, CFX shall indemnify and save harmless the Bank, (its directors, officers, employees and agents) from or on account of any losses or damages resulting from any breach of this Agreement by CFX, or arising from the negligent acts or omissions of CFX or its employees acting within the scope of their employment.
- (c) If CFX desires to invoke the foregoing indemnity provisions (the "Indemnitee") against the Bank (the "Indemnitor"), the Indemnitee shall provide written notice to the Indemnitor within a reasonable time after discovery of the facts allegedly entitling it to indemnification hereunder, specifying in such notice the relevant facts and circumstances and requesting indemnification as provided herein. The Indemnitor shall defend at its own expense, or at the Indemnitee's option provide for such defense of, any and all claims of liability in all suits and action of every kind and description that may be brought against the Indemnitee which may result from the negligent actions or omissions under this Agreement by the Indemnitor, its employees or agents, as described in subsection (a).
- (d) If the Bank desires to invoke the foregoing indemnity provisions (the "Indemnitee") against CFX (the "Indemnitor"), the Indemnitee shall provide written notice to the Indemnitor within a reasonable time after discovery of the facts allegedly entitling it to indemnification hereunder, specifying in such notice the relevant facts and circumstances and requesting indemnification as provided herein. The Indemnitor shall defend at its own expense, or at the Indemnitee's option provide for such defense of, any and all claims of liability in all suits and action of every kind and description that may be brought against the Indemnitee which may result from the negligent actions or omissions under this Agreement by the Indemnitor, its employees or agents, as described in subsection (b).

#### Section 7. Limitation of Liability

Notwithstanding any other term or provision of this Agreement, neither CFX nor the Bank shall in any event be liable to the other for any amount in excess of the actual loss sustained by the injured party, and in no event shall either CFX or the Bank ever be liable hereunder or in any action in tort arising out of the services or relationship to be provided or established hereunder for any indirect, special, incidental, punitive or consequential loss or damage of any kind, including lost profits or opportunities or damage to reputation (whether or not advised of the possibility thereof) arising or allegedly arising therefrom. Actual loss shall include associated lost interest earnings calculated at the then applicable Federal Funds Rate.

Section 8. Term and Termination

- (a) This Agreement shall have a term of three (3) years, commencing as of June 1, 2019 and ending at 11:59 p.m., on May 31, 2022. CFX shall have the right to exercise a maximum of two (2) additional one-year renewals to the term of this Agreement by providing written notice to the Bank. CFX may give written notice to the Bank prior to the expiration of the then current term of its election not to have this Agreement so renewed.
- (b) The Bank agrees to maintain the banking relationship with CFX in accord with the terms of the Agreement or any extension for a period of six months from the date of expirations of the Agreement or of any extension period or upon written notice by CFX to close CFX's remaining accounts, whichever comes first. During this six-month period following the expiration of the Agreement or any extension period, CFX shall pay a monthly service charge for banking services based upon the pricing for banking services contained in the Proposal or made applicable to any extension period.
- (c) Either party may terminate this Agreement upon one hundred twenty (120) days advance written notice to the other, which notice must be signed by an authorized officer of the terminating party.
- (d) If either party does not comply with terms of this Agreement, non-defaulting party may give written notice of default to the defaulting party of the specific default. If the default(s) is/are not corrected within thirty (30) days, this Agreement (including the Scope of Services and Proposal) may be terminated thirty (30) days from the written notice of default, by the non-defaulting party.
- (e) In event of a termination under paragraphs (c) or (d) above, the Bank shall only be entitled to applicable fees and charges through the effective date of such termination. Termination of this Agreement, with or without cause, shall result in the simultaneous termination of all other banking services agreements referred to in Section 2 herein. However, any individual service agreement may be terminated separately and severally without affecting the continued enforceability of provisions of this Agreement or any non-terminated service agreements.

Section 9. Changes

- (a) CFX may, from time to time, request changes in the scope of services performed by the Bank hereunder. Such changes, which are mutually agreed upon by CFX and the Bank, shall be incorporated in written amendments to this Agreement.



- (b) The parties agree to undertake an annual review of the armored car component of the Scope of Services to determine if services can be provided more economically. The parties specifically agree that no later than thirty (30) days prior to the expiration of each one-year anniversary of the term of this Agreement, CFX shall have the option to amend, delete or replace the provider armored car component of the Scope of Services. The Bank shall include this provision in any subcontract for armored car services.
- (c) The fees and charges set forth for the services to be provided to CFX will begin on the date the Agreement is signed, shall not be increased for a period of three (3) years after commencement of the term of this Agreement. After the three-year period, the Bank will give CFX four (4) months prior written notice before increasing or adding any fees; provided, however, fees in years four and five may not be increased by an amount greater than the Consumer Price Index (CPI) for all urban consumers over the last year of the initial three-year period.

Section 10. Equal Employment Opportunity; Non-discrimination

The Bank will not discriminate against any employee or an applicant for employment because of race, color, religion, sex, national origin or handicap. The Bank shall take affirmative action to ensure that applicants are employed (and that employees are treated fairly during employment) without regard to race, color, religion, sex, national origin or handicap.

Such action shall include, but not be limited, to the following: employment, upgrading, demotions or transfers, recruitment or recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training including apprenticeship; and participation in recreational and educational activities.

The Bank shall keep such records and submit such reports concerning racial and ethnic origin of applicants for employment and employees as the Secretary of Labor of the United States requires. The Bank agrees to comply with such rules, regulations and guidelines as the Secretary may issue to implement these requirements. Both Parties shall comply with all applicable laws, ordinances and codes of Federal, State and local governments applicable to that Party.

Section 11. Waiver

No waiver of a breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

Section 12. Severability

If any provisions, paragraphs, sentences, words or phrases contained in this Agreement are determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary to conform with such laws, and to the extent they cannot be so modified, then same shall be deemed severable. In either event, the remaining terms and provisions in the Agreement shall remain unmodified and in full force and effect.

Section 13. Governing Law

This Agreement shall be construed and enforced according to the Laws of the State of Florida.

Section 14. Attachments

The following documents are attached hereto and incorporated by reference herein:

- A. Scope of Services
- B. Method of Compensation
- C. Technical Proposal
- D. Price Proposal

Additional service agreements may be added from time to time as mutually agreed upon by the parties.

Section 15. Notices

All written notices, demands and other communications required or provided for under this Agreement shall be sent by certified mail, return receipt requested, postage prepaid, in the case of mailing, or by overnight or same day courier, or by electronic transmission producing a written record, or hand delivered to the following address and person bearing the following title for each party hereto or such other addressee or person as shall be designated by a party in a written notice given in the manner required hereby:

Central Florida Expressway Authority  
Chief Financial Officer  
4974 ORL Tower Road  
Orlando, FL 32807

Wells Fargo, NA  
Mr. Todd Morley  
800 N. Magnolia Avenue, Seventh Avenue  
Orlando, Florida 32803  
Todd.morley@wellsfargo.com

All notices shall be deemed delivered when received.

Section 16. Force Majeure

CFX agrees the Bank shall have no responsibility or liability for delay in its performance under this Agreement or any losses arising out of delays and/or interruptions of business due to acts of God, acts of government authority, acts of public enemy of war, riots, civil disturbances, power failure, telecommunications failure, severe adverse weather conditions or other causes beyond the Bank's reasonable control. This time, if any, required for such performance under this Master Agreement shall be automatically extended during the period of such delay or interruption.

Section 17. Assignment

Neither party shall assign this Agreement or any interest herein, or delegate any of its duties hereunder, without the other party's prior written consent. It is agreed by CFX, with the consent of CFX, that the Bank may delegate certain services to be provided through independent contractors.

Section 18. Jurisdiction

The parties hereto agree that the state or federal courts located in the State of Florida shall have the exclusive jurisdiction over the parties and the subject matter of any litigation between the parties arising hereunder. Venue shall lie solely in Orange County, Florida.

Section 19. Inspector General

The Bank understands and shall comply with subsection 20.055(5), Florida Statutes, and to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing pursuant to this section. The undersigned further agrees that any subconsultants and subcontractors to the undersigned participating in the performance of this Contract shall also be bound contractually to this and all applicable Florida statutory requirements.

Section 20. Public Entity Crime Information and Anti-Discrimination Statement

The Bank hereby acknowledges that 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.”

The Bank further acknowledges that 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.”

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written below. This Contract was awarded by CFX's Board of Directors at its meeting on April 11 , 2019.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: \_\_\_\_\_  
Director of Procurement

Date: \_\_\_\_\_

BANK

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

Name & Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form and execution, only.

\_\_\_\_\_  
General Counsel for CFX

**EXHIBIT "A"**  
**SCOPE OF SERVICES**  
**BANKING SERVICES**  
**CONTRACT NO. 001496**

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**EXHIBIT "A"**  
**SCOPE OF SERVICES**  
**BANKING SERVICES**  
**CONTRACT NO. 001496**

**I. INTENT**

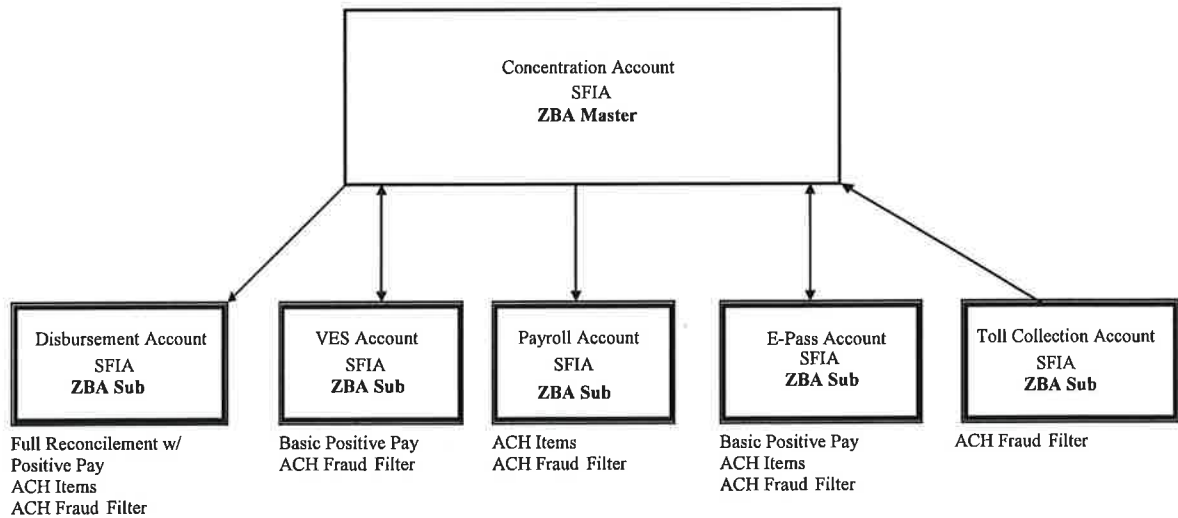
This Scope of Services specifies the comprehensive banking services, including toll revenue collections, required by CFX. Services to be provided by the Banking Services Contractor (Contractor) shall include, but are not necessarily limited to, deposit processing, deposit verification, toll revenue collection services, return item processing, electronic reporting, wire transfers, transaction research, disaster recovery and control, image processing, stop payments, overnight investments, courier service and armored car service.

**II. CONTRACTOR SERVICES**

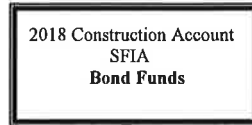
**A. General Banking Services**

The Contractor shall provide the following general banking services:

1. Establish demand deposit accounts as may be necessary to meet CFX's banking requirements.
2. Provide zero balance accounts (ZBA). The concentration account will fund disbursements from these accounts automatically on a daily basis. Currently, the account structure will require at least the following accounts.



3. In Addition to the ZBA accounts, the following stand-alone account will be required (CFX may require additional accounts setup in the future).



Basic Positive Pay  
ACH Items  
ACH Fraud Filter

4. Disburse funds via repetitive wire transfer upon on-line request of an authorized person.
5. Accept and send ACH transactions on-line and provide on-line notification of ACH deposits same day. CFX currently sends ACH files over the internet.
6. Process direct deposit of employee payroll semi-monthly. All (approximately 70 employees) CFX employees currently participate in a direct deposit program.
7. Provide automated balance reporting services for all CFX accounts. Available information should include: closing ledger, closing collected, opening ledger, opening collected, float, previous day debit and credit detail (including bankcard deposits, ZBA transfers), and ACH credit and debit detail.
8. Provide on-line access to information on cleared and stop payment checks for all present and past accounts.
9. After minimum concentration account balance requirements are met, if applicable, sweep any excess cash balances into an approved overnight investment vehicle. Currently a typical balance of \$50,000,000 is available for overnight investment, but that number is subject to change.
10. Provide check reconciliation services. CFX currently uses partial reconciliation but may contemplate going to full reconciliation services in the future. In addition, the Contractor must be able to break down the cash collection by toll plaza.
11. Provide monthly activity statements and reports for all accounts. These statements shall include a monthly account analysis. The statement cutoff shall be the last day of the month. Statements shall be sent by no later than the 5th business day of the following month.



12. Provide the ability to place on-line stop pays. All stop payment orders will be made electronically. On rare occasions, it may be necessary to initiate a stop payment by telephone. When a stop payment order is placed, the bank shall immediately inform CFX electronically if the check has been cashed and provide an image of the cashed item. If not cashed, the bank shall provide an electronic confirmation of the stop payment. Stop payments shall be effective for a period of not less than eighteen months. Cancellation of a stop payment order will be processed in the same way as the stop payment order. All checks paid by the bank after the above procedure has been adhered to will be the responsibility of the bank.
13. Provide the capability to receive check images on-line.
14. Provide on-line balance reporting information.
15. Provide Positive Pay and ACH fraud programs for CFX accounts and provide this information on-line.
16. Provide overdraft protection services. It is not the intention of CFX to overdraw any account. In the event of an overdraft, all checks presented for payment shall be paid. CFX's Chief Financial Officer or designee will confirm wires or ACH transfers that will result in an overdraft. The bank shall complete the wire/ACH transfer after confirmation. No service fee shall be charged to the CFX for overdrafts. Overdrafts will be covered in the following manner:

The amount of the overdraft is to be deducted from the respective account balance before calculating the overnight interest earnings. Reductions to the investable cash balances must be shown on the monthly investment activity statement.

B. Toll Collection Revenue Services

The Contractor shall provide the following toll collection revenue services:

1. Contractor shall provide bonded and insured armored car pickup of money for deposit and provide change as ordered by CFX's Toll Operations Contractor (TOC). The administration buildings of the CFX's toll facilities are located at the addresses listed below. In addition, a pickup of checks only will be required at the CFX's Administration and Operations Building located at 4974 ORL Tower Road, Orlando, Florida 32807.

**Dean Main Toll Plaza**  
10500 East-West Expressway  
Orlando, Florida 32825

**Conway East and West Toll Plazas**  
5320 East-West Expressway  
Orlando, Florida 32807  
And  
4901 East-West Expressway  
Orlando, Florida 32807

**Pine Hills Main Toll Plaza**  
4700 East-West Expressway  
Orlando, Florida 32805

**Hiwassee Main Toll Plaza**  
8302 East-West Expressway  
Orlando, Florida 32835

**Dallas Main Toll Plaza**  
12799 Beachline Expressway  
Orlando, Florida 32833

**Beachline Main Toll Plaza**  
12500 Beachline Expressway  
Orlando, Florida 32832

**John Young Main Toll Plaza**  
14200 Greenway  
Orlando, Florida 32821

**Boggy Creek Main Toll Plaza**  
13700 Greenway  
Orlando, Florida 32824

**Curry Ford Main Toll Plaza**  
5300 Greenway  
Orlando, Florida 32829

**University Main Toll Plaza**  
2600 Greenway  
Orlando, Florida 32817

**Independence Main Toll Plaza**  
4002 State Road 429  
Winter Garden, Florida 34787

**Forest Lake Toll Plaza**  
3170 State Road 429  
Ocoee, Florida 34761

**Coral Hills Toll Plaza**  
2415 State Road 414  
Apopka, FL 32703

Nothing in this Scope of Services shall prevent the change of, or addition to, the pickup locations initially specified in this Contract.

2. The vehicle used for transport shall be an armored type vehicle suitably marked for identification. The vehicle shall be capable of holding a mobile cage, owned by the armored car carrier and used for transporting coin vaults. The cage is 32" wide, 48" long and 44" high with casters that add 10" to the height. The cage is capable of holding 40-coin vaults.

Each armored car service employee shall be appropriately uniformed for identification purposes and carry an identification card that will be presented to CFX employee and/or designated representative upon request. The Contractor shall provide CFX with a master list of armored car service employees authorized to receive deposits. The master list shall be updated when necessary to reflect any changes in authorized personnel. As with all other traffic, armored car personnel are prohibited from making u-turns anywhere on the System. For each instance in which an armored car driver makes a u-turn on the System, a fine of \$100 will be levied against the Contractor.

3. Armored cars shall pay the appropriate toll as they pass through any toll lane. A prepaid plan, or E-PASS, is available for the Contractor or its subcontractors, if desired. The cost for such toll charges will be presumed to be included in the Contractor's Price Proposal. Additionally, any Contractor travel that may be required for the performance of the work of the Contract shall be an unreimbursed expense of the Contractor.
4. The Contractor shall pickup deposits from the designated CFX Toll Facilities daily, seven days per week at a time that allows for delivery to the bank for same day deposit (excluding bank holidays). The initial armored car service schedule shall be Monday through Sunday, inclusive. The seventh day, when it is a Sunday, may be delivered to the bank on Monday. Pick up at CFX's Administration

and Operations Building shall be Monday through Friday excluding CFX holidays.

5. Upon arrival at the toll facility, the armored car employee shall enter the vault room accompanied by a Toll Service Supervisor for the following purposes:
  - a. Opening the dual controlled, key/combination drop safe in conjunction with the Toll Service Supervisor using the master key provided by CFX for that purpose. Under unusual circumstances, the Contractor may be required to open the drop safe key lock for maintenance. CFX's Executive Director, or their designated representative, will be the only person to authorize this procedure.
  - b. Participating in the weighing and recording of the weight of each coin vault. (Coin vaults are weighed not counted. Currency received is counted.)
  - c. Picking up all of the plastic money bags and coin vaults. Each bag and vault shall be individually receipted for on the forms provided by CFX for that purpose.
  - d. Contractor possession of plastic money bags and coin vaults takes place when the Contractor's personnel pick them up.

Contractor and all subcontractors shall comply with CFX's security procedures regarding access to CFX's buildings and safes. In addition, the Contractor shall be responsible for damages caused by the Contractor (or any subcontractor) to CFX's coin vaults and buildings due to negligence of the Contractor or any subcontractor.

6. Deposits for each day's collections shall include:
  - a. Sealed plastic money bags, each containing a "Said to contain" deposit slip.
  - b. Locked Coin Vaults which are to be weighed and logged by TOC employees and armored car personnel, respectively, at the time of pickup and in the presence of both armored car employees and a Tolls Supervisor.
  - c. A copy of a separate Coin Vault Weighing Log for each day's collections.

- d. A bank transmittal form which lists the work date an individual bag and coin vault identification numbers for each day's collections and change orders.
7. CFX will provide the Contractor with master keys to the coin vaults and key-combination drop safes for each pickup location. Each pickup location shall be secured under dual controls at all times when not in use. Master keys shall not be placed in the possession of, or made available to, any employee other than the designee of CFX's Executive Director. Responsibility for the safety and security of the key resides solely with the Contractor once the Contractor has signed for the keys. Master keys shall not be duplicated under any circumstances and if a master key is damaged or lost CFX shall be notified immediately for replacement. If the Contractor loses a key, the Contractor shall be assessed the replacement cost of all coin vault locks or the re-keying costs of affected drop safes, as CFX deems appropriate.
8. Coin Vault Weighing Procedure
    - a. Each coin vault will be weighed by the armored car personnel in the presence of the TOC personnel and the results posted in the "Armored Car" columns of that workday's Coin Vault Weighing Log by the representative of CFX participating in the weighing.
    - b. Armored car personnel shall inspect coin vaults for obvious physical damage and shall have CFX's employee note damage on the "coin vault weight log" in the condition column.
    - c. Two copies of each day's signed Coin Vault Weighing Log shall be sealed in a dated manila envelope and delivered to the designated bank together with plastic money bags and coin vaults on the same day as they are picked up.
    - d. Prior to opening and counting of its contents, the Contractor shall weigh each coin vault and record the results on the Coin Vault Weighing Log. CFX will provide appropriate scales and maintenance.
    - e. After the "Bank" columns of the log are filled in as to individual weights and the times of weighing, each vault's weight, as shown in the "Armored Car" weight column, shall be compared with the "Bank" weight figure. If a difference in weights is discovered, {a difference in the

weight of a vault of 4 ounces (.25 pound) when dry and 8 ounces (.50 pound) when wet is allowable} the vault in question shall not be processed for deposit until the designee of CFX's Executive Director has been notified and permission to continue processing has been received. If no difference in weights is found, the bank shall complete the Coin Vault Weighing Log as to signature, date, time and condition.

- f. The completed log(s) shall be distributed as specified in Table 1 below. Once the weighing of a day's deposit has occurred, the counting and deposit process shall proceed as soon as possible.

9. Receipts

- a. The armored car service employee picking up the deposit shall be required to acknowledge receipt of the funds by signing for each numbered plastic money bag, each coin vault and each sealed and dated manila envelope on the bank transmittal form.
  - b. Each individual plastic money bag, coin vault and any other listed item must be receipted for by the armored car service employee, and any comments or refused items must be signed and dated by both the armored car employee and a Toll Service Supervisor. If a pickup is made of receipts from more than one day, a separate signature is required for each day's plastic money bags, coins vaults and sealed manila envelope.
  - c. The armored car service may use its own receipt form for internal control and billing purposes. However, control and responsibility for all collected revenues in the sealed coin vaults and Plastic money bags listed on the bank transmittal form (after being checked off and signed for by the armored car service employee) shall pass to the Contractor, either directly or indirectly, through its subcontractor.
10. Upon delivery to the bank, an authorized bank employee shall sign for each plastic money bag, each coin vault and each sealed and dated manila envelope (by number) on the bank transmittal form enclosed in the accompanying sealed manila envelope, noting the time of receipt. A separate signature is required for each day's plastic moneybags, coin vaults and manila envelope.

11. Responsibility for Bags and Vaults

- a. The Contractor assumes full responsibility for the safekeeping and delivery of each sealed and/or locked container and the contents therein. Such liability shall begin when the sealed or locked container is received and receipted for by the Contractor or subcontractor and shall end when the funds are transferred by or for CFX or, in the event that delivery cannot be made, until the container is returned to CFX or CFX's consignee and is receipted for by recipient.
- b. In the event of loss of any sealed and/or locked container, or any or all the contents therein, while in the possession of the Contractor or its subcontractor, the Contractor agrees, after receipt of proof of loss, to reimburse CFX for the full amount of such loss. Loss shall be defined as the value of the container, any additions to the container, and the contents therein as proved by documentation made available to representatives of the bank. If for any reason, representatives of the bank are not satisfied as to the documentation available, then "Contents" shall be defined as the average of the most recent seven-day's deposits recorded from a container(s) of like type collected from the same location as the container(s) in question. The bank shall not be liable for any delay in delivery caused by fire, strike, riot, war, insurrection, act of God, or other controlling cause not arising from the fault or negligence of the bank or its agent(s).
- c. The Contractor shall assume liability for damage or loss of the vaults, or their contents. CFX shall be reimbursed for all costs incurred for the repair or replacement of vaults. The costs for the repair or replacement price will be assessed to the Contractor in the event of damage, destruction or loss. All costs will be deducted from the Contractor's monthly invoice.
- d. The Contractor shall provide all plastic bags required at the plazas at no charge. Empty plastic bags shall be retained by the bank for ninety (90) days before destruction. Empty coin vaults shall be returned to the point of origin in the same condition as received, as soon as possible after the funds contained therein have been processed. It is especially critical that CFX receives coin vaults as soon as possible prior to holidays and/or weekends. It is the

Contractor's responsibility to ensure that the armored car service returns empty coin vaults on the next day basis, with the exception of the Conway East and West toll plazas which are to receive coin vaults back the same day. CFX will assess a penalty of \$25 per day, per vault on the Contractor for vaults that are not returned on a next day basis.

- e. The Contractor shall provide canvas bags at each plaza to hold coins in the plastic deposit bags

12. Handling of Toll Collection Funds

- a. The Contractor shall establish and maintain one Toll Collection depository account in the name of Central-Florida Expressway Authority. Each main toll plaza, as listed below, will have an encoded bank depository slip that identifies its location and name. All toll collection funds will be deposited into the Toll Collection depository account on the same day the funds are picked up from each main toll facility.

The titles of the bank deposit slips for each of the toll facilities are as follows:

1. Dean	9. Boggy Creek
2. Conway	10. Curry Ford
3. Pine Hills	11. Goldenrod*
4. Hiawassee	12. University
5. Dallas	13. Independence
6. Beachline Main	14. Forest Lake
7. Beachline Airport*	15. Coral Hills
8. John Young Parkway	

\*Goldenrod and Beachline Airport deposits are vaults only and are picked up at the Curry Ford Plaza and Beachline Main Plaza.

The monthly statement for the account (reporting banking transactions on a calendar month basis) shall be distributed as specified in Table 1 below.

- b. Toll collection funds shall be credited to the appropriate depository account on the same day they are picked up by the armored car service. The Contractor shall ensure that the armored car service delivers all toll facility funds on the same day picked up at the toll facility and in sufficient time



to allow coin vault weighing, full processing of plastic money bags and coin vaults, and same day credit to the depository account. If toll collection funds are delivered on a Saturday or Sunday, all provisions concerning same day processing listed above shall apply. Credit for these funds shall be given effective the opening of the next weekday (excluding bank holidays). This provision in no way relieves the Contractor or its agent(s) from the responsibility to weigh (coin vaults) and count CFX's funds on the weekend-day picked up, if they are delivered to the bank on a weekend day or bank holiday. On the same day the day's receipts are processed, the Contractor shall notify the designee of CFX's Executive Director, of any individual toll collector's deposits which have an overage (or shortage) greater than three dollars (\$3.00). If, upon further investigation, it is agreed a debit or credit memo is required for the disputed amount, the debit or credit memo shall reference the original deposit and be sent to CFX's Headquarters or other location as designated by CFX's Executive Director as soon as possible.

- c. CFX may authorize changes in Contract terms from time to time as reflected by operational necessities. All such changes will conform to existing Contract terms and to all applicable statutes and guidelines regarding the establishment and maintenance of such Contract. The Executive Director's designee may authorize documented debit or credit memos for existing revenue deposits.
- d. If the Contractor is unable to provide credit according to the provisions specified herein, the following procedures shall apply:
  - i. CFX's account shall be credited the same day as the funds are picked up, based upon the average of the previous seven day's deposits from the same location(s), multiplied by the number of days work for which credit is not being provided in the normal manner.
  - ii. When the deposit is processed on the next working day, a matching debit shall be made, "washing" the credit based upon the seven-day average amount.
  - iii. CFX's account is credited, based upon the actual counting of CFX's funds by bank personnel. An

individual credit shall be made for each day's receipts received.

- e. The Contractor shall retain and prepare, at the bank, preprinted deposit slips for the Toll Collection Account. Unless specifically detailed in the price proposal, there shall be no itemized charges for ACH deposits, on-line services, preprinted deposit slips, checks, check deposits, additional statements, analyses, wire transfers, ACH fraud filter services, change orders, coin wrappers or other materials requested and/or used in administrative, audit or operational support of these accounts. CFX will assume that all such charges shall have been included in the bid price for these accounts. In addition, the Contractor shall be required to provide all applicable revenue deposit and verification information on electronic media compatible with CFX's PC-based computers. Two separate deposit slips for each of the main toll facilities, and fully automated data transmission(s) compatible with CFX's computer systems shall be prepared for each day's receipts (7 days each week):
  - i. First daily deposit slip for the facility shall be for that day's plastic money bags and an attached calculation shall list each individual plastic bag number, the actual total revenue counted in each bag, bank employee number and a validated total for all of the plastic money bags from that day. If there is insufficient room on the first deposit slip to list all required detail, by plastic money bag, a second deposit slip shall be attached.
  - ii.. Second daily deposit slip for the facility shall be for that day's coin vaults and shall list each individual coin vault number, the actual total revenue counted in each coin vault, and a validated total for all of the coin vaults from that day.
  - iii.. The automated daily data transmission(s) shall contain all deposit and verification data i.e. facility name, plastic money bag number, coin vault ID, coin vault weight, deposit revenue denomination counts, indicated revenue, pick up date, deposit date, supervisor number, etc. Data transmission(s) shall be in a fixed field formatted text file in

accordance with the record layout specification described in Appendix A and example.

- f. Failure of the Contractor to make toll collection account balances transfers in strict accordance with this schedule will result in the Contractor paying interest compensation to CFX in an interest amount equal to the average of the prior four week's 13-week U.S. Treasury Bill Rates as published in the Wall Street Journal multiplied by the account balance and the number of days delinquent.

13. The Contractor shall comply with the TOC's orders for change, currency and bags. Orders for change shall be processed on a same day basis. A list of authorized toll facility employees and preset order limits will be provided by the TOC. Employees on this list (within pre-established limits) will order change by telephone or electronically. Confirmation of the order will be noted on the same day or next morning's Receipt for Bank Transmittal Form at the time of delivery. Under no circumstances shall the armored car service release the change order to the toll facility unless an appropriate amount of currency is tendered in exchange at the time of delivery. Debiting of the revenue account for the purpose of filling change orders is specifically prohibited by trust indenture obligations of CFX.

C. Miscellaneous

1. Paper cash deposits are bundled in standard straps. Loose bills that do not complete a standard strap amount are wrapped with a rubber band.
2. CFX utilizes the electronic scanning of checks for most deposits. Checks written by CFX are printed in-house on blank check stock. CFX uses a MICR printer and checks are electronically signed by the printer.
3. The denomination of the currency deposited is required as part of the daily transmission for reconciliation purposes.

D. Subcontracts

The Contractor may subcontract with a reputable armored car service to provide the courier services required with prior approval of CFX. CFX shall be notified as soon as possible and, in no instance, less than three weeks prior to any change in armored car service. No change in armored car service shall take place without prior approval of CFX. Representatives of the Contractor, CFX, and the new armored car

company shall meet no less than two weeks prior to the contemplated effective date of the change of service by the new subcontractor to discuss transition and specific procedures and requirements of the Contract.

E. Reimbursement for Shortages

In the event that CFX ascertains through its coin vault audit program that coin vaults are being credited by the bank for an amount less than that counted by CFX, the Contractor shall reimburse to CFX the amount of shortage. The Contractor assumes full liability for sealed, coin vault contents after collection by the courier under contract to the Contractor. The Contractor is authorized to examine the audit program used by CFX to determine shortages for collections processed by the Contractor.

F. Bank Internal Security

1. The Contractor shall allow authorized employees of CFX to visually inspect the internal security of the coin counting and teller area operations without prior notification by CFX. After such inspection, CFX will notify the bank, in writing, of any internal control weaknesses noted. The bank shall make every effort to correct valid internal control weaknesses within a five-day period.
2. CFX shall be notified within ten (10) business days if any employees involved in the processing of CFX monies are disciplined, fired, charged with or convicted of a crime.

G. Documentation

1. The following documents shall be sent as indicated to the parties listed at addresses provided in Paragraph G., below:

**Table 1**

DOCUMENT	SENT TO	SCHEDULE
Master List of Armored Car Employees Authorized to Receive Deposits	Original to TOC Copy to CFX	48 Hrs. Prior to First Pickup
Coin Vault Weighing Log	Original to CFX & Copy to TOC	Each Business Day
Deposit Slips (Plastic money bags, coin vaults)	Original to CFX & Copy to TOC	Each Business Day

Daily transmission Deposit & Verification Data	CFX & TOC	Each Business Day
Bank Transmittal Form	Original to CFX & Copy to TOC	Each Business Day
Monthly Statements (Clearing Accounts)	CFX	Monthly

2. Copies of all records acknowledging separate receipt for the bags, vaults and manila envelope representing each day's collections shall be retained by the Contractor and made available to CFX for review upon request.

H. Correspondence

1. Courier Service

The Contractor shall, on a daily basis, provide for pickup by courier to the TOC's office at the following address:

AECOM  
4974 ORL Tower Road  
Orlando, Florida 32807

2. Mailing Addresses

- a. Official correspondence to CFX shall be sent to the following address, or as otherwise directed by CFX's Executive Director:

Central Florida Expressway Authority  
Director of Accounting and Finance  
4974 ORL Tower Road  
Orlando, Florida 32807-9913

- b. Official correspondence to the TOC shall be addressed to:

Program Director  
AECOM  
4974 ORL Tower Road  
Orlando, Florida 32807

END OF SCOPE OF SERVICES

## **EXHIBIT "B"**

### **METHOD OF COMPENSATION**

#### **1.0 PURPOSE**

This Exhibit describes the limits and method of compensation to be made to the Contractor for the services set forth in the Scope of Services. The services shall be provided over the duration of the work specified in the Contract.

#### **2.0 COMPENSATION**

For the satisfactory completion of all services detailed in the Scope of Services, the Contractor shall be paid an amount not to exceed \$4,402,000.00. The amount shall compensate the Contractor for all costs related to the services required based on the attached Schedule of Fees.

#### **3.0 METHOD OF COMPENSATION**

3.1 Payment will be made to the Contractor on the basis of the attached Schedule of Fees which is a part of the Contract Documents. The Contractor shall prepare and submit invoices to CFX in a format acceptable to CFX. Payment shall be made to the Contractor upon acceptance of billing by CFX.

3.2 The Contractor shall promptly pay all subcontractors their proportionate share of payment received from CFX.

3.3 CFX reserves the right to withhold payment or payments in whole or in part, and to continue to withhold any such payments for work not completed, completed unsatisfactorily, work that is behind schedule or work that is otherwise performed in an inadequate or untimely fashion as determined by CFX. Any and all such payments previously withheld shall be released and paid to Contractor promptly when the work is subsequently satisfactorily performed.

#### **4.0 ADDITIONAL SERVICES**

Additional services outside the scope of the Contract and the resulting compensation for such services shall be implemented by a written Supplemental Agreement in accordance with the Contract. Such work shall not be performed until a Supplemental Agreement has been executed by CFX and the Contractor.

**END OF SECTION**

**CONSENT AGENDA ITEM  
#8**



**M E M O R A N D U M**

TO: Central Florida Expressway Authority      CLIENT-MATTER NO.: 19125.0185  
Board Members

CC: Linda Brehmer Lanosa, Esq., Deputy General Counsel  
David Shontz, Esq.

FROM: Suzanne M. Driscoll, Esq., Right-of-Way Counsel *SMD*

DATE: March 27, 2019

RE: **State Road 429 Wekiva Parkway, Project 429-204; Parcels 209 and 221**  
**Date of Deposit: July 31, 2014**

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Shutts & Bowen LLP, Right-of-Way Counsel, seeks approval by the CFX Board of a negotiated settlement between Respondents, William H. Kelly a/k/a William Harvey Kelly, Sr.; William H. Kelly, Sr. a/k/a William H. Kelly a/k/a William Harvey Kelly; and William H. Kelly, Sr., as Trustee of the William H. Kelly, Sr. Revocable Trust (“Respondents”), and the Central Florida Expressway Authority (“CFX”) resolving the last outstanding expert fee, as well as, the supplemental attorneys’ fees and costs incurred in connection with the litigation of the expert fee incurred by the Respondents in the above referenced matter.

**BACKGROUND**

Previously, the parties reached an agreement as to all of the Respondents’ experts’ fees and litigation costs with the exception of Tropical Realty Appraisal Services n/k/a FranklinStreet (“FranklinStreet”). Following the Right-of-Way Committee’s recommendation, the CFX Board approved that settlement and those fees and costs were included in a Partial Stipulated Order Taking Costs entered on November 16, 2016. After completing discovery as to the expert fee sought by FranklinStreet, attending court ordered mediation and several partial hearings on Respondents’ Motion to Tax Costs, the parties reached a negotiated settlement of the expert fee for FranklinStreet and the supplemental attorneys’ fees incurred by Respondents’ in connection with the expert witness discovery.



**FRANKLINSTREET and SUPPLEMENTAL ATTORNEYS' FEES**

The invoice submitted by FranklinStreet totaled \$176,069.16. A Copy of the invoice from FranklinStreet is attached as Exhibit "A" to this Memorandum. The Brigham Property Rights Law Firm, PLLC invoice details 62.9 hours of time devoted to the supplemental proceedings and \$487.24 in court reporter expenses for total of \$24,402.25. A copy of the Brigham Property Rights Law Firm, PLLC invoice is attached as Exhibit "B" to this Memorandum.

Following negotiations, the parties were able to reach a settlement of the expert fee for FranklinStreet as well as the amount of the supplemental attorneys' fees incurred by Respondents subject to final approval by the CFX Right-of-Way Committee and Board. A copy of the Settlement Agreement as to Expert Appraiser Fee and Supplemental Attorneys' Fees and Costs is attached as Exhibit "C" to this Memorandum.

**RECOMMENDATION**

We respectfully request that the CFX Board approve the proposed settlement in the total amount of \$157,000 for the expert fees of FranklinStreet and the supplemental attorneys' fees and costs incurred by Respondents as to Parcels 209 and 221.

The Right of Way Committee recommended this settlement for approval by the Board at its March 27, 2019 meeting.

**ATTACHMENTS**

Exhibit "A" - FranklinStreet Invoice

Exhibit "B" - Brigham Property Rights Law Firm, PLLC Invoice

Exhibit "C" - Settlement Agreement as to Expert Appraiser Fee and Supplemental Attorneys' Fees and Costs

Reviewed by: 

**EXHIBIT "A"**



**Martin C. Engelmann, Jr., MAI, MRICS**  
 State-Certified General Real Estate Appraiser RZ838



**Jon C. Thomas, SRPA**  
 State-Certified General Real Estate Appraiser RZ1696



Commercial Appraisers & Consultants

March 14, 2016

Brigham Property Rights Law Firm, PLLC  
 2963 Dupont Avenue, Suite 3  
 Jacksonville, Florida 32217

Attn: Andrew P. Brigham, Esquire

.....  
**FOR PROFESSIONAL SERVICES RENDERED**

Appraisal Consultation Services on:

Parcels 209 and 221 (Kelly)  
 A 11.786± Gross/Upland Acre Site  
 North Side Of Kelly Park Road Between  
 Plymouth Sorrento And Golden Gem Roads  
 Apopka, Orange County, Florida 32712  
 Our File No.: C14042NT

Federal Tax I.D. #: 20-1683646

<b>Fee:</b>	<b>\$176,069.16</b>
<b>Retainer:</b>	<b>\$ <u>0.00</u></b>
<b>Balance Due:</b>	<b>\$176,069.16</b>

**Please remit payment to:**

**Tropical Realty Appraisal Services**  
**6812 W. Linebaugh Avenue**  
**Tampa, Florida 33625**  
**Attn: Martin C. Engelmann, Jr., MAI**

Please reference our File No. to ensure proper credit

*Payment for services due upon receipt of invoice.  
 After 30 days a charge of 1.5% per month will be assessed  
 on the unpaid balance.*

**Thank you**

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**TAMPA**

**MIAMI**

**KEY WEST**

**ATLANTA**

# INVOICE



**Bill To:**

Brigham Property Rights Law Firm, PLLC  
 2963 Dupont Avenue  
 Suite 3  
 Jacksonville, Florida 32217

**From:**

600 North West Shore Boulevard  
 Suite 600  
 Tampa, Florida 33609

Kelly			
Invoice #:	00067	Term:	Upon Receipt
Date created:	03/14/2016	Date due:	03/14/2016
Client:	Brigham Property Rights Law Firm, PLLC	Status:	Outstanding
Project:	C14042NT-Kelly, Parcel 221 (Wekiva Parkway Extension)	Total:	\$176,069.16
Project #:	00043	Payments:	\$0.00
		Balance:	\$176,069.16

Summary of Work Performed				
Name	Description	Qty	Rate	Amount
CRW_2015		29.75	\$135.00	\$4,016.25
Fee - 09/24/2015	Parking for Eminent Domain hearing.			\$12.00
Fee - 09/24/2015	Lunch with Steve Pagliaro while attending Eminent Domain hearing.			\$15.00
Fee - 10/30/2015	Parking during trial.			\$4.00
Fee - 11/01/2015	Hotel for trial.			\$145.24
Fee - 11/02/2015	Parking during trial.			\$8.00
Fee - 11/02/2015	Parking during trial.			\$14.00
Fee - 11/02/2015	Lunch during trial.			\$13.31
Fee - 11/02/2015	Refreshment during trial.			\$1.48
Fee - 11/03/2015	Breakfast during trial.			\$3.20
Fee - 11/03/2015	Parking for trial.			\$8.00
Fee - 11/03/2015	Refreshment during trial.			\$1.48
GWK_2015		66.002	\$135.00	\$8,910.27
JB		0.125	\$95.00	\$11.88
JH		0.5	\$95.00	\$47.50
JP		12.643	\$95.00	\$1,201.09
JRP		152.436	\$175.00	\$26,676.30
LT		9.827	\$95.00	\$933.57
Martin Engelmann		210.997	\$355.00	\$74,903.94

SMP\_2015 367.759 \$155.00 \$57,002.65

YD 4.1 \$95.00 \$389.50

**Subtotal 664.142 \$176,069.16**

**Total Amount Payable \$176,069.16**

**Details of Work Performed**

Person	Module	Task	Date	Work type	Description	Qty	Rate	Amount
Chris Worley	Work Session	General time	10/21/2014	CRW_2015	Work session with Engelmann, Kane, Fabian, and Pagliaro.	0.25	\$135.00	\$33.75
	Inspection	General time	05/14/2015	CRW_2015	Initial subject property inspection along with market area inspection; visit existing residential developments and meet with sales representatives.	8	\$135.00	\$1,080.00
	Preliminary Analysis and Estimates	General time	06/05/2015	CRW_2015	Work session with Mr. Engelmann, Kane, Pagliaro, and Fabian. Continuation of site and sale analysis. Clarified assignment to understand all aspects of residential development to ascertain trends in development.	1.5	\$135.00	\$202.50
	Market Area Research	General time	06/09/2015	CRW_2015	Reviewed opponent appraisal, identified subject market area, began researching residential market for trend analysis.	3	\$135.00	\$405.00
	Market Area Research	General time	06/10/2015	CRW_2015	Continued with market research on active selling communities. Created spreadsheet with five active selling or recently sold out communities in Apopka. Include price points, lot sizes, etc.	8	\$135.00	\$1,080.00
	Market Area Research	General time	06/11/2015	CRW_2015	Completed first phase of market research. Compiled findings, maps, aerials, graphs, and supporting text in word document. Saved to data file and made copies for internal reviews by Mr. Engelmann, Kane, Fabian, and Pagliaro.	9	\$135.00	\$1,215.00
	<i>Person Subtotal</i>						29.75	

George Kane	Work Session	General time	10/03/2014	GWK_2015	Work session with Engelmann, Fabian, and Pagliaro regarding case issues and research still needed.	0.5	\$135.00	\$67.50
	Work Session	General time	10/21/2014	GWK_2015	Work session with Engelmann, Fabian, Worley, and Pagliaro regarding case status, project overview, trial date, appraisal exchange date, and assignment responsibilities.	0.167	\$135.00	\$22.55
	Work Session	General time	01/16/2015	GWK_2015	Work session with Engelmann regarding correspondence from Brigham's office requesting expert work sessions for January 20, 2015; correspondence with Brigham's office asking for timeline on January 20, 2015 per Engelmann.	0.083	\$135.00	\$11.21
	Correspondence	General	01/19/2015	GWK_2015	Correspondence with Brigham and	0.167	\$135.00	\$22.55

	time			Engelmann regarding future phone conference and calendar for January 28, 2015.			
Work Session	General time	01/28/2015	GWK_2015	Work session with Brigham, Huston, Fabian, and Pagliaro regarding case status, trial dates, appraisal exchange dates, and timeline of subject property and history.	0.25	\$135.00	\$33.75
Work Session Preparation	General time	04/21/2015	GWK_2015	Review subject property working file in preparation of work session with Engelmann, Fabian, and Pagliaro.	0.167	\$135.00	\$22.55
Work Session	General time	04/22/2015	GWK_2015	Work session with Engelmann, Fabian, and Pagliaro regarding case status and timelines.	0.167	\$135.00	\$22.55
Other Expert Report Review	General time	04/23/2015	GWK_2015	Correspondence with Engelmann and Pagliaro consisting of new information from Brigham and expert report exchange date; review of new appraisal for an adjacent property; calendar exchange date, and trial date.	0.5	\$135.00	\$67.50
Correspondence	General time	05/11/2015	GWK_2015	Correspondence with Brigham's office regarding significant dates and calendar all.	0.083	\$135.00	\$11.21
Work Session	General time	05/12/2015	GWK_2015	Work session with Engelmann, Fabian, and Pagliaro regarding case status and significant dates to be calendared; direction from Engelmann on research and analysis to be completed by staff.	0.25	\$135.00	\$33.75
Work Session	General time	05/12/2015	GWK_2015	Work session with Engelmann regarding case status consisting of trial date, appraisal exchange date, mediation date, and other significant dates to be calendared.	0.25	\$135.00	\$33.75
Correspondence	General time	05/14/2015	GWK_2015	Various work sessions and correspondence with Worley regarding subject property highest and best use, development issues, and examples of commercial development with elevation changes.	1	\$135.00	\$135.00
Correspondence	General time	05/15/2015	GWK_2015	Calendar appraisal completion date for exchange with Brigham only and send to TRAS staff.	0.083	\$135.00	\$11.21
Correspondence	General time	05/15/2015	GWK_2015	Work session with Brigham regarding case status, appraisal exchange date, project influence, development of subject property and grade changes on-site, other experts information, and FDOT appraisal analysis.	0.5	\$135.00	\$67.50
Work Session	General time	05/22/2015	GWK_2015	Work session with Fabian and Pagliaro regarding subject property highest and best use, project influence, and direction of land sales research.	0.167	\$135.00	\$22.55
Expert Report Review	General time	05/27/2015	GWK_2015	Review of other expert reports on adjacent and nearby parcels taken for	1	\$135.00	\$135.00

				the Wekiva Parkway project.			
Work Session	General time	05/27/2015	GWK_2015	Work session with Brigham regarding scope of project, development issues and sales focusing on shape and topography, and site development cost examples.	0.5	\$135.00	\$67.50
Expert Report Review	General time	05/28/2015	GWK_2015	Review of Sue Murphy land planning report for Chapman property, adjacent to our subject; correspondence with Murphy for update on her planning report on our subject property.	0.25	\$135.00	\$33.75
Sales Research	General time	05/28/2015	GWK_2015	Review of new sales data, produce aerial map, and distribute to Engelmann, Fabian, Worley, and Pagliaro for additional discussion on research and highest and best use.	0.5	\$135.00	\$67.50
Correspondence	General time	05/28/2015	GWK_2015	Correspondence with Engelmann, Fabian, Worley, and Pagliaro regarding my review of Cantrell's Chapman information and my review of FDOT's subject property appraisal, along with direction for land sales research, planning information needed, and analysis.	2.5	\$135.00	\$337.50
Work Session	General time	05/29/2015	GWK_2015	Work session with Engelmann, Fabian, and Pagliaro regarding updates from Brigham and discussions on experts needed on development and engineering issues.	0.25	\$135.00	\$33.75
Work Session	General time	05/29/2015	GWK_2015	Work sessions with Brigham, Engelmann, Fabian, and Pagliaro regarding recommendations for experts regarding development and engineering issues with regard to the subject property.	0.167	\$135.00	\$22.55
Sales Research	General time	05/30/2015	GWK_2015	Continued land sales research along with review of permitting data by government agencies for development trends and potential new sales.	1.25	\$135.00	\$168.75
Subject Property Research	General time	06/01/2015	GWK_2015	Correspondence with architects and developers regarding subject topography issues and civil engineering expert recommendations.	0.083	\$135.00	\$11.21
Subject Property Research	General time	06/02/2015	GWK_2015	Correspondence with architects and developers regarding subject topography issues and civil engineering expert recommendations; send findings to Engelmann, Fabian, and Pagliaro.	0.083	\$135.00	\$11.21
Work Session	General time	06/02/2015	GWK_2015	Work session with Engelmann, Fabian, Worley, and Pagliaro regarding direction of research on interchange timeline study and exhibit, land sales research and timeline for review, and set timelines for our appraisal due date.	0.667	\$135.00	\$90.05
Market Area	General	06/08/2015	GWK_2015	Work session with Worley regarding	0.083	\$135.00	\$11.21

Research	time			update and timeline for completion of market area research on development trends in residential, retail, and employment centers.			
Sales Research	General time	06/08/2015	GWK_2015	Work session with Fabian and Pagliaro regarding setting up land sales research to date in database and appraisal workbook in preparation of review with Engelmann.	0.167	\$135.00	\$22.55
Sales Research	General time	06/10/2015	GWK_2015	Various work sessions with Worley on updates of his research on residential development trends, permits, and overview of DRIs proximate to the subject.	0.167	\$135.00	\$22.55
Correspondence	General time	06/11/2015	GWK_2015	Correspondence with Fabian regarding notice of deposit date and update on draft appraisal.	0.167	\$135.00	\$22.55
Work Session	General time	06/11/2015	GWK_2015	Various work sessions with Fabian regarding land sale write ups and research progress in preparation for full review with Engelmann.	0.5	\$135.00	\$67.50
Correspondence	General time	06/12/2015	GWK_2015	Correspondence with Mesimer regarding status of his draft report.	0.083	\$135.00	\$11.21
Work Session	General time	06/15/2015	GWK_2015	Work session with Fabian and Pagliaro consisting of review of land sales research to date and packages, and narrow down sales to consider; direction to Pagliaro regarding edits needed to land sales and exhibit preparation of residential subdivisions.	1.25	\$135.00	\$168.75
Work Session	General time	06/19/2015	GWK_2015	Work session with Engelmann and Fabian regarding land sales data to date, market forces surrounding interchanges similar to the subject, draft appraisal status and time for completion, potential delivery date to Bligham, and work session for June 22.	1	\$135.00	\$135.00
Market Area Research	General time	06/21/2015	GWK_2015	Review interchange development study and overview prepared by Pagliaro.	0.25	\$135.00	\$33.75
Work Session	General time	06/22/2015	GWK_2015	Various work sessions with Worley, Fabian, and Pagliaro on planning work session with Engelmann to review final land sales and draft appraisal update; review database for update on land sales research and write ups.	0.5	\$135.00	\$67.50
Correspondence	General time	06/22/2015	GWK_2015	Correspondence with Engelmann, Worley, Fabian, and Pagliaro on planning work session to review final land sales and draft appraisal update.	0.125	\$135.00	\$16.88
Work Session	General time	06/25/2015	GWK_2015	Work session with Pagliaro on inspection notebook needed for Engelmann.	0.125	\$135.00	\$16.88
Correspondence	General time	06/25/2015	GWK_2015	Correspondence with Engelmann and Fabian regarding our land sales and	0.25	\$135.00	\$33.75



				final review, phone conference scheduled with Brigham, and update on draft appraisal.			
Work Session	General time	06/25/2015	GWK_2015	Various work sessions with Fabian on our land sales research, highest and best use of subject, and Orange County regional planning information for Apopka.	0.75	\$135.00	\$101.25
Work Session	General time	06/26/2015	GWK_2015	Various work sessions with Engelmann, Fabian, and Pagliaro regarding draft appraisal, contact with Brigham, review of finalized land sales, and direction from Engelmann to review draft appraisal.	1	\$135.00	\$135.00
Correspondence	General time	06/26/2015	GWK_2015	Correspondence with Brigham regarding Ocala land sale verification; review sale data; correspondence with Fabian regarding phone conference with Brigham and extension of appraisal exchange.	0.25	\$135.00	\$33.75
Work Session	General time	06/29/2015	GWK_2015	Work session with Fabian and Pagliaro regarding draft appraisal and land sales.	0.125	\$135.00	\$16.88
Work Session	General time	07/02/2015	GWK_2015	Work session with Pagliaro prior to phone conference with Brigham regarding development trends within the subject's trade area and similarities to the Lake Nona (southeast) Orange County area and growth due to expansion of toll road and interchanges.	0.125	\$135.00	\$16.88
Work Session	General time	07/06/2015	GWK_2015	Work session with Fabian regarding subject property terrain and potential site development issues.	0.125	\$135.00	\$16.88
Correspondence	General time	07/06/2015	GWK_2015	Correspondence with Fabian regarding draft appraisal for Brigham's review.	0.125	\$135.00	\$16.88
Work Session	General time	07/07/2015	GWK_2015	Various work sessions with Engelmann, Fabian, and Pagliaro regarding site development of subject and additional parcel to be added to our appraisal.	0.25	\$135.00	\$33.75
Rebuttal	General time	07/14/2015	GWK_2015	Rebuttal report preparation consisting of various work sessions and correspondence with Engelmann, Fabian, and Pagliaro regarding report and exchange date.	0.25	\$135.00	\$33.75
Rebuttal	General time	07/14/2015	GWK_2015	Rebuttal report preparation consisting of review of Cantrell's rebuttal report on Carpenter's report for Chapman (Parcel 219).	0.25	\$135.00	\$33.75
Rebuttal	General time	07/20/2015	GWK_2015	Rebuttal preparation consisting of correspondence with Pagliaro regarding rebuttal report due date and status.	0.125	\$135.00	\$16.88
Correspondence	General time	07/20/2015	GWK_2015	Review news articles regarding City of Apopka and new city center.	0.125	\$135.00	\$16.88

				correspondence with Engelmann, Fabian, Pagliaro, and Worley regarding same.			
Rebuttal	General time	07/22/2015	GWK_2015	Rebuttal report review per Fabian.	0.5	\$135.00	\$67.50
Rebuttal	General time	07/23/2015	GWK_2015	Rebuttal review and edits per Fabian; correspondence with Fabian, Pagliaro, and Engelmann regarding rebuttal report review and edits.	0.25	\$135.00	\$33.75
Deposition Preparation	General time	08/27/2015	GWK_2015	Deposition preparation consisting of correspondence with Brigham's office regarding production of our file per subpoena; work sessions with Pagliaro regarding direction on file production and delivery timeline.	0.25	\$135.00	\$33.75
Deposition Preparation	General time	08/31/2015	GWK_2015	Deposition preparation consisting of correspondence with Pagliaro regarding our electronic file to be sent to Brigham's office in response subpoena.	0.125	\$135.00	\$16.88
Deposition Preparation	General time	09/01/2015	GWK_2015	Deposition preparation consisting of correspondence with Brigham's office regarding Carpenter's rebuttal letter and other information requested; work sessions with Fabian regarding same.	0.5	\$135.00	\$67.50
Deposition Preparation	General time	09/03/2015	GWK_2015	Work session with Fabian regarding subpoena, direction, and preparation of file.	0.125	\$135.00	\$16.88
Deposition Preparation	General time	09/03/2015	GWK_2015	Work session with Engelmann regarding subpoena received and direction; scan and save subpoena in digital file; correspondence with Fabian and Pagliaro regarding subpoena.	0.125	\$135.00	\$16.88
Deposition Preparation	General time	09/04/2015	GWK_2015	Deposition preparation consisting of correspondence with Brigham's office regarding CFX expert witness deposition of Carpenter.	0.125	\$135.00	\$16.88
Deposition Preparation	General time	09/04/2015	GWK_2015	Deposition preparation consisting of work session with Engelmann and Pagliaro regarding preparation exhibits, file material, CFX expert witness depositions and reports, and direction on preparation of market forces and supply & demand bullet points.	1	\$135.00	\$135.00
Deposition Preparation	General time	09/04/2015	GWK_2015	Deposition preparation consisting of various work sessions with Fabian regarding CFX expert witness depositions and reports.	0.25	\$135.00	\$33.75
Deposition Preparation	General time	09/05/2015	GWK_2015	Deposition preparation consisting of work session with Engelmann, Fabian, and Pagliaro on our appraisal; direction on exhibits needed; individual tasks regarding the Wekiva Parkway project, timeline, and City of Apopka annexations, and Kelly Park Road.	0.75	\$135.00	\$101.25

Deposition Preparation	General time	09/05/2015	GWK_2015	Deposition preparation consisting of research with the Department of Community Affairs for future land use plan amendments and timelines; work session with Engelmann regarding questions for Sembler on Fowler Groves; research Kelly Park Road widening.	3.5	\$135.00	\$472.50
Deposition Preparation	General time	09/07/2015	GWK_2015	Deposition preparation consisting of correspondence with Engelmann and Brigham regarding defendants motion in limine to exclude evidence or testimony; review correspondence and motion.	0.125	\$135.00	\$16.88
Deposition Preparation	General time	09/08/2015	GWK_2015	Deposition preparation consisting of work session with Patterson of Mesimer's office regarding Kelly Park Road future road widening, right of way taken to date, utilities, and limits of construction.	0.5	\$135.00	\$67.50
Deposition Preparation	General time	09/08/2015	GWK_2015	Deposition preparation consisting of in-house research of Venice Public anchored center with increase timeline due to governmental response time per Engelmann; prepare aerial exhibits and notes on the property.	1	\$135.00	\$135.00
Deposition Preparation	General time	09/08/2015	GWK_2015	Deposition preparation consisting of work session with Sembler contacts for background information on Fowler Groves project.	1	\$135.00	\$135.00
Deposition Preparation	General time	09/08/2015	GWK_2015	Deposition preparation consisting of work session with Taylor regarding direction on mapping of in-house land sales research provided by Engelmann.	0.125	\$135.00	\$16.88
Deposition Preparation	General time	09/08/2015	GWK_2015	Deposition preparation consisting of online research regarding Wekiva Parkway traffic and revenue study update; review and outline traffic and revenue study; other online research with City of Apopka regarding past and on-going annexations.	3	\$135.00	\$405.00
Deposition Preparation	General time	09/08/2015	GWK_2015	Deposition preparation consisting of various work sessions with Fabian regarding tasks and timeline, correspondence with Engelmann consisting of setting up phone conference with Kelly Park Crossings DRI project team.	0.25	\$135.00	\$33.75
Deposition Preparation	General time	09/09/2015	GWK_2015	Deposition preparation consisting of work session with Engelmann, Fabian, and Pagliaro regarding Engelmann and Brigham conference, discussions on prior tasks completed, project knowledge, market forces, continued direction on tasks needed for completion.	1.5	\$135.00	\$202.50
Deposition	General	09/09/2015	GWK_2015	Deposition preparation consisting of	0.125	\$135.00	\$16.88

Preparation	time			correspondence with Engelmann, Fabian, and Pagliaro on work session time. Brigham direction, other expert deposition.			
Deposition Preparation	General time	09/09/2015	GWK_2015	Deposition preparation consisting of work session with Fabian regarding Carpenter's rebuttal of our appraisal and Brigham's correspondence.	0.125	\$135.00	\$16.88
Deposition Preparation	General time	09/09/2015	GWK_2015	Deposition preparation consisting of work session with Hunt on direction to update GIS data files of TRAS assignments.	0.125	\$135.00	\$16.88
Deposition Preparation	General time	09/09/2015	GWK_2015	Deposition preparation consisting of re-verification of Fowler Groves timeline with Sean Davis of Sembler; work session with Engelmann regarding Fowler Groves timeline, aerial timeline, and beltway timeline.	0.5	\$135.00	\$67.50
Deposition Preparation	General time	09/09/2015	GWK_2015	Deposition preparation consisting of direction to Taylor on research needed on listing along Ponkan Road; review listing information and work session with Engelmann regarding same.	0.25	\$135.00	\$33.75
Deposition Preparation	General time	09/09/2015	GWK_2015	Deposition preparation consisting of continued research on Western Beltway interchanges per Engelmann; re-verification of land sales with Engelmann and Pagliaro; and continue outline of CFX traffic study update.	2	\$135.00	\$270.00
Deposition Preparation	General time	09/09/2015	GWK_2015	Deposition preparation consisting of re-verification of Rolling Oaks timeline with Todd Levine and Engelmann; work session with Engelmann regarding Rolling Oaks timeline, aerial timeline, and beltway timeline.	0.25	\$135.00	\$33.75
Deposition Preparation	General time	09/09/2015	GWK_2015	Deposition preparation consisting of various correspondence with Brigham's office regarding clarification of what was sent to CFX attorney's in response to subpoena of our file.	0.125	\$135.00	\$16.88
Deposition Preparation	General time	09/09/2015	GWK_2015	Deposition preparation consisting of work session with Engelmann and interview with Sue Murphy regarding water & sewer availability, City of Apopka planning documents, and City of Apopka file memorandum regarding the city's interchange overlay plans.	0.25	\$135.00	\$33.75
Deposition Preparation	General time	09/10/2015	GWK_2015	Deposition preparation consisting of work session with Engelmann regarding contract of Home family property for proposed Publix shopping center.	0.125	\$135.00	\$16.88
Deposition Preparation	General time	09/10/2015	GWK_2015	Deposition preparation consisting of file management, create topo map per Engelmann, review interchange aerials prepared by Pagliaro and make edits.	1	\$135.00	\$135.00

Trial Preparation	General time	09/11/2015	GWK_2015	Trial preparation consisting of various work sessions with Pagliaro and Black regarding digital and hard file and responses to Brigham's correspondence; correspondence with Englemann regarding comparable photos.	0.5	\$135.00	\$67.50
Trial Preparation	General time	09/11/2015	GWK_2015	Trial preparation consisting of second review of data file regarding digital file sent to CFX attorney.	0.25	\$135.00	\$33.75
Trial Preparation	General time	09/11/2015	GWK_2015	Trial preparation consisting of correspondence and work session with Englemann, post deposition, regarding direction of tasks needed to be completed per Brigham's correspondence.	0.167	\$135.00	\$22.55
Trial Preparation	General time	09/11/2015	GWK_2015	Trial preparation consisting of work sessions with Pagliaro and Black regarding our data file sent to CFX attorney and additional information that might need to be sent; discussions on reply's to Brigham's correspondence.	0.25	\$135.00	\$33.75
Trial Preparation	General time	09/12/2015	GWK_2015	Trial preparation consisting of correspondence with Pagliaro regarding our sales photographs and photographs of Carpenter sales.	0.125	\$135.00	\$16.88
Trial Preparation	General time	09/15/2015	GWK_2015	Trial preparation consisting of work sessions with Englemann, Fabian, Worley, and Pagliaro regarding tasks to be completed and status of additional work product.	0.25	\$135.00	\$33.75
Trial Preparation	General time	09/15/2015	GWK_2015	Trial preparation consisting of work session with Englemann regarding direction on trial exhibits to be sent and handled with Brigham's office.	0.125	\$135.00	\$16.88
Trial Preparation	General time	09/15/2015	GWK_2015	Trial preparation consisting of review comparable photographs and labels, and upload to dropbox and send to Brigham's office.	0.25	\$135.00	\$33.75
Trial Preparation	General time	09/15/2015	GWK_2015	Trial preparation consisting of work session (phone) with Ken Fleming regarding trial exhibits and correspondence; correspondence with Fleming regarding same.	0.125	\$135.00	\$16.88
Trial Preparation	General time	09/15/2015	GWK_2015	Trial preparation consisting of correspondence with Englemann and Brigham regarding PD name and status of our land sale number two; direction from Englemann regarding same.	0.25	\$135.00	\$33.75
Trial Preparation	General time	09/15/2015	GWK_2015	Trial preparation consisting of work sessions (phone) with Ken Fleming regarding confirmation of correspondence and additional work product.	0.125	\$135.00	\$16.88
Trial Preparation	General time	09/15/2015	GWK_2015	Trial preparation consisting of work	0.125	\$135.00	\$16.88

	time			session with Pagliaro regarding comparable ground level photographs to be labeled and sent to Brigham as requested; correspondence with Brigham's office regarding same.			
Trial Preparation	General time	09/15/2015	GWK_2015	Trial preparation consisting of work session (phone) with Brigham, Engelmann, Fabian, and Pagliaro regarding additional discovery work product and exhibits.	0.167	\$135.00	\$22.55
Trial Preparation	General time	09/17/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham regarding status conference hearing with Judge Kest set for September 24, 2015; work session with Engelmann regarding same.	0.25	\$135.00	\$33.75
Trial Preparation	General time	09/18/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham's office regarding Engelmann's deposition material needed to be resent.	0.25	\$135.00	\$33.75
Trial Preparation	General time	09/22/2015	GWK_2015	Trial preparation consisting of edits to land comparables summary spreadsheet per Brigham's office; correspondence with Brigham's office regarding same.	0.5	\$135.00	\$67.50
Trial Preparation	General time	09/22/2015	GWK_2015	Trial preparation consisting of work session (phone) with Brigham's office regarding copy of Engelmann's deposition and timing of preparation for hearing.	0.125	\$135.00	\$16.88
Trial Preparation	General time	09/22/2015	GWK_2015	Trial preparation consisting of work session with Engelmann regarding scheduling of hearing preparation with Brigham for September 23, 2015; correspondence with Brigham's office consisting of Engelmann's depo transcript, send to Engelmann, and file.	0.167	\$135.00	\$22.55
Trial Preparation	General time	09/23/2015	GWK_2015	Trial preparation consisting of work session Brigham, Engelmann, Fabian, and Pagliaro regarding hearing scheduled for September 24 on Daubert; direction from Brigham regarding hearing preparation; review of all exhibits for plaintiff and defendant.	3	\$135.00	\$405.00
Trial Preparation	General time	09/24/2015	GWK_2015	Trial preparation consisting of calls to Sue Murphy on City of Apopka comprehensive plan.	0.125	\$135.00	\$16.88
Trial Preparation	General time	09/24/2015	GWK_2015	Trial preparation consisting of work session with Engelmann on hearing scheduled for today and continued research needed on City of Apopka comprehensive plan.	0.125	\$135.00	\$16.88
Trial Preparation	General time	09/25/2015	GWK_2015	Trial preparation consisting of work session with Engelmann regarding updates needed from Brigham's office after hearing.	0.125	\$135.00	\$16.88

Trial Preparation	General time	09/25/2015	GWK_2015	Trial preparation consisting of correspondence with Pagliaro regarding scheduling work session with Heyward Centrell in our office.	0.125	\$135.00	\$16.88
Correspondence	General time	09/29/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham's office for update after hearing.	0.125	\$135.00	\$16.88
Correspondence	General time	09/30/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham's office regarding status of hearing, trial dates and continuance, and offer of judgement.	0.125	\$135.00	\$16.88
Trial Preparation	General time	10/01/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham's office regarding update on case status, hearing, and trial prep.	0.125	\$135.00	\$16.88
Trial Preparation	General time	10/02/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham's office regarding offer of judgement; file offer of judgement.	0.25	\$135.00	\$33.75
Trial Preparation	General time	10/07/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham's office regarding testimony transcript from Daubert and scope of project hearing; begin review of testimony.	0.5	\$135.00	\$67.50
Trial Preparation	General time	10/09/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham's office regarding defendant's exhibits; begin review of exhibits per Engelmann.	0.25	\$135.00	\$33.75
Trial Preparation	General time	10/09/2015	GWK_2015	Trial preparation consisting of work session with Engelmann regarding scheduling issues and trial preparation work session with Brigham.	0.125	\$135.00	\$16.88
Trial Preparation	General time	10/12/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham's office confirming trial preparation work session for Englemann and Brigham.	0.125	\$135.00	\$16.88
Trial Preparation	General time	10/12/2015	GWK_2015	Trial preparation consisting of work session with Engelmann regarding scheduling trial prep work session with Brigham; work session (phone) with Brigham's office regarding same.	0.125	\$135.00	\$16.88
Trial Preparation	General time	10/14/2015	GWK_2015	Trial preparation consisting of correspondence from Brigham's office; review subpoena for trial and file.	0.125	\$135.00	\$16.88
Trial Preparation	General time	10/19/2015	GWK_2015	Trial preparation consisting of review documents for timeline on Plaza Venezia per Engelmann and send	0.5	\$135.00	\$67.50
Trial Preparation	General time	10/20/2015	GWK_2015	Trial preparation consisting of work session with Poulos regarding laser pointers needed; order laser pointers.	0.125	\$135.00	\$16.88

Trial Preparation	General time	10/20/2015	GWK_2015	Trial preparation consisting of work session with Engelmann, Fabian, and Pagliaro regarding direction of preparation and additional work product needed.	1	\$135.00	\$135.00
Trial Preparation	General time	10/20/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham's office regarding update on trial schedule and court documents.	0.125	\$135.00	\$16.88
Trial Preparation	General time	10/20/2015	GWK_2015	Trial preparation consisting of correspondence with Sembler contacts for continued confirmation of Fowler Groves.	0.125	\$135.00	\$16.88
Trial Preparation	General time	10/21/2015	GWK_2015	Trial preparation consisting of review of all defendant's exhibits per Engelmann and correspondence with Brigham's office regarding exhibits we have not received; notes on defendant's exhibits list sheet to review with Engelmann.	6	\$135.00	\$810.00
Trial Preparation	General time	10/21/2015	GWK_2015	Trial preparation consisting review of Florida Hospital contract received from Sembler; correspondence with Sembler setting up phone call with Engelmann for further confirmation.	0.25	\$135.00	\$33.75
Trial Preparation	General time	10/22/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham's office regarding defendant's trial exhibits.	0.25	\$135.00	\$33.75
Trial Preparation	General time	10/22/2015	GWK_2015	Trial preparation consisting of work sessions with Engelmann regarding Winter Garden Village timeline and Engelmann's continued verification with Sembler contact (developer); correspondence with Engelmann and Brigham's office regarding same.	0.5	\$135.00	\$67.50
Trial Preparation	General time	10/23/2015	GWK_2015	Trial preparation consisting of work sessions with Engelmann regarding timelines for Winter Garden Village and Rolling Oaks; create timeline for Winter Garden Village.	1	\$135.00	\$135.00
Trial Preparation	General time	10/25/2015	GWK_2015	Trial preparation consisting of edits to Winter Garden Village timeline per Engelmann; create timeline for Rolling Oaks; review of in-house documents and online documents regarding Winter Garden Village and Rolling Oaks.	3	\$135.00	\$405.00
Trial Preparation	General time	10/26/2015	GWK_2015	Trial preparation consisting of work sessions with Engelmann; prepare work product of past retail appraisal assignments showing site costs and overall development costs; review of Engelmann deposition for marked exhibits.	0.5	\$135.00	\$67.50
Trial Preparation	General time	10/26/2015	GWK_2015	Trial preparation consisting of correspondence with Engelmann and Brigham's office regarding trial schedule, continued research, and	0.25	\$135.00	\$33.75



update on case.

Trial Preparation	General time	10/27/2015	GWK_2015	Trial preparation consisting of work sessions with Engelmann; direction from Engelmann on Rolling Oaks historical research needed; research Rolling Oaks and edit timeline per Englemann; edits to Winter Garden timeline per Engelmann.	1	\$135.00	\$135.00
Trial Preparation	General time	10/27/2015	GWK_2015	Trial preparation consisting of work session with Engelmann, Fabian, and Pagliaro regarding overall preparation, file maintenance and continued research possibly needed.	0.25	\$135.00	\$33.75
Trial Preparation	General time	10/28/2015	GWK_2015	Trial preparation per Engelmann consisting of research with St. Johns River Water Management District of Florida Hospital's permitting documents; review of contract between Sembler and Florida Hospital; set up call with Sembler for confirmation.	1.5	\$135.00	\$202.50
Trial Preparation	General time	10/28/2015	GWK_2015	Trial preparation per Engelmann consisting of review of permitting research; work session (phone) with Sean Davis of Sembler and Pagliaro regarding contract contingencies, relocation of pond, and contact information of property owners' association.	0.25	\$135.00	\$33.75
Trial Preparation	General time	10/29/2015	GWK_2015	Trial preparation consisting of detail of inspection dates of subject, market area, and sales per Engelmann; review research prepared by Taylor for future reference; update on trial testimony schedule.	0.25	\$135.00	\$33.75
Trial Preparation	General time	10/31/2015	GWK_2015	Trial preparation consisting of correspondence with Brigham's office and our staff regarding Engelmann's notes.	0.125	\$135.00	\$16.88

*Person Subtotal* 66.002 \$8,910.27

Janni Poulos

Trial Preparation	General time	10/14/2015	JP	Deposition and trial preparation consisting of printing out plaintiff's and defendant's exhibits; separate all trial exhibits into five binder volumes.	3.861	\$95.00	\$366.80
Trial Preparation	General time	10/15/2015	JP	Deposition and trial preparation consisting of printing out plaintiff's and defendant's exhibits; separate all trial exhibits into five binder volumes.	6.653	\$95.00	\$632.04
Trial Preparation	General time	10/20/2015	JP	Trial preparation consisting of research for supplies for trial and purchase new laser pointers.	0.77	\$95.00	\$73.15
Deposition Preparation	General time	10/30/2015	JP	Deposition preparation consisting of mapping of school locations per Engelmann.	1.359	\$95.00	\$129.11

*Person Subtotal* 12.643 \$1,201.09

Jennifer Hunt	Deposition Preparation	General time	09/09/2015	JH	GIS mapping	0.5	\$95.00	\$47.50
Joan Black	Correspondence	General time	11/26/2015	JB	Correspondence from Kerry Collins to Joan Black regarding Marty's testimony	0.125	\$95.00	\$11.88
John Fabian	Work Session	General time	10/03/2014	JRF	Work session with Engelmann, Kane, and Pagliaro regarding the case issues and direction of research still needed.	0.5	\$175.00	\$87.50
	Work Session	General time	10/21/2014	JRF	Work session with Engelmann, Kane, Worley, and Pagliaro regarding status of case.	0.167	\$175.00	\$29.23
	Work Session	General time	01/28/2015	JRF	Work session with Brigham, Huston, Kane and Pagliaro regarding status of case.	0.25	\$175.00	\$43.75
	Work Session	General time	01/28/2015	JRF	Work session with A. Brigham, Brigham's staff, G. Kane and S. Pagliaro regarding status of case	0.133	\$175.00	\$23.28
	Work Session	General time	05/12/2015	JRF	Work session with Pagliaro regarding sales search and structure of the case.	0.5	\$175.00	\$87.50
	Work Session	General time	05/12/2015	JRF	Work session with Engelmann, Kane, Worley and Pagliaro regarding status of case	0.25	\$175.00	\$43.75
	Inspection	General time	05/14/2015	JRF	Inspect subject site and surrounding market area.	2	\$175.00	\$350.00
	Work Session	General time	05/22/2015	JRF	Work session with S. Pagliaro regarding the course of sales research. Reviewed data file and summary prepared by S. Pagliaro.	1.286	\$175.00	\$225.05
	Sales Research	General time	05/28/2015	JRF	Work session with G. Kane regarding sales. Review and analyze land sales provided by G. Kane. Work session with S. Pagliaro regarding file set up.	1.305	\$175.00	\$228.38
	Work Session	General time	05/29/2015	JRF	Work session with Engelmann, Kane, Pagliaro regarding status of case.	0.875	\$175.00	\$153.13
	Work Session	General time	06/02/2015	JRF	Work session with Engelmann, Pagliaro, Kane and Worley regarding status of case and sales	0.75	\$175.00	\$131.25
	Work Session	General time	06/03/2015	JRF	Work session with Sue Murphy regarding her report status.	0.25	\$175.00	\$43.75
	Work Session	General time	06/05/2015	JRF	Work session with Kane, Pagliaro and Engelmann on structure of the assignment.	0.75	\$175.00	\$131.25
	Appraisal Analysis and Report Writing	General time	06/08/2015	JRF	Review Carpenter's appraisal report. Set up Excel and Word files for subject and begin draft report.	3.365	\$175.00	\$588.88
	Sales Research	General time	06/11/2015	JRF	Review in house sales and made CoStar search of interchange land sales.	3.5	\$175.00	\$612.50
	Work Session	General time	06/12/2015	JRF	Work session with Kane and Engelmann regarding status of case	0.25	\$175.00	\$43.75

Other Expert Report Review	General time	06/12/2015	JRF	Read Sue Murphy's land planning report on the adjacent Chapman site. Read Cantrell's appraisal report on adjacent Chapman site. Internet research on Wekiva interchange.	3.25	\$175.00	\$568.75
Work Session	General time	06/15/2015	JRF	Work session with Kane and Pagliaro regarding sales and DRI locations.	1.25	\$175.00	\$218.75
Work Session	General time	06/15/2015	JRF	Work session with Sue Murphy regarding land planning.	0.25	\$175.00	\$43.75
Work Session	General time	06/19/2015	JRF	Work session with Kane and Engelmann regarding status of draft appraisal, land sales and market area research to date.	3	\$175.00	\$525.00
Appraisal Analysis and Report Writing	General time	06/20/2015	JRF	Continue writing draft report. Focus on market area data and trends and the Wekiva Parkway project.	7.88	\$175.00	\$1,344.00
Appraisal Analysis and Report Writing	General time	06/22/2015	JRF	Continue writing draft report. Review and edit sales write ups and edit adjustment grid.	8.26	\$175.00	\$1,445.50
Appraisal Analysis and Report Writing	General time	06/23/2015	JRF	Continue writing draft report	7.5	\$175.00	\$1,312.50
Appraisal Analysis and Report Writing	General time	06/24/2015	JRF	Continue writing draft report through the highest and best use. Considerable attention was given to the development of the other interchanges on the beltway.	9.5	\$175.00	\$1,662.50
Appraisal Analysis and Report Writing	General time	06/25/2015	JRF	Continue with draft report through HBU and into sales analysis.	5	\$175.00	\$875.00
Appraisal Analysis and Report Writing	General time	06/25/2015	JRF	Continue writing draft report, complete sales analysis, sales grid and write ups.	7	\$175.00	\$1,225.00
Work Session	General time	06/25/2015	JRF	Work session with Kane, Engelmann, Pagliaro and Brigham's office to schedule work session.	7	\$175.00	\$1,225.00
Work Session	General time	06/26/2015	JRF	Work session with Andrew Brigham regarding case. Additional sales analysis. Work sessions with M. Engelmann and S. Pagliaro regarding interchange development timelines and interchange sales.	8	\$175.00	\$1,400.00
Appraisal Analysis and Report Writing	General time	06/27/2015	JRF	Edit draft for delivery to client. Work session with Pagliaro regarding additional search.	3.203	\$175.00	\$560.53
Appraisal Analysis and Report Writing	General time	06/28/2015	JRF	Land sales analysis and apply those revisions to the draft appraisal report.	4.25	\$175.00	\$743.75
Work Session	General time	07/02/2015	JRF	Work sessions with Engelmann, Pagliaro and Brigham regarding draft appraisal report	3	\$175.00	\$525.00

Appraisal Analysis and Report Writing	General time	07/06/2015	JRF	Edits to draft report; work session with S. Pagliaro regarding edits to interchange development analysis. Work session with Reggie Mesimer and James Patterson regarding elevations of site.	5.25	\$175.00	\$918.75
Appraisal Analysis and Report Writing	General time	07/07/2015	JRF	Edit final report to show the addition of Parcel 209. Work sessions with A. Brigham, M. Engelmann and S. Pagliaro.	4.48	\$175.00	\$784.00
Rebuttal	General time	07/14/2015	JRF	Rebuttal report preparation consisting of various work sessions and correspondence with Engelmann, Kane, and Pagliaro regarding report and exchange date.	0.25	\$175.00	\$43.75
Rebuttal	General time	07/14/2015	JRF	Work session with Andrew Brigham regarding rebuttal report.	0.25	\$175.00	\$43.75
Rebuttal	General time	07/15/2015	JRF	Work session with Pagliaro on rebuttal analysis regarding sales and highest and best use	0.5	\$175.00	\$87.50
Rebuttal	General time	07/23/2015	JRF	Review and revise rebuttal document. Work sessions with S. Pagliaro, M. Engelmann and G Kane	6.55	\$175.00	\$1,146.25
Rebuttal	General time	07/27/2015	JRF	Review rebuttal letter edits.	0.75	\$175.00	\$131.25
Rebuttal	General time	07/28/2015	JRF	Work session with Andrew Brigham and M. Engelmann regarding rebuttal letter.	0.5	\$175.00	\$87.50
Rebuttal	General time	07/28/2015	JRF	Final rebuttal review	0.25	\$175.00	\$43.75
Deposition Preparation	General time	09/01/2015	JRF	Review subpoena documents sent by client. Begin depo outline for Engelmann	1.5	\$175.00	\$262.50
Deposition Preparation	General time	09/01/2015	JRF	Review file for important deposition material. Work session with client regarding additional data required.	1.25	\$175.00	\$218.75
Deposition Preparation	General time	09/01/2015	JRF	Work sessions with S. Pagliaro and G. Kane regarding deposition preparation.	0.75	\$175.00	\$131.25
Deposition Preparation	General time	09/03/2015	JRF	Prepare research data for M. Engelmann in order to further confirm land purchase on Kelly Park Road.	0.42	\$175.00	\$73.50
Deposition Preparation	General time	09/03/2015	JRF	Prepare outline for deposition response for Marty regarding Cantrell's deposition on Chapman and Carpenter's rebuttal letter for our report on Kelly.	3.055	\$175.00	\$534.63
Deposition Preparation	General time	09/03/2015	JRF	Review Cantrell's deposition on Chapman property.	1.254	\$175.00	\$219.45
Deposition Preparation	General time	09/03/2015	JRF	Read Brigham's deposition of Carpenter on Chapman case. Prepare outline of deposition for Engelmann. Work session with Engelmann, Kane and Pagliaro regarding deposition.	5.25	\$175.00	\$918.75

Deposition Preparation	General time	09/08/2015	JRF	Read Motion to Exclude Cantrell's testimony document. Read Memorandum of Law re: Scope of the Project Rule. Additional research regarding Kelly Park Crossing OPI. Additional research regarding Wekiva Parkway. Prepare deposition outline for Engelmann	6.25	\$175.00	\$1,093.75
Deposition Preparation	General time	09/08/2015	JRF	Work session with Engelmann, Kane and Pagliaro regarding deposition prep.	0.5	\$175.00	\$87.50
Deposition Preparation	General time	09/09/2015	JRF	Continued deposition preparation. Review and analysis of Brigham's motion against CFX. Prepare outline for Engelmann. Work sessions with Engelmann, Kane and Pagliaro. Work sessions with Brigham.	6.34	\$175.00	\$1,109.50
Trial Preparation	General time	09/15/2015	JRF	Trial prep work session with Engelmann, Kane and Pagliaro.	2	\$175.00	\$350.00
Trial Preparation	General time	09/18/2015	JRF	Work session with Engelmann, Kane and Brigham regarding trial prep and upcoming emergency hearing and testimony in Orlando on September 24, 2015.	0.5	\$175.00	\$87.50
Trial Preparation	General time	09/18/2015	JRF	Additional exhibits for Brigham. Work session with Kyle Wilkes of Apopka regarding interchange uses on Kelly Park Road.	2.825	\$175.00	\$494.38
Trial Preparation	General time	09/23/2015	JRF	Trial prep work session work with Engelmann, Kane, Pagliaro and Brigham	3	\$175.00	\$525.00
Trial Preparation	General time	09/23/2015	JRF	Trial preparation for Engelmann regarding review of previous cases involving scope of the project rule and prepare outline for meeting with judge regarding Engelmann's testimony.	2.36	\$175.00	\$413.00
Trial Preparation	General time	09/23/2015	JRF	Trial prep work session with Engelmann and Pagliaro regarding cross examination preparation for Engelmann	1.75	\$175.00	\$306.25
Trial Preparation	General time	09/23/2015	JRF	Read Engelmann deposition and prepare outline based on issues raised in deposition, for work session with Brigham and hearing testimony in front of judge and opposing counsel on Thursday.	4.901	\$175.00	\$857.68
Trial Preparation	General time	10/20/2015	JRF	Trial preparation work sessions with Engelmann, Kane and Pagliaro. Research hotel supply and demand data for subject market area.	4.48	\$175.00	\$784.00
<i>Person Subtotal</i>					162.439		\$28,426.83

Laura Taylor	Sales Research	General time	10/28/2014	LT	Direction from Pagliaro for online research on land sale comparables; land sale write ups and research.	3.5	\$95.00	\$332.50
	Deposition	General	09/04/2015	LT	Deposition preparation consisting of	2.223	\$95.00	\$211.19

Preparation	time				researching job log database for shopping center/retail appraisals per Marty Engelmann.			
Deposition Preparation	General time	09/08/2015	LT		Deposition preparation consisting of GIS mapping of Puclix land sales in Orange and Osceola counties per Engelmann.	1.17	\$95.00	\$111.15
Deposition Preparation	General time	09/09/2015	LT		Deposition preparation consisting of research Ponkan Road, Apopka commercial land listings from Carpenter's appraisal per George Kane.	0.95	\$95.00	\$90.75
Trial Preparation	General time	10/29/2015	LT		Trial preparation consisting of residential research of Belmont Reserve & Rock Springs Estates and Internal Orange County job log query.	2.084	\$95.00	\$197.98
<i>Person Subtotal</i>						<b>9.827</b>		<b>\$933.57</b>

Martin Engelmann	Work Session	General time	06/17/2014	Martin Engelmann	Correspondence with Pagliaro containing a copy of an appraisal previously performed on the property; review Executive Summary.	0.25	\$355.00	\$88.75
	Work Session	General time	06/17/2014	Martin Engelmann	Work session with Pagliaro containing details of the subject property; review Executive Summary.	0.25	\$355.00	\$88.75
	Inspection	General time	06/24/2014	Martin Engelmann	Inspection of the subject property and surrounding market area with Pagliaro, along with preliminary land sales.	6	\$355.00	\$2,130.00
	Work Session	General time	10/03/2014	Martin Engelmann	Work session with Brigham regarding data (comparable sales; Kelly Park Crossing; Palmer DRI) and Highest & Best Use of property.	0.5	\$355.00	\$177.50
	Work Session	General time	10/03/2014	Martin Engelmann	Work session with Kane, Pagliaro, and Fabian regarding the various case issues and instruction moving forward.	0.5	\$355.00	\$177.50
	Work Session	General time	10/21/2014	Martin Engelmann	Work session with Fabian, Kane, Worley, and Pagliaro regarding status of case.	0.167	\$355.00	\$59.29
	Work Session	General time	01/16/2015	Martin Engelmann	Work session with Kane regarding Andrew Brigham requesting expert work sessions for January 20, 2015.	0.083	\$355.00	\$29.47
	Correspondence	General time	01/19/2015	Martin Engelmann	Correspondence with Brigham and work session with Kane regarding scheduling a phone conference and calendar for January 28, 2015.	0.167	\$355.00	\$59.29
	Correspondence	General time	04/23/2015	Martin Engelmann	Correspondence with Counsel regarding planning report from Sue Murphy.	0.125	\$355.00	\$44.38
	Work Session	General time	04/23/2015	Martin Engelmann	Work session with George Kane regarding due dates.	0.125	\$355.00	\$44.38
	Correspondence	General time	04/23/2015	Martin Engelmann	Correspondence with Counsel regarding appraisal exchange date; work session with George Kane.	0.83	\$355.00	\$294.65
	Correspondence	General time	04/23/2015	Martin Engelmann	Correspondence with Counsel regarding	0.125	\$355.00	\$44.38

	time		Engelmann	prior appraisal report from Heyward Cantrell.			
Rebuttal	General time	04/28/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding expert reports.	1	\$355.00	\$355.00
Correspondence	General time	05/28/2015	Martin Engelmann	Correspondence with Kane, Fabian, Worley, and Pagliaro regarding Kane's review of Cantrell's Chapman information and Kane's review of FDOTs subject property appraisal, along with direction for land sales research, planning information needed, and analysis.	0.125	\$355.00	\$44.38
Correspondence	General time	05/28/2015	Martin Engelmann	Correspondence with Kane regarding comps for report.	0.125	\$355.00	\$44.38
Sales Research	General time	05/28/2015	Martin Engelmann	Review of new sales data, aerial map from Kane for additional discussion on research and highest and best use.	0.5	\$355.00	\$177.50
Correspondence	General time	05/29/2015	Martin Engelmann	Correspondence with Andrew Brigham regarding expert witness list.	0.125	\$355.00	\$44.38
Work Session	General time	06/02/2015	Martin Engelmann	Work session with George Kane regarding Chris Kirschner of BDG Architects and site development costs.	0.125	\$355.00	\$44.38
Work Session	General time	06/04/2015	Martin Engelmann	Work session with Counsel regarding Heyward Cantrell's upcoming deposition; scope of project, etc..	0.5	\$355.00	\$177.50
Work Session	General time	06/05/2015	Martin Engelmann	Work session with George Kane, John Fabian, Steve Pagliaro and Chris Worley regarding trend analysis research for annexation, building permits, absorption, and pricing.	0.75	\$355.00	\$266.25
Correspondence	General time	06/11/2015	Martin Engelmann	Correspondence with John Fabian regarding subject's date of deposit.	0.125	\$355.00	\$44.38
Correspondence	General time	06/12/2015	Martin Engelmann	Correspondence with Engineer regarding status of draft reports.	0.125	\$355.00	\$44.38
Work Session	General time	06/12/2015	Martin Engelmann	Work session with George Kane and John Fabian.	0.25	\$355.00	\$88.75
Correspondence	General time	06/16/2015	Martin Engelmann	Correspondence with George Kane regarding all permitted DRIs in the market area.	0.25	\$355.00	\$88.75
Work Session	General time	06/19/2015	Martin Engelmann	Work sessions with George Kane and John Fabian.	0.75	\$355.00	\$266.25
Work Session	General time	06/26/2015	Martin Engelmann	Multiple work sessions with John Fabian; review of comparable sales, array, and review of preliminary analysis; inspection of partial list of land comps.	2.5	\$355.00	\$887.50
Correspondence	General time	06/26/2015	Martin Engelmann	Correspondence with Counsel regarding site verification of Leon property in Ocala, FL.	0.125	\$355.00	\$44.38
Correspondence	General time	06/27/2015	Martin Engelmann	Multiple correspondences with John Fabian and Andrew Brigham, Esquire.	0.5	\$355.00	\$177.50

Correspondence	General time	06/28/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding conference call scheduled for 7/28/15.	0.125	\$355.00	\$44.38
Correspondence	General time	06/28/2015	Martin Engelmann	Multiple correspondences with John Fabian.	0.5	\$355.00	\$177.50
Work Session	General time	07/01/2015	Martin Engelmann	Work session with Andrew Brigham, Esquire and John Fabian.	0.25	\$355.00	\$88.75
Work Session	General time	07/02/2015	Martin Engelmann	Work sessions with Andrew Brigham, Steve Paglano and John Fabian to discuss draft report, comparable sales, etc.; review edits.	3	\$355.00	\$1,065.00
Work Session	General time	07/07/2015	Martin Engelmann	Multiple work sessions with John Fabian; read draft report; database research.	2	\$355.00	\$710.00
Rebuttal	General time	07/14/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding due date of rebuttal reports; work sessions with Fabian and Kane regarding assemblage.	0.5	\$355.00	\$177.50
Rebuttal	General time	07/27/2015	Martin Engelmann	Review rebuttal report; multiple work sessions with John Fabian.	1.5	\$355.00	\$532.50
Rebuttal	General time	07/28/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding our rebuttal letter; correspondence with Counsel regarding his review of our rebuttal report.	0.25	\$355.00	\$88.75
Correspondence	General time	07/28/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding mediation scheduled for August 14, 2015.	0.125	\$355.00	\$44.38
Trial Preparation	General time	08/19/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding pertinent dates for Kelly trial; work sessions with Kane and Black.	0.5	\$355.00	\$177.50
Deposition Preparation	General time	08/25/2015	Martin Engelmann	Various correspondences with Counsel's assistant regarding scheduling dates for deposition.	0.5	\$355.00	\$177.50
Deposition Preparation	General time	08/25/2015	Martin Engelmann	Correspondence with Counsel regarding documents exchanged prior to my deposition on 9/10/15.	0.125	\$355.00	\$44.38
Deposition Preparation	General time	08/31/2015	Martin Engelmann	Work session with Counsel's assistant regarding deposition date; work session with Joan Black, George Kane and John Fabian.	1	\$355.00	\$355.00
Rebuttal	General time	09/01/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding Carpenter's rebuttal report.	0.125	\$355.00	\$44.38
Rebuttal	General time	09/01/2015	Martin Engelmann	Correspondence with John Fabian in my office regarding any rebuttal documents from Carpenter on our appraisal.	0.125	\$355.00	\$44.38
Deposition Preparation	General time	09/03/2015	Martin Engelmann	Correspondence with Counsel regarding Notice of Deposition Duces Tecum for my deposition on 9/10/15.	0.125	\$355.00	\$44.38
Rebuttal	General time	09/03/2015	Martin Engelmann	Multiple work sessions with John	2	\$355.00	\$710.00



	time		Engelmann	Fabian, Steve Pagliaro and Joan Black; read Carpenter's rebuttal report.			
Work Session	General time	09/04/2015	Martin Engelmann	Numerous work sessions with Laura Taylor, Steve Pagliaro, and John Fabian.	1	\$355.00	\$355.00
Deposition Preparation	General time	09/05/2015	Martin Engelmann	Work session with Fabian, Kane and Pagliaro regarding deposition.	6.25	\$355.00	\$2,218.75
Deposition Preparation	General time	09/06/2015	Martin Engelmann	Deposition preparation consisting of multiple work sessions with Kane, Fabian, and Pagliaro on our appraisal; direction on exhibits needed; individual tasks regarding the Wekiva Pkwy project, timeline, and City of Apopka annexations; and Kelly Park Road.	7	\$355.00	\$2,485.00
Deposition Preparation	General time	09/07/2015	Martin Engelmann	Correspondence with Counsel regarding new contract on land across Kelly Park Road. Deposition preparation consisting of correspondence with Kane and Brigham regarding defendants motion in limine to exclude evidence or testimony; review correspondence and motion.	3	\$355.00	\$1,065.00
Deposition Preparation	General time	09/08/2015	Martin Engelmann	Deposition preparation consisting of various work sessions with Fabian regarding tasks and timeline; correspondence with Kane consisting of setting up phone conference with Kelly Park Crossings DRI project team.	0.25	\$355.00	\$88.75
Deposition Preparation	General time	09/08/2015	Martin Engelmann	Reconfirmation of the primary land sales with Steve Pagliaro.	5.25	\$355.00	\$1,863.75
Deposition Preparation	General time	09/08/2015	Martin Engelmann	Correspondence with Counsel regarding verification with project manager for Kelly Park Crossing DRI.	0.125	\$355.00	\$44.38
Deposition Preparation	General time	09/09/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding contact information for Bill Kelly.	0.25	\$355.00	\$88.75
Deposition Preparation	General time	09/09/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding rebuttal reports from Petitioner's experts.	0.125	\$355.00	\$44.38
Deposition Preparation	General time	09/09/2015	Martin Engelmann	Work session with Bill Kelly.	0.125	\$355.00	\$44.38
Rebuttal	General time	09/09/2015	Martin Engelmann	Continued deposition preparation; multiple work sessions with George Kane, Steve Pagliaro and John Fabian; work session with Andrew Brigham, Esquire.	9	\$355.00	\$3,195.00
Deposition	General time	09/10/2015	Martin Engelmann	Finalize deposition preparation; attend deposition per subpoena at law offices of Shutts & Bowen in Tampa; verification of Home contract with Bob Peck; verification of Kelly Park DRI status.	12	\$355.00	\$4,260.00
Deposition	General time	09/11/2015	Martin Engelmann	Correspondence with Counsel with regard to documents brought to my	0.125	\$355.00	\$44.38

				deposition.				
Deposition	General time	09/15/2015	Martin Engelmann	Correspondence with Counsel regarding files brought to deposition.	0.125	\$355.00	\$44.38	
Hearing Preparation	General time	09/18/2015	Martin Engelmann	Conference with Andrew Brigham regarding scope of project.	1	\$355.00	\$355.00	
Hearing Preparation	General time	09/22/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding defendant's exhibits for trial.	0.125	\$355.00	\$44.38	
Hearing Preparation	General time	09/22/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding petitioner's exhibits for trial.	0.125	\$355.00	\$44.38	
Hearing Preparation	General time	09/23/2015	Martin Engelmann	Work session with John Fabian, Steve Pagliaro and George Kane; work session with Andrew Brigham; preparation of outline.	7	\$355.00	\$2,485.00	
Hearing Preparation	General time	09/23/2015	Martin Engelmann	Correspondence with George Kane regarding exact dates of trial.	0.125	\$355.00	\$44.38	
Hearing Preparation	General time	09/23/2015	Martin Engelmann	Correspondence from Counsel's assistant regarding appraisals prepared by Walter Carpenter; work session with TRAS staff regarding preparing trial exhibits notebook(s).	2	\$355.00	\$710.00	
Hearing Testimony	General time	09/24/2015	Martin Engelmann	Orlando all day. Attend emergency hearing.	11	\$355.00	\$3,905.00	
Trial Preparation	General time	10/08/2015	Martin Engelmann	Conference with Andrew Brigham, Esquire.	0.25	\$355.00	\$88.75	
Trial Preparation	General time	10/12/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding trial preparation with Counsel.	0.125	\$355.00	\$44.38	
Trial Preparation	General time	10/14/2015	Martin Engelmann	Correspondence with Counsel's assistant regarding subpoena for trial; re-inspection of subject property and market area.	1	\$355.00	\$355.00	
Trial Preparation	General time	10/17/2015	Martin Engelmann	Correspondence from Counsel regarding deposition transcripts of Ellen Hardgrove and Bob Peck.	0.125	\$355.00	\$44.38	
Trial Preparation	General time	10/19/2015	Martin Engelmann	Correspondence from Counsel's assistant regarding Home transaction.	0.125	\$355.00	\$44.38	
Trial Preparation	General time	10/20/2015	Martin Engelmann	Work session with George Kane, Steve Pagliaro and John Fabian; work session with Ken Fleming @ Brigham office; begin process of MCE's confirmation of comparable land sales; being process of re-confirming TRAS land sales.	1.5	\$355.00	\$532.50	
Trial Preparation	General time	10/21/2015	Martin Engelmann	Further verification process; trial exhibit review.	1.5	\$355.00	\$532.50	
Trial Preparation	General time	10/22/2015	Martin Engelmann	Trial preparation.	4	\$355.00	\$1,420.00	
Trial Preparation	General time	10/23/2015	Martin Engelmann	Trial preparation with Andrew Brigham.	17	\$355.00	\$6,035.00	

Trial Preparation	General time	10/24/2015	Martin Engelmann	Trial preparation.	8	\$355.00	\$2,840.00
Trial Preparation	General time	10/25/2015	Martin Engelmann	Trial preparation.	8	\$355.00	\$2,840.00
Trial	General time	10/26/2015	Martin Engelmann	Trial preparation.	7	\$355.00	\$2,485.00
Trial	General time	10/27/2015	Martin Engelmann	Trial preparation.	8	\$355.00	\$2,840.00
Trial	General time	10/28/2015	Martin Engelmann	Trial; work session with Sue Murphy and Reggie Mesimer.	8	\$355.00	\$2,840.00
Trial	General time	10/29/2015	Martin Engelmann	Trial. Reinspect property with Sue Murphy and Reggie Mesimer.	7	\$355.00	\$2,485.00
Trial	General time	10/30/2015	Martin Engelmann	Trial in Orlando.	12	\$355.00	\$4,260.00
Trial	General time	11/01/2015	Martin Engelmann	Trial preparation.	10	\$355.00	\$3,550.00
Trial	General time	11/02/2015	Martin Engelmann	Attend and testify in trial.	14	\$355.00	\$4,970.00
Trial	General time	11/03/2015	Martin Engelmann	Attend and testify in trial.	7	\$355.00	\$2,485.00
Correspondence	General time	11/16/2015	Martin Engelmann	Correspondence with counsel regarding trial testimony.	0.125	\$355.00	\$44.38
Work Session	General time	11/17/2015	Martin Engelmann	Work session with Steve Pagliaro	0.25	\$355.00	\$88.75
Work Session	General time	01/08/2016	Martin Engelmann	Work session with Andrew Brigham.	0.25	\$355.00	\$88.75
<b>Person Subtotal</b>					<b>210.997</b>		<b>\$74,903.94</b>

Stephen Pagliaro	Correspondence	General time	01/15/2014	SMP_2015	Correspondence with counsel's office regarding the Wekiva Parkway takings, including subject property information, project aerial, deeds, etc. Copy for file.	0.5	\$155.00	\$77.50
	Subject Property Research	General time	02/15/2014	SMP_2015	Review data sent from the client. Start subject property research.	3.5	\$155.00	\$542.50
	Subject Property Research	General time	02/26/2014	SMP_2015	Subject property research and research the Wekiva Parkway Extension project.	2.5	\$155.00	\$387.50
	Market Area Research	General time	03/18/2014	SMP_2015	Research of the surrounding ownership specifically the Project Orlando, LLC acquisitions.	2.25	\$155.00	\$348.75
	Market Area Research	General time	03/19/2014	SMP_2015	Further research of the Project Orlando, LLC ownership and affiliate companies acquisitions.	2.25	\$155.00	\$348.75
	Market Area Research	General time	03/24/2014	SMP_2015	Continued research of the Wekiva Parkway Extension project.	2.5	\$155.00	\$387.50
	Inspection	General time	04/17/2014	SMP_2015	Initial inspection of the subject property and surrounding market area. Attending the inspection was Brigham, Hutson, Fleming, Murphy and the property	4	\$155.00	\$620.00

owner William Kelly.

Market Area Research	General time	04/18/2014	SMP_2015	Sales and market area research. Continue research of the Orlando Projects land purchases.	2.5	\$155.00	\$387.50
Market Area Research	General time	04/22/2014	SMP_2015	Sales and market area research. Continue research of the Orlando Projects land purchases.	2.5	\$155.00	\$387.50
Correspondence	General time	04/24/2014	SMP_2015	Correspondence with counsel's office regarding the Carpenter's January 2014 report of the subject property.	0.25	\$155.00	\$38.75
Market Area Research	General time	04/25/2014	SMP_2015	Research of the surrounding subdivisions and commercial developments.	2.25	\$155.00	\$348.75
Market Area Research	General time	04/26/2014	SMP_2015	Research of the surrounding subdivisions and commercial developments.	1.25	\$155.00	\$193.75
Market Area Research	General time	05/05/2014	SMP_2015	Research of the surrounding subdivisions and commercial developments.	1.25	\$155.00	\$193.75
Market Area Research	General time	05/09/2014	SMP_2015	Initial research of interchange locations for possible study.	1.25	\$155.00	\$193.75
Correspondence	General time	06/17/2014	SMP_2015	Correspondence with counsel's office regarding information consisting of a copy of an appraisal previously performed on the subject property and other subject property data; send information to Engelmann for his review.	0.75	\$155.00	\$116.25
Executive Summary	General time	06/17/2014	SMP_2015	Prepare executive summary document for Engelmann's review.	1.75	\$155.00	\$271.25
Inspection	General time	06/24/2014	SMP_2015	Re-inspection of the subject property and surrounding market area with Engelmann.	4.5	\$155.00	\$697.50
Work Session	General time	10/03/2014	SMP_2015	Work session with Engelmann, Fabian, and Kane regarding case issues and research still needed.	0.5	\$155.00	\$77.50
Sales Research	General time	10/03/2014	SMP_2015	Online sales and market area research. Additional research of the Wekiva Parkway Extension project.	2	\$155.00	\$310.00
Sales Research	General time	10/07/2014	SMP_2015	Review file and outline the sales research to date and additional research needed. Identify the subdivisions within the market area.	2.5	\$155.00	\$387.50
Work Session	General time	10/21/2014	SMP_2015	Work session with Engelmann, Kane, Worley, and Fabian regarding status of case, project overview, and continued research.	0.167	\$155.00	\$25.89
Work Session	General time	10/28/2014	SMP_2015	Direction to Taylor to conduct online research on possible land sale comparables and to write up in database.	0.167	\$155.00	\$25.89
Work Session	General	01/28/2015	SMP_2015	Work session with Brigham, Huston.	0.25	\$155.00	\$38.75

	time			Kane, and Fabian regarding status of case.			
Other Expert Report Review	General time	04/23/2015	SMP_2015	Correspondence with Engelmann and Kane regarding reports of an adjacent property; correspondence with counsel's office regarding important dates regarding report exchange.	1.5	\$155.00	\$232.50
Work Session	General time	04/28/2015	SMP_2015	Correspondence with Counsel's assistant regarding expert reports. Work session with MCE and litigation team regarding sales used in the Expressway authority's appraisal of the subject.	0.125	\$155.00	\$19.38
Sales Research	General time	04/30/2015	SMP_2015	Area subdivision research. Download Stipulated Order of Taking for the file.	0.91	\$155.00	\$141.05
Sales Research	General time	05/01/2015	SMP_2015	Sales and market area research	0.822	\$155.00	\$127.41
Executive Summary	General time	05/06/2015	SMP_2015	Initial work book set up, edits to executive summary document, land sales research	6.921	\$155.00	\$1,072.76
Executive Summary	General time	05/07/2015	SMP_2015	Edits to the executive summary	2.551	\$155.00	\$395.41
Executive Summary	General time	05/08/2015	SMP_2015	Edits to executive summary	2.551	\$155.00	\$395.41
Market Area Research	General time	05/09/2015	SMP_2015	Research of a number of subdivisions and commercial developments within the subject market	3.455	\$155.00	\$535.53
Work Session	General time	05/11/2015	SMP_2015	Work session with MCE, JRF, GWK and CW regarding the case and updated schedule and the assignment of tasks.	0.35	\$155.00	\$54.25
Executive Summary	General time	05/11/2015	SMP_2015	Start work book and executive summary	5.766	\$155.00	\$893.73
Work Session	General time	05/13/2015	SMP_2015	Prepare inspection package for Engelmann. Further edits to the work book and executive summary.	1.85	\$155.00	\$286.75
Executive Summary	General time	05/13/2015	SMP_2015	Edits to the work book and executive summary.	2.986	\$155.00	\$462.83
Market Area Research	General time	05/14/2015	SMP_2015	Further research of the surrounding subdivisions in preparation for the draft of subdivision info for file.	3.355	\$155.00	\$520.03
Executive Summary	General time	05/15/2015	SMP_2015	Further edits to the work book and executive summary.	3.16	\$155.00	\$489.80
Work Session	General time	05/22/2015	SMP_2015	Edits to the workbook and summary. Work session with JRF and GWK regarding direction of sales research.	5.733	\$155.00	\$888.62
Sales Research	General time	05/22/2015	SMP_2015	Work session with JRF and GWK regarding the case and direction of the sales research.	0.749	\$155.00	\$116.10
Sales Research	General time	05/25/2015	SMP_2015	Work session with JRF, continue with sales and market research. Further research of interchange locations.	4.375	\$155.00	\$678.13

Sales Research	General time	05/26/2015	SMP_2015	Continue with market area and sales research with focus on interchange locations. Identify area subdivisions and commercial development.	3.456	\$155.00	\$535.68
Sales Research	General time	05/28/2015	SMP_2015	Continue with land sales research of interchange locations.	3	\$155.00	\$465.00
Work Session	General time	05/29/2015	SMP_2015	Edits to workbook and summary. Review land sales from GWK. Work session with MCE, JRF and GWK regarding case.	2.376	\$155.00	\$368.28
Work Session	General time	06/02/2015	SMP_2015	Work session with MCE, JRF, GWK and CW regarding the case, status of the draft and the assignment of tasks.	0.45	\$155.00	\$69.75
Sales Research	General time	06/04/2015	SMP_2015	Interchange land sales research	2.768	\$155.00	\$429.04
Market Area Research	General time	06/05/2015	SMP_2015	Interchange Study research; identify the DRI's in the area and detail; residential market survey of rooftops from 2007 and present. Create exhibits.	1.5	\$155.00	\$232.50
Market Area Research	General time	06/07/2015	SMP_2015	Further identification of DRI and Planned Developments; create exhibits for file	3.75	\$155.00	\$581.25
Market Area Research	General time	06/08/2015	SMP_2015	Research of the areas DRI's and Planned Developments.	4.45	\$155.00	\$689.75
Work Session	General time	06/08/2015	SMP_2015	Work session with John Fabian and George Kane regarding sales research.	0.5	\$155.00	\$77.50
Sales Research	General time	06/08/2015	SMP_2015	Land sales research and edits to sales data base information.	1.025	\$155.00	\$158.88
Sales Research	General time	06/09/2015	SMP_2015	Commercial land sales research.	2.5	\$155.00	\$387.50
Sales Research	General time	06/10/2015	SMP_2015	Land sales research. Edits to the data base write up	2.537	\$155.00	\$393.24
Sales Research	General time	06/11/2015	SMP_2015	Wekiva, sales research and edits to the data base information, edits to mapping file	2.902	\$155.00	\$449.81
Sales Research	General time	06/12/2015	SMP_2015	Land sales research and edits to database information, edits to the mapping file. Continued research of the DRI's and PD's in the market area.	1.5	\$155.00	\$232.50
Work Session	General time	06/12/2015	SMP_2015	Work session with John Fabian the sales and market area research and direction moving forward.	0.15	\$155.00	\$23.25
Work Session	General time	06/13/2015	SMP_2015	Work session with John Fabian regarding the sales and edits to the data base information	0.5	\$155.00	\$77.50
Market Area Research	General time	06/14/2015	SMP_2015	Land sales and market area research. Continued research and mapping of the DRI's and PD's within the Beltway area. Edits to the data base information	2	\$155.00	\$310.00
Sales Research	General	06/15/2015	SMP_2015	Wekiva Cases, sales research, DRI and	2.75	\$155.00	\$426.25

	time			PD research, edits to data base information, edit to sales map files.			
Work Session	General time	06/15/2015	SMP_2015	Work session with John Fabian and George Kane, review sales research, DRI and PD research. Work session with John Fabian regarding the planning analysis from Sue Murphy. Review mapping exhibits. Direction on moving forward.	1.5	\$155.00	\$232.50
Sales Research	General time	06/16/2015	SMP_2015	Sales and market research; write up additional sales and add to file. Work session with John Fabian regarding research.	3.86	\$155.00	\$598.30
Market Area Research	General time	06/17/2015	SMP_2015	Initial draft of DRI and PD locations and development for inclusion in the analysis. Sales and market research; Initial draft of DRI and PD locations and development for inclusion in the analysis. Research of the Central Florida Regional Planning Counsel and the Department of Economic Opportunity's web sites for pertinent data.	2.849	\$155.00	\$441.60
Market Area Research	General time	06/18/2015	SMP_2015	Continue with draft of the developments along the "Beltway". Confirmation of some sales considered for the analysis.	2.55	\$155.00	\$395.25
Market Area Research	General time	06/19/2015	SMP_2015	Continue with draft of the developments along the "Beltway". Continue with the confirmation of some sales considered for the analysis.	1.75	\$155.00	\$271.25
Market Area Research	General time	06/20/2015	SMP_2015	Continue with draft of the developments along the "Beltway". Work session with John Fabian on status of research and direction moving forward.	3	\$155.00	\$465.00
Market Area Research	General time	06/21/2015	SMP_2015	Edits to draft of the developments along the "Beltway". Add additional sites to the GIS mapping file.	2.5	\$155.00	\$387.50
Work Session	General time	06/22/2015	SMP_2015	Map out and label the major intersections; confirm the proposed building sizes of the sales considered for FAR; confirm considered sales	3	\$155.00	\$465.00
Work Session	General time	06/23/2015	SMP_2015	Work session with John Fabian regarding the sales and ongoing confirmations; continue the mapping and labeling of the major intersections to show development patterns; continue with confirmations	3	\$155.00	\$465.00
Work Session	General time	06/24/2015	SMP_2015	Work session with John Fabian regarding the sales and ongoing confirmations; edits to the data base information	3	\$155.00	\$465.00
Work Session	General time	06/25/2015	SMP_2015	Work session with John Fabian regarding new interchange sales information; research the sales and add to file. Start assembling inspection	5.087	\$155.00	\$788.49

package for MCE

Work Session	General time	06/26/2015	SMP_2015	Finish inspection package for Marty Engelmann; work session with Andrew Brigham, counsel and John Fabian regarding the analysis. Work sessions with M. Engelmann and John Fabian regarding the sale	3.027	\$155.00	\$469.19
Work Session	General time	06/27/2015	SMP_2015	Additional interchange related sales research. Work session with John Fabian regarding the sales; review the draft analysis prior to sending to counsel	4.55	\$155.00	\$705.25
Market Area Research	General time	06/28/2015	SMP_2015	Research of the Beltway/Interchanges sale and the development time line.	2.45	\$155.00	\$379.75
Sales Research	General time	07/01/2015	SMP_2015	Work session with Fabian regarding sales research; Calls to brokers for verification and confirmation of the data. Further research of the development trends around the beltway interchanges.	5.125	\$155.00	\$794.38
Work Session	General time	07/02/2015	SMP_2015	Work session with Kane regarding development trends within the subjects trade area and other trade areas in and around the beltway. Prep for and attend work session with Andrew Brigham, counsel Marty Engelmann and John Fabian regarding case.	2.5	\$155.00	\$387.50
Market Area Research	General time	07/03/2015	SMP_2015	Review file to date; further research of the order of sales and the timing of development for an interchange study.	4.5	\$155.00	\$697.50
Appraisal Analysis and Report Writing	General time	07/06/2015	SMP_2015	Review and edit of the draft report.	1	\$155.00	\$155.00
Rebuttal	General time	07/06/2015	SMP_2015	Confirmation of several land sales with Daryl Carter, prominent broker familiar with the transactions	0.75	\$155.00	\$116.25
Work Session	General time	07/06/2015	SMP_2015	Work session with John Fabian regarding the beltway interchange developments; topography and any possible development constraints; review of the draft;	2.353	\$155.00	\$364.72
Appraisal Analysis and Report Writing	General time	07/07/2015	SMP_2015	Review and edit of the draft report.	1.25	\$155.00	\$193.75
Work Session	General time	07/07/2015	SMP_2015	Work session with John Fabian regarding the draft and the interchange development analysis. Work session with Engelmann and Kane regarding appraisals and sales of properties with extraordinary development issues.	3.25	\$155.00	\$503.75
Work Session	General time	07/14/2015	SMP_2015	Rebuttal report preparation consisting of various work sessions and correspondence with Fabian and Kane regarding report and exchange date.	0.25	\$155.00	\$38.75



Rebuttal	General time	07/15/2015	SMP_2015	Work session with Fabian on rebuttal analysis regarding sales and highest and best use. Edit to rebuttal document	3.5	\$155.00	\$542.50
Rebuttal	General time	07/15/2015	SMP_2015	Review and summarize Carpenter report for the file.	4.411	\$155.00	\$683.71
Rebuttal	General time	07/16/2015	SMP_2015	Rebuttal report preparation consisting of review of other Wekiva Parkway parcels and review appraisal report of the Chapman Nursery.	3.174	\$155.00	\$491.97
Rebuttal	General time	07/16/2015	SMP_2015	Rebuttal report preparation consisting of adding summary of Carpenter report to workbook along with exhibits.	2.45	\$155.00	\$379.75
Rebuttal	General time	07/16/2015	SMP_2015	Rebuttal report preparation consisting of continued research of Carpenter's land sales and market area data.	3	\$155.00	\$465.00
Rebuttal	General time	07/18/2015	SMP_2015	Continue with the draft rebuttal report	5.03	\$155.00	\$779.65
Rebuttal	General time	07/19/2015	SMP_2015	Further edits to rebuttal report of Walter Carpenters appraisal report of the subject.	7.001	\$155.00	\$1,085.16
Work Session	General time	07/23/2015	SMP_2015	Work session with Andrew Brigham, counsel regarding case. Correspondence with George Kane and John Fabian regarding same.	0.75	\$155.00	\$116.25
Rebuttal	General time	07/23/2015	SMP_2015	Review and edits to the rebuttal document of Walter Carpenters, November 2013 appraisal report of the subject. Correspondence with George Kane and John Fabian regarding same	1.75	\$155.00	\$271.25
Deposition Preparation	General time	08/26/2015	SMP_2015	Start review of the file in response to subpoena to produce file	5.25	\$155.00	\$813.75
Deposition Preparation	General time	08/28/2015	SMP_2015	Further review of the file in response to subpoena. Prepare electronic file to be sent to client.	5.75	\$155.00	\$891.25
Deposition Preparation	General time	09/03/2015	SMP_2015	Work sessions with George Kane and John Fabian regarding subpoena	0.25	\$155.00	\$38.75
Deposition Preparation	General time	09/04/2015	SMP_2015	Work sessions with Marty Engelmann and George Kane regarding the preparation of an outline regarding the market forces affecting the subject; start initial edit of the outline	4.25	\$155.00	\$658.75
Deposition Preparation	General time	09/05/2015	SMP_2015	Work sessions with Marty Engelmann, John Fabian and George Kane regarding the upcoming deposition, continue edit of the outline	6.25	\$155.00	\$968.75
Deposition Preparation	General time	09/07/2015	SMP_2015	Edit of the outline regarding the market forces affecting the subject property, the development of the beltway and the commercial development in and around the major interchanges along the beltway	6.25	\$155.00	\$968.75

Deposition Preparation	General time	09/08/2015	SMP_2015	Outline the development of the beltway and the time line of the beltway segment opening dates; reconfirmation of the primary land sales with Marty Engelmann	5.25	\$155.00	\$813.75
Deposition Preparation	General time	09/09/2015	SMP_2015	Edits to beltway time line and segment opening dates; further reconfirmation of the primary land sales with Marty Engelmann; work session with Engelmann, Fabian and Kane regarding status of assignments	6.75	\$155.00	\$1,046.25
Deposition Preparation	General time	09/10/2015	SMP_2015	Continue with the reconfirmation of the primary land sales with Marty Engelmann; create historical interchange aerials for file; edit to time line document for file; label all files in preparation for deposition	4.1	\$155.00	\$635.50
Trial Preparation	General time	09/12/2015	SMP_2015	Re-inspection of considered sales and subject property; re-inspection of Carpenter sales	3.1	\$155.00	\$480.50
Trial Preparation	General time	09/15/2015	SMP_2015	Trial preparation consisting of the labeling of all ground level photographs; work session with Brigham, Engelmann, Fabian and Kane regarding discovery and exhibits; work session with Engelmann, Fabian and Kane regarding additional tasks	1.255	\$155.00	\$194.53
Trial Preparation	General time	09/18/2015	SMP_2015	Work session with Brigham, Engelmann, Fabian and Kane regarding trial prep and upcoming meeting with judge.	0.25	\$155.00	\$38.75
Trial Preparation	General time	09/22/2015	SMP_2015	Trial preparation for Engelmann regarding review of previous appraisals completed along both the Eastern and Western Beltway and detail for file	4.55	\$155.00	\$705.25
Trial Preparation	General time	09/23/2015	SMP_2015	Trial preparation for Engelmann regarding review of previous appraisals completed along the Western Beltway specifically Fountains West and Stoneybrook West and detail for file	4.45	\$155.00	\$689.75
Trial Preparation	General time	09/23/2015	SMP_2015	Trial prep work session with Engelmann and Fabian regarding upcoming hearing; regarding the contents organization of file	4.75	\$155.00	\$736.25
Trial Preparation	General time	09/25/2015	SMP_2015	Review file and notes from hearing, organize file for Engelmann review	3.75	\$155.00	\$581.25
Trial Preparation	General time	09/27/2015	SMP_2015	Start outline for Engelmann's cross if second hearing is ordered.	1.75	\$155.00	\$271.25
Trial Preparation	General time	09/29/2015	SMP_2015	Review of Engelmann September 10, 2015 deposition and outline possible questions for trial preparation	3.75	\$155.00	\$581.25
Trial Preparation	General time	10/07/2015	SMP_2015	Work session with Heyward Cantrell regarding the commercial developments along the Western Beltway. Review material sent from Sarah Pinkepank	2.25	\$155.00	\$348.75

Trial Preparation	General time	10/08/2015	SMP_2015	review information regarding the commercial developments along the Western Beltway; work session with Cantrell regarding same	6.25	\$155.00	\$968.75
Trial Preparation	General time	10/09/2015	SMP_2015	Work session with Sarah Pinkepank regarding commercial developments along the beltway	2.25	\$155.00	\$348.75
Trial Preparation	General time	10/10/2015	SMP_2015	Review file and prepare for re inspection of the subject and sales	2.25	\$155.00	\$348.75
Trial Preparation	General time	10/12/2015	SMP_2015	Work session with Engelmann regarding file and exhibits	1.25	\$155.00	\$193.75
Trial Preparation	General time	10/14/2015	SMP_2015	Re inspection of the subject and the surrounding market area; re inspection of Carpenter sales	1	\$155.00	\$155.00
Trial Preparation	General time	10/18/2015	SMP_2015	Work sessions with Engelmann and Fabian regarding case; create exhibit of Flamingo Crossings showing the land available for retail/hotel development	1.25	\$155.00	\$193.75
Trial Preparation	General time	10/19/2015	SMP_2015	Trial preparation work sessions with Engelmann, Fabian and Kane. Map out distances between the interchanges along the beltway. Reconfirmation of the sales along Rock Springs Road with Engelmann.	5.48	\$155.00	\$849.40
Trial Preparation	General time	10/20/2015	SMP_2015	Trial preparation work sessions with Engelmann, Fabian and Kane. Further research and verification of the Florida Hospital Winter Gardens sale; calls to a number of engineers for cost data	4.5	\$155.00	\$697.50
Trial Preparation	General time	10/21/2015	SMP_2015	Trial preparation work sessions with Engelmann, Fabian and Kane. Create separate detail sheets on all sales used in the report as well as the sales used in Carpenter's report	5.5	\$155.00	\$852.50
Trial Preparation	General time	10/22/2015	SMP_2015	Trial preparation work sessions with Engelmann, Fabian and Kane. Review prior appraisals along the Western Beltway for additional sales data and contact information for reconfirmations with principals involved in the transactions and detail for Engelmann	4.5	\$155.00	\$697.50
Trial Preparation	General time	10/23/2015	SMP_2015	Trial preparation consisting of work sessions with Engelmann regarding the original contract for Winter Garden Village; pull property appraiser data for pond site; calls to engineers for cost data for the relocation	2.55	\$155.00	\$395.25
Trial Preparation	General time	10/24/2015	SMP_2015	Trial preparation consisting of work sessions with Engelmann regarding the Family Dollar and O'Reilly land sales along Rock Springs Road; review corporate data for additional contact information; calls to the principals of the transactions.	3.45	\$155.00	\$534.75

Trial Preparation	General time	10/25/2015	SMP_2015	Trial preparation consisting of work session with Engelmann regarding the sales	2.55	\$155.00	\$395.25
Trial Preparation	General time	10/26/2015	SMP_2015	Reconfirmation with Engelmann of Family Dollar and O'Reilly land sales on Rock Springs Road with the seller; enter sales information into database	1.75	\$155.00	\$271.25
Trial Preparation	General time	10/27/2015	SMP_2015	Trial preparation consisting of work sessions with Engelmann, Fabian and Kane; confirm zoning and land use changes of Carpenter land sales and summarize confirmations for Engelmann's review prior to transmitting to Andrew Brigham	2.75	\$155.00	\$426.25
Trial Preparation	General time	10/27/2015	SMP_2015	Research of the land sale in the SE/4 of Kelly Park Road and Plymouth Sorrento Road; call to Sarah Pinkapank at Heyward Cantrell's office for possible contact information	2.75	\$155.00	\$426.25
Trial Preparation	General time	10/28/2015	SMP_2015	Research of St. Johns River Water Management District information of Florida Hospital's Winter Garden; review original contract for sale; interview Sean Davis from Sembler on details of the transaction.	4.5	\$155.00	\$697.50
Trial	General time	10/29/2015	SMP_2015	Attend trial in Orlando	8	\$155.00	\$1,240.00
Trial Preparation	General time	10/30/2015	SMP_2015	Research and detail for file the number of parcels and acreage Project Orlando has purchased; instruction to Poulos to locate all the schools in the subject area	2.5	\$155.00	\$387.50
Trial Preparation	General time	10/30/2015	SMP_2015	Research and detail for file the distances of the various subdivisions within the area to the subject	2.5	\$155.00	\$387.50
Trial Preparation	General time	10/30/2015	SMP_2015	Research and detail for file the distances for the subject site to the various intersections within the neighborhood and to the nearest interchange; detail the distances to the nearest interchange for Carpenters sales	2.5	\$155.00	\$387.50
Trial Preparation	General time	11/01/2015	SMP_2015	Review outline for trial; review the Kelly Park DRI Ordinance for the details of the phasing	2.5	\$155.00	\$387.50
Trial Preparation	General time	11/02/2015	SMP_2015	Further review of trial outline; work session with Engelmann regarding case	0.5	\$155.00	\$77.50
<i>Person Subtotal</i>					367.759		\$57,002.65

Yvette Daniel	Deposition Preparation	General time	08/27/2015	YD	Scanned and electronically filed subpoenaed documents	2.6	\$95.00	\$247.00
	Deposition Preparation	General time	08/28/2015	YD	Scanning and electronically filing subpoenaed documents.	0.8	\$95.00	\$76.00
	Deposition	General	08/31/2015	YD	Scanning and filing subpoenaed	0.7	\$95.00	\$66.50

Preparation	time	documents.		
			<i>Person Subtotal</i>	4.1
				\$389.50
<i>Subtotal</i>			864.142	\$175,843.45
<b>Total Amount Payable</b>				<b>\$176,069.16</b>

Please reference our File No. to ensure proper credit

Payment for services due upon receipt of invoice.

After 30 days a charge of 1.5% per month will be assessed on the unpaid balance.

## ATTORNEY TIME & COST SUMMARY

Case: CFX v. Kelly, et al  
 Case No.: 2014-CA-003676-O (Orange County)  
 Parcels: 209 & 221

Page 1

DATE	DESCRIPTION	HOURS	ATTORNEY
12/22/15	Prepare: Defendants' Motion to Tax Attorneys' Fees and Costs	.10	APB
04/14/16	Prepare: Order Taxing Attorneys' Fees Per Section 73.092(1), Florida Statutes	1.0	APB
05/09/16	Prepare: Defendants' Second Request for Production	1.0	APB
05/13/16	Prepare: Defendants' Motion for Clarification of Order Taxing Attorneys' Fees Per Section 73.092(1), Florida Statutes	.50	APB
05/13/16	Prepare: Affidavit of Costs Incurred	2.5	APB
06/13/16	Receipt and Review: CFX's Response to Defendants' Second Request for Production to Petitioner	1.0	APB
07/07/16	Review Court's Order on Procedures for Motion to Tax Costs	.50	APB
07/18/16	Review CFX's Response to Defendants' Motion to Tax Attorneys' Fees and Costs and Affidavit of Costs Incurred	.50	APB
08/02/16	Prepare: Defendants' Response to CFX's Response to Defendants' Motion to Tax Attorneys' Fees and Costs and Affidavit of Costs Incurred	1.0	APB
08/18/16	Receipt and Review: Notice of Taking Deposition Duces Tecum: Martin Engelmann	.10	APB
08/25/16	Receipt and Review: Amended Notice of Taking Deposition Duces Tecum (Change of Date and Time)	.10	APB
08/31/16	Receipt and Review: Notice of Mediation	.10	APB
08/31/16	Receipt and Review: Petitioner CFX's Certification of Authority at Mediation	.10	APB
09/16/16	Prepare and Attend: Deposition of Martin Engelmann	8.0	APB
09/21/16	Prepare and Attend: Mediation	6.0	APB
11/07/16	Prepare: Defendants' Compliance with Order on Procedures on Motion to Tax Costs Paragraph C. Setting of the Hearing	1.0	APB
11/15/16	Prepare: Joint Motion for Entry of Partial Stipulated Order as to Costs	1.5	APB
03/29/17	Prepare: Defendants' Memorandum in Support of Motion to Tax Costs per Section 73.091, Florida Statutes (Re: Expert Witness – Martin C. Engelmann, MAI)	6.0	APB
03/29/17	Prepare: Defendants' Memorandum in Support of Motion to Tax Costs per Section 73.091, Florida Statutes (Re: Expert Witness – Martin C. Engelmann, MAI)	6.0	APB

## ATTORNEY TIME & COST SUMMARY

Case: CFX v. Kelly, et al  
Case No.: 2014-CA-003676-O (Orange County)  
Parcels: 209 & 221

Page 2

DATE	DESCRIPTION	HOURS	ATTORNEY
03/29/17	Prepare: Defendants' Memorandum in Support of Motion to Tax Costs per Section 73.091, Florida Statutes (Re: Expert Witness – Martin C. Engelmann, MAI)	4.0	BST
03/29/17	Prepare: Notice of Filing Defendants' Hearing Exhibits; Prepare for Cost Hearing	2.0	APB
03/31/17	Receipt and Review: Petitioner, CFX's Notice of Compliance with Order on Procedures on Motion to Tax Costs, Paragraph C	.10	APB
04/03/17	Prepare for Cost Hearing	3.0	APB
04/04/17	Prepare for and Attend Cost Hearing	3.0	APB
04/04/17	Prepare for and Attend Cost Hearing	2.0	BST
04/29/17	Invoice: Orange Legal (attached)	\$237.25	
06/14/17	Prepare: Defendants, William H. Kelly, Et Al.'s Third Request for Production to Petitioner	.50	BST
07/24/17	Receipt and Review: Petitioner's Response to Third Request for Production from Respondents, William H. Kelly, Et Al.	3.0	BST
09/18/17	Prepare Notice of Hearing: Motion to Tax Costs	.10	APB
12/04/17	Prepare Notice of Hearing: Motion to Tax Costs	.10	APB
02/12/18	Prepare Notice of Hearing: Motion to Tax Costs	.10	APB
03/06/18	Receipt and Review: Petitioner's Response in Opposition to Defendants' Memorandum in Support of Motion to Tax Costs Per §73.091, Florida Statutes	.50	APB
03/08/18	Prepare Notice of Filing: Defendants' Memorandum in Support of Motion to Tax Costs Per §73.091, Florida Statutes	.50	BST
03/08/18	Prepare Notice of Filing: Defendants' Hearing Exhibits Notebook 1	.50	BST
03/08/18	Prepare Notice of Filing: Defendants' Hearing Exhibits Notebook 2	.50	BST
03/08/18	Prepare Notice of Filing: FDOT Comparable Hours	.50	BST
03/08/18	Prepare Notice of Filing: Defendants' Summary of Facts and Appraisal Methodology Regarding Scope of the Project Rule	.50	BST

## ATTORNEY TIME & COST SUMMARY

Case: CFX v. Kelly, et al  
 Case No.: 2014-CA-003676-O (Orange County)  
 Parcels: 209 & 221

Page 3

DATE	DESCRIPTION	HOURS	ATTORNEY
03/13/18	Receipt and Review: Petitioner's Notice of Filing: Appraisal by Heyward Cantrell for Chapmans	.10	APB
03/14/18	Prepare for Cost Hearing	2.0	APB
03/15/18	Attend Cost Hearing	2.5	APB
03/15/18	Attend Cost Hearing	2.5	BST
03/19/18	Invoice: Orange Legal (attached)	\$250.00	
01/08/19	Status Conference: Martin C. Engelmann, MAI	1	APB

<b>Andrew P. Brigham</b>	<b>51.4 hours @ \$425/hr.</b>	<b>=</b>	<b>\$21,845.00</b>
<b>Brett S. Tensfeldt</b>	<b>11.5 hours @ \$180/hr.</b>	<b>=</b>	<b>\$2,070.00</b>
<b>Orange Legal</b>	<b>2 Invoices (attached)</b>	<b>=</b>	<b><u>\$487.25</u></b>
<b>Total</b>			<b>\$24,402.25</b>



# INVOICE



Andrew Prince Brigham, Esquire  
Brigham Property Rights Law Firm  
2963 Dupont Avenue  
Suite 3  
Jacksonville, FL 32217

<b>Invoice No.</b>	<b>Invoice Date</b>	<b>Job No.</b>
413816	4/29/2017	382675
<b>Job Date</b>	<b>Case No.</b>	
4/4/2017		
<b>Case Name</b>		
Central Florida Expressway vs. Kelly Parcels 209 & 221		
<b>Payment Terms</b>		
Net 30 / After 30 days, 1.5% Mo.		

**1 CERTIFIED COPY OF TRANSCRIPT OF:**

Hearing before the Honorabel Underwood; Backorder, Excerpt	55.00 Pages	162.25
Litigation Package - ASCII, Condensed		35.00
E-mail transcript		0.00
Delivery, Process and Archive		40.00
<b>TOTAL DUE &gt;&gt;&gt;</b>		<b>\$237.25</b>

Thank you for your business!

To pay online visit [www.orangelegal.com/payments](http://www.orangelegal.com/payments)

Pay via EFT: Seacoast National Bank  
Account Number: 81000022 Routing Number: 067005158

If turned over to collections, jurisdiction will be Orange County, Florida, and you agree to pay all collection costs and attorney fees.

Preserving the record is our job, but keeping your documents secure and instantly available is our goal. We require our reporters to take extra steps to ensure your data is kept secure and available when you request it. Due to the cost incurred for these increased measures, we charge a \$20 process and archival fee for all jobs not ordered at the time of the job. Thank you for your understanding.




**Tax ID:** 59-2754282

*Please detach bottom portion and return with payment.*

Andrew Prince Brigham, Esquire  
Brigham Property Rights Law Firm  
2963 Dupont Avenue  
Suite 3  
Jacksonville, FL 32217

Job No. : 382675 BU ID : Central FL  
Case No. :  
Case Name : Central Florida Expressway vs. Kelly Parcels 209 & 221  
Invoice No. : 413816 Invoice Date : 4/29/2017  
**Total Due : \$237.25**

Remit To: **Orange Legal, Inc.** 1-800-275-7991  
**633 East Colonial Drive**  
**Orlando, FL 32803**

<b>PAYMENT WITH CREDIT CARD</b>				
Cardholder's Name: _____				
Card Number: _____				
Exp. Date: _____		Phone#: _____		
Billing Address: _____				
Zip: _____		Card Security Code: _____		
Amount to Charge: _____				
Cardholder's Signature: _____				
Email: _____				

# INVOICE



Andrew Prince Brigham, Esquire  
Brigham Property Rights Law Firm  
2963 Dupont Avenue  
Suite 3  
Jacksonville, FL 32217

Invoice No.	Invoice Date	Job No.
560281	3/19/2018	458874
Job Date	Case No.	
3/15/2018	2014-CA-003676-O	
Case Name		
Central Florida Expressway Authority vs. Milford Kirkland, Jr., et al.		
Payment Terms		
Net 30 / After 30 days, 1.5% Mo.		

Hearing before the Honorable Renee A. Roche

Appearance Fee - Hearing, First Hour, deferred		100.00
Appearance Fee - each additional hour, deferred	2.00	150.00
Estimated # of Pages	142.00	0.00
<b>TOTAL DUE &gt;&gt;&gt;</b>		<b>\$250.00</b>

Thank you for your business!

To pay online visit [www.orangelegal.com/payments](http://www.orangelegal.com/payments)

Pay via EFT: Seacoast National Bank  
Account Number: 81000022 Routing Number: 067005158

Payment not contingent on client reimbursement. If turned over to collections, jurisdiction will be Orange County, Florida, and you agree to pay all collection costs and attorney fees.

Tax ID: 59-2754282

Please detach bottom portion and return with payment.

Andrew Prince Brigham, Esquire  
Brigham Property Rights Law Firm  
2963 Dupont Avenue  
Suite 3  
Jacksonville, FL 32217

Job No. : 458874 BU ID : Central FL  
Case No. : 2014-CA-003676-O  
Case Name : Central Florida Expressway Authority vs. Milford Kirkland, Jr., et al.  
Invoice No. : 560281 Invoice Date : 3/19/2018  
**Total Due : \$250.00**

Remit To: **Orange Legal, Inc.** 1-800-275-7991  
**633 East Colonial Drive**  
**Orlando, FL 32803**

PAYMENT WITH CREDIT CARD				
Cardholder's Name: _____				
Card Number: _____				
Exp. Date: _____		Phone#: _____		
Billing Address: _____				
Zip: _____		Card Security Code: _____		
Amount to Charge: _____				
Cardholder's Signature: _____				
Email: _____				

**EXHIBIT "C"**

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY, a body politic and corporate, and  
an agency of the state under the laws of the State  
of Florida,

CASE NO.: 2015-CA-003676-O

Petitioner,

Parcels 209, 221 (Kelly)

v.

Subdivision 39

MILFORD S. KIRKLAND, JR., et al.,

Respondents.

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**SETTLEMENT AGREEMENT AS TO EXPERT APPRAISER FEE AND  
SUPPLEMENTAL ATTORNEYS' FEES AND COSTS**

During settlement negotiations, Petitioner, CENTRAL FLORIDA EXPRESSWAY AUTHORITY (referred to as "Petitioner" or "CFX"), and Respondents, WILLIAM H. KELLY a/k/a WILLIAM HARVEY KELLY, SR.; WILLIAM H. KELLY, SR. a/k/a WILLIAM H. KELLY a/k/a WILLIAM HARVEY KELLY; and WILLIAM H. KELLY, SR., AS TRUSTEE OF THE WILLIAM H. KELLY, SR. REVOCABLE TRUST ("Respondents"), reached the following Settlement Agreement:

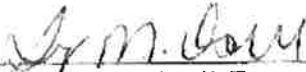
1. Petitioner will pay to the Brigham Property Rights Law Firm, PLLC Trust Account, the total sum of **ONE HUNDRED FIFTY SEVEN THOUSAND AND NO/100 DOLLARS (\$157,000.00)**, in full settlement of the all expert appraisal fees including those of Tropical Realty Appraisal Services, FranklinStreet and Martin Engelmann as well as all supplemental attorneys' fees and costs of the Brigham Property Rights Law Firm, PLLC, incurred on behalf of Respondents in this matter.
2. Respondents will seek no further experts' fees, attorneys' fees or costs in this matter nor make any other claims for compensation related to the taking of Parcels 209 and 221.
3. This Settlement Agreement will be placed on the agenda for the Right of Way ("ROW") Committee and Central Florida Expressway Authority ("CFX") Board and is conditioned upon final approval by the ROW Committee and then the CFX Board.
4. Counsel for Petitioner and Respondent will jointly submit to the Court a mutually approved Agreed Order Taxing Expert's Fees and Supplemental Attorneys' Fees and Costs containing the terms and conditions of this Settlement Agreement within fifteen (15) days from the date of approval of this Settlement Agreement by the CFX Board.

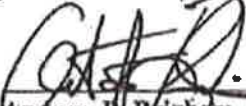
5. The parties agree to waive any confidentiality provisions set forth in Chapter 44 of Florida Statutes, the Florida Rules of Civil Procedure, and the Florida Rules of Evidence, if applicable, for the limited purpose of consideration of this proposed Settlement Agreement by the ROW Committee and the CFX Board.

6. Respondents shall be responsible for the preparation and execution any Public Disclosure Affidavit of Interests in Real Property as may be required by Section 286.23, *Florida Statutes*.

7. Respondents shall be responsible for the preparation and transmittal of any I.R.S. 1099 forms as may be necessary.

8. This Settlement Agreement, executed by the counsel for the parties listed below on this 27th day of February 2019 contains all the agreements of the parties.

  
Suzanne M. Driscoll, Esq.  
SHUTTS & BOWEN LLP  
Counsel for Petitioner,  
CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY


  
Andrew V. Brigham, Esq.  
Brett S. Tensfoldt, Esq.  
Brigham Property Rights Law Firm, PLLC  
Counsel for Respondents,  
WILLIAM H. KELLY a/k/a WILLIAM  
HARVEY KELLY, SR.; WILLIAM H.  
KELLY, SR. a/k/a WILLIAM H. KELLY  
a/k/a WILLIAM HARVEY KELLY; and  
WILLIAM H. KELLY, SR., AS TRUSTEE  
OF THE WILLIAM H. KELLY, SR.  
REVOCABLE TRUST

**CONSENT AGENDA ITEM  
#9**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel 

DATE: March 27, 2019

RE: Acceptance of Delivery of the Quit Claim Deed from Orange County, Florida pursuant to the Agreement for the Partial Relocation and Sale of a Limited Access Line along Narcoossee Road ("Agreement")  
Project: 455, Parcel 45-502 (Partial)  
Location: Northwest Corner of State Road 417 and Narcoossee Road

---

According to the above-referenced Agreement with Orange County, Florida, approved by the CFX Board on November 8, 2018, Orange County is required to convey a limited access line along the eastern boundary of property that it recently sold as surplus property. Consistent with the terms of the Agreement, Orange County has executed and delivered the attached Quit Claim Deed conveying the requested limited access rights. The attached Quit Claim Deed is ready to be accepted by the CFX Board.

## REQUESTED ACTION

We request Board approval to accept delivery of the attached Quit Claim Deed conveying limited access rights along the eastern boundary of the property in the northwest corner of State Road 417 and Narcoossee Road.

## ATTACHMENT

1. Quit Claim Deed

Reviewed by: 

APPROVED  
BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS  
MAR 12 2019

DOC# 20190155660  
03/15/2019 11:00:14 AM Page 1 of 5  
Rec Fee: \$44.00  
Deed Doc Tax: \$0.00  
DOR Admin Fee: \$0.00  
Intangible Tax: \$0.00  
Mortgage Stamp: \$0.00  
Phil Diamond, Comptroller  
Orange County, FL  
PU - Ret To: ORANGE COUNTY REAL ESTATE



Project: Narcoossee Road @ S. R. 417 Right of Way Transfer (Surplus Property)

**NOTE TO RECORDER:** This document constitutes a conveyance from a state agency or instrumentality to an agency of the state and is not subject to documentary stamp tax. Department of Revenue Rules 12B-4.0114(10), F.A.C.

**QUIT-CLAIM DEED**

THIS QUIT-CLAIM DEED, Executed on the date signed below, by Orange County, a charter county and political subdivision of the state of Florida, whose address is P.O. Box 1393, Orlando, Florida, 32802-1393, GRANTOR, to Central Florida Expressway Authority, a body politic and corporate, and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, having its principal place of business at 4974 ORL Tower Road, Orlando, Florida 32807, GRANTEE.

WITNESSETH: That the said GRANTOR, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable considerations, in hand paid by the said GRANTEE, the receipt whereof is hereby acknowledged, does hereby remise, release, and quit-claim unto the said GRANTEE forever, all the right, title, interest, claim, and demand – including all rights of ingress, egress, light, air, and view to, from, or across the line as described in Schedule “A” – which the said GRANTOR has in and to the following described lot, piece, or parcel of land, situate, lying and being in Orange County, Florida, to-wit:

**SEE ATTACHED SCHEDULE “A”**

**Property Appraiser’s Parcel Identification Number:**  
**unassigned**

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity, and claim, including all rights of ingress, egress, light, air, and view to, from, or across the line as described in Schedule “A”, whatsoever of the said GRANTOR, either in law or equity, to the only proper use, benefit, and behoove of the said GRANTEE forever.

AGENT 8 BCC  
RETURN TO REAL ESTATE  
MANAGEMENT DIVISION



Project: Narcoossee Road @ S. R. 417 Right of Way Transfer (Surplus Property)

IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be executed in its name by its Board, acting by the County Mayor, the day and year aforesaid.

(Official Seal)



ORANGE COUNTY, FLORIDA  
By: Board of County Commissioners

BY: *Bryon W. Brack*  
*Jerry L. Demings*  
Orange County Mayor

DATE: *12 March 2019*

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

BY: *Katie Smith*  
Deputy Clerk

Katie Smith  
Printed Name

**This instrument prepared by:**

Paul Sladek, a staff employee  
in the course of duty with the  
Real Estate Management Division  
of Orange County, Florida

Project: Narcoossee Road @ S. R. 417 Right of Way Transfer (Surplus Property)

**SCHEDULE "A"**

**Legal Description**

*(see attached one (1) legal and sketch of description totaling two (2) pages)*

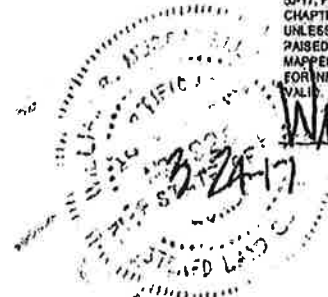
**SCHEDULE "A"  
LEGAL DESCRIPTION FOR  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
TO ESTABLISH LIMITED ACCESS RIGHTS  
(CFX PROJECT 455, PARCEL 45-502)**

FOR SKETCH OF DESCRIPTION, SEE SHEET 2 OF 2

All rights of ingress, egress, light, air, and view to, from, or across the following described line which may otherwise accrue to any property adjoining said line:

Commence at the Northwest corner of the Southwest 1/4 of Section 17, Township 24 South, Range 31 East, Orange County, Florida; thence run N 00°23'33" E along the West line of said Section 17 for a distance of 298.99 feet to a point on the Baseline of Survey for the Eastern Beltway (SR 417) as shown on Right-of-way Map Section 75301-6445-455 prepared by Jones, Wood & Gentry, Inc., dated 02-07-91; thence run S 59°36'12" W along said Baseline of Survey for 38.41 feet to a point on the West Right of Way line of Narcoossee Road as granted by Deed Book 338, page 39 of the Public Records of Orange County, Florida; thence run N 00°23'33" E along said West right of way line for a distance of 883.56 feet to a point of curvature of a curve concave to the East having a radius of 8,627.42 feet, a central angle of 00°06'58", a chord distance of 17.50 feet, and a chord bearing of N 00°27'02" E; thence run along the arc of said curve for a distance of 17.50 feet; thence run S 65°22'21" W for a distance of 117.93 feet to the Point of Beginning for the Limited Access Right of Way along Narcoossee Road; thence continue from said point and along said Limited Access line the following 5 courses and distances: S 16°35'51" W a distance of 12.62 feet; S 05°24'47" W a distance of 273.83 feet; S 16°12'49" W a distance of 47.49 feet; S 02°37'01" W a distance of 174.66 feet; S 72°36'40" W a distance of 31.43 feet to the Point of Termination of said Limited Access Right of Way line.

I HEREBY AFFIRM THAT THIS SKETCH OF DESCRIPTION REPRESENTED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. IT HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES, AND UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL PAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAN, OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.




*William R. Muscatello, Jr.*

William R. Muscatello, Jr.  
REGISTERED LAND SURVEYOR  
AND MAPPER  
STATE OF FLORIDA LICENSE NO. 4928

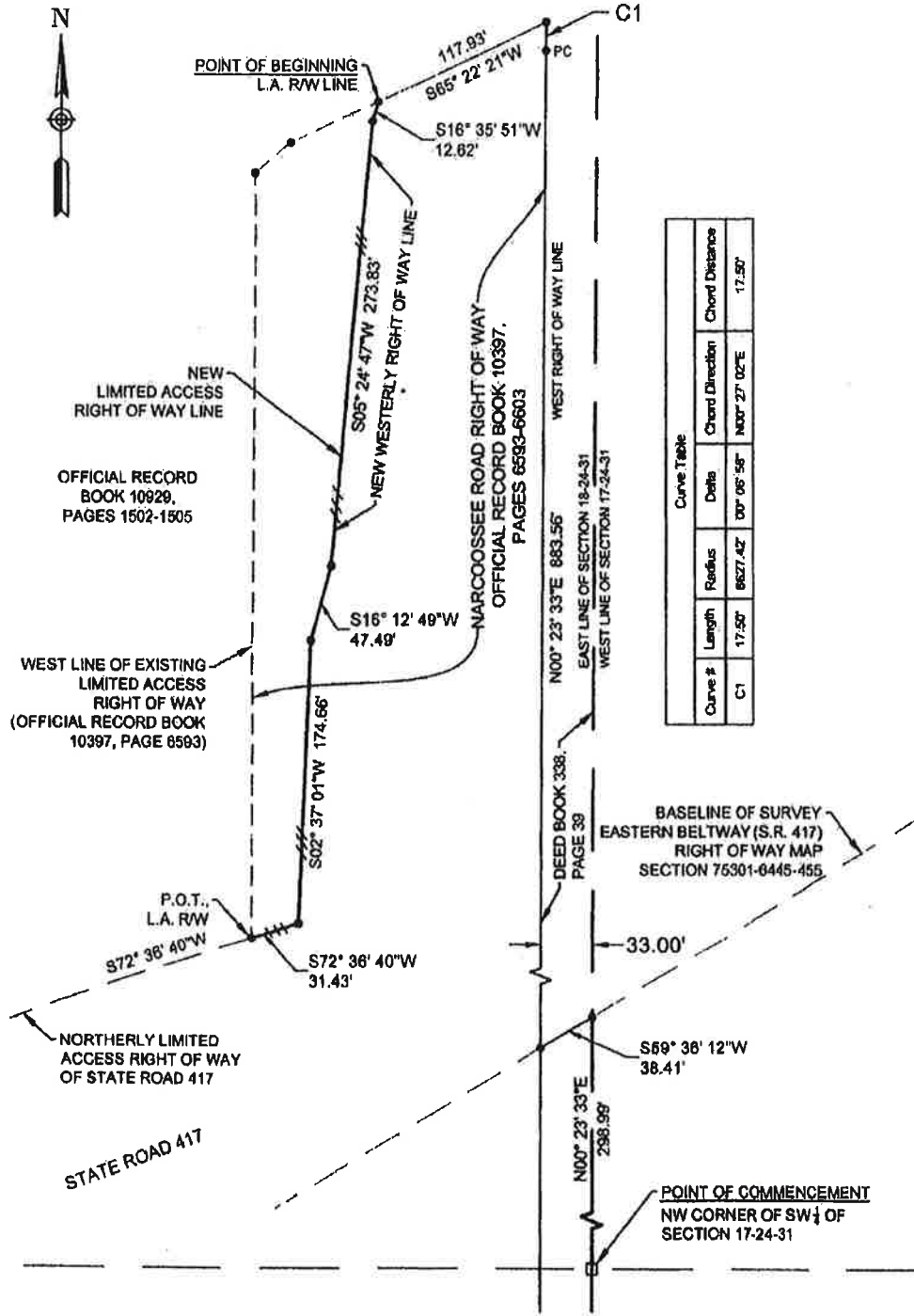
**THIS IS NOT A SURVEY**

PREPARED FOR:  
Engineering -  
Survey Section

DRAWN BY: Washington	DATE: 12/20/16	SECTION: 18	PUBLIC WORKS ENGINEERING DIVISION SURVEY SECTION 4200 SOUTH JOHN YOUNG PARKWAY ORLANDO, FLORIDA 32839-9206 (407) 838-7940		DRAWING SCALE: N/A
CHECKED BY: Muscatello	JOB No: 7849	TOWNSHIP: 24			PROJECT NUMBER
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31			7849
REVISION DATE: 3/23/17	7849 Narcoossee Rd.	SHEET 1 OF 2			

**SCHEDULE "A"**  
**SKETCH OF DESCRIPTION FOR**  
**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**TO ESTABLISH LIMITED ACCESS RIGHTS**  
**(CFX PROJECT 455, PARCEL 45-502)**

FOR LEGAL DESCRIPTION, SEE SHEET 1 OF 2



**LEGEND**

- PC POINT OF CURVATURE
- P.O.B. POINT OF BEGINNING
- P.O.T. POINT OF TERMINATION
- L.A. LIMITED ACCESS RIGHT OF WAY
- R/W RIGHT OF WAY
- CHANGE IN DIRECTION.
- NO POINT SET

Curve Table				
Curve #	Length	Radius	Delta	Chord Distance
C1	17.50'	6627.42'	00° 08' 58"	N80° 27' 02"E 17.50'

**SKETCH AND DESCRIPTION**  
 THIS IS NOT A SURVEY NOR HAS FIELD WORK BEEN PERFORMED IN ACCORDANCE WITH §117, FLORIDA ADMINISTRATIVE CODE FOR PREPARATION OF THIS DRAWING.

- NOTES:**
- BEARINGS ARE BASED ON THE WEST LINE OF SECTION 17-24-31, BEING N 00°23'33" E, AN ASSUMED BEARING.
  - THIS SKETCH OF DESCRIPTION AND LEGAL DESCRIPTION WAS PREPARED BY ORANGE COUNTY ENGINEERING DIVISION, SURVEY SECTION.
  - THERE MAY BE OTHER RECORDS DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY, A COMPLETE TITLE RECORD SEARCH WAS NOT PERFORMED.

DRAWN BY: Washington	DATE: 12/20/16	SECTION: 18
CHECKED BY: Muscatello	JOB No: 7849	TOWNSHIP: 24
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31
REVISION DATE: 3/23/17	7849 Narcoossee Rd	SHEET 2 OF 2

**PUBLIC WORKS**  
**ENGINEERING DIVISION**  
**SURVEY SECTION**  
 4200 SOUTH JOHN YOUNG PARKWAY  
 ORLANDO, FLORIDA 32839-9205  
 (407) 838-7940



PREPARED FOR: Engineering - Survey Section
DRAWING SCALE: 1" = 100'
PROJECT NUMBER 7849

APPROVED

BY ORANGE COUNTY BOARD  
OF COUNTY COMMISSIONERS

OCT 30 2018

LIMITED ACCESS LINE RELOCATION AGREEMENT

THIS LIMITED ACCESS LINE RELOCATION AGREEMENT (this “**Agreement**”) is made and entered into as the Effective Date (hereinafter defined) by and between ORANGE COUNTY, a charter county and political subdivision of the State of Florida, (“**County**”) and CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes (“**CFX**”).

**RECITALS**

A. CFX conveyed the Parent Parcel (hereinafter defined) to County in 2012 in furtherance of County’s road construction project entitled “6 Laning of Narcoossee Road between S.R. 417 and Orange/Osceola Line” (the “**Project**”).

B. A portion of the Parent Parcel, such portion being the Property (hereinafter defined), was ultimately not required by County in connection with the Project, and contemporaneously herewith the Orange County Board of County Commissioners will be adopting a resolution declaring the Property not needed for County purposes and authorizing the County’s Real Estate Management Division to offer the Property for sale in accordance with the provisions set forth in Section 125.35, Florida Statutes, including competitive bidding if required.

C. In connection with potential future development of the Property, an existing limited access line in favor of CFX running generally along the western boundary of the Property (i.e. the Western L/A Line (hereinafter defined)) will need to be released by CFX and a new limited access line in favor of CFX running generally along the eastern boundary of the Property (i.e. the Eastern L/A/ Line (hereinafter defined)) will need to be granted to and established in favor of CFX. Likewise, an existing fence along the Western L/A Line will need to be removed and a new fence will need to be constructed along the Eastern L/A Line.

D. In anticipation of County electing to sell the Property, County and CFX (collectively, the “**Parties**”) desire to enter into this Agreement to provide a process for the relocation of the limited access line and associated fencing affecting the Property.

**NOW, THEREFORE**, in consideration of Ten and No/100 Dollars (\$10.00), the mutual covenants set forth herein, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, County and CFX hereby agree as follows:

**ARTICLE I – RECITALS; DEFINITIONS**

Section 1.1 Recitals. The recitals set forth above are true and correct and are incorporated herein by this reference.

Section 1.2 Definitions. As used in this Agreement, the following defined terms shall have the following defined meanings:

(a) CFX Deed. The term “**CFX Deed**” shall mean and refer to that certain “Quit-Claim Deed” dated April 30, 2012, and recorded June 22, 2012, in Book 10397, Page 6593,

of the Public Records of Orange County, Florida.

(b) Eastern L/A Line. The term “**Eastern L/A Line**” shall mean and refer to that certain limited access line legally described on Exhibit “C” attached hereto, which exhibit is hereby incorporated herein by this reference, and which Eastern L/A Line generally runs along the eastern boundary of the Property.

(c) Effective Date. The term “**Effective Date**” shall mean and refer to the effective date of this Agreement, which date shall be latest of: (i) the date this Agreement is executed by CFX; (ii) the date this Agreement is executed by County; and (iii) the date this Agreement is approved by the Orange County Board of County Commissioners.

(d) Owner. The term “**Owner**” shall mean and refer to the individual, trust, estate, corporation, partnership, company, association, or other person or entity who purchases the Property from County and becomes the fee owner of the Property.

(e) Parent Parcel. The term “**Parent Parcel**” shall mean and refer to, collectively, those certain lands conveyed by CFX to County pursuant to the CFX Deed.

(f) Property. The term “**Property**” shall mean and refer to that certain land legally described on Exhibit “A” attached hereto, which exhibit is hereby incorporated herein by this reference, and which Property is a portion of the Parent Parcel.

(g) Western L/A Line. The term “**Western L/A Line**” shall mean and refer to that certain limited access line legally described on Exhibit “B” attached hereto, which exhibit is hereby incorporated herein by this reference, and which Western L/A Line generally runs along the western boundary of the Property.

(h) Notice Addresses. The term “**Notice Addresses**” shall mean and refer to:

As to County:           Orange County, Florida  
Real Estate Management Division  
Attn: Manager  
400 E. South St.  
5th Floor  
Orlando, FL 32801

*with a copy to:*       Orange County, Florida  
County Attorney’s Office  
Attn: County Attorney  
201 S. Rosalind Ave.  
3rd Floor  
Orlando, FL 32801

As to CFX:               Central Florida Expressway Authority  
Attn: Executive Director  
4974 ORL Tower Rd.

Orlando, FL 32807

with a copy to: Central Florida Expressway Authority  
Attn: General Counsel  
4974 ORL Tower Rd.  
Orlando, FL 32807

**ARTICLE II – CONVEYANCE OF EASTERN L/A LINE TO CFX;  
REMITTANCE OF RELEASE PAYMENT**

Section 2.1 Conveyance of Eastern L/A Line to CFX. Contemporaneous with the closing (“**Closing**”) of an agreement between County and Owner to sell the Property (a “**Contract**”), but prior to the delivery and recording of any deed from County to Owner, County shall convey to CFX by Quit Claim Deed, in substantially the same form as **Exhibit “D,”** (the “**County Deed**”) all rights of ingress, egress, light, air and view to, from or across any right of way property adjoining the line described in **Exhibit “C,”** attached hereto and made a part hereof.

Section 2.2 Release of Western L/A Line by CFX. Within twenty (20) days following the Release Trigger (hereinafter defined), CFX shall release, by executing and recording a Notice of Partial Release of Limited Access Rights in substantially the same form as **Exhibit “E,”** (the “**Notice of Partial Release**”) the limited access rights represented by the limited access line described in **Exhibit “B,”** attached hereto and made a part hereof, but not any other portion of the limited access rights, the remainder of which shall remain and continue in full force and effect. CFX shall provide County with a copy of the recorded Notice of Partial Release within ten (10) business days following its recording. As used in this section, the “**Release Trigger**” shall be deemed to have occurred once all of the following have occurred: (i) the County Deed has been recorded by County in the Public Records of Orange County, Florida, and the Eastern L/A Line has been established in favor of CFX; (ii) CFX has received the Release Payment (hereinafter defined) from Owner; (iii) the Replacement Fence has been constructed by Owner; (iv) Owner has executed a Release of CFX per Section 4.19 below; and (v) all conditions precedent have occurred.

Section 2.3 Release Payment. Contemporaneous with Closing, County shall cause Owner to deliver to CFX – outside of Closing and pursuant to a direct delivery from Owner to CFX – funds in the amount of Ninety Six Thousand Five Hundred and No/100 U.S. Dollars (\$96,500.00) (the “**Release Payment**”) plus an additional sum equal to the amount that CFX will incur to record the Notice of Partial Release (“**Recording Fees**”). The Parties acknowledge that the Release Payment is the amount required to be paid to CFX for the release of the Western L/A Line pursuant to CFX’s “Property Acquisition, Disposition, & Permitting Procedures Manual”.

Section 2.4 Termination of Agreement Upon Certain Failures. In the event that either Closing does not occur on or before March 20, 2019, (the “**Outside Closing Date**”) or CFX does not receive the Release Payment and Recording Fees from Owner on or before the Outside Closing Date, then this Agreement shall terminate, be null and void, and be of no further force or effect.

Section 2.5 Conditions Precedent to CFX’s Release of Western L/A Line. CFX’s release of the Western L/A Line is contingent upon receipt of certificates from CFX’s General

Engineering Consultant and/or Bond Counsel approving the release; passage of the appropriate resolutions by CFX's Board; and approval by CFX's Right of Way Committee and Board.

### **ARTICLE III – REPLACEMENT FENCE**

Section 3.1 Replacement Fence. After Closing, Owner, at Owner's sole cost and expense shall design, engineer, permit, and construct a new fence along the Eastern L/A Line meeting CFX's requirements and standards (the "**Replacement Fence**"). Owner shall complete construction of the Replacement Fence within sixty (60) days following Closing such that it meets CFX's approval.

Section 3.2 Removal of Existing Fence. Following recording of the Notice of Partial Release, Owner, at Owner's sole cost and expense, may (but shall not be required to) remove the fencing that, as of the Effective Date, exists along the Western L/A Line.

### **ARTICLE IV – MISCELLANEOUS**

Section 4.1 Complete Agreement. This Agreement constitutes the entire understanding and agreement between the Parties and supersedes any prior understandings, whether written or oral, with respect to the subject matter hereof, and there are no agreements, understandings, restrictions, representations, or warranties among the Parties other than those set forth herein or herein provided for.

Section 4.2 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same Agreement.

Section 4.3 Modification. This Agreement may be altered, amended, or modified only by written instrument executed by both of the Parties.

Section 4.4 Agreement Not Recorded. This Agreement shall not be recorded in the official records of any county in the State of Florida. Notwithstanding the foregoing, the Parties acknowledge that this Agreement is and will remain a public record that will be available for review and inspection by the public.

Section 4.5 Assignment. Except as otherwise set forth in this Section 4.5, neither this Agreement, nor any right or obligation of any Party arising under this Agreement, may be assigned or delegated without the written consent of all Parties. Notwithstanding the foregoing, CFX acknowledges that it is County's intent to assign this Agreement (and all of County's rights, benefits, duties, and obligations hereunder) to Owner effective upon Closing. As such, after County has entered into a Contract with Owner, County shall send written notice to CFX notifying CFX of the identity of the Owner and requesting that CFX consent in writing to the assignment of this Agreement by County to Owner to be effective upon Closing. CFX shall not unreasonably withhold, condition, or delay its written consent to the assignment of this Agreement by County to Owner (to be effective upon Closing). In the event that CFX does not consent to the assignment of this Agreement by County to Owner (to be effective upon Closing), then County, by written notice to CFX, may elect to terminate this Agreement, whereupon this Agreement shall be null



and void, and be of no further force or effect. The Manager of the Orange County Real Estate Management Division is hereby authorized, on behalf of County, to execute an assignment of this Agreement to Owner pursuant to this Section 4.5. The Executive Director of CFX, or her designee, is hereby authorized, on behalf of CFX, to execute a consent to an assignment of this Agreement to Owner pursuant to this Section 4.5.

Section 4.6 Waiver. No consent or waiver, express or implied, by any Party to or of any breach or default by the other in the performance by the other of its obligations hereunder shall be deemed or construed to be a consent or a waiver to or of any other breach or default in the performance by such other Party of the same or any other obligations of such Party hereunder. Failure on the part of any Party to complain of any act or failure to act of the other Party or to declare the other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such person of its rights hereunder.

Section 4.7 Section Headings. The headings preceding the sections of this Agreement are for convenience only and shall not be considered in the construction or interpretation of this Agreement.

Section 4.8 Gender and Number. All personal pronouns used whether in the masculine, feminine, or neuter gender, shall include all other genders. The singular shall include the plural and the plural shall include the singular unless the context shall indicate or specifically provide to the contrary.

Section 4.9 Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement and a valid, legal, and enforceable provision shall be agreed upon by the Parties and become a part of the Agreement in lieu of the invalid, illegal, or unenforceable provision; in the event a valid, legal, and unenforceable provision cannot be crafted, this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

Section 4.10 Drafting; Negotiation. All of the Parties to this Agreement have participated fully in the negotiation and preparation hereof; this Agreement shall not be construed more strongly for or against any Party regardless of which Party is deemed to have drafted the Agreement.

Section 4.11 No Partnership. Nothing contained in this Agreement shall be construed to create a partnership or joint venture between the Parties or their successors in interest.

Section 4.12 Governing Law. This Agreement shall be governed by, construed, and enforced under the internal laws of the State of Florida without giving effect to the rules and principles governing the conflicts of laws.

Section 4.13 Default. Except as otherwise provided by this Agreement, no breach, failure to comply with any term or provision of this Agreement, or failure of a covenant, warranty, or representation contained herein, shall be considered a “**Default**” until a non-breaching Party has provided written notice of the breach to the breaching Party and the breach had gone uncured for

a period of thirty (30) days; provided, however, that if such breach is of a nature that it cannot reasonably be cured within thirty (30) days, then the breaching Party shall have thirty (30) days from the receipt of written notice from the non-breaching Party to commence said required cure, and the amount of time reasonably necessary to complete said required cure, which reasonable time shall in no event exceed ninety (90) days from the receipt of written notice from the non-breaching Party, unless otherwise extended by the non-breaching Party in writing.

Section 4.14 Available Remedy. In the event of a breach or default by any Party of any of the terms or conditions hereof, the non-breaching party may elect either to: (i) terminate this Agreement; or (ii) pursue specific performance of this Agreement. Upon a termination of this Agreement pursuant to this Section 4.14, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect. Under no circumstances shall any party be liable for consequential, special, indirect, exemplary, or punitive damages in the event of breach or default by such Party hereunder.

Section 4.15 Venue. Venue for any action, suit, or proceeding brought to recover any sum due under, or to enforce compliance with, this Agreement shall lie in the court of competent jurisdiction in and for Orange County, Florida; each party hereby specifically consents to the exclusive personal jurisdiction and exclusive venue of such court.

Section 4.16 WAIVER OF JURY TRIAL. THE PARTIES HERETO WAIVE A TRIAL BY JURY OF ANY AND ALL ISSUES ARISING IN ANY ACTION OR PROCEEDING BETWEEN THEM OR THEIR SUCCESSORS UNDER OR CONNECTED WITH THIS AGREEMENT OR ANY OF ITS PROVISIONS AND ANY NEGOTIATIONS IN CONNECTION HEREWITH.

Section 4.17 Time. Time is of the essence with respect to this Agreement.

Section 4.18 Notices. Any notice to be given to or served upon any Party hereto, in connection herewith, must be in writing, sent to the appropriate Notice Address for such Party, and may be given by hand delivery; certified mail, return receipt requested; U.S. Mail; or guaranteed overnight delivery service. The Manager of the Orange County Real Estate Management Division is hereby authorized, on behalf of County, to furnish any notice required or allowed under this Agreement, including but not limited to pursuant to this Section 4.18.

Section 4.19 Release of CFX. In the event that this Agreement is assigned to Owner as described in Section 4.5 above, then Owner acknowledges and agrees that: (i) prior to CFX's release of the Western L/A Line, Owner shall remise, release, acquit, satisfy, and forever discharge CFX, of and from all, and all manner of action and actions, cause and causes of action, suits, sums of money, covenants, contracts, controversies, agreements, promises, trespasses, damages, judgments, claims and demands whatsoever, in law or in equity, which Owner ever had, then have, or which any personal representative, successor, heir or assign of Owner, thereafter can, shall or may have, against CFX, for, upon or by reason of any matter, cause or thing whatsoever, arising out of or in any way connected with the release and reestablishment of the l/a lines, including, without limitation, any claim for loss of access to Owner's remaining property, severance damages to Owner's remaining property, business damages or any other damages, all from the beginning of

the world to the day thereof; and (ii) a release signed by the Owner shall accompany the Notice of Partial Release. (ROW Manual, Sec 5-5.025)

Section 4.20 Not an Offer. Notwithstanding anything to the contrary in this Agreement, in the event that the transaction under this Agreement does not close, this Agreement shall not be deemed an offer nor admissible in any subsequent eminent domain proceeding with respect to the Property.

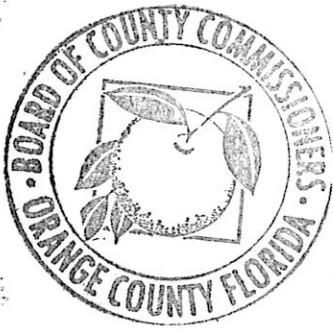
*[signature pages and exhibits follow]*

IN WITNESS WHEREOF, County and CFX have caused this Agreement to be duly executed as of the Effective Date.

“COUNTY”

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners



By: *Teresa Jacobs*

*TJ*  
Teresa Jacobs  
Orange County Mayor

Date 10.30.18

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: *Katie Smith*  
Deputy Clerk

Printed Name: **Katie Smith**

IN WITNESS WHEREOF, County and CFX have caused this Agreement to be duly executed as of the Effective Date.

“CFX”

Signed, sealed, and delivered  
in the presence of:

CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY, a body corporate and an agency  
of the State of Florida, created by Part III of  
Chapter 348, Florida Statutes

Ruth Valentin By: [Signature]  
 Print Name: Ruth Valentin Print Name: Fred Hawkins, Jr.  
Lauren Weaver Title: CFX Chairman  
 Print Name: Lauren Weaver Date: 11/8/18

STATE OF FLORIDA

COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of  
November, 2018, by Fred Hawkins, Jr. as  
Chairman of CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body  
 corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes  
 on behalf of such authority. S/he  is personally known to me OR n/a has produced  
 \_\_\_\_\_ as identification and did/did not take an oath.

[AFFIX NOTARY SEAL]

[Signature]  
 Notary Public



REGLA LAMAUTE  
 MY COMMISSION # FF 897031  
 EXPIRES: November 6, 2019  
 Bonded Thru Budget Notary Services

Regla Lamaute  
 Print Name  
 My Commission Expires: 11/6/2019

Linda Benson

**EXHIBIT "A"**

**Legal Description of the Property**

*(see attached one (1) legal and sketch of description totaling two (2) pages)*

**SCHEDULE "A"  
LEGAL DESCRIPTION**

FOR SKETCH OF DESCRIPTION, SEE SHEET 2 OF 2

A portion of land lying within Narcoossee Road right of way as described in Official Record Book 10397, Pages 6593-6603 of the Public Records of Orange County, Florida; and being in Section 18, Township 24 South, Range 31 East, Orange County, Florida, being more particularly described as follows:

Commence at the Northwest corner of the Southwest 1/4 of Section 17, Township 24 South, Range 31 East, Orange County, Florida; thence run N 00°23'33" E along the West line of said Section 17 for a distance of 298.99 feet to a point on the Baseline of Survey for the Eastern Beltway (SR 417) as shown on Right-of-way Map Section 75301-6445-455 prepared by Jones, Wood & Gentry, Inc., dated 02-07-91; thence run S 59°36'12" W along said Baseline of Survey for 38.41 feet to a point on the West Right of Way line of Narcoossee Road as granted by Deed Book 338, page 39 of the Public Records of Orange County, Florida; thence run N 00°23'33" E along said West right of way line for a distance of 883.56 feet to a point of curvature of a curve concave to the East having a radius of 8,627.42 feet, a central angle of 00°06'58", and a chord bearing of N 00°27'02" E, and a chord distance of 17.50 feet; thence run along the arc of said curve for a distance of 17.50 feet; thence run S 65°22'21" W for a distance of 117.93 feet to the Point of Beginning; thence run the following courses and distances: S 16°35'51" W a distance of 12.62 feet; S 05°24'47" W a distance of 273.83 feet; S 16°12'49" W a distance of 47.49 feet; S 02°37'01" W a distance of 174.66 feet; S 72°36'40" W a distance of 31.43 feet; N 00°23'33" E a distance of 470.50 feet; N 50°44'16" E a distance of 29.43 feet; N 65°22'21" E a distance of 60.12 feet to the Point of Beginning.

Containing 24,176.11 square feet, or 0.56 acres, more or less.

I HEREBY AFFIRM THAT THIS SKETCH OF DESCRIPTION REPRESENTED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. IT HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER SJ-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES, AND UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAN, OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.



*William R. Muscatello, Jr.*  
 William R. Muscatello, Jr.  
 REGISTERED LAND SURVEYOR  
 AND MAPPER  
 STATE OF FLORIDA LICENSE NO. 4928

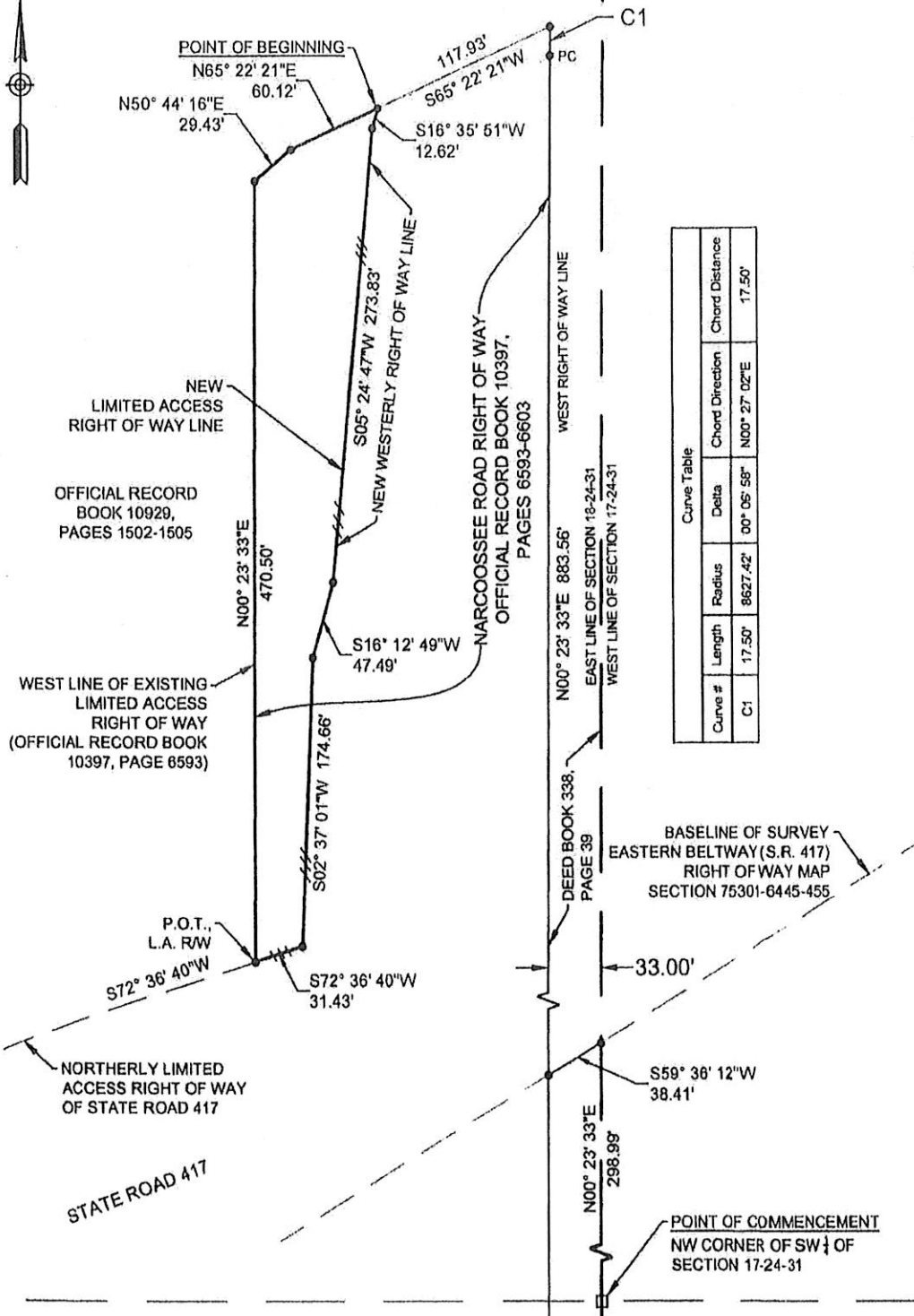
**THIS IS NOT A SURVEY**

PREPARED FOR: Engineering - Survey Section
DRAWING SCALE: N/A
PROJECT NUMBER 7849

DRAWN BY: Washington	DATE: 12/20/16	SECTION: 1B	PUBLIC WORKS ENGINEERING DIVISION SURVEY SECTION 4200 SOUTH JOHN YOUNG PARKWAY ORLANDO, FLORIDA 32839-9205 (407) 836-7940	
CHECKED BY: Muscatello	JOB No: 7849	TOWNSHIP: 24		
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31		
REVISION DATE: 3/23/17	7849 Narcoossee Rd.	SHEET 1 OF 2		

# SCHEDULE "A" SKETCH OF DESCRIPTION

FOR LEGAL DESCRIPTION, SEE SHEET 1 OF 2



Curve Table			
Curve #	Length	Radius	Delta
C1	17.50'	8627.42'	00° 06' 58"
			Chord Distance
			17.50'
			Chord Direction
			N00° 27' 02" E

**LEGEND**

- PC POINT OF CURVATURE
- P.O.B. POINT OF BEGINNING
- P.O.T. POINT OF TERMINATION
- L.A. LIMITED ACCESS
- R/W RIGHT OF WAY
- CHANGE IN DIRECTION, NO POINT SET

**SKETCH AND DESCRIPTION**  
THIS IS NOT A SURVEY, NOR HAS FIELD WORK BEEN PERFORMED IN ACCORDANCE WITH 5-1-17, FLORIDA ADMINISTRATIVE CODE FOR PREPARATION OF THIS DRAWING.

- NOTES:**
- BEARINGS ARE BASED ON THE WEST LINE OF SECTION 17-24-31, BEING N 00°23'33" E, PER OFFICIAL RECORD BOOK 10397, PAGES 6593-6603.
  - THIS SKETCH OF DESCRIPTION AND LEGAL DESCRIPTION WAS PREPARED BY ORANGE COUNTY ENGINEERING DIVISION, SURVEY SECTION.
  - THERE MAY BE OTHER RECORDS DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY. A COMPLETE TITLE RECORD SEARCH WAS NOT PERFORMED.

PREPARED FOR:  
Engineering -  
Survey Section

DRAWN BY: Washington	DATE: 12/20/16	SECTION: 18	PUBLIC WORKS ENGINEERING DIVISION SURVEY SECTION 4200 SOUTH JOHN YOUNG PARKWAY ORLANDO, FLORIDA 32838-9205 (407) 838-7940	ORANGE COUNTY GOVERNMENT FLORIDA
CHECKED BY: Muscatello	JOB No: 7849	TOWNSHIP: 24		
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31		
REVISION DATE: 3/23/17	7849 Narcoossee Rd	SHEET 2 OF 2		

DRAWING SCALE: 1" = 100'
PROJECT NUMBER 7849



**EXHIBIT "B"**

**Legal Description of the Western L/A Line**

*(see attached one (1) legal and sketch of description totaling two (2) pages)*

**SCHEDULE "A"**  
**LEGAL DESCRIPTION OF**  
**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**RELEASE OF LIMITED ACCESS RIGHTS**  
**(CFX PROJECT 455, PARCEL 45-502)**

FOR SKETCH OF DESCRIPTION, SEE SHEET 2 OF 2

A portion of the Limited Access Right of Way line along Narcoossee Road proposed for release as described in Official Record Book 10397, Pages 6593-6603, of the Public Records of Orange County, Florida, all being and lying in Section 18, Township 24 South, Range 31 East, Orange County, Florida, and being more particularly described as follows:

Commence at the Northwest corner of the Southwest  $\frac{1}{4}$  of Section 17, Township 24 South, Range 31 East, Orange County, Florida; thence run N 00°23'33" E along the West line of said Section 17 for a distance of 298.99 feet to a point on the Baseline of Survey for the Eastern Beltway (SR 417) as shown on Right-of-way Map Section 75301-6445-455 prepared by Jones, Wood & Gentry, Inc., dated 02-07-91; thence run S 59°36'12" W along said Baseline of Survey for 38.41 feet to a point on the West Right of Way line of Narcoossee Road as granted by Deed Book 338, page 39 of the Public Records of Orange County, Florida; thence run N 00°23'33" E along said West right of way line for a distance of 883.56 feet to a point of curvature of a curve concave to the East having a radius of 8,627.42 feet, a central angle of 00°06'58", and a chord bearing of N 00°27'02" E; thence run along the arc of said curve for a distance of 17.50 feet; thence run S 65°22'21" W for a distance of 178.07 feet; thence run S 50°44'16" W a distance of 29.43 feet to the Point of Beginning; thence run along the West line of the Existing Limited Access right of way to be released S 00°23'33" W a distance of 470.50 feet to the proposed Point of Termination of said Limited Access right of way line.

I HEREBY AFFIRM THAT THIS SKETCH OF DESCRIPTION REPRESENTED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. IT HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES, AND UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAN, OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.




*William R. Muscatello, Jr.*

William R. Muscatello, Jr.  
 REGISTERED LAND SURVEYOR  
 AND MAPPER  
 STATE OF FLORIDA LICENSE NO. 4928

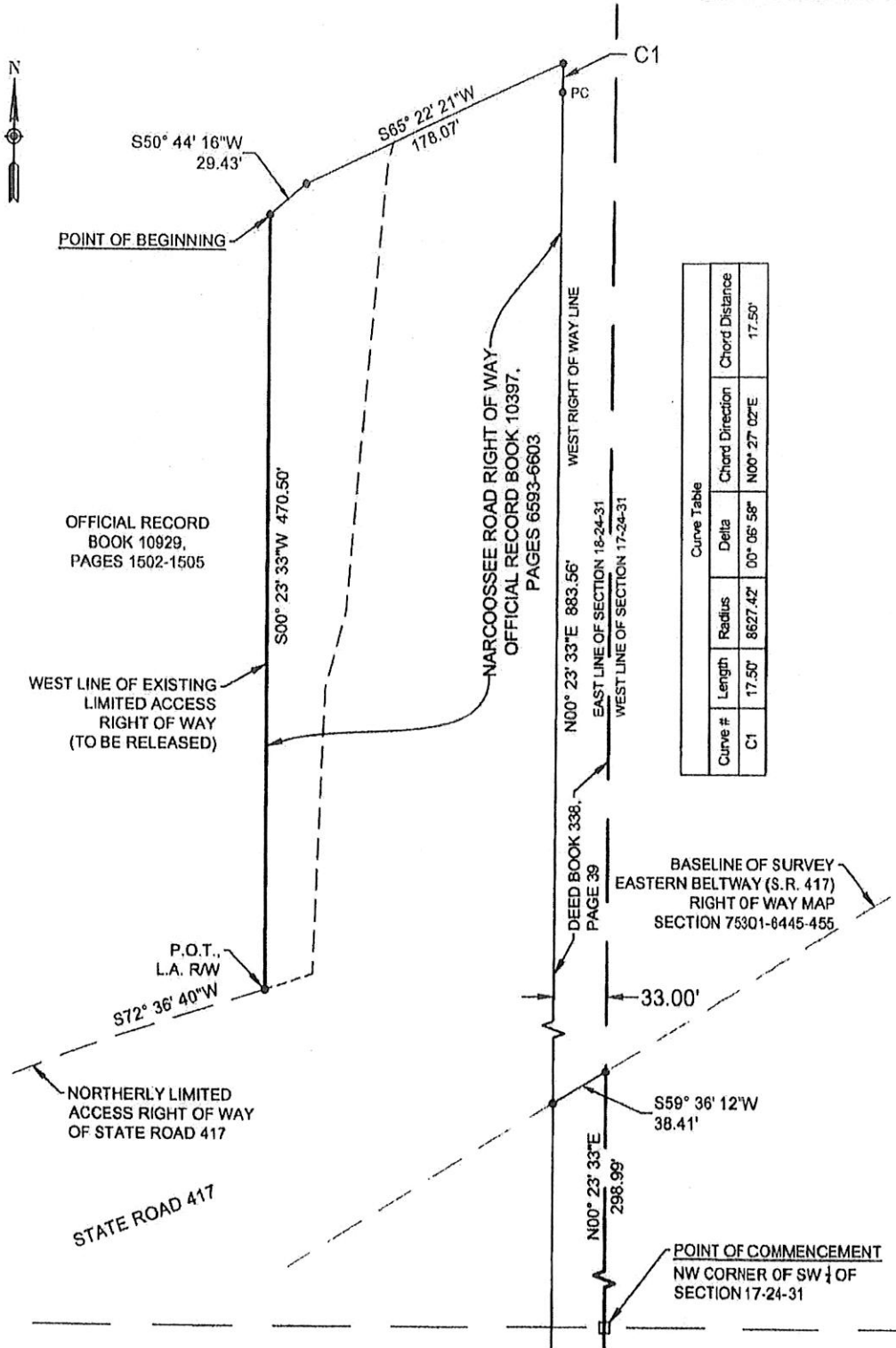
**THIS IS NOT A SURVEY**

PREPARED FOR:  
 Engineering --  
 Survey Section

DRAWN BY: Washington	DATE: 3/9/17	SECTION: 18	PUBLIC WORKS ENGINEERING DIVISION SURVEY SECTION 4200 SOUTH JOHN YOUNG PARKWAY ORLANDO, FLORIDA 32839-9205 (407) 838-7940		DRAWING SCALE: N/A
CHECKED BY: Muscatello	JOB No: 7849	TOWNSHIP: 24			PROJECT NUMBER
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31			7849
REVISION DATE: 3/23/17	7849 Narcoossee Rd.	SHEET 1 OF 2			

**SCHEDULE "A"**  
**SKETCH OF DESCRIPTION OF CENTRAL FLORIDA**  
**EXPRESSWAY AUTHORITY**  
**RELEASE OF LIMITED ACCESS RIGHTS**  
**(CFX PROJECT 455, PARCEL 45-502)**

FOR LEGAL DESCRIPTION, SEE SHEET 1 OF 2



Curve Table				
Curve #	Length	Radius	Delta	Chord Distance
C1	17.50'	8627.42'	00° 05' 58"	17.50'
			N00° 27' 02"E	

- LEGEND**
- PC POINT OF CURVATURE
  - P.O.B. POINT OF BEGINNING
  - P.O.T. POINT OF TERMINATION
  - L.A. LIMITED ACCESS
  - R/W RIGHT OF WAY
  - CHANGE IN DIRECTION, NO POINT SET

**SKETCH AND DESCRIPTION**  
 THIS IS NOT A SURVEY NOR HAS FIELD WORK BEEN PERFORMED IN ACCORDANCE WITH 51-17, FLORIDA ADMINISTRATIVE CODE FOR PREPARATION OF THIS DRAWING.

- NOTES:**
- BEARINGS ARE BASED ON THE WEST LINE OF SECTION 17-24-31, BEING N 00°23'33" E, PER OFFICIAL RECORD BOOK 10397, PAGES 6593-6603.
  - THIS SKETCH OF DESCRIPTION AND LEGAL DESCRIPTION WAS PREPARED BY ORANGE COUNTY ENGINEERING DIVISION, SURVEY SECTION.
  - THERE MAY BE OTHER RECORDS DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY. A COMPLETE TITLE RECORD SEARCH WAS NOT PERFORMED.

PREPARED FOR:  
 Engineering -  
 Survey Section

DRAWN BY: Washington	DATE: 3/9/17	SECTION: 18
CHECKED BY: Muscatello	JOB No: 7849	TOWNSHIP: 24
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31
REVISION DATE: 3/23/17	7849 Narcoossee Rd	SHEET 2 OF 2

PUBLIC WORKS  
 ENGINEERING DIVISION  
 SURVEY SECTION  
 4200 SOUTH JOHN YOUNG PARKWAY  
 ORLANDO, FLORIDA 32839-9205  
 (407) 836-7940



DRAWING SCALE: 1"=100'
PROJECT NUMBER 7849

**EXHIBIT "C"**

**Legal Description of the Eastern L/A Line**

*(see attached one (1) legal and sketch of description totaling two (2) pages)*

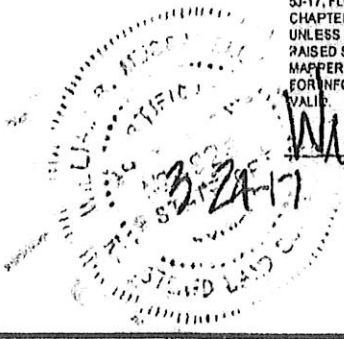
**SCHEDULE "A"**  
**LEGAL DESCRIPTION FOR**  
**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**TO ESTABLISH LIMITED ACCESS RIGHTS**  
**(CFX PROJECT 455, PARCEL 45-502)**

FOR SKETCH OF DESCRIPTION, SEE SHEET 2 OF 2

All rights of ingress, egress, light, air, and view to, from, or across the following described line which may otherwise accrue to any property adjoining said line:

Commence at the Northwest corner of the Southwest 1/4 of Section 17, Township 24 South, Range 31 East, Orange County, Florida; thence run N 00°23'33" E along the West line of said Section 17 for a distance of 298.99 feet to a point on the Baseline of Survey for the Eastern Beltway (SR 417) as shown on Right-of-way Map Section 75301-6445-455 prepared by Jones, Wood & Gentry, Inc., dated 02-07-91; thence run S 59°36'12" W along said Baseline of Survey for 38.41 feet to a point on the West Right of Way line of Narcoossee Road as granted by Deed Book 338, page 39 of the Public Records of Orange County, Florida; thence run N 00°23'33" E along said West right of way line for a distance of 883.56 feet to a point of curvature of a curve concave to the East having a radius of 8,627.42 feet, a central angle of 00°06'58", a chord distance of 17.50 feet, and a chord bearing of N 00°27'02" E; thence run along the arc of said curve for a distance of 17.50 feet; thence run S 65°22'21" W for a distance of 117.93 feet to the Point of Beginning for the Limited Access Right of Way along Narcoossee Road; thence continue from said point and along said Limited Access line the following 5 courses and distances: S 16°35'51" W a distance of 12.62 feet; S 05°24'47" W a distance of 273.83 feet; S 16°12'49" W a distance of 47.49 feet; S 02°37'01" W a distance of 174.66 feet; S 72°36'40" W a distance of 31.43 feet to the Point of Termination of said Limited Access Right of Way line.

I HEREBY AFFIRM THAT THIS SKETCH OF DESCRIPTION REPRESENTED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. IT HAS BEEN PREPARED IN ACCORDANCE WITH THE STANDARDS OF PRACTICE SET FORTH IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472 OF THE FLORIDA STATUTES, AND UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAT, OR INSTRUMENT IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.



William R. Muscatello, Jr.  
 REGISTERED LAND SURVEYOR  
 AND MAPPER  
 STATE OF FLORIDA LICENSE NO. 4928

**THIS IS NOT A SURVEY**

PREPARED FOR: Engineering - Survey Section
DRAWING SCALE: N/A
PROJECT NUMBER 7849

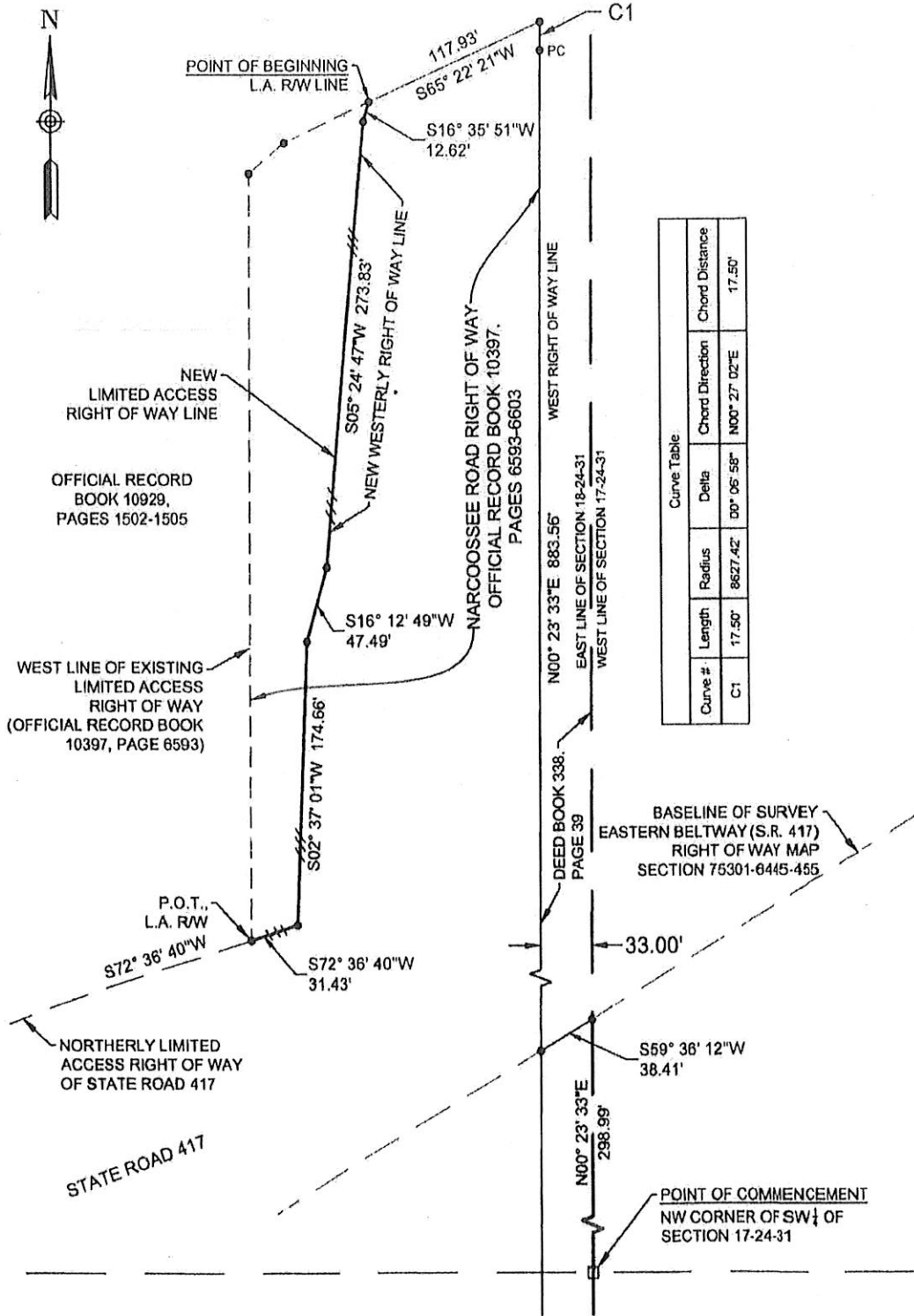
DRAWN BY: Washington	DATE: 12/20/16	SECTION: 18
CHECKED BY: Muscatello	JOB No: 7849	TOWNSHIP: 24
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31
REVISION DATE: 3/23/17	7849 Narcoossee Rd.	SHEET 1 OF 2

PUBLIC WORKS  
 ENGINEERING DIVISION  
 SURVEY SECTION  
 4200 SOUTH JOHN YOUNG PARKWAY  
 ORLANDO, FLORIDA 32839-0205  
 (407) 836-7940



**SCHEDULE "A"**  
**SKETCH OF DESCRIPTION FOR**  
**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**  
**TO ESTABLISH LIMITED ACCESS RIGHTS**  
**(CFX PROJECT 455, PARCEL 45-502)**

FOR LEGAL DESCRIPTION, SEE SHEET 1 OF 2



Curve Table			
Curve #	Length	Radius	Chord Distance
C1	17.50'	8627.42'	17.50'
		Δ 0° 06' 58"	Δ 00° 27' 02"E

- LEGEND**
- PC POINT OF CURVATURE
  - P.O.B. POINT OF BEGINNING
  - P.O.T. POINT OF TERMINATION
  - L.A. LIMITED ACCESS
  - R/W RIGHT OF WAY
  - CHANGE IN DIRECTION.
  - NO POINT SET

**SKETCH AND DESCRIPTION**  
 THIS IS NOT A SURVEY, NOR HAS FIELD WORK BEEN PERFORMED IN ACCORDANCE WITH 51-17, FLORIDA ADMINISTRATIVE CODE FOR PREPARATION OF THIS DRAWING.

- NOTES:**
- BEARINGS ARE BASED ON THE WEST LINE OF SECTION 17-24-31, BEING N 00° 23' 33" E, AN ASSUMED BEARING.
  - THIS SKETCH OF DESCRIPTION AND LEGAL DESCRIPTION WAS PREPARED BY ORANGE COUNTY ENGINEERING DIVISION, SURVEY SECTION.
  - THERE MAY BE OTHER RECORDS DOCUMENTS FOUND IN ORANGE COUNTY RECORDS AFFECTING THIS PROPERTY, A COMPLETE TITLE RECORD SEARCH WAS NOT PERFORMED.

PREPARED FOR:  
 Engineering -  
 Survey Section

DRAWN BY: Washington	DATE: 12/20/16	SECTION: 18
CHECKED BY: Muscatello	JOB No: 7849	TOWNSHIP: 24
APPROVED BY: Muscatello	DRAWING FILE:	RANGE: 31
REVISION DATE: 3/23/17	7849 Narcoossee Rd	SHEET 2 OF 2

PUBLIC WORKS  
 ENGINEERING DIVISION  
 SURVEY SECTION  
 4200 SOUTH JOHN YOUNG PARKWAY  
 ORLANDO, FLORIDA 32839-9205  
 (407) 836-7940



DRAWING SCALE:  
 1"=100'  
 PROJECT NUMBER  
 7849

**EXHIBIT "D"**

**Form of Quit Claim Deed to CFX Establishing Eastern L/A Line**

Project: Narcoossee Road @ S. R. 417 Right of Way Transfer (Surplus Property)

**This document constitutes a conveyance from a state agency or instrumentality to an agency of the state and is not subject to documentary stamp tax. Department of Revenue Rules 12B-4.0114(10), F.A.C.**

**QUIT-CLAIM DEED**

THIS QUIT-CLAIM DEED, Executed on \_\_\_\_\_, by Orange County, a charter county and political subdivision of the state of Florida, whose address is P. O. Box 1393, Orlando, Florida 32802-1393, GRANTOR, to Central Florida Expressway Authority, a body politic and corporate, and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, having its principal place of business at 4974 ORL Tower Road, Orlando, Florida 32807, GRANTEE.

WITNESSETH: That the said GRANTOR, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable considerations, in hand paid by the said GRANTEE, the receipt whereof is hereby acknowledged, does hereby remise, release, and quit-claim unto the said GRANTEE forever, all the right, title, interest, claim, and demand – including all rights of ingress, egress, light, air, and view to, from, or across the line as described in Schedule "A" – which the said GRANTOR has in and to the following described lot, piece, or parcel of land, situate, lying and being in Orange County, Florida, to-wit:

**SEE ATTACHED SCHEDULE "A"**

**Property Appraiser's Parcel Identification Number:**

**unassigned**

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity, and claim, including all rights of ingress, egress, light, air, and view to, from, or across the line as described in Schedule "A", whatsoever of the said GRANTOR, either in law or equity, to the only proper use, benefit, and behoove of the said GRANTEE forever.

Project: Narcoossee Road @ S. R. 417 Right of Way Transfer (Surplus Property)

IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be executed in its name by its Board, acting by the County Mayor, the day and year aforesaid.

(Official Seal)

Orange County, Florida  
By Board of County Commissioners

BY: \_\_\_\_\_  
Teresa Jacobs  
Orange County Mayor

DATE: \_\_\_\_\_

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

BY: \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Printed Name

**This instrument prepared by:**

Paul Sladek, a staff employee  
in the course of duty with the  
Real Estate Management Division  
of Orange County, Florida



**EXHIBIT "E"**

**Form of CFX's Notice of Partial Release of Western L/A Line**

*(see attached one (1) instrument totaling two (2) pages)*

***Prepared by and Return to:***

Linda S. Brehmer Lanosa  
Deputy General Counsel  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807

For recording purposes

SR 417, Project 455  
Parcel 45-502 (Narcoossee Road R/W)

**NOTICE OF PARTIAL RELEASE OF LIMITED ACCESS LINE**

THIS NOTICE OF PARTIAL RELEASE OF LIMITED ACCESS LINE ("Notice") is hereby executed the \_\_\_\_\_ day of \_\_\_\_\_ 2018 by CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a public corporation and an agency of the State of Florida ("CFX"), whose mailing address is 4974 ORL Tower Road, Orlando, Florida 32807.

**RECITALS:**

WHEREAS, CFX is the owner and holder of a limited access line running north along the west side of Narcoossee Road, north of State Road 417 more particularly described as Limited Access Right of Way Parcel 45-502 as acquired by that certain Warranty Deed recorded April 5, 1991 in O.R. 4275, Page 2484 and by Corrective Warranty Deed recorded July 28, 2005 in O.R. Book 8095, page 888, and reserved in Quit-Claim Deed executed April 30, 2012, and recorded June 22, 2012 in O.R. Book 10397, Page 6593 of the public records of Orange County, Florida (the "Original Limited Access Line"); and

WHEREAS, Orange County has conveyed to CFX a new limited access line also along the west side of Narcoossee Road via County Deed recorded as Document number \_\_\_\_\_; and

WHEREAS, CFX is desirous of releasing a portion of the Original Limited Access Line along Narcoossee Road more particularly described on **EXHIBIT "1."**

**WITNESSETH:**

**NOW, THEREFORE**, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which CFX hereby acknowledges, the CFX agrees:

SR 417, Project 455  
Parcel 45-502 (Narcoossee Road R/W)

1. **Incorporation.** The foregoing recitals are hereby incorporated into and made a part of this Notice.

2. **Release.** CFX hereby releases and terminates the portion of the Original Limited Access Line represented by the limited access line more particularly set forth on **EXHIBIT "1"** attached hereto and incorporated herein by this reference. It is understood and agreed that nothing contained herein shall be construed to release, discharge or convey any other portion of the limited access line, the remainder of which shall remain and continue in full force and effect.

**IN WITNESS WHEREOF**, CFX has caused this instrument to be executed in the manner and form sufficient to bind it as of the day and year first above written.

**WITNESSES:**

**"CFX"**

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**, a body politic and corporate,  
and an agency of the state, under the laws of  
the State of Florida

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name \_\_\_\_\_

By: \_\_\_\_\_  
Chairman Fred Hawkins

APPROVED AS TO FORM FOR CFX ONLY

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Joseph Passiatore, General Counsel

STATE OF FLORIDA     )  
COUNTY OF ORANGE    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_ 2018 by Fred Hawkins, as Chairman of the Central Florida Expressway Authority,  
a body politic and corporate, and an agency of the state, under the laws of the State of Florida. He  
is personally known to me or has produced \_\_\_\_\_ as identification.

(Notary Seal)

\_\_\_\_\_  
Signature of Notary Public, State of Florida

\_\_\_\_\_  
Printed Notary Name

**CONSENT AGENDA ITEM  
#10**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Linda S. Brehmer Lanosa, Deputy General Counsel *Linda SBL*

DATE: March 27, 2019

RE: Right of Way Transfer Agreement with the City of Apopka  
Project 429-604, Irmalee Lane  
Location: East of S.R. 429, North of McCormick Road, South of West Keene Road

---

## BACKGROUND

As part of the acquisition and construction of State Road 429, the Central Florida Expressway Authority (“CFX”) acquired property to reestablish access to several abutting properties. The access road is known as Irmalee Lane and is shown in the aerial below.



4974 ORL TOWER RD. ORLANDO, FL 32807 | PHONE: (407) 690-5000 | FAX: (407) 690-5011

Project: Project 429-604  
Irmalee Lane, City of Apopka

By letter dated March 12, 2019, the City of Apopka (“the City”) requested a jurisdictional transfer of Irmalee Lane. A copy of the City’s request is attached as **Exhibit “1.”** In return and as consideration, the City will be responsible for the ongoing maintenance and management of Irmalee Lane. It is in the interest of both CFX and the City for local roads to be maintained by the local jurisdiction.

A proposed Right of Way Transfer Agreement (“Agreement”) with the proposed Quit Claim Deed is attached as **Exhibit “2.”** The Agreement requires the City to be responsible for the continuing and future maintenance of Irmalee Lane. CFX’s interest in Irmalee Lane would be conveyed to the City by Quit Claim Deed “as is” subject to a reverter clause in the event the property is no longer used for public right-of-way purposes.

### **REQUESTED ACTION**

We respectfully request that the CFX Board approve a Right of Way Transfer Agreement with the City of Apopka in a form substantially similar to the Agreement attached as **Exhibit “2,”** subject to confirmation of the legal descriptions and a certificate from CFX’s General Engineering Consultant.

The Right of Way Committee recommended approval on March 27, 2019.

### **ATTACHMENTS**

1. City of Apopka’s Request for a Jurisdictional Transfer
2. Proposed Right of Way Transfer Agreement

Reviewed by:

  
\_\_\_\_\_



120 E. Main St. · APOPKA, FLORIDA 32703-5346  
PHONE (407) 703-1700

OFFICE OF THE CITY ATTORNEY

March 12, 2019

**SENT VIA EMAIL**

Ms. Laura Kelley  
Executive Director  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, Florida 32807

**Re: Irma Lee Lane  
Request for Jurisdictional Transfer**

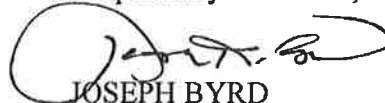
Dear Ms. Lanosa:

On behalf of the City of Apopka, I am requesting the consideration of Central Florida Expressway Authority for a jurisdictional transfer of its interests in that real property commonly known as Irma Lee Lane as referenced on the map accompanying this letter. It is understood that said conveyance, if granted, would be subject to confirmation by both parties as to legal descriptions and any other prerequisites of your agency for such a transfer.

The property is part of real property situated in Orange County that was annexed by the City of Apopka on or about October 4, 2017. It is the intent of the City of Apopka that the property, if transferred, would be part of the city's road network and utility right of way. Moreover, the City is committed to the joint interest of your agency and the City of Apopka for local roads to be maintained by the local jurisdiction. Accordingly, it is understood that the City will accept responsibility for the ongoing maintenance and management of Irmalee Lane.

Your consideration for this request is appreciated.

Respectfully submitted,

  
JOSEPH BYRD  
City Attorney

Attachment 1

**REQUEST FOR JURISDICTIONAL TRANSFER  
CITY OF APOPKA**

**MAP OF IRMALEE LANE**





**RIGHT-OF-WAY TRANSFER AGREEMENT BETWEEN  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND CITY OF APOPKA, FLORIDA  
(Project 429-604, Irmalee Lane)**

THIS RIGHT-OF-WAY TRANSFER AGREEMENT (“Agreement”) is made and entered into on the last date of execution below by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 (“CFX”) and CITY OF APOPKA, a municipality of the State of Florida, whose address is 120 E. Main Street, Apopka Florida 32703 (“City”). CFX and City are sometimes collectively referred to herein as the “Parties.”

**WITNESSETH:**

WHEREAS, pursuant to section 348.753, Florida Statutes, CFX is empowered to construct, improve, maintain, and operate the Central Florida Expressway System (“Expressway System”) and, in connection therewith, to construct any extensions, additions or improvements to said system or appurtenant facilities, including all necessary approaches, roads, bridges and avenues of access; and

WHEREAS, pursuant to Section 166.021, Florida Statutes, City is empowered to provide and maintain arterial and other roads for the benefit of its citizens; and

WHEREAS, pursuant to Section 335.0415, Florida Statutes, “public roads may be transferred between jurisdictions . . . by mutual agreement;” and

WHEREAS, Section 163.01, Florida Statutes, authorizes both Parties to this Agreement to enter into Interlocal Agreements; and

WHEREAS, in the course of the construction State Road (S.R.) 429, CFX acquired certain land for the benefit of the local jurisdictions and constructed thereon certain roadways and other improvements to insure a minimal disruption of traffic to the citizens and to provide for a smooth transition to the Expressway System, thus making both the Expressway System and the local road system compatible; and

WHEREAS, the property known as Irmalee Lane was acquired by eminent domain in or around 1998 and, as a result, any conveyance is subject to the requirements of Section 73.013, Florida Statutes; and

WHEREAS, the construction of Project 429-604 is completed, and both Parties desire title to the local road known as Irmalee Lane to vest in City; and

NOW THEREFORE, for and in consideration of the mutual agreements herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby expressly acknowledged, CFX and City agree as follows:

Attachment 2

1. Recital. The above recitals are true and correct and form a material part of this Agreement and are incorporated herein by reference.
2. Right of Way Map. CFX previously delivered to City the pertinent right-of-way map.
3. CFX Conveyance. CFX shall convey to City by Quit Claim Deed all of its right, title and interest in and to the local road known as Irmalee Lane, more particularly described in **Exhibit "A"** attached hereto and made a part hereof, hereinafter the "Property." The Quit Claim Deed to be executed and delivered under the provisions of this paragraph shall be in a form substantially similar to **Exhibit "B."**
4. Consideration. The consideration for the Property to be transferred to City shall be City's continuing and future obligation to manage and maintain the Property and to provide access to the abutting or otherwise landlocked properties.
5. Evidence of Title. At any time before Closing, City may, at its sole cost and expense, order a commitment from an agent for a policy of Owner's Title Insurance (the "Commitment") which shall be written on a title insurance company reasonably satisfactory and acceptable to City.
6. Survey. Either party shall have the right, at any time before Closing, to have the Property surveyed at its sole cost and expense (the "Survey").
7. Compliance with Section 73.013, Florida Statutes. City acknowledges that the Property was acquired by eminent domain and is subject to the provisions of Section 73.013, Florida Statutes.
8. Closing Date and Location. The closing of the conveyance contemplated under this Agreement (the "Closing") shall be held within twenty (20) of the Effective Date or such earlier date selected by CFX.
9. Conveyance of Title. At the Closing, CFX shall execute and deliver to City the aforementioned Quit Claim Deed.
10. FIRPTA Affidavit. At Closing, CFX shall sign a closing statement and an affidavit that CFX is not a foreign person for purposes of the Foreign Investment in Real Property Tax Act (FIRPTA), as revised by the Deficit Reduction Act of 1984 and as same may be amended from time to time (which certificate shall include CFX's taxpayer identification numbers and address or a withholding certificate from the Internal Revenue Service stating that CFX is exempt from withholding tax on the Purchase Price under FIRPTA) and such other documents as are necessary to complete the transaction.

11. Recording. City agrees to record the aforementioned Quit Claim Deed within thirty (30) days after delivery of the original Deed to City at its cost. City agrees to deliver a certified copy of the recorded Quit Claim Deed to CFX shortly thereafter.

12. Agreement Not Recorded. This Agreement shall not be recorded in the official records of any county in the State of Florida. Notwithstanding the foregoing, the Parties acknowledge that this Agreement is and will remain a public record that will be available for review and inspection by the public.

13. As-Is Conveyance. The Property is being conveyed “AS IS, WHERE IS, WITH ALL FAULTS,” in such condition as the same may be on the closing date, without any representations or warranties by the respective owner as to any condition of the Property, including, without limitation, surface and subsurface environmental conditions, whether latent or patent. CFX makes no guarantee, warranty or representation, express or implied, as to the quality, character, or condition of the Property, or any part thereof, or to the fitness of the Property, or any part thereof, for any use or purpose, or any representation as to the nonexistence of any hazardous substances. Neither Party shall have any claim against the other, in law or in equity, based upon the condition of the Property, or the failure of the Property to meet any standards. In no event shall CFX be liable for any incidental, special, exemplary, or consequential damage. In the event that any hazardous substances are discovered on, at or under the Property, City shall not maintain any action or assert any claim against CFX, its successors and respective members, employees and agents arising out of or relating to any such hazardous substances. The provisions of this Section shall survive the Closing. (CFX Manual, Sec. 5-6.09) City has read and understands the provisions of this Section and acknowledges and agrees that except as expressly set forth in this Agreement, it is acquiring the Property described in paragraph 3 and **Exhibit “A” “AS-IS, WHERE IS AND WITH ALL FAULTS”** and that CFX has disclaimed herein any and all warranties, express or implied.

14. Notices. Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

CFX: CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY  
4974 ORL Tower Road  
Orlando, Florida 32807  
Attn: Executive Director  
Telephone: (407) 690-5000

With a copy to: CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY  
4974 ORL Tower Road  
Orlando, Florida 32807

Attn: General Counsel  
Telephone: (407) 690-5000

CITY: CITY OF APOPKA  
120 East Main Street  
Apopka, Florida 32703  
Attention: Mayor  
Telephone: (407) 703-1601

With a copy to: CITY OF APOPKA  
120 East Main Street  
Apopka, Florida 32703  
Attention: City Attorney  
Telephone: (407) 703-1658

or to such other address as either party hereto shall from time to time designate to the other party by notice in writing as herein provided.

15. General Provisions. No failure of either party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof. This Agreement contains the entire agreement of the Parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the Parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon any of the Parties hereto unless such amendment is in writing and executed by both Parties. Wherever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday, or Legal Holiday, such time for performance shall be extended to the next business day. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph of this Agreement are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph. City and CFX do hereby covenant and agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms of this Agreement shall be executed and delivered by each party at Closing. This Agreement shall be interpreted under the laws of the State of Florida. The Parties hereto agree that the exclusive venue and jurisdiction for any legal action authorized hereunder shall be in the courts of Orange County, Florida. **TIME IS OF THE ESSENCE OF THIS AGREEMENT AND EACH AND EVERY PROVISION HEREOF.**

16. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

17. Survival of Provisions. All covenants, representations and warranties set forth in this Agreement shall survive the Closing and shall survive the execution or delivery of any and all deeds and other documents at any time executed or delivered under, pursuant to or by reason of this Agreement, and shall survive the payment of all monies made under, pursuant to or by reason of this Agreement.

18. Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

19. Effective Date. This Agreement shall be and become effective on the date that it is signed and executed by the last to sign of CFX and City.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in a manner and form sufficient to bind them on the date set forth herein below.

**CITY OF APOPKA, FLORIDA**

By: City Commission

BY: \_\_\_\_\_  
MAYOR

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

BY: \_\_\_\_\_  
CHAIRMAN JAY MADARA

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Regla ("Mimi") Lamaute  
Recording Clerk

**APPROVED AS TO FORM FOR  
RELIANCE BY CFX ONLY**

By: \_\_\_\_\_  
General Counsel

**EXHIBITS**

A. Legal Description of Irmalee Lane

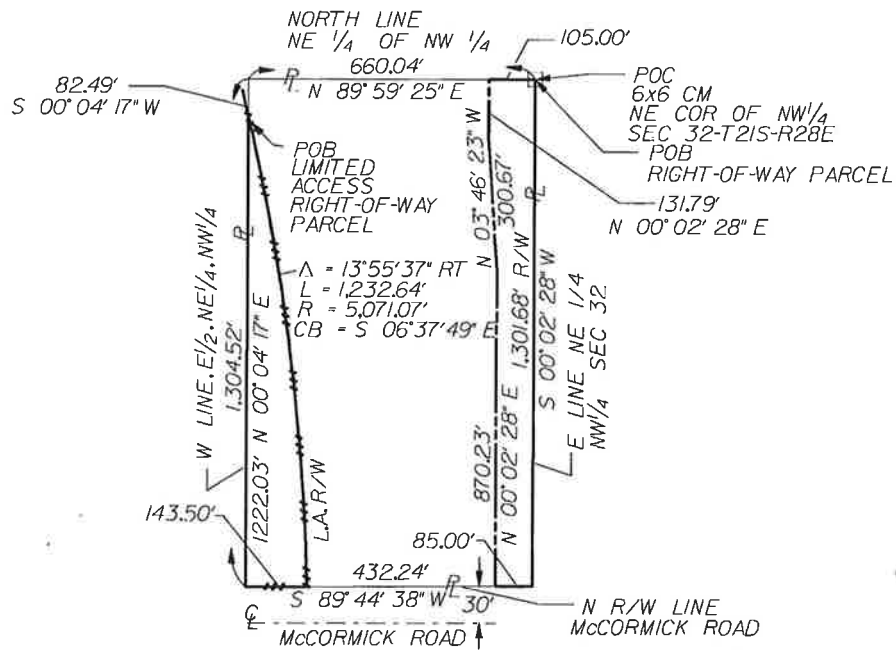
B. Form of Quit Claim Deed

**EXHIBIT "A"**

**LEGAL DESCRIPTIONS OF IRMALEE LANE**

# SKETCH OF DESCRIPTION SECTION 75320-6460-604/605 PARCEL 63-102

NOT TO SCALE



**OWNER:**

FLOYD E. THOMPSON, JR.  
CHAROLETTE M. THOMPSON

PARCEL AREA - 19.755 ACRES

AREA TAKEN  
L.A. R/W - 2.717 ACRES  
R/W - 2.670 ACRES  
AREA REM. - 14.368 ACRES

**NOTES:**

1) BEARINGS ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM EAST ZONE (NORTH LINE SOUTHWEST 1/4 OF SECTION 20-21-28, AS BEING N 89° 37' 58\"/>

Legend

- Δ - Delta
- R - Radius
- L - Length
- PC - Point of Curvature
- PT - Point of Tangency
- POB - Point of Beginning
- POC - Point of Commencement
- C - Chord Length
- C/L - Centerline
- O.R. - Official Records
- BK. - Book
- Ex. - Expires
- (R) - Radial
- PG. - Page
- P.B. - Plat Book
- esmt. - Easement
- F.P.C. - Florida Power Corporation
- M - Meters
- (C) - Calculated
- C.B. - Chord Bearing
- D.B. - Deed Book
- P - Plat
- (RT) - Right
- (LT) - Left
- R/W - Right-of-Way
- N.T.S. - Not to Scale
- Sec. - Section

PREPARED FOR



6/16/97 REVISE L.A. R/W LINE, AREAS S.WARD

*Dennis L. Deal*  
DENNIS L. DEAL P.S.M. LICENSE No. LS 3421  
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SKETCH TO ACCOMPANY DESCRIPTION SHEET 10F2

SKETCH OF DESCRIPTION ONLY, THIS IS NOT A SURVEY.

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:

**BOWYER-SINGLETON & ASSOCIATES, INCORPORATED**

ENGINEERING - PLANNING - SURVEYING - ENVIRONMENTAL  
520 SOUTH MAGNOLIA AVENUE • ORLANDO, FLORIDA 32801  
407-843-5120 • FAX 407-649-8664  
CERTIFICATE OF AUTHORIZATION NO. LB 1221

PROJECT NUMBER: EA4/JI	DESCRIPTION: PARCEL 63-102 - STATE ROAD No. 429
DRAWN BY: K. MITCHELL	CLIENT: ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY
DATE: 03/12/97	SECTION-TOWNSHIP-RANGE SEC. 32, TWP. 21S, RGE. 28E
W.P.I. NUMBER: N/A	COUNTY: ORANGE COUNTY



**ORLANDO - ORANGE COUNTY EXPRESSWAY AUTHORITY**

**STATE ROAD 429**

**SECTION 75320-6460-604/605**

**Purpose: Right of Way Transfer to the City of Apopka**

**PARCEL 63-102**

**RIGHT-OF-WAY**

BEGIN AT A 6x6 CONCRETE MONUMENT AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE RUN SOUTH 00°02'28" WEST, ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 32 A DISTANCE OF 1301.68 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF McCORMICK ROAD; THENCE RUN SOUTH 89°44'38" WEST ALONG SAID RIGHT-OF-WAY LINE FOR A DISTANCE OF 85.00 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE RUN NORTH 00°02'28" EAST, A DISTANCE OF 870.23 FEET; THENCE RUN NORTH 03°46'23" WEST, A DISTANCE OF 300.67 FEET; THENCE RUN NORTH 00°02'28" EAST, A DISTANCE OF 131.79 TO THE NORTH LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 32, THENCE RUN NORTH 89°59'25" EAST ALONG SAID NORTH LINE A DISTANCE OF 105.00 FEET TO THE POINT OF BEGINNING.

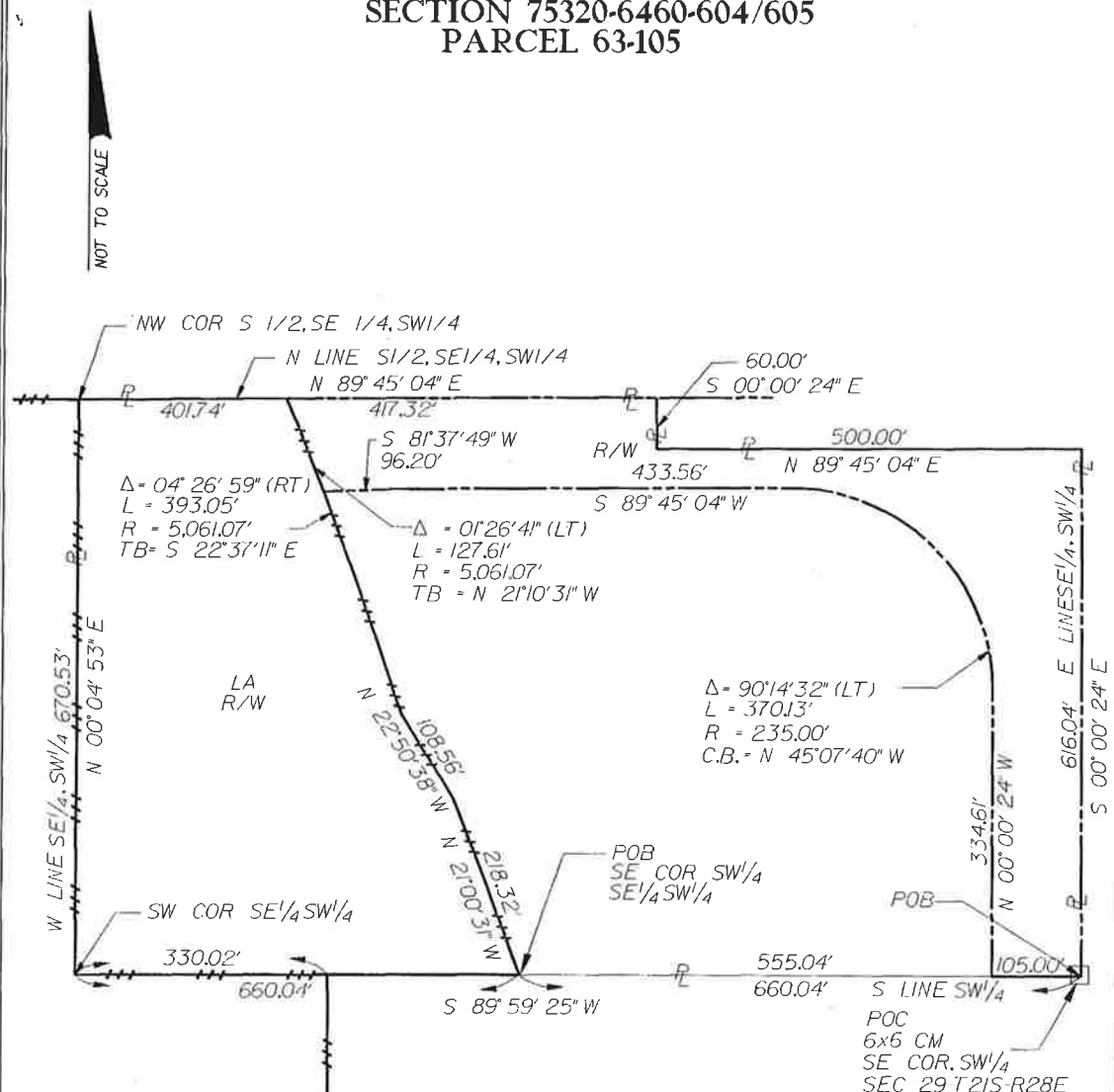
CONTAINING 2.670 ACRES, MORE OR LESS.

**SHEET 2 OF 2**

**DATE: MARCH 12, 1997**

**REVISED: JUNE 24, 1997**

# SKETCH OF DESCRIPTION SECTION 75320-6460-604/605 PARCEL 63-105



**NOTES:**

1) BEARINGS ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM EAST ZONE (NORTH LINE SOUTHWEST 1/4 OF SECTION 20-21-28, AS BEING N 89° 37' 58\"/>

**OWNER:**  
JIMMIE LEE MARDEN, UNREMARIED SURVIVING SPOUSE OF I.H.M. MARDEN, JR., DECEASED

PARCEL AREA = 19.707 ACRES  
AREA TAKEN  
L.A. R/W = 8.185 ACRES  
R/W = 3.138 ACRES  
AREA REM. = 8.384 ACRES

- Legend**
- Δ - Delta
  - R - Radius
  - L - Length
  - PC - Point of Curvature
  - PT - Point of Tangency
  - POB - Point of Beginning
  - POC - Point of Commencement
  - C - Chord Length
  - C/L - Centerline
  - O.R. - Official Records
  - BK. - Book
  - Ex. - Expires
  - (R) - Radial
  - PG. - Page
  - P.B. - Plat Book
  - asmt. - Easement
  - F.P.C. - Florida Power Corporation
  - M - Meters
  - (C) - Calculated
  - C.B. - Chord Bearing
  - D.B. - Deed Book
  - P - Plat
  - (RT) - Right
  - (LT) - Left
  - T.B. - Tangent Bearing
  - R/W - Right-of-Way
  - N.T.S. - Not to Scale
  - Sec. - Section



6/16/97 REVISE L.A. R/W, AREA S.WARD  
5/6/97 REVISE R/W AREA, LEGEND S.WARD

*Dennis L. Deal*  
DENNIS L. DEAL P.S.M. LICENSE No. LS 3421  
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.  
SKETCH TO ACCOMPANY DESCRIPTION SHEET 1 OF 2

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:	
<b>BOWYER-SINGLETON &amp; ASSOCIATES, INCORPORATED</b>	PROJECT NUMBER: EA4/JI
DRAWN BY: K. MITCHELL	DESCRIPTION: PARCEL 63-105 - STATE ROAD No. 429 SECTION 06010 - 2532
DATE: 03/12/97	CLIENT: ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY
SECTION-TOWNSHIP-RANGE: SEC. 29, TWP. 21S, RGE. 28E	W.P.J. NUMBER: N/A
COUNTY: ORANGE COUNTY	COUNTY: ORANGE COUNTY

**ORLANDO - ORANGE COUNTY EXPRESSWAY  
AUTHORITY STATE ROAD 429  
SECTION 75320-6460-604/605  
Purpose: Transfer Right of Way to the City of Apopka**

**PARCEL 63-105**

**RIGHT-OF-WAY**

BEGIN AT A 6x6 CONCRETE MONUMENT AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY, FLORIDA; THENCE RUN SOUTH 89°59'25" WEST ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 29 FOR A DISTANCE OF 105.00 FEET; THENCE RUN NORTH 00°00'24" WEST, PARALLEL WITH THE EAST LINE OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 29, A DISTANCE OF 334.61 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 235.00 FEET, THENCE RUN ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°14'32" FOR A DISTANCE OF 370.13 FEET TO THE POINT OF TANGENCY; THENCE RUN SOUTH 89°45'04" WEST, A DISTANCE OF 433.56 FEET; THENCE RUN SOUTH 81°37'49" WEST, A DISTANCE OF 96.20 FEET TO A POINT ON A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 5061.07 FEET; THENCE FROM A TANGENT BEARING OF NORTH 21°10'31" WEST, RUN NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°26'41" FOR A DISTANCE OF 127.61 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 29; THENCE DEPARTING SAID CURVE, RUN NORTH 89°45'04" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 417.32 FEET; THENCE RUN SOUTH 00°00'24" EAST, A DISTANCE OF 60.00 FEET; THENCE RUN NORTH 89°45'04" EAST, PARALLEL WITH THE NORTH LINE OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 29, A DISTANCE OF 500.00 FEET TO THE EAST LINE OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 29; THENCE RUN SOUTH 00°00'24" EAST, A DISTANCE OF 616.04 FEET TO THE POINT OF BEGINNING.

CONTAINING 3.138 ACRES, MORE OR LESS.

RESERVING ALL RIGHTS OF INGRESS, EGRESS, LIGHT, AIR, AND VIEW TO, FROM OR ACROSS ANY SR 429 RIGHT OF WAY PROPERTY WHICH MAY OTHERWISE ACCRUE TO ANY PROPERTY ADJOINING SAID RIGHT OF WAY.

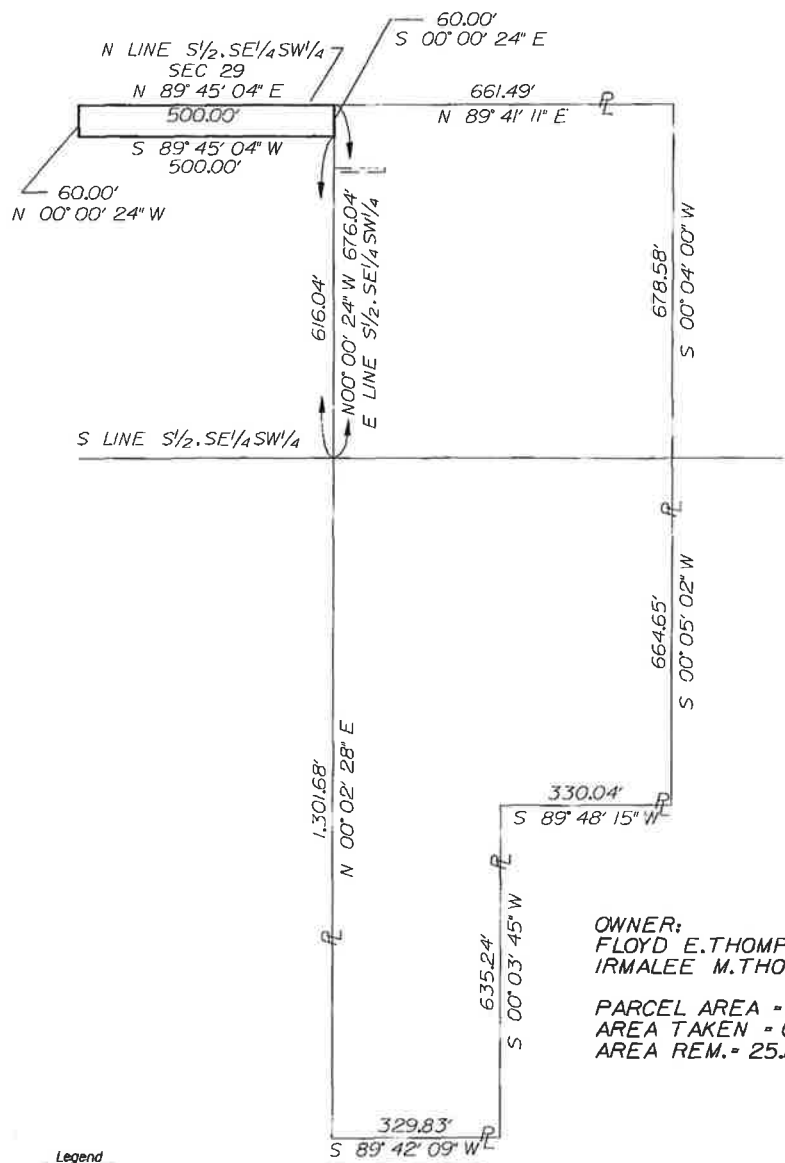
**SHEET 2 OF 2**

**DATE: MARCH 12, 1997**

**REVISED: JUNE 24, 1997**

# SKETCH OF DESCRIPTION SECTION 75320-6460-604/605 PARCEL 63-126

NOT TO SCALE



**OWNER:**  
 FLOYD E. THOMPSON  
 IRMALEE M. THOMPSON

PARCEL AREA = 25.866 ACRES  
 AREA TAKEN = 0.689 ACRES  
 AREA REM. = 25.178 ACRES

McCORMICK ROAD  
 (60' R/W)

- Legend**
- Δ - Delta
  - R - Radius
  - L - Length
  - PC - Point of Curvature
  - PT - Point of Tangency
  - POB - Point of Beginning
  - POC - Point of Commencement
  - C - Chord Length
  - C/L - Centerline
  - O.R. - Official Records
  - BK. - Book
  - Ex. - Express
  - (R) - Radial
  - PG. - Page
  - P.B. - Plat Book
  - esmt. - Easement
  - F.P.C. - Florida Power Corporation
  - M - Meters
  - (C) - Calculated
  - C.B. - Chord Bearing
  - D.B. - Deed Book
  - P - Plat
  - (RT) - Right
  - (LT) - Left
  - R/W - Right-of-Way
  - N.T.S. - Not to Scale
  - Sec. - Section

**NOTES:**

1) BEARINGS ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM EAST ZONE (NORTH LINE SOUTHWEST 1/4 OF SECTION 20-21-28, AS BEING N 89° 37' 58" E).

*Dennis L. Deal*

DENNIS L. DEAL P.S.M. LICENSE No. LS 3421

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SKETCH TO ACCOMPANY DESCRIPTION  
 SHEET 1 OF 2



SKETCH OF DESCRIPTION ONLY, THIS IS NOT A SURVEY.

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:		PROJECT NUMBER: EA4/JI	DESCRIPTION: PARCEL 63-126 - STATE ROAD No. 429 SECTION 06010 - 2532	
<b>BOWYERS INGLETON &amp; ASSOCIATES INCORPORATED</b> ENGINEERING · PLANNING · SURVEYING · ENVIRONMENTAL 520 SOUTH MAGNOLIA AVENUE · ORLANDO, FLORIDA 32817 407-843-5120 · FAX 407-649-8664 CERTIFICATE OF AUTHORIZATION NO. LB 1221		DRAWN BY: K. MITCHELL	CLIENT: ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY	
		DATE: 04/02/97	SECTION-TOWNSHIP-RANGE: SEC. 20, TWP. 21S, RGE. 28E	W.P.J. NUMBER: N/A

**ORLANDO - ORANGE COUNTY EXPRESSWAY AUTHORITY  
STATE ROAD 429  
SECTION 75320-6460-604/605**

**Purpose: Transfer Right of Way to the City of Apopka**

**RIGHT -OF -WAY**

**PARCEL 63-126**

**LEGAL DESCRIPTION**

**THE EAST 500.00 FEET OF THE NORTH 60.00 FEET OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE  
SOUTHWEST 1/4 OF SECTION 29, TOWNSHIP 21 SOUTH, RANGE 28 EAST, ORANGE COUNTY,  
FLORIDA.**

**CONTAINING 0.689 ACRES, MORE OR LESS.**

**SHEET 2 OF 2**

**DATE: APRIL 15, 1997**

**EXHIBIT "B"**  
**QUIT CLAIM DEED**

**Prepared By:**

Linda S. Brehmer Lanosa, Deputy General Counsel  
Central Florida Expressway Authority  
4974 ORL Tower Road  
Orlando, FL 32807

Reserved for Recording

Project 429-604, Portions of Parcels 63-102, 63-105 & 63-126 (Irmalee Lane)

This deed is exempt from Florida documentary stamp tax under Department of Revenue Rules 12B-4.002(4)(a), 12B-4.014(10), F.A.C., and Section 201.02(6), Florida Statutes.

**QUIT CLAIM DEED**

THIS QUIT CLAIM DEED, dated as of the date of execution below, by **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 (“GRANTOR”) and the **CITY OF APOPKA**, a charter city and political subdivision of the State of Florida, whose address is 120 E. Main Street, Apopka, Florida 32703 (“City” or “GRANTEE”).

WITNESSETH: That the GRANTOR, for and in consideration of the sum of \$10.00 and other valuable considerations, the receipt of whereof is hereby acknowledged, does hereby remise, release, and forever quit-claim unto the said GRANTEE, all the right, title, interest, claim, and demand which the GRANTOR has in and to the following described lots, pieces, or parcels of land, situate, lying and being in the county of Orange, state of Florida, hereinafter “the Property,” to-wit:

**SEE ATTACHED EXHIBIT “A”**

**Property Appraiser’s Parcel Identification Number:  
Not Assigned**

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining and all the estate, right, title, interest, lien, equity, and claim whatsoever of the GRANTOR, either in law or equity, to the only proper use, benefit, and behoove of the GRANTEE forever.

Project 429-604, Portions of Parcels  
63-102, 63-105 & 63-126 (Irmalee Lane)

SUBJECT TO the covenants, conditions, restrictions, reservations, and easements which are set forth below:

- a) GRANTOR reserves unto itself, its successors and assigns, all rights of ingress, egress, light, air, and view to, from, or across any State Road (S.R.) 429 right-of-way property which may otherwise accrue to any property adjoining said right of way.
- b) GRANTEE has no rights of ingress, egress, or access to S.R. 429 from the Property, nor does GRANTEE have any rights of light, air or view from S.R. 429.
- c) GRANTEE expressly agrees for itself, and its successors and assigns, to prevent any use of the Property which would interfere with S.R. 429 or otherwise constitute a hazard for S.R. 429 or any related system or structure.
- d) GRANTEE acknowledges that the Property was acquired via eminent domain and is subject to Section 73.013, Florida Statutes. GRANTEE expressly agree for itself, its successors and assigns that if GRANTEE no longer uses the Property for public right-of-way purposes, then GRANTOR has a right of first refusal to all right, title, and interest to the Property at no cost. GRANTEE grants, transfers, and delivers to GRANTOR a right of first refusal to acquire all right, title, and interest to the Property at no cost to GRANTOR. GRANTEE shall give GRANTOR at least 180 days written notice of the occurrence of events that give rise to GRANTOR's right of first refusal. GRANTEE shall give GRANTOR an additional 180 days to exercise its right of first refusal upon request.

GRANTEE acknowledges and agrees that as of the date of the acceptance of this deed, GRANTEE hereby remises, releases, acquits, satisfies, and forever discharges GRANTOR, of and from all, and all manner of action and actions, cause and causes of action, suits, sums of money, covenants, contracts, controversies, agreements, promises, trespasses, damages, judgments, claims and demands whatsoever, in law or in equity, which GRANTEE ever had, then have, or which any personal representative, successor, heir or assign of GRANTEE, thereafter can, shall or may have, against GRANTOR, for, upon or by reason of any matter, cause or thing whatsoever, arising out of or in any way connected with the Property or GRANTOR's conveyance of the Property, both before and after the date of this instrument.

IN WITNESS WHEREOF, the said GRANTOR has caused these presents to be signed in its name by its duly authorized representative.

**[ SIGNATURES TO FOLLOW ]**



Project 429-604, Portions of Parcels  
63-102, 63-105 & 63-126 (Irmalee Lane)

Signed and sealed in the presence of:

**CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY**

**First Witness:**

\_\_\_\_\_  
Signature

BY: \_\_\_\_\_  
CHAIRMAN JAY MADARA

\_\_\_\_\_  
Print Name

Date: \_\_\_\_\_

**Second Witness:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

ATTEST: \_\_\_\_\_  
Regla ("Mimi") Lamaute  
Recording Clerk

**APPROVED AS TO FORM FOR  
RELIANCE BY CFX ONLY**

By: \_\_\_\_\_  
General Counsel

**STATUTORY SHORT FORM OF ACKNOWLEDGMENT PER § 695.25, FLA. STAT.**

STATE OF FLORIDA                    )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
201\_\_\_\_, by \_\_\_\_\_, as Chairman of the Central Florida Expressway  
Authority, on behalf of the Central Florida Expressway Authority, who is personally known to  
me OR produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

Signature: \_\_\_\_\_  
Signature of Notary Public - State of Florida


\_\_\_\_\_  
Print, Type or Stamp Commissioned Name of Notary Public

**CONSENT AGENDA ITEM  
#11**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: March 26, 2019

SUBJECT: Approval of Purchase Order to PC Solutions & Integrations, Inc. for  
Vendor Network Support and Maintenance

---

Board authorization is requested to issue a purchase order to PC Solutions & Integrations, Inc. in a not-to-exceed amount of \$155,653.96 for annual support of CFX network hardware and software. This will be a cooperative (piggyback) procurement based on State of Florida Alternate Source Number 4322000-WSCA-ACS Master Agreement AR1470.

This support agreement will insure CFX continues to receive full vendor support for all Extreme Networks brand networking hardware and software supporting tolling services and internal operations.

This amount is budgeted in the OM&A Budget.

Reviewed by: 

Jim Greer  
Director of IT




**CONSENT AGENDA ITEM  
#12**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: March 26, 2019

SUBJECT: Approval of Purchase Order to Dasher Technologies for  
Hewlett Packard Enterprise (HPE) Server Storage Hardware and Installation  
Services  
Project 599-533

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Board authorization is requested to issue a purchase order to Dasher Technologies in a not-to-exceed amount of \$159,807.22 for HPE server storage hardware and installation services. This will be a cooperative (piggyback) procurement based on HP NASPO ValuePoint Master Agreement number MNNVP-134 and the State of Florida Participating Addendum number 4321500-WDCA-15-ACS.

The increased server storage will support CFX toll operations and work plan projects through FY 2020.

This project is included in the Five-Year Work Plan.

Reviewed by: 

Jim Greer  
Director of IT




**CONSENT AGENDA ITEM  
#13**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement


DATE: March 26, 2019


SUBJECT: Approval of Purchase Order to TransCore, LP for  
Purchase of E-PASS Xtra Transponders

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Board authorization is requested to issue a purchase order to TransCore, LP in the amount of \$568,200.00 for 30,000 E-PASS Xtra transponders at \$18.94 each.

The cost of transponders distributed is budgeted for in the OM&A Budget.

Reviewed by:   
David Wynne  
Director of Toll Operations



# **E.1.**

## **Chairman's Report**



**THERE ARE NO  
BACKUP MATERIALS  
FOR THIS ITEM**

**E.2.**

**Treasurer's Report**

MEMORANDUM

TO: CFX Board Members

FROM: Michael Carlisle, Director of Accounting and Finance

DATE: March 25, 2019 

RE: February 2019 Financial Reports

Attached please find the February 2019 Financial Reports. Please feel free to contact me if you have any questions or comments with regard to any of these reports.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS  
AND RELATED DOCUMENTS  
FOR THE MONTH ENDING FEBRUARY 28, 2019 AND YEAR-TO-DATE**

	FY 19 MONTH ACTUAL	FY 19 MONTH BUDGET	FY 19 YEAR-TO-DATE ACTUAL	FY 19 YEAR-TO-DATE BUDGET	FY 19 YEAR-TO-DATE VARIANCE	FY 19 YEAR-TO-DATE % VARIANCE	FY 18 - 19 YEAR-TO-DATE COMPARISON
<b>REVENUES</b>							
TOLLS	\$ 38,904,025	\$ 37,120,494	\$ 306,870,995	\$ 302,015,986	\$ 4,855,009	1.6%	9.6%
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	\$ 722,078	687,837	5,430,775	4,594,278	836,497	18.2%	14.7%
TRANSPONDER SALES	\$ 28,929	23,178	227,334	180,509	46,824	25.9%	21.6%
OTHER OPERATING	\$ 155,637	112,176	823,236	796,867	26,370	3.3%	-15.0%
INTEREST	\$ 629,197	370,000	3,141,897	2,110,000	1,031,897	48.9%	31.6%
MISCELLANEOUS	\$ 86,371	86,287	704,548	703,677	871	0.1%	1.6%
<b>TOTAL REVENUES</b>	<b>\$ 40,526,237</b>	<b>38,399,971</b>	<b>317,198,786</b>	<b>310,401,318</b>	<b>6,797,468</b>	<b>2.2%</b>	<b>9.7%</b>
<b>O M &amp; A EXPENSES</b>							
OPERATIONS	\$ 4,281,650	4,848,829	34,383,155	36,873,435	2,490,280	6.8%	18.5%
MAINTENANCE	\$ 1,049,336	460,971	8,290,899	9,405,323	1,114,424	11.8%	-9.1%
ADMINISTRATION	\$ 611,722	642,628	4,740,873	5,410,976	670,102	12.4%	4.6%
OTHER OPERATING	\$ 413,784	204,479	1,517,160	1,329,115	(188,046)	-14.1%	24.6%
<b>TOTAL O M &amp; A EXPENSES</b>	<b>\$ 6,356,491</b>	<b>6,156,908</b>	<b>48,932,088</b>	<b>53,018,849</b>	<b>4,086,760</b>	<b>7.7%</b>	<b>11.5%</b>
<b>NET REVENUES BEFORE DEBT SERVICE</b>	<b>\$ 34,169,746</b>	<b>32,243,063</b>	<b>268,266,697</b>	<b>257,382,469</b>	<b>10,884,228</b>	<b>4.2%</b>	<b>9.4%</b>
<b>COMBINED NET DEBT SERVICE</b>	<b>\$ 15,100,970</b>	<b>15,300,690</b>	<b>114,516,347</b>	<b>115,994,545</b>	<b>1,478,198</b>	<b>1.3%</b>	<b>2.2%</b>
<b>NET REVENUES AFTER DEBT SERVICE</b>	<b>\$ 19,068,776</b>	<b>\$ 16,942,373</b>	<b>\$ 153,750,350</b>	<b>\$ 141,387,924</b>	<b>\$ 12,362,426</b>	<b>8.7%</b>	<b>15.5%</b>

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**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SUMMARY OF OPERATIONS, MAINTENANCE AND ADMINISTRATION  
COMPARISON OF ACTUAL TO BUDGET FOR FISCAL YEAR 2019  
FOR THE MONTH ENDING FEBRUARY 28, 2019 AND YEAR-TO-DATE**

	<u>FY 2019 ACTUAL</u>	<u>FY 2019 BUDGET</u>	<u>VARIANCE</u>	<u>FY 19 YEAR-TO-DATE % VARIANCE</u>
Operations	\$ 34,383,155	\$ 36,873,435	\$ 2,490,280	6.8%
Maintenance	8,290,899	9,405,323	1,114,424	11.8%
Administration	4,740,873	5,410,976	670,102	12.4%
Other Operating	<u>1,517,160</u>	<u>1,329,115</u>	<u>(188,046)</u>	<u>-14.1%</u>
Total O M & A	\$ 48,932,088	\$ 53,018,849	\$ 4,086,760	7.7%
 Capital Expenditures				
Operations	\$ -	\$ 89,542	89,542	100.0%
Maintenance	29,745	70,000	40,255	57.5%
Administration	<u>-</u>	<u>188,333</u>	<u>188,333</u>	<u>100.0%</u>
Total Capital Expenditures	\$ 29,745	\$ 347,875	\$ 318,130	91.4%

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**Central Florida Expressway Authority  
Operations - Comparison of Actual to Budget  
For the Eight Months Ending February 28, 2019**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
Toll Operations	349,530	371,472	21,943	5.91%
Image Review	4,428,548	4,485,246	56,698	1.26%
Special Projects	45,230	134,403	89,173	66.35%
Information Technology	2,463,195	2,656,533	193,338	7.28%
E-PASS Service Center	12,938,966	13,667,241	728,275	5.33%
E-PASS Business Services	84,206	102,192	17,986	17.60%
Public Outreach/Education	1,345,758	1,346,922	1,165	0.09%
<b>Subtotal CFX</b>	<b><u>21,655,432</u></b>	<b><u>22,764,010</u></b>	<b><u>1,108,578</u></b>	<b><u>4.87%</u></b>
Plazas	<u>12,727,723</u>	<u>14,198,968</u>	<u>1,471,244</u>	<u>10.36%</u>
<b>Subtotal Toll Facilities</b>	<b><u>12,727,723</u></b>	<b><u>14,198,968</u></b>	<b><u>1,471,244</u></b>	<b><u>10.36%</u></b>
<b>Total Operations Expenses</b>	<b><u><u>34,383,155</u></u></b>	<b><u><u>36,962,977</u></u></b>	<b><u><u>2,579,822</u></u></b>	<b><u><u>6.98%</u></u></b>

**Central Florida Expressway Authority  
Maintenance - Comparison of Actual to Budget  
For the Eight Months Ending February 28, 2019**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
Maintenance Administration	1,669,903	1,868,009	198,106	10.61%
Traffic Operations	2,013,394	2,303,107	289,712	12.58%
Routine Maintenance	4,637,347	5,304,208	666,860	12.57%
<b>Total Maintenance Expenses</b>	<b><u>8,320,644</u></b>	<b><u>9,475,323</u></b>	<b><u>1,154,678</u></b>	<b><u>12.19%</u></b>

**Central Florida Expressway Authority  
Administration - Actual to Budget by Cost Center  
For the Eight Months Ending February 28, 2019**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
General	516,793	656,885	140,092	21.33%
Administrative Services	1,339,313	1,404,276	64,963	4.63%
Communications	400,503	572,484	171,981	30.04%
Human Resources	156,586	237,458	80,873	34.06%
Supplier Diversity	120,143	235,872	115,729	49.06%
Accounting	995,478	1,078,730	83,252	7.72%
Records Management	198,460	236,040	37,580	15.92%
Construction Administration	34,585	74,268	39,683	53.43%
Procurement	305,925	318,193	12,268	3.86%
Legal	406,798	425,508	18,710	4.40%
Internal Audit	209,493	302,000	92,508	30.63%
525 Magnolia	16,948	17,306	359	2.07%
Engineering	39,851	40,289	438	1.09%
<b>Grand Total Expenses</b>	<b><u>4,740,873</u></b>	<b><u>5,599,309</u></b>	<b><u>858,436</u></b>	<b><u>15.33%</u></b>



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS  
PREVIOUS YEAR BUDGET TO ACTUAL COMPARISON  
FOR THE MONTH ENDING FEBRUARY 28, 2019 AND YEAR-TO-DATE**

	FY 19 YEAR-TO-DATE ACTUAL	FY 19 YEAR-TO-DATE BUDGET	FY 19 YEAR-TO-DATE VARIANCE	FY 18 YEAR-TO-DATE ACTUAL	FY 18 YEAR-TO-DATE BUDGET	FY 18 YEAR-TO-DATE VARIANCE	YEAR-TO-DATE VARIANCE COMPARISON
<b>REVENUES</b>							
TOLLS	\$ 306,870,995	\$ 302,015,986	\$ 4,855,009	\$ 280,095,141	\$ 278,953,510	\$ 1,141,631	\$ 3,713,378
FEE'S COLLECTED VIA UTN/UTC'S AND PBP'S	5,430,775	4,594,278	836,497	4,736,341	3,639,718	1,096,623	(260,126)
TRANSPONDER SALES	227,334	180,509	46,824	186,979	140,959	46,020	804
OTHER OPERATING	823,236	796,867	26,370	969,035	816,261	152,774	(126,405)
INTEREST	3,141,897	2,110,000	1,031,897	2,387,757	2,211,393	176,364	855,533
MISCELLANEOUS	<u>704,548</u>	<u>703,677</u>	<u>871</u>	<u>693,535</u>	<u>672,797</u>	<u>20,738</u>	<u>(19,867)</u>
<b>TOTAL REVENUES</b>	317,198,786	310,401,318	6,797,468	289,068,788	286,434,638	2,634,150	4,163,318
<b>O M &amp; A EXPENSES</b>							
OPERATIONS	34,383,155	36,873,435	2,490,280	29,008,036	34,465,901	5,457,865	(2,967,585)
MAINTENANCE	8,290,899	9,405,323	1,114,424	9,121,804	10,353,214	1,231,410	(116,986)
ADMINISTRATION	4,740,873	5,410,976	670,102	4,531,964	5,155,410	623,446	46,656
OTHER OPERATING	<u>1,517,160</u>	<u>1,329,115</u>	<u>(188,046)</u>	<u>1,217,627</u>	<u>1,423,449</u>	<u>205,822</u>	<u>(393,868)</u>
<b>TOTAL O M &amp; A EXPENSES</b>	48,932,088	53,018,849	4,086,760	43,879,431	51,397,974	7,518,543	(3,431,783)
<b>NET REVENUES BEFORE DEBT SERVICE</b>	268,266,697	257,382,469	10,884,228	245,189,357	235,036,664	10,152,693	731,535
<b>COMBINED NET DEBT SERVICE</b>	114,516,347	115,994,545	1,478,198	112,055,931	113,227,605	(1,171,674)	2,649,872
<b>NET REVENUES AFTER DEBT SERVICE</b>	<u>\$ 153,750,350</u>	<u>\$ 141,387,924</u>	<u>\$ 12,362,426</u>	<u>\$ 133,133,426</u>	<u>\$ 121,809,059</u>	<u>\$ 11,324,367</u>	<u>\$ 1,038,059</u>

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**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS  
PREVIOUS YEAR COMPARISON  
FOR THE MONTH ENDING FEBRUARY 28, 2019 AND YEAR-TO-DATE**

	FY 19 MONTH ACTUAL	FY 18 MONTH ACTUAL	FY 18 - 19 SAME MONTH COMPARISON	FY 19 YEAR-TO-DATE ACTUAL	FY 18 YEAR-TO-DATE ACTUAL	FY 18 - 19 YEAR-TO-DATE COMPARISON
<b>REVENUES</b>						
TOLLS	\$ 38,904,025	\$ 37,143,579	\$ 1,760,446	\$ 306,870,995	\$ 280,095,141	\$ 26,775,854
FEEES COLLECTED VIA UTM/UTC'S AND PBP'S	722,078	717,142	4,936	5,430,775	4,736,341	694,434
TRANSPONDER SALES	28,929	24,126	4,803	227,334	186,979	40,355
OTHER OPERATING	155,637	180,751	(25,114)	823,236	969,035	(145,799)
INTEREST	629,197	232,417	396,780	3,141,897	2,387,757	754,140
MISCELLANEOUS	86,371	84,874	1,497	704,548	693,535	11,013
<b>TOTAL REVENUES</b>	40,526,237	38,382,889	2,143,348	317,198,786	289,068,788	28,129,998
<b>O M &amp; A EXPENSES</b>						
OPERATIONS	4,281,650	3,271,725	1,009,925	34,383,155	29,008,036	5,375,119
MAINTENANCE	1,049,336	1,372,736	(323,400)	8,290,899	9,121,804	(830,905)
ADMINISTRATION	611,722	514,814	96,908	4,740,873	4,531,964	208,909
OTHER OPERATING	413,784	17,942	395,842	1,517,160	1,217,627	299,533
<b>TOTAL O M &amp; A EXPENSES</b>	6,356,491	5,177,217	1,179,274	48,932,088	43,879,431	5,052,657
<b>NET REVENUES BEFORE DEBT SERVICE</b>	34,169,746	33,205,672	964,073	268,266,697	245,189,357	23,077,340
<b>COMBINED NET DEBT SERVICE</b>	15,100,970	13,706,225	1,394,745	114,516,347	112,055,931	2,460,416
<b>NET REVENUES AFTER DEBT SERVICE</b>	<u>\$ 19,068,776</u>	<u>\$ 19,499,447</u>	<u>\$ (430,671)</u>	<u>\$ 153,750,350</u>	<u>\$ 133,133,426</u>	<u>\$ 20,616,924</u>

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# E.3.

## Executive Director's Report

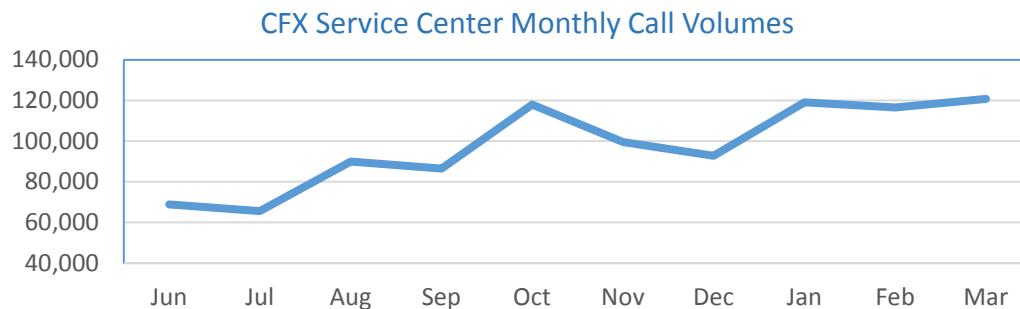
**Executive Director Report  
April 2019**

DASHBOARD

Call Center Wait Times

The CFX Call Center is handling a heavy influx of calls related to the SunPass backlog and corresponding increase of Pay-By-Plate invoices. The Call Center received a record 120,792 calls in March and still achieved an average call wait time of 1 minute, 13 seconds.

CFX has set up additional call center stations at the CFX walk-in service center to help with the higher call volumes. High call volumes and longer call talk times are expected to continue into 2019 until the SunPass Toll-By-Plate invoices are resolved.



Wrong Way Driving

In February, there were 12 wrong way driving detections systemwide with 10 of the 12 detections resulting in documented turn arounds. Details of the remaining events are listed below:

**SR 408 WB Exit 4 at Hiawasse Rd, Wednesday 2/6/2019 8:50 AM**

A dark sedan was observed driving the wrong direction on the ramp. FHP had a trooper in the area who was unable to locate vehicle. The Regional Traffic Management Center was unable to track the vehicle on the cameras. There were no documented citations or crashes associated with this event.

**SR 417 NB Exit 24 at Dowden Rd/Innovation Way, Sunday 2/10/2019 12:22 PM**

A black pickup was observed driving the wrong direction on the ramp. The truck traveled in the marked shoulder. The Regional Traffic Management Center monitored the cameras in the area of the event and was unable to locate vehicle. FHP drove through the area with no results and was unable to locate vehicle. There were no documented citations or crashes associated with this event.

### Major Construction Contracts

The toll system replacement project continues to require more test time than originally estimated. An auditor and additional technicians have been added to the effort this past month to improve the efficiency of installations in the future.

All lane and ramp installations are expected to be installed by 2020. Final system testing and acceptance and required system documentation is estimated to take approximately twelve months following installation completion.

## CUSTOMER SUPPORT

### Visitor Toll Pass

The Visitor Toll Pass Program will begin on May 1, 2019 at the Orlando International Airport. Rental car customers will be able to borrow a Visitor Toll Pass and pay the electronic toll rate during their stay. Rental car customers using Visitor Toll Pass will avoid the high daily fees added to tolls by rental car companies.

## MOBILITY PARTNERS

### Florida Department of Highway Safety and Motor Vehicles

On March 21, Michelle Maikisch and I met with Executive Director Terry L. Rhodes and some of her staff to discuss enhancements to license plate/driver's license look up procedures to improve pay by plate processes. The Department was extremely supportive and willing to work with us to improve our operations. We also discussed approaches to improve the recruitment and retention of FHP troops. CFX has had one dedicated troop of 8 officers since 2010 and to date we have been unable to increase troop size due to budget constraints at the state level. (CFX's traffic has more than doubled since that time.) We agreed to work together to support budget increases for FHP on a statewide basis so that CFX can one day increase the number of dedicated officers on the CFX system.

### University of Florida Transportation Institute

As a member of the Florida Transportation Institute External Advisory Board, I attended their quarterly meeting on March 28 and 29 in Gainesville. The Institute is an umbrella organization housing several other transportation-related centers within the University of Florida. It includes McTrans, the largest transportation dissemination center in the world, and the Florida Transportation Technology Transfer Center, which provides training and technical assistance to professionals around world. UFTI is also home to the Southeastern Transportation Research, Innovation, Development and Education (STRIDE) Center, one of ten regional university transportation centers funded by the U.S. Department of Transportation.

### Brightline/Virgin Trains USA

\$1.75 billion of unrated private activity bonds priced with the Florida Development Finance Corporation on behalf of Virgin Trains USA on April 1, 2019. The deal, upsized from \$1.5 billion initially proposed in bond documents, priced a day ahead of schedule because of strong demand.

On April 5, 2019, Virgin Trains USA was also granted approval by the Florida Development Finance Corporation to sell an additional \$950 million in private activity

bonds to help fund their service from the West Palm Beach station to the Orlando International Airport. The project is expected to be complete by 2022.

CFX continues technical discussions with Brightline about the Orlando to Tampa route. To date, the Virgin Trains USA team continues to favor the path utilizing SR 417 right of way.

### IBTTA & TEAM FL

CFX was one of the chief meeting organizers for the International Bridge Tunnel and Turnpike Association's Technology Summit on March 31 to April 2, 2019. The summit was a great success and drew almost one thousand participants from around the world to Orlando; setting a record attendance for an IBTTA meeting.

### PRESENTATIONS

March 13:	Lake/Orange County Connector Study to MetroPlan Board
March 28:	Poinciana Parkway Extension Study to Polk County
April 1:	IBTTA: Wrong Way Driving Pilot Tech Talk
April 1:	IBTTA: Back Office Systems Panel Moderator
April 1:	IBTTA: Reload – Rethinking Infrastructure for Today's Driver
April 2:	Rock Springs Ridge HOA Annual Meeting
April 9:	Lake/Orange County Connector Study to Clermont City Council

### MEETINGS

March 14:	Poinciana Parkway Extension Study Public Meeting
March 27:	Ultimate I-4 Project Coordination Meeting
March 31	IBTTA Technology Summit
April 1	IBTTA Technology Summit
April 2-3	TEAMFL: Future of Mobility
April 12:	Central Florida Metropolitan Planning Alliance

### EVENTS

March 16:	E-PASS Promo: East Lake Heritage Festival
March 16:	Central Florida Transportation Softball game
March 24:	E-PASS Promo: Salsa Y Sazon Event
March 28:	Orlando Regional Chamber "Office Hours" - 5G technology
March 29:	Orange County Regional Economic Summit
April 6-7:	E-PASS Promo: Spring Fiesta in the Park
April 12:	Orlando Business Journal: Doing Business in Lake Nona

**PERFORMANCE DASHBOARD**

**FEBRUARY 2019**

*Fiscal year runs from July 1-June 30*

**CUSTOMER SERVICE**

	Activity		Monthly Avg. Wait Time	
	Actual	6 mo. Avg	Actual	Target
Service Center	9,599	9,141	4:36	<5m

**SERVICE CENTER: MINUTE INTERVALS** <5 ■ 5-6 ■ 6-7 ■ 7-8 ■ 8-9 ■ 9+ ■

	Actual	6 mo. Avg	Monthly Avg. Wait Time	Target
Call Center	116,538	105,364	1:06	<1m

**CALL CENTER: % MINUTE INTERVALS** <1 ■ 1-3 ■ 3-5 ■ 5+ ■



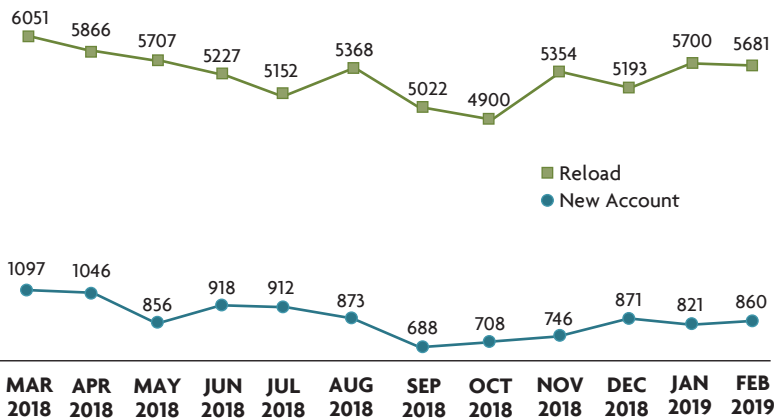
FTC TARGET: 80% <1m

**WRONG WAY DRIVING (WWD)**

Month	JUL	AUG	SEPT	OCT	NOV	DEC	JAN	FEB
Total Vehicles Detected	11	17	29	22	14	15	11	12
Documented Turn Arouds	9	14	28	19	13	14	9	10

**RELOAD CUSTOMER SERVICE LANE ACTIVITY**

Monthly averages: 866 E-PASS sales and 5,435 E-PASS account reloads



**PROGRESS OF MAJOR CONSTRUCTION PROJECTS**

	Contract (millions)	Spent (millions)	% Time	% Spent	VAR	Contract Completion Date
SR 408/SR 417 Interchange (Phase II)	\$66.8	\$49.4	65%	74%	■	December 2019
SR 408 Widening from SR 417 to Alafaya Trail	\$77.7	\$56.0	71%	72%	■	October 2019
SR 417 Widening from Econlockhatchee to Seminole Co.	\$44.9	\$9.4	27%	21%	■	June 2020
Toll System Replacement	\$54.4	\$26.6	61%	49%	■	July 2021

LEGEND: Time minus Spent < / = 10 ■ < 11-20 ■ > / = 21 ■

**FINANCIALS**

**FINANCIALS**

FY to Date	Actual	Budget	VAR
Total Revenue	\$317.2	\$310.4	2% ■
OM&A Expenses	\$48.9	\$53.0	8% ■
Net Revenue	\$153.8	\$141.4	9% ■

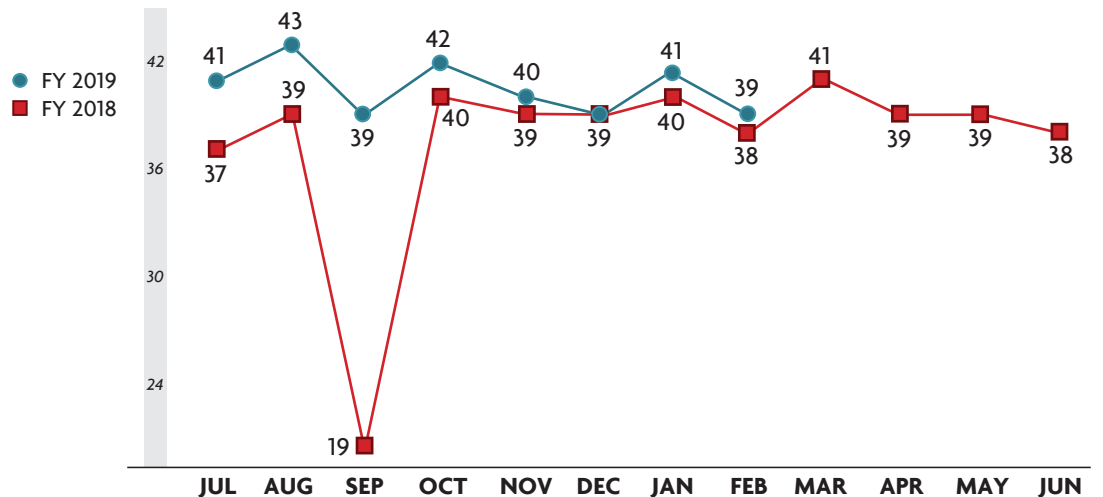
LEGEND: > / = 0 ■ -0.1 to -10 ■ < / = -10 ■

**DEBT SERVICE**

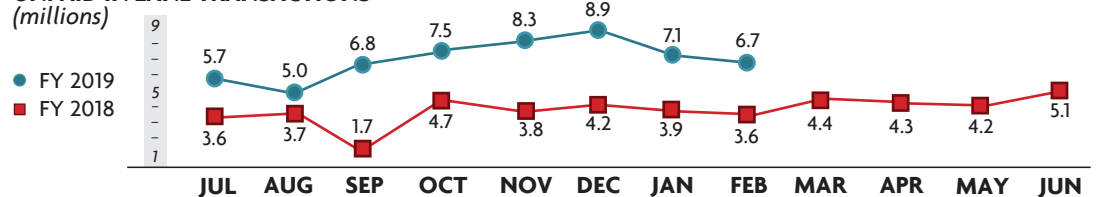
FY to Date	Actual	Budget
Senior Lien	2.33	2.28 ■
Subordinate Lien	2.24	2.18 ■

LEGEND: > 1.45 ■ < 1.21 to 1.44 ■ < / = 1.2 ■

**TOTAL REVENUE TRANSACTIONS ON CFX SYSTEM (millions)**



**UNPAID IN LANE TRANSACTIONS (millions)**



**F. 1.**



The logo for the Central Florida Expressway Authority is centered in the upper portion of the image. It consists of the words "CENTRAL", "FLORIDA", "EXPRESSWAY", and "AUTHORITY" stacked vertically in a bold, sans-serif font. The word "EXPRESSWAY" is highlighted in orange, while the other words are in black. The text is contained within a white rectangular box with thin orange horizontal bars above and below it.

**CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY**

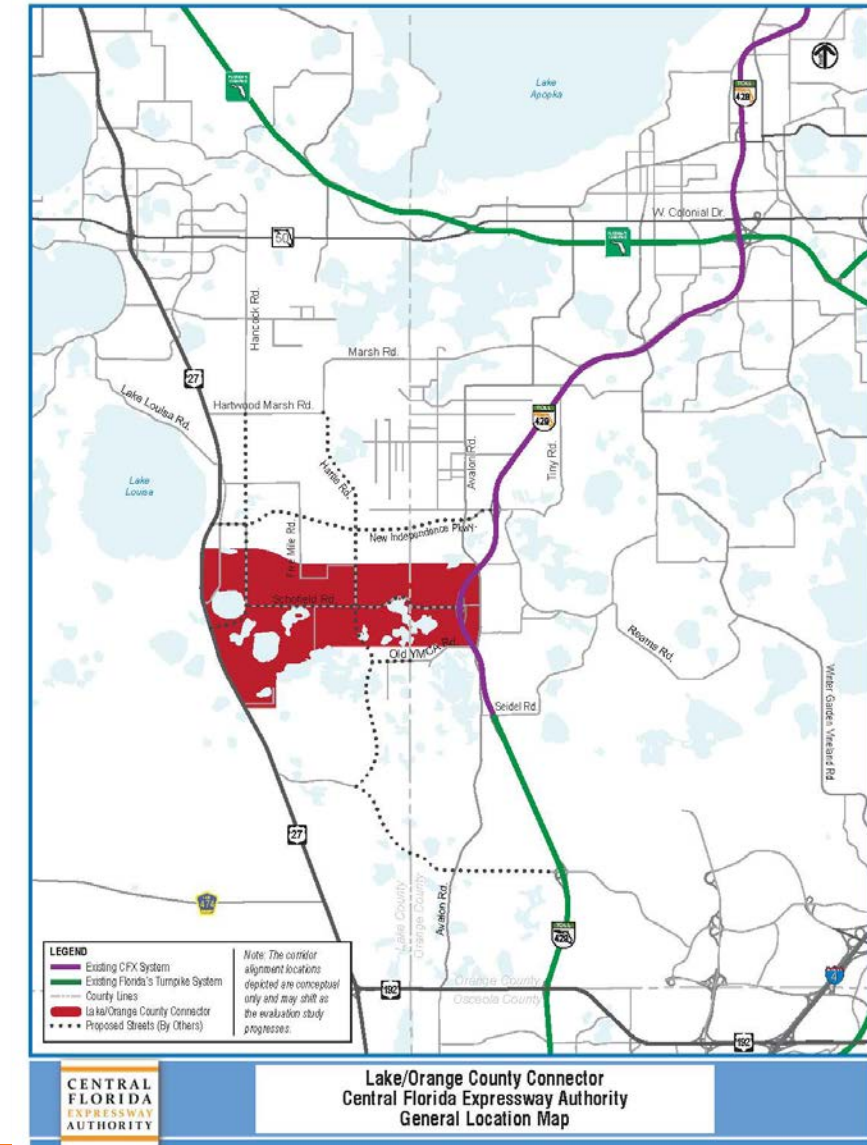
# **Lake / Orange County Connector Project Development & Environment (PD&E) Study**

Glenn Pressimone, Director of Engineering and William Sloup, Metric Engineering

— April 11, 2019 —

# Background and History

- **2002 & 2007:** Feasibility studies conducted
- **2017:** Traffic and revenue analysis conducted
- Identified in the CFX 2040 Master Plan
- Identified in the Lake and Orange County Long Range Transportation Plans
- **March 2018:** Current PD&E Study began



# Stakeholders

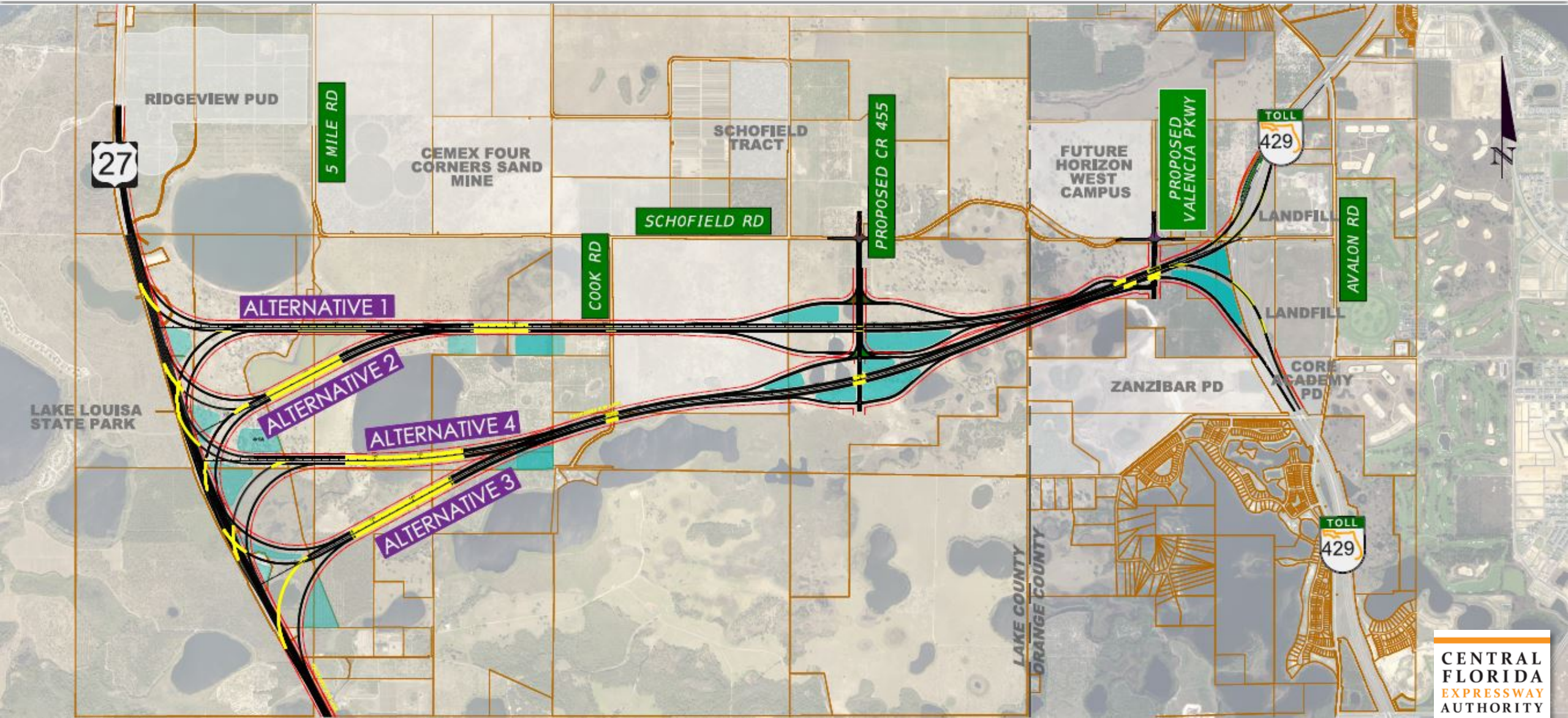


# Public Involvement

- Environmental & Project Advisory Group Meetings
  - July 30, 2018: 70 Attendees
  - Feb. 12, 2019: 68 Attendees
- Public Meetings:
  - Aug. 30, 2018: 127 Attendees
  - March 7, 2019: 54 Attendees
- Board Meetings:
  - Clermont City Council
  - MetroPlan Orlando
  - Lake-Sumter MPO
- Stakeholder Meetings



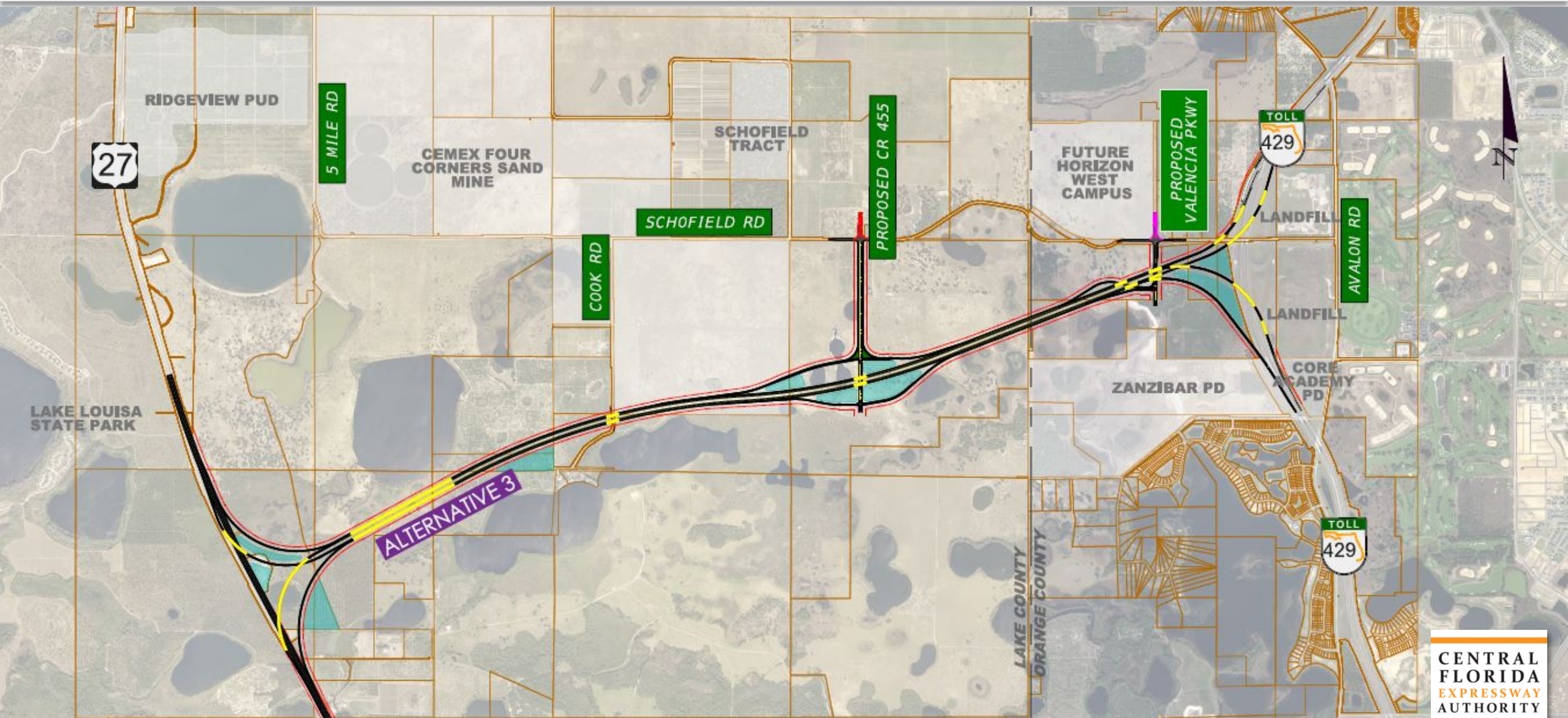
# Study Alternatives



# Comparison Matrix of Key Elements

	Alternative 1	Alternative 2	Alternative 3	Alternative 4
Impact to Farmland of Local Importance	291 acres	293 acres	225 acres	232 acres
Noise and Visual Impacts to Lake Louisa State Park	Moderate	Moderate	Low	Moderate
Disruption to CEMEX Mining Operations	Substantial	Substantial	Minimal	Minimal
Wetland Impacts	16 acres	24 acres	56 acres	49 acres
Floodplain Impacts	67 acres	74 acres	115 acres	109 acres
Projected Annual Average Daily Traffic (AADT)	29,800	29,000	28,600	27,700
Wetland Mitigation Cost	\$3.4 million	\$4 million	\$8.4 million	\$8 million
Right of Way Cost	\$179 million	\$178 million	\$102 million	\$105 million
Construction Cost	\$349 million	\$358 million	\$373 million	\$379 million
<b>TOTAL COST</b>	\$531.4 million	\$540 million	\$483.4 million	\$492 million

# Preferred Alternative – Alternative 3



# Next Steps

- May 2, 2019: Final Advisory Group Meetings
  - Environmental Advisory Group (EAG)
  - Project Advisory Group (PAG)
- June 5, 2019: Draft PD&E Documents Available for Public Inspection
  - Public Library (Orange and Lake Counties)
  - CFX Headquarters Building
- June 27, 2019: Public Hearing
  - 5:00pm to 7:00pm at the Clermont Arts & Recreation Center
- August 8, 2019: Request Adoption of Study Findings from CFX Board



**F. 2.**

**THERE ARE NO  
BACKUP MATERIALS  
FOR THIS ITEM**

**F. 3.**

The logo for the Central Florida Expressway Authority is centered in the upper portion of the image. It consists of a white rectangular box with two horizontal orange bars, one above and one below the text. The text is arranged in four lines: 'CENTRAL' and 'FLORIDA' in black, 'EXPRESSWAY' in orange, and 'AUTHORITY' in black. The background of the entire slide is a photograph of a multi-level highway interchange with concrete overpasses and a grassy embankment under a clear blue sky.

**CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY**

# Sustainability Study Results

— April 11, 2019 —

# BACKGROUND

- April 2018 - The RAY visit
- November 2018 - Engaged Stanley Consultants to evaluate sustainability solutions for the CFX infrastructure and system
- March 2019 – CFX Sustainability Report submitted

CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY

Central Florida Expressway Authority  
SUSTAINABILITY STUDY  
March 20, 2019



  
Stanley Consultants<sup>INC.</sup>

# VIABLE OPTION: Ground Mounted PV



Location	Coral Hills Mainline Plaza	University Mainline Plaza	John Young Mainline Plaza
Maximum Behind the Meter Capacity (kW)	726	436	1132
Recommended Capacity for Net Metering (kW)	190	170	170
Meter Annual Energy Usage (kWh)	291049	261130	249662
Estimated Capital Cost	\$347,000	\$313,000	\$313,000
Estimated Lifetime Savings	\$2,331,000	\$2,080,000	\$2,080,000
Estimated Payback Period	10.6	10.8	10.8
Utility	Duke	Duke	Duke
Meter Number	2822587	2371197	2818014

# VIABLE OPTION: Wet Pond PV



Location	Boggy Creek Mainline Plaza	Pine Hills Main Plaza	3454 J Lawson BLVD
Maximum Behind the Meter Capacity (kW)	2362	478	4500
Recommended Capacity for Net Metering (kW)	180	270	150
Meter Annual Energy Usage (kWh)	3632756	406632	225910
Estimated Capital Cost	\$370,000	\$532,000	\$316,000
Estimated Lifetime Savings	\$2,296,000	\$2,420,000	\$1,887,000
Estimated Payback Period	12.3	15.2	12.9
Utility	Duke	OUC	Duke
Meter Number	2821260	1ZR11291	7226207

# VIABLE OPTION: Elevated Ground Mount PV



Location	Load CTR G	Hiawassee Mainline Plaza	Conway West Main Plaza
Maximum Behind the Meter Capacity (kW)	120	1130	478
Recommended Capacity for Net Metering (kW)	120	250	280
Meter Annual Energy Usage (kWh)	335284	379253	423427
Estimated Capital Cost	\$229,000	\$457,000	\$509,000
Estimated Lifetime Savings	\$1,113,000	\$3,075,000	\$2,669,000
Estimated Payback Period	14.1	10.4	12.6
Utility	OUC	Duke	OUC
Meter Number	5CM10371	2791026	1ZR11403



# VIABLE OPTION: Rooftop PV



Location	Forest Lake Mainline Plaza	Hiwassee Mainline Plaza	Goldenrod Mainline Plaza	University Mainline Plaza
Maximum Behind the Meter Capacity (kW)	55.6	55.8	55.6	55.8
% of Annual Usage Offset (kWh)	36%	18%	30%	33%
Roof Projected Replacement Year	2020	2021	2021	2021
Estimated Capital Cost	\$121,000	\$121,000	\$121,000	\$121,000
Estimated Lifetime Savings	\$365,000	\$365,000	\$281,000	\$365,000
Estimated Payback Period	10.8	10.8	13.5	10.8
Utility	Duke	Duke	OUC	Duke
Meter Number	2816670, 2803386	2821772, 2791026	1JR01475	2370607

# PILOT OPPORTUNITY: Sound Wall PV



Location	Dean Road Mainline Plaza	Hiawassee Mainline Plaza (Datacenter)
Recommended Capacity for Net Metering (kW)	156	320
Meter Annual Energy Usage (kWh)	219412	485395
Estimated Capital Cost	\$302,000	\$591,000
Estimated Lifetime Savings	\$1,020,805	\$2,207,067
Estimated Payback Period	19.0	17.6
Utility	Duke	Duke
Meter Number	2370607	2821772

# OPPORTUNITY: Roadway PV Dynamic Message Signs



# OPPORTUNITY: CFX HQ Efficiency Study



- A 10 year 30% and 20% reduction respectively is recommended as common improvement metric
- Comprehensive building efficiency audit estimated no more than \$70,000
- Initial low cost measures have around 1 year payback

## ENERGY INTENSITY BENCHMARKING

Building	Consumption (kWh)	Total Area (sqft)	CFX ratio	US DOE EIA CBECS avg	US DOE EIA CBECS 75th pctl	US DOE EIA CBECS 50th pctl	US DOE EIA CBECS 25th pctl
Headquarters	4018000	85946	46.75	14.1	16.6	10.7	6
Headquarters	4018000	85946	46.75	16.3	21.4	10.7	5

## WATER CONSUMPTION BENCHMARKING\*

Building	Consumption (gallons)	Total Area (sqft)	CFX ratio	US Average Large Building Consumption per square feet	Distribution Intensities 75th pctl	Distribution Intensities 50th pctl	Distribution Intensities 25th pctl
Headquarters	2182400	85946	25.39	20.3	21.6	12.8	7.9

\*National Data from buildings with 200K-500K square feet of floorspace

# OPPORTUNITY: Electric Vehicle Charging



Vehicle Type	Avg Yearly Miles	CO2/mile (grams)	Annual CO2 (lbs)	10 Years Amount (lbs)	CO2 Prevention (lbs)
Gasoline	13476	381	11319	113193	-
PHEV	13476	221	6566	65658	47535
BEV	13476	177	5259	52586	60607

## Charge-It

### *OUC Owns, Installs & Maintains Stations*

You can obtain electric vehicle charging services from OUC for a fixed monthly fee over a contracted period of time. The fee is based on specific characteristics of your site and the equipment type.



**ELECTRIC VEHICLE SITE HOST AGREEMENT  
DUKE ENERGY FLORIDA PARK & PLUG PROGRAM**

# OPPORTUNITY: Fleet Replacement



# CONCLUSIONS

## Ground Mount PV

CORAL HILLS MAINLINE  
UNIVERSITY MAINLINE  
JOHN YOUNG MAINLINE

\$313,000 - \$347,000 per location

## Floating PV

BOGGY CREEK MAINLINE  
PINE HILLS MAINLINE  
3454 J LAWSON BLVD METER

\$316,000 - \$532,000 per location

## Elevated PV

LOAD CTR G MTR East-West Expy  
HIAWASSEE DATA CENTER  
CONWAY WEST

\$229,000 - \$509,000 per location

## Rooftop PV

FOREST LAKE PLAZA  
(USE AS SECOND OPTION AND  
COORD. ROOF REPLACEMENT)

\$121,000 per location

## Sound Wall PV

HIAWASSEE MAINLINE (PILOT)  
DEAN MAINLINE (PILOT)

\$302,000 - \$591,000 per location

## EV Charging

HEADQUARTERS

\$10,000 - \$20,000 per location

## Fleet Replacement

PER POLICY

\$24,000 - \$30,000 per vehicle

## DMS - Roadway PV

SR – 528 BEACHLINE EXPRESSWAY

\$46,000 per location\*

## BUILDING EFFiciency

CONDUCT A STUDY

\$70,000

# RECOMMENDED MOTION

Board acceptance of CFX's Sustainability Report as presented.