

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

AGENDA  
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
BOARD MEETING  
May 9, 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 Florida Statute 286.0114 and 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 BOARD MEETING MINUTES (action Item)**

1. April 11, 2019 Board Meeting
2. April 11, 2019 Board Workshop

**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. **VIRGIN TRAINS USA** – *Glenn Pressimone, Director of Engineering and Adrian Share, Executive Vice President, Rail Infrastructure, Virgin Trains USA* (info. item)
2. **POINCIANA PARKWAY EXTENSION PROJECT DEVELOPMENT & ENVIRONMENT (PD&E) STUDY** – *Glenn Pressimone, Director of Engineering and Clif Tate, P.E., Kimley-Horn and Associates, Inc.* (info item)
3. **FY 2020 OPERATIONS, MAINTENANCE & ADMINISTRATION BUDGET/FY 2020 THROUGH FY 2024 FIVE YEAR WORK PLAN** - *Lisa Lumbard, Chief Financial Officer and Glenn Pressimone, Director of Engineering* (action item)
4. **GENERAL COUNSEL POSITION** – *Jay Madara, Chairman* (action item)

(CONTINUED ON PAGE 2)

5. CFX REPRESENTATIVE FOR TEAMFL – *Jay Madara, Chairman* (action item)
6. APPROVAL OF AUDIT COMMITTEE MEMBER REAPPOINTMENT - *Jay Madara, Chairman* (action item)
  - Megan Zee – Board Member representative

G. BOARD MEMBER COMMENT

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 [Iranetta.dennis@CFXway.com](mailto:Iranetta.dennis@CFXway.com) at least three business days prior to the event.

C.

APPROVAL OF  
BOARD MEETING MINUTES

**#1**

**THE BACKUP FOR THIS ITEM WILL BE  
PROVIDED AT A LATER DATE**

**#2**

**THE BACKUP FOR THIS ITEM WILL BE  
PROVIDED AT A LATER DATE**

**D.**

Consent Agenda



CONSENT AGENDA  
May 9, 2019

**CONSTRUCTION**

1. Approval of Construction Contract Modifications on the following projects:
  - a. Project 408-128 The Lane Construction Corp. \$ 49,377.47
  - b. Project 528-131 SEMA Construction, Inc. (\$ 184,572.45)
  - c. Project 599-630 Traffic Control Devices, Inc. (\$ 2,125.00)
  - d. Project 430-742B Preferred Materials, Inc. (\$ 202,430.94)
  - e. Project 408-746 Masci General Contractor, Inc. (\$ 517,699.87)

**ENGINEERING**

2. Approval of HDR Engineering, Inc. as a Subconsultant for the General Engineering Consultant Services Contract with Dewberry Engineers, Inc., Contract No. 001145
3. Approval of Contract Award to Hubbard Construction Company for SR 528 Milling & Resurfacing from SR 417 to Innovation Way, Project 528-747, Contract No. 001532 (Agreement Value: \$11,158,000.00)
4. Approval of Final Ranking and Authorization for Fee Negotiations for Design Consultant Services for SR 417 Widening from Boggy Creek Road to Narcoossee Road, Project 417-151, Contract No. 001394
5. Approval of Contract Award to Kisinger Campo & Associates, Corp. for Design Consultant Services for SR 429 Widening from Stoneybrook West Parkway (South) to Florida's Turnpike, Project 429-154, Contract No. 001397 (Agreement Value: not-to-exceed \$4,175,000.00)

**MAINTENANCE**

6. Approval of Cummins SE Power, Inc. as a Subcontractor for the Facilities Maintenance Services Contract with ICA/DBI Services, Contract No. 001150
7. Approval of Carrier Commercial Service as a Subcontractor for the Facilities Maintenance Services Contract with ICA/DBI Services, Contract No. 001150
8. Approval of Contract Award for Systemwide Bridge Inspection Services to Kisinger, Campo & Associates, Corp., Contract No. 001527 (Agreement Value: not-to-exceed \$2,000,000.00)

**PUBLIC OUTREACH**

9. Approval of Supplemental Agreement No. 1 with Quest Corporation of America, Inc. for Public Information Services, Contract No. 001298 (Agreement Value: \$677,592.00)

TOLL OPERATIONS/TECHNOLOGY

10. Approval of Supplemental Agreement No. 1 with Vanasse Hangen Brustlin, Inc. for Post Design Services for Systemwide Fiber Optic Network Upgrade Phase II Project, Project 599-524, Contract No. 001292 (Agreement Value: \$94,982.67)
11. Approval of Contract Award to Precision Contracting Services, Inc. for Network Phase II Project, Project 599-524, Contract No. 001466 (Agreement Value: \$1,289,307.25)
12. Approval of Sixth Contract Renewal with TransCore, LP for System Hardware Maintenance, Contract No. 000178 (Agreement Value: \$6,743,645.00)
13. Approval of Adecco Employment Services, Apple One, Roth Staffing Companies, L.P. d/b/a Ultimate Staffing Services and Visium Resources, Inc. as Subcontractors for the E-PASS and VES Operations Contract with Egis Projects, Inc., Contract No. 001105
14. Approval of Excalibur Data Systems as a Subconsultant for the General Systems Consultant Services Contract with HNTB Corporation, Contract No. 001144

The following item is for information only:

15. The following is a list of advertisement(s) from April 2, 2019 through April 29, 2019:
  - a. SR 429/ New Independence Parkway Interchange Improvements

**CONSENT AGENDA ITEM  
#1**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

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

DATE: April 22, 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 (\$) May 2019	Total Amount (\$) to Date*	Time Increase or Decrease
408-128	The Lane Construction Corp.	SR 408 Widening, SR 417 to Alafaya Trail	\$ 76,299,999.00	\$ 1,703,171.23	\$ 49,377.47	\$ 78,052,547.70	0
528-131	SEMA Construction, Inc.	SR 528 Econlockhatchee River Bridge Replacement	\$ 17,777,000.00	\$ 268,111.31	\$ (184,572.45)	\$ 17,860,538.86	0
599-630	Traffic Control Devices, Inc.	Miscellaneous Signage Improvements	\$ 145,600.00	\$ 173,177.00	\$ (2,125.00)	\$ 316,652.00	0
408-742B	Preferred Materials, Inc.	SR 408 Milling & Resurfacing, Ortman Dr. to Westmoreland Dr.	\$ 3,787,806.15	\$ 282,229.60	\$ (202,430.94)	\$ 3,867,604.81	0
408-746	Masci General Contractor, Inc.	SR 408 Milling & Resurfacing, I-4 Ultimate Limits (Summerlin Ave.) to Lake Underhill Bridge	\$ 4,229,613.73	\$ -	\$ 517,699.87	\$ 4,747,313.60	18
<b>TOTAL</b>					<b>\$</b>	<b>177,948.95</b>	

\* Includes Requested Amount for this current month.

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

**Project 408-128: SR 408 Widening, SR 417 to Alafaya Trail**  
**The Lane Construction Corp.**  
**SA 408-128-0519-06**

Added Drainage for Cast-In-Place Wall 03

This item addresses additional work required to construct an underdrain system at Cast-In-Place Wall 03 and to direct surface water flow to the closed drainage system.

ADD THE FOLLOWING ITEM:

Retaining Wall CIP-03 Rock Drain \$ 22,964.40

Drainage Revisions due to Conflict with Cast-In-Place Wall 08

This item addresses additional work required to adjust a portion of the drainage system in conflict with Cast-In-Place Wall 08 construction.

ADD THE FOLLOWING ITEM:

Drainage S-143 to S-144 Modifications \$ 26,413.07

**TOTAL AMOUNT FOR PROJECT 408-128** \$ **49,377.47**

**Project 528-131: SR 528 Econlockhatchee River Bridge Replacement**  
**SEMA Construction, Inc.**  
**SA 528-131-0519-007**

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 throughout the contract.

INCREASE THE FOLLOWING ITEMS:

Fiber Optic Splice Housing Inventory	\$	300.00
Solid Traffic Stripe, PPRT, Yellow, 6"	\$	918.00
	\$	<u>1,218.00</u>

DECREASE THE FOLLOWING ITEMS:

Fiber Optic Cable, SM, 72 Fiber, F&I	\$	(2,675.70)
Fiber Pull Box, F&I	\$	(3,400.00)
Fiber Optic Conduit, 2-1" HDPE, F&I, Trench	\$	(112.50)
Allowance for Disputes Review Board	\$	(178,066.05)
Fiber Optic Conduit, HDPE/SDR 11, Outer Duct w/ 3-1", F&I, Directional Bore	\$	(4,698.00)
Solid Traffic Stripe, PPRT, White/Black, 9"	\$	<u>(122.00)</u>
	\$	(189,074.25)

Subtotal: Adjustments to Final Quantities for Completed Contract Items \$ (187,856.25)

Limerock Base Thickness Adjustments

The contract contains provisions for base thickness adjustments. In accordance with the contract documents, the engineer has calculated the thickness adjustments for the limerock base.

ADD THE FOLLOWING ITEM:

Limerock Base Thickness Adjustments	\$	3,283.80
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**TOTAL AMOUNT FOR PROJECT 528-131** \$ **(184,572.45)**

**Project 599-630: Miscellaneous Signage Improvements  
Traffic Control Devices, Inc.  
SA 599-630-0519-02**

Adjustment to Existing Pay Items

Adjust Work Order Allowance to reflect the actual expenditures on the project.

DECREASE THE FOLLOWING ITEM:

Work Order Allowance

\$ (2,125.00)

**TOTAL AMOUNT FOR PROJECT 599-630**

**\$ (2,125.00)**

**Project 408-742B: SR 408 Milling & Resurfacing, Ortman Dr. to Westmoreland Dr.  
Preferred Materials, Inc.  
SA 408-742B-0519-02**

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 April 2018 - October 2018.

ADD THE FOLLOWING ITEM:

Bituminous Price Index Adjustments: April 2018 - October 2018	\$ 149,054.33
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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 - October 2018. 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 \$3,614,677.32 of construction was performed/produced.

ADD THE FOLLOWING ITEM:

Fuel Price Index Adjustments: April 2018 - October 2018	\$ 16,612.91
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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 18	\$ 21,550.92
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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 throughout the contract.

INCREASE THE FOLLOWING ITEMS:

Pavement Markings, Traffic Stripe, PPRT, Yellow, Solid, 8"	\$ 26.00
Pavement Markings, Traffic Stripe, PPRT, Yellow, Solid, 18"	\$ 132.00
Pavement Markings, Traffic Stripe, PPRT, Black/White Contrast, Solid, 9"	\$ 516.60
Single Post Sign, F&I, GM, Up To 12 SF	\$ 736.00
Retro-Reflective Pavement Marker	\$ 792.00
Asphalt Concrete Friction Course, FC-12.5, PG 76-22, Black Granite, Traffic Level D	\$ 917.13
Miscellaneous Asphalt Pavement, 2"	\$ 950.00
Pavement Markings, Traffic Stripe, PPRT, White, Solid, 18"	\$ 1,485.00
Delineator, Flexible Tubular	\$ 1,710.00
Superpave Asphalt Concrete, Traffic Level C	\$ 2,046.78
Thermoplastic, Standard, White, Solid, 24", Stop Line and Crosswalk	\$ 2,471.00
Single Post Sign, F&I, GM, 12-20 SF	\$ 4,150.00
Superpave Asphalt Concrete, Traffic Level C, PG 76-22	\$ 5,405.36
Superpave Asphalt Concrete, Traffic Level D, PG 76-22	\$ 7,443.37
Portable Changeable Message Sign, Temporary	\$ 10,178.00
Asphalt Concrete Friction Course, FC-5, PG 76-22, Black Granite	\$ 11,375.83
	<u>\$ 50,335.07</u>



DECREASE THE FOLLOWING ITEMS:

Pavement Markings, Traffic Stripe, PPRT, Black, Skip, 12"	\$	(37.20)
Pavement Markings, Traffic Stripe, PPRT, White, Solid, 12"	\$	(40.50)
Pavement Markings, Traffic Stripe, PPRT, Black/White Contrast, 10'-30' Skip, 9"	\$	(104.00)
Desilt Pipe, 0"-24"	\$	(340.00)
Single Panel, F&I, Ground Mount, Up To 12 SF	\$	(350.00)
Thermoplastic, Standard, White, Message	\$	(400.00)
Thermoplastic, Standard, White, Arrow	\$	(490.00)
Thermoplastic, Preformed, White, Solid, 12"	\$	(648.00)
Pavement Markings, Traffic Stripe, PPRT, Yellow, Solid, 6"	\$	(740.00)
Single Panel, F&I, Ground Mount, 12-20 SF	\$	(1,300.00)
Pavement Markings, Traffic Stripe, PPRT, White, 3'-12' Skip, 12"	\$	(1,386.00)
Video Inspect Existing Pipe	\$	(1,512.00)
Thermoplastic, Preformed, White w/ Black Contrast Pavement Message	\$	(1,650.00)
Performance Turf, Sod	\$	(2,666.80)
Pavement Markings, Traffic Stripe, PPRT, White, Solid, 8"	\$	(4,584.50)
MOT for Roadway Repair Contingency	\$	(7,076.00)
Thermoplastic, Preformed, White, Solid, 24"	\$	(14,833.50)
Allowance for Disputes Review Board	\$	(30,000.00)
Roadway Repair, Emergency Base Repair Contingency	\$	(71,825.67)
Work Order Allowance	\$	(300,000.00)
	\$	(439,984.17)

Subtotal: Adjustments to Final Quantities for Completed Contract Items \$ (389,649.10)

**TOTAL AMOUNT FOR PROJECT 408-742B** \$ **(202,430.94)**

**Project 408-746: SR 408 Milling & Resurfacing, I-4 Ultimate Limits (Summerlin Ave.) to Lake Underhill Bridge**  
**Masci General Contractor, Inc.**  
**SA 408-746-0519-01**

MOT & Temporary Striping for Adjusted Quantities

Perform maintenance of traffic (MOT) and temporary striping required per Plan Revisions 1, 2 and 3.

ADD THE FOLLOWING ITEM:

MOT & Temporary Striping for Adjusted Quantities	\$ 39,409.48
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Modify Pay Item Quantities Per Plan Revisions 1, 2 & 3

Perform all work required per Plan Revisions 1, 2 and 3 where the SR 408 mainline project limits were extended, the Mills Ave. westbound off-ramp was deleted, and delineators outside of project limits were added.

DECREASE THE FOLLOWING ITEMS:

Milling Existing Asphalt Pavement, 1-1/4" Avg. Depth	\$ (180.20)
Asphalt Concrete Friction Course, FC-12.5, PG 76-22, Black Granite, TL-D	\$ (4,439.82)
Performance Turf, Sod	\$ (500.50)
Single Panel, F&I, Ground Mount, 12-20 SF	\$ (2,031.00)
Single Panel, Remove, 12-20 SF	\$ (57.00)
Delineator, Roadside Mounted, Flexible Tubular, 48"	\$ (396.00)
Retro-Reflective Pavement Marker	\$ (331.20)
Thermoplastic, Standard, White, Yield Line	\$ (306.00)
	\$ (8,241.72)

INCREASE THE FOLLOWING ITEMS:

Portable Changeable Message Sign, Temporary	\$ 560.00
Milling Existing Asphalt Pavement, 1 1/2" Depth	\$ 10,104.80
Milling Existing Asphalt Pavement, 2 1/4" Depth	\$ 30,045.80
Milling Existing Asphalt Pavement, 3/4" Depth	\$ 452.20
Superpave Asphalt Concrete, Traffic Level C	\$ 51,323.63
Superpave Asphalt Concrete, Traffic Level D, PG 76-22	\$ 164,865.61
Asphalt Concrete Friction Course, FC-5, PG 76-22, Black Granite	\$ 128,512.88
Rumble Strips, Ground In, 16" Min Width, Shoulder	\$ 9,487.92
Single Post Sign, F&I, Gm, 12-20 SF	\$ 672.00
Surface Mounted Delineator, Flat Flexible, Flexstake	\$ 18,056.00
Thermoplastic, Standard, White, Message	\$ 420.00
Thermoplastic, Standard, White, Arrow	\$ 204.00
Thermoplastic Pavement Markings, Preformed, White, Message/Symbol	\$ 9,576.00
Thermoplastic Pavement Markings, Preformed, White, Arrow	\$ 420.00
Removal of Existing Thermoplastic Markings	\$ 38.88
Pavement Markings, Traffic Stripe, PPRT, White, Solid, 8"	\$ 5,155.92
Pavement Markings, Traffic Stripe, PPRT, White, Solid, 8" Chevrons	\$ 5,270.40
Pavement Markings, Traffic Stripe, PPRT, White, 3'-12', Skip, 12"	\$ 4,192.87
Pavement Markings, Traffic Stripe, PPRT, Yellow, Solid, 6"	\$ 12,592.80
Pavement Markings, Traffic Stripe, PPRT, Black/White Contrast, 9", Solid	\$ 18,444.00
Pavement Markings, Traffic Stripe, PPRT, Black/White Contrast, 9", 10'-30' Skip	\$ 16,136.40
	\$ 486,532.11

Subtotal: Modify Pay Item Quantities Per Plan Revisions 1, 2 & 3	\$ 478,290.39
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Time Extension for Extra Work

This extension is to adjust contract time due to the added work for Plan Revisions 1, 2 and 3.

Increase Contract Time 18 Calendar Days

**TOTAL AMOUNT FOR PROJECT 408-746**


**\$ 517,699.87**

**CONSENT AGENDA ITEM  
#2**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: May 1, 2019

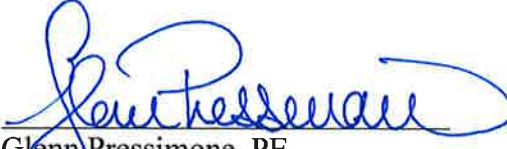
SUBJECT: Approval of HDR Engineering, Inc. as a Subconsultant for the General Engineering Consultant Services contract with Dewberry Engineers, Inc. Contract No. 001145

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Dewberry Engineers, Inc., CFX's General Engineering Consultant has requested approval to use HDR Engineering, Inc to perform a SR 528 Special Use Lane Planning Study. The cost is expected to exceed the \$25,000.00 threshold established by the Procurement Policy for subconsultants not disclosed by Dewberry Engineers, Inc. when its contract with CFX was originally awarded.

Board approval of HDR Engineering, Inc as subconsultant to Dewberry Engineers, Inc. is requested.

Reviewed by:

  
Glenn Pressimone, PE  
Director of Engineering



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

Consultant: Dewberry Engineers, Inc. Date: May 1, 2019

CFX Contract Name: General Engineering Consultant Services CFX Contract No.: 001145

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: HDR, Inc.

Address: 315 E. Robinson St, Suite 400, Orlando, Florida 32801

Phone No.: (407) 420-4200

Federal Employee ID No.: 46-0680568

Description of Services to Be Sublet: SR 528 Special Use Lane Planning Study


Estimated Beginning Date of Sublet Services: 6/1/19

Estimated Completion Date of Sublet Services: 6/1/21

Estimated Value of Sublet Services\*: \$ greater than \$25,000


\*(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)  
Program Manager  
Title

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

Date: 5/1/2019

Approved by:   
(Signature of Appropriate Chief)

Date: 5/1/19


**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: April 30, 2019

SUBJECT: Approval of Contract Award to Hubbard Construction Company for  
SR 528 Milling & Resurfacing from SR 417 to Innovation Way  
Project 528-747, Contract No. 001532

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An Invitation to Bid for the referenced project was advertised on March 24, 2019. Responses to the invitation were received from four (4) contractors by the April 30, 2019 deadline.

Bid results were as follows:

	<u>Bidder</u>	<u>Bid Amount</u>
1.	Hubbard Construction Company	\$11,158,000.00
2.	Middlesex Corporation	\$11,780,909.66
3.	Ranger Construction Industries, Inc.	\$12,125,656.48
4.	Preferred Materials	\$12,480,000.00

The Engineer's Estimate for this project is \$12,059,963.80 and \$16,500,000.00 was approved in the Five-Year Work Plan.

The work consists of providing all labor, materials, equipment and incidentals necessary to mill and resurface SR 528 from SR 417 to Innovation Way.

The Engineer of Record for Project 528-747 has reviewed the low bid submitted by Hubbard Construction Company and determined that the low bid unit prices are not unbalanced.

The Procurement Department has evaluated the bids and has determined the bid from Hubbard Construction Company to be responsible and responsive to the bidding requirements. Board award of the contract to Hubbard Construction Company in the amount of \$11,158,000.00 is recommended.

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

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





# **CONTRACT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
HUBBARD CONSTRUCTION COMPANY**

**SR 528 MILLING & RESURFACING FROM  
SR 417 TO INNOVATION WAY**

**PROJECT NO. 528-747  
CONTRACT NO. 001532**

**CONTRACT DATE: MAY 09, 2019  
CONTRACT AMOUNT: \$11,158,000.00**

**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 SR 417 TO INNOVATION WAY**

**PROJECT NO. 528-747  
CONTRACT NO. 001532**

**MAY 2019**

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	(See General Specifications Table of Contents for listing of individual specifications sections.)	
P	PROPOSAL	P-1 to P-11
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
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(See Technical Specifications Table of Contents for listing of individual specifications sections.)

SP	SPECIAL PROVISIONS	SP-1 to SP-28
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(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. 001532 (the "Contract"), made this 9<sup>th</sup> day of May 2019, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and Hubbard Construction Company, of 1936 Lee Road, Suite 300, Winter Park, FL. 32789, 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 528-747, SR 528 Milling & Resurfacing from SR 417 to Innovation Way, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 290 calendar days. The Contract Amount is \$11,158,000.00. This Contract was awarded by the Governing Board of CFX at its meeting on May 09, 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: \_\_\_\_\_

HUBBARD CONSTRUCTION COMPANY

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

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

\_\_\_\_\_  
Title

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

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

Approved as to form and execution, only.

General Counsel for CFX

\_\_\_\_\_

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
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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 and 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 SR 417 TO INNOVATION WAY  
PROJECT 528-747; CONTRACT NO. 001532

PROPOSAL OF

Hubbard Construction Company

(NAME)

1936 Lee Road, Suite 300 Winter Park, FL 32789

(ADDRESS)

407-645-5500

(TELEPHONE NO.)

Submitted April 29, 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. 01 Dated 03/27/2019 Bidder and/or Representative Initial PFO

Addendum No. 02 Dated 04/23/2019 Bidder and/or Representative Initial PFO

Addendum No. 03 Dated 04/24/2019 Bidder and/or Representative Initial PFO

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Bidder and/or Representative Initial \_\_\_\_\_

Hubbard Construction Company  
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 290 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 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.

\*

\*

\*

\*

Hubbard Construction Company  
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:

P. Frederick O'Dea  
Principal (Bidder)

By: P. Frederick O'Dea, Jr.-VP/CFO/SEC/TRES  
President or Vice President

Attest: WF  
Secretary (or Assistant Secretary)

(Affix  
Corporate  
Seal)

~~JOINT VENTURE:~~

~~\_\_\_\_\_~~

~~Principal (Bidder)~~

~~By: \_\_\_\_\_  
Attorney-in-Fact~~

~~INDIVIDUAL OR FIRM TRADING AS:~~

~~\_\_\_\_\_~~  
~~Principal (Bidder)~~

~~Signature: \_\_\_\_\_~~  
~~Individual or Owner~~

~~Witness: \_\_\_\_\_~~

~~Witness: \_\_\_\_\_~~

~~PARTNERSHIP:~~

~~\_\_\_\_\_~~  
~~Principal (Bidder)~~

~~Signature: (1) \_\_\_\_\_~~  
~~Co-Partner or General Partner~~

~~Signature: (2) \_\_\_\_\_~~  
~~Co-Partner or General Partner~~

~~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 SR 417 TO INNOVATION WAY  
PROJECT 528-747; CONTRACT NO. 001532

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 P. Frederick O'Dea, Jr. who being

duly sworn, deposes and says he is VP/CFO/SEC/TRES

(Title)

of Hubbard Construction Company of Winter Park, Florida

(Firm)

(City and State)

the bidder submitting the attached Proposal for the work covered by CFX Project 528-747 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

Hubbard Construction Company

(Bidder)

By: *P. Frederick O'Dea, Jr.*

Title: P. Frederick O'Dea, Jr.-VP/CFO/SEC/TRES

\*\*\*\*\*

STATE OF Florida

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 4/26/19,  
(Date)

by P. Frederick O'Dea, Jr.  
(Name of Officer or agent, title of officer or agent)

of Hubbard Construction Company  
(Name of Corporation acknowledging)

a Florida corporation, on behalf of the corporation. He/she is  
(State or place of incorporation)

personally known to me or has produced N/A  
(Type of identification)

as identification and did (did not) take an oath.

Peggy Jandrew Notary Public, Commission No. FF959409

Peggy Jandrew (Name of Notary typed, printed or stamped)



(SEAL ABOVE)

Title or Type of Document N/A (Optional)

Number of Pages 0 Date of Document N/A (Optional)

Signer(s) Other than Named Above N/A (Optional)

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: Hubbard Construction Company

CFX Project: 528-747 Contract Amount \$ 11,158,000.00

Grand Total Anticipated Sublet \$ 4,294,000.00

D/M/WBE Subcontractors (Name Only)	\$ Amount for Objective
TransPremier LLC	\$1,674,000.00

Total Dollar Amount for D/M/WBE Participation Objective \$ 1,674,000.00

D/M/WBE Percentage of Total Project 15.0 %

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.

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FOR USE BY CFX ONLY

Participation Objective Achieved \$ 1,674,000.00 % 15

Date 5/1/19 APPROVED [Signature] DISAPPROVED \_\_\_\_\_

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Central Florida Expressway Authority  
D/M/WBE Utilization Form

Prime Contractor: Hubbard Construction Company  
CFX Project: 528-747 - SR 528 Milling & Resurfacing from SR 417 to Innovation Way

D/M/WBE Subcontractor

Name of Company: TransPremier LLC  
Address: 7616 Narcoossee Road  
Orlando, FL 32822  
Phone: 407-905-4433 Contact Person: Sergio Guarnizo

(CFX must be able to reach the D/M/WBE at the above phone within two working days after the bid opening.)

ITEM NO.	DESCRIPTION (note if item qualifies for SUPPLIER)
1	Hauling and Cleanup

*M. S. M.*  
Signature/Title of D/M/WBE Representative Submitting Above Quote

ITEMS BELOW ARE TO BE COMPLETED BY THE PRIME CONTRACTOR

Amount to be paid to D/M/WBE Manufacturer	(\$ _____ x 1.00)	\$ <u>0.00</u>
Amount to be paid to D/M/WBE Supplier	(\$ _____ x .60)	\$ <u>0.00</u>
Amount to be paid to D/M/WBE Subcontractor		\$ <u>1,674,000.00</u>
Total to D/M/WBE (toward Participation Objective)		\$ <u>1,674,000.00</u>

*P. Frederick O'Dea, Jr.*  
Signature/Title of Prime Contractor's Representative P. Frederick O'Dea, Jr.-VP/CFO/SEC/TRES

D/M/WBE Certified by: Orange County Business Development Division

COPY OF CURRENT CERTIFICATION MUST BE SUBMITTED

NOTE: Submissions not signed by the D/M/WBE will be confirmed with the D/M/WBE in accordance with Section 337.125 Florida Statutes. If a false quote is submitted or if CFX cannot confirm a quote, CFX may consider it just cause to consider the bid non-responsive and reject the bid.



'19 APR 30 PM 2:28

Orange County Business Development Division  
P.O. Box 1393  
Orlando, Florida 32802-1393  
407-836-7345  
businessdevelopment@ocfl.net

**TRANSPREMIER, LLC.**

Has Been Certified As A

**MINORITY BUSINESS ENTERPRISE**

Approved Lines Of Business:  
**TRUCKING, HAULING AND STREET AND PARKING LOT  
SWEEPING, CONSTRUCTION SITE CLEAN-UP, AND MILLING  
MACHINE SERVICES**

---

# OF TRUCKS- 60

This certificate is valid:  
July 2018 through July 2020

*Sheena Ferguson*

---

Sheena Ferguson, Manager  
July 27, 2018

**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.

Hubbard Construction Company

\_\_\_\_\_  
Company Name

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

*P. Frederick O'Dea, Jr.*

Title: P. Frederick O'Dea, Jr. - VP/CFO/SEC/TRES

(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.

Hubbard Construction Company

Company Name

By:

P. Frederick O'Dea, Jr.

Title: P. Frederick O'Dea, Jr. - VP/CFO/SEC/TRES


(Note: Failure to execute and submit this form may be cause for rejection of the bid as non-responsive.)

**CONSENT AGENDA ITEM  
#4**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 22, 2019

SUBJECT: Approval of Final Ranking and Authorization for Fee Negotiations for Design Consultant Services for SR 417 Widening from Boggy Creek Road to Narcoossee Road  
Project 417-151, Contract No. 001394

Letters of Interest for the referenced project was advertised on February 17, 2019. Responses were received from nine (9) firms by the deadline. Those firms were: BCC Engineering, Inc., GAI Consultants, Inc., HDR Engineering, Inc., Inwood Consulting Engineers, OM Engineering Services, Inc., Protean Design Group, Inc., Scalar Consulting Group, Inc., Tetra Tech, Inc. and WSP USA, Inc.

After reviewing and scoring the letters of interest, the Evaluation Committee met on March 11, 2019 and shortlisted HDR Engineering, Inc., Inwood Consulting Engineers, Inc., and Tetra Tech, Inc.

Technical Proposals were submitted for review and scoring. As part of the scoring process, the Technical Review committee heard oral presentations from the firms on April 15, 2019. After the oral presentations were completed, the Technical Review Committee prepared its final ranking. The result of that process was as follows:

<u>Ranking</u>	<u>Firm</u>
1	Inwood Consulting Engineers, Inc.
2	HDR Engineering, Inc.
3	Tetra Tech, Inc.

Board approval of the final ranking and authorization to enter into fee negotiations with Inwood Consulting Engineers, Inc. is requested. Once fee negotiations are completed, Board approval of the negotiated amount and award of contract will be requested. If negotiations with Inwood Consulting Engineers, Inc. is not successful, Board authorization to enter into negotiations in ranked order is requested.

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

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



4974 ORL TOWER RD. ORLANDO, FL 32807 | PHONE: (407) 690-5000 | FAX: (407) 690-5011

LOI-001394 Committee Meeting April 15, 2019 Minutes

Technical Review Committee for Design Consultant Services for SR 417 Widening from Boggy Creek Road to Narcoossee Road; Project 417-151, Contract No. 001394, held a duly noticed meeting on Monday, April 15, 2019 at 1:00 p.m. in the Pelican Conference Room (Room 107), at the CFX Administrative Bldg., Orlando, Florida.

Committee Members Present:

Glenn Pressimone, Director of Engineering  
Jack Burch, Resident Engineer  
Will Hawthorne, Manager of Engineering

Other Attendees:

Aneth Williams, Director of Procurement

Presentations / Q and A:

Aneth began each interview with a brief overview of the process and introduced the Technical Review Committee. This portion of the meeting is closed to the public and is being recorded in accordance with Florida Statute.

HDR Engineering, Inc.	1:00 – 1:35 p.m.
Inwood Consulting Engineers, Inc.	1:45 – 2:20 p.m.
Tetra Tech, Inc.	2:30 – 3:05 p.m.

Evaluation Portion:

The evaluation portion of the meeting is open to the public in accordance with Florida Statute. The committee members individually scored the proposers and submitted them to Aneth for tallying. The score sheets were tallied by 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>
Inwood Consulting Engineers, Inc	3	1
HDR Engineering, Inc.	7	2
Tetra Tech, Inc.	8	3

The Committee recommends CFX Board approve ranking and authorize negotiations in ranked order. It was agreed that Glenn Pressimone would review and approve the minutes on behalf of the Committee.

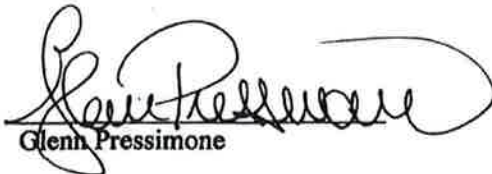
There being no other business to come before the Committee; the meeting was adjourned at 3:30 p.m. These minutes are considered to be the official minutes of the Technical Review Committee meeting held Monday, April 15, 2019, and no other notes, tapes, etc., taken by anyone takes precedence.

Submitted by:



Aneth Williams

Approved by:



Glenn Pressimone

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

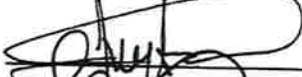
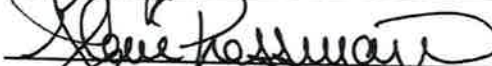

**TECHNICAL COMMITTEE MEMBER FINAL SUMMARY RANKING**

**DESIGN CONSULTANT SERVICES FOR SR 417 WIDENING FROM BOGGY CREEK ROAD TO NARCOOSSEE ROAD**

**PROJECT 417-151; CONTRACT NO. 001394**

CONSULTANT	Jack Burch Score	Glenn Pressimone Score	Will Hawthorne Score		TOTAL SCORE	RANKING
HDR ENGINEERING, INC.	3	2	2		7	2
INWOOD CONSULTING ENGINEERS, INC.	1	1	1		3	1
TETRA TECH, INC.	2	3	3		8	3

EVALUATION COMMITTEE MEMBERS:

Date: Monday, April 15, 2019

Date: Monday, April 15, 2019

Date: Monday, April 15, 2019




**CONSENT AGENDA ITEM  
#5**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 23, 2019

SUBJECT: Approval of Contract Award to Kisinger Campo & Associates (KCA), Corp. for Design Consultant Services for SR 429 Widening from Stoneybrook West Parkway (South) to Florida's Turnpike Project 429-154, Contract No.001397

---

The Board approved, on February 21, 2019, final rankings and authorized fee negotiations for Design Consultant Services for SR 429 Widening from Stoneybrook West Parkway (South) to Florida's Turnpike. Negotiations with KCA have been completed. Board award of the contract to KCA is requested in the not-to-exceed amount of \$4,175,000.00.

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

Reviewed by:   
Glenn Pressimone, PE  
Director of Engineering



# **AGREEMENT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
KISINGER, CAMPO & ASSOCIATES, CORP.**

**DESIGN PROFESSIONAL SERVICES  
FOR  
S.R. 417 WIDENING FROM STONEYBROOK WEST  
PARKWAY (SOUTH) TO FLORIDA'S TURNPIKE**

**CONTRACT NO. 001397, PROJECT 429-154**

**CONTRACT DATE: MAY 09, 2019  
CONTRACT AMOUNT: \$4,175,000.00**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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

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

**FOR**

**S.R. 417 WIDENING FROM STONEYBROOK WEST PARKWAY (SOUTH) TO  
FLORIDA'S TURNPIKE**

**DESIGN PROFESSIONAL SERVICES**

**CONTRACT NO. 001397  
PROJECT 429-154**

**MAY 2019**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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D	Exhibit "D", Project Organization Chart	
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(Agreement for Design Professional Services for SR 429 Widening  
from Stoneybrook West Parkway (South) to Florida’s Turnpike)

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

THIS AGREEMENT, made and entered into this 9<sup>th</sup> day of May 2019, by and between 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 Kisinger, Campo & Associates, Corp., hereinafter called "CONSULTANT," registered and authorized to conduct business in the State of Florida, carrying on professional practice in engineering, with offices located at 135 W. Central Blvd., Suite 300, Orlando, FL. 32801.

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 professional services in connection with the design of SR 429 Widening from Stoneybrook West Parkway (South) to Florida's Turnpike identified as Project 429-154 and Contract No. 001397.

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 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.

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:

The Balmoral Group, LLC (Class I)	I.F. Rooks & Associates, LLC (Class I)
Brindley Pieters and Associates, Inc. (Class I)	Kittelson & Associates, Inc. (Class I)
ECHO UES, Inc. (Class I and class II (survey))	KCCS, Inc. (Class I)
Geodata Consultants, Inc. (Class I and class II (survey))	Tierra, Inc. (Class II)
Traffic Engineering Data Solutions, Inc. (Class I)	

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 \$4,175,000.00 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. 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 135 W. Central Blvd., Suite 300, Orlando, FL. 32801.

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/annual aggregate. 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: Kisinger, Campo & Associates, Corp.  
135 W. Central Blvd., Suite 300  
Orlando, FL. 32801  
Attn: Roger Rossitto, P.E.

Kisinger, Campo & Associates, Corp.  
135 W. Central Blvd., Suite 300  
Orlando, FL. 32801  
Attn: Thomas J. Shaw, 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", Project Location Map
- Exhibit "F", Project Schedule
- Exhibit "G", 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 May 09, 2019.

**KISINGER, CAMPO & ASSOCIATES, CORP.**

**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**

**S.R. 429 WIDENING FROM STONEYBROOK  
WEST PARKWAY (SOUTH) TO FLORIDA'S  
TURNPIKE**

**PROJECT NO. 429-154**

**IN ORANGE COUNTY, FLORIDA**

**April 19, 2019**

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SCOPE OF SERVICES  
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## **1.0 GENERAL**

### **1.1 Location**

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

### **1.2 Description**

The services will include final design and preparation of construction drawings / specifications for the proposed S.R. 429 inside widening from Stoneybrook West Parkway (South) to Florida's Turnpike. Specifically, the project consists of widening to the inside for the additional general use lane and closing in the median to accommodate future Part-time shoulder use. All mainline bridges within the project limits; Stoneybrook West Parkway (South), CR 535 and Stoneybrook West Parkway (North) will also be widened to accommodate the appropriate shoulder widths, additional general use lane or ramp modifications as per the concept. Exact limits will be set after coordination with the adjoining 429-152 project. Additional elements include milling & resurfacing, surveying, drainage evaluation and design, permitting, lighting, signing and pavement markings, signalization, ITS (fiber optic network), maintenance of traffic, utility design and coordination, geotechnical analysis, tasks associated with analysis and development of the Part-time Shoulder Use Concept of Operations, scheduling and project control, progress reporting and other tasks and associated activities.

### **1.3 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. 429 inside widening from Stoneybrook West Parkway (South) to Florida's Turnpike.
- 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 ITS (fiber optic network) plans, final signalization plans (if required), final signing and pavement marking plans and preparation of a complete environmental resource application (or permit modification) including 100% storm water management.
- 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.

#### **1.4 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.

#### **1.5 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, 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 Handbook, 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

#### 3.1 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.

#### 3.2 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

DESIGN ELEMENT	EXPRESSWAY		CROSSROADS/ COLLECTORS
	MAINLINE	RAMPS	
Vertical Curvature (K) (K=Len./%grade change)			Rural
Crest	506 290 to 540 AASHTO	31 (30 mph) 136 (50 mph) 110 to 160 Other (AASHTO)	31 to 136
Sag	206 150 to 200 AASHTO	31 (30 mph) 136 (50 mph) 90 to 110 Other (AASHTO)	37 to 96
Decision Sight Dist., ft.	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	4-Lane	Single Lane	
Left	12 (10 paved) 8 (4 paved)	6 (4 paved) 6 (2 paved)	8 (4* paved) 2 (2 paved)
Right	6-Lane	Dual Lane	* min. 5' paved
Left	12 (10 paved) 12 (10 paved)	10* (8* paved) 8 (4 paved) (* add 2' for interstate)	
Bridges, ft.			
Right	4-Lane	Single-Lane	
Left	10 6	6 6	
Right	6(or more)-Lanes	Dual Lane	
Left	12 12	10 6	
Cross Slopes			
Traffic Lanes	2% (4-lane) 3% or tbd (6-lane)	2%	2%
Bridge Lanes	2% typ. (no break)		
Left Shoulder	Match Mainline	5%	5%
Right Shoulder	Match Mainline	6%	6%

DESIGN ELEMENT	EXPRESSWAY		CROSSROADS/ COLLECTORS
	MAINLINE	RAMPS	
Median Width (4-lane), ft. (E.O.P./E.O.P.)	64' (typical) 26' (with barrier)	N/A	22' or 40'
Lateral Offset	FDM 215.2.4	FDM 215.2.4	FDM 215.2.4
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.

### **3.3 Bridge and Other Structures**

- A. All plans and designs shall be prepared in accordance with the latest standard specifications adopted by AASHTO, FDOT Structures Manual, FDOT Design Manual, FDOT Standard Plans, 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.

##### **4.1 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 S.R. 429 inside widening from Stoneybrook West Parkway (South) (Station 938.00 +/-) to Florida's Turnpike (Station 1126.00 +/-). Specifically, the project consists of widening to the inside for the additional general use lane and closing in the median to accommodate future Part-time shoulder use. All mainline bridges within the project limits; Stoneybrook West Parkway (South), CR 535 and Stoneybrook West Parkway (North), will also be widened to accommodate the appropriate shoulder widths, additional general use lane or ramp modifications as per the concept. Additional elements include milling & resurfacing, surveying, drainage evaluation and design, permitting, lighting, signing and pavement markings, signalization (if needed), ITS, maintenance of traffic, utility design and coordination, geotechnical analysis, scheduling and project control, progress reporting and other tasks and associated activities.

##### **4.2 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 Orange County, City of Winter Garden, FDOT, FDEP and applicable Water Management District(s).

##### **4.3 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.

#### 4.4 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' from LAMP data.
3. Cross-sections will be performed at intervals along the mainline to support and validate LAMP DTM.
4. Additional topographic and DTM surveys, as needed for the project design, are the responsibility of the Consultant. These may include 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 project horizontal

and vertical control points 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.

#### **4.5 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, identifying roadway structural section requirements, LBR testing, design methods for the selected foundation, external stability evaluation at proprietary retaining walls, groundwater and estimated seasonal high groundwater level, estimate of the maximum rate of pumping that will be required at sites that dewatering is anticipated, certification of all under drain and pond draw down times, pH and resistivity conditions requiring design considerations, soil shrinkage/swell characteristics, slope stability and benching in embankment/excavation locations, recommendation for methods of rock excavation, potential imported borrow sites and availability of structural section materials, 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 design of foundations for sign structures. The work will also include verification of existing median bridge foundation capacities previously constructed for future widening.



- 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.

#### **4.6 Contamination Impact Analysis**

- A. The Consultant shall 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. At a minimum, 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.

#### **4.7 Pavement Design**

- A. The Consultant shall prepare the pavement design as appropriate in accordance with the requirements of the FDOT Pavement Design Manual.
- B. The proposed pavement design recommendation, resulting from the Consultant's analysis of the various alternatives, shall be contained in a Pavement Design Summary.

#### **4.8 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.

#### **4.9 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 improvements. 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.
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 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 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 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.
8. The Consultant shall make two utility contacts with the utility agencies (Phase II and Phase III) and hold a utility conference at each contact.

#### 4.12 PTSU

##### A. HCM Operational Analysis.

The FREEVAL software package will be used to conduct the operational analysis. FREEVAL is a powerful macroscopic freeway facility analysis tool based on Highway Capacity Manual (HCM) 6<sup>th</sup> Edition freeway facility methodologies. FREEVAL allows for the analysis of multiple HCM freeway segments (i.e. ramp junction, weaving sections, and basic freeway sections) using one 'run', as opposed to the traditional Highway Capacity Software (HCS) that requires individual assessments of each ramp, weaving section, and basic freeway section. The freeway facility methodology offers enhanced computational efficiency compared to individual segment analyses. The facilities methodology models queue propagation and dissipation and offers a more realistic assessment of congestion patterns when individual freeway segments reach LOS F with demands exceeding capacity. Use of FREEVAL will 1) save time vs traditional HCS analysis and vs microsimulation (i.e. VISSIM), 2) increases the accuracy of the freeway analysis as compared to traditional HCM analysis, and 3) provide the ability to efficiently do scenario

testing. FREEVAL also has capabilities of evaluating the operations of managed lanes, PTSU, work zones, and travel time reliability.

It is expected that KAI will work closely with CFX in an iterative and collaborative process throughout this task. This will involve interim deliverables, discussions, and feedback to review completed work. It is anticipated that KAI will discuss calibration results with CFX to verify the operations are consistent with existing conditions. Once the models are calibrated and agreed upon by CFX, it is anticipated another discussion with CFX will occur to present the results of the various future build scenarios. The following summarizes the individual tasks anticipated in the FREEVAL operational analysis.

1. Data Collection.

KAI will obtain or collect the necessary data to complete the traffic operations analysis. The data collection efforts are summarized as follows:

a. Transportation System Data

KAI will collect transportation systems data including the road name, area type, roadway type, number of lanes, and posted speed limit. It is anticipated that this data will come from existing sources such as the RCI database, the 2017 Florida Traffic Online database, and aerial/street view imagery.

KAI will request 2019 HERE data from CFX within the limits of the study corridors to be used for FREEVAL model calibration purposes.

It is not expected that specific traffic counts will need to be collected as part of this study. If specific traffic counts are needed as part of this study, they will be furnished by CFX.

KAI will request historical incident data or monthly crash frequency data (most recent five years of data) along each study facility to aid in the travel time reliability analysis to be completed as part of Task 1.6.

b. Project Design Files

KAI will request the most current design files for SR 417 and SR 429 to be utilized in the operational assessment of the future conditions and future alternatives. It is expected that the design files will include the roadway line work as well as the pavement markings (to be used to identify lane configurations). It is expected that a .kmz file and a .pdf of the design plans will be provided to KAI by CFX.

2. Existing Volume Development.

It is anticipated KAI will be provided with a balanced set of existing year (2019) AM and PM peak hour volumes to be used in calibration of the existing conditions FREEVAL models along SR 417 and SR 429. CFX will also provide the existing truck percentages along the two facilities to be used in the operational analysis. This will include a breakdown of single-unit trucks and tractor trailer truck percentages. KAI will also request 48-hr volume and/or classification count data along SR 417 and SR 429 from CFX. The mainline data will be used to develop daily volume profiles to be used in estimating “shoulder” hours on either side of the AM and PM peak hours (two separate, three-hour analyses). KAI will coordinate with CFX on additional analysis periods (weekday off-peak, weekend peak period, etc.) if needed.

3. Existing Geometric Network Development and Calibration.

It is expected that the limits of the FREEVAL model for SR 417 will be from International Drive to SR 528. It is expected that the limits of the FREEVAL model for SR 429 will be from just south of Stoneybrook Parkway to SR 414. Intersections will not be included in the model development.

FREEVAL geometric models will be developed for the following existing scenarios and analysis periods:

- a. SR 417 northbound – 2019 AM and PM peak periods
- b. SR 417 southbound – 2019 AM and PM peak periods
- c. SR 429 northbound – 2019 AM and PM peak periods
- d. SR 429 southbound – 2019 AM and PM peak periods

Florida-specific “default” Capacity Adjustment Factors (CAFs) will be used to adjust capacities within the merge, diverge, and weave influence areas. These factors are based on research conducted by the University of Florida and FDOT. The HERE data collected as part of Task 1.1 will be used as speed and travel time calibration targets.

4. Design Year Geometric Network Development.

Data from straight line diagrams, Google Earth, design plans, and the .kmz of the build scenario will be utilized to identify key distances and geometric features of the model network. Intersections will not be included in the model development. FREEVAL geometric models will be developed for the following scenarios:

- a. No-Build: northbound and southbound directions:  
It is assumed that this will include the existing roadway configurations along SR 417 and SR 429 and can include planned interchange improvements along the facilities. It will not include PTSU.
- b. Two Build Alternatives: northbound and southbound directions:  
It is assumed that KAI will coordinate with CFX on two build scenarios to evaluate (two for each facility).

5. Future Year Volume Development.

It is anticipated KAI will be provided with a balanced set of design year (2045) AM and PM peak hour volumes to be used in calibration of the existing conditions FREEVAL models along SR 417 and SR 429. Unless instructed otherwise by CFX, KAI will use the existing daily volume profiles to estimate “shoulder” hours on either side of the 2045 AM and PM peak hours. KAI will also utilize the existing truck percentages (single unit and tractor trailer) in the 2045 AM and PM peak period analyses.

6. Operational Analysis.

FREEVAL will be utilized to conduct the HCM based operational analysis for both the northbound and southbound directions along SR 417 and SR 429. It is anticipated that CFX will provide a year of failure (interim year) and the associated volumes to KAI to evaluate the need for the PTSU system. KAI will evaluate how the facilities will operate in interim year and during the design year (2045 peak period).

The following analysis scenarios along SR 417 and SR 429 will be analyzed:

- a. Existing
  - i. 2019 AM and PM peak periods
- b. No-Build
  - i. Interim Year AM and PM peak periods
  - ii. 2045 AM and PM peak periods
- c. Build Option 1
  - i. Interim Year AM and PM peak periods
  - ii. 2045 AM and PM peak period
- d. Build Option 2

- i. Interim Year AM and PM peak periods
- ii. 2045 AM and PM peak period

In addition to the recurring congestion analysis, a non-recurring travel time reliability (TTR) analysis will be conducted for the Build scenarios to understand the impacts of incidents, weather, and demand on operations along each study facility. The data collected in Task 1.1 will be utilized as inputs into the TTR analysis. This will aid in understanding the operations of the various Operational Scenarios of the PTSU system (to be discussed in Task 2).

7. Technical Memorandum.

KAI will prepare a technical memorandum summarizing the operational analysis results, including figures, tables, and supporting documentation for each of the SR 417 and SR 429 study facilities and will be submitted for review. One round of comments will be addressed, and a final memorandum will be submitted for each facility.

B. Concept of Operations (ConOps) Document.

KAI will lead the development of a ConOps document for the PTSU strategy along both the SR 417 and SR 429 facilities (two separate documents). KAI will lead items 1, 2, and 7 of the ConOps and coordinate with CFX and CFX's consultants to address items 3-6. Coordination with FDOT's Traffic Management Center staff will also be crucial in the development of the ConOps document. The ConOps document will answer the following questions:

- Who are the stakeholders involved with the system?
- What are the known elements and high-level capabilities of the system?
- When is the time sequence of activities that will be performed?
- What are the geographical and physical extents of the system?
- Why are the improvements needed?
- How will this be designed, built, or retrofitted to the system?

The ConOps will include the following elements as noted in the *Planning for TSM&O Guidebook*. The guidebook was prepared by FDOT District Five (with two KAI co-authors) as part of the Strategic Highway Research Program 2 (SHRP 2).

1. Introduction

Should include the document outline, the purpose & need of the project, goals & objectives, and boundaries of the system.

2. Reference Documentation



Any supporting documentation such as: business planning documents, related system ConOps & requirements, studies identifying operational needs, meeting minutes.

3. Operational Description

An overview of how the improvements will be implemented; user activities, operational process, and organizational/personnel structures required.

4. Operational Needs

An outline of what is necessary for the agency/region to implement the system and/or complement/improve the existing system.

5. System Overview

High-level description of the key system components and the interrelationships among the elements (e.g. system capabilities, goals and objectives of the system).

6. Operational Support

Description of the overall system needs; this does not include the design details such as vendor hardware.

7. Operational Scenarios

The system's impact under general conditions such as, normal, peak hour or stress, maintenance mode, failure events, and how it handles anomalies.

8. Identification of Key Stakeholders and Project Vision/Goals Development.

KAI will work directly with CFX to determine a list of key stakeholders in the development of the SR 417 and SR 429 ConOps. The following stakeholders could be considered, and it is anticipated that additional stakeholders will be engaged:

- a. Central Florida Expressway Authority
- b. Florida Department of Transportation District Five
- c. Florida's Turnpike Enterprise
- d. City of Orlando
- e. MetroPlan Orlando

- f. Disney
- g. Orange County
- h. Lynx
- i. Local Law Enforcement and County Sheriff
- j. Fire and Rescue Departments
- k. Emergency Medical Services
- l. Florida Highway Patrol
- m. Media/Information Service Providers
- n. Design Teams

KAI will work directly with CFX and the identified key stakeholders to develop a project visions, mission, and set of goals for the PTSU ConOps documents along both study facilities.

9. References.

KAI will identify a list of supporting references and resources in developing the ConOps. Some resources that will be considered are:

- a. Developing and Using a Concept of Operations in Transportation Management Systems (FHWA 2005)
- b. Use of Freeway Shoulders for Travel – Guide for Planning, Evaluating, and Designing Part-Time Shoulder Use as a Traffic Management Strategy (FHWA 2016)
- c. Planning for TSM&O Guidebook (FHWA 2017)
- d. Active Traffic Management (ATM) Implementation and Operations Guide (FHWA 2017)
- e. Implementing Bus on Shoulder in Florida – Statewide Guidance (FDOT 2017)

10. Description of Existing System.

This task will focus on the collection and analysis of existing conditions information. This will include the following:

- a. Interchange/Toll Plaza Inventory
  - i. SR 417 (12 Interchanges and 2 Toll Plazas)
    - 1) Osceola Parkway
    - 2) SR 536
    - 3) Toll Plaza west of Hunter’s Vista Boulevard
    - 4) John Young Parkway
    - 5) Orange Blossom Trail
    - 6) Florida Turnpike (SR 91)
    - 7) Landstar Boulevard

- 8) Toll Plaza west of Wyndham Lake Boulevard
- 9) Boggy Creek Road/Jeff Fuqua Boulevard
- 10) Lake Nona Boulevard
- 11) Narcoossee Road
- 12) Moss Park Road
- 13) Dowden Road
- 14) SR 528
- ii. SR 429 (7 Interchanges and 1 Toll Plaza)
  - 1) Winter Garden Vineland Road (CR 535)
  - 2) Florida's Turnpike (SR 91)
  - 3) SR 50
  - 4) SR 438
  - 5) West Road/Clarcona-Ocoee Road
  - 6) Toll Plaza south of McCormick Road
  - 7) CR 437A (Ocoee-Apopka Road)
  - 8) SR 414

b. Existing Traffic Operations

- i. Existing traffic patterns (peak hours, directional factors, truck factors, etc.)
- ii. Locations of existing bottlenecks

c. Existing TSM&O and ITS Technologies

- i. Traffic detectors
- ii. Traveler information
- iii. Incident management
- iv. Support environment

d. User Profiles

e. Traffic Management Center (TMC) Integration

f. ATMS Software

g. Transit Modes

- i. Lynx
- ii. Disney's Magical Express

11. Justification and Nature of Changes.

KAI will coordinate with CFX and CFX's consultants to identify the reasons for developing the proposed system including:

- a. New or modified user needs, missions, or objectives
- b. Dependencies or limitations of the current system

The desired changes of the system will be described and will include:

- a. Capability changes
- b. System processing changes
- c. Interface changes
- d. Personnel changes
- e. Environmental changes
- f. Support changes
- g. Other changes

In addition, the changes considered but not included in the proposed system will be included so that it clear what other options were considered and why they will not be included.

## 12. Concepts for the Proposed PTSU System.

KAI will coordinate with CFX and CFX's consultants to provide a high-level description of the PTSU system that indicates the operational features to be provided in the proposed system including:

- a. Proposed PTSU system's background, objectives, and scope
- b. Operational polices or constraints imposed on the proposed PTSU system
  - i. Hours of operations
  - ii. Staffing, space, or hardware constraints
- c. Description of the proposed PTSU system
  - i. Operational environments and its characteristics
  - ii. Major system components and the interconnections among these components
  - iii. Interfaces to external systems or procedures
  - iv. Capabilities or functions of the proposed system
  - v. Relationship to other systems
  - vi. Conformity and compatibility to the statewide ITS architecture and regional ITS architectures
  - vii. Deployment and operational risk factors
  - viii. Performance characteristics
  - ix. Quality attributes, such as reliability, accuracy, availability, expandability, flexibility, interoperability, maintainability, portability, reusability, supportability, survivability, and usability

- x. Provisions for safety, security, privacy, integrity, and continuity of operations in emergencies
- d. Modes of operation
- e. User involvement and interaction
  - i. Advanced warning signs types
  - ii. Advanced warning sign placement spacing
- f. Support environment

13. Operational Scenarios.

The operational scenarios will describe how the PTSU strategy will operate under different scenarios. The scenarios presented will not represent every possible condition of the roadway but will reflect typical events the PTSU system will encounter. The following are six possible scenarios that PTSU system may encounter:

- a. Free Flow
- b. Recurrent Congestion
- c. Lane Restriction
- d. Weather Conditions
- e. Complete Closure
- f. Non-recurrent Congestion

KAI will prepare ConOps diagrams for each of the operational scenarios. These will include the messages that will be displayed on the dynamic message signs (DMS).

14. ConOps Documentation.

KAI will lead the development of a ConOps report that documents the subtasks included under Task 2 for the SR 417 and SR 429 facilities and will be submitted for review (one ConOps document for each facility. Two rounds of comments will be addressed, and a final report will be submitted for each facility.

C. Meetings.

The following meetings are anticipated for each of the SR 417 and SR 429 projects:

- 1. One (1) in-person project visioning team (PVT) meeting (assumes three KAI staff)
- 2. Two (2) in-person operational results meetings (assumed two KAI staff)

3. Fifteen (15) monthly coordination/progress meetings via phone with CFX to coordinate activities, review progress, and present results (assumed one KAI staff)

Meeting notes will be prepared to summarize the meetings listed above.

D. QA/QC and Project Management

1. QA/QC.

KAI will designate appropriate staff to conduct Quality Assurance/Quality Control (QA/QC) reviews of all work products. Work effort for QA/QC reviews will be limited to five (5) percent of the work effort for each task.

2. Project Administration

- a. Project Management: KAI will keep CFX informed on the status of project-related milestones and schedule. Work effort for Project Management will be limited to ten (10) percent of the work effort for each task.

- b. Project Schedule: KAI will prepare and submit a detailed project schedule identifying major tasks, their durations and tasks relationships. KAI is responsible for keeping the schedule up to date and keeping CFX informed about the current schedule status.

E. Miscellaneous Support.

In addition to the services included in Task A through E, KAI may provide additional professional consulting, technical, and engineering support services to CFX's Project Manager under the current contract including:

1. Coordination and support the development of a Systems Engineering Management Plan (SEMP)
2. PTSU signing diagrams
3. Work zone/MOT plan analysis using FREEVAL
4. Various PTSU needs
5. Miscellaneous coordination
6. Additional meeting attendance as requested
7. Miscellaneous support to CFX project manager as requested

#### 4.13 Roadway Design

- A. A Typical Section Package will not be prepared for this project. Rather, typical sections for mainline and impacted interchange ramps will be prepared as part of the 15% 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. Typical roadway details
  - 8. Plans and profiles (plans at 1"=50' scale)
  - 9. Interchange layout plans
  - 10. Ramp Terminal Details
  - 11. Crossroad plans and profiles (1"= 50' scale)
  - 12. Cross-sections (with pattern plan) (1" = 20' horiz.) (1" = 5' vert.)
    - a. Earthwork quantities
  - 13. Traffic Control Sheets including Temporary Drainage
  - 14. Utility Adjustment Sheets - as deemed necessary
  - 15. Details

16. Special provisions
17. Special specifications

#### **4.14 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 beam type, wall type / configuration, foundation pile type, and preliminary load rating analysis of existing exterior beams at widened sections.
- 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
    - a. Stoneybrook West Parkway (South)
    - b. CR 535
    - c. Stoneybrook West Parkway (North)
  2. Retaining walls
  3. Box Culverts
  4. Slope protection
  5. Approach slabs for bridge widenings
  6. Summary quantity tables
  7. Special provisions and specifications are not anticipated to be required for the structures work, however, if required will be included.
  8. Stage construction-sequencing details will consist of bridge cross sections showing demolition and construction phases with corresponding traffic positions and will be coordinated with the maintenance of traffic plans.
  9. Sign\Signal structures: To replace existing structures impacted by the widening and provide additional anticipated sign structures.
  10. Sound walls. CFX to provide limits and locations



11. 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 for their review and approval.
- C. The Consultant shall perform an evaluation of the existing median bridge foundations, previously constructed for future widening, to determine acceptability for HL93 loading and the potential for additional future transit loading.

#### **4.15 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 3.1D.
  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.
  7. Modification of existing floodplain analysis and compensation ponds is included to obtain required permits.
  8. 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

#### **4.16 Roadway Lighting**

- A. The Consultant shall provide a complete set of final roadway lighting documents in accordance with FDOT and CFX design criteria. These plans shall include replacement of all CFX lighting on the corridor to LED, including roadway and ramp fixtures, overhead sign lighting and underdeck lighting. 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

#### **4.17 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"=50' 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 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.

#### **4.18 Signing and Pavement Marking Plans**

- A. The Consultant shall prepare designs and contract documents for final signing and pavement marking 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. Plan sheets will be developed at a scale of 1"=50' (11"x17" format).

#### **4.19 Signalization Plans**

- A. Signal plans are not anticipated for this improvement. If requested, 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).

#### **4.20 Right-of-Way Surveys**

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

#### **4.21 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.

#### **4.22 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.

#### **4.23 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 splice details and tables for new or relocated fiber optic cabling.
- n. Controller cabinet, structure, and foundation details for proposed CFX device 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, or upgrade 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. All existing analog CCTV within the project limits shall be upgraded to HD cameras.
- v. Relocation, replacement, or upgrade 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. Support the FCC application process for any relocated DCS sites.
- w. Relocation, replacement, or upgrade 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. All TMS to be re-configured and calibrated during construction to account for any lane shifts and the added lanes.
- x. 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. All existing Skyline DMS shall be replaced with new

- generation color DMS. All three-line and two-line DMS shall be centered over the new travel lane configuration.
- y. Conversion of all 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.
  - z. Accommodate conduit and access pull boxes for future Part Time Shoulder Running (PTSR) ITS where reasonable.
  - aa. Replace existing pole mounted 336s and older ground mounted local hub cabinets with new 334 cabinets meeting CFX ITS equipment standards.
3. Upgrading other cabinet equipment as needed to meet current CFX ITS equipment standards within the project limits 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>Summary of Assumed FON Impacts</b>	
<b>FON Drops / Laterals</b>	<b>Notes</b>
One SR 429 crossing N. of Daniels Rd	Due to inside widening and drainage modifications

<b>Summary of Assumed Device Impacts</b>	
<b>3-Line Walk-in DMS</b>	<b>Notes</b>

DMS-429-20.5-SB	Replace panel on existing structure and center over final lane configuration
DMS-429-20.5-NB	Replace panel on existing structure and center over final lane configuration. Includes adjusting DCS attached to DMS panel.
<b>Local Hubs</b>	<b>Notes</b>
LHUB-429-17.7-SB	Replace 336S with 334
LHUB-429-18.4-SB	Replace 336S with 334
LHUB-429-18.8-NB	Replace 336S with 334
LHUB-429-19.2-NB	Replace 336S with 334
LHUB-429-19.9-SB	Replace existing cabinet with 334
LHUB-429-20.3-SB	Replace 336S with 334
LHUB-429-20.3-NB	Replace 336S with 334
LHUB-429-20.5-SB	Replace 336S with 334
<b>CCTV Devices</b>	<b>Notes</b>
CCTV-429-17.7-SB	To remain as-is
CCTV-429-18.4-SB	To remain as-is
CCTV-429-19.2-NB	To remain as-is
CCTV-429-19.9-SB	To remain as-is
CCTV-429-20.3-NB	To remain as-is
<b>TMS Devices</b>	<b>Notes</b>
TMS-429-18.4-SB	To be adjusted/modified due to additional lanes created by widening
TMS-429-18.4-NB	To be adjusted/modified due to additional lanes created by widening
TMS-429-18.8-NB	To be adjusted/modified due to additional lanes created by widening
TMS-429-19.8-SB	To be adjusted/modified due to additional lanes created by widening
TMS-429-19.8-NB	To be adjusted/modified due to additional lanes created by widening
TMS-429-19.9-SB	To be adjusted/modified due to additional lanes created by widening
TMS-429-20.3-SB	To be adjusted/modified due to additional lanes created by widening
TMS-429-20.3-NB	To be adjusted/modified due to additional lanes created by widening
<b>DCS Devices</b>	<b>Notes</b>
DCS-429-18.8-NB	To be adjusted/modified due to additional lanes created by widening

DCS-429-19.8-NB	To be adjusted/modified due to additional lanes created by widening
<b>Load Centers</b>	<b>Notes</b>
ESM-429-17.6-SB	Assess given changes in load from device and local hub modifications
ESM-429-18.3-NB	Assess given changes in load from device and local hub modifications
ELC-429-19.2-NB	Assess given changes in load from device and local hub modifications
ELC-429-19.9-NB	Assess given changes in load from device and local hub modifications
ESM-429-20.4-SB	Assess given changes in load from device and local hub modifications

**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. This includes splice diagrams for re-termination of drop or end to end (butt) splices.
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 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.

#### **4.24 Toll Plazas**

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

#### **4.25 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:
  - 1. Answer questions relative to the plans, typical sections, quantities and special provisions.
  - 2. Make any necessary corrections to the plans, typical sections, quantities, notes, etc., as may be required.
  - 3. 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. Addenda will not be issued for Contractor initiated design changes or value engineering proposed work.
- 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 (monthly) 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's key staff shall attend a maximum of three (3) 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 CFX 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**

### **5.1 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.

### **5.2 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

### **5.3 Other**

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

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

### **6.1 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.

### **6.2 Utility Agreements**

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

### **6.3 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.

### **6.4 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.

### **6.5 Post-Design Services**

- A. CFX will be the principal initial contact for post-design questions and answer questions on a limited scope.
- B. CFX's CEI representative will be responsible for collection and documentation of all As-Built information for the constructed improvements.

### **6.6 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.
- C. CFX will be responsible for all permitting application fees.

**6.7 Conceptual Specialty Design**

- A. CFX will provide a conceptual major guide signing plan.
- B. CFX to provide proposed sound wall locations.
- C. CFX will provide conceptual aesthetics design and treatments for structures.

## **7.0 ADMINISTRATION**

### **7.1 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.

### **7.2 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.

### **7.3 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.

#### **7.4 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.

#### **7.5 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.

#### **7.6 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.

#### **7.7 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.

#### **7.8 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.
- B. The Consultant's quality control plan shall be submitted to CFX within fifteen (15) working days of receipt of written notice to proceed.

#### **7.9 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 twenty (20) 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. Drainage calculations
6. Structural design calculations.
7. Geotechnical report.
8. Hydraulics Report for each bridged stream crossing.
9. Earthwork calculations not included in the quantity computation booklet.
10. Calculations showing cost comparisons of various alternatives considered, if applicable
11. Computations of quantities.
12. Documentation of decisions reached resulting from meetings, telephone conversations, or site visits.
13. Lighting and voltage drop calculations.
14. 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 in pdf format, and three (3) hard copy sets)
  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 Design 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. Intelligent Transportation System (ITS) Plans
- 12. Highway Lighting Plans
- 13. 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. Signalization Plans
- 12. Intelligent Transportation System (ITS) Plans
- 13. Highway Lighting Plans
- 14. 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**

**EXHIBIT B**

**METHOD OF COMPENSATION**

**EXHIBIT "B"**  
**METHOD OF COMPENSATION**

1.00 PURPOSE:

This Exhibit describes and defines the limits of compensation to be made to the CONSULTANT for the services set forth in Exhibit "A" of this Agreement and the method by which payments shall be made.

2.00 AMOUNT OF COMPENSATION:

2.10 CFX agrees to pay the CONSULTANT for the performance of services described in Exhibit "A" an amount not to exceed a Total Maximum Limiting Amount of \$4,175,000.00.

2.11 The Total Maximum Limiting Amount for the project assigned under this Agreement shall include:

- A Limiting Amount for Salary Related Costs consisting of the sum of actual salary and wages and the applicable administrative overhead and payroll burden (fringe benefits) costs;
- A Fixed Fee as the Operating Margin or profit paid for the professional services described in this Agreement;
- A Lump Sum Amount for Expenses;
- A Limiting Amount for Subconsultants (as identified in paragraph 5.0 of the Agreement for Professional Services);
- An Allowance Amount for CFX to utilize as necessary.

2.12 The Total Maximum Limiting Amount for the project assigned under this Agreement shall consist of the following:

**MOFFATT & NICHOL, INC.**

Total Activity Salary Costs	\$ 681,155.37
(a) Overhead Additives	
(1) Combined (174.65%)	<u>1,189,637.85</u>
Subtotal (Salary + Overhead)	1,870,793.22
(b) Lump Sum for Operating Margin (11.5211%)	<u>215,535.96</u>
Subtotal (Salary Related)	<u>2,086,329.18</u>
BASIC FEE	2,086,329.18
(c) Subcontracts (Limiting Amount)	1,779,052.68
(d) Allowance	<u>309,618.14</u>
<b>TOTAL MAXIMUM LIMITING AMOUNT</b>	<b><u>\$4,175,000.00</u></b>

2.13 It shall be the responsibility of the CONSULTANT to ensure at all times that sufficient funding remains within the Total Maximum Limiting Amount stated above in Section 2.12 to complete the services for the project. Changes in the Total Maximum Limiting Amount for the project shall require execution of a Supplemental Agreement. The CONSULTANT is obligated to complete project services within the Total Maximum Limiting Amount established herein.

3.00 ALLOWABLE COSTS:

CFX shall reimburse the CONSULTANT for all reasonable allocable and allowable costs. The reasonableness, allocability and allowability of reimbursements sought under this Agreement are expressly made subject to the terms of (1) this Agreement (2) Federal Acquisition Regulations sub-part 31-2 (3) Office of Management and Budget (OMB) Circular A-87 (46FR9548, January 28, 1981) and A-102 (45FR55086, August 18, 1980) and (4) other pertinent federal and state regulations. By reference hereto, said sub-part of Federal Acquisition Regulations and OMB circulars are hereby incorporated in and made a part of this Agreement. Allowable Costs and Fees are defined as follows:

3.10 Direct Salaries and Wages: All direct salaries and wages of the CONSULTANT and Subconsultants (as identified in paragraph 5.0 of the Agreement for Professional Services) for time expended by personnel in the performance of the work (exclusive of unit price based work performed by Class 2 Subconsultants); however, this shall specifically exclude salaries and payroll burden of Corporate Officers and Principals when expended in the performance of indirect functions.

Direct Salaries and Wages (salary costs) include both straight time payments and all overtime payments made for an employee's services on a project. Straight time costs shall be the hourly rate paid for an employee based on a forty (40) hour work week. Overtime costs shall be the salary costs paid for an employee for work exceeding a forty (40) hour work week. Overtime costs shall be paid as either Straight Overtime costs or Premium Overtime costs.

- Straight Overtime: Straight overtime shall be the portion of overtime compensation paid for employees at the straight time hourly rate and shall be burdened with overhead and fringe benefits.
- Premium Overtime: Premium overtime costs shall be the portion of overtime compensation paid in excess of the straight time hourly rate and shall not be burdened with overhead and fringe benefits.
- Payment of Overtime: Straight Overtime or Premium Overtime shall be paid in accordance with the CONSULTANT'S overtime policies and practices, provided that such compensation plan or practice is so consistently followed, in effect, to imply an equitable treatment of overtime to all the CONSULTANT'S clients.

Premium Overtime is not authorized unless approved in writing by CFX's DIRECTOR of ENGINEERING.

3.11 Indirect Charges: Administrative overhead and payroll burden costs not to exceed a combined maximum rate of 174.65% when applied to the CONSULTANT'S chargeable salaries and wages. Administrative overhead and payroll burden costs for Subconsultants shall be as established in Exhibit "C".

3.12 Expenses: A Lump Sum Amount shall be paid to the CONSULTANT and all subconsultants for miscellaneous and out-of-pocket expenses as established in Exhibit "C".

3.13 Class 2 Subconsultants: Compensation shall be based on a unit price basis not to exceed the limiting amount established herein. The unit prices acceptable for this agreement shall be at the unit prices established in Exhibit "C".

3.14 Field Survey by subconsultant: Compensation shall be based on a unit price basis not to exceed the limiting amount established herein. The unit prices acceptable for this agreement shall be at the unit prices established in Exhibit "C".

3.15 Fixed Fee: Fixed Fee is the operating margin paid to the CONSULTANT and the Subconsultants for the professional services described in this Agreement (exclusive of unit price based work performed by Class 2 Subconsultants). The fixed fee shall remain fixed regardless of the relation of the actual salary related costs to the estimated salary related costs and regardless of any extension of contract time granted pursuant to paragraph 4.0 of the Agreement for Professional Services. Salary related costs are defined as the sum of direct salaries and wages and the applicable administrative overhead and payroll burden costs.

#### 4.00 METHOD OF PAYMENT:

No more than the Total Maximum Limiting Amount provided for in Section 2.00 shall be paid by CFX to the CONSULTANT as follows, subject to the provisions of Section 3.00:

4.10 The CONSULTANT shall be reimbursed monthly for authorized services performed. Payment to the CONSULTANT shall be in an amount to cover costs incurred during the preceding month for actual direct salary and wages, a provisional allowance for the administrative overhead and payroll burden, a portion of Lump Sum expenses and Subconsultant Costs, plus an allowance for Fixed Fee (Operating Margin), less retainage.

The basis for all CONSULTANT and Class 1 Subconsultant (as defined in Section 5.0 in the Agreement for Professional Services) invoices shall be the actual employee salary and wages at the time work was performed on the project by such employee. Staff classification maximum rates have been established in Exhibit "C" for the CONSULTANT and all Class 1 Subconsultants. It is understood that the staff classification maximum rates shall not be exceeded without prior written approval from CFX. It is further understood that the staff classification average rates used to generate the Total Maximum Limiting Amount in Exhibit "C" will not be revised throughout the term of the Agreement. All future Supplemental Agreements executed as part of this Agreement shall be based on the negotiated staff classification average rates detailed in Exhibit "C". Class 2 Subconsultants shall prepare their invoices in accordance with the provisions of Section 3.13.

4.11 The combined provisional allowance for administrative overhead and payroll burden, expressed as a percentage of salary related costs, for the CONSULTANT is 174.65 percent.

The provisional allowance for administrative overhead and fringe benefits established herein will be adjusted, as necessary, upon completion of an interim audit during the term of the project, or a post audit following project completion, subject to the following limitations:

- The combined allowance for administrative overhead and fringe benefits shall not exceed 174.65%; and
- Adjustments to the combined allowance for administrative overhead and fringe benefits shall not increase the compensation to the CONSULTANT beyond the Total Maximum Limiting Amount.

4.12 The Fixed Fee (Operating Margin) approved by CFX to be paid to the CONSULTANT for the services set forth in this Agreement is established as shown in Section 2.12 of this Exhibit "B".

The CONSULTANT shall earn monthly a portion of its approved fixed fee at 11.5211 percent of actual approved salary related costs. Accumulated fixed fee earnings are subject to the aforementioned fixed fee amount. When project services have been satisfactorily completed, the difference between the approved and previously earned fixed fee shall be due and payable to the CONSULTANT and Subconsultants (exclusive of unit price based work performed by Class 2 Subconsultants).

4.13 The CONSULTANT shall earn a portion of its established Lump Sum expense cost in the amount equal to such Lump Sum equally distributed over the project's anticipated duration. Any balance due the CONSULTANT upon completion of a project shall be paid in the final invoice.

4.14 The CONSULTANT shall be compensated for Subconsultant Services in accordance with Section 3.00 of this Exhibit "B" for actual work performed.

4.15 Payments to the CONSULTANT shall be subject to retainage. Retainage shall be calculated as a percent of the sum of salary costs, administrative overhead and payroll burden, and operating margin. No retainage shall be withheld on expenses or Subconsultant Services.

CFX shall withhold from monthly payments a retainage of ten percent (10%) until fifty percent (50%) of the work is completed, and five percent (5%) thereafter until all work is completed. Retainage withheld at project completion shall be released to the CONSULTANT upon satisfactory completion of all services and acceptance of all deliverables by CFX.

4.16 The CONSULTANT shall be responsible for the consolidation and submittal of one (1) original monthly invoice, in the form and detail established or approved by CFX. All payments on such invoices are conditional and subject to adjustment as a result of a final audit as to the allowability of costs in accordance with this Agreement. Invoices shall



include an itemization and substantiation of costs incurred. The itemization must include the amount budgeted, current amount billed, total billed to date and amount to complete.

4.17 The CONSULTANT shall promptly pay all subconsultants their proportionate share of payments received from CFX.

4.18 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 payment previously withheld shall be released and paid to CONSULTANT promptly when the work is subsequently satisfactorily performed notwithstanding paragraph 4.0 of the Agreement for Professional Services.

#### 5.00 PROJECT CLOSEOUT:

5.10 Final Audit: The CONSULTANT shall permit CFX 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 this Agreement are subsequently properly disallowed by CFX because of accounting errors or charges not in conformity with this Agreement, the CONSULTANT agrees that such disallowed amounts are due to CFX upon demand. Further, CFX shall have the right to deduct from any payment due the CONSULTANT under any other contract between CFX and the CONSULTANT an amount sufficient to satisfy any amount due and owing CFX by the CONSULTANT under this Agreement. Final payment to the CONSULTANT shall be adjusted for audit results.

5.11 Certificate of Completion: Subsequent to the completion of the final audit, a Certificate of Completion will be prepared for execution by both parties stating the total compensation due the CONSULTANT, the amount previously paid, and the difference.

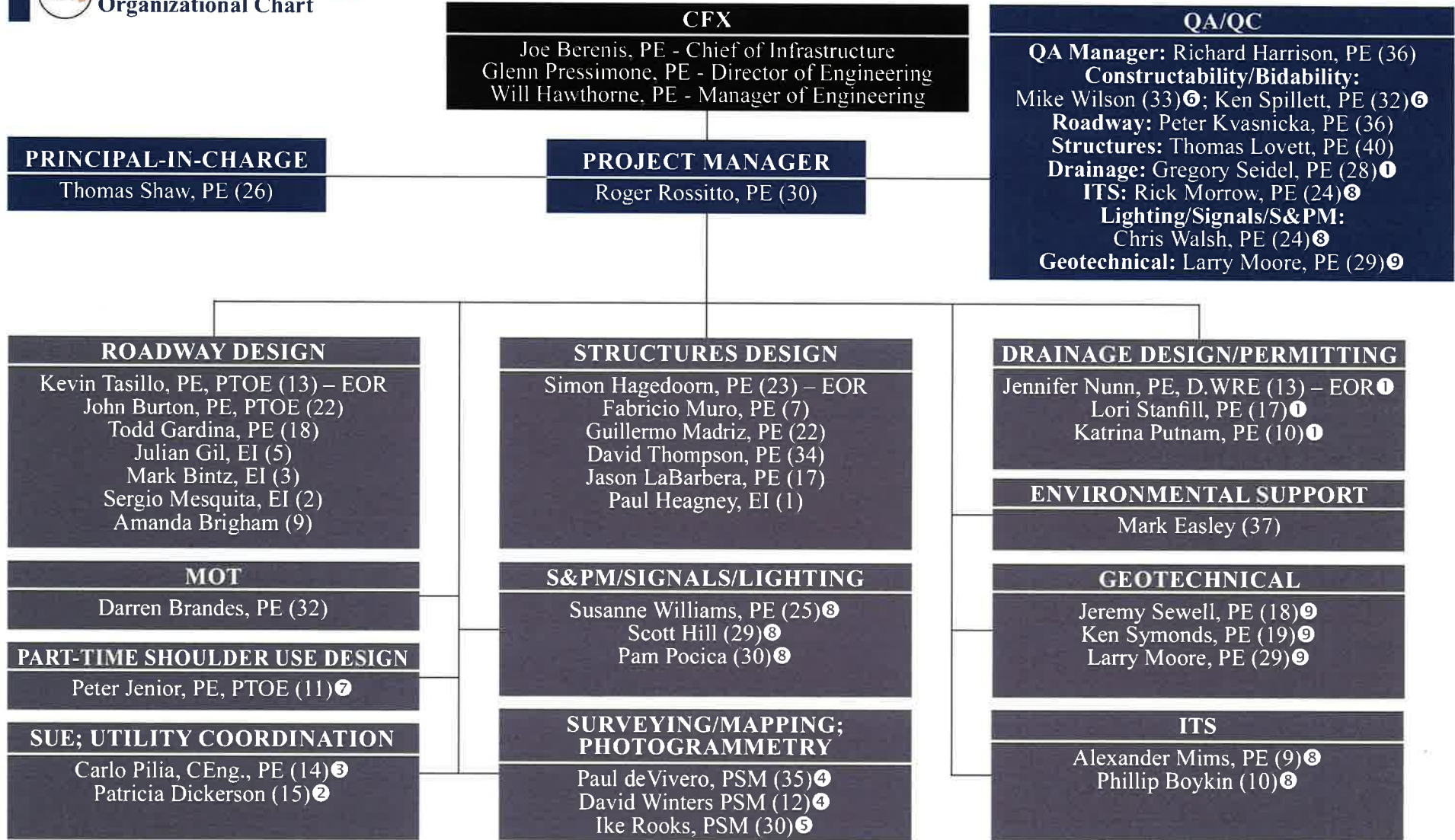
Upon execution of the Certificate of Completion, the CONSULTANT shall either submit a termination invoice for an amount due or refund to CFX for the overpayment, provided the net difference is not zero.

**EXHIBIT D**

**PROJECT ORGANIZATIONAL CHART**



Design Consultant Services for  
**SR 429 WIDENING** from Stoneybrook West Parkway (South) to Florida's Turnpike  
 Organizational Chart



**SUBCONSULTANTS**

- ① The Balmoral Group, LLC (DBE/WBE)
  - ⑥ KCCS, Inc.
  - ② Brindley, Pieters and Associates, Inc. (DBE/MBE)
  - ⑦ Kittelson & Associates, Inc.
  - ③ ECHO UES, Inc. (DBE/MBE)
  - ⑧ Traffic Engineering Data Solutions, Inc. (DBE/WBE)
  - ④ Geodata Consultants, Inc. (DBE/MBE)
  - ⑨ Tierra, Inc. (DBE/MBE)
  - ⑤ I.F. Rooks & Associates, LLC
- (xx) years of experience

**EXHIBIT E**

**PROJECT LOCATION MAP**

# Exhibit E

## Project Location Map

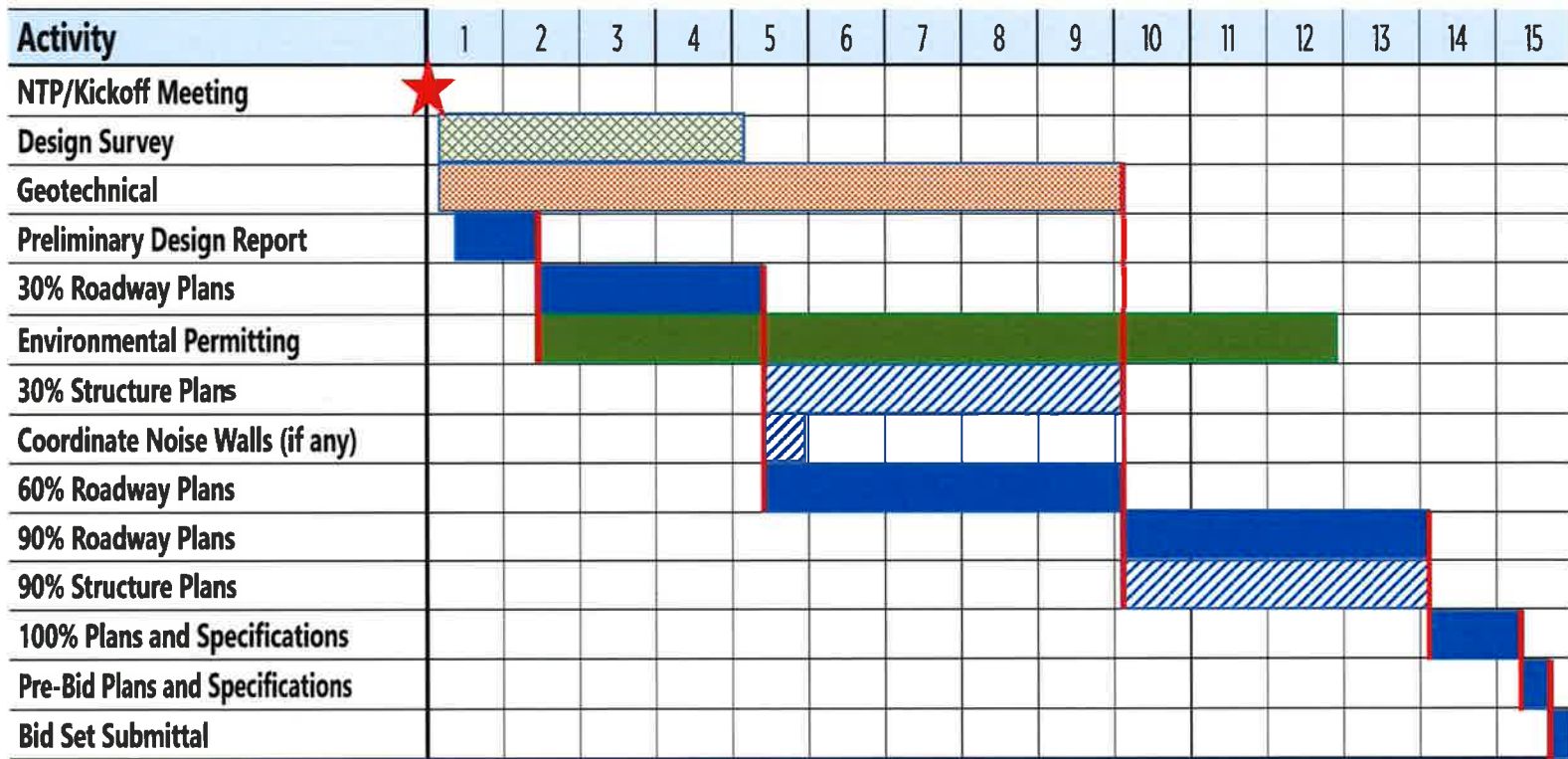


**EXHIBIT F**

**SCHEDULE**

# SCHEDULE

- 15 Months to Complete
- Internal QC before each submittal
- 15 days for CFX reviews




**CONSENT AGENDA ITEM  
#6**



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 18, 2019

SUBJECT: Approval of Cummins SE Power, Inc. as a Subcontractor for the Facilities  
Maintenance Services Contract with ICA/DBI Services  
Contract No. 001150

---

ICA/DBI Services, CFX's Facilities Maintenance Services Contractor, has requested approval to use Cummins SE Power, Inc. to provide generator parts and labor. The cost is expected to exceed the \$25,000.00 threshold established by the Procurement Policy for subcontractors not disclosed by ICA/DBI Services when its contract with CFX was originally awarded.

Board approval of Cummins SE Power, Inc. as subcontractor to ICA/DBI Services is requested.

Reviewed by:   
Donald Budnovich, PE  
Director of Maintenance 

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant/Contractor: ICA/DBI Services Date: 4/1/2019

CFX Contract Name: Facilities Maintenance Services CFX Contract No.: 001150

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

Subconsultant/Subcontractor Name: Cummins SE Power Inc.

Address: 600 North Watson Road, Arlington, TX 76011

Phone No.: 806-373-3793

Federal Employee ID No.: 26-1533189

Description of Services to Be Sublet: Provide Generator Parts & Labor

Estimated Beginning Date of Sublet Services: June 2017

Estimated Completion Date of Sublet Services: May 24, 2021

Estimated Value of Sublet Services\*: \$28,984.00

\*(Not to exceed \$24,999.99 without prior Board Approval)

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

Requested By: Wendy J. Ginnelle  
(Signature of Consultant/Contractor Representative)

DBI Services, Project Manager  
Title

Recommended by: [Signature]  
(Signature of Appropriate CFX Director/Manager)

Date: 4/2/19

Approved by: JA Berens  
(Signature of Appropriate Services Chief)

Date: 4/3/19


Attach Subconsultant's/Subcontractor's Certificate of Insurance to this Request.

**CONSENT AGENDA ITEM  
#7**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 18, 2019

SUBJECT: Approval of Carrier Commercial Service as a Subcontractor for the Facilities Maintenance Services Contract with ICA/DBI Services  
Contract No. 001150

---

ICA/DBI Services, CFX's Facilities Maintenance Services Contractor, has requested approval to use Carrier Commercial Service to provide HVAC maintenance service. The cost is expected to exceed the \$25,000.00 threshold established by the Procurement Policy for subcontractors not disclosed by ICA//DBI Services when its contract with CFX was originally awarded.

Board approval of Carrier Commercial Service as subcontractor to ICA/DBI Services is requested.

Reviewed by:   
Donald Budnovich, PE  
Director of Maintenance



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

Consultant/Contractor: ICA/DBI Services Date: April 1, 2019

CFX Contract Name: Facilities Maintenance Services CFX Contract No.: 001150

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

Subconsultant/Subcontractor Name: Carrier Commercial Service

Address: 7305 Greenbrier Parkway Orlando, Florida 32819

Phone No.: 407-521-2218

Federal Employee ID No.: 06-0991716

Description of Services to Be Sublet: HVAC Maintenance (Chiller)

Estimated Beginning Date of Sublet Services: June 6, 2016

Estimated Completion Date of Sublet Services: 5/24/2021

Estimated Value of Sublet Services\*: \$56,927.09

\*(Not to exceed \$24,999.99 without prior Board Approval)

Consultant/Contractor hereby certifies that the proposed subconsultant/subcontractor has been advised of, and agrees to, the terms and conditions in the Consultant's/Contractor's Contract with CFX that are applicable to the subconsultant/subcontractor and the services to be sublet;

Requested By: Wendy Spinale  
(Signature of Consultant/Contractor Representative)

DBI, Project Manager  
Title

Recommended by: [Signature]  
(Signature of Appropriate CFX Director/Manager)

Date: 4/2/19

Approved by: [Signature]  
(Signature of Appropriate Services Chief)

Date: 4/3/19


Attach Subconsultant's/Subcontractor's Certificate of Insurance to this Request.

**CONSENT AGENDA ITEM  
#8**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 23, 2019

SUBJECT: Approval of Contract Award for Systemwide Bridge Inspection Services to Kisinger, Campo & Associates (KCA), Corp.  
Contract No. 001527

---

Letters of Interest (LOI) from professional engineering consultants to provide systemwide bridge inspections services for CFX was advertised on March 3, 2019. Responses were received from five (5) firms by the deadline. Those firms were Ayres Associates, Inc., Consor Engineers, LLC, KCA, TranSystem Corporation Consultants and Volkert, Inc.

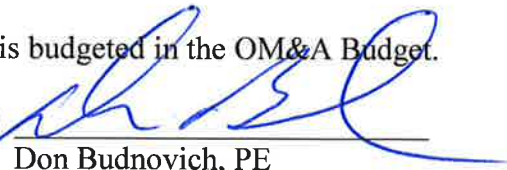

The Evaluation Committee met on March 27, 2019, and after reviewing the Letters of Interest shortlisted all the firms.

Technical proposals were submitted for review and scoring. The Technical Review Committee prepared its final ranking on April 23, 2019. The result of that process was as follows:

<u>Ranking</u>	<u>Firm</u>	<u>Total Points</u>
1	KCA	3
2	Volkert, Inc.	9
3	Ayres Associates, Inc.	10
4	Consor Engineers, LLC	11
4	TranSystem Corporation Consultants	11

Board award of the contract to KCA in the not-to-exceed amount of \$2,000,000.00 for a four (4) year term with two (2) two-year renewals is requested.

This contract is budgeted in the OM&A Budget.

Reviewed by:   
Don Budnovich, PE  
Director of Maintenance 

**LOI-001527 Technical Review Committee Meeting April 23, 2019 Minutes**

Technical Review Committee for Systemwide Bridge Inspection Services held a duly noticed meeting on Tuesday, April 23, 2019, commencing at 9:00 a.m. in the Pelican Conference Room at the CFX Administrative Bldg., Orlando, Florida.

**Committee Members Present:**

Don Budnovich, Director of Maintenance  
Steve Geiss, Senior Roadway Inspector  
Joe Berenis., Chief of Infrastructure

**Other Attendees:**

Aneth Williams, Director of Procurement  
Matt Lewis, Sr. Roadway Inspector

**Discussion and Motions:**

Aneth explained that today's meeting was to evaluate and rank the top firm to be recommended to the Board for award and commenced the meeting collecting the Evaluation Committee Member Disclosure forms.

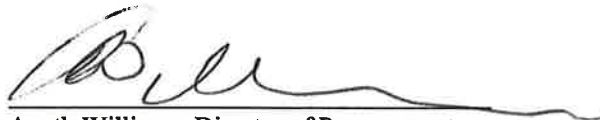
General discussion ensued about the project and the technical proposals submittals. The committee members individually scored the proposers and submitted them to Aneth for tallying. The score sheets were tallied by utilizing the rankings assigned by each Committee member based on the raw scores each Proposer received. Below are the results:

<u>Firms</u>	<u>Score</u>	<u>Ranking</u>
Ayres Associates, Inc.	10	3
Conzor Engineers, LLC	11	4
Kisinger, Campo & Associates, Corp	3	1
TranSystem Corporation Consultants	11	4
Volkert, Inc.	9	2

Committee recommends CFX Board approve Kisinger, Campo & Associates, Corp. for contract award.

There being no further business to come before the Committee, the meeting was adjourned at 9:15a.m. These minutes are considered to be the official minutes of the Technical Review Committee meeting held Tuesday, April 23, 2019 and no other notes, tapes, etc., taken by anyone takes precedence.

Submitted by:



Aneth Williams, Director of Procurement

On behalf of the Technical Review Committee these minutes have been review and approved by:



Don Budnovich, Director of Maintenance



CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TECHNICAL COMMITTEE MEMBER FINAL SUMMARY RANKING

SYSTEMWIDE BRIDGE INSPECTION SERVICES

CONTRACT NO. 001527

CONSULTANT	Don Budnovich Score	Joe Berenis Score	Steve Geiss Score		TOTAL SCORE	RANKING
AYRES ASSOCIATES, INC.	3	5	2		10	3
CONSOR ENGINEERS, LLC	2	4	5		11	4
KISINGER, CAMPO & ASSOCIATES, INC.	1	1	1		3	1
TRANSYSTEMS CORP. CONSULTANTS	5	3	3		11	4
VOLKERT, INC.	4	2	3		9	2

EVALUATION COMMITTEE MEMBERS:

  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

Date: Tuesday, April 23, 2019

Date: Tuesday, April 23, 2019

Date: Tuesday, April 23, 2019

# **AGREEMENT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
KISINGER, CAMPO & ASSOCIATES, CORP.  
SYSTEMWIDE BRIDGE INSPECTION SERVICES**

**CONTRACT NO. 001527**

**CONTRACT DATE: MAY 09, 2019  
CONTRACT AMOUNT: \$2,000,000.00**

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

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

**FOR**

**SYSTEMWIDE BRIDGE INSPECTION SERVICES**

**CONTRACT NO. 001527**

**MAY 2019**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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Agreement for Systemwide Bridge Inspection Services

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**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AGREEMENT FOR SYSTEMWIDE BRIDGE INSPECTION SERVICES  
CONTRACT NO. 001527**

THIS AGREEMENT, made and entered into this 09<sup>th</sup> day of May 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, 2014, (Chapter 348, Part III, Florida Statutes) hereinafter called the "CFX" and Kisinger, Campo & Associates, Corp., hereinafter called "CONSULTANT", a Florida Profit corporation, registered and authorized to do business in the state of Florida, whose principal address is 4524 Oak Fair Blvd., Suite 100, Tampa, FL. 33610.

That the CFX did determine that the CONSULTANT is fully qualified to render the services contracted.

WITNESSETH:

**1.0 SERVICES TO BE PROVIDED**

CFX does hereby retain the CONSULTANT to furnish Systemwide Bridge Inspection services required by CFX. CFX has a core staff of management personnel and is engaging the CONSULTANT to provide support personnel on an as-needed, per project basis. Support personnel required by CFX may include, but are not necessarily limited to, Professional Engineer(s), and FDOT Certified Bridge Inspectors.

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

Before 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.

CFX's Director of Maintenance or his authorized designee 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 Director of Maintenance and the CONSULTANT shall comply with all of the directives of the Director of Maintenance that are within the purview of this Agreement.

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

**2.0 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 four (4) year term from the date of the Notice to Proceed for the first task assignment. Renewal of this Agreement for up to two (2) 2-year renewals periods may be exercised by CFX at its sole discretion. 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.

The CONSULTANT agrees to commence the scheduled services for each assigned project within ten (10) calendar days from the date specified in the written Notice to Proceed from the Director of Maintenance, which notice to proceed will become part of this Agreement. The CONSULTANT shall complete scheduled project services within the timeframe(s) agreed to by the parties or as may be modified by subsequent Supplemental Agreement.

### 3.0 PROJECT SCHEDULE

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.

### 4.0 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 the required services and shall have due regard for acceptable standards of construction engineering and inspection 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. 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:

Bolt Underwater Services, Inc.

FIT Engineering, LLC

CONSULTANT shall not further sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Agreement 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 Agreement as described above, in part or in whole, without CFX's written consent shall be null and void and shall, at CFX's option, constitute a default under the Agreement.

If, during the term of the Agreement, 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 Agreement 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.

## 5.0 COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in Exhibit "B", Details of Cost and Fees, attached hereto and made a part hereof, in the not to exceed amount of \$2,000,000.00. 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 negligent, reckless or intentionally wrongful 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 and determined by CFX, 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.

## 6.0 DOCUMENT OWNERSHIP AND RECORDS

Notwithstanding Paragraph 15, Communications, 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 or terminate for cause of this Agreement by CFX.

The obligations in Section 6.0, Document Ownership and Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 7.0 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 Agreement.

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.

#### 8.0 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 "B", Details of Costs and Fees, supporting the compensation provided in Paragraph 5.0, Compensation, are accurate, complete and current as of the date of this

Agreement. It is further agreed that said price provided in Paragraph 5.0, Compensation, hereof shall be adjusted to exclude any significant sums where CFX determines 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.

## 9.0 TERMINATION

### FOR CONVIENENCE

CFX may terminate this Agreement in whole or in part at any time the interest of CFX requires such termination without cause.

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 for actual costs, as determined in 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 retained by CFX.

### FOR CAUSE

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.

The ownership of all bridge inspection documents completed or partially completed at the time of such termination or abandonment, shall be retained by CFX.

### FOR CRIMES OR BANKRUPTCY

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 its services rendered up to the time of any such termination in accordance with Paragraph 5.0 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's Director of Construction.

#### 10.0 ADJUSTMENTS

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the Director of Maintenance 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; and his decision upon all claims, questions and disputes shall be final. 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 Director and Supplemental Agreement(s) of such a nature as required may be entered into by the parties in accordance herewith. Disputes between the Director of Construction and the CONSULTANT that cannot be resolved shall be referred to CFX's 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; 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.

#### 11.0 HOLD HARMLESS AND INDEMNIFICATION, SOVEREIGN IMMUNITY

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 CFX 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 costs, but if the verdict determines that there is joint responsibility the costs 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 11.0, Hold Harmless and Indemnification, Sovereign Immunity, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 12.0 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 12.0, Infringement of Patents and Copyrights, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 13.0 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 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 Agreement price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

## 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 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 Ten Million Dollars (\$10,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with Insurance Services Office (ISO) Form 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 Five Million Dollars (\$5,000,000) 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 Five Million Dollars (\$5,000,000) per claim / annual aggregate, 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

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 furnished in compliance with this Agreement, it being understood that, under Paragraph 6.0, Document Ownership and Records, 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 STANDARD OF CONDUCT

The CONSULTANT covenants and agrees that it and its employees shall be bound by the standards of conduct provided in the Florida Statutes, Chapter 112, Part III, Section 348.753, and Section 104.31 and the CFX Code of Ethics, as it relates to work performed under this Agreement, which standards will be made a part of this Agreement by reference as though set forth in full. The CONSULTANT agrees to complete the Potential Conflict Disclosure Form with Agreement execution, annually by July 1, and in the event of changed circumstances. If the Disclosure Form is not submitted, or is submitted, but is incomplete, CFX has the right to withhold payments pending receipt of an explanation of such omissions or to terminate the Agreement for cause. The CONSULTANT agrees to incorporate the first sentence of this paragraph and the second paragraph of this provision 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 act in a manner that is consistent with CFX's Code of Ethics.

#### 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 Agreement. 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 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.

#### 20.0 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 agrees to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in Section 20.0, Inspector General, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 21.0 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, “[A]n 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.”

#### 22.0 COMPANIES PURSUANT TO SECTION 287.135 AND 215.473

CFX may terminate this Agreement for breach of contract if the Consultant:

- 22.1. submitted a false certification as provided under Florida Statute 287.135(5); or
- 22.2. has been placed on the Scrutinized Companies with Activities in Sudan List; or
- 22.3. has been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- 22.4. is engaged in business operations in Cuba or Syria; or
- 22.5. found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

#### 23.0 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 for convenience, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

#### 24.0 AUDIT AND EXAMINATION OF RECORDS

- 24.1 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 Agreement or the CONSULTANT's performance of the Agreement 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.

24.2 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.

24.3 If CFX requests access to or review of any Agreement 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 Agreement 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 Agreement. 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.

24.4 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 Agreement are subsequently determined to have been inadvertently paid by CFX because of accounting errors or charges not in conformity with the Agreement, the CONSULTANT agrees that such amounts are due to CFX upon demand. Final payment to the CONSULTANT shall be adjusted for audit results.

24.5 CONSULTANT shall preserve all Proposal Records and Contract Records for the entire term of the Agreement 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.

24.6 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.

25.0 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 25.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

26.0 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: Kisinger, Campo & Associates, Corp.  
4524 Oak Fair Blvd., Suite 100  
Tampa, FL 33610  
Attn: Patrick O'Grady

Kisinger, Campo & Associates, Corp.  
4524 Oak Fair Blvd., Suite 100  
Tampa, FL 33610  
Attn: Kenneth Reinhold

27.0 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.

28.0 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.

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.

#### 29.0 ASSIGNMENT

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

#### 30.0 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.

#### 31.0 INTEGRATION; NO WAIVER

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.

#### 32.0 ATTACHMENTS

- Exhibit "A", Scope of Services
- Exhibit "B", Details of Cost and Fees
- Exhibit "C", Project Organization Chart
- Exhibit "D", Potential Conflict Disclosure Form

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 May 09, 2019.

**KISINGER, CAMPO  
& ASSOCIATES, CORP.**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

BY: \_\_\_\_\_  
Authorized Signature

BY: \_\_\_\_\_  
Director of Procurement

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

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

ATTEST: \_\_\_\_\_ (Seal)  
Secretary or Notary

*Approved as to form and execution, only.*

*General Counsel for CFX*

\_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF SERVICES**

**“GENERAL SCOPE OF SERVICE” FOR  
CENTRAL FLORIDA EXPRESSWAY  
AUTHORITY  
BRIDGE INSPECTION & UNDERWATER  
INSPECTION CONTRACT**



## WORK PROVISIONS AND SPECIFICATIONS

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1.0 PROJECT OBJECTIVE

1.1 CFX Bridges are to be inspected in compliance with Federal Regulations (National Bridge Inspection Standards, CFR Title 23, Part 650, Subpart C); Section 335.074, Florida Statutes; Safety Inspection of Bridges; and State of Florida Department of Transportation Rules, Chapter 14-48, F.A.C., Bridge Inspection Standards.

2.0 The Consultant shall perform bridge inspection services, as described in this scope of services, for **357** bridges on the CFX system. listed by number in Exhibit "A". The frequency of inspection shall comply with Florida Statutes and Manual for Bridge Inspection and Other Structures and Reporting Procedures." (One biennial bridge inspection for all fixed bridges listed in Attachment "A".)

2.1 The following Task units are dynamic, therefore the quantity for each work item is estimated below:

2.1.1 **Routine Inspection**

Bridges listed in Exhibit "A" shall require Routine Bridge Inspections in compliance with Florida Statutes and Manual for Bridge Inspection and Other Structures Reporting Procedures and the requirements of this scope as set forth herein.

2.1.2 **Routine Processing**

Bridges listed in Exhibit "A" shall require Routine Processing in compliance with Florida Statutes and Manual for Bridge Inspection and Other Structures Reporting Procedures and the requirements of this scope as set forth herein.

### 2.1.3 **Initial Inspection**

Bridges not listed in Exhibit "A" will require Initial Inspections and application for bridge numbers, when necessary, since prior inspections of these newly constructed or newly inventoried structures have not been performed. A bridge record file will be established in the **Bridge Management BrM (PONTIS)** format and be in compliance with Florida Statutes and the Manual for Bridge and Other Structures Inspection and Reporting Procedures and the requirements of this scope set forth herein.

### 2.1.4 **Load Ratings**

- i. New load rating calculations will be required for bridges newly built, rehabilitated, new to the inventory, or with significant deterioration.
- ii. LOAD RATINGS FURTHER EXPLAINED  
Load rating calculations will be required for fixed bridges newly built, rehabilitated, new to inventory or with significant deterioration.
- iii. Load rating calculations will be required for complex bridges newly built, rehabilitated, new to inventory or with significant deterioration. Typical types of complex structures will include box girders, bulb tees, suspension, cable stayed, post tensioned segmental concrete, high rise structures, large steel trusses and other structures with complex design.

### 2.1.5 **Radiology Test**

Services are to include field test on reinforced and pre-stressed concrete bridges, which do not have plans. The use of radiological techniques is used to determine the interior steel for the purpose of load analysis.

2.1.6 **Underwater Inspection**

Underwater inspections will be required for portions of bridges located in water deeper than 3 ft. at the time of the inspection and where the underwater portions cannot be adequately inspected without the use of divers.

2.1.7 **Interim Inspections**

Interim bridge inspections will be required for bridges that are posted or with low condition and /or appraisal ratings or after substantial repairs by the owner, or damage caused by vehicular impact.

Page one of the Bridge Management BrM (PONTIS) reporting format will allow for the overall Numerical Condition Rating (NCR) of the major components of the bridge. These components correspond to those of the National Bridge Inspection Standards (NBIS), which are required by the Federal Highway Administration on all inspection reports. The NCR will be presented on a 0 to 9 scale. If the overall NCR for a major component is rated 4, or safe load capacity is calculated to be 4 or less, an interim inspection will be required. If the overall NCR for a major component is rated at 3, or less, semi-annual inspections will be required. At the discretion of the District Structures Maintenance Engineer, interim inspections may be required for bridges undergoing significant scour and after significant storms.

2.1.8 **Special Inspections**

Special Inspections Services are to include bridges with circumstances that warrant additional time to perform the inspection such as bridge lengths greater than 1000 ft, inspection at night to avoid traffic or require the use of a bridge inspection machine.

Providing bridge inspection machine and requiring mobilization (Per Week).

Providing bridge inspection machine and requiring mobilization (PerDay).

Bridge Lengths greater than 1000 feet.

2.1.9 **Complex Routine Inspection**

Bridges in Exhibit "A" shall require Complex Routine Inspection in compliance with Florida Statutes and Manual for Bridge Inspection and Other

Structures and Reporting Procedures and the requirements of this scope set forth herein. Typical types of complex structures will include box girders, bulb tees, suspension, cable stayed, post tensioned segmental concrete, high rise structures, large steel trusses and other structures with complex design.

2.1.10 **Complex Routine Processing**

Bridges in Exhibit "A" shall require Complex Routine Processing in compliance with Florida Statutes and Manual for Bridge Inspection and Other Structures and Reporting Procedures and the requirements of this scope set forth herein. Typical types of complex structures will include box girders, bulb tees, suspension, cable stayed, post tensioned segmental concrete, high rise structures, large steel trusses and other structures with complex design.

2.1.11 **Complex Interim Inspection**

Bridges in Exhibit "A" shall require Processing in compliance with Florida Statutes and Manual for Bridge Inspection and Other Structures and Reporting Procedures and the requirements of this scope set forth herein. Typical types of complex structures will include box girders, bulb tees, suspension, cable stayed, post tensioned segmental concrete, high rise structures, large steel trusses and other structures with complex design.

2.1.12 **Fracture Critical Inspection**

Bridges listed in Exhibit "A" shall require Fracture Critical Inspections in compliance with Florida Statutes and Manual for Bridge Inspection and Other Structures Reporting Procedures and the requirements of this scope as set forth herein.

2.1.13 **Underwater Quality Assurance Reviews**

Bridges listed in Exhibit "A" shall require Underwater Quality Assurance Reviews in compliance with Florida Statutes and Manual for Bridge Inspection and Other Structures Reporting Procedures and Manual for Bridge Underwater Operations Procedures the requirements of this scope as set forth herein

The consultant shall provide a qualified dive inspection team to perform quality assurance reviews on 5% of the underwater inspected bridges. The review must be performed by a different inspection team from another consultant firm. For all structures it is anticipated that only 10% of the substructure will be inspected for quality assurance review. Some areas that should be looked at are areas with reported deficiencies, areas that were not reported to have deficiencies

and numerous sample areas that have been cleaned. The quality assurance review shall consist of:

- Review of the inspection report
- Perform on-site visual inspection for comparison with inspection report
- Record findings of inspection
- Photographs of findings, as necessary
- Submit documentation summarizing above

- 2.2 The contract period shall be a 2 - Year term, with (3) 1 – Year renewal periods from the dated of the written notice to proceed issued by CFX.
- 2.3 For the purpose of this agreement a structure is considered to be a bridge if it is located on government right-of-way and meets the criteria established in the AASHTO Transportation Glossary and Florida Statues.
- 2.4 Bridge Inspections shall be conducted in accordance with the following state statues, procedures and national publications covering bridge inspection standards of practice:
- 2.4.1 National Bridge Inspection Standards  
Code of Federal Regulations 23, Part 650, Subpart C
- 2.4.2 State of Florida Statue 335.074, Safety Inspection of Bridges;
- 2.4.3 Manual for Condition Evaluation of Bridges current edition.  
American Association of State Highway & Transportation Officials (AASHTO);
- 2.4.4 Bridge Inspector's Reference Manual  
U.S. Department of Transportation/Federal Highway Administration;  
(USDOT/FHWA)
- 2.4.5 Inspection of Fracture Critical Bridge Members  
FHWA-IP-86-26, U.S. Department of Transportation/Federal Highway Administration; (USDOT/FHWA)
- 2.4.6 Culvert Inspection Manual  
FHWA-IP-86-02, U.S. Department of Transportation/Federal Highway Administration; (USDOT/FHWA)
- 2.4.7 Evaluating Scour at Bridges  
Hydraulic Engineering Circular 18; FHWA-IP-90-017
- 2.4.8 Underwater Inspection of Bridges

FHWA-DP-80-1, U.S. Department of Transportation/Federal Highway Administration;

- 2.4.9 Manual for Bridge and Other Structures Inspection and Reporting Procedures, Volume I State of Florida Department of Transportation;
- 2.4.10 Users Manual-Bridge Management BrM (PONTIS) Release 4. or Current Release State of Florida Department of Transportation;
- 2.4.11 Bridge Load Rating Manual (January 2011)  
<http://www.dot.state.fl.us/statemaintenanceoffice/StructuresOperations.shtm>
- 2.4.12 Manual on Uniform Traffic Control Devices  
950-044-0000-4, U.S. Department of Transportation/Federal Highway Administration;
- 2.4.13 Roadway and Traffic Design Standards Index Nos. 600-651  
FDOT
- 2.4.14 Commercial Diving Operations  
OSHA CPL 02-00-143 29 CFR Part 1910, Subpart T
- 2.4.15 Stream Stability a Highway Structures  
Hydraulic Engineering Circular No. 20, U.S. Department of Transportation/Federal Highway Administration
- 2.4.16 Movable Bridge Inspection Evaluation and Maintenance Manual  
850-010-032-a: American Association of State Highway & Transportation Officials (AASHTO);
- 2.4.17 Utility Accommodation Manual -710-020-001 (FDOT)
- 2.4.18 Technical Advisory Inspection of Gusset Plates Using Non-Destructive Evaluation Technologies-January 29,2010 (FHWA)
- 2.4.19 Rule Chapter 14-48, F.A.C.

### 3.0 PERSONNEL REQUIREMENTS

- 3.1 A qualified individual must be at the bridge site to supervise inspection activities at all times. To be qualified, an individual must be registered as a Professional Engineer in Florida and experienced in the inspection of bridges according to the National Bridge Inspection Standards or be confirmed officially by The Florida Department of Transportation as a Certified Bridge Inspector. Qualifications for certification as a bridge inspector



are stated in the Rules of The Florida Department of Transportation, Chapter 14-48.07, F. A. C.

- 3.2 All final documents, such as bridges inspection reports, CIDRs, and Load Ratings, shall be individually sealed by a Professional Engineer in accordance with Section 471.025, F.S. The individual signing and sealing bridge inspection reports must have completed the following FHWA-NHI 130055 Safety Inspection of In-Service Bridges.
- 3.3 Load rating determinations and the load rating calculations shall be sealed in accordance with Section 471.025, F.S. by the Professional Engineer, which confirms the accuracy and completeness of the load ratings.
- 3.4 The Consultant's work shall be directed and performed by the key personnel identified in the technical proposal as presented by the Consultant. Any changes in the indicated personnel in the Consultant's proposal shall be subject to review and CFX Director of Maintenance.
- 3.5 Due to the nature and scope of the required services, it may be desirable for the Consultant to subcontract portions of the work (i.e., underwater inspections, mechanical inspections, electrical inspections). The Consultant shall be authorized to subcontract these services under the provisions of this agreement.

Subcontracting firms and the work they will perform shall be identified in the original proposal. The subcontracting firms must be approved in writing by the CFX Director of Maintenance and be qualified by the Florida Department of Transportation prior to initiation of any work. Any changes in the subcontracting firms or the work they will perform as indicated in the Consultant's proposal shall be subject to review and approval by CFX Director of Maintenance.

The Contractor shall not sublet, assign or otherwise dispose of the Contract or any portion thereof, or of the Contractor's right, title or interest therein without written approval by the Authority's Executive Director.

#### 4.0 WORK ITEMS

##### 4.1 Field Inspections

- 4.1.1 Field inspections must be conducted in accordance with the publications listed in Section II. The Professional Engineer or Certified Bridge Inspector on site shall be responsible for the detection of all deficiencies and the determination and recording of the structure's condition which must include the personal

inspection of all significant deficiencies. This individual is responsible for assuring the accuracy and completeness of all data and records compiled as a result of the Consultant's field activity. This individual is also responsible for insuring that bridge numbers are in place and legible on each bridge.

- 4.1.2 Every visible surface of all members of each bridge must be examined. Members that cannot be examined because of debris, vegetation, etc, should be cleaned if the effort involved is not excessive. Excessive effort is that which would require more than two hours for the inspection team to perform. Bridge members and elements that cannot be inspected prior to report publication must be documented in the report as such, along with the reason for not inspecting.
- 4.1.3 The element notes of the Bridge Management BrM (PONTIS) report shall contain a brief but comprehensive description of significant deficiencies. If element notes are more than 2,000 characters, they will be placed in the report addendum. See section 4.6.3 of the scope.
  - 4.1.3.1 Where deficiency dimensions are documented, the actual width, length and location of the member should be recorded in feet and inches. **Element Condition States should be specified prior to the element inspection notes with the deficiency described.** In cases where dimensioning every deficiency is impractical, the standard undefined general terms, such as narrow, fine, etc., shall not be used. All documented dimensions shall be expressed in width in 1/64" increments. All documentation shall be in English terms including the Comprehensive Inventory Database Records (CIDR).
  - 4.1.3.2 The probable cause of a deficiency should be identified. This serves two primary purposes: the most effective repair can only be determined if the source of the deficiency has been identified when the same cause for a specific deficiency is documented repeatedly, a body of evidence becomes available to justify its elimination through a change in design.
- 4.1.4 The Consultant shall not permit any bridge inspector to perform consecutive inspections on the same bridge. If this occurs, the Consultant shall reinspect the bridge using another inspector at no charge to CFX.
- 4.1.5 If by field observation, deficiencies are sufficiently critical to warrant immediate and substantial traffic restriction or closing of the bridge, the CFX Director of Maintenance or his representative must be verbally notified immediately. Verbal notification must be confirmed with written notification within 48 hours. Critical deficiencies are defined in

Chapter Three of the Manual for Bridge Inspection and Other Structures and Reporting Procedures.

- 4.1.6 Traffic control procedures must be in accordance with the FHWA/USDOT Manual on Uniform Traffic Control Devices (MUTCD) and the current edition of Department's Roadway and Traffic Design Standards / Standard Plans.
- 4.2 Inspection Reports
- 4.2.1 The Consultant must develop, publish, and distribute two copies of a bridge inspection report for each bridge, one for the Department and one for ~~the owner~~ CFX. Each bridge report will contain all documentation specified by this agreement and will consist of two major sections: inspection reports including the load rating analysis, and CIDR Records. The bridge report must meet the requirements of the Manual for Bridge and Other Structures Inspection and Reporting Procedures, Volume I, except where it specifically pertains to the inspection report format using the current release. The Department will provide software and access to the Bridge Management BrM (PONTIS) network. The consultant is responsible for procuring training in Bridge Management BrM (PONTIS) for its employees.
- 4.2.2 Each bridge report must be submitted to the Department for review no later than forty-five (45) calendar days after completion of the field inspection. The Department will return records within seven (7) calendar days that do not conform to the specifications of this agreement or that are in error and these should be resubmitted to the Department within seven (7) calendar days.
- 4.2.3 Within sixty (60) days after completion of each inspection, the Consultant shall furnish the Department with the original of each bridge report. One copy of the final bridge report officially approved by the Department will be transmitted or hand delivered to CFX.
- 4.2.4 Each bridge inspection report shall be a stand-alone document and must include the inspection of any underwater members and load rating calculations. Legal size paper shall not be used for bridge reports.
- 4.2.5 Deficiencies described in previous bridge inspection reports must be addressed again in the current report. Terminology not commonly understood by non-inspection personnel should be minimized and undefined values or ratings shall not be used. A bridge inspection report must provide a comprehensive description of all bridge deficiencies and state probable causes of the deficiencies, specify required corrective action, and contain an evaluation of any previous corrective action. Also, specify the Numerical Condition State within the description of the deficiency.

#### 4.3 Comprehensive Inventory Database (CIDR) Records

4.3.1 The Department must maintain, for every public bridge in Florida, a computer file referred to as the CIDR file, which contains data items pertaining to a bridge's identity, condition, and description. The Consultant will input the CIDR data into Bridge Management BrM (PONTIS) and verify the sheets for completeness and accuracy due to the possibility of computer processing errors.

4.3.2 Each bridge report must contain CIDR sheets sealed in accordance with Section 471.025, F.S. by the Professional Engineer which confirms its accuracy and completeness. The CIDR sheet must follow the bridge inspection report in the final bound bridge report.

#### 4.4 Electronic Document Management System

4.4.1 The Consultant must maintain an active VPN connection which will be used to Import electronic documents into the Department's Electronic Document Management System (EDMS)

4.4.2 The Consultant shall provide personnel proficient in the use of computers and scanner operation to input Structures Inspection Documents into the Department's EDMS. This will require familiarity with the Structures Management EDMS. Documents guidelines for the EDMS are posted on the Infonet. Duties will include scanning, attributing (assigning information specific to the document), importing directly into EDMS folder and retrieving documents that are to be archived electronically in the Department's EDMS. Whenever possible, documents imported into the EDMS will be in PDF format. Documents such as inspection reports, addendums and photo inventories that are created in Bridge Management BrM (PONTIS) will be downloaded from Bridge Management BrM (PONTIS) using the print to Adobe command. Adobe Acrobat version 5.0 and later will be used, in the 1.4 format. This effort should be included into the cost of scheduled inspections. Document names will follow the D5 Structure Maintenance Naming Conventions & Attribution Document. Final payment will not be authorized until all documentation has been uploaded into the EDMS system and approved by the Project Manager.

#### 4.5 Meeting with Bridge Owner

4.5.1 The Consultant is responsible to have one owner's meeting with CFX and FDOT the first (6) months of the contract Notice to Proceed. The meeting will be held at the CFX Headquarters Building.

4.5.2 The meetings should include a brief discussion of the bridge inspection program

regulations and objectives, an outline of the bridge owner's specific responsibilities, particularly the bridge owner's responsibility to have load ratings performed, close or post bridges with recommended weight restrictions and to correct deficiencies that endanger the traveling public. The discussion of the bridge inspection program should cover as a minimum Department Rules, Chapter 14-48, F.A.C., and Bridge Inspection Standards. The discussion should include the importance of notifying the Department when structures that are structurally or critically deficient are either repaired or replaced and when recommended weight restriction postings have been accomplished.

4.5.3 The general Bridge Management BrM (PONTIS) format and content of a typical bridge report, addendums, the process for monitoring follow-up action on critical bridge deficiencies, and a summary of the condition of each structurally deficient bridge shall be explained by the Consultant in order to familiarize bridge owners with the records they are to receive. After the bridge inspection reports are presented to the owner, the consultant must be available to answer a reasonable number of questions by telephone.

4.6 Bridge Management BrM (PONTIS) Bridge Inspection Report Addendum  
The Bridge Management BrM (PONTIS) format was selected for use as a management tool. It has the capacity to maintain records for each individual bridge as well as combining records for all bridges in the inventory. This enables management to obtain information on single bridges and on the inventory as a whole. There are, however, a number of items that were provided in the previous system that Bridge Management BrM (PONTIS) does not provide.

The following sections will be included in an addendum section placed at the end of the Bridge Management BrM (PONTIS) report. In the following order, with a header on all addendums as follows: Contents of Addendum: example Report Identification, Approach Photo, Elevation Photo & Bridge Location Map, Additional Element Inspection Notes, Load Rating Analysis Summary, Sketches and Photo's, Recommended Corrective Action Page for On-System, Off System bridges, Scour Evaluations (Bottom Profile Measurements & Channel Sections), Fracture Critical Inspection Sheets-The addendum will identify Fracture Critical members as documented by FHWA-IP-86-26, U.S. Department of Transportation/Federal Highway Administration publication.

4.6.1 Addendum-Contents (Addendum No. 1)  
Contents of Addendum Page-shall include-Bridge Location Map, Additional Element Inspection Notes, Load Rating Analysis Summary, Sketches, Deficiencies

Photo's, Photo inventory, Recommended Corrective Action, Scour Evaluation, Fracture Critical Inspection sheets.

#### Report Identification

- \* Bridge Number
- \* Inspection Date
- \* Bridge Name
- \* Facility Carried
- \* Feature Intersected
- \* Insert an Approach Photo of the bridge

#### 4.6.2 LOCATION MAP (Addendum No. 2)

Provide an Elevation Photo from either side of the bridge and location map with sufficient detail to allow a person not familiar with the area to find the bridge.

#### 4.6.3 ADDITIONAL "ELEMENT INSPECTION NOTES" (Addendum No. 3)

Inspection notes that exceed the 2,000 characters due to Bridge Management BrM (PONTIS) limitations will be addressed in Bridge Management BrM (PONTIS) Inspection Notes/Structures Notes. If all over flow notes cannot fit in these areas, then all over flow notes will be placed as the third section in the addendum.

#### 4.6.4 Load Rating Analysis Summary (Addendum No. 4)

All bridges will have a copy of the current load summary sheet.

##### 4.6.4.1 Each inspection will include the evaluation of the load rating analysis's applicability to the condition of the structure. The review shall include but not be limited to deterioration, geometric changes or additional dead load. A note will be placed in the Structures Notes section of the inspection report in the Bridge Management BrM PONTIS database stating that the load rating still applies. If the review warrants a new load rating, prior approval will be needed by the FDOT's Load Rating Specialist.

#### 4.6.5 PHOTO INVENTORY, SKETCHES, DEFICIENCY PHOTOS (Addendum No. 5)

New Photo Inventory will be provided on as needed basis (if the bridge is widened or old photos do not depict how the bridge looks). Photos and sketches will be referenced in the element notes of the Bridge Management BrM (PONTIS) inspection report with the element category to which they refer. As a minimum Photo's are required if a Smart Flag condition exists or if an element has a CS that is a 3 or below. Also, photos/sketches are required when there is a work order/repair is necessary. Photos of posted load restrictions will appear first.

#### 4.6.6 RECOMMENDED CORRECTIVE ACTION (Addendum No. 6)

The Bridge Management BrM (PONTIS) choices of feasible action are limited and sometimes do not adequately describe what is being said to an unfamiliar reader. So, in addition to entering the feasible action in the main Bridge Management BrM (PONTIS) report a more descriptive version of what is being recommended for repair under the page heading of "RECOMMENDED REPAIRS" and a sub-heading of the ELEMENT CATEGORY to which it refers shall be provided. See section 4.8 Work Orders for more specific details.

4.6.7 Scour Evaluation (Addendum No. 7)

Provide Bottom Profile Measurements & Channel Sections

4.6.7.1 Plans of Action (POA) have been developed on individual bridges with unknown foundations and scour critical bridges. The Consultant shall verify all information included in the POA's during their review and update all applicable fields. This process will be conducted during the biennial routine inspection of the bridges. We will provide data for all bridges that need updating prior to inspection.

4.6.8 FRACTURE CRITICAL INSPECTIONS (Addendum No. 8)

Structures, which require "FRACTURE CRITICAL INSPECTIONS", will be documented on page one of the Bridge Management BrM (PONTIS) inspection report and as an addendum. This addendum will identify Fracture Critical members as documented by FHWA-IP-86-26, U.S. Department of Transportation/Federal Highway Administration publication.

4.7 Work Orders

The consultant will create a Recommended Corrective Action page for all work Order recommendations:

4.7.1 The consultant will be responsible for insuring that deficiencies on bridges have been identified and have the proper recommended corrective action. A Feasible Action Review Committee (F.A.R.C.) will be established containing no less than three management level engineers. The committee will meet on a weekly basis to review the inspection reports inspected for the week. The consultant will present its findings to the Department for final approval. After the final inspection reports have been approved, they will be forwarded to the Florida Department of Transportation and Local bridge owners.

5.0 QUALITY CONTROL

5.0.1 The consultant shall institute quality assurance procedures, which shall be provided in written form to CFX and FDOT for review and approval before work

begins. Quality assurance procedures are an integral part of this contract and are not a separate pay item CFX and / or FDOT may perform additional quality assurance by inspecting bridges that have been previously inspected by the Consultant and reviewing the inspection records for conformity with their findings.

#### 5.1 Quality Reviews

The Consultant shall conduct quality reviews to make certain their own organization is in compliance with the requirements cited in the scope of services. Quality reviews shall evaluate the adequacy of materials, documentation, processes, procedures, training, guidance, and staffing included in the execution of this contract.

- 5.1.1 The Quality Assurance Program should also have a second peer review level. The peer review can be conducted internally by the Consultant's organization or by subcontracting the review to another consultant firm.

#### 5.2 Quality Records

- 5.2.1 The Consultant shall maintain adequate records of the quality assurance actions performed by their organization (including subcontractors and vendors) in providing services and products under this contract. All records shall indicate the nature and number of observations made, the number and type of deficiencies found, and the corrective actions taken. These records shall be submitted on a quarterly basis so available for audit review at time of visit from FHWA.

#### 5.3 Quality Assurance Plan

- 5.3.1 The Consultant shall include a quality assurance plan in the proposal. The quality assurance plan shall detail the procedures, evaluation criteria, and instructions to the organization to assure conformance with the contract. Unless specifically waived, no payment shall be made until CFX approves the Consultant's quality assurance plan. Significant changes to the work requirements may require the Consultant to revise their quality assurance plan to keep it current with the work requirements. The plan shall include, but not be limited to the following areas:

- 5.3.1.1 Organization - A detailed description of the Consultant's quality control organization and its functional relationship to the part of the organization performing the work under the contract shall be provided. List quality control personnel by name and include their qualifications.



- 5.3.1.2 Quality Reviews – The Consultant’s quality assurance methods used to monitor and assure compliance of their organization with contract requirements for services and products shall be detailed in the Quality Assurance Plan.
- 5.3.1.3 Quality Records – The types of records, which will be generated and maintained by the Consultant during the execution of his quality assurance program, shall be outlined in the Quality Assurance Plan.
- 5.3.1.4 Quality of Subcontractors and Vendors – The methods used by the Consultant to control the quality of the subcontractors and vendors shall be detailed in the Quality Assurance Plan.
- 5.3.1.5 Quality Assurance Certification – An officer of the Consultant firm will be required to sign and seal a certification that will accompany each submittal stating that the bridge inspection reports, load ratings, etc., have been prepared and checked in accordance with CFX the specifications for this contract.
- 5.3.1.6 FDOT may hold short (1/2 day) training sessions for all bridge inspectors biannually, informing them of changes that have been made in inspection and/or reporting procedures. The Consultant’s inspectors are required to attend.

#### 5.4 QUALITY REVIEWS BY THE DEPARTMENT

- 5.4.1 CFX may conduct quality reviews to make certain that the Consultant is in compliance with the requirements cited in the scope of services. The Consultant shall be notified prior to any of these quality reviews and shall be required to present all records and certifications upon request.

#### 6.0 MATERIALS TO BE FURNISHED BY CFX TO THE CONSULTANT

##### 6.1 General

- 6.2 Bridge Load Rating Materials  
Load Rating Summary Forms and calculations

- 6.3 Manuals  
Manuals listed in this document may be purchased from the vendors listed below or distributed by the FDOT.

- 6.3.1 FDOT Manuals  
Florida Department of Transportation  
Station 12 Haydon Burns Building  
Maps and Publication Sales, Mail  
605 Suwannee Street  
Tallahassee, Florida 32428  
850-414-4050
- 6.3.2 AASHTO Publications  
American Association of State Highway and Transportation Officials  
444 N. Capital Street, NW, Suite 225  
Washington, D.C. 20001  
202-624-5800 Publications 1-800-231-3475
- 6.3.3 FHWA Manuals  
U.S. Government Printing Office  
Washington, D.C. 20402
- 6.3.4 Florida Department of Transportation  
Bridge Management BrM (PONTIS) Bridge Inspectors Field Guide
- 7.1 WORK SCHEDULE AND PROGRESS REPORTS
- 7.2 Notice to Proceed Meeting
  - 7.2.1 CFX shall conduct a Notice to proceed meeting after the Consultant has received the Notice to Proceed letter from CFX. This meeting will include but will not be limited to the following personnel:  
  
Director of Maintenance, CFX;  
CFX Sr. Inspector  
Consultant Project Manager  
Consultant Deputy Project Manager
  - 7.2.2 CFX will explain the financial and administrative details of the contract, establish any ground rules upon which the work will be conducted, and transfer materials to be furnished by CFX.
  - 7.2.3 The Consultant will provide CFX with a written quality control procedure, a proposed work schedule, an organization chart, and a proposed cost flow graph.
- 7.3 Work Schedule

- 7.3.1 A proposed work schedule shall be submitted to CFX for approval. This schedule shall show how the Consultant anticipates the work will progress from month to month to completion of the agreement. The work schedule shall be established in a manner that will insure that bridge inspections will not be delinquent. CFX prefers that bridges be inspected in general conformance with the proposed work schedule presented in Exhibit "A".
- 7.3.2 A cost flow graph shall be submitted that will show anticipated cost flow by monthly increments. The work schedule and cost flow graph shall be in a format acceptable to the CFX Director of Maintenance.
- 7.3.3 An organization chart shall be submitted to CFX for approval. The organizational chart shall include the number and names of people, team sizes, and which people are to be assigned to the various work items.
- 7.3.4 The proposed work schedule, cost flow graph, quality control procedure, organization chart, and a list of major equipment the Consultant will use during the bridge inspections shall be included with the Consultant's proposal. The list of major equipment shall indicate if the Consultant owns the equipment and, if not, his plans for obtaining the equipment.

#### 7.4 Progress Reports

- 7.4.1 The Consultant shall submit on Monday morning, via email, weekly progress reports that show; 1. Work completed for the previous week as measured against the proposed scheduled; and the proposed work schedule for the upcoming week. Weekly progress reports shall describe the work performed on each task. Monthly progress reports should also be prepared and delivered to CFX concurrently with the monthly invoice, via email.
- 7.4.2 The Consultant shall meet with CFX on a monthly basis as deemed necessary by the Director of Maintenance.
- 7.4.3 The Director of Maintenance will make judgment on whether work of sufficient quantity and quality has been accomplished, by comparing the actual work accomplished against the approved proposed work schedule.

#### 8.1 MISCELLANEOUS

##### 8.2 Legal Proceedings

The Consultant shall serve as an expert witness in any legal proceedings if required by CFX. The fee for these services shall be established if, and when, they are needed.

8.3 Errors and/or Omissions

The Consultant shall be responsible for the Professional quality, technical accuracy and the coordination of all designs, drawings, specifications, inspection reports and other services furnished by the Consultant under this contract. The Consultant shall, without additional compensation, correct or revise any errors and/or omissions (and approved corrections of same) that result from said firm's substandard performance of the services described in this contract.

8.4 Contradictions

In the event of a contradiction between the provisions of this contract and the Consultant's Technical proposal, the provisions of this contract shall apply.

9.0 List of Bridges to be inspected See Attachment "A".

# ATTACHMENT "A"

BR #	Featint	Facility	LastInsp	NextInsp	Uwlastinsp
750055	Canal	SR 528	08/21/18	8/20/2020	8/21/18
750056	Farm Access Road	SR 528	06/12/18	6/11/2020	
750058	Dallas Blvd	SR 528	07/17/18	7/16/2020	
750059	Farm Access Road	SR 528	07/16/18	7/15/2020	
750100	Kirkman Road	SR 408 WB	02/22/17	2/22/2019	
750102	Old Winter Garden Road	SR 408 WB	03/23/17	3/23/2019	
750103	Ortman Drive	SR 408 WB	03/23/17	3/23/2019	
750104	Ferguson Drive	SR 408 WB	03/22/17	3/22/2019	
750106	Church Street	SR 408 WB	01/10/18	1/10/2020	
750107	Tampa Ave	SR 408 WB	02/14/18	2/14/2020	
750108	Rio Grande Avenue	SR 408 WB	02/14/18	2/14/2020	
750112	Parramore Avenue	SR 408 Exit Ramp	06/20/18	6/19/2020	
750114	I-4	SR 408 WB	12/20/17	12/20/2019	
750116	Mills Ave	SR 408 WB	10/18/17	10/18/2019	
750119	Crystal Lake Drive	SR 408 WB	02/20/18	2/20/2020	
750120	Lk Underhill Rd SR-15	SR 408 WB	03/26/18	3/25/2020	
750121	Lake Underhill	SR 408 WB	04/12/18	4/11/2020	
750123	Andes Avenue	SR 408 WB	04/11/17	4/11/2019	
750124	Mercado Ave	SR 408 WB	04/11/17	4/11/2019	
750126	Yucatan Dr	SR 408 WB	03/21/17	3/21/2019	
750128	Cosmos Dr	SR 408 WB	02/22/18	2/22/2020	
750129	Goldenrod Road SR-551	SR 408 WB	03/26/18	3/25/2020	
750130	SR-400 I-4	SR 400 Connector	06/20/18	6/19/2020	
750137	Gore Street	SR 400 Connector	03/07/18	3/6/2020	
750138	Conley Street	SR 400 Connector	03/07/18	3/6/2020	
750179	Farm Access Road	SR 528	06/12/18	6/11/2020	
750182	Old Winter Garden Rd	SR 408 EB	03/23/17	3/23/2019	
750183	I-4	SR 408 EB	07/26/17	7/26/2019	
750184	Lk Underhill Rd SR-15	SR 408 EB	03/26/18	3/25/2020	
750185	Yucatan Drive	SR 408 EB	03/25/17	3/25/2019	
750186	Cosmos Dr	SR 408 EB	02/22/18	2/22/2020	
750213	Dallas Blvd	SR 528	07/17/18	7/16/2020	
750214	Farm Access Road	SR 528	07/16/18	7/15/2020	
750220	Church Street	SR 408 EB	01/10/18	1/10/2020	
750231	Kirkman Road	SR 408 EB	02/22/17	2/22/2019	
750232	Pine Hills Road	SR 408 EB	03/24/17	3/24/2019	
750233	Ortman Drive	SR 408 EB	03/23/17	3/23/2019	

BR #	Featint	Facility	LastInsp	NextInsp	Uwlastinsp
750234	Ferguson Drive	SR 408 EB	03/22/17	3/22/2019	
750235	John Young Pkwy	SR 408 EB	03/23/17	3/23/2019	
750236	Tampa Ave	SR 408 EB	02/20/18	2/20/2020	
750237	Rio Grande Avenue	SR 408 EB	02/20/18	2/20/2020	
750238	Orange Blossom Trail	SR 408 EB	02/13/18	2/13/2020	
750239	Westmoreland Dr	SR 408 EB	02/14/18	2/14/2020	
750240	Parramore Ave	SR 408 EB	05/15/18	5/14/2020	
750241	I-4 Connector	SR 408 EB	02/15/18	2/15/2020	
750242	Summerlin Ave	SR 408 EB	10/18/17	10/18/2019	
750243	Mills Ave	SR 408 EB	10/18/17	10/18/2019	
750244	Bumby Ave	SR 408 EB	04/10/17	4/10/2019	
750245	Primrose Drive	SR 408 EB	04/10/17	4/10/2019	
750246	Crystal Lake Drive	SR 408 EB	02/20/18	2/20/2020	
750247	Lake Underhill	SR 408 EB	04/12/18	4/11/2020	4/12/18
750248	Andes Ave	SR 408 EB	04/10/17	4/10/2019	
750249	Mercado Ave	SR 408 EB	04/11/17	4/11/2019	
750251	Oxalis Drive	SR 408 WB	04/11/17	4/11/2019	
750252	Oxalis Dr	SR 408 EB	04/11/17	4/11/2019	
750253	Goldenrod Road SR-551	SR 408 EB	03/26/18	3/25/2020	
750300	Turkey Creek Canal	SR 528	07/17/18	7/16/2020	7/17/18
750315	RAMP M	SR 436	08/30/18	8/29/2020	
750316	SR-528	SR 436 SB	07/18/18	7/17/2020	
750317	SR-528	SR 436 NB	07/18/18	7/17/2020	
750318	Via Flora Drive	SR 528	08/22/18	8/21/2020	
750319	Daetwyler Drive	SR 528	07/25/18	7/24/2020	
750320	Tradeport Drive	SR 528	07/25/18	7/24/2020	
750330	Drainage Canal	SR 528	07/16/18	7/15/2020	7/16/18
750332	OUC RR & Access Road	SR 528	07/17/18	7/16/2020	
750333	OUC RR & Access Road	SR 528	07/17/18	7/16/2020	
750337	SR-408	Chickasaw Trail	06/26/17	6/26/2019	
750342	SR-50	SR 417 NB	08/23/17	8/23/2019	
750343	SR-50	SR 417 SB	08/23/17	8/23/2019	
750344	E-4 Canal	SR 417 SB	06/26/17	6/26/2019	
750345	E-4 Canal	SR 417 NB	06/26/17	6/26/2019	
750346	SR-417	Trevarthon Rd	08/23/17	8/23/2019	
750347	SR-417	Econlockhatchee Tr	08/23/17	8/23/2019	
750348	University Blvd	SR 417 SB	06/28/17	6/28/2019	
750349	University Blvd	SR 417 NB	06/28/17	6/28/2019	
750350	Valencia College Lane	SR 417 SB	08/23/17	8/23/2019	

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750351	Valencia College Lane	SR 417 NB	08/23/17	8/23/2019	
750352	SR-408	SR 408 Ramp AR-2	08/24/17	8/24/2019	
750353	SR-417	SR 408 Ramp AR-1	08/24/17	8/24/2019	
750354	SR-408	SR 417 SB	08/24/17	8/24/2019	
750355	SR-408	SR 417 NB	08/24/17	8/24/2019	
750356	SR-408	Econlockhatchee Tr	06/12/18	6/11/2020	
750357	Econlockhatchee River	SR 408 WB	09/07/18	9/6/2020	
750358	Econlockhatchee River	SR 408 EB	09/07/18	9/6/2020	
750359	SR-408	Dean Road	04/28/16	4/28/2018	
750360	Rouse Road	SR 408 WB	08/24/18	8/23/2020	
750361	Rouse Road	SR 408 EB	09/07/18	9/6/2020	
750362	Alafaya Trail	SR 408 WB	04/25/18	4/24/2020	
750363	Alafaya Trail	SR 408 EB	04/25/18	4/24/2020	
750364	SR-408	Woodbury Road	04/24/18	4/23/2020	
750365	SR-50 Colonial Drive	SR 408 WB	04/24/18	4/23/2020	
750366	SR-50 Colonial Drive	SR 408 EB	04/24/18	4/23/2020	
750369	Kehoe Rd	SR 408 EB	08/24/18	8/23/2020	
750370	Kehoe Rd	SR 408 WB	08/24/18	8/23/2020	
750373	SR-528	SR 417 Ramp SB	08/30/17	8/30/2019	
750374	SR-528;SR-417	SR 417 NB Ramp	11/16/17	11/16/2019	
750375	Lee Vista Blvd	SR 417 SB	08/30/17	8/30/2019	
750376	Lee Vista Blvd	SR 417 NB	08/30/17	8/30/2019	
750377	Azalea Park Canal	SR 417 NB	08/24/17	8/24/2019	
750378	Curry Ford Rd	SR 417 SB	12/12/18	12/11/2020	
750379	Curry Ford Rd	SR 417 NB	12/12/18	12/11/2020	
750380	Berry Dease Rd	SR 417 SB	12/13/18	12/12/2020	
750381	Berry Dease Rd	SR 417 NB	12/13/18	12/12/2020	
750382	Lake Underhill Rd	SR 417 SB	09/22/17	9/22/2019	
750383	Lake Underhill Road	SR 417 NB	09/22/17	9/22/2019	
750384	Econlockhatchee Trail	SR 417 SB	10/26/17	10/26/2019	
750385	Econlockhatchee Trail	SR 417 NB	10/26/17	10/26/2019	
750390	Citrus Oaks Road	SR 408 EB	05/30/18	5/29/2020	
750391	Citrus Oaks Road	SR 408 WB	05/30/18	5/29/2020	
750392	SR-408	Good Homes Road	01/17/17	1/17/2019	
750393	Lake Sherwood	SR 408 WB	08/28/18	8/27/2020	8/23/18
750394	Lake Sherwood	SR 408 EB	08/28/18	8/27/2020	8/23/18
750395	SR-408 West Extn	Dorscher Road	05/30/18	5/29/2020	
750396	Hiawasse Rd CR-435	SR 408 WB	06/11/18	6/10/2020	



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750397	Hiawasse Rd CR-435	SR 408 EB	06/11/18	6/10/2020	
750398	SR-408 West Extn	Powers Drive	04/26/18	4/25/2020	
750399	SR-408 West Extn	Paul Street	05/31/18	5/30/2020	
750406	Story Road	SR 429 SB	08/14/18	8/13/2020	
750407	Story Road	SR 429 NB	08/14/18	8/13/2020	
750408	Story Road	Ramp L	08/14/18	8/13/2020	
750409	Florida Central Railroad	SR 429 SB	08/15/18	8/14/2020	
750410	Florida Central Railroad	SR 429 NB	08/15/18	8/14/2020	
750411	Florida Central Railroad	Ramp A	08/15/18	8/14/2020	
750412	SR-438 (Plant Street)	SR 429 SB	08/21/18	8/20/2020	
750413	SR-438 (Plant Street)	SR 429 NB	08/21/18	8/20/2020	
750414	Palm Drive	SR 429 SB	08/23/18	8/22/2020	
750415	Palm Drive	SR 429 NB	08/23/18	8/22/2020	
750416	Northwest Ditch	SR 429 SB	08/23/18	8/22/2020	
750417	Northwest Ditch	SR 429 NB	08/23/18	8/22/2020	
750418	Fullers Cross Road	SR 429 SB	08/22/18	8/21/2020	
750419	Fullers Cross Road	SR 429 NB	08/22/18	8/21/2020	
750420	CR-437-Ocoee-Apopka Rd	SR 429 SB	08/22/18	8/21/2020	
750421	CR-437 Ocoee-Apopka Rd	SR 429 NB	08/22/18	8/21/2020	
750422	SR-429	West Road	08/22/18	8/21/2020	
750423	West Orange Trail	West Road	08/22/18	8/21/2020	
750424	Hunters Vista Blvd	SR 417 NB	09/14/17	9/14/2019	
750425	Hunters Vista Blvd	SR 417 SB	09/19/17	9/19/2019	
750426	Shingle Creek	SR 417 SB	09/19/17	9/19/2019	9/19/17
750427	Shingle Creek	SR 417 NB	09/19/17	9/19/2019	9/19/17
750428	Town Loop Blvd	SR 417 SB	09/14/17	9/14/2019	
750429	Town Loop Blvd	SR 417 NB	09/14/17	9/14/2019	
750430	CR-423 John Yng Pkwy	SR 417 SB	09/14/17	9/14/2019	
750431	CR-423 John Yng Pkwy	SR 417 NB	09/14/17	9/14/2019	
750432	SR-423	SR-417 SB off Ramp	11/14/17	11/14/2019	
750433	SR-500 / FI Turnpike	SR 417 SB	09/20/17	9/20/2019	
750434	SR-500 / FI Turnpike	SR 417 NB	09/20/17	9/20/2019	
750435	SR-500 / FI Turnpike	SR-417 SB off Ramp	09/20/17	9/20/2019	
750436	Balcombe Rd	SR 417 SB	09/28/17	9/28/2019	
750437	Balcombe Rd	SR 417 NB	09/28/17	9/28/2019	
750438	SR-91	SR 417 SB	09/28/17	9/28/2019	
750439	SR-91	SR 417 NB	09/28/17	9/28/2019	
750440	Old Dixie Highway	SR 417 SB	09/21/17	9/21/2019	
750441	Old Dixie Highway	SR 417 NB	09/21/17	9/21/2019	

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750442	CSX Railroad	SR 417 SB	11/14/17	11/14/2019	
750443	CSX Railroad	SR 417 NB	11/14/17	11/14/2019	
750444	CSX Railroad	SR 417 Off Ramp	11/14/17	11/14/2019	
750445	Landstar Blvd.	SR 417 SB	09/21/17	9/21/2019	
750446	Landstar Blvd.	SR 417 NB	09/21/17	9/21/2019	
750447	Rhode Island Woods	SR 417 SB	11/14/17	11/14/2019	
750448	Rhode Island Woods	SR 417 NB	11/14/17	11/14/2019	
750449	Boggy Creek	SR 417 SB On Ramp	11/09/17	11/9/2019	
750450	Boggy Creek	SR 417 SB	11/08/17	11/8/2019	
750451	Boggy Creek	SR 417 NB	11/08/17	11/8/2019	
750452	Boggy Creek	SR 417 NB Off-Ramp	11/09/17	11/9/2019	
750453	CR-5123 Boggy Creek Road	SR 417 SB	11/08/17	11/8/2019	
750454	CR-5123 Boggy Creek Road	SR 417 NB	11/08/17	11/8/2019	
750457	CR-15 Narcoossee Road	SR 417 SB	11/08/17	11/8/2019	
750458	CR-15 Narcoossee Road	SR 417 NB	11/08/17	11/8/2019	
750459	OUC Railroad	SR 417 SB	11/07/17	11/7/2019	
750460	OUC Railroad	SR 417 NB	11/07/17	11/7/2019	
750461	Moss Park Road	SR 417 NB	11/07/17	11/7/2019	
750462	Moss Park Road	SR 417	11/07/17	11/7/2019	
750463	Innovation Way	SR 417 SB	11/07/17	11/7/2019	
750464	Innovation Way	SR 417 NB	11/07/17	11/7/2019	
750465	SB-EB Ramp	SR 417 SB	11/15/17	11/15/2019	
750466	SB-EB Ramp	SR 417 NB	11/15/17	11/15/2019	
750467	SR-528	SR 417 SB	11/15/17	11/15/2019	
750468	SR-528	SR 417 NB	11/15/17	11/15/2019	
750469	SR-528	SR 417 NB Off Ramp	09/20/17	9/20/2019	
750470	SR-417,SR-528	SR 417 Ramp C	11/17/17	11/17/2019	
750471	SB-EB Ramp	Ramp To SR-528 WB	11/15/17	11/15/2019	
750472	Victoria Falls Dr	SR 417 SB	11/09/17	11/9/2019	
750473	Victoria Falls Dr	SR 417 NB	11/09/17	11/9/2019	
750480	Canal	SR 417 NB	09/19/17	9/19/2019	
750481	Drainage Canal	SR 417	11/09/17	11/9/2019	
750492	West Orange Trail	SR 429 SB	09/13/18	9/12/2020	
750493	West Orange Trail	SR 429 NB	09/13/18	9/12/2020	
750494	McCormick Road	SR 429 SB	09/13/18	9/12/2020	
750495	McCormick Road	SR 429 NB	09/13/18	9/12/2020	
750496	CR-437	SR 429 SB	09/25/18	9/24/2020	

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750497	CR-437A	SR 429 NB	09/25/18	9/24/2020	
750502	CR-437A	SR 429 SB	09/13/18	9/12/2020	
750503	CR-437A	SR 429 NB	09/03/18	9/2/2020	
750504	SR-429	Johns Road	09/12/18	9/11/2020	
750505	Marshall Lake Road	SR 429 SB	09/12/18	9/11/2020	
750506	Marshall Lake Road	SR 429 NB	09/12/18	9/11/2020	
750507	Florida Central RR	Ramp A1	09/12/18	9/11/2020	
750508	Florida Central RR	Ramp B1	09/12/18	9/11/2020	
750509	Palm Drive	Ramp C	08/21/18	8/20/2020	
750512	SR 551 over SR 528	SR 551	01/30/17	1/30/2019	
750520	SB over Old YMCA Rd	SR 429 SB	11/08/17	11/8/2019	
750521	NB over oldYMCA Rd	SR 429 NB	11/08/17	11/8/2019	
750522	SB over CR 545 South	SR 429 SB	11/08/17	11/8/2019	
750523	NB over CR 545 South	SR 429 NB	11/08/17	11/8/2019	
750524	SB over CR 545 North	SR 429 SB	11/08/17	11/8/2019	
750525	NB over CR 545 North	SR 429 NB	11/08/17	11/8/2019	
750526	SB over Porter Rd	SR 429 SB	11/20/17	11/20/2019	
750527	NB over Porter Rd	SR 429 NB	11/20/17	11/20/2019	
750528	SB over Schofield Rd	SR 429 SB	11/20/17	11/20/2019	
750529	NB over Schofield Rd	SR 429 NB	11/20/17	11/20/2019	
750530	Malcolm Rd over SR 429	SR 429	05/17/18	5/16/2020	
750531	SB over Tiny Rd	SR 429 SB	05/15/18	5/14/2020	
750532	NB over Tiny Rd	SR 429 NB	05/15/18	5/14/2020	
750533	SB over Tilden Rd	SR 429 SB	05/16/18	5/15/2020	
750534	NB over Tilden Rd	SR 429 NB	05/16/18	5/15/2020	
750535	SB over Stoneybrook Pkwy	SR 429 SB	05/17/18	5/16/2020	
750536	NB over Stoneybrook Pkwy	SR 429 NB	05/17/18	5/16/2020	
750537	SB over CR 535	SR 429 SB	05/16/18	5/15/2020	
750538	NB over CR 535	SR 429 NB	05/16/18	5/15/2020	
750539	SB over Stoneybrook Pkwy	SR 429 SB	01/04/17	1/4/2019	
750540	NB over Stoneybrook Pkwy	SR 429 NB	01/04/17	1/4/2019	
750541	SB over pedestrian walkway	SR 429 SB	12/26/18	12/25/2020	
750542	NB over pedestrian walkway	SR 429 NB	12/26/18	12/25/2020	
750543	SB over Warrior Rd	SR 429 SB	12/26/18	12/25/2020	
750544	NB over Warrior Rd	SR 429 NB	12/26/18	12/25/2020	
750547	SB over Tpk	SR 429 SB	12/11/18	12/10/2020	
750548	NB over Tpk	SR 429 NB	12/11/18	12/10/2020	
750549	SB over SR 50	SR 429 SB	12/26/18	12/25/2020	

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750550	NB over SR 50	SR 429 NB	12/26/18	12/25/2020	
750553	SB over Conserv II	SR 429 SB	04/26/18	4/25/2020	
750554	NB over Conserv II	SR 429 NB	04/26/18	4/25/2020	
750557	NB off ramp to WB Univ. Blv	SR 417 NB	06/27/17	6/27/2019	
750567	New Indep. Pkwy over SR 429	SR 429	05/15/18	5/14/2020	
750569	Over I-4	SR 408	01/25/18	1/25/2020	
750570	I-4	SR 408	06/19/18	6/18/2020	
750571	I-4	SR 408	06/19/18	6/18/2020	
750576	SR 417	SR 417 NB	12/14/17	12/14/2019	
750579	SR 408 ramp	SR 408	08/22/18	8/21/2020	
750580	Over Andes	SR 408	08/22/18	8/21/2020	
750581	SR 436	SR 408	03/22/17	3/22/2019	
750589	Over 408	SR 408	12/14/17	12/14/2019	
750701	Rosalind Ave	SR 408 WB	04/10/17	4/10/2019	
750703	SR 435	SR 414	02/23/17	2/23/2019	
750704	Railroad Spur	SR 414	05/31/17	5/31/2019	
750705	Keen Rd	SR 414	02/09/17	2/9/2019	
750706	Ramp K-C	SR 414	02/09/17	2/9/2019	
750707	Overland Rd	SR 414	04/19/17	4/19/2019	
750708	FTG Gas Line	SR 414	02/23/17	2/23/2019	
750709	Over Lakeville Rd	SR 414	03/09/17	3/9/2019	
750710	Over Lakeville Rd	SR 414	02/10/17	2/10/2019	
750711	Over Lakeville Rd	SR 414	02/10/17	2/10/2019	
750712	Hiwassee Rd CR-435	SR 414	03/30/17	3/30/2019	
750714	Ramp DB	SR 429	09/25/18	9/24/2020	
750715	Ramp DB	SR 429	09/25/18	9/24/2020	
750716	Harmon Rd	SR 429	09/26/18	9/25/2020	
750717	Harmon Rd	SR 429	09/26/18	9/25/2020	
750718	Over Harmon Rd	SR 414	02/22/18	2/22/2020	
750719	SR 414	SR 414	02/22/18	2/22/2020	
750720	SR 414 WB	SR 414	02/22/18	2/22/2020	
750721	CR 437A	SR 414	09/12/18	9/11/2020	
750722	Over 437A	SR 429 NB	02/22/18	2/22/2020	
750723	Ramp EG	SR 429	02/19/18	2/19/2020	
750724	SR 414	SR 429	06/12/18	6/11/2020	
750725	Marden Rd	SR 414	01/10/17	1/10/2019	

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750726	S. Hawthorne Ave	SR 414	01/10/17	1/10/2019	
750727	Landfill Rd	SR 414	01/10/17	1/10/2019	
750728	Ramp CA	SR 414	02/22/18	2/22/2020	
750729	SB over SR 528 to OIA	SR 528 WB	01/24/18	1/24/2020	
750730	SB over SR 528 to OIA	SR 528 WB	01/27/18	1/27/2020	
750731	Binion Rd	SR 429	10/10/18	10/9/2020	
750732	SB 429 over Lust Rd	SR 429	01/13/17	1/13/2019	
750733	NB 429 over Lust Rd	SR 429	01/13/17	1/13/2019	
750734	SB 429 over Peterson Rd	SR 429	01/13/17	1/13/2019	
750735	NB 429 over Peterson Rd	SR 429	01/13/17	1/13/2019	
750736	SB 429 over Gen Electric	SR 429	01/12/17	1/12/2019	
750737	NB 429 over Gen Electric	SR 429	01/12/17	1/12/2019	
750738	SB 429 over CFRR	SR 429	01/12/17	1/12/2019	
750739	NB 429 over CFRR	SR 429	01/12/17	1/12/2019	
750741	Chickasaw Trail	SR 408	01/17/17	1/17/2019	
750742	Chickasaw Trail	SR 408	01/17/17	1/17/2019	
750743	SR 441 / OBT	SR 414	06/21/17	6/21/2019	
750802	SR 417/Boggy Creek Rd	SR 417	02/22/18	2/22/2020	2/22/18
750803	North Boggy Creek Rd	SR 417	02/22/18	2/22/2020	
750804	Boggy Creek Rd/Boggy Creek	SR 417	02/20/18	2/20/2020	
750805	J Lawson	South Access Rd	01/10/18	1/10/2020	
750806	SR 417/Boggy Creek	SR 417	02/22/18	2/22/2020	2/22/18
750807	Narcoossee Rd	SR 528	04/27/17	4/27/2019	
750808	Narcoossee Rd	SR 528	04/27/17	4/27/2019	
750823	Over Pond 8	SR 408	01/11/18	1/11/2020	1/11/18
750824	Valencia College Lane	SR 417	05/31/18	5/30/2020	
750825	SR 408	SR 408	03/14/18	3/13/2020	
750829	Via Flora	SR 528	05/31/18	5/30/2020	
750830	Via Flora	SR 528	05/31/18	5/30/2020	
750834	Ramp E over SR 408	SR 417	11/15/17	11/15/2019	
750835	Ramp Cover Econ Tr	SR 417	11/15/17	11/15/2019	
750836	Ramp C over SR 408 & SR 417			12/30/1901	
750839	Turnpike	SR 417	01/18/17	1/18/2019	
750840	Orange Ave	SR 417	01/18/17	1/18/2019	
750841	Orange Ave	SR 417	01/18/17	1/18/2019	

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750842	Parcel 197	SR 429	05/23/17	5/23/2019	
750843	Parcel 197	SR 429	05/23/17	5/23/2019	
750844	Kelly Park Rd	SR 429	05/23/17	5/23/2019	
750845	Kelly Park Rd	SR 429	05/23/17	5/23/2019	
750846	Lk Victor Flood Plain	SR 429	05/25/17	5/25/2019	
750847	Lk Victor Flood Plain	SR 429	05/25/17	5/25/2019	
750850	Over Turnpike	SR 417	05/31/18	5/30/2020	
750851	Connector Rd	SR 429 Wekiva Pkwy	07/21/17	7/21/2019	
750852	Connector Rd	SR 429 Wekiva Pkwy	07/21/17	7/21/2019	
750853	Southfork Rd	SR 429 Wekiva Pkwy	04/17/17	4/17/2019	
750854	Southfork Rd	SR 429 Wekiva Pkwy	04/17/17	4/17/2019	
750855	Southfork Rd Ramp'D'	SR 429 Wekiva Pkwy	04/17/17	4/17/2019	
750856	Southfork Rd Ramp 'C'	SR 429 Wekiva Pkwy	04/17/17	4/17/2019	
750857	Pond	SR 429 Wekiva Pkwy	07/24/17	7/24/2019	
750858	Pond	SR 429 Wekiva Pkwy	07/24/17	7/24/2019	
750859	over Wekiva Pkwy	SR 429 Wekiva Pkwy	11/15/18	11/14/2020	
750860	over Wekiva Pkwy	SR 429 Wekiva Pkwy	05/25/17	5/25/2019	
750861	Ponkan Rd	SR 429 Wekiva Pkwy	04/17/17	4/17/2019	
750862	Ponkan Rd	SR 429 Wekiva Pkwy	04/17/17	4/17/2019	
750863	Ondich Rd	SR 429 Wekiva Pkwy	03/27/18	3/26/2020	
750864	Ondich Rd	SR 429 Wekiva Pkwy	03/27/18	3/26/2020	3/27/18
750865	1.3 mi N of Kelly Park Rd	SR 429 Wekiva Pkwy	02/15/18	2/15/2020	
750866	1.3 mi N of Kelly Park Rd	SR 429 Wekiva Pkwy	02/15/18	2/15/2020	
750867	Ondich Rd	SR 429 Wekiva Pkwy	03/01/18	2/29/2020	
750868	SR 429 NB & SB	SR 429 Wekiva Pkwy	03/04/18	3/3/2020	
750869	Plymouth Sorrento Rd	SR 429 Wekiva Pkwy	02/15/18	2/15/2020	
750870	Plymouth Sorrento Rd	SR 429 Wekiva Pkwy	02/15/18	2/15/2020	
750871	Morris Rd	SR 429 Wekiva Pkwy	03/01/18	2/29/2020	
750872	Morris Rd	SR 429 Wekiva Pkwy	03/01/18	2/29/2020	
750873	SB SR 429 over pond 2	SR 429 Wekiva Pkwy	03/01/18	2/29/2020	
750874	NB SR 429 over pond 2	SR 429 Wekiva Pkwy	03/01/18	2/29/2020	
750875	SB SR 429 over FGT Easement	SR 429 Wekiva Pkwy	03/01/18	2/29/2020	
750876	NB SR 429 over FGT Easement	SR 429 Wekiva Pkwy	03/01/18	2/29/2020	
750877	Mt Plymouth Rd	SR 429 Wekiva Pkwy	03/01/18	2/29/2020	
750878	Mt Plymouth Rd	SR 429 Wekiva Pkwy	03/01/18	2/29/2020	
750925	SB over County Line	SR 453 Wekiva Pkwy	02/20/18	2/20/2020	
750926	NB over County Line	SR 453 Wekiva Pkwy	02/20/18	2/20/2020	
750927	over Sommerset Dr	SR 453 Wekiva Pkwy	01/23/18	1/23/2020	




**CONSENT AGENDA ITEM  
#9**



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 23, 2019

SUBJECT: Approval of Supplemental Agreement No. 1 with Quest Corporation of America (QCA), Inc. for Public Information Services Contract No. 001298

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Board approval is requested for Supplemental Agreement No. 1 with QCA, in the amount of \$677,692.00. The original contract was for three years with two one-year renewals.

The services include supporting all public information services required for CFX system projects and initiatives included in the Five-Year Work Plan. CFX's Five-Year Work Plan has substantially increased year over year along with the resultant work required by QCA. This growth is anticipated to continue and outpace the original scope outlined in QCA's contract awarded in 2017.

Original Contract	\$1,305,752.36
Supplemental Agreement No. 1	<u>\$ 677,592.00</u>
Total	\$1,983,344.36

This contract is a component of projects included in the Five-Year Work Plan.

Reviewed by: 

Angela Melton  
Manager of Communications

CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SUPPLEMENTAL AGREEMENT NO. 1  
TO  
AGREEMENT FOR PUBLIC INFORMATION SERVICES  
CONTRACT NO. 001298

This Supplemental Agreement No. 1 ("Supplemental Agreement") is entered into this 9<sup>th</sup> day of May, 2019, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and QUEST CORPORATION OF AMERICA, INC. (the "Contractor").

WITNESSETH:

WHEREAS, CFX and the Contractor on November 9, 2017, entered into an Agreement whereby CFX retained the Contractor to provide public information services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$677,592.00 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Contractor hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated November 9, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Contractor shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$677,592.00 which shall make the total not-to-exceed amount of the Contract \$1,983,344.36

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

IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the day and year first written above. This Supplemental Agreement No. 1 was approved by CFX Board of Directors on May 9, 2019.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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

**QUEST CORPORATION OF AMERICA, INC.**

By: \_\_\_\_\_  
\_\_\_\_\_  
Print Name

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

Witness: \_\_\_\_\_

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

Approved as to form and execution, only.

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

**CONTRACT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
QUEST CORPORATION OF AMERICA, INC.**

**PUBLIC INFORMATION SERVICES**

**CONTRACT NO. 001298**

**CONTRACT DATE: NOVEMBER 9, 2017**

**CONTRACT AMOUNT: \$1,305,752.36**

**CONTRACT, SCOPE OF SERVICES, PRICING SHEET,  
METHOD OF COMPENSATION, AND POTENTIAL  
CONFLICT DISCLOSURE FORM**

**CONTRACT, SCOPE OF SERVICES, PRICING SHEET, METHOD OF  
COMPENSATION, AND POTENTIAL CONFLICT DISCLOSURE FORM**

**PUBLIC INFORMATION SERVICES**

**CONTRACT NO. 001298**

**NOVEMBER 2017**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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**CONTRACT**

This Contract is made this 9<sup>TH</sup> day of November 2017, between the 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 Quest Corporation of America, Inc., a Florida corporation, registered and authorized to do business in the State of Florida, whose principal address is 17220 Camelot Ct., Land O' Lakes, FL. 34638, hereinafter "the CONTRACTOR."

**WITNESSETH:**

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

**WHEREAS**, CFX has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do everything necessary or convenient for the conduct of its business and the general welfare of the authority in order to comply with this part or any other law;" and

**WHEREAS**, CFX has determined that it is necessary and convenient in the conduct of its business to retain the services of a CONTRACTOR to perform Public Information Services and related tasks as may be assigned to the CONTRACTOR by CFX; and

**WHEREAS**, on or about August 14, 2017, CFX issued a Request for Proposals seeking qualified contractors to perform such tasks; and

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

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

**1. SERVICES TO BE PROVIDED**

The CONTRACTOR shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Scope of Services attached as Exhibit "A" which is hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized representatives of CFX, who shall have at all times full opportunity to evaluate the services provided under this Contract.

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

## 2. TERM AND NOTICE

The initial term of the Contract will be three (3) years days from the date indicated in the Notice to Proceed from CFX, hereinafter "Initial Contract Term." At the sole discretion and election of CFX, there may be two (2) one year renewal options, or portions thereof. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by CONTRACTOR are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide CONTRACTOR with written notice of its intent at least 90 days prior to the expiration of the term of the Contract.)

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

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

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



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

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

CFX reserves the right to immediately cancel or immediately terminate this Contract in the event the CONTRACTOR or any employee, servant, or agent of the CONTRACTOR is indicted or has a direct information issued against him for any crime arising out of or in conjunction with any work being performed by the CONTRACTOR for on behalf of CFX, without penalty. Such termination shall be deemed a termination for default.

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

### **3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES**

3.1 The not-to-exceed Contract Amount for the Initial Contract Term is \$1,305,752.36 as outlined in Option 1 of the Pricing Sheet attached hereto as Exhibit "B" and incorporated by reference as though set forth fully herein.

3.2 CFX agrees to pay CONTRACTOR for services performed in accordance with the Method of Compensation attached hereto as Exhibit "C" and incorporated by reference as though set forth fully herein.

**4. AUDIT AND EXAMINATION OF RECORDS**

**4.1 Definition of Records:**

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

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

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

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

**Final Audit for Project Closeout:** The CONTRACTOR shall permit CFX, at CFX'S option, to perform or have performed, an audit of the records of the CONTRACTOR and any or all subcontractors to support the compensation paid the CONTRACTOR. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the CONTRACTOR under the Contract are subsequently determined to have

been inadvertently paid by CFX because of accounting errors or charges not in conformity with the Contract, the CONTRACTOR agrees that such amounts are due to CFX upon demand. Final payment to the CONTRACTOR shall be adjusted for audit results.

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

#### **5. PUBLIC RECORDS**

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 407-690-5000, publicrecords@CFXWay.com, and 4974 ORL Tower Road, Orlando, FL. 32807.**

Notwithstanding the section on "Press Releases," 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 that 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 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 CONTRACTOR or keep and maintain public records required by the public agency to perform the service. If CONTRACTOR transfers all public records to the public agency upon completion of the contract, CONTRACTOR shall destroy any duplicate public

records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the contract, 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 Contract Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act and CONTRACTOR must provide the records to CFX or allow the records to be inspected or copied within a reasonable time. Failure by CONTRACTOR to grant such public access shall be grounds for immediate unilateral termination of this Contract by CFX for cause. Failure to provide the public records to CFX within a reasonable time may subject the CONTRACTOR to penalties under Section 119.10, Florida Statutes.

The obligations in this Section shall survive the expiration or termination of this Contract and continue in full force and effect as set forth above.

#### **6. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT**

No Contingent Fees. CONTRACTOR warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for CONTRACTOR, to solicit or secure this Contract, and that CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For breach of this provision, CFX shall have the right to terminate this Contract without liability at its sole discretion.

CONTRACTOR acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Code of Ethics. CONTRACTOR acknowledges that it has read the CFX's Code of Ethics and, to the extent applicable, CONTRACTOR 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, CONTRACTOR 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. The Potential Conflict Disclosure Form is attached as **Exhibit "D."**

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

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in 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.

CONTRACTOR 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 CONTRACTOR, and that no such person shall have any such interest at any time during the term of this Agreement.

#### **7. DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISES**

CFX has adopted a program to provide opportunities for small business, including Disadvantaged/Minority Business Enterprises ("D/MBEs") and Women's Business Enterprises ("WBEs"). Under CFX's program, CONTRACTOR is encouraged to grant small businesses the opportunity to participate in CFX's contracts. CONTRACTOR shall provide information regarding its employment of such businesses and the percentage of payments made to such businesses and others. CONTRACTOR shall provide an annual report to CFX on or before each anniversary of the date indicated in the Notice to Proceed and throughout the Term, regarding use of small business D/MBEs and WBEs and the percentage of payments made to enterprises falling within such categories. Such report shall consolidate the information contained in CONTRACTOR's invoices, and shall be in a form reasonably acceptable to CFX.

#### **8. CONTRACTOR INSURANCE**

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

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

coverage shall include coverage for responsibilities and liabilities assumed by CONTRACTOR under this Agreement.

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

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

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

8.5 **Professional Liability.** 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 CONTRACTOR.

8.6 **Information Security/Cyber Liability Insurance** to include Internet Media Liability including cloud computing and mobile devices, for protection of private or confidential information whether electronic or non-electronic, network security and privacy; privacy against liability for system attacks, digital asset loss, denial or loss of service, introduction, implantation or spread of malicious software code, security breach, unauthorized access and use; including regulatory action expenses; and notification and credit monitoring expenses with at least the minimum limits listed below.

- Each Occurrence – \$1,000,000
- Network Security / Privacy Liability –\$1,000,000
- Breach Response/ Notification Sublimit – A minimum limit of 50% of the policy aggregate
- Technology Products E&O – \$1,000,000 (**Only applicable for Vendors supplying technology related services and or products**)
- Coverage shall be maintained in effect during the period of the Agreement and for no less than two (2) years after termination/ completion of the Agreement.

Information Security/Cyber Liability Insurance written on a "claims-made" basis covering Supplier, its employees, subcontractors and agents for expenses, claims and losses resulting from wrongful acts committed in the performance of, or failure to perform, all services under this Agreement, including, without limitation, claims, demand and any other payments related to electronic or physical security, breaches of confidentiality and invasion of or breaches of privacy.

Such insurance policies shall be without co-insurance, and shall (a) include CFX, and such other applicable parties CFX shall designate, as additional insureds for commercial general liability and business automobile liability, (b) be primary insurance, (c) include contractual liability for commercial general liability, (d) provide that the policy may not be canceled or materially changed without at least thirty (30) days prior written notice to CFX from the company providing such insurance, and (e) provide that the insurer waives any right of subrogation against CFX, to the extent allowed by law and to the extent the same would not void primary coverage for applicable insurance policies. CONTRACTOR shall be responsible for any deductible it may carry. At least fifteen (15) days prior to the expiration of any such policy of insurance required to be carried by CONTRACTOR hereunder, CONTRACTOR shall deliver insurance certificates to CFX evidencing a renewal or new policy to take the place of the one expiring. Procurement of insurance shall not be construed to limit CONTRACTOR's obligations or liabilities under the Contract. The requirement of insurance shall not be deemed a waiver of sovereign immunity by CFX.

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

Failure of CFX to demand such certificate or evidence of full compliance with these insurance requirements or failure of CFX to identify a deficiency from evidence provided will not be construed as a waiver of the CONTRACTOR's obligation to maintain such insurance.

The acceptance of delivery by CFX of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by CFX that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

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.

#### **9. CONTRACTOR RESPONSIBILITY**

CONTRACTOR shall comply with, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible to comply with, applicable laws, ordinances, rules, regulations, orders of public authorities, sound business practices, including without limitation:

- (i) those relating to the safety of persons and property and their protection from damage, injury or loss; and
- (ii) all workplace laws, regulations, and posting requirements; and

- (iii) all professional laws, rules, regulations, and requirements; and
- (iv) implementation of a drug-free workplace policy at least of a standard comparable to, and in compliance with, CFX'S Drug-Free Workplace Policy; and
- (iv) compliance with the public records laws of Chapter 119, Florida Statutes.

## **10. INDEMNITY**

CONTRACTOR 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 CONTRACTOR and other persons employed or utilized by CONTRACTOR in the performance of the contract.

Further, CONTRACTOR shall indemnify, defend and hold harmless CFX, and its respective officers and employees, from actual suits, actions, claims, demands, costs as defined elsewhere herein, expenses (including reasonable attorneys' fees as defined elsewhere herein), judgments, liabilities of any nature whatsoever (collectively, "Claims") arising out of, because of, or due to breach of the Contract by the CONTRACTOR, its subcontractors, officers, agents or employees, or due to any negligent or intentional act or occurrence of omission or commission of the CONTRACTOR, its subcontractors, officers, agents or employees, including without limitation any misappropriation or violation of third party copyright, trademark, patent, trade secret, publicity, or other intellectual property rights or other third party rights of any kind, by or arising out of any one or more of the following:

10.1 violation of same by CONTRACTOR, its subcontractors, officers, agents or employees,

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

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

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

10.5 CONTRACTOR's failure to include terms in its subcontracts as required by this Contract,

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



10.7 CONTRACTOR's breach of any of the warranties or representations contained in this Contract.

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

**11. PRESS RELEASES**

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

**12. PERMITS, LICENSES, ETC.**

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

**13. NONDISCRIMINATION**

CONTRACTOR, its employees, officers, agents, and subcontractors shall not discriminate on the grounds of race, color, religion, sex, national origin, or other protected class, in the performance of work or selection of personnel under this Contract.

**14. ASSIGNMENT AND REMOVAL OF KEY PERSONNEL**

A significant factor in the decision of CFX to award this Contract to the CONTRACTOR is the level of expertise, knowledge and experience possessed by employees of CONTRACTOR, particularly the individuals listed below, hereinafter "Key Personnel."

Name and Title of Key Personnel

Kathy Putnam, Senior PIO	Cliff Davy, Senior PIO
Shari Croteau, PIO	Sara Shepherd, PIO
Lisa Mark, PIO	

and CONTRACTOR's covenant to have employees possessing such expertise, knowledge and experience available at all times to assist in the provision of the services. Throughout the term of this Contract, CONTRACTOR shall employ individuals having significant training, expertise, and experience in the areas or disciplines more particularly set forth in the RFP and Scope of Services, together with such other areas of expertise or experience, as may be designated from time to time during the term of this Contract by CFX. When CFX designates an additional area for which expertise or experience shall be required, CONTRACTOR shall use all reasonable and diligent efforts to promptly hire and retain one or more individuals possessing such experience or expertise.

CONTRACTOR shall hire and maintain Key Personnel as employees throughout the term of the Contract. The identity of the individuals, initially assigned to each of such positions by CONTRACTOR, are listed above and CFX shall be notified in advance of any changes in the individuals. The Key Personnel shall be committed to performing services on this Contract to the extent required. Key Personnel may be dismissed for unsatisfactory performance or any reason set forth below.

If prior to the second anniversary of the first date of the initial term of this Contract, CONTRACTOR removes, suspends, dismisses, fires, transfers, reassigns, lays off, discharges, or otherwise terminates any Key Personnel without the prior notification to CFX, such action shall constitute an event of default by CONTRACTOR hereunder. CONTRACTOR may cure such event of default only by replacing the Key Personnel with another employee having comparable experience and qualifications.

Promptly upon request of CFX, CONTRACTOR shall remove from activities associated with or related to the performance of this Contract any employee whom CFX considers unsuitable for such work. Such employee shall not be reassigned to perform any work relating to the services except with the express written consent of CFX.

The CONTRACTOR's managers and superintendents shall speak and understand English, and at least one responsible management person who speaks and understands English shall be at each of the work locations during all working hours.

#### **15. NOTIFICATION OF CONVICTION OF CRIMES**

CONTRACTOR shall notify CFX if any of CONTRACTOR's Key Personnel shall be convicted of any crime, whether state or federal, or felony or misdemeanor of any degree. Such notification shall be made no later than thirty (30) days after the conviction, regardless of whether such conviction is appealed.

#### **16. COMPLIANCE WITH LAWS; EQUAL OPPORTUNITY EMPLOYMENT**

CONTRACTOR shall conform and comply with and take reasonable precaution to ensure that every one of their directors, officers and employees abides by and complies with all applicable laws of the United States and the State of Florida, and all local laws and ordinances.

Furthermore, CONTRACTOR agrees to and shall comply with all federal, state and local laws and ordinances prohibiting discrimination with regard to race, color, national origin, ancestry, creed, religion, age, sex, marital status or the presence of any sensory, mental or physical handicap or other disability, and will take affirmative steps to insure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, disability or national origin. This provision shall include, but not be limited to, the following: employment; promotion; demotion; transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**17. SUBLETTING AND ASSIGNMENT**

CFX has selected CONTRACTOR to perform the Services based upon characteristics and qualifications of CONTRACTOR and its employees and the subcontractors listed below.

List of Subcontractors  
Environmental Transportation Planning - UN# 30832  
Greenlando Consulting -

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

If, during the term of the Contract, CONTRACTOR desires to subcontract any portion(s) of the work to a subcontractor that was not disclosed by the CONTRACTOR to CFX at the time that the Contract was originally awarded, and such subcontract would, standing alone or aggregated with prior subcontracts awarded to the proposed subcontractor, equal or exceed twenty-five thousand dollars (\$25,000.00), the CONTRACTOR shall first submit a request to CFX's Director of Procurement for authorization to enter into such subcontract. Except in the case of an emergency, as determined by the Executive Director or his/her designee, no such subcontract shall be executed by the CONTRACTOR until it has been approved by CFX Board. In the event of a designated emergency, the CONTRACTOR may enter into such a subcontract with the prior written approval of the Executive Director or 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.

**18. DISPUTES**

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of CFX's Executive Director (or his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. The

Executive Director's decision upon all claims, questions and disputes shall be final agency action. Adjustments of compensation and Contract time, because of any major changes in the work that may become necessary or desirable as the work progresses shall be left to the absolute discretion of the Executive Director (and CFX Board if amendments are required) and supplemental agreement(s) of such nature as required may be entered into by the parties in accordance herewith.

**19. OTHER SEVERABILITY**

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

**20. INTEGRATION**

It is understood and agreed that the entire agreement of the parties is contained in this Contract herein and that this Contract supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to 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.

**21. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT**

CONTRACTOR 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."

CONTRACTOR 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.”

**22. APPLICABLE LAW; VENUE**

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

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

**23. RELATIONSHIPS**

CONTRACTOR acknowledges that no employment relationship exists between CFX and CONTRACTOR or CONTRACTOR's employees. CONTRACTOR shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. CONTRACTOR shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax and income tax withholding, unemployment compensation, workers compensation, and employment benefits. CONTRACTOR shall conduct no act or omission that would lead CONTRACTOR's employees or any legal tribunal or regulatory agency to believe or conclude that CONTRACTOR's employees would be employees of CFX.

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

**24. INTERPRETATION**

For purposes of this Contract, the singular shall include the plural, and the plural shall include the singular, unless the context clearly requires otherwise. Except for reference to women's business enterprises and matters relating thereto, reference to one gender shall include all genders. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the stated statute or regulation. Words not otherwise defined and that have well-known technical, industry, or legal meanings, are used in accordance with such recognized meanings, in the order stated. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities. If CONTRACTOR discovers any material discrepancy, deficiency, or ambiguity in this Contract, or is otherwise in doubt as to the meaning of any provision of the Contract, CONTRACTOR may immediately notify CFX and request clarification of CFX's interpretation of the Contract.

**25. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE**

The CONTRACTOR hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached documentation supporting the compensation are accurate, complete and current as of the date of this Contract. It is further agreed that said price shall be adjusted to exclude any significant sums where CFX shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by CFX, whichever is later.

**26. SURVIVAL OF EXPIRATION OR TERMINATION**

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

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

26.2 Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and

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

26.4 Obligations upon expiration or termination of the Contract; and

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

**27. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT**

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

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

**28. INSPECTOR GENERAL**

CONTRACTOR 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.

**28. ASSIGNMENT**

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

**29. E-VERIFY**

CONTRACTOR shall utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of all new employees hired by the CONTRACTOR during the term of the contract. CONTRACTOR shall require all of its subcontractors to verify the employment eligibility of all new employees hired by the subcontractors during the term of the Agreement.

**30. APPROPRIATION 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 CONTRACTOR to that effect.

**31. NOTICE TO THE PARTIES**

Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered or certified United States mail, with return receipt requested, addressed to the party to whom it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to wit:

CFX:                   CENTRAL FLORIDA EXPRESSWAY CFX  
                          4974 ORL Tower Road  
                          Orlando, Florida 32807  
                          ATTN: Joe Passiatore, General Counsel

Contract No. 001298

CONTRACTOR: QUEST CORPORATION OF AMERICA, INC.  
17220 Camelot Court  
Land O' Lakes, Florida 34638  
ATTN: Diane Hackney

**32. EXHIBITS**

This Contract references the exhibits listed below.

- Exhibit "A" Scope of Services
- Exhibit "B" Pricing Sheet
- Exhibit "C" Method of Compensation
- Exhibit "D" Potential Conflict Disclosure Form

[SIGNATURES TO FOLLOW]



Contract No. 001298

IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties as of the day and year first above written. This Contract was awarded by CFX's Board of Directors at its meeting on November 9, 2017.

ACCEPTED AND AGREED TO BY:

QUEST CORPORATION OF AMERICA, INC.

By: [Signature]  
Vice President

Title

ATTEST: [Signature] (Seal)

DATE: 11/16/17

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: [Signature]  
Director of Procurement

2017 NOV 20 AM 9:38

Print Name: Aneth Williams

Date: 12/13/17

*Approved as to form and execution for the use and reliance by CFX only.*

[Signature]  
General Counsel for CFX

**SCOPE OF SERVICES  
PUBLIC INFORMATION SERVICES  
CONTRACT NO. 001298**

**1.0 GENERAL**

This Scope of Services is a general guide and is not intended to be a complete list of all work and materials necessary to provide services. It contains work tasks believed necessary for public information services for projects included in the Central Florida Expressway Authority's (CFX) 5-year work plan, excluding Wekiva Parkway projects, as approved at the time of proposal and including any subsequent updates that occur during the course of the contract period that meets CFX's needs.

**2.0 CONTRACTOR SERVICES**

The Contractor shall provide qualified professional, technical and support personnel to perform the work and provide the expertise and resources required by CFX. The Contractor shall work closely with CFX's Public Outreach and Communications Team and designated Project Manager in providing the services included in this Scope of Services, as directed by CFX. CFX, at its option, may elect to expand, reduce or delete the extent of the work described herein. All work performed by the Contractor shall be specifically authorized and approved in advance by CFX. Should there be circumstances in which new or replacement personnel is required during the contract period, the Contractor will notify and present such changes in advance of making any changes to CFX.

**2.1 Public Involvement**

**Overview**

The Central Florida Expressway Authority (CFX) understands that extensive public involvement is needed through all phases of a project, from the early planning stages through the end of construction. CFX is in compliance with Florida Department of Transportation (FDOT) public involvement policies, practices and other legal foundations for public involvement as outlined in the FDOT *Public Involvement Handbook* (July 2015). The FDOT *Public Involvement Handbook* provides techniques and methods to encourage meaningful public participation throughout the transportation decision-making process. It also provides guidance for developing and implementing effective public involvement activities during PD&E, Design and Construction that meet and/or exceed state and federal requirements.

2.1.1 Public involvement includes communicating to and receiving information from all interested persons, groups and government organizations information regarding the development of a project. The Contractor, per the direction of the Project Manager, shall scale public involvement efforts to match the magnitude and complexity of each construction project.

2.1.2 The Contractor shall provide the Project Manager with drafts of all Public Involvement collateral (i.e., newsletters, property owner letters, elected/appointed/stakeholder mailing lists, advertisements, fact sheets, etc.) associated with the following tasks for review and approval at least five (5) business days prior to printing and/or distribution.

2.1.3 In addition to public involvement data collection, the Contractor shall assist CFX in preparing responses to any public inquiries as a result of the public involvement process. The Contractor shall keep detailed records of all contact with the public on behalf of CFX (See Section 2.3.7 - Project Database).

2.1.4 The Contractor shall provide all support necessary for CFX to hold or participate in various public meetings and events. For any of public meetings, the Contractor shall prepare and/or provide as directed by CFX:

- Scripts or agenda for presentation.
- Handouts, name tags and sign in sheets
- Graphics for presentations
- Photos from events and public meetings
- Meeting equipment set-up and tear-down
- Legal and/or display advertisements. The Contractor may, at CFX's sole discretion, be required to pay for the cost of publishing and will be reimbursed through the Allowance for Assignment Expenses
- Letters for notification of elected and appointed officials, property owners and other interested parties. The Contractor may, at CFX's sole discretion, be required to pay for first class postage and be reimbursed through the Allowance for Assignment Expenses
- News releases and social media posts / notifications, for use three to five days prior to meeting
- Summary notes of meetings to be provided to CFX no later than 5 business days after the meeting
- A meeting summary report
- Briefing and debriefing to appropriate CFX staff

2.1.5 The Contractor shall research potential meeting sites to advise CFX on their suitability. The Contractor may, at CFX's sole discretion, be required to pay all costs for meeting site rents and insurance and be reimbursed through the Allowance for Assignment Expenses.

2.1.6 The Contractor shall attend the meetings with an appropriate number of personnel to assist CFX's Project Manager and Communications Team.

2.1.7 In addition to scheduled public meetings, the Contractor may, at CFX's sole discretion, be required to participate in unscheduled meetings with the public, elected officials, or public agencies. The Contractor's participation may include but not limited to, participation during the meeting, note taking, and summarizing the meeting in a memo to the file.

2.1.8 The Contractor shall work directly with the CFX's Project Manager to identify and execute community outreach opportunities related to projects included in the 5-year work plan. This may include meetings and/or presentations with Homeowners' Associations, PTO's, local government or community organizations, businesses or other groups as identified.

2.1.9 The Contractor, as directed by the Project Manager, shall coordinate and conduct a pre-construction public meeting with the engineering and/or construction teams at least one month prior to the start of major construction projects.

2.1.10 Special Meetings - When a specific issue arises that requires immediate attention, the Contractor shall, as directed by CFX' Project Manager, arrange field meetings with residents and/or business owners to address their issues directly and quickly.

2.1.11 The Contractor shall provide staffing support, as directed by CFX's Project Manager, for public events and festivals.

2.1.12 The Contractor shall identify opportunities to conduct educational outreach and, with approval from CFX, present to area schools students (such as participation in Orange County Public School's 'Be A Teacher For A Day' program).

## **2.2 Public Hearings**

2.2.1 The Contractor shall follow guidelines set forth by the Florida Department of Transportation's Public Involvement Handbook as it pertains to the requirements for Public Hearings including the following:

2.2.2 Public officials and Agency letters. The Contractor shall prepare the letters, insert them in envelopes, and address the envelopes. The Contractor may, at CFX's sole discretion, be required to pay for first class postage and be reimbursed through the Allowance for Assignment Expenses.

2.2.3 Property owner letters. The Contractor shall provide marked tax maps of the project alternatives and identify the names and addresses of the property owners from county tax rolls. The Contractor shall prepare the letters, insert them in envelopes, and address the envelopes. The Contractor may, at CFX's sole discretion, be required to pay for first class postage and be reimbursed through the Allowance for Assignment Expenses.

2.2.4 The Contractor shall provide the following items for public hearings:

- All elements of the multi-media presentation
- Graphics and photographs
- Displays of plans and report(s) for the public display
- Prepare a sufficiency review with the project team and CFX staff at least one week prior to the public hearing for the review of all meeting materials

- Brochures and/or handouts (printed in sufficient numbers to accommodate the number of attendees)
- Prepare public advertisements
- Court Reporter
- A meeting summary report
- Briefing and debriefing to appropriate CFX staff

2.2.5 The Contractor shall procure a verbatim transcript of the Public Hearing. The Contractor shall combine the transcript with any letters received by CFX as part of the public hearing record, affidavits of publication of legal ads and shall provide copies of the transcript for CFX's use. The Contractor shall also prepare a Public Hearing Summary and Transcript if the project will be processed as a Categorical Exclusion.

## 2.3 Public Information

2.3.1 The Contractor shall prepare a Community Awareness Plan (CAP) for each project at a minimum of 6 weeks prior to the start of construction. The objective of the CAP is to establish a clear plan on how the stakeholders (local governments, property owners, tenants, businesses, motorists and the public) will be notified of the planned project and how they will continue to be informed throughout construction. The CAP contains a comprehensive inventory of project stakeholders and identifies potential challenges and issues that might arise during construction. The CAP also identifies potential challenges and serves as a proactive 'road map' of how the public involvement effort will address those challenges.

2.3.2 Project Factsheets - Following Florida's Plain Language Initiative Guidelines, the Contractor shall create customized Fact Sheets for CFX construction projects. The Fact Sheets provide a project overview (including the scope, limits and duration), a map graphic and details noting the benefits of the project. The Contractor shall disseminate the Fact Sheets to the project stakeholders prior to the start of construction and place them on the project webpage on CFX's website.

2.3.3 Website – CFX creates a unique section on our website for current and planned construction projects containing project information, maps, pictures and even videos. The Contractor shall submit project updates directly to CFX' website as appropriate. The Contractor, at CFX's sole discretion, may also be required to create project web pages/websites throughout the planning and construction process.

2.3.4 Construction Alerts – The Contractor shall prepare and distribute, following the review and approval of CFX's Project Manager, construction alerts about construction-related closures and detours. The construction alerts shall describe the traffic impacts, provide a brief summary of the construction project and a point of contact for additional information. The Contractor shall email the alerts to the media, emergency services and other stakeholders. The Contractor shall also post the alerts on CFX's website.

2.3.5 Additional Notifications – To provide advanced information about major construction-related events, the Contractor shall coordinate with CFX to send customized email alerts to E-PASS customers. The email alerts shall be sent approximately 2-3 days prior to the scheduled construction event and shall be targeted to E-PASS customers that travel through the specific work area.

In cases where construction may impact nearby homes or businesses (such as night work, pile driving, or street closures), the Contractor shall prepare and distribute Door Hanger Flyers (typically double-sided with one English side and one Spanish side). The door hangers shall provide details about the work, the possible impact and a point of contact for questions or additional information.

In unique cases when a major travel impact is planned, the Contractor shall coordinate with CFX to design and print flyers to be distributed to customers using the Cash/Receipt lanes at Main Toll Plazas. The flyers are typically distributed 4-5 days prior to the scheduled work.

2.3.6 The Contractor shall respond to calls to CFX's public information cell phone hotlines within one hour of receipt, or the morning of the next business day if received after hours or on the weekend. CFX will provide the phones and service.

2.3.7 Project Database – the Contractor shall create a customized database for each construction project. The Contractor shall continuously update the databases with a comprehensive record of all contacts made, action taken, and information received and disseminated throughout the life of each construction project. The Contractor shall provide CFX's Communications team a weekly report for each of the active projects or as requested.

2.3.8 Media Outreach - Reaching out to the media to make them aware of pending projects and major activities helps CFX to foster trust and openness. The Contractor shall be responsible for all press releases to media (TV, radio, newspapers) regarding any forthcoming lane closures, traffic detours, etc. All press releases and construction alerts should be submitted to CFX's Project Manager at least three (3) days prior to the distribution deadline. The Contractor is also required to conduct media outreach and interviews as directed by CFX. The Contractor shall carbon copy CFX's communication team on all media related emails and notify CFX of any and all media inquiries in a timely manner. The Contractor shall also maintain a comprehensive Media Contact database for use in media outreach efforts.

2.3.9 Social Media - The Contractor is required to post construction and project alerts on CFXway.com and post social media updates as directed to CFX's social media platforms.

2.3.10 Weekly coordination meetings - The Contractor shall prepare the Agenda for the weekly PIO Coordination meetings with CFX's Public Outreach and Communications team.

2.3.11 Newsletter content - CFX sends out a monthly electronic newsletter, *Driving CFX*. The newsletter shares CFX information and updates. The newsletter is emailed to drivers who sign up online at [www.CFXway.com](http://www.CFXway.com). CFX also distributes a monthly newsletter, *Leading CFX*, to elected officials and transportation stakeholders. The Contractor will submit articles and photos monthly for the CFX newsletter.

2.3.12 The Contractor shall provide the CFX Public Outreach and Communications team with brief and timely project updates that will be distributed through an email to elected officials and key stakeholders by the CFX team.

2.3.13 The Contractor shall track and coordinate any project related damage claims.

2.3.14 The Contractor shall attend project progress meetings.

2.3.15 The Contractor shall take meeting notes as necessary.

## 2.4 **Quality Control**

The Contractor shall provide a detailed plan of quality control measures to be implemented in this contract and ensuring that all work meets CFX standards and criteria. The plan should outline processes for the measures and ensure that individuals performing quality checks are not directly involved with the day to day tasks but an oversight group of qualified contractor team members.

## 3.0 **ADDITIONAL SERVICES**

Additional services may be assigned to the Contractor in accordance with this Scope of Services. No work will be accomplished under additional services without prior written authorization to the Contractor to perform the work.

END OF SCOPE OF SERVICES


**CONSENT AGENDA ITEM  
#10**



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 19, 2019

SUBJECT: Approval of Supplemental Agreement No. 1 with Vanasse Hangen Brustlin (VHB), Inc. for Post Design Services for Systemwide Fiber Optic Network Upgrade Phase II Project  
Project 599-524, Contract No. 001292


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Board approval is requested for Supplemental Agreement No. 1 with VHB, Inc., for a not-to-exceed amount of \$94,982.67. The original contract was for five years with two one-year renewals.

The services include post design service such as corrections, quantities, special provisions and supporting the project during the construction phase.

Original Contract	\$425,000.00
Supplemental Agreement No. 1	<u>\$ 94,982.67</u>
Total	\$519,982.67

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

Reviewed by:   
Bryan Homayouni, PE  
Manager of Traffic Operations

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

SUPPLEMENTAL AGREEMENT NO. 1  
TO  
AGREEMENT FOR FIBER OPTIC NETWORK PHASE II  
POST DESIGN SERVICES

CONTRACT NO. 001292

This Supplemental Agreement No. 1 (“Supplemental Agreement”) is entered into this 9<sup>th</sup> day of May, 2019, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”), and VANASSE HANGEN BRUSTLIN, INC. (the “Consultant”).

WITNESSETH:

WHEREAS, CFX and the Consultant on October 12, 2017, entered into an Agreement whereby CFX retained the Consultant to furnish certain professional services in connection with the design of the fiber optic network phase II identified as Project 599-524; and

NOW, THEREFORE, BE IT RESOLVED THAT:

1. CFX hereby authorizes the Consultant to proceed with Post Design Services as outlined in the Scope of Services dated April 2019 which is attached hereto and made a part of this Supplemental Agreement. and,
2. All invoices from the Consultant for Post Design Services shall be submitted to CFX with complete documentation. Invoices for Post Design Services shall not be a continuation of the original Consultant’s contract amount for the original Agreement and shall only be for those services as outlined in this Supplemental Agreement. Compensation for Post Design Services shall be invoiced to CFX at an hourly rate, inclusive of overhead, profit and expenses (exclusive of travel). The hourly rate shall be calculated using the employee’s actual direct salary and the negotiated Post Design Services multiplier, as outlined in the Consultant’s correspondence to CFX dated April 18, 2019. Direct expenses will be reimbursed for local travel only (per mile). The maximum fee for Post Design Services shall be \$94,982.67

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

IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the day and year first written above. This Supplemental Agreement No. 1 was approved by CFX Board of Directors on May 9, 2019.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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

**VANASSE HANGEN BRUSTLIN, INC.**

By: \_\_\_\_\_  
\_\_\_\_\_  
Print Name

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

Witness: \_\_\_\_\_

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

Approved as to form and execution, only.

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

**Exhibit “A”**  
**Scope of Services**

**Professional Engineering Design Services**

**Systemwide Fiber Optic Network Upgrade Phase II  
Project**

**Contract 001292; Project No. 599-524**

**Supplemental Agreement No. 1**

**Scope of Services**

**CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY**

**April 2019**

**Exhibit "A"**

**Project 599-524**  
**Systemwide Fiber Optic Network Upgrade Phase II**  
**Section Engineer Post-Design Scope of Services (Section 4.23)**

4.23 Post Design Services

**A. Compensation**

The Consultant's 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 local travel. No compensation will be made for correction of errors and omissions or clarifications.

**B. General Support**

The consultant shall support the post-design process as follows:

- a) Answer questions relative to the plans, typical sections, quantities, special provisions and all Request for Information (RFI's).
- b) Make any necessary corrections to the plans, typical sections, quantities, notes, etc. as may be required.
- c) Attend pre-award meeting with Contractor, CFX, and CFX's CEI.
- d) Review bid of successful proposer to identify unbalanced bid items. Document results of the review in a memo to the Deputy Executive Director.
- e) Attend progress meetings as necessary up to a maximum of (4) meetings to discuss project construction process.
- f) Testing phase support services.

**C. Pre-bid Conference**

The Consultant shall, prior to the pre-bid conference, be prepared to walk the project with the assigned CFX Resident Construction Engineer to discuss the plans and details. The Section Engineer shall be prepared to attend the pre-bid conference and respond to questions related to the plans, details, and special provisions.

**D. Addenda**

The Consultant shall prepare any addenda required to clarify the work included in the contract documents. Addenda may be required based on the project inspection with the assigned CFX Resident Construction Engineer, or questions developed in the pre-bid conference, or conditions discovered by bidders during the bid period.

**E. Field Visits**

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 Section Engineer will periodically visit the project site to observe the progress of construction. This visit will not take the place of formal construction inspection by the CFX's Construction Manager and their inspection team. Rather, it is intended to provide the opportunity for members of the design team to observe whether work by the Contractor is being performed in general conformance with the project

plans. Written memos of all such field visits shall be submitted to CFX and their Construction Manager within five business days of the trip.

**F. Shop Drawing Reviews**

The Consultant shall review and approve shop drawings from the Contractor for FON elements. This work will include the review of proposals for substitutions, development of supplemental agreements, and assistance with other engineering services required to facilitate construction of the project. Reviews will be conducted and returned within two weeks from receipt of information.

**G. Post-Design Contact**

The Consultant shall appoint a responsible member of the firm to be the contact person for all post design services. This person shall be continually available during the course of construction for review of design plans.

**H. Timeliness**

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. Meetings**

The Consultant shall attend partnering meetings as requested by CFX. The Section Engineer will also attend progress / coordination meetings as requested by CFX including, but not limited to, the pre-construction and Notice to Proceed meetings.

**J. Bridge Load Ratings**

N/A

**K. Geotechnical Engineering**

N/A

**L. Utilities**

N/A

**M. Preparation of Record Drawings**

The Consultant shall prepare record drawings in CADD format from redlines provided by the CEI. This work does not include field reviews or providing signed and sealed final drawings. Additionally, maintenance plans will be developed for use by CFX staff in maintaining the system which will include IP address information for all devices and color coding the devices based on which fiber strands they are connected to.

**N. Testing Phase Support Services**

The consultant shall witness and document the testing phase of the network upgrade project as needed during construction.

# **AGREEMENT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
VANASSE HANGEN BRUSTLIN, INC.**

**FIBER OPTIC NETWORK PHASE II**

**CONTRACT NO. 001292, PROJECT NO. 599-524**

**CONTRACT DATE: OCTOBER 12, 2017  
CONTRACT AMOUNT: \$425,000.00**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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



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

**FOR**

**FIBER OPTIC NETWORK PHASE II**

**DESIGN SERVICES**

**CONTRACT NO. 001292, PROJECT NO. 599-524**

**OCTOBER 2017**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

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

THIS AGREEMENT, made and entered into this 12<sup>th</sup> day of October, 2017, 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 Vanasse Hangen Brustlin, 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 225 East Robinson Street, Suite 300, Orlando, FL., 32801.

**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 Manager of Traffic Operations 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 the Fiber Optic Network Phase II identified as Project No.599-524 and Contract No. 001292.

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 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.

WBQ Design and Engineering, Inc.

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 \$425,000.00 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 225 East Robinson Street, Suite 300, Orlando, FL., 32801.

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

Project No. 599-524  
Contract No. 001292

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

To CONSULTANT: Vanasse Hangen Brustlin, Inc.  
225 East Robinson Street, Suite 300  
Orlando, FL., 32801  
Attn: Joe Perri

Vanasse Hangen Brustlin, Inc.  
225 East Robinson Street, Suite 300  
Orlando, FL., 32801  
Attn: Dave Muholland, 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

[ SIGNATURES TO FOLLOW ]

Project No. 599-524  
Contract No. 001292


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 October 12, 2017.

**VANASSE HANGEN BRUSTLIN, INC.**

**CENTRAL FLORIDA  
EXPRESSWAY AUTHORITY**

BY:   
Authorized Signature

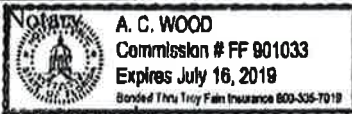
BY:   
Director of Procurement

Print Name: Paul W. Yergain

Print Name: Dawneth Williams

Title: Managing Director

ATTEST:  (Seal)  
Secretary or



*Approved as to form and execution, only.*

  
General Counsel for CFX

2018 APR 11 PM 1:43

**Exhibit “A”**  
**Scope of Services**

# **Professional Engineering Design Services**

**Contract 599-524: Intelligent Transportation System  
ITS Network Upgrade – Phase 2**

## **Scope of Services**

**Prepared by**



**CENTRAL  
FLORIDA  
EXPRESSWAY  
AUTHORITY**



**Central Florida Expressway Authority**

**March 2017**

## **1.0 GENERAL**

### **1.1 OVERVIEW AND PROJECT BACKGROUND**

The Central Florida Expressway Authority (CFX), in an effort to deliver on its Three Year Strategic Plan has decided to take a system engineering approach to meet mission objectives and arrive at a final fiber optic network system design. Part of this strategy is upgrading the Intelligent Transportation System (ITS) fiber optic network (FON) to deliver a world class mobility system that will deliver integrated solutions to support commerce, safety and quality of life for CFX's customers. CFX has identified the need for expanding the current fiber optic network's capability, scalability and failsafe measures for short term best practices and long term growth and efficiency. This proposed topology will improve data transmission reliability and robustness to the ITS roadside operational equipment in addition to eliminating single points of failure, effectively reducing network outages. The designer of this project shall be tasked to utilize the 72-count single mode fiber optic feeder cables to meet an architecture plan designed and approved by CFX. All rings within the system architecture that feed back to a layer 3 router shall utilize all 12 fibers within the selected buffer and shall design a "daisy-chain" fiber allocation in which each layer 2 managed field Ethernet switch shall be sequentially connected at every sixth location throughout the ring. In turn, each sequential fiber pair shall also follow the same order so that every sixth switch shall rotate through each same fiber strand pair in a similar sequential order.

It shall be the Designers responsibility to conduct a system-wide analysis of the existing FON and review and identify specific requirements/components necessary to complete the Phase 2 ITS Network Upgrade deployment along all existing CFX roadways except for the Wekiva Parkway Extension, which will be completed by others.

This Scope of Services describes the design work necessary to meet the following project objectives:

- Redesign each of the existing ITS network device rings for optimum bandwidth with little to no latency when transmitting between the edge devices, the core network or end users.
- Design each ITS network device rings to have a minimum of two (2) connections to two different existing mainline routers to ensure redundant data transmission in the event of a severed optical cable or device power failure.
- Each existing ITS network device connections shall be divided into a total of six (6) physical network segments in a daisy-chained fashion with an approximate fifteen (15) devices maximum per segment.
- Design, research, and communicate with CFX ITS staff or approved designee to determine necessary fiber allocation for the Edge network. Field visits to sites including manhole access shall be required. Field visits are minimized to the locations in which the drop cables are being replaced with a maximum of 100 locations being identified.
- Develop optical circuits for a point-to-point routed links for Virtual Router Redundant Protocol (VRRP) and Ethernet Access Packet Switching (EAPS) protocol.
- Develop proper network and fiber documentation to illustrate proposed design (i.e. overall network design topologies, splice diagrams and ITS device port assignments)
- Coordination meetings with CFX Staff, CFX Network Integration Staff and the General Systems Consultant (GSC).
- Provide proposed network topology and splicing diagrams for all existing ITS device locations.



- Relocate existing drop cables connecting to ITS equipment from the backbone cable to the feed cable and fusion splice the backbone cable at those locations to allow the fiber to express through.

## 1.2 PROJECT DESCRIPTION

CFX requires professional design services to support the deployment of ITS Components on the Phase 2 ITS Network Upgrade project. These requirements are described in detail below.

The designer shall coordinate with the ITS staff to discuss the agreed upon design for the core network which includes CFX ITS two (2) existing Extreme Networks Black Diamond 8806 routers that are currently located at CFX Headquarters Building and the Hiwassee Data Center. These routers make up CFX ITS core network. In addition to the core network, CFX Staff has also determined an overall logical design for the aggregate network which includes the Extreme X460 Layer 3 switches located at each toll plaza as well as the Edge Layer 2 switches located throughout CFX infrastructure. The design for the Edge network shall be required to ensure the fiber design meets the requirements for additional rings as shown in the concept design. The designer shall in coordination with CFX staff, determine, document and illustrate necessary fiber allocation for the Edge network within the plan documentation. The concept network documents are provided within Appendix A for reference. Designer shall be required to develop a final design and obtain final design approval by CFX ITS Network Engineering staff.

The scope of this project includes the complete site design of all ITS device cabinets and ITS network components to provide network redundancy and to optimize ITS device data transmission.

Unless otherwise directed, all devices shall be connected to CFX fiber optic network using redundant data paths.

## 2.1 SERVICES PROVIDED

This Scope of Services shall require the Designer to perform the following tasks. Each item is detailed in the following sections followed by a summary of required submittals.

- Provide Detailed Production Schedule including Stakeholder Meetings as needed
- System-wide Construction Plans
- Construction Cost Estimate

### 2.1 PROVIDE DETAILED PRODUCTION SCHEDULE

- Schedule Design Kickoff Meeting with CFX and Stakeholders
- Propose Production Delivery Schedule (See Requirements Section 3.3 Project Management and Coordination)
- Propose Meeting Frequency after consulting with CFX and the GSC
- Propose Post - Design Services Support
- Submit a Design Quality Assurance/Quality Control Plan (See Requirements Section 3.2 Quality Control)

### **3.1 SYSTEM CONSTRUCTION PLANS**

System construction plans are required for this Project. The Designer shall prepare system construction plans utilizing schematic plans for the splicing and aerial rasters and/or topographic electronic files provided by CFX as the base map for those locations requiring drop cable replacement work. The Designer shall superimpose the location of the existing fiber optic network conduit, derived from CFX Graphical Information System (GIS), on the aerial basemap. In areas of concurrent construction, the Designer shall use the fiber optic component of the approved for construction plans of the applicable project as the basemap. The Designer shall obtain the updated design files and any changes noted since the completion of the FON plans; and any other inaccuracies noted in the existing documentation of the FON. The Designer shall be provided final as-built documentation for recent construction projects and will field-verify the locations cited in section 1.1 during the design process. The Designer shall use and adapt as necessary Projects completed over the past five years and other standard plans, notes, and details to prepare the system construction plans.

The system construction plans shall be developed on roadway schematics not to scale with aerial plan sheets developed at those locations requiring the replacement of drop cables at a scale of 1" equals 100 feet, unless the roadway geometry contained on the aerials is obsolete. In that case, plans shall be based upon the latest facility improvement plans plotted at a scale of 1" equals 100 feet. The Designer shall display in the plans, all locations where fiber optic cable is being installed in existing or proposed conduit.

System construction plans shall include the following:

- Schematic Roadway geometry
- Rights-of-Way on aerial based plan sheets
- Existing FON location on schematic and FON facilities
- Physical features affecting construction/installation (sign structures, light poles, fences, drainage structures, etc.) on the aerial plan sheets developed to replace the drop cables
- Existing Manhole/Pull box locations with splicing callouts
- Device layout
- Fiber count per conduit
- Communications interconnect
- Fiber cable splice details and schematic drawings showing the location where each of the details apply. Breakout details will be provided at Translateral locations where the typical detail does not apply (30 sheets max).
- Maintenance of traffic using standards and notes
- System Overview showing existing ITS device locations on a map
- Table of quantities
- Special notes

The Designer shall take the following information into consideration when developing the system construction plans:

- Safety of equipment maintenance personnel and the traveling public.
- Concurrent/future CFX projects.

Designer shall submit 75%, 100%, and Bid Set plans for the review and approval of CFX. The 75% plans shall contain at a minimum the location of all fiber optic interconnect (including conduit, pull boxes, fiber optic cable, splice details, splice tables, fiber allocation charts), definition of pay items, details, and general notes. The Designer's 100% plans shall address all 75% comments as well as provide all final quantities and design elements. CFX reserves the right to influence the design based upon planned ITS, facility, and roadway improvement projects or other requirements as identified by CFX.

After 75% plans are submitted to CFX, the Designer shall be responsible for coordinating all utility conflict resolutions with the appropriate agencies. System construction plans shall be prepared in accordance with the latest standards listed herein and all applicable national, state, county and local codes, laws and regulations. The Designer shall sign and seal Bid Set system construction plans by a licensed professional Civil or Electrical Engineer registered in the state of Florida, as appropriate. All system construction plans shall be subject to CFX review and approval.

Construction plans shall show the locations of all associated power and fiber infrastructure where the project limits of this project overlap with an existing, future, or concurrent project.

### 3.1 CONSTRUCTION COST ESTIMATE

The Designer shall develop construction cost estimates at the 75%, 100% and Bid Set Plan Submission Phases, subject to the review and approval of CFX. These estimates shall be based on the table of quantities developed during the preparation of the system construction plans and the inside-plant construction plans, as well as all make-ready or other work associated with the project. All pay items shall use consistent descriptions in the plan sets, specifications, and cost estimate.

### 3.2 QUALITY CONTROL

The Designer shall be responsible for providing continuous quality control and quality assurance (QA/QC) during the project (See Section 2.1 *Services Provided*). The Designer shall produce construction documents, studies and reports that have been thoroughly checked. The documents produced shall be prepared with the degree of care that is to meet or exceed the tests of "standard practice" or "due care" as established by recognized industry wide professional organizations such as the National Society of Professional Engineers (NSPE). The Designer's QA/QC responsibilities shall not be limited to responding to CFX comments but also provide for a complete review of project deliverables prior to their submittal. CFX reserves the right to reject a submittal in its entirety if QA/QC is not evident relative to addressing CFX comments.

The Designer shall prepare and submit to CFX a Project Quality Control (QC) Plan. The QC Plan shall describe how the required production, project staff and review time shall be planned and scheduled to accomplish the required quality control. The plan shall include a plans production manual detailing guidelines for the production of ITS plans. This QA/QC time and effort is an essential part of the design effort if quality workmanship is to be achieved. The Designer's management shall be responsible for providing the proper organization and staff to perform all QA/QC tasks associated with the production of a project according to the QC Plan in a complete

and thorough manner. The QC plan shall, at a minimum, describe a process of applying quality control to each deliverable at every stage of production of the deliverable, including a final QC review by a resource that was not used to produce the deliverable. The QC Plan shall be reviewed to determine if it meets CFX's needs and requirements. The QC Plan shall be completed and submitted to CFX within five (5) calendar days after receipt of Notice to Proceed. An approved QC Plan is required as a prerequisite for the approval of all submittals. The designer shall certify with each submittal that a thorough QC review has been performed. CFX shall retain the option to request documentation of QC activities at any time.

### **3.3 PROJECT MANAGEMENT AND COORDINATION**

#### **3.3.1 Schedule (General Items)**

The schedules shall provide 15 working days for CFX review of all submittals and 10 working days for CFX review of re-submittals. The Designer may continue design efforts while design submittals are being reviewed. Doing so, however, in no way relieves the Designer of the responsibility to answer and incorporate review comments into the design, nor does it entitle the Designer to any additional compensation as a result of making changes due to review comments.

When there is an actual or potential delay in the schedule or if the Designer proposes to change the sequence or duration of any activities, an updated schedule and accompanying narrative must be submitted to CFX for approval within 7 days of effected date.

#### **3.3.2 Project Schedule**

The following list represents the schedule of major project milestones for a project duration of 210 calendar days:

- Notice to Proceed
- Project Kickoff Meeting - Within 5 working days after receipt of the Notice to Proceed.
- Detailed Schedule – Submitted at the Project Kickoff Meeting. The schedule shall contain activities in sufficient detail to demonstrate the Designer has a reasonable work plan to complete the project. Long-term activities shall be broken down into manageable segments where each activity does not exceed twenty (20) working days.
- Quality Control Plan – within 5 calendar days after receipt of Notice to Proceed, submitted at the Project Kickoff Meeting.
- Complete Design Phase – 210 calendar days after receipt of Notice to Proceed.

#### **3.3.3 MEETINGS AND PROGRESS REPORTING**

The Designer shall attend a Kick-off Meeting where the Designer shall submit a schedule and project plan identifying key staff and their responsibilities. The Designer shall meet with CFX on an as-needed basis to obtain design information and at least once a month to provide written progress reports including an updated schedule that describes the work performed on each task. CFX is to make judgment on whether work of sufficient quality and quantity has been accomplished by comparing the reported percent complete against actual work accomplished. The Designer shall submit draft minutes of these meetings to CFX within 5 working days after the meeting. The designer shall provide final minutes, conformed to CFX comments, within 2 days of receipt of CFX comments.

The Designer shall establish and maintain an Action Item Data Base. This database shall be used to support the closure of action items in a timely manner. An updated list of action items with status and required resolution dates shall be included as part of the monthly progress report. The Action Item Data Base format shall be submitted at the Kick-off Meeting for review and approval by CFX.

#### 3.3.4 PROJECT COORDINATION AND KEY PERSONNEL

CFX and the Designer are to each designate a Project Manager who shall be the representative of their respective organizations for the project. The final direction on all matters of this project shall remain with CFX's Project Manager. The Designer's Project Manager shall be the point of contact for all project coordination and shall be familiar with all aspects of the project, including production of deliverables, contract administration, coordination with subconsultants, and invoices. The Designer may assign a technical representative for major subconsultants for attendance at project meetings and for technical coordination, subject to CFX approval.

The Designer shall identify key project staff to CFX. The Designer shall make no changes in key personnel without written notification and approval from CFX.

The Designer shall be responsible for coordinating all system construction plans with CFX expansion projects in the 5-Year Work Plan currently under design or construction. The Designer shall coordinate with CFX expansion project designers to resolve all conflicts and design issues.

#### 3.4 SUBMITTALS

The Designer shall be responsible for making submittals to CFX for review. CFX's review time shall start when all required deliverables for each submittal have been received and end with the return shipping of the review comments. All construction and installation plans shall be accurate, legible, complete in design and drawn to the appropriate scale. All construction plans submitted for review shall be 11" x 17" plan sheets. The number of copies of materials to be furnished for each submittal is as follows:

<u>SUBMITTAL/ITEM</u>	<u>NO. OF COPIES</u>
Project Schedule	0
Quality Control Plan	0
System Construction Plans	5
System Design Calculations	5
Construction Cost Estimate	5

The exact quantity of plans to be submitted may vary and shall be discussed with CFX prior to printing.

#### 3.5 COMPUTER AUTOMATION

The Designer shall be required to develop the plans utilizing computer automation systems. The Designer shall be required to submit final completed CADD design files in Microstation™ format on a CD-ROM. The Working Units for the design file shall be 100 Master units (MU) and 10 Sub-units (SU) for a total working area of 4,294,967 (MU sq.). The global origin for a 2D design file shall be the lower left hand corner of the design plane. The Designer shall be responsible for any translation of a non-Microstation design file to Microstation™ format. Upon CFX approval, the

Designer may use Microsoft Visio™ for plans provided all electronic files are provided to CFX. The Designer shall develop CADD standards for this project to be approved by CFX. These standards shall contain design file information including, but not limited to, levels, line weight, line style, color and a file naming convention. All translated files shall conform to the CADD standards developed for the project.

The Designer shall be required to submit electronic files of all final deliverable reports and cost estimates in Microsoft Word™/Microsoft Excel™, and Adobe Acrobat™ (.pdf) format on CD-ROM. Designer shall submit all project schedules in Microsoft Project™ format on CD-ROM or via email. The Designer shall submit electronic files of all presentations in Microsoft PowerPoint™ format on CD-ROM. When requested by CFX, the Designer shall provide electronic files of interim submittals within 5 days of such request.

### **3.6 APPLICABLE CODES AND STANDARDS**

All installation work, equipment, cable, conduit/duct and associated electrical work for this contract shall be designed in conformity with the current requirements and practices of the latest version of each of the following:

- FDOT Utility Accommodations Manual
- FDOT Roadway and Traffic Design Standards
- Florida DOT Standard Specifications for Road and Bridge Construction
- National Electric Code (NEC)
- Applicable Electronic Industries Association (EIA), Telecommunications Industry Association (TIA) and Bellcore Standards
- Manual of Uniform Traffic Control Devices (MUTCD)
- ANSI/IEEE Standards Publication
- Occupational Safety and Health Act (OSHA)
- All applicable Federal, State and Local Laws, Ordinances, Rules and Regulations
- All design plans shall be signed and sealed by a licensed Professional Engineer registered in the State of Florida of the appropriate discipline (i.e., Electrical, Civil, Structural) as dictated by the nature of the design.

### **3.7 RESOURCES AVAILABLE**

CFX has existing documentation available to assist the selected Designer in the services required. CFX does not warrant or guarantee the accuracy of the documentation, and the use of such documentation is at the sole risk of the Designer.

The following resources are available to the Designer in electronic format:

- Fiber Optic Network Outside-Plant Electronic Plans on aerial raster
- CFX Systemwide Aerial Rasters
- Fiber Optic Network Electronic Splice Details and Cable Terminations
- Fiber Optic Conduit System and Manhole Standard Specifications
- CFX Standard Construction Specifications
- CFX GIS roadway centerline, FON conduit routing, and manhole numbering in MicroStation format
- As-Built Construction Plans for CFX Projects over the last five years in hard copy and microstation format
- Construction Plans for CFX Expansion projects currently approved for construction in hard

copy and microstation format

- Power Service Map in microstation format
- OSP Insight Database

The following resources are available to the Designer in hardcopy format:

- Interim (30%, 60%, 90%, 100%) design plans for CFX expansion projects. Submission levels shall vary with the design progress of each project.


**CONSENT AGENDA ITEM  
#11**



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 24, 2019

SUBJECT: Approval of Contract Award to Precision Contracting Services, Inc.  
for Network Phase II Project  
Project 599-524, Contract No. 001466

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

Bid results were as follows:

	<u>Bidder</u>	<u>Bid Amount</u>
1.	Precision Contracting Services, Inc.	\$1,289,307.25
2.	Contact Network LLC d/b/a Inline	\$1,516,652.94
3.	Traffic Control Devices, Inc.	\$1,634,634.00


The Engineer's Estimate for this project is \$2,868,861.73 and \$1,820,000.00 was approved in the Five-Year Work Plan.

This project is a continuation of efforts to improve the existing fiber optic network throughout the CFX system. The Network Phase II Project includes systemwide fiber splicing and equipment configuration updates.

The Engineer of Record for Project 599-524 has reviewed the low bid submitted by Precision Contracting Services, Inc. and determined that the low bid unit prices are not unbalanced.

The Procurement Department has evaluated the bids and has determined the bid from Precision Contracting Services, Inc. to be responsible and responsive to the bidding requirements. Board award of the contract to Precision Contracting Services, Inc. in the amount of \$1,289,307.25 is recommended.

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

Reviewed by:   
Bryan Homayouni, P.E.  
Manager of Traffic Operations

# **CONTRACT**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
AND  
PRECISION CONTRACTING SERVICES, INC.**

**NETWORK PHASE II PROJECT**

**PROJECT NO. 599-524  
CONTRACT NO. 001466**

**CONTRACT DATE: MAY 09, 2019  
CONTRACT AMOUNT: \$1,289,307.25**

**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**

**NETWORK PHASE II PROJECT**

**PROJECT NO. 599-524  
CONTRACT NO. 001466**

**MAY 2019**

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	(See General Specifications Table of Contents for listing of individual specifications sections.)	
P	PROPOSAL	P-1 to P-10
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-3
	(See Technical Specifications Table of Contents for listing of individual specifications sections.)	
SP	SPECIAL PROVISIONS	SP-1 to SP-10
	(See Special Provisions Table of Contents for listing of each special provision.)	

Addendum No. 1

Plans

## CONTRACT

This Contract No. 001466 (the "Contract"), made this 9<sup>th</sup> day of May 2019, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and Precision Contracting Services, Inc., of 15834 Guild Court, Jupiter, FL. 33478, 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 599-524, Network Phase II Project, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 365 calendar days. The Contract Amount is \$1,289,307.25. This Contract was awarded by the Governing Board of CFX at its meeting on May 09, 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: \_\_\_\_\_

PRECISION CONTRACTING SERVICES, 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.

(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.

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 CEI may request a submittal for any item the CEI considers necessary.

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:

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.

For 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.

#### 3.1.4.6 Processing of Shop Drawings:

3.1.4.6.1 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 15 calendar day review period by the CEI. The review period commences upon receipt of the Contractor's submittal by the CEI and terminates upon transmittal of the submittal back to the Contractor by the CEI. The Contractor shall adjust its schedules so that a 10 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.

3.1.4.6.2 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.

### 3.2 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.

### 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 and 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.

7.2.2 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 RRBBCOE ownership cost plus 100% of the RRBB and/or RRBBCOE 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 RRBBCOE 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 RRBBCOE 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- DISPUTES RESOLUTION

### 10.1 Disputes Resolution

#### 10.1.1 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.

#### 10.1.2 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.

### 10.1.3 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.



#### 10.1.4 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.

#### 10.1.5 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.

#### 10.1.6 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.

#### 10.1.7 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.

#### 10.1.8 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  
NETWORK PHASE II PROJECT  
PROJECT 599-524; CONTRACT NO. 001466

PROPOSAL OF

Precision Contracting Services, Inc.

(NAME)

15834 Guild Court, Jupiter, FL 33478 (561) 743-9737

(ADDRESS)

(TELEPHONE NO.)

Submitted 4-24-19

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 4-17-19 Bidder and/or Representative Initial CB

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Bidder and/or Representative Initial \_\_\_\_\_

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Bidder and/or Representative Initial \_\_\_\_\_

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_ Bidder and/or Representative Initial \_\_\_\_\_

Precision Contracting Services, Inc., *Cindy Boyd, President*  
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 365 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 Electrical Work and Intelligent Transportation Systems.

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.

\*

\*

\*

\*



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:

Precision Contracting Services, Inc.  
Principal (Bidder)

By: Cindy Boyd  
President or Vice President Cindy Boyd Principal (Bidder)

Attest: Sarah Boyd  
Secretary (or Assistant Secretary) Sarah Boyd 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  
NETWORK PHASE II PROJECT  
PROJECT 599-524; CONTRACT NO. 001466

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 Palm Beach

Before me, the undersigned authority, personally appeared Cindy Boyd, who being

duly sworn, deposes and says he is President

of Precision Contracting Services, Inc. (Firm) Jupiter, Florida (City and State)  
(Title)

the bidder submitting the attached Proposal for the work covered by CFX Project 599-524 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

Precision Contracting Services, Inc.

By: Cindy Boyd (Bidder)

Title: President

\*\*\*\*\*

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 4-18-19,  
(Date)

by Cindy Boyd, President  
(Name of Officer or agent, title of officer or agent)

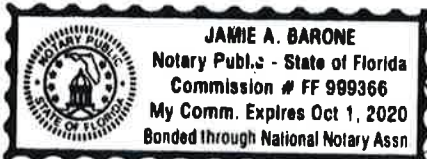
of Precision Contracting Services, Inc.  
(Name of Corporation acknowledging)

a Florida corporation, on behalf of the corporation. He/She is  
(State or place of incorporation)

personally known to me or has produced \_\_\_\_\_  
(Type of identification)

as identification and did (did not) take an oath.

Jamie A. Barone Notary Public, Commission No. FF 999366  
Jamie A. Barone (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: Precision Contracting Services, Inc.

CFX Project: 599-524, Cont # 001466 Contract Amount \$ \_\_\_\_\_

Grand Total Anticipated Sublet \$ \_\_\_\_\_

*\* Precision Contracting Svc., Inc. is FDOT DBE Certified.*

D/M/WBE Subcontractors (Name Only)	\$ Amount for Objective

Total Dollar Amount for D/M/WBE Participation Objective \$ \_\_\_\_\_

D/M/WBE Percentage of Total Project \_\_\_\_\_ %

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.

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FOR USE BY CFX ONLY

Participation Objective Achieved \$ \_\_\_\_\_ % \_\_\_\_\_

Date \_\_\_\_\_ APPROVED \_\_\_\_\_ DISAPPROVED \_\_\_\_\_

---

**Central Florida Expressway Authority  
D/M/WBE Utilization Form**

Prime Contractor: Precision Contracting Services, Inc.  
 CFX Project: 599-524, CFX CONTRACT #001466

D/M/WBE Subcontractor  
 Name of Company: Precision Contracting Services, Inc.  
 Address: 15834 Guild Ct., Jupiter, FL 33478  
 Phone: (561) 743-9737 Contact Person: CINDY BOYD

(CFX must be able to reach the D/M/WBE at the above phone within two working days after the bid opening.)

ITEM NO.	DESCRIPTION (note if item qualifies for SUPPLIER)

Cindy Boyd  
 Signature/Title of D/M/WBE Representative Submitting Above Quote

**ITEMS BELOW ARE TO BE COMPLETED BY THE PRIME CONTRACTOR**

Amount to be paid to D/M/WBE Manufacturer (\$ \_\_\_\_\_ x 1.00) \$ \_\_\_\_\_  
 Amount to be paid to D/M/WBE Supplier (\$ \_\_\_\_\_ x .60) \$ \_\_\_\_\_  
 Amount to be paid to D/M/WBE Subcontractor \$ \_\_\_\_\_  
 Total to D/M/WBE (toward Participation Objective) \$ \_\_\_\_\_

Cindy Boyd, President  
 Signature/Title of Prime Contractor's Representative CINDY BOYD, President

D/M/WBE Certified by: \_\_\_\_\_

**COPY OF CURRENT CERTIFICATION MUST BE SUBMITTED**

NOTE: Submissions not signed by the D/M/WBE will be confirmed with the D/M/WBE in accordance with Section 337.125 Florida Statutes. If a false quote is submitted or if CFX cannot confirm a quote, CFX may consider it just cause to consider the bid non-responsive and reject the bid.

**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.

Precision Contracting Services Inc.  
Company Name

By: Crystal Boyd Crystal Boyd

Title: President

(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.

Precision Contracting Services, Finc.  
Company Name

By: Cindy Bold  
Title: CINDY BOLD, President

(Note: Failure to execute and submit this form may be cause for rejection of the bid as non-responsive.)


**CONSENT AGENDA ITEM  
#12**



# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 23, 2019


SUBJECT: Approval of Sixth Contract Renewal with TransCore, LP for System Hardware  
Maintenance  
Contract No.000178

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Board approval is requested for the sixth renewal of the referenced contract with TransCore, LP in the amount of \$6,743,645.00 which will bring the total contract amount to \$84,585,683.62. The renewal period is for two (2) years beginning July 22, 2019 and ending July 21, 2021.

The services to be provided is to maintain CFX's Toll System existing hardware while new equipment is installed across the system.

This contract is budgeted in the OM&A Budget.

Reviewed by:   
David Wynne  
Director of Toll Operations

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
CONTRACT RENEWAL AGREEMENT NO. 6  
CONTRACT NO. 000178**

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 9<sup>th</sup> day of May, 2019, by and between Central Florida Expressway Authority, hereinafter called "CFX" and TransCore LP, herein after called the "Contractor."

WITNESSETH

WHEREAS, CFX and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004, whereby CFX retained the Contractor to perform system hardware maintenance and;

WHEREAS, CFX and Contractor wish to renew the Original Agreement for a sixth period of two (2) years;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, CFX and Contractor agree to a sixth renewal of said Original Agreement beginning the 22nd day of July, 2019 and ending the 21st day of July, 2021 at the cost of \$6,743,645.00, which amount restates the amount of the Original Agreement.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the Sixth Renewal ending July 21, 2019, the Contractor shall execute a "Certificate of Completion of the Fifth Renewal and Acceptance of Final Payment" that waives all future right of claim for additional compensation for services rendered under the Fifth Renewal ending July 21, 2019.

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

1. The hourly rates to be charged by the Contract during the renewal period are as shown on the attached maintenance quote.

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

TRANSCORE LP

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY: \_\_\_\_\_  
Authorized Signature

BY: \_\_\_\_\_  
Director of Procurement

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

ATTEST: \_\_\_\_\_ (SEAL)  
Secretary or Notary

If Individual, furnish two witness:

Witness (1) \_\_\_\_\_

Witness (2) \_\_\_\_\_

Legal Approval as to Form

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



2416 Lake Orange Drive, Ste 100  
Orlando, FL 32837  
407-382-1301 tel 407-382-8914 fax

**David Wynne**  
Director of Toll Operations  
Central Florida Expressway Authority  
4974 ORL Tower Rd.  
Orlando, FL 32807

**March 14, 2019**

Dear Mr. Wynne:

TransCore is delighted that you requested a quote to continue the CFX legacy in-lane equipment maintenance and LPR T&M Maintenance. The quote provides pricing for a contract extension that will continue to provide the type of maintenance that you are accustomed to and expect. Contract term extension will be year one 07/22/2019 – 07/21/2020 and year two 07/22/20 – 07/21/2021. The new pricing schedule reflects a year one, 3% increase over the current maintenance period ending on 7/21/19 and a year two, 3% increase over the maintenance period ending on 7/21/2020.

The terms and conditions documented in a maintenance agreement dated April 24, 2103, for contract #178, will carry over to the new maintenance agreement term. The Scope of Services for Toll in-lane Equipment Maintenance and LPR T&M support will continue unchanged with one exception to note. Maintenance for the JAI VIC and 200 cameras is best effort due to the obsolescence of the equipment. TransCore will make every effort to keep the JAI VIC and 200 camera equipment operational. In the event the equipment is not repairable TransCore will replace with newer JAI camera equipment pulled from current CFX spares stock. The CFX spares stock of EN300 cameras is sufficient to cover most short-term needs.

#### **TRANSCORE'S MAINTENANCE**

- Continuously provide high-level service for the CFX toll and VES equipment.
- Provide uninterrupted service to your customers during the upcoming toll system replacement transition.

#### **TRANSCORE'S MAINTENANCE SOLUTION**

We have a maintenance project team that is fully versed in your needs and the needs of the VES and Toll collection system and your toll customers. We know you and your systems at a personal level. We have the corporate resources just a phone call away to support us in escalation situations. Management at all levels is committed to keeping CFX successful. Our goal is and always has been to provide CFX with the highest level of support and service. We respond quickly and resolve equally fast. Going forward as the system replacement comes on line, we have the unique ability to make the transition seamless.

#### **TRANSCORE'S MAINTENANCE SOLUTION QUOTE**

See Included Quote.

We intend to be a strong industry performer for years to come. We value CFX as a long-time partner and as we continue to deliver your legacy system maintenance and promise to do "whatever it takes".

Sincerely,

*Anthony Bonilla*

Anthony Bonilla  
Project Manager

Central Florida Expressway Authority  
CONTRACT RENEWAL AGREEMENT  
CONTRACT NO. 000178 (SHM-01)

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 12<sup>th</sup> day of May, 2017, by and between the Central Florida Expressway Authority, hereinafter called "CFX" and TransCore, L.P., hereinafter called the "Contractor".

WITNESSETH

WHEREAS, CFX and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004 whereby CFX retained the Contractor to perform system hardware maintenance; and

WHEREAS, CFX and Contractor wish to renew the Original Agreement for a fifth period of two (2) years;


NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, CFX and Contractor agree to a fifth renewal of said Original Agreement beginning the 22nd day of July, 2017, and ending the 21<sup>th</sup> day of July, 2019, at the cost of \$6,850,870.12, which amount restates the amount of the Original Agreement.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the Fourth Renewal Agreement ending July 21, 2017, the Contractor shall execute a 'Certificate of Completion of the Fourth Renewal Agreement and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the Fourth Renewal Agreement ending July 21, 2017.

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

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

TRANSCORE, L.P.

BY:   
Authorized Signature  
Title: SVP

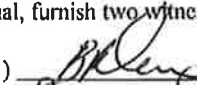
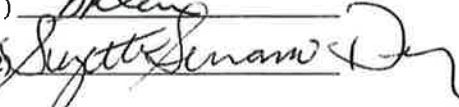
CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY:   
Director of Procurement

ATTEST: \_\_\_\_\_ (SEAL)

Secretary or Notary

If Individual, furnish two witnesses:

Witness (1)   
Witness (2) 

LEGAL APPROVAL:   
AS TO FORM General Counsel for CFX

Central Florida Expressway Authority  
CONTRACT RENEWAL AGREEMENT  
CONTRACT NO. 000178 (SHM-01)

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 12<sup>th</sup> day of March, 2015, by and between the Central Florida Expressway Authority, hereinafter called "Authority" and TransCore, L.P., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, the Authority and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004, whereby the Authority retained the Contractor to perform system hardware maintenance; and

WHEREAS, Authority and Contractor wish to renew the Original Agreement for a fourth period of two (2) years as approved by the Authority's Board of Directors on March 12, 2015;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Contractor agree to a fourth renewal of said Original Agreement beginning the 22<sup>nd</sup> day of July, 2015 and ending the 21<sup>st</sup> day of July, 2017 at the not-to-exceed cost of \$6,328,877.35 which amount restates the amount of the Original Agreement and the supplements.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the third Contract renewal ending July 21, 2015, the Contractor shall execute a 'Certificate of Completion of the Third Contract Renewal and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the third renewal of the Contract ending July 21, 2015.

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

1. The hourly rates to be charged by the Contractor during the renewal period are as shown on the attached Maintenance Renewal Quote sheet.

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

TRANSCORE, L.P.

BY: Tracy Marks  
Authorized Signature

Print Name: Tracy Marks

Title: President

ATTEST: Kelly Dutton (SEAL)  
Secretary or Notary

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY: Paul Miller  
Director of Procurement

Approved as to form and execution, only

Joseph J. Pasistore  
General Counsel for the Authority



Orlando-Orange County Expressway Authority  
CONTRACT RENEWAL AGREEMENT  
CONTRACT NO. 000178 (SHM-01)

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 24<sup>th</sup> day of April, 2013, by and between the Orlando-Orange County Expressway Authority, hereinafter called "Authority" and TransCore, L.P., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, the Authority and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004, whereby the Authority retained the Contractor to perform system hardware maintenance; and

WHEREAS, pursuant to Article 4 of the Original Agreement, Authority and Contractor wish to renew the Original Agreement for a third period of two (2) years as approved by the Authority's Board of Directors on April 24, 2013;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Contractor agree to a third renewal of said Original Agreement beginning the 22<sup>nd</sup> day of July, 2013 and ending the 21<sup>st</sup> day of July, 2015 at the not-to-exceed cost of \$5,947,862.57 which amount restates the amount of the Original Agreement and the supplements.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the second Contract renewal ending July 21, 2013, the Contractor shall execute a 'Certificate of Completion of the Second Contract Renewal and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the first renewal of the Contract ending July 21, 2013.

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

1. In the Original Contract, in Article 2, Personnel, in the second paragraph, change "Project Manager, Daniel Goggin" to "Project Manager, Robert Davis" and delete "Maintenance Manager, Robert Davis".
2. The attached Exhibit A, Scope of Services for Electronic Toll Collection System Hardware Maintenance, replaces the scope included in the Original Agreement and any supplements and amendments thereto.
3. Services shall include maintenance of hardware for the Violation Enforcement System (VES) based on the attached Exhibit A, Scope of Services for the VES.
4. Services shall include hardware maintenance for the License Plate Recognition (LPR) System based on the attached Exhibit A, Scope of Services for the LPR.
5. The rates to be charged by the Contractor during the renewal period are as indicated on the attached Exhibit B, Contract Pricing Summary.

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

TRANSCORE, L.P.

BY: [Signature]  
Authorized Signature

Print Name: Tom Wilson

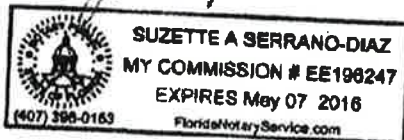
Title: SEVP

ATTEST: [Signature] (SEAL)  
Secretary or Notary

ORLANDO-ORANGE COUNTY EXPRESSWAY  
AUTHORITY

BY: [Signature]  
Director of Procurement

RECEIVED  
CONTRACTS DEPT  
Cro 5/23/13  
SIGNATURE DATE



Approved as to form and execution, only

[Signature]  
General Counsel for the Authority

Orlando-Orange County Expressway Authority  
CONTRACT RENEWAL AGREEMENT  
CONTRACT NO. 000178 (SHM-01)

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 1<sup>st</sup> day of April, 2011, by and between the Orlando-Orange County Expressway Authority, hereinafter called "Authority" and TransCore, L.P., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, the Authority and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004, whereby the Authority retained the Contractor to perform system hardware maintenance; and

WHEREAS, pursuant to Article 4 of the Original Agreement, Authority and Contractor wish to renew the Original Agreement for a period of two (2) years;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Contractor agree to a second renewal of said Original Agreement beginning the 22<sup>nd</sup> day of July, 2011 and ending the 21<sup>st</sup> day of July, 2013 at the not-to-exceed cost of \$4,248,663.24, which amount restates the amount of the Original Agreement and the supplements.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the first Contract renewal ending July 21, 2011, the Contractor shall execute a 'Certificate of Completion of the First Contract Renewal and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the first renewal of the Contract ending July 21, 2011.

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

1. The rates to be charged by the Contractor during the renewal period are as indicated on the attached price sheets.

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

TRANSCORE, L.P.

BY: Tony Rubin  
Authorized Signature

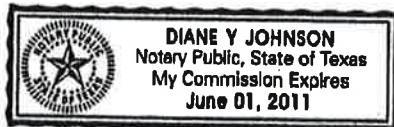
Title: Sr. Vice President

ATTEST: Diane Y. Johnson (SEAL)  
Secretary of Notary

ORLANDO-ORANGE COUNTY EXPRESSWAY  
AUTHORITY

BY: [Signature]  
Executive Director

ATTEST: [Signature]  
Assistant Secretary



Approved as to form and execution, only

[Signature]  
General Counsel for the Authority

Orlando-Orange County Expressway Authority  
CONTRACT RENEWAL AGREEMENT  
CONTRACT NO. 000178 (SHM-01)

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 1<sup>st</sup> day of July, 2009, by and between the Orlando-Orange County Expressway Authority, hereinafter called "Authority" and TransCore, L.P., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, the Authority and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004, whereby the Authority retained the Contractor to perform system hardware maintenance; and

WHEREAS, pursuant to Article 4 of the Original Agreement, Authority and Contractor wish to renew the Original Agreement for a period of two (2) years;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Contractor agree to a first renewal of said Original Agreement beginning the 22<sup>nd</sup> day of July, 2009 and ending the 21<sup>st</sup> day of July, 2011 at the not-to-exceed cost of \$4,239,418.20, which amount is in addition to the amount of the Original Agreement and the supplements.

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

1. The rates to be charged by the Contractor during the renewal period are as indicated on the attached price sheets.

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

TRANSCORE, L.P.

ORLANDO-ORANGE COUNTY EXPRESSWAY  
AUTHORITY

BY: 

Authorized Signature JOSEPH S. GRABINSKI

BY: 


Executive Director

Title: VICE PRESIDENT FINANCE

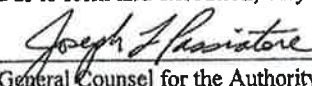
ATTEST: 

Assistant Secretary or Notary RUSSELL L. REVERE



  
Assistant Secretary

Approved as to form and execution, only

  
General Counsel for the Authority



**OOCEA/TransCore  
Maintenance Contracts  
(SHM – 01 and SSM – 01)  
Date: July 22, 2004**

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2. Exhibit A-1 / Scope of Services
3. Exhibit A-2 / Addendum
4. Exhibit A-3 / Questions and Answers
5. Exhibit B-1 / Forte Software License
6. Exhibit B-2 / Forte CNDA
7. Exhibit C / Method of Compensation
8. Exhibit D / Pricing Proposal
9. SSM-01 Contract
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11. Exhibit B / Staffing Plan
12. Exhibit C / Method of Compensation
13. Exhibit D / Pricing Schedule
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# SHM-01 CONTRACT

**SYSTEMS HARDWARE MAINTENANCE CONTRACT**  
("SHM-01")

This Contract (the "Contract"), is made and entered into this 22 day of July, 2004, between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY, an agency and body politic of the State of Florida, with a principal address of 525 S. Magnolia Avenue, Orlando, Florida, 32801 (hereinafter called the "AUTHORITY"), and TransCore LP, a Delaware limited partnership, with a local address of 5858 South Semoran Boulevard, Orlando, FL 32822 (hereinafter the "CONTRACTOR").

**1. GENERAL.** 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, all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized representatives of the AUTHORITY, who shall have at all times full opportunity to evaluate the services provided under this Contract. CONTRACTOR shall provide adequate, skilled, and qualified labor and resources for full performance of the Contract to industry standards and the standards set forth in the Contract Documents. The AUTHORITY may, at any time and in the AUTHORITY's reasonable discretion, require CONTRACTOR to increase or decrease CONTRACTOR'S labor force on this Contract, with CONTRACTOR'S compensation to be equitably adjusted accordingly.

Spares and repair parts will be provided for on a negotiated cost plus basis as set forth in the Price Proposal and Method of Compensation exhibits (identified below).

The services to be provided under this Contract include System Hardware Maintenance as detailed in the Contract Documents and any addenda or modifications thereto.

The Contract Documents, in order of precedence, consist of, and may be referred to herein as:

1. The Contract as agreed to;
2. The Scope of Services, attached hereto as Exhibit "A-1", as modified by Addendum (Exhibit "A-2") and Clarified by Questions and Answers (Exhibit "A-3");
3. The Addendum, modifying the Scope of Services, Questions and Answers, or other Contract Documents;
4. The Forte Software License, attached hereto as Exhibit "B-1";
5. The Forte Confidentiality and Non-Disclosure Agreement ("Forte CNDA"), attached hereto as Exhibit "B-2";

6. The Method of Compensation, attached hereto as Exhibit "C";
7. The Technical Proposal, not attached hereto because of its volume, but incorporated herein by this reference nonetheless; and
8. The Price Proposal attached hereto as Exhibit "D".

In consideration of the foregoing premises, AUTHORITY agrees to pay CONTRACTOR for work performed and materials furnished at the unit prices negotiated for each task authorized by AUTHORITY.

Notwithstanding their incorporation into this Contract, the Forte Software License and Forte CNDA may also be separately enforced on their own as stand-alone contracts and shall take precedence over all other contract documents only with regard to AUTHORITY'S right to use the Forte Software and the confidentiality and non-disclosure of the Forte Software, respectively.

Notwithstanding any references to software maintenance or software personnel contained in Contractor's Technical Proposal or Price Proposal, if such items are covered by that certain Systems Software Maintenance Contract known as SSM-01, or other systems software maintenance contract now or hereafter existing between Authority and Contractor or other consultant, such systems software maintenance contract shall control such items, not the Technical Proposal or Price Proposal identified above.

## **2. PERSONNEL**

A significant factor in the decision of the AUTHORITY to award this Contract to the CONTRACTOR is the level of expertise, knowledge and experience possessed by employees of CONTRACTOR (particularly the Key Personnel, as herein defined) and CONTRACTOR'S covenant to have employees possessing such expertise, knowledge and experience available at all times to assist in the provision of the services. Throughout the Term of this Contract, CONTRACTOR shall employ individuals having significant training, expertise, and experience in the areas or disciplines more particularly set forth in Scope of Services, together with such other areas of expertise or experience, as may be designated from time to time during the Term of this Contract by the AUTHORITY. When the AUTHORITY designates an additional area for which expertise or experience shall be required, CONTRACTOR shall use reasonable efforts to promptly hire and retain one or more individuals possessing such experience or expertise.

AUTHORITY considers the CONTRACTOR'S positions of Project Manager, Daniel Goggin and Maintenance Manager, Robert Davis to be "Key Personnel" with respect to the performance of the services. CONTRACTOR shall hire and maintain such Key Personnel as employees throughout the Term of the Contract. The identity of the individuals, initially assigned to each of such positions by CONTRACTOR, shall be submitted to AUTHORITY in advance, for approval or disapproval by AUTHORITY, and any changes in the individuals shall also be subject to written approval by AUTHORITY. AUTHORITY'S approval with respect to Key Personnel may be granted or denied in AUTHORITY'S sole and absolute discretion. The individuals who are considered Key Personnel shall be committed exclusively to performing services to the extent

indicated. CONTRACTOR may not designate the individuals comprising the Key Personnel as part of proposal or marketing teams for other projects without AUTHORITY's prior written consent, which may be granted or denied in the sole discretion of AUTHORITY. Notwithstanding anything herein to the contrary, AUTHORITY will not unreasonably withhold its consent to the transfer or dismissal of an individual designated as Key Personnel from time to time, provided that the individual has remained in the position in question for a reasonable length of time (generally measured as two (2) years); provided AUTHORITY approves the replacement for such person; and provided that a sufficient period is allowed for the transition to the approved replacement. Additionally, a person who is designated as Key Personnel may be dismissed for unsatisfactory performance.

If prior to the second anniversary of the Effective Date of this Contract, CONTRACTOR, transfers, reassigns, or without good cause removes, suspends, dismisses, fires, lays off, discharges, or otherwise terminates any person who constitutes Key Personnel without the prior written approval of AUTHORITY, such action shall constitute an Event of Default by CONTRACTOR hereunder. CONTRACTOR may cure such Event of Default only by replacing the Key Personnel with another employee having comparable experience and qualifications, which replacement employee has been approved by AUTHORITY in its sole and absolute discretion.

Promptly upon written request of AUTHORITY, CONTRACTOR shall remove from activities associated with or related to the performance of this Contract any employee whom AUTHORITY considers (for any reason whatsoever, in AUTHORITY's sole discretion) unsuitable for such work. Such employee shall not be reassigned to perform any work relating to the services except with the express written consent of the AUTHORITY. No additional compensation in any form shall be paid to CONTRACTOR by the AUTHORITY in consideration for the right of removal described in this paragraph or in consideration of the exercise thereof.

AUTHORITY may provide a template for time sheets on which all CONTRACTOR personnel shall keep detailed time entries of their work, separated by date and project, and submit weekly reports, along with monthly summaries, to the AUTHORITY.

CONTRACTOR and AUTHORITY agree not to hire or recruit for hiring each other's employees during the period of their employment and for a period of one (1) year thereafter, except that this restriction shall not apply in the event of: (i) lay-off, firing, other involuntary termination, or (ii) a written agreement between CONTRACTOR and AUTHORITY providing otherwise.

### **3. NONDISCRIMINATION**

CONTRACTOR shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work or selection of personnel under this Contract.

### **4. TERM AND NOTICE**

The initial term of the Contract will be five (5) years from the date of execution. There shall be two renewal options, each being two (2) years in duration, each of which may be exercised, or not, in the sole discretion of the AUTHORITY. Each option shall go into effect only upon the mailing of written execution of the option, by the AUTHORITY, at any time prior to expiration of the applicable Contract term. The contract shall be subject to an annual review by the AUTHORITY. The AUTHORITY shall have the right to terminate the contract at its discretion upon one hundred eighty (180) days notice for convenience, or sixty (60) days notice after cure period for CONTRACTOR's default. (See Article 15 for default notice and cure period). In the case of a termination for convenience under this Article, the CONTRACTOR shall be entitled to compensation as provided for under the first paragraph of Article 15 herein.

In the event of any termination of this Contract, the perpetual, non-royalty bearing license provided for herein shall survive and continue to be governed by the terms provided in the Forte Software License.

#### **5. PAYMENT OF CONTRACTOR INVOICES**

Processing and payment of CONTRACTOR invoices shall be in accordance with the Method of Compensation.

#### **6. ANNUAL AUDITED FINANCIAL STATEMENTS**

The CONTRACTOR shall submit on an annual basis its current audited financial report, statements, and any associated notes for the term of the contract, which submission shall to the fullest extent permitted by law, be considered confidential proprietary information exempt from inspection and copying under Chapter 119, Florida Statutes.

#### **7. AUDIT AND EXAMINATION OF CONTRACT RECORDS AND PROPOSAL RECORDS**

AUTHORITY 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 herein defined) of the CONTRACTOR or any subcontractor. By submitting a response to the Request for Proposal, CONTRACTOR or any subcontractor submits to and agree to comply with the provisions of this section.

If the AUTHORITY requests access to or review of any Contract Documents or Proposal Records and CONTRACTOR refuses such access or review, CONTRACTOR shall be in default under its Contract with AUTHORITY, and such refusal shall, without any other or additional actions, constitute grounds for suspension or disqualification of CONTRACTOR. These provisions shall not be limited in any manner by the existence of any CONTRACTOR claims or pending litigation relating to the Contract. Disqualification or suspension of the CONTRACTOR

for failure to comply with this section shall also preclude the CONTRACTOR from acting in the future as a subcontractor of another consultant doing work for the AUTHORITY during the period of disqualification or suspension. Disqualification shall mean the CONTRACTOR is not eligible for and shall be precluded from doing future work for the AUTHORITY until reinstated by the AUTHORITY.

CONTRACTOR shall preserve all Proposal Records and Contract Records for the entire term of the Contract and for a period of three (3) years after the later of: (i) final acceptance of the project by the AUTHORITY, or (ii) resolution of all claims (if any) regarding the Contract. For purposes of this Contract, final acceptance for monthly system hardware maintenance work is defined as the final day of the fifth (5<sup>th</sup>) year of the Contract, or if the Contract extension options are exercised, then the last day of the Contract. The criteria for final acceptance on tasks for Time and Material maintenance support for additional work and/or change orders under the Contract shall be established on a per task basis.

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 related to the Contract or the CONTRACTOR's performance of the Contract determined necessary by the AUTHORITY for any purpose. Proposal Records shall include, but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by CONTRACTOR in determining labor, unit price, or any other component of a bid submitted to the AUTHORITY. Proposal 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, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by CONTRACTOR in determining a price.

## **8. CONTRACTOR INSURANCE**

CONTRACTOR shall carry and keep in force during the period of this Contract, with a company or companies authorized to do business in Florida the following insurance coverage:

- a. Comprehensive General Liability Insurance having a minimum coverage of One Million Dollars (\$1,000,000.00) for any one occurrence of bodily injury or property damage;
- b. Comprehensive Automobile Liability (for bodily injury, death and property damage) having a minimum coverage of One Million Dollars (\$1,000,000.00) for each accident;
- c. Workers' Compensation Insurance Coverage, including all coverage required under Florida law (as amended from time to time hereafter).
- d. Irrevocable Letter of Credit equivalent to six (6) months service valued at minimum of \$1,000,000.00, renewable on an annual yearly basis, to be delivered upon execution of this Contract. The Irrevocable Letter of Credit may cover both this Contract and that certain

Systems Software Maintenance Contract ("SSM-01") entered into or anticipated to be entered into simultaneously herewith, if such arrangement is acceptable to the financial institution holding the Letter of Credit. In the event that either this Contract or SSM-01 is terminated, and the other remains active, then the Letter of Credit shall remain intact and in its entirety shall cover the remaining active Contract. In lieu of a Performance Bond, the AUTHORITY has allowed CONTRACTOR to maintain an Irrevocable Letter of Credit, and the conditions for drawing on the Irrevocable Letter of Credit shall be the same as if it were a Performance Bond.

e. Certificate of Insurance inclusive of Fidelity coverage in the amount of \$2,000,000.00 covering each employee for a minimum of \$100,000.00 each.

f. Contents Insurance - Covering the AUTHORITY's property in the possession and/or control of the CONTRACTOR with minimum coverage of \$2,000,000.00. The property referred to here are the Spare Parts, testing equipment, computers, and any other items of the AUTHORITY in the control of the CONTRACTOR.

Such policy or policies shall: (a) include the AUTHORITY, and such other parties the AUTHORITY shall designate, as additional insureds, (b) be primary insurance, (c) include within the terms of the policy, or by contractual liability endorsement, coverage insuring the CONTRACTOR'S indemnity obligations, and (d) provide that the policy may not be canceled or changed without at least thirty (30) days prior written notice to the AUTHORITY from the company providing such insurance.

At least fifteen (15) days prior to the expiration of any such policy of insurance required to be carried by CONTRACTOR hereunder, CONTRACTOR shall deliver certificates to AUTHORITY as will evidence a renewal or new policy to take the place of the one expiring. Certificates of such insurance shall be filed with the AUTHORITY at the time of Contract execution. CONTRACTOR shall pay for respective deductibles under its insurance portfolio.

## **9. INDEMNITY**

The CONTRACTOR shall indemnify, defend and hold harmless AUTHORITY and all of its respective officers, agents or employees from all suits, actions, claims, demands, costs, expenses (including reasonable attorney's fees), judgments, liabilities of any nature whatsoever arising out of, because of, or due to breach of the Contract by the CONTRACTOR (its subcontractors, agents or employees) or due to any negligent or intentional wrongful act or occurrence of omission or commission of the CONTRACTOR (its subcontractors, agents or employees). CONTRACTOR will not be liable for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the AUTHORITY or any of its officers, agents or employees. The parties agree that 1% of the total compensation to the CONTRACTOR for performance of each task authorized under the Contract is the specific consideration from AUTHORITY to CONTRACTOR for CONTRACTOR's indemnity, and the parties further agree that the 1% is included in the amount negotiated for each authorized task.

## **10. PUBLIC RECORDS; OTHER LEGAL REQUIREMENTS;**



## SECURITY OF INFORMATION

Upon receipt of any public records request, CONTRACTOR shall within one (1) business day notify the AUTHORITY, and with the AUTHORITY's advance approval, CONTRACTOR shall allow public access to all documents, papers, letters, or other materials that are subject to public inspection and copying under the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with the Contract, and not exempted by statute from public inspection or copying. Failure by CONTRACTOR to grant such public access will be grounds for immediate, unilateral cancellation of the Contract by AUTHORITY, provided that CONTRACTOR may timely seek a judicial or other determination of a statutory exemption prior to providing any such access.

Notwithstanding anything else in this Contract, under no circumstance will either party's compliance with Chapter 119, Florida Statutes, or with any other statutory requirement, or lawful judicial or administrative order be or be deemed a breach, default, or violation of this Contract, provided, further, that each party shall nevertheless recognize all statutory exemptions from public inspection or copying and raise such exemptions in good faith where applicable.

CONTRACTOR agrees that it will make no statements, press releases or publicity releases concerning the Contract or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with the Contract, or any particulars thereof, during the period of the Contract without first notifying AUTHORITY and securing its consent in writing.

Notwithstanding the foregoing requirements with respect to public records, each party acknowledges that the other party maintains and relies on confidential proprietary information in the form of computer software, data, information systems, communications networks and similar systems and information that is highly confidential, the release of which is not required by Chapter 119, Florida Statutes, and in some instances, may be a violation of law. The parties acknowledge that such confidential proprietary information is integral to and a critical aspect of each party's business and operations; that each party has invested substantially in human and financial resources to develop such software, data, information systems, communications networks and similar systems and information; and that the improper or illegal release of confidential information will damage the party owning or relying thereon. Each party shall protect the other party's confidential information from disclosure, release, and unauthorized alteration, according to the standard set forth in Article 11 below. If and when either party receives a request for information or data owned by or shared with the other party and is in doubt as to whether such information or data is confidential, as opposed to a public record, such party shall notify the other party and afford that party an opportunity, within an acceptable time frame for response to a public records request (which time frame is not set by statute but has been interpreted to be only a few days in most cases), to obtain a declaratory judgment or injunction relief consistent with Chapter 119, Florida Statutes.

CONTRACTOR shall provide AUTHORITY with detailed local and national background check reports conducted on each of CONTRACTOR's employees or consultants who work under this

Contract, conducted by agencies or entities selected or approved by the AUTHORITY, and those employees or consultants of CONTRACTOR who will have access to sensitive or confidential information shall be included under the fidelity coverage under Section 8.e.; or alternatively, CONTRACTOR shall provide AUTHORITY with a detailed summary of CONTRACTOR's in-house background checking procedures, which with the approval of the AUTHORITY will suffice in lieu of the foregoing requirements of this paragraph.

At AUTHORITY's sole option, AUTHORITY may provide CONTRACTOR's employees and consultants with a copy of the AUTHORITY's security policy, as updated from time to time, which such employees and consultants shall sign in acknowledgment of receipt and compliance.

#### **11. OWNERSHIP OF EQUIPMENT, DOCUMENTS, INVENTIONS AND COPYRIGHTS**

AUTHORITY is and shall be and remain the sole owner of all rights, all plans, documents, software, data and items developed with respect to and in connection with the performance of this Contract. Upon termination of this Contract, CONTRACTOR shall promptly return to AUTHORITY all of AUTHORITY's hardware, equipment, spare parts inventory, and other materials in CONTRACTOR's custody or actual or constructive possession, in good working condition except for normal wear and tear. CONTRACTOR may not use such materials in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of AUTHORITY, which may be granted or denied in the AUTHORITY's sole discretion.

Information and work product generated in connection with this Contract shall be the property of AUTHORITY. CONTRACTOR shall not transfer, disclose or otherwise use such information or work product, or any other of the AUTHORITY'S property, for any purpose other than in performance of its duties hereunder, without AUTHORITY's prior written consent, which may be withheld or granted in the sole discretion of AUTHORITY. Information and materials with respect to the AUTHORITY and this Contract obtained by CONTRACTOR during the Term of this Contract shall remain confidential.

Notwithstanding the foregoing, the AUTHORITY acknowledges that the CONTRACTOR's proposal and technical approach reflects the use of the CONTRACTOR's *Forté Maintenance Management* software, a system component of the CONTRACTOR's *Forté™ Toll Solutions* software suite. The CONTRACTOR owned software will be provided and installed on a perpetual, royalty free, licensed basis, at no additional cost, subject to the terms of the Forte Software License and the Forte CNDA.

With respect to the equipment (i.e. hardware) aspects of that certain Supplemental Agreement 03-09, relating to CONTRACTOR'S provision of equipment for a new lane type called "Parking AVI," AUTHORITY also acknowledges that services under Supplemental Agreement 03-09 would reflect the use of methods claimed under United States Patent numbers 5,414,624 and RE

37,822 E (the "Patent Rights"). The methods and approaches reflected in the claims of the Patent Rights will be provided on a royalty free, licensed basis, at no additional cost, subject to the terms and duration provided for in such Supplemental Agreement.

The application of the AUTHORITY's ownership rights specifically exclude the CONTRACTOR's confidential and proprietary information and CONTRACTOR's corresponding data. CONTRACTOR's data includes only that data in which CONTRACTOR could claim a valid proprietary interest prior to the installation and use of CONTRACTOR's software and/or hardware on AUTHORITY's software, hardware, system, or facilities. CONTRACTOR's data specifically excludes any and all (i) data generated by or on AUTHORITY's software, hardware, system, or facilities, (ii), data generated as a result of activity on or functioning of AUTHORITY's software, hardware, system, or facilities, (iii) data generated or resulting from AUTHORITY's exercise of its license rights to CONTRACTOR's software or corresponding hardware, and (iv) any and all data in the interface of CONTRACTOR's and AUTHORITY's systems, software, hardware, facilities, or combination thereof.

CONTRACTOR's ownership rights specifically stop at and exclude the interface of CONTRACTOR's software with the AUTHORITY's system. Any modification of or addition to CONTRACTOR's software that is required to make CONTRACTOR's software compatible with the AUTHORITY's system is deemed to be part of the interface and shall be proprietary information owned by the AUTHORITY. "Interface" means and refers to any location, whether physical, electronic, or otherwise where the AUTHORITY's data meets or interacts with CONTRACTOR's software or data.<sup>1</sup>

In all of the AUTHORITY'S and CONTRACTOR's use of each other's proprietary software and data, AUTHORITY and CONTRACTOR shall each exercise the same degree of care in protecting the security and confidentiality of the other's rights and interests as each respective party exercises in protecting its own information, but not less than reasonable care plus the standards set forth in the Contract Documents.

For purposes of its work under this Contract, CONTRACTOR shall not knowingly or intentionally violate any licenses to which CONTRACTOR is a licensee, nor knowingly or intentionally violate the intellectual property rights of third parties when using third party issued software or products.

## 12. DISPUTES

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<sup>1</sup> For added assistance in determining what constitutes the "interface" and examples of data generated by or on the AUTHORITY's system, the following applies but is not exclusive or dispositive: The AUTHORITY's ARCS (arc controllers and plaza computers generate alarms based on equipment warnings and failures and transmit the associated alarm message to the host computer. The AUTHORITY's host computer provides the meeting point/point of interaction between ARCS and the CONTRACTOR's Forte system, including the receipt of the alarm messages and other maintenance related data sources, the insertion of associated records into the ARCS database and the routing of information to program applications including the Forte system.

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of the AUTHORITY's Executive Director (or his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. The Executive Director's decision upon all claims, questions and disputes shall be final agency action and shall not limit CONTRACTOR'S remedies at law. Adjustments of compensation and Contract time, because of any major changes in the work that may become necessary or desirable as the work progresses shall be left to the absolute discretion of the Director (and the Authority Board if amendments are required) and supplemental agreement(s) of such nature as required may be entered into by the parties in accordance herewith.

Notwithstanding the foregoing, any and all disputes relating to software, other proprietary information owned by either party, the Forte Software License, or the Forte CNDA, shall not be subject to this provision, but rather may be resolved in accordance with any remedies CONTRACTOR or the AUTHORITY may have under this Contract or the Forte Software License, CNDA, and Patent License corresponding to Supplemental Agreement 03-09, incorporated herein, or otherwise at law.

### **13. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT**

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

CONTRACTOR acknowledges that 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 AUTHORITY in accordance with the AUTHORITY's Ethics Policy. To the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONTRACTOR shall comply with all required laws and regulations and obtain all permits necessary to provide the Contract services.

CONTRACTOR covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full. CONTRACTOR agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

### **14. SUBLETTING OF CONTRACTS**

CONTRACTOR shall not sublet, sell, transfer, assign or otherwise dispose of this Contract or any portion thereof, or of the CONTRACTOR's right, title or interest therein without written approval of AUTHORITY, which may be withheld in the AUTHORITY's sole discretion. Any subletting, sale, transfer, assignment, or other disposition of the Contract, or any portion thereof, in violation of this section shall be voidable solely at the AUTHORITY's option. Consent to assignment shall not be required in the event CONTRACTOR changes its corporate name or merges with another limited partnership, corporation or legal entity, provided such assignment requires the assignee to assume all of CONTRACTOR'S obligations under the Contract, as may be supplemented or amended from time to time.

## **15. TERMINATION AND DEFAULT**

AUTHORITY reserves the right to terminate or suspend the Contract for convenience (in whole or in part) at any time the interest of the AUTHORITY requires such without cause for termination or suspension. In such circumstances, AUTHORITY shall notify CONTRACTOR (in writing) of such action with instructions as to the effective date of termination or suspension. CONTRACTOR will be paid for all work performed prior to termination and any reasonable, documented termination expenses. Payment for work performed will be based on negotiated prices, which prices are deemed to include profit and overhead. No profit or overhead will be allowed for work not performed, regardless of whether the termination is for convenience or not. Notwithstanding anything contained herein to the contrary, in no instance shall the AUTHORITY's exercise of its right to terminate for convenience be deemed a default by the AUTHORITY.

If CONTRACTOR: (i) fails to perform the Contract terms and conditions; (ii) fails to begin the work under the Contract within the time specified in the "Notice to Proceed"; (iii) fails to perform the work with sufficient personnel or with sufficient materials to assure the prompt performance of the work items covered by the Contract; (iv) performs the work unsuitably; (v) fails to comply with Contract, or (vi) performs unsatisfactorily in the opinion of AUTHORITY reasonably exercised, AUTHORITY may give notice of default in writing to the CONTRACTOR stating the nature of the default and providing the CONTRACTOR ten (10) calendar days in which to correct the default.

If CONTRACTOR (within the ten (10) calendar day curative period, described in the notice of default) does not correct the default, AUTHORITY will have the right to remove the work from CONTRACTOR and to declare the CONTRACTOR in default, and the Contract terminated upon sixty (60) days written notice after the end of the cure period. If a default is not reasonably susceptible to cure within the cure period, CONTRACTOR may request an extension of the cure period, which extension AUTHORITY shall not unreasonably withhold.

Upon declaration of default and termination of the Contract, AUTHORITY 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 AUTHORITY are required for Contract completion. All costs and charges incurred by AUTHORITY 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 remaining sum which would have been payable under the balance of the Contract, CONTRACTOR shall be liable and shall pay the AUTHORITY the amount of the excess. In no event under this Article 15 will the CONTRACTOR's liability exceed the sum of \$1,500,000.00 dollars.

If, after the default notice curative period has expired, but prior to any action by AUTHORITY to complete the work under the Contract, CONTRACTOR demonstrates an intent and reasonable ability to cure the default in accordance with AUTHORITY's requirements, AUTHORITY may, but is not obligated to, permit CONTRACTOR to resume work under the Contract. In such circumstances, any costs of AUTHORITY incurred by the delay (or from any reason attributable to the delay) will be deducted from any monies due or which may become due CONTRACTOR under the Contract.

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

AUTHORITY reserves the right to cancel and terminate this Contract in the event the CONTRACTOR or any employee, servant, or agent of the CONTRACTOR is indicted or has a direct information issued against him for any crime arising out of or in conjunction with any work being performed by the CONTRACTOR for or on behalf of the AUTHORITY, without penalty.

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

## **16. PREVAILING PARTY**

If any contested claim causes either party to engage legal counsel, hereunder or relating to the Contract (and CONTRACTOR's work hereunder), and results in attorneys' fees and/or costs, the prevailing party in such dispute, as hereinafter defined, shall be entitled to recover reasonable attorneys' fees and costs, including costs and expenses of expert witnesses, from the non-prevailing party.

In order to be deemed the prevailing party, the claimant (whether CONTRACTOR or AUTHORITY) must receive an adjusted judgment or adjusted award equal to at least eighty percent (80%) of its contested claims, failing which the other party will be deemed the prevailing party in such litigation. In the event of counterclaims, if neither party receives an adjusted judgment or adjusted award equal to at least eighty percent (80%) of its contested claims, neither party shall be deemed the prevailing party, and each party shall be responsible for its own costs

and attorneys' fees. The requirements of this paragraph shall be called the "80% Requirement." The 80% Requirement shall not apply to claims arising out of the Forte Software License or Forte CNDA.

For purposes of determining whether a judgment or award is eighty percent (80%) or more of the contested claims, "adjusted award" or "adjusted judgment" shall mean the amount designated in an award or final judgment as compensation or damages (exclusive of interest, cost or expenses), less: (i) any amount awarded to the other party (exclusive of interest, cost or expenses) on claims asserted by the other party, and (ii) any amount offered by the other party in settlement prior to initiation of litigation (exclusive of interest, cost or expense).

The term "contested claim" or "claims" shall mean the initial written claim(s) submitted by the contesting party to the other party (and disputed by the other party), and which have not otherwise been resolved through ordinary close-out procedures of the Contract prior to the initiation of litigation. Claims or portions thereof, which other party agrees to pay or offers to pay prior to initiation of litigation, shall not be deemed contested claims for purposes of this provision. If a modified, amended or substituted claim is submitted after an original claim, the highest amount of all claims shall be the basis for determining whether the award is at least eighty percent (80%) of the claim(s).

Attorneys' fees and costs awarded to the prevailing party shall include reasonable fees and costs incurred in connection with and measured from the date a claim is initially submitted to AUTHORITY through and including all levels of pre-trial, trial, appeal, and collection. 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.

"Attorneys' fees" shall include but not be limited to fees and charges of attorneys, paralegals, legal assistants, attorneys' consultants, expert witnesses, court reporters, photocopying, telephone charges, travel expenses, or any other charges, fees, or expenses incurred through the use of legal counsel, whether or not such fees are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial fees (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation, or administrative proceeding arising out of this agreement.

"Costs" shall include but not be limited to any filing fees, application fees, expert witnesses' fees, court reporters' fees, photocopying costs, telephone charges, travel expenses, or any other charges, fees, or expenses incurred whether or not legal counsel is retained, whether or not such costs are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial costs (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation or administrative proceeding arising out of this agreement.

As a condition precedent to litigation, a party shall have first submitted its claim(s) (together with supporting documentation) to the other party, and the other party shall have had sixty (60) days thereafter within which to respond thereto. Subsequent to the other party's response, the parties

shall arrange and attend non-binding mediation. Only if the parties reach impasse at mediation, may the claim(s) proceed to litigation in a court of competent jurisdiction.

The AUTHORITY and CONTRACTOR agree that neither party shall avail itself of Section 768.79, Florida Statutes, or any other like statute or rule involving offers of settlement or offers of judgment, it being understood and agreed that the purpose of such statute or rule are being served by this provision.

Should this 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 attorneys' fees and costs.

## 17. MISCELLANEOUS PROVISIONS

A. Prevailing Wage. Prevailing Wage provisions are not applicable under this Contract.

B. Force Majeure. The CONTRACTOR shall not be liable for delays during the performance of its obligations under the Contract arising out of causes beyond the reasonable control of the CONTRACTOR. Such causes include and are not limited to:

1. Acts of God; acts of public enemies; acts of war; terrorist acts; and riots (only to the extent they occur and directly affect CONTRACTOR's ability to perform under the Contract).
2. Jurisdictional governmental authorities acting outside the scope of current laws and ordinances;
3. Hurricanes, earthquakes or other natural disasters that result in a declaration of emergency by the Governor of the State of Florida within the geographical area that includes the work area;
4. Explosion that directly affects access to the work or work area;
5. Vehicular accidents not caused by CONTRACTOR or CONTRACTOR's work that block access to the work or work area.

In the event of a Force Majeure event that affects the CONTRACTOR's ability to perform, inclusive of response and/or repair time, the CONTRACTOR shall comply with the following requirements:

1. Notify the AUTHORITY in writing of the occurrence of a Force Majeure event within 72 hours of when the event directly affects CONTRACTOR's ability to perform under the Contract; and
2. Furnish a detailed written explanation of the impact of the delaying event on the scheduled work with supporting documentation, including the steps reasonably necessary and within the CONTRACTOR'S power required to protect the work, employees, materials and equipment from the effects of the event.



C. Limitation of Liability.

1. The CONTRACTOR's total liability to the AUTHORITY arising out of or related to this Contract (excluding claims arising out of bodily injury, death, and or damage to real or tangible property, and excluding claims arising out of the Forte License or Forte CNDA), from any cause or causes, and regardless of the legal theory, including warranty and negligence, shall not, in the aggregate, exceed the value of \$1,500,000.00 dollars.
2. The Statute of Limitations for any claim by either party relating to this contract, other than in warranty, shall be governed by section 95.11, Florida Statutes. Notwithstanding the foregoing, any claim under warranty must be made within the time specified in the applicable warranty clause.

D. Novation.

This Contract extinguishes and replaces the hardware maintenance provisions of and obligations set forth in that certain contract between the AUTHORITY and Science Applications International Corporation (now known as TransCore, LP – i.e., CONTRACTOR – as a result of formation and divestiture by Science Applications International Corporation), dated October 11, 1991, and the hardware maintenance provisions of and obligations set forth in all supplements, supplemental contracts, amendments, and change orders pertaining thereto (collectively, the “Project 256 Contract”). All elements and provisions of the Project 256 Contract that are not covered, extinguished, and replaced by this hardware maintenance Contract, including but not limited to software maintenance and upgrade,<sup>2</sup> host and plaza hardware maintenance and upgrade, shall remain in full force and effect under the Project 256 Contract and unaffected by this Contract. Notwithstanding any of the foregoing, all open or active supplements, supplemental contracts, amendments, and change orders to the Project 256 Contract (i.e., those under which CONTRACTOR is working on the date of the execution of this Contract, which are Supplemental Agreements 03-07, 03-08, 04-01 and 04-02) are exempt from this Novation and shall continue to be subject to their own terms and the terms of the Project 256 Contract until their respective completion. However, the parties may, by mutual agreement, individually novate such supplements, supplemental contracts, amendments, and change orders.

E. Venue.

This Contract shall be interpreted under the laws of the State of Florida, and venue for any action or proceeding arising hereunder shall be exclusively in Orange County, Florida.

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<sup>2</sup> Remaining software maintenance under the Project 256 Contract does not include maintenance of Contractor's Forte Maintenance Management and Forte™ Toll Solutions software programs, which are incorporated into and governed by this Hardware Maintenance Contract.

F. Severability.

If any portion of this contract is deemed or held to be invalid or unenforceable, the remainder hereof shall continue to be of full force and effect and shall be interpreted as closely as legally possible to the original intent and purpose.

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

**"AUTHORITY"**

**ORLANDO-ORANGE COUNTY  
EXPRESSWAY AUTHORITY**, a state agency and body  
politic of the State of Florida

By: \_\_\_\_\_  
Executive Director

ATTEST: \_\_\_\_\_  
Assistant Secretary

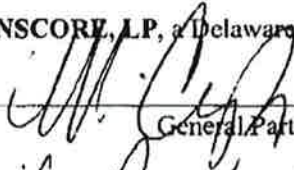
Approved as to form and  
execution only:

**Shutts & Bowen, LLP**, as General  
Counsel to the Authority


By: \_\_\_\_\_  
General Counsel  
7-22-04

**"CONTRACTOR"**

**TRANSCORE, LP, a Delaware limited partnership**

By:   
General Partner

By: Vice President  
(Title)

ATTEST:  (Seal)  
V.P. Deputy Regional Manager  
Transcore L.P.

**EXHIBIT A-1  
SCOPE OF SERVICES**

**(SHM-01)**

**EXHIBIT A-1**

**SCOPE OF SERVICES**

**ELECTRONIC TOLL COLLECTION SYSTEM**

**HARDWARE MAINTENANCE**

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# **ELECTRONIC TOLL COLLECTION SYSTEM HARDWARE MAINTENANCE**

## **I. SCOPE**

### **a. General Description of Services Required**

The Contractor shall be solely responsible for the full maintenance of the lane hardware for the Orlando Orange County Expressway Authority's (Authority) Electronic Toll Collection System (ETC) for the term of this contract. The contractor shall perform all preventive, corrective and emergency maintenance in accordance with the approved Maintenance Plan. Maintenance shall be provided through field service, operational testing, remote diagnostics and control, and by maintenance personnel either on duty or on call 24 hours a day, seven (7) days a week. Each Proposer will submit a detailed Maintenance Plan showing how the Proposer intends to carry out their responsibilities.

The Authority's ETC System consists of 11 Main Line Plazas and 44 Ramp Plazas. The main communication link is the Fiber Optic Network (FON). Each Lane has a Lane Controller that controls the sensing equipment in the lane, processes transaction data, generates equipment alarms and sends them to the associated Plaza Computer, which in turn reports to the Host Computer located at the Authority's Headquarters. The Lane Controller also communicates with the Host Computer in real time to update E-PASS customer accounts.

The System is fully integrated and includes three modes of collection: Automatic Vehicle Identification (AVI), Automatic Coin Machines (ACM) and Manual Lane Terminals (MLT). The System has many mixed lane configurations and all lanes are equipped with AVI. The System currently consists of 208 toll equipped lanes plus equipment used for training (Operations), E-PASS transponder testing (Customer Service Center), and equipment testing (Maintenance facility). There are currently 73 MLT lanes, 64 ACM lanes, and 63 dedicated AVI lanes of which 8 are Open Road Tolling (ORT) lanes, and 8 anticipated Parking AVI lanes. Only a portion of the Violation Enforcement System (VES) equipment is included in this contract, and that portion is the VES cameras and equipment in 63 manual lanes located throughout the System, and the VES equipment in the 14 of the lanes associated with the Forest Lake Plaza and Ramps. The four ORT lanes at Forest Lake Plaza and the VES equipment in the remaining lanes will be maintained under a separate maintenance contract.

## **b. Sub-Systems Maintained by Others**

The following is a list of those sub-systems maintained by other contractors.

- Fiber Optic Network (FON) (Transport Side) – Sprint
- Plaza Access Security – Card Readers and Cards – Security One
- New VES Lane Cameras and Equipment in 122 AVI & ACM Lanes - Security One.
- System Software Maintenance – ARCS – TransCore
- Host and Plaza Computers Hardware Maintenance – TransCore
- Host and Plaza Computers System Administration - TransCore
- Local Area Networks – LAN – Headquarters & Service Center -Xtra Net Solutions
- Wide Area Network – WAN – (Router Portion of FON) – Sprint

## **2. SERVICE LEVEL REQUIREMENTS**

### **a. Response Time**

All Major System Hardware components that impact the collection of tolls or the safety of the plaza shall have a Response Time of two (2) hours including weekends and holidays. The Contractor is required to be on site within the specified response time twenty-four (24) hours per day, seven (7) days a week. This standard will apply in all times except during and before the peak periods during the normal work week, which in general can be described as: morning peak is from 6am to 9am, and afternoon peak is from 3:30pm to 6:30pm. During these time frames the response time will be 1 hour. The exact periods to be used to compute adherence to the standard will be determined prior to the execution of the contract. All technicians are required to carry a cell phone, pager and laptop computer. Supervisory personnel and managers are required to also carry a cell phone to ensure immediate and good lines of communications in times of emergency or need. Contractor will provide the Authority with a list of employees and their associated cell phones and pagers numbers, and will update that list any time there is a change.

### **b. Repair Time**

Equipment failures that directly affect toll collection or impair audits shall be repaired within two (2) hours of arrival, but in no case shall the repair time exceed four (4) hours of the first notification. The total response and repair time shall be measured from the exact time that the problem is first reported to the Contractor until the equipment is brought back on-line and is functioning at full capacity.

### **c. System Availability**

The Contractor shall be required to maintain a System-wide availability level equal to ninety-nine percent (99%). These levels of availability are set for twenty-four (24) hours



per day, seven (7) days a week, and failure to meet the stated levels shall constitute a default under the Contract. Preventive maintenance and equipment repair shall not affect or be included in the baseline availability calculations so long as equipment is repaired within the specified guaranteed repair time. Contractor will submit monthly, quarterly, and annual reports showing availability percentages and calculations by System components. Contractor's failure to timely provide reports will be cause for the Authority to withhold payment until such reports are provided.

**d. Liquidated Damages**

The Authority has the option of assessing Liquidated Damages for failure of the Contractor to meet the response and repair times as specified in the RFP. Liquidated Damages will be applied at the following rates:

<u>Toll Lane Equipment</u>	<u>Hourly Charge per Lane</u>	<u>Peak Period Charge</u>
Response Time	\$100	\$200
Repair/Replacement Time	\$200	\$300

The peak period repair time requirement will be dependent upon the required repair, the circumstances in the lane and the ability to perform the repairs without closing the lane to traffic. The Authority shall advise the Contractor in writing of its intent to assess Liquidated Damages within 5 days of becoming aware of occurrence of any delay. The time frame for measurement of response time and the combined response and repair time shall begin at the exact time the problem was reported to the Contractor. The time frame for the Repair shall begin as soon as the Contractor arrives at the site or begins work on the problem. Partial hours may be treated as whole hours at the discretion of the Authority, and liquidated damages amounts may be withheld from payments.

Notwithstanding the foregoing, liquidated damages will not apply with respect to AVI lane hardware maintenance under Supplemental Agreement 03-09 if the delay is caused by the Authority's failure to timely provide resources (i.e. if Authority has Contractor's personnel assigned to conflicting work and such conflicting assignment causes the delay).

**e. Actual Damages**

When revenue is lost due to equipment failure, whether it involves manual collections, ACM's, AVI, or VES (only in manual lanes for purposes of this Contract), the toll revenue the Authority loses cannot be recovered from its customers. The Contractor will be held responsible for these lost revenues when (1) the Contractor has been informed of the problem and does not respond and/or repair within the specified time periods, or (2) when it is determined that the equipment failure is a result of Contractor negligence or intentionally wrongful act. The Authority reserves the right to estimate the amount of lost revenue and invoice the Contractor for that amount. The exception to this provision would be force majeure events that would limit the ability of the Contractor to perform the duties required, as such events are stated and defined in the Contract.

### **3. MAINTENANCE PLAN**

#### **a. General**

Contractor must submit a detailed Maintenance Plan to include, but not be limited to, the following: Maintenance Management, Organization, Personnel and Staffing Plan, Sub-Contractor Activities and Controls, Preventive Maintenance Plan, Predictive Maintenance Plan, Corrective and Emergency Maintenance Plan and Procedures, Communication Plan, Quality Assurance Plan, Reports, Reporting Procedures, and Spare Parts Inventory procedures and controls. The Contractor must show how the system availability, response time and repair time requirements will be met.

After approval by the Authority, the Maintenance Plan shall be adhered to through the entire term of the contract and any successive options. The Authority may, based on actual operational experience and recommendations from the Contractor, reasonably require revisions to the Maintenance Plan to ensure that the system functions properly and always reflects current requirements. The Contractor shall make and adhere to such revisions. The Maintenance Plan will be updated annually and provided in an electronic format acceptable to the Authority.

#### **b. Preventive Maintenance**

Contractor must include a comprehensive Preventive Maintenance Plan for this project. The program should be based on manufacturers' suggested procedures and performance intervals, experience, and common sense. The plan should contain a complete schedule of proposed preventive maintenance procedures and time frames, and should include reporting methods and systems to be used to administer the plan. The Contractor will submit a monthly report on the Preventive Maintenance Activities to include a comparison of scheduled versus actual preventive maintenance activities and any appropriate statistical analysis. The Contractor shall also provide a schedule for the upcoming preventive maintenance activities on a monthly basis.

As part of the Preventive Maintenance process, based on experience and analysis, the Contractor will develop parameters to be used to identify, in the early stages, potential problems and actions to be taken to prevent those problems. An example of this, without limitation, would be observing certain characteristics of lane operations that would lead to the tuning of AVI lane equipment.

#### **c. Predictive Maintenance**

Predictive Maintenance requires the contractor to analyze failure rates and the life spans of equipment and component parts to predict when certain main items will need to be replaced. This analysis should be based on both the manufacturer's data and the historical data accumulated during the maintenance period. The Contractor will be

required to provide, at a minimum, an annual report to inform the Authority of the status of the major components of the System. This should provide the Authority with advance data regarding major components and areas they should expect to begin experiencing problems. This will allow the Authority the time to properly plan for their replacement or to take the appropriate action to avoid obsolescence or unforeseen problems.

#### **d. Corrective Maintenance**

As part of the overall Maintenance Plan the Contractor must include a corrective and emergency maintenance plan to include procedures for repair, communications, and reporting. The Contractor is required to maintain an adequate staff of trained personnel to ensure that urgent repairs can be performed twenty-four hours (24) a day, seven (7) days a week, including holidays. Contractor will provide a monthly Corrective Maintenance Report showing activities undertaken, and statistical analysis including average Response and Repair Times.

The Contractor shall maintain an around-the-clock dispatching operation to handle service calls from the plazas or Authority personnel. All major trouble calls received will be immediately dispatched to assigned technicians. Repairs that require a lane to be shut down or taken out of service must be coordinated with the plaza supervisor and the Authority. The Contractor will utilize a computerized system to track all service calls and related maintenance tasks performed by their staff. In addition to the monthly Corrective Maintenance Report, the Contractor will provide an annual report on the comprehensive history and statistical analysis of maintenance tasks performed on the system, and the Contractor's performance relating to Response and Repair times.

#### **e. Quality Assurance**

The Contractor shall maintain a Quality Control and Assurance Plan and submit updates that reflect work accomplished under the Maintenance Contract. The Contractor must show how the work of the technicians will be evaluated and how training will be provided both initially and as an on-going component.

#### **f. Security of Authority Equipment**

The Contractor shall provide a secure, suitable environment for Authority equipment and materials, including but not limited to spares and repair parts (collectively, "Equipment"). This includes, but is not necessarily limited to, restrictions on physical access as well as access via the Contractor's network. A description of the safeguards the Contractor has in place must be provided to and reasonably approved by the Authority.

Any purchase of licenses or support renewals must be pre-approved by the Authority. Upon inquiry, the Contractor will advise the Authority on the status of licenses and support renewals. Contractor is responsible for ensuring appropriate and timely renewals for licenses and support. Any late fees, damages, or penalties incurred by either party

due to the Contractor's acts or omissions relating to the license and support process will be the sole responsibility of the Contractor.

#### **4. MAINTENANCE MANAGEMENT SYSTEM (MMS)**

The Contractor is required to provide a Maintenance Management System ("MMS") to monitor and analyze the System and the maintenance activities of the Contractor. The MMS should provide a work order processing and tracking component, spare parts inventory control, and a system maintenance database. The components of the MMS should be configurable to allow for greater flexibility and adaptability in using the system. The MMS should provide for configurable alarms, priorities, templates, work orders and work authorizations.

The MMS does not have to interface directly with the ARCS system, but the MMS must track alarms, assign priorities and provide reporting and analysis. The Authority will provide for the transfer of the ARCS alarm data to the Contractor for incorporating into the Contractor's maintenance database. The MMS shall initiate and provide work orders from selectable alarms, manual initiation or preventive maintenance scheduled activities. The maintenance work orders will be the basic source of data input to the MMS. The work order must contain all relevant data required to identify and track maintenance activities, parts usage, personnel and time. Work order fields or data categories that should be included as a minimum are: description of problem/task, location, equipment/component, technician, work performed, date and time opened/closed, time spent, status, and parts used. All work orders must be tracked. The MMS must be able to provide a status report of all work orders. In addition, The MMS system will track staff times utilized for various tasks via the work orders.

For Corrective Maintenance the MMS should track Response Times and Repair Times. Currently the ARCS system provides alarm messages to the plaza, where the Plaza Manager/Supervisor is responsible for acknowledging the alarm in the System and then notifying the Maintenance Contractor. The notification is currently done through a phone answering service, twenty-four (24) hours a day, seven (7) days a week, which then contacts the appropriate technician or the Maintenance Contractor's office. Once the call has been made either from the Plaza or from the Authority, to the answering service, the Contractor is considered formally notified and the clock for response and repair time has officially commenced.

The MMS system will operate from a relational database and provide extensive reporting capabilities such as maintenance category activity. Maintenance categories must be configurable to allow the Authority flexibility in defining reporting requirements. The MMS should provide for tracking Preventive Maintenance activities and provide the ability to be used as a Predictive Maintenance Analysis tool. The Authority must have direct access to the MMS database, and the Contractor will be required to have all maintenance activity data entered within a reasonable time after the maintenance activities have occurred.

The Authority will accept alternatives that provide the policy and functional support requirements as defined above. In-use applications that apply new technology and methods that will achieve Authority objectives will be considered for this Contract.

## **5. SPARE PARTS INVENTORY AND COMPONENTS**

### **a. General**

The current Spare Parts Inventory is the property of the Authority and will be returned to the Authority upon termination of the Contract, or transferred to any successor Contractor, as applicable. The Contractor must fully explain the procedures, controls, software applications, and facilities intended to be used to process and track the spare parts inventory. The Contractor must also provide a list of inventory reports and samples of those reports with the proposal.

Contractor will be responsible for providing fully assembled and tested spare parts and components to replenish those that are used in the maintenance process. The Contractor will replace all parts and components used during the Maintenance Period at no cost to the Authority, and will turn over to the Authority at the end of the Contract a full spare parts inventory.

The Contractor, based on experience and analysis, shall closely monitor the need for spare parts and components and recommend additions or deletions to the inventory during the course of the contract. This should include the identification of parts no longer available, obsolescence, etc. The Authority reserves the right to approve any changes to the spare parts and components inventory after the Contract is in force. The Authority will pay for any increases to the Inventory. If the parts are obtained through the Contractor, they will be purchased on a cost plus basis. However, the Authority reserves the right to purchase items on its own and add them to the Inventory. All spares shall be maintained in good operating condition at all times. The maintenance Contractor shall provide suitable storage facilities for all spare parts and components within a reasonable travel distance from the Authority's toll facilities.

The Contractor shall provide the Authority an inventory listing of all spare parts and components in inventory on a monthly basis, and will provide a spare parts usage report on a monthly basis. This inventory of spare parts and components shall be comprehensive, accurate, and auditable throughout the term of the contract. As part of the tracking process all parts shall be encoded with a parts list number and the inventory function must keep track of warranty information for parts used and provide information to receive warranty reimbursements when appropriate.

### **b. Substitution of Parts/Equipment**

The Contractor may substitute for parts, components, and equipment, if the Contractor receives written approval from the Authority for each specific substitution. The

Authority may reject and may not approve for payment any substituted items that were not approved in advance.

**c. Quality Control and Assurance**

The contractor must assure that all parts, components equipment, materials, and other items purchased for use in the system are new whenever practical. All parts and repairs must be of good quality and designed to reliably carry out their functions within the system and meet the requirements of the Contract.

**6. MAINTENANCE GENERAL**

**a. Maintenance Equipment**

The Contractor shall provide within twenty (20) days of Contract execution, and any time thereafter upon request by the Authority, a list of all major items, tools, and equipment necessary for diagnosis, repair, testing, and corrective and preventive maintenance of the system. This list shall describe the specific function of each device, and the approximate quantity required for a comprehensive and effective maintenance program.

**b. Maintenance Workshop**

The Contractor shall provide a workshop capable of accomplishing all repairs, modifications, assemblies, tests and installation preparation needed to maintain the system.

**c. Maintenance Test Facility**

The Contractor will develop, install and operate a test area for use by maintenance personnel in their workshop. The test area shall include cables and all necessary equipment to appropriately test all system equipment. The Contractor's workshop will contain a test lane that can be set up to simulate a manual toll collection lane, an ACM lane and a dedicated AVI lane. Treadle, loop and other equipment will be required to simulate the Authority's current lane configurations and ensure that proper testing shall be provided. When testing involves a new software build, the Hardware Contractor must cooperate closely with the Software Contractor to ensure that the testing is properly performed and coordinated to the extent that the lane equipment performs normally when the software installation is completed. To ensure that the lane equipment is functioning normally, the maintenance staff will operate the standard diagnostic programs for lane equipment and communications with higher-level devices (i.e. Host Computer, and Plaza Computer).

#### **d. Maintenance Personnel**

The Contractor shall maintain a full-time local field maintenance staff, consisting of an adequate number of qualified technicians, to effectively maintain the system on a twenty-four (24) hours, seven (7) days per week schedule. All field and system maintenance personnel shall be covered by fidelity insurance. All management and supervisory personnel must be covered by fidelity insurance and approved by the Authority. In addition, all maintenance personnel must undergo local and national background checks. The Contractor must submit a report annually that shows a list of employees and a certification that they are all covered by fidelity insurance. This report must be updated and submitted during the year any time an employee is added to the work force. The field maintenance personnel collectively must be familiar with all hardware diagnostic routines and the use of the test equipment.

Alternatively to the foregoing background check and fidelity insurance requirements, Contractor may provide Authority with a copy of Contractor's fidelity insurance policy, along with a detailed statement of Contractor's in-house background check and security screening procedures, and certification that such background checks have been conducted and detailed results thereof, which if approved by Authority will serve in lieu of the background screening first set forth in this paragraph.

The Project Manager and a field Maintenance Manager shall be in residence in the Orlando area for the duration of the Maintenance Contract. The field maintenance personnel shall have previous experience servicing toll collection equipment or equipment similar in nature to the system equipment. An estimate of the number of maintenance personnel to be assigned for the Contract shall be included in the Maintenance Plan.

#### **e. Time Sheets**

AUTHORITY may provide time sheets on which Key Personnel shall keep detailed time entries of their work, separated into maintenance and development, and further separated by date and project.

#### **f. Extra Work & Installation Support**

The Authority from time to time will be installing new equipment, testing vendor equipment and systems in the lanes, adding toll lanes and collection points, and constructing new roads. The Contractor will be required to provide additional support to the Authority to perform some of these tasks. When these tasks are outside the scope of the maintenance contract, the Authority will either, request a quote from the Contractor on performing the new/changed services with an appropriate credit for any deleted services, or request the Contractor to provide an estimate of hours by classification to complete the tasks. For this reason, the Contractor must submit rates on Price Proposal 2 according to classifications. Prior to the Notice to Proceed on this contract, the Contractor must provide a list those individuals who come under each classification. This list will be updated periodically as personnel change.

#### **g. Replacement of Lanes**

As shown below the Authority from time to time will be reconfiguring plazas and lanes and the Contractor will be increasing, decreasing, or changing the various lane configurations. To help accommodate these changes the Authority is requesting pricing on the maintenance of lane modes or configurations in Price Proposal 3. The pricing of the various lane modes and configurations will accommodate the adding and subtracting of lanes in the future.

#### **h. Up-Coming Projects**

The following is a list of proposed up-coming projects, which are included Authority's five (5) year plan. These are presented for informational purposes only, and the dates included are estimated dates. The Authority has not committed to either the completion of the projects or to the dates shown.

- University Blvd Ramps – Add 2 Dedicated AVI lanes, 2003.
- Curry Ford Ramps – Add 2 Dedicated AVI Lanes, 2003.
- Curry Ford Mainline – Add ORT/Express Lanes, 2004.
- Mills Avenue Off Ramp – Add 1 Ded AVI, 2004.
- Mills Avenue On Ramp – Close, 2005.
- John Young Mainline – Add 4 ORT/Express Lanes, 2 MLT/AVI 2006.
- Boggy Creek Mainline – Add 4 ORT/Express Lanes, 2 MLT/AVI 2006.
- Hiawassee Mainline – Add 4 ORT/Express Lanes, 05-06.
- Dean Mainline – Add 4 ORT/Express Lanes, 05-06.
- Holland West Mainline – Relocate and expand to include 6 ORT, 04-05.
- Holland East Mainline – Relocate and expand to include 6 ORT, 05-06.
- OIA Airport Parking AVI lanes 8 dedicated lanes, 2004.



**Other Equipment Changes:** In addition to the above projects, the Authority is planning to make the following equipment changes.

- Eliminate the use of Treadles at the Ramps over a period of time. The treadles at the ramps will be taken out of service as they fail. So, the only maintenance required on the ramp treadles will be their eventual removal.
- Manual Lane Terminal Replacement – The Authority currently has plans to replace 20 of the old Lucas Deeco touch screen terminals with new Nuralogic touch screen terminals by January 2003.
- UPS unit Replacement – The Authority will replace all UPS units at the Mainline Plazas by January 2003. The Authority will also replace all Ramp UPS units by December 2004.
- Lane Controller Replacement – All Lane Controllers will be replaced by June 2004 beginning in January 2003.
- ACM Processor Replacement – All ACM Processor units will be replaced by December 2004.

#### **i. Work Limitations**

The Contractor will be limited in the type of work activities that may be conducted. In general, the Contractor shall not make physical modifications to the Authority's facilities. Some examples of this would be modifications to the toll islands, structural modifications, certain electrical wiring and cuts in the pavement (without a work order form the Authority specifically ordering the work). The running of conduits and cables through the toll plaza tunnels or existing openings would be allowed. The Authority or the Authority's designated representatives must pre-approve all facilities-related work. If physical, structural or electrical modifications are requested of the maintenance Contractor to accommodate the system, the Authority will provide a specific work order, which describes the work to be done. The Contractor will provide acceptable detail sketches, engineering drawings, and descriptions of the requested modifications required for proper installation.

#### **j. Inspection of Work and Materials**

The Authority reserves the right, at any time, with reasonable notification, to inspect work areas such as the Maintenance Workshop, the Maintenance Test Facility and the Spare Parts Inventory Storage facility. The Authority may at any time inspect work on the system, components, parts, materials, equipment or other items to ensure that the system conforms to the requirements of the contract, to verify progress, or for any other reason that the Authority deems appropriate. Such inspections may occur at any site where the work is being conducted. The Authority reserves the right to reject any work, components, parts, equipment, materials or other items that do not conform to the requirements of the contract or work order. Rejected work, components, parts, equipment, or materials shall be replaced with conforming units at no cost to the Authority.

### **k. Coordination with Other Contractors**

There are several other contractors working with the Authority on the System. Some of these are directly related to the work being done by the hardware Contractor and some are not, but it is imperative that the hardware Contractor cooperate and coordinate activities where appropriate to ensure a smooth operating system. Examples of other contractors are: Toll System Operator, Customer Service Center Operator, VES maintenance, FON maintenance, security maintenance, software maintenance, roadway maintenance, landscape maintenance, construction, installations, etc. This requirement is especially true when work involves the software Contractor and/or the installation Contractor. The hardware Contractor must take whatever steps are deemed necessary by the Authority to accommodate this requirement.

### **l. Maintenance of Traffic**

The Authority is very sensitive to the maintenance of traffic during peak periods. Contractor must protect the maintenance of traffic during peak hours. Contractor must address lane-closing procedures, and scheduling closures during off peak times, including nights and weekends. For Express Lanes, the Authority will establish a fixed cost for set up in the express lanes. This set-up fee will be separate from the regular maintenance fee. This will accommodate the requirements for closing the Express Lanes, which include providing police coverage, barricades, and variable message signs.

## **7. DOCUMENTATION – MAINTENANCE RECORDS**

The Contractor shall maintain current and accurate records for all system maintenance work. The records shall be organized and managed by a computerized data and information management system. The Contractor must maintain records in an electronic form easily retrievable and transferable to the Authority. All records are the property of the Authority and as such the Authority has the right to review and retrieve data and records at any time, in electronic or hard copy. The Contractor must provide a full explanation of how and what system is going to be used to fulfill this requirement. The type of database required is a relational database. In addition, the Authority must have direct access to the Contractor's database.

## **8. SUBMITTALS**

The Contractor has provided the following documentation as a part of its proposal:

1. Transition Plan
2. Maintenance Plan
  - a. Organization & Staffing Plan
  - b. Communication Plan
3. Preventive Maintenance Plan
4. Predictive Maintenance Plan
5. Corrective & Emergency Maintenance Plan & Procedures

6. Quality Control & Assurance Plan
7. MMS, application, functionality, specifications, & reports
8. Spare Parts Inventory System, Procedures & Controls
9. Spare Parts Inventory Reports List & Examples
10. List of Required Equipment & Tools
11. List of Required Reports with examples and explanations.

## **9. REPORTS**

The Contractor must be able to communicate with the Authority on activities being undertaken, progress being made, statistical analysis, recommendations, potential problem areas, and other timely topics. Communication can and should occur in many forms; however, it is of the utmost importance that the Authority receives periodic reports to document the status of the system and the work of the Contractor. The reports referred to in the RFP are the minimum requirement. The following is a list of some of the required reports to provide a reference point for the Contractor. The Contractor shall provide a sample report for each, with an explanation of what the report accomplishes. It is acceptable for the Contractor to accommodate certain reporting requirements with a combined report on various components, as long as the report makes sense and provides the data and analysis that the Authority is requesting.

### **9.1 REQUIRED REPORTS**


1. System Availability Report (Quarterly, Annually)
2. Status Report on Adherence to the Maintenance Plan (Annually)
3. Preventive Maintenance Schedule (Monthly)
4. Preventive Maintenance Activities (Monthly)
  - Must show actual activities performed and compare to scheduled activities.
5. Preventive Maintenance Status Report (Quarterly, Annually)
  - Must show status of plan & any appropriate statistical analysis.
6. Predictive Maintenance Report (Semi-Annually)
  - Should show status of main components, expected life, replacement analysis, etc.
  - MTBF Analysis - Component Mean Time Before Failure.
7. Corrective Maintenance Activity Report (Monthly, Quarterly, Annually)
  - Should include monthly activities and cumulative analysis to include response and repair time analysis
  - Response Time Report – Detailed and Summary Average (Monthly)
  - Repair Time Report –Detailed and MTTR- Mean Time To Repair – Major Components (Monthly)
  - Statistical Comparison of Response & Repair Time to Contractual Requirements

**CONSENT AGENDA ITEM  
#13**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement


DATE: April 19, 2019

SUBJECT: Approval of Subcontractors for the E-PASS and VES Operations Contract with Egis Projects, Inc.  
Contract No. 001105

---

Egis Projects, Inc., CFX's E-PASS and VES Operations Contractor has requested approval to use the following subcontractors: Adecco Employment Services, Apple One, Roth Staffing Companies, L.P. dba Ultimate Staffing Services and Visium Resources, Inc. to provide additional staffing services in support of E-PASS and VES Operations. The cost is expected to exceed the \$25,000.00 threshold for each subcontractor established by the Procurement Policy for subcontractors not disclosed by Egis Projects, Inc. when its contract with CFX was originally awarded.

Board approval of Adecco Employment Services, Apple One, Roth Staffing Companies, L.P. dba Ultimate Staffing Services and Visium Resources, Inc. as subcontractors to Egis Projects, Inc. is requested.

Reviewed by:   
David Wynne  
Director of Toll Operations

## David Wynne

---

**From:** Allie Braswell, Jr. <abraswell@egisprojectsusa.com>  
**Sent:** Thursday, April 18, 2019 6:28 PM  
**To:** David Wynne  
**Cc:** Madeline Washington; Rosa Rountree  
**Subject:** Vendor Usage and Authorization

**Importance:** High

Dave:

Egis Projects, Inc. utilizes many vendors to support our service delivery to our clients. As a part of our business operations, we use benefit providers, PEOs and others to meet the needs of the organization. For the CFX project, we leverage the support of temporary staffing agencies to assist in recruiting talent for this project. At the start of the project we met with the accounting and procurement departments to ensure that our paperwork and processes were explained and agreed upon. During these meetings it was our understanding that we only had to account for our minority vendors as subcontractors on the project. Egis operated with an understanding that other vendors, like Adecco Employment Services or Kelly Services were just labor vendors to Egis. As we added additional vendors to support our efforts, CFX was made aware of their support to Egis. It wasn't until recently, after meeting with procurement that it was clarified that CFX considered these staffing vendors as sub-contractors.

As for our minority partners (ACE Applications, Fagan Consulting, Validity Solutions, Express Staffing, Quality Choice, Vinali Staffing) Egis viewed these entities as potential long term partners for the duration of the contract. With each of these partners, we followed CFX procurement guidelines requesting and receiving approval to add them to the contract as sub-contractors. We tracked our distribution to each of them per the direction we received at the beginning of the contract. Once we were made aware of the need to add the other staffing agencies to the contract as sub-contractors, we took immediate action to comply with CFX's guidelines by submitting the appropriate "Request for Authorization to Sublet Services" for the following vendors:

- Adecco Employment Services
- Apple One
- Kelly Services, Inc.
- Ultimate Staffing, Inc.
- Visium Resources, Inc.

This email is submitted to assist in providing a timeline and clarity on this issue. Please let me know if you need any additional information or clarity on this topic.

Regards,

Allie



Allie L. Braswell, Jr., MA  
Project Director  
Egis Projects, Inc.  
4974 ORL Tower Road  
Orlando, Florida 32807

(407) 690-5201 office | (321) 732-9791 cell  
[abraswell@egisprojectsusa.com](mailto:abraswell@egisprojectsusa.com) | [www.egis-group.com](http://www.egis-group.com)



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

Consultant: Egis Projects, Inc. Date: April 17, 2019

CFX Contract Name: E-PASS and VES Operations CFX Contract No.: 001105

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: Adecco Employment Services

Address: Department CH 14091 Palatine, IL 60055-4091

Phone No.: (407) 240-3005

Federal Employee ID No.: 94-3254410

Description of Services to Be Sublet: Staffing Services

Estimated Beginning Date of Sublet Services: April 1, 2016

Estimated Completion Date of Sublet Services: June 30, 2020

Estimated Value of Sublet Services\*: \$3,165,000

\*(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)

CEO

Title

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

Date: 4-19-19

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

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

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



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

Consultant: Egis Projects, Inc. Date: April 17, 2019

CFX Contract Name: E-PASS and VES Operations CFX Contract No.: 001105

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: Apple One

Address: 307 Cranes Roost Blvd, Suite 1030 | Altamonte Springs, FL 32701

Phone No.: (407) 786-6411

Federal Employee ID No.: 95-3278704

Description of Services to Be Sublet: Staffing Services

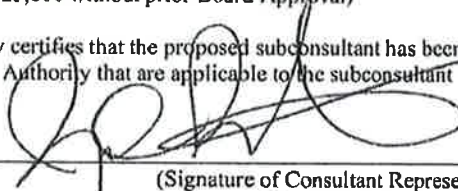
Estimated Beginning Date of Sublet Services: May 1, 2018

Estimated Completion Date of Sublet Services: June 30, 2020

Estimated Value of Sublet Services\*: \$900,000

\*(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)

CEO  
Title

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

Date: 4-19-19

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

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

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: Egis Projects, Inc. Date: April 17, 2019

CFX Contract Name: E-PASS and VES Operations CFX Contract No.: 001105

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: Roth Staffing Companies, L.P. dba Ultimate Staffing Services

Address: 450 N. State College Blvd. Orange, CA 92868

Phone No.: (407) 539-0788

Federal Employee ID No.: 33-0633164

Description of Services to Be Sublet: Staffing Services

Estimated Beginning Date of Sublet Services: December 15, 2018

Estimated Completion Date of Sublet Services: June 30, 2020

Estimated Value of Sublet Services\*: \$300,000

\*(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)

CEO  
Title

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

Date: 4-19-19

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

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

Attach Subconsultant's Certificate of Insurance to this Request.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: Egis Projects, Inc. Date: April 17, 2019

CFX Contract Name: E-PASS and VES Operations CFX Contract No.: 001105

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: Visium Resources, Inc.

Address: 541 South Orlando Avenue, Suite 201, Maitland, FL 32751

Phone No.: (321) 277-5933

Federal Employee ID No.: 04-3786700

Description of Services to Be Sublet: Staffing Services

Estimated Beginning Date of Sublet Services: January 7, 2019

Estimated Completion Date of Sublet Services: June 30, 2020

Estimated Value of Sublet Services\*: \$400,000

\*(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)

CEO  
Title

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

Date: 4-19-19

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

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


Attach Subconsultant's Certificate of Insurance to this Request.

**CONSENT AGENDA ITEM  
#14**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams   
Director of Procurement

DATE: April 18, 2019


SUBJECT: Approval of Excalibur Data Systems as a Subconsultant for the General Systems Consultant Services Contract with HNTB Corporation  
Contract No. 001144

---

HNTB Corporation, CFX's General Systems Consultant, has requested approval to use Excalibur Data Systems to assist with Cherwell Software configuration and Information Technology Service Management (ITSM) Process Support. The cost is expected to exceed the \$25,000.00 threshold established by the Procurement Policy for subconsultants not disclosed by HNTB Corporation when its contract with CFX was originally awarded.

Board approval of Excalibur Data Systems as subconsultant to HNTB Corporation is requested.

Reviewed by: \_\_\_\_\_

  
Jim Greer  
Director of IT

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: HNTB Corporation Date: 4/18/2019

CFX Contract Name: General Systems Consultant Services CFX Contract No.: 001144

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: Excalibur Data Systems

Address: 115 Sagamore Hill Road, Pittsburgh, PA 15239-2919

Phone No.: Office - 724-387-1331 ext. 212 Direct - 506-647-1880

Federal Employee ID No.: 25-1812761

Description of Services to Be Sublet: Cherwell Software Configuration and ITSM Process Support

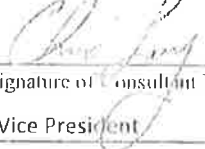
Estimated Beginning Date of Sublet Services: 5/20/2019

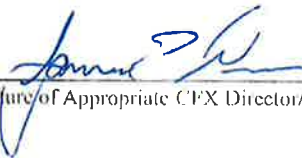
Estimated Completion Date of Sublet Services: 6/21/2021

Estimated Value of Sublet Services\*: \$ 200,000

\*(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:  Date: 4/18/19  
(Signature of Appropriate CFX Director/Manager)

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

Attach Subconsultant's Certificate of Insurance to this Request.

# **E.1.**

## **Chairman's Report**

**THERE ARE NO  
BACKUP MATERIALS  
FOR THIS ITEM**



# E.2.


## Treasurer's Report

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Michael Carlisle, Director of Accounting and Finance

DATE: April 23, 2019 

RE: March 2019 Financial Reports

Attached please find the March 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 MARCH 31, 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	\$ 44,356,716	\$ 41,907,936	\$ 351,227,711	\$ 343,923,922	\$ 7,303,789	2.1%	9.1%
FEES COLLECTED VIA UTM/UTC'S AND PBP'S	\$ 1,374,938	706,532	6,805,713	5,300,811	1,504,902	28.4%	21.7%
TRANSPONDER SALES	\$ 34,962	26,085	262,296	206,594	55,702	27.0%	22.5%
OTHER OPERATING	\$ 166,530	112,288	989,767	909,155	80,612	8.9%	-12.3%
INTEREST	\$ 513,877	350,000	3,655,774	2,460,000	1,195,774	48.6%	35.2%
MISCELLANEOUS	\$ 63,953	86,287	768,501	789,964	(21,463)	-2.7%	-1.2%
<b>TOTAL REVENUES</b>	<b>\$ 46,510,976</b>	<b>43,189,128</b>	<b>363,709,762</b>	<b>353,590,446</b>	<b>10,119,316</b>	<b>2.9%</b>	<b>9.4%</b>
<b>O M &amp; A EXPENSES</b>							
OPERATIONS	\$ 6,214,159	5,574,704	40,597,314	42,448,140	1,850,826	4.4%	16.9%
MAINTENANCE	\$ 2,156,677	2,716,263	10,447,576	12,121,586	1,674,010	13.8%	-2.7%
ADMINISTRATION	\$ 666,039	658,268	5,406,912	6,069,244	662,332	10.9%	6.7%
OTHER OPERATING	\$ 316,661	204,479	1,833,822	1,533,594	(300,228)	-19.6%	46.3%
<b>TOTAL O M &amp; A EXPENSES</b>	<b>\$ 9,353,536</b>	<b>9,153,715</b>	<b>58,285,624</b>	<b>62,172,563</b>	<b>3,886,939</b>	<b>6.3%</b>	<b>12.6%</b>
<b>NET REVENUES BEFORE DEBT SERVICE</b>	<b>\$ 37,157,440</b>	<b>34,035,413</b>	<b>305,424,137</b>	<b>291,417,882</b>	<b>14,006,255</b>	<b>4.8%</b>	<b>8.9%</b>
<b>COMBINED NET DEBT SERVICE</b>	<b>\$ 15,323,070</b>	<b>15,152,173</b>	<b>129,839,418</b>	<b>131,146,718</b>	<b>1,307,301</b>	<b>1.0%</b>	<b>3.1%</b>
<b>NET REVENUES AFTER DEBT SERVICE</b>	<b>\$ 21,834,370</b>	<b>\$ 18,883,240</b>	<b>\$ 175,584,720</b>	<b>\$ 160,271,164</b>	<b>\$ 15,313,556</b>	<b>9.6%</b>	<b>13.6%</b>

The monthly Treasurer's Report is provided as interim information for management's use. It is prepared on a modified cash basis and has not been audited, nor should it be deemed final. For audited financial statements, please see CFX's Comprehensive Annual Financial Reports.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
SUMMARY OF OPERATIONS, MAINTENANCE AND ADMINISTRATION  
COMPARISON OF ACTUAL TO BUDGET FOR FISCAL YEAR 2019  
FOR THE MONTH ENDING MARCH 31, 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	\$ 40,597,314	\$ 42,448,140	\$ 1,850,826	4.4%
Maintenance	10,447,576	12,121,586	1,674,010	13.8%
Administration	5,406,912	6,069,244	662,332	10.9%
Other Operating	<u>1,833,822</u>	<u>1,533,594</u>	<u>(300,228)</u>	<u>-19.6%</u>
Total O M & A	\$ 58,285,624	\$ 62,172,563	\$ 3,886,939	6.3%
 Capital Expenditures				
Operations	\$ -	\$ 102,333	102,333	100.0%
Maintenance	43,449	80,000	36,551	45.7%
Administration	<u>-</u>	<u>190,000</u>	<u>190,000</u>	<u>100.0%</u>
Total Capital Expenditures	\$ 43,449	\$ 372,333	\$ 328,884	88.3%

The monthly Treasurer's Report is provided as interim information for management's use. It is prepared on a modified cash basis and has not been audited, nor should it be deemed final. For audited financial statements, please see CFX's Comprehensive Annual Financial Reports.

**Central Florida Expressway Authority  
Operations - Comparison of Actual to Budget  
For the Nine Months Ending March 31, 2019**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
Toll Operations	393,140	416,191	23,051	5.54%
Image Review	5,386,563	5,574,735	188,172	3.38%
Special Projects	48,656	151,342	102,686	67.85%
Information Technology	2,924,514	3,046,709	122,195	4.01%
E-PASS Service Center	15,848,360	15,533,796	(314,564)	-2.03%
E-PASS Business Services	95,158	114,721	19,563	17.05%
Public Outreach/Education	1,479,006	1,590,332	111,326	7.00%
<b>Subtotal CFX</b>	<b><u>26,175,398</u></b>	<b><u>26,427,827</u></b>	<b><u>252,429</u></b>	<b><u>0.96%</u></b>
Plazas	14,421,916	16,122,646	1,700,730	10.55%
<b>Subtotal Toll Facilities</b>	<b><u>14,421,916</u></b>	<b><u>16,122,646</u></b>	<b><u>1,700,730</u></b>	<b><u>10.55%</u></b>
<b>Total Operations Expenses</b>	<b><u>40,597,314</u></b>	<b><u>42,550,473</u></b>	<b><u>1,953,159</u></b>	<b><u>4.59%</u></b>



**Central Florida Expressway Authority  
Maintenance - Comparison of Actual to Budget  
For the Nine Months Ending March 31, 2019**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
Maintenance Administration	2,103,714	2,133,476	29,763	1.40%
Traffic Operations	2,393,838	3,113,345	719,507	23.11%
Routine Maintenance	5,993,473	6,954,765	961,291	13.82%
<b>Total Maintenance Expenses</b>	<b><u>10,491,025</u></b>	<b><u>12,201,586</u></b>	<b><u>1,710,561</u></b>	<b><u>14.02%</u></b>

**Central Florida Expressway Authority  
Administration - Actual to Budget by Cost Center  
For the Nine Months Ending March 31, 2019**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
General	628,590	746,217	117,627	15.76%
Administrative Services	1,510,090	1,576,543	66,453	4.22%
Communications	484,195	634,595	150,400	23.70%
Human Resources	172,707	257,290	84,583	32.87%
Supplier Diversity	133,880	280,409	146,529	52.26%
Accounting	1,095,953	1,171,466	75,513	6.45%
Records Management	224,508	268,460	43,952	16.37%
Construction Administration	39,229	79,578	40,349	50.70%
Procurement	344,553	357,851	13,298	3.72%
Legal	462,456	472,439	9,983	2.11%
Internal Audit	245,863	349,000	103,138	29.55%
525 Magnolia	20,001	20,295	294	1.45%
Engineering	44,886	45,099	213	0.47%
<b>Grand Total Expenses</b>	<b><u>5,406,912</u></b>	<b><u>6,259,244</u></b>	<b><u>852,332</u></b>	<b><u>13.62%</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 MARCH 31, 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	\$ 351,227,711	\$ 343,923,922	\$ 7,303,789	\$ 321,914,596	\$ 318,813,392	\$ 3,101,204	\$ 4,202,585
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	6,805,713	5,300,811	1,504,902	5,594,394	4,295,550	1,298,844	206,058
TRANSPONDER SALES	262,296	206,594	55,702	214,149	164,586	49,563	6,139
OTHER OPERATING	989,767	909,155	80,612	1,128,163	979,205	148,958	(68,346)
INTEREST	3,655,774	2,460,000	1,195,774	2,704,701	2,462,670	241,831	953,943
MISCELLANEOUS	<u>768,501</u>	<u>789,964</u>	<u>(21,463)</u>	<u>777,616</u>	<u>756,897</u>	<u>20,719</u>	<u>(42,182)</u>
<b>TOTAL REVENUES</b>	363,709,762	353,590,446	10,119,316	332,333,619	327,472,500	4,861,119	5,258,197
<b>O M &amp; A EXPENSES</b>							
OPERATIONS	40,597,314	42,448,140	1,850,826	34,719,461	38,753,181	4,033,720	(2,182,894)
MAINTENANCE	10,447,576	12,121,586	1,674,010	10,738,669	12,060,776	1,322,107	351,903
ADMINISTRATION	5,406,912	6,069,244	662,332	5,068,486	5,928,224	859,738	(197,406)
OTHER OPERATING	<u>1,833,822</u>	<u>1,533,594</u>	<u>(300,228)</u>	<u>1,253,571</u>	<u>1,634,749</u>	<u>381,178</u>	<u>(681,406)</u>
<b>TOTAL O M &amp; A EXPENSES</b>	58,285,624	62,172,563	3,886,939	51,780,187	58,376,930	6,596,743	(2,709,804)
<b>NET REVENUES BEFORE DEBT SERVICE</b>	305,424,137	291,417,882	14,006,255	280,553,432	269,095,570	11,457,862	2,548,393
<b>COMBINED NET DEBT SERVICE</b>	129,839,418	131,146,718	1,307,301	125,955,185	127,385,602	(1,430,417)	2,737,718
<b>NET REVENUES AFTER DEBT SERVICE</b>	<u>\$ 175,584,720</u>	<u>\$ 160,271,164</u>	<u>\$ 15,313,556</u>	<u>\$ 154,598,247</u>	<u>\$ 141,709,968</u>	<u>\$ 12,888,279</u>	<u>\$ 2,425,277</u>

The monthly Treasurer's Report is provided as interim information for management's use. It is prepared on a modified cash basis and has not been audited, nor should it be deemed final. For audited financial statements, please see CFX's Comprehensive Annual Financial Reports.



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY  
CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS  
PREVIOUS YEAR COMPARISON  
FOR THE MONTH ENDING MARCH 31, 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	\$ 44,356,716	\$ 41,819,455	\$ 2,537,261	\$ 351,227,711	\$ 321,914,596	\$ 29,313,115
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	1,374,938	858,053	516,885	6,805,713	5,594,394	1,211,319
TRANSPONDER SALES	34,962	27,171	7,791	262,296	214,149	48,147
OTHER OPERATING	166,530	159,128	7,402	989,767	1,128,163	(138,396)
INTEREST	513,877	316,944	196,933	3,655,774	2,704,701	951,073
MISCELLANEOUS	63,953	84,081	(20,128)	768,501	777,616	(9,115)
<b>TOTAL REVENUES</b>	46,510,976	43,264,832	3,246,144	363,709,762	332,333,619	31,376,143
<b>O M &amp; A EXPENSES</b>						
OPERATIONS	6,214,159	5,711,425	502,734	40,597,314	34,719,461	5,877,853
MAINTENANCE	2,156,677	1,616,866	539,811	10,447,576	10,738,669	(291,093)
ADMINISTRATION	666,039	536,522	129,517	5,406,912	5,068,486	338,426
OTHER OPERATING	316,661	35,943	280,718	1,833,822	1,253,571	580,251
<b>TOTAL O M &amp; A EXPENSES</b>	9,353,536	7,900,756	1,452,780	58,285,624	51,780,187	6,505,437
<b>NET REVENUES BEFORE DEBT SERVICE</b>	37,157,440	35,364,076	1,793,364	305,424,137	280,553,432	24,870,705
<b>COMBINED NET DEBT SERVICE</b>	15,323,070	13,899,254	1,423,816	129,839,418	125,955,185	3,884,233
<b>NET REVENUES AFTER DEBT SERVICE</b>	<u>\$ 21,834,370</u>	<u>\$ 21,464,822</u>	<u>\$ 369,548</u>	<u>\$ 175,584,720</u>	<u>\$ 154,598,247</u>	<u>\$ 20,986,473</u>

The monthly Treasurer's Report is provided as interim information for management's use. It is prepared on a modified cash basis and has not been audited, nor should it be deemed final. For audited financial statements, please see CFX's Comprehensive Annual Financial Reports.

# E.3.

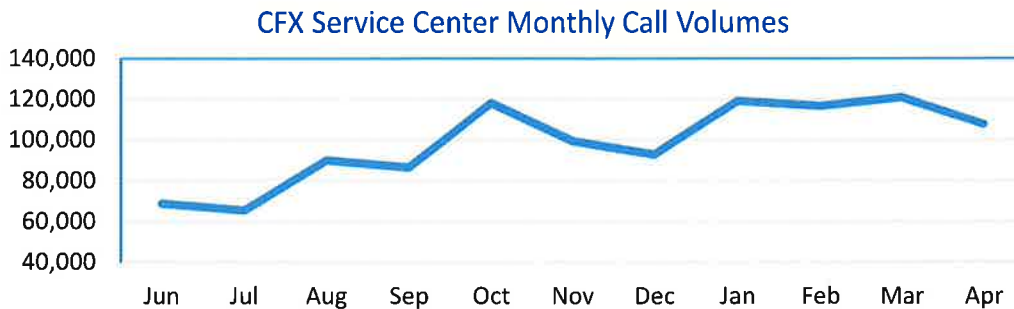
## Executive Director's Report

Executive Director Report  
May 2019

DASHBOARD

Call Center Wait Times

The CFX Call Center received a record 120,792 calls in March and still achieved an average call wait time of 1 minute, 13 seconds. April call volumes were slightly lower at 107,645 calls with an average call wait time of 51 seconds. CFX has set up additional call center stations at the CFX walk-in service center to help with the higher call volumes.



Wrong Way Driving

In March, there were 14 wrong way driving detections systemwide with 10 of the 14 detections resulting in documented turn arounds. Details of the remaining events are listed below:

**SR 417 SB Exit 11 at US 441 (Orange Blossom Trail), Sun 3/10/2019 12:48 AM**

A dark SUV was observed driving the wrong direction on the ramp. Florida Highway Patrol reported dispatching to the Orange County Sheriff's Office. The area was patrolled with no results. There were no documented citations or crashes associated with this event.

**SR 417 SB Exit 17B at Boggy Creek Rd, Sun 3/10/2019 11:58 PM**

A red sedan was observed driving the wrong direction on the ramp. Florida Highway Patrol reported dispatching to Orange County Sheriff's Office. The area was patrolled with no results. There were no documented citations or crashes associated with this event.

**SR 417 SB Exit 37 at University Blvd, Mon 3/11/2019 5:48 PM**

A white SUV was observed driving the wrong direction on the ramp, moving slowly in the shoulder. Florida Highway Patrol was dispatched to the scene and patrolled the area with no results. There were no documented citations or crashes associated with this event.

## **SR 417 SB Exit 11 at US 441 (Orange Blossom Trail), Thu 3/28/2019 10:05 PM**

A white truck was observed driving the wrong direction on the ramp. The Regional Traffic Management Center was unable to track the vehicle on the CCTV cameras. 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 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 SERVICE

### Visitor Toll Pass

Visitor Toll Passes are now offered at the Orlando International Airport. This 90-day pilot program allows rental car customers the opportunity 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.

## POINCIANA PARKWAY EXTENSION FUNDING OPPORTUNITIES

On February 4, 2019, CFX staff joined representatives of Osceola County to meet with Congressman Darren Soto to discuss federal funding opportunities for the Poinciana Parkway Extension. Congressman Soto was enthusiastic about the project and supported CFX efforts to seek federal dollars for the project.

On February 21, 2019 Osceola Commissioner and CFX Board member Fred Hawkins, Jr. coordinated a meeting between CFX staff, Osceola County representatives and Anthony Bedell, USDOT Deputy Assistant Secretary and Sean Poole, USDOT Special Assistant for Governmental Affairs. The meeting was held to discuss Osceola County federal funding priorities. The progress of the Poinciana Parkway Extension PD&E Study and the need for federal funding was discussed in detail.

On April 23, 2019, I attended a women's dinner hosted by USDOT Secretary Elaine L. Chao in Brevard County. The dinner focus was transformational innovation in transportation. Secretary Chao was introduced to the importance of the Poinciana Parkway Extension project and its eventual connection to I-4 and SR 429.

Commissioner Hawkins, Lisa Lumbard, CFX CFO, and I will meet with Secretary Chao's staff on May 20, 2019 in Washington DC with the objective of beginning the process to secure federal funding for the project.

## PRESENTATIONS

- April 11: Women in Transportation: A Walk in Her Shoes (Michelle Maikisch)
- April 12: Poinciana Parkway Extension: Polk County Staff
- April 16: Poinciana Parkway Extension: Polk Board of County Commissioners
- April 25: Lake Kehoe HOA meeting

## MEETINGS

- April 17: GOAA Governing Board
- April 23: Central Florida Automated Vehicle Partnership
- April 24: Metroplan Community Advisory Committee
- April 24: Lake Sumter MPO Governing Board
- April 24: U.S. Chamber TecNation
- April 24: Public Information Project Management meeting - I-4 Ultimate
- April 25: LYNX Governing Board
- April 26: Metroplan Transportation Systems Management & Ops Committee
- April 26: Metroplan Technical Advisory Committee
- May 2: Lake/Orange County Connector PD&E; Environmental Advisory Group and Project Advisory Group
- May 2: Metroplan Municipal Advisory Committee
- May 2: 2019 Florida Automated Vehicle Summit Technical Working Group
- May 8: Public Information Project Management meeting - I-4 Ultimate
- May 8: MetroPlan Governing Board

## EVENTS

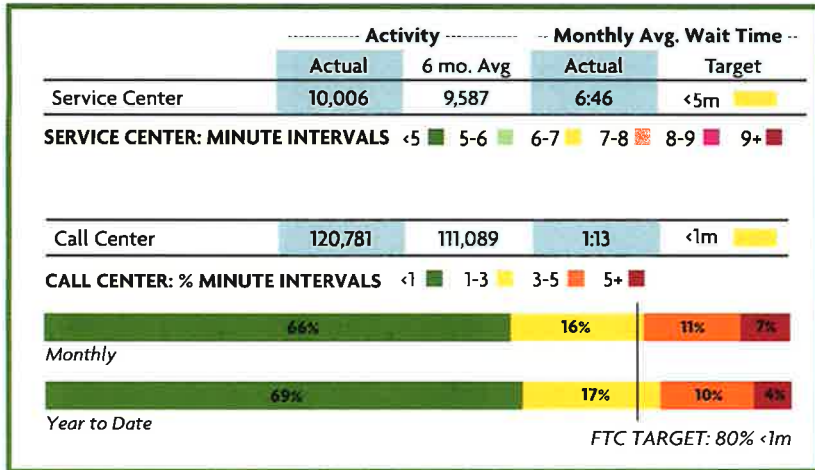
- April 11: Junior Achievement Inspire Event
- April 12: OBJ: Doing Business in Lake Nona
- April 13: East Lake Library Spring Fling
- April 18: IOA Corporate 5K
- April 23: Florida Public Relations Association – Orlando Image Awards
- April 24: City of Orlando's Earth Day Celebration
- April 26: OBJ's Women Who Mean Business Awards

# PERFORMANCE DASHBOARD

## MARCH 2019

Fiscal year runs from July 1-June 30

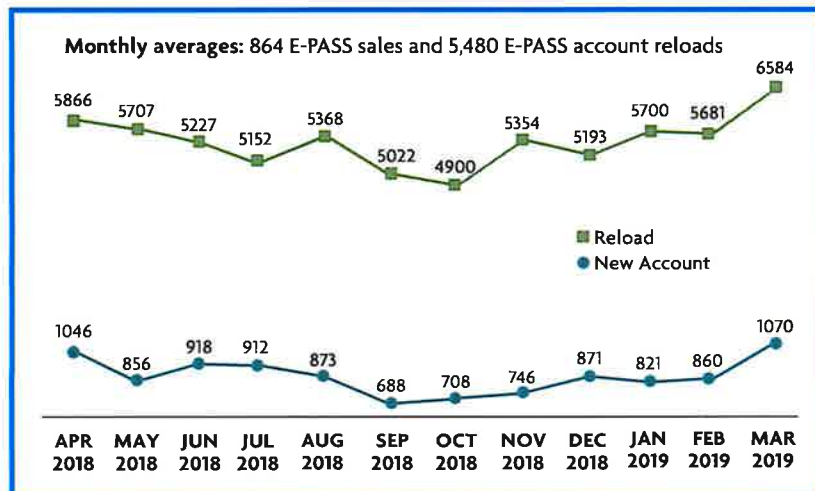
### CUSTOMER SERVICE



### WRONG WAY DRIVING (WWD)

Month	AUG	SEPT	OCT	NOV	DEC	JAN	FEB	MAR
Total Vehicles Detected	17	29	22	14	15	11	12	14
Documented Turn Arouns	14	28	19	13	14	9	10	10

### RELOAD CUSTOMER SERVICE LANE ACTIVITY



### PROGRESS OF MAJOR CONSTRUCTION PROJECTS

	Contract (millions)	Spent (millions)	% Time	% Spent	VAR	Contract Completion Date
SR 408/SR 417 Interchange (Phase II)	\$66.8	\$52.4	69%	78%	Green	December 2019
SR 408 Widening from SR 417 to Alafaya Trail	\$78.0	\$58.3	75%	75%	Green	October 2019
SR 417 Widening from Econlockhatchee to Seminole Co.	\$44.9	\$11.4	31%	25%	Green	June 2020
Toll System Replacement	\$54.4	\$27.7	63%	51%	Yellow	July 2021

LEGEND: Time minus Spent </=10 Green <11-20 Yellow >=21 Red

### FINANCIALS

#### FINANCIALS

FY to Date	Actual	Budget	VAR
Total Revenue	\$363.7	\$353.6	3%
OM&A Expenses	\$58.3	\$62.2	6%
Net Revenue	\$175.6	\$160.3	10%

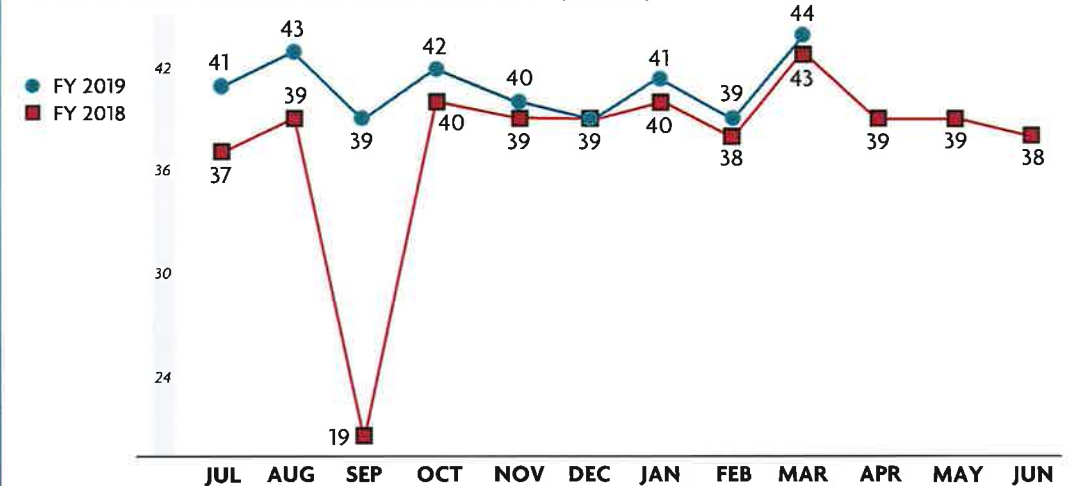
LEGEND: >/= 0 Green -0.1 to -10 Yellow </= -10 Red

#### DEBT SERVICE

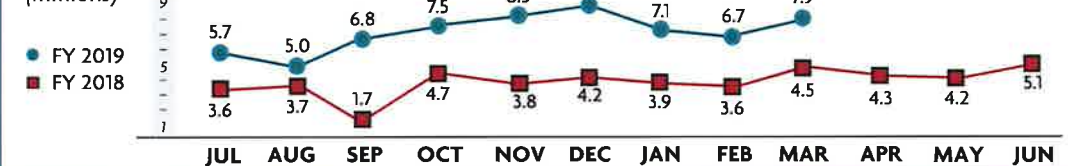
FY to Date	Actual	Budget
Senior Lien	2.35	2.28
Subordinate Lien	2.25	2.18

LEGEND: >1.45 Green <1.21 to 1.44 Yellow </= 1.2 Red

### TOTAL REVENUE TRANSACTIONS ON CFX SYSTEM (millions)

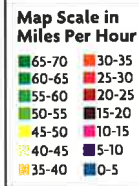


### UNPAID IN LANE TRANSACTIONS (millions)

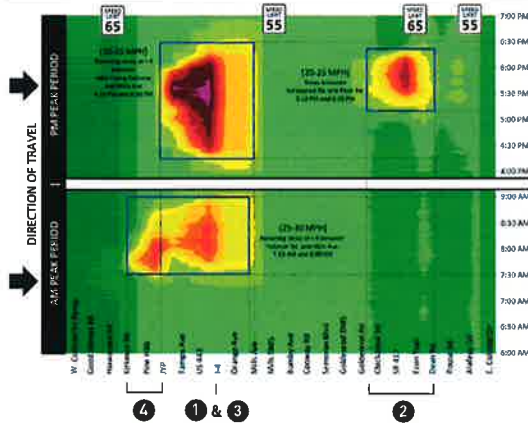


# TRAFFIC CONGESTION HEAT MAPS

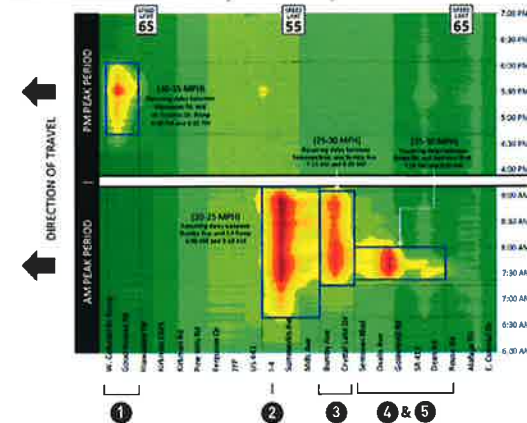
A Quarterly Update  
January - March 2019



**SR 408 Eastbound**



**SR 408 Westbound**



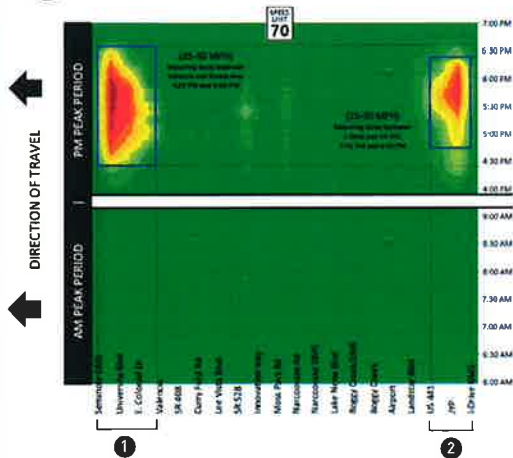
**Projects:**

- (AM) Construction underway – widen the SR 408 mainline through the I-4 interchange part of I-4 Ultimate. Completion late 2021.
- Construction underway – widen the SR 408 mainline between SR 417 and Alafaya Trail. Completion Fall 2019.
- (PM) Construction underway – widen the SR 408 mainline through the I-4 interchange part of I-4 Ultimate. Completion late 2021.
- Monitoring monthly - Friction due to eastbound SR 408 transitioning from 4 lanes to 3 lanes between Pine Hills Mainline Plaza and John Young Parkway.

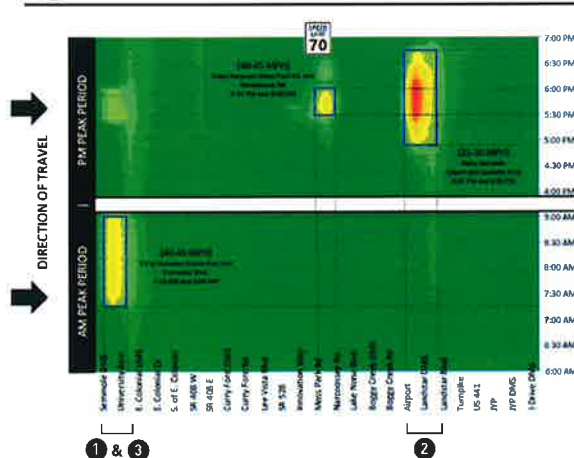
**Projects:**

- SR 408 Westbound transitions from 3 lanes to 2 lanes at the jurisdictional limit with Florida's Turnpike Enterprise west of Colonial Drive ramps.
- Construction underway – widen the SR 408 mainline through the I-4 interchange part of I-4 Ultimate. Completion late 2021.
- Monitoring monthly – Friction due to westbound SR 408 transitioning from 5 lanes to 4 lanes between Crystal Lake Drive and Bumby Avenue.
- Monitoring monthly – Friction due to westbound SR 408 transitioning back to 4 lanes following lane drops of westbound entrance ramps from Chickasaw Trail and Goldenrod Road.
- Construction underway – widen the SR 408 mainline between SR 417 and Alafaya Trail. Completion Fall 2019.

**SR 417 Northbound**



**SR 417 Southbound**



**Projects:**

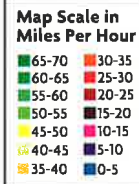
- Construction underway – widen SR 417 from Econlockhatchee Trail to Aloma Avenue. Completion Summer 2020.
- Design underway – widen SR 417 from International Drive to John Young Parkway. Construction completion 2022.

**Projects:**

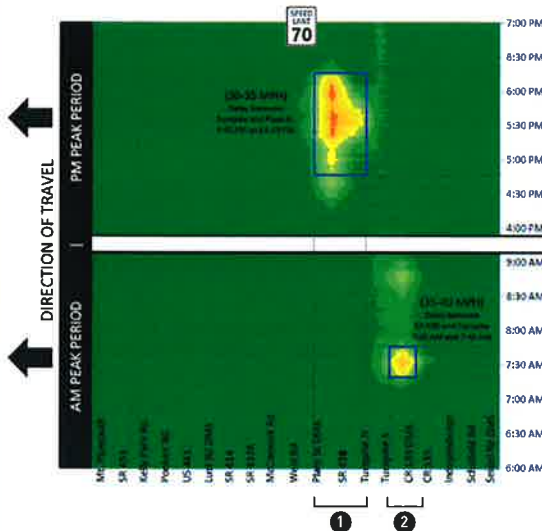
- (AM) Construction underway – widen SR 417 from Econlockhatchee Trail to Aloma Avenue. Completion Summer 2020.
- Design underway – widen SR 417 from Landstar Boulevard to Boggy Creek Road. Construction completion 2022.
- (PM) Construction underway – widen SR 417 from Econlockhatchee Trail to Aloma Avenue. Completion Summer 2020.

# TRAFFIC CONGESTION HEAT MAPS

A Quarterly Update  
January - March 2019



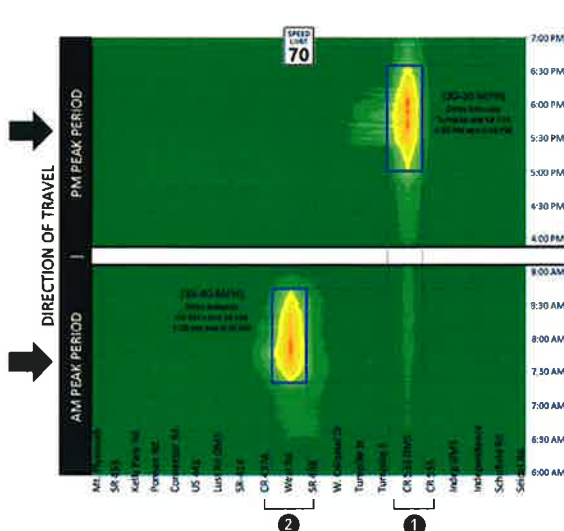
**SR 429 Northbound**



**Projects:**

1. Design underway – widen SR 429 from Florida's Turnpike to West Road. Construction completion 2023.
2. Design start Summer 2019 – widen SR 429 from CR 535 to Florida's Turnpike. Construction completion 2022.

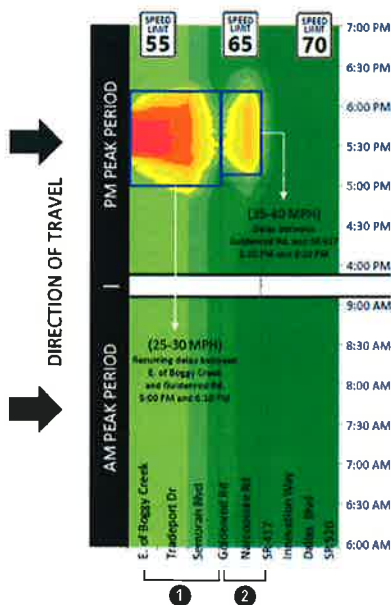
**SR 429 Southbound**



**Projects:**

1. Design start Summer 2019 – widen SR 429 from CR 535 to Florida's Turnpike. Construction completion 2022.
2. Design underway – widen SR 429 from Florida's Turnpike to West Road. Construction completion 2023.

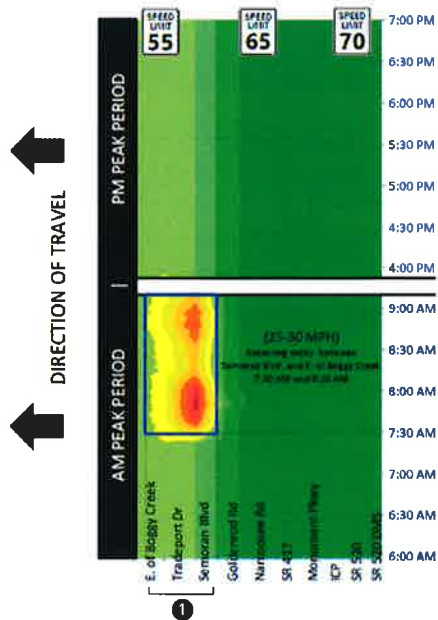
**SR 528 Eastbound**



**Projects:**

1. Design underway – widen SR 528 from Semoran Boulevard to Goldenrod Road. Construction completion 2022.
2. Design start 2020 – widen SR 528 from Narcoossee Road to SR 417. Construction completion 2022.

**SR 528 Westbound**



**Projects:**

1. Design underway – widen SR 528 from Semoran Boulevard to Goldenrod Road. Construction completion 2022.



**F. 1.**

**THERE ARE NO  
BACKUP MATERIALS  
FOR THIS ITEM**

**F. 2.**

**Presentation  
for this item  
will be sent at  
a later date.**

**F. 3.**

**Presentation  
for this item  
will be sent at  
a later date.**

**F. 4.**

**THERE ARE NO  
BACKUP MATERIALS  
FOR THIS ITEM**



**F. 5.**

**THERE ARE NO  
BACKUP MATERIALS  
FOR THIS ITEM**

**F. 6.**

**Megan Zee**

**Sr. Director, Finance, Golf Channel**

**Audit Committee Appointment Request by Jay Madara**



Megan Zee is Sr. Director, Finance for Golf Channel, an NBC Sports Group network, and its related portfolio of businesses. Megan is responsible for the overall monthly and quarterly accounting function, including leading the monthly and quarterly close and corporate reporting process, the annual third party audit of Golf Channel, integration of acquired businesses (domestically and internationally), and the internal controls, compliance and accounting policy processes. She is also responsible for the financial management of a number of departments within Golf Channel, including long-range planning, annual budgeting and forecasting.

A certified public accountant by trade, Megan began her professional career with PricewaterhouseCoopers in the audit practice within the Orlando market where she gained experience auditing many businesses within Orlando, nationally and internationally. Megan is a member of the American Institute of Certified Public Accountants, as well as sits on the Young Professionals Advisory Council for the Central Florida Partnership.

Megan earned two bachelor's degrees (Finance and Accounting) from the University of Central Florida. She is an avid runner participating in the Track Shack Runners series, completing eight half marathons and competing in a Sprint Triathlon in the past 4 years.