# AGENDA CENTRAL FLORIDA EXPRESSWAY AUTHORITY BOARD MEETING September 10, 2020 9:00 a.m.

Meeting location: Virtual

Meeting can be viewed through Orange County TV's live stream by going to <a href="www.ocfl.net/OrangeTV">www.ocfl.net/OrangeTV</a>, or Orange TV (Channel 488 on Spectrum (formerly Bright House), Channel 9 on Comcast, 1081 Century Link Prism TV, and 10.2 Digital Over the Air)

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

#### **B. PUBLIC COMMENT**

Pursuant to Executive Order 20-69, and as extended by Executive Orders 20-112, 20-123, 20-139, 20-150, 20-179 and 20-193, all issued by Governor Ron DeSantis, "local government bodies may utilize communications media technology, such as telephonic and video conferencing, as provided in section 120.54(5)(b)2, Florida Statutes" in order to establish quorums. As such, procedures for all CFX public meetings have been temporarily modified to allow public meetings to occur remotely and reduce the spread of transmission of the COVID-19 virus. Any public comments to the Board shall be emailed to <a href="mailto:Public.Comment@CFXway.com">Public.Comment@CFXway.com</a> or by visiting the CFX Website at CFXway.com and must be received by 5:00 p.m. on September 9, 2020 to be included as part of the record. All comments will be shared with Board Members but only comments related to board items being voted upon will be included in the record. Please indicate the agenda item number related to your comments in your email subject heading.

Such comments are to be limited to any such items that are identified on the meeting agenda as requiring action. Public comments may be read into the record except that if the comments exceed 3 minutes in length, when read, they will only be attached as part of the minutes. In any case, all comments received will be distributed electronically to all members in advance of the meeting.

- C. APPROVAL OF AUGUST 13, 2020 BOARD MEETING MINUTES (action Item)
- D. APPROVAL OF CONSENT AGENDA (action Item)
- E. REPORTS
  - 1. Chairman's Report
  - 2. Treasurer's Report
  - 3. Executive Director's Report

#### F. REGULAR AGENDA ITEMS

- MONTHLY COVID-19 FINANCIAL ASSESSMENT Lisa Lumbard, Chief Financial Officer (info. item)
- 2. RULES OF PROCEDURE FOR BOARD MEETINGS, SECTION 1-1.011 PUBLIC COMMENT AMENDMENT Diego "Woody" Rodriguez, General Counsel (action item)

(CONTINUED ON PAGE 2)

- 3. TAMPA-HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY MEMORANDUM OF UNDERSTANDING FOR E-ZPASS TRANSACTIONS PROCESSING Laura Kelley, Executive Director (action item)
- 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.

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 at least three business days prior to the event.

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.

## C.

# APPROVAL OF BOARD MEETING MINUTES

# MINUTES CENTRAL FLORIDA EXPRESSWAY AUTHORITY BOARD MEETING August 13, 2020

Location: The meeting was held virtually

through Orange County TV's live stream
by going to <a href="https://www.ocfl.net/OrangeTV">www.ocfl.net/OrangeTV</a>, or Orange TV (Channel 488 on Spectrum (formerly Bright House), Channel 9 on Comcast, 1081 Century Link Prism TV, and 10.2 Digital Over the Air)

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

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

The pledge of allegiance was led by Commissioner Sean Parks.

Mimi Lamaute Recording Secretary called the roll and announced there was a quorum with eight (8) board members present. Commissioner Curt Smith was absent.

#### **Board Members Appearing Virtually:**

Commissioner Brenda Carey, Seminole County (Chairman)
Mayor Buddy Dyer, City of Orlando (Vice Chairman)
Commissioner Betsy VanderLey, Orange County (Treasurer)
Commissioner Brandon Arrington, Osceola County
Mayor Jerry Demings, Orange County
Andria Herr, Gubernatorial Appointment
Jay Madara, Gubernatorial Appointment
Commissioner Sean Parks, Lake County

#### **Board Members Absent:**

Commissioner Curt Smith, Brevard County

#### Staff Appearing Virtually:

Laura Kelley, Executive Director
Lisa Lumbard, Chief Financial Officer
Michelle Maikisch, Chief of Staff/Pubic Affairs Officer
Glenn Pressimone, Chief of Infrastructure
Diego "Woody" Rodriguez, General Counsel
George Coello, Manager of IT Support
Mimi Lamaute, Recording Secretary

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



#### Others Appearing Virtually:

Brent Wilder, PFM

The Chairman provided instructions for the virtual meeting, reaffirmed reminders and gave an overview of the Agenda items.

#### B. PUBLIC COMMENT

Woody Rodriguez General Counsel stated that there were no public comments.

#### C. APPROVAL OF MEETING MINUTES

A motion was made by Commissioner Parks and seconded by Mayor Demings to approve the June 13, 2020 Board Meeting Minutes. The motion carried unanimously with all eight (8) board members in attendance voting AYE by voice vote. Commissioner Curt Smith was absent.

#### D. APPROVAL OF CONSENT AGENDA

The Consent Agenda was presented for approval.

#### CONSTRUCTION

1. Approval of Construction Contract Modifications on the following projects:

a.	Project 417-134 Hubbard Construction Co.	\$	359,333.15
b.	Project 408-628 ION Electric, LLC	(\$	221,837.02)
C.	Project 429-158 Atlantic Civil Constructors Corp.	(\$	319,103.21)
d.	Project 253G SEMA Construction, Inc.	(\$	301,723.72)

- 2. Approval of MSE Group, LLC as a Subconsultant for RK&K, LLP for SR 528/SR 436 Interchange Improvements and Widening from SR 436 to Goldenrod Road, Project No. 528-143, Contract No. 001530
- 3. Approval of Contract Award to CDM Smith, Inc. for Construction Engineering and Inspection Services for SR 417 Widening from I-Drive to Landstar Blvd., Project Nos. 417-141 & 417-142, Contract No. 001545 (Agreement Value: not-to-exceed \$15,000,000.00)
- Approval of Contract Award to Metric Engineering, Inc. for Construction Engineering and Inspection Services for SR 417 Widening from Landstar Boulevard to Boggy Creek Road, Project No. 417-149, Contract No. 001605 (Agreement Value: not-to-exceed \$7,000,000.00)

#### **ENGINEERING**

- 5. Approval of Terracon Consultants, Inc. as a Subconsultant for Dewberry Engineers, Inc. for General Engineering Consultant Services, Contract No. 001145
- 6. Approval of First Contract Renewal with CDM Smith, Inc. for Traffic and Earnings Consultant Services, Contract No. 001300 (Agreement Value: \$1,200,000.00)
- Approval of Supplemental Agreement No. 1 with Kissinger, Campo & Associates, Corp. for SR 429 Widening from Stoneybrook West Parkway (South) to Florida's Turnpike, Project No. 429-154, Contract No. 001397 (Agreement Value: not-to-exceed \$946,786.90)
- 8. Approval of Supplemental Agreement No. 1 with Kimley-Horn & Associates, Inc. for Concept, Feasibility and Mobility Study (CF&M) for the Proposed Osceola-Brevard County Connector Project, Project No. 599-229, Contract No. 001595 (Agreement Value: not-to-exceed \$518,000.00)
- Approval of Contract Award to Volkert, Inc. for Professional Engineering Consultant Services for the Project Development and Environment (PD&E) Study of the Southport Connector Project, Project No. 599-233, Contract No. 001632 (Agreement Value: not-to-exceed \$2,000,000.00)
- Approval of Contract Award to HDR Engineering, Inc. for Design Services for SR 516 Lake/Orange Expressway – Segment 1, Project No. 516-236, Contract No. 001670 (Agreement Value: not-to-exceed \$6,200,000.00)
- Approval of Final Ranking and Authorization for Fee Negotiations for Design Services for SR 516 Lake/Orange Expressway from West of Cook Road to Lake/Orange County Line – Segment 2, Project No. 516-237, Contract No. 001686
- 12. Approval of Contract Award to Hubbard Construction Company for SR 429 Pavement Repair/Resurfacing from CR 535 to CR 437A, Project No. 429-758, Contract No. 001700 (Agreement Value: \$2,898,958.22)

#### FINANCE

- 13. Approval of Debt Policy (Revised) and Resolution
- 14. Approval of Interest Rate Risk Management Policy (Revised) and Resolution
- 15. Approval of Insurance Policies with Florida Municipal Insurance Trust and ACE American Insurance Company/Chubb, Contract 000392 (Agreement Value: not-to-exceed \$232,000.00)
- 16. Approval of Second Contract Renewal with Nelson Mullins Riley & Scarborough, LLP for Bond Counsel Services, Contract No. 001476 (Agreement Value: \$0)

#### <u>INTERNAL AUDIT</u>

- 17. Acceptance of the following Internal Audit Reports:
  - COSO Enterprise Risk Management Governance Review
  - Robotic Process Automation Review
  - Purchasing Card and Gas Card Audit
  - Retail Transponder Sales Review
  - Marketing and Social Media Audit
  - Fiscal Year 2021 Internal Audit Plan

#### <u>LEGAL</u>

- 18. Approval of Agreement for Right-of-Way Transfer and Continuing Maintenance between Orange County and CFX Pertaining to State Road 417 and Boggy Creek Road, Project No. 417-454, Portions of Parcels 45-400, 45-401, 45-402A, 45-402B, 45-501A and 45-501B
- 19. Approval of Second Contract Renewal with GAI Consultants, Inc. for Right-of-Way Support Services, Contract No. 001100 (Agreement Value: \$0)

#### <u>MAINTENANCE</u>

- 20. Approval of ProShot Concrete, Inc. as a Subcontractor for Infrastructure Corporation of America for SR 429/SR 414 Roadway and Bridge Maintenance Services, Contract No. 001152
- 21. Approval of Supplemental Agreement No. 5 with Traffic Engineering and Management, LLC d/b/a/ Control Specialists for Traffic Signal Maintenance Services, Contract No. 001322 (Agreement Value: not-to-exceed \$90,000.00)
- 22. Approval of Second Contract Renewal with Rockhopper Services, Inc. for Systemwide Aquatic Vegetation Control Services, Contract No. 001412 (Agreement Value: \$200,000.00)
- 23. Approval of Second Contract Renewal with Chavez's Lawn Services, Inc. for Mowing and Landscaping Services of the Poinciana Parkway, Contract No. 001538 (Agreement Value: \$250,000.00)

#### PUBLIC OUTREACH

- 24. Approval of First Contract Renewal with Quest Corporation of America, Inc. for Public Information Services, Contract No. 001298 (Agreement Value: \$494,337.39)
- 25. Approval of Supplemental Agreement No. 1 and First Contract Renewal with Day Communications, Inc. for Public Outreach Education and Communications Consultant Services, Contract No. 001299 (Agreement Value: \$360,000.00 and \$1,240,000.00)

#### TECHNOLOGY/TOLL OPERATIONS

- 26. Approval of Maintenance Agreement with AT&T for Analog Phone Line Service (Agreement Value: \$55,296.00)
- 27. Approval of Purchase Order to Dasher Technologies for Servers (Agreement Value: \$111,056.80)
- 28. Approval of Purchase Order to Amtech for E6 Readers, (Agreement Value: \$80,400.00)
- 29. Approval of Supplemental Agreement No. 9 with TransCore, LP for Toll System Upgrade, Contract No. 001021 (Agreement Value: not-to-exceed \$90,324.81)
- 30. Approval of AVTEX as Subconsultant for AECOM Technical Services, Inc. for General Systems Consultant Services Contract, Contract No. 001215
- 31. Approval of Zero Dollar Lease with AllianceOne Receivables Management, Inc., Contract No. 001720 (Agreement Value: \$0)

#### TRAFFIC OPERATIONS

- 32. Approval of Contract Award to Castillo Engineering Services, LLC for Design/Build Services for Hiawassee Mainline Photovoltaic, Project No. 408-422, Contract No. 001675 (Agreement Value: \$1,942,500.00)
- 33. Approval of Contract Award to Kapsch TrafficCom USA for Maintenance of Intelligent Transportation System Infrastructure, Contract No. 001689 (Agreement Value: \$8,699,940.00)

A motion was made by Mayor Dyer and seconded by Commissioner Arrington to approve the Consent Agenda as presented. The motion carried unanimously with all eight (8) board members in attendance voting AYE by voice vote. Commissioner Curt Smith was absent.

#### E. REPORTS

#### 1. CHAIRMAN'S REPORT

Chairman Carey reported on the following:

In March CFX established the CFX Environmental Stewardship Committee. The committee is scheduled
to hold its first meeting next Thursday, August 20<sup>th</sup>. The virtual meeting information is posted on the CFX
website for those who are interested. Chairman Carey thanked the Committee members for serving on
this new committee and for assisting CFX as decisions are made that require CFX to balance the mobility

needs of a growing community while protecting what makes Florida so great which is Florida's natural resources.

- Chairman Carey congratulated the Central Florida Women in Transportation International Chapter on its 25th Anniversary. Later today a virtual celebration begins. Ms. Kelley is their key note speaker.
- Chairman Carey stated that Ms. Kelley represents CFX on many transportation boards including the International Bridge Tunnel and Turnpike Association better known as IBTTA. Recently IBTTA created a Women in Tolling Council, to connect women in tolling globally, supporting diversity in leadership, and promoting professional development. Chairman Carey congratulated Laura on serving as one of the 20 founding members.
- Chairman Carey expressed her sincerest gratitude to every CFX staff member, consultant and contractor for their willingness to do what it takes to keep this agency moving forward during these challenging times.

#### 2. TREASURER'S REPORT

Commissioner VanderLey reported that as of June, CFX toll revenues year-to-date were \$445,961,747 which is 7.6% under projections and 6.2% under prior year.

Total Operations, Maintenance and Administration expenses were \$89.1 million year-to-date which is 11.6% under budget.

It should be noted that all the numbers for June, which is the last month of CFX's fiscal year, are subject to yearend accruals and therefore are not final.

#### 3. EXECUTIVE DIRECTOR'S REPORT

Ms. Kelley provided the Executive Director's Report in written form.

In addition, Ms. Kelley expanded on the following:

- Ms. Kelley provided an update on the Orange County Public School meeting attended by Board Member Jay Madara, CFX staff and Orange County Public Schools representatives.
- Ms. Kelley also provided an update on the meeting with Jason Lauritsen, Executive Director with the Florida Wildlife Corridor, attended by Board Member Commissioner Sean Parks and CFX staff.

#### F. REGULAR AGENDA ITEMS

#### 1. MONTHLY COVID-19 FINANCIAL ASSESSMENT

Lisa Lumbard Chief Financial Officer explained how CFX's revenue and expenses are tracking as a result of COVID-19, because of the real time information provided some of the amounts are estimates and not the final numbers. She detailed the following: revenue variance over prior year; COVID impact by month; CFX strengths; construction projects approved to be paid out of the construction fund as of August 2020 and estimated budget vs actual.

(This item was presented for informational purposes. No Board action was taken.)

#### 2. APPROVAL OF SENIOR LIEN REFUNDING REVENUE BONDS SERIES 2020A

Lisa Lumbard Chief Financial Officer provided an overview of CFX's outstanding debt, explained the refunding opportunity and Finance Committee's recommendation for refunding.

A motion was made by Mayor Demings and seconded by Commissioner Arrington to approve the Twenty-Sixth Supplemental Revenue Bond Resolution authorizing the issuance of up to \$157,000,000 of Senior Lien Refunding Revenue Bonds Series 2020A and authorizing the forms of certain documents and agreements related to the Series 2020A bonds. The motion carried unanimously with all eight (8) board members in attendance voting AYE by voice vote. Commissioner Curt Smith was absent.

#### 3. CFX 2045 MASTER PLAN

Glenn Pressimone Chief of Infrastructure explained that the first CFX master plan set the foundation for today and moving into the future by establishing the agency's vision and mission statements. He described the kickoff efforts to deliver the 2045 Master Plan. The Master Planning process is a critical element in identifying long-range needs and serves as the agency's blueprint by which decisions are made relative to capital project investments and strategic planning.

Michelle Maikisch Chief of Staff/Public Affairs Officer described the Mission/Vision and public outreach process.

Mr. Pressimone explained overall, a 15-month schedule is anticipated for completion of the 2045 Master Plan.

(This item was presented for informational purposes. No Board action was taken.)

#### 4. CONSTRUCTION UPDATE

Ben Dreiling Director of Construction provided an informational update on the status of CFX construction projects, which included, recently completed projects, active construction projects and upcoming construction projects.

The Board asked questions, which were answered by Mr. Dreiling.

(This item was presented for informational purposes. No Board action was taken.)

#### G. BOARD MEMBER COMMENT

The following board members commented:

- Mr. Madara; and
- Commissioner Parks.

#### H. ADJOURNMENT

Minutes approved on

Chairman Carey adjourned the meeting at 9:48 a.m.	
Brenda Carey	Mimi Lamaute
Chairman	Recording Secretary
Central Florida Expressway Authority	Central Florida Expressway Authority

2020.

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

# **D.**Consent Agenda

#### CONSENT AGENDA September 10, 2020

#### CONSTRUCTION

- Approval of Supplemental Agreement No. 1 with Johnson, Mirmiran and Thompson, Inc. for CFX Owner's Representative for I-4/SR 408 Ultimate Interchange and the Coordination for the Planned Brightline Construction along SR 528, Project Nos. 408-312B, 528-915, Contract No. 001399 (Agreement Value: not-to-exceed \$1,700,000.00)
- 2. Approval of Contract Award to PI Consulting Services LLC for Systemwide Construction Engineering and Inspection Consultant Services, Contract No. 001694 (Agreement Value: \$3,500,000.00)
- Approval of Final Ranking and Authorization for Fee Negotiations for Construction Engineering and Inspection Consultant Services for SR 429 Widening from Stoneybrook West Parkway (South) to Florida's Turnpike Project No. 429-154, Contract No. 001698
- Approval of Contract Award to Base Construction, Inc. for Design/Build Services for CFX Magnolia Avenue E-PASS Service Center Renovations, Project No. 599-421, Contract No. 001699 (Agreement Value: \$1,466,527.00)
- 5. Approval of Contract Award to S & D Industrial Painting, Inc. for SR 408 Systemwide Coatings Summerlin Ave. to Chickasaw Trail, Project No. 599-756, Contract No. 001705 (Agreement Value: \$4,988,886.91)

#### **ENGINEERING**

- Approval of Supplemental Agreement No. 2 with Inwood Consulting Engineers, Inc. for SR 417 Widening from Boggy Creek Road to Narcoossee Road, Project No. 417-151, Contract No. 001394 (Agreement Value: not-to-exceed \$150,000.00)
- 7. Approval of Supplemental Agreement No. 3 with Parsons Transportation Group, Inc. for SR 429 Widening from Florida's Turnpike to West Road, Project No. 429-152, Contract No. 001395 (Agreement Value: not-to-exceed \$376,076.98)
- 8. Approval of Final Ranking and Authorization for Fee Negotiations for Design Services for SR 528 Widening from SR 417 to Innovation Way, Project No. 528-161, Contract No. 001697

#### **FINANCE**

9. Approval of First Contract Renewal with PFM Financial Advisors LLC for Financial Advisor Services Contract No. 001245 (Agreement Value: \$260,000.00)

#### **HUMAN RESOURCES**

10. Approval of Contract Award to Tews Consulting, Inc. for Staffing Services, Contract No. 001729 (Agreement Value: \$175,000.00)

#### **LEGAL**

11. Approval of Agreement for Grant of Easement Between Tohopekaliga Water Authority and CFX, Project No. 538-165

#### **TECHNOLOGY/TOLL OPERATIONS**

- 12. Approval of Purchase Order to Oracle America, Inc. for Software Update Licenses and Support (Agreement Value: \$113,854.60)
- 13. Approval of First Contract Renewal with 4 Corner Resources LLC for Information Technology Services, Contract No. 001347 (Agreement Value: \$0)

#### **TRAFFIC OPERATIONS**

- 14. Approval of Purchase Order to Temple, Inc. for Ruggedcom RSG 2300 Field Ethernet Switch Equipment Project No. 599-542 (Agreement Value: \$249,288.55)
- 15. Approval of Contract Award to SICE, Inc. for Dynamic Message Sign (DMS) Replacement Project, Project No. 599-545, Contract No. 001704 (Agreement Value: \$5,949,106.04)

The following items are for information only:

- A. The following is a list of advertisement(s) from August 5, 2020 through September 2, 2020:
  - 1. 417-141: SR 417 Widening from International Drive to John Young Parkway
  - 2. 599-542: Ruggedcom RSG 2300 Field Ethernet Switch Equipment
  - 3. 417-162: SR 417 Pond Modifications North of Berry Dease Road & SR 528 and SR 417 Guardrail upgrades
  - 4. CEI Services for ITS, Lighting and Tolling Projects
  - 5. 538-165: CEI Services for SR 538 Widening from Ronald Reagan Pkwy. to Cypress Parkway (Design-Build)

The following items are for information only and are subject to change:

- B. The following is a list of anticipated advertisements (3-4 month look ahead)
  - 1. 528-168: SR 528 Widening From Goldenrod Road to Narcoossee Road Design
  - 2. 417-142: SR 417 Widening From JYP to Landstar Boulevard Construction
  - 3. 417-149: SR 417 Widening From Landstar Boulevard to Boggy Creek Road Construction
  - 4. 417-150: SR 417 Widening From Narcoossee Road to SR 528 Construction
  - 5. 417-751: SR 417 and SR 528 Bridge Bearings Replacement Construction
  - 6. 599-419: SR 408, SR 429, and SR 414 A/C Replacements Construction
  - 7. 528-757: SR 528 Farm Access Road Bridge #1 Removal Construction
  - 8. 599-759: South Access Road Slope Repair Construction
  - 9. 414-640: SR 414 Guide Sign Replacement Construction

- 10. 599-416A: McCoy Road Facility Water Line Installation
- 11. 599-416B: McCoy Road Facility Sewer Line Installation
- 12. 408-831: SR 408/SR 417 Interchange Landscape
- 13. 408-830: SR 408 from SR 417 to Alafaya Landscape
- 14. Facilities Maintenance Services
- 15. SR 429 Widening West Road to SR 414 CEI Services
- 16. SR 429 Widening FTE to West Road CEI Services
- 17. SR 417 Widening Boggy Creek Road to Narcoossee Road CEI Services
- 18. Advocacy Services
- 19. Disclosure Counsel
- 20. Insurance Broker Services
- 21. Procurement Card Services
- 22. Financial Management System Software and Implementation Services
- 23. Appraiser Services

### CONSENT AGENDA ITEM #1

#### **MEMORANDUM**

TO: **CFX Board Members** 

Aneth Williams Anoth Williams FROM:

**Director of Procurement** 

DATE: August 25, 2020

SUBJECT: Approval of Supplemental Agreement No. 1 with Johnson, Mirmiran and

Thompson, Inc. for CFX Owner's Representative for I-4/SR 408 Ultimate

Interchange and the Coordination for the Planned Brightline Construction along

SR 528

Project Nos. 408-312B and 528-915, Contract No. 001399

Board approval of Supplemental Agreement No. 1 with Johnson, Mirmiran and Thompson, Inc. for a not-to-exceed amount of \$1,700,000.00 is requested. The original contract was for three years with renewal options.

The services to be provided include additional resources for coordination between CFX and FDOT, contractors, and general consultants for the project.

> Original Contract \$3,000,000.00 Supplemental Agreement No. 1 \$1,700,000.00 \$4,700,000.00 Total

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

Reviewed by:

Ben Dreiling, PE

Director of Construction

Glenn Pressimone, PE

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY CFX OWNER'S REPRESENTATIVE FOR I-4/SR 408 ULTIMATE INTERCHANGE AND THE COORDINATION FOR THE PLANNED BRIGHTLINE CONSTRUCTION ALONG SR 528 CONTRACT NO. 001399 SUPPLEMENTAL AGREEMENT NO. 1

This Supplemental Agreement No. 1 ("Supplemental Agreement") is entered into this 10<sup>th</sup> day of September 2020, by and between Central Florida Expressway Authority ("CFX") and Johnson, Mirmiran and Thompson, Inc. ("Consultant").

#### WITNESSETH:

WHEREAS, CFX and the Consultant on August 9, 2018, entered into an agreement ("the Contract") whereby CFX retained the Consultant to provide Owner's Representative services required by CFX; and

WHEREAS, CFX has determined it necessary to add additional funding for additional resources with coordination between CFX and FDOT, contractors, and general consultants for the project.

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree to the additional funding at a not-to-exceed cost of \$1,700,000.00. The funding will be in accordance with Exhibit "B" of the Original Agreement.

All other provisions of the Contract shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and any supplements and amendments made previously thereto, the provisions of this Supplemental Agreement shall take precedence.

[SIGNATURES TO FOLLOW]

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

	CENTRAL FLORIDA EXPRESSWAY AUTHORITY
	By: Director of Procurement
	JOHNSON, MIRMIRAN AND THOMPSON, INC.
	By:
	Print Name:
	Title:
Attest:	
Γitle:	
	Approved as to form and legality by legal counsel to
	the Central Florida Expressway Authority on this day of, 2020 for its exclusive use and reliance.
	By:
	Diego "Woody" Rodriguez, General Counsel

#### **AGREEMENT**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND JOHNSON, MIRMIRAN & THOMPSON, INC.

CFX OWNER'S REPRESENTATIVE FOR I-4/SR 408 ULTIMATE INTERCHANGE AND THE COORDINATION FOR THE PLANNED BRIGHTLINE CONSTRUCTION ALONG SR 528

> CONTRACT NO. 001399 PROJECT NOS. 408-312B AND 528-915

CONTRACT DATE: AUGUST 9, 2018 CONTRACT AMOUNT: \$3,000,000.00

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

#### CFX OWNER'S REPRESENTATIVE FOR I-4/SR 408 ULTIMATE INTERCHANGE AND THE COORDINATION FOR THE PLANNED BRIGHTLINE CONSTRUCTION ALONG SR 528

CONTRACT NO. 001399
PROJECT NOS. 408-312B AND 528-915

**AUGUST 2018** 

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

#### TABLE OF CONTENTS

Section Title Page

AG Agreement 1 to 26

Exhibit "A", Scope of Services

Exhibit "B", Method of Compensation

Exhibit "C", Details of Cost and Fees

Exhibit "D", Project Organization Chart

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY AGREEMENT FOR OWNER'S REPRESENTITIVE SERVICES CONTRACT NO. 001399

THIS AGREEMENT, made and entered into this 9<sup>th</sup> day of August 2018 by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 2014-171 Laws of Florida, 2014, (Chapter 348, Part V, Florida Statutes) hereinafter called the "CFX" and Johnson, Mirmiran & Thompson, 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 615 Crescent Executive Court, Suite 106, Lake Mary, FL. 32746.

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

#### WITNESSETH:

- 1.0 CFX does hereby retain the CONSULTANT to furnish Owner's Representative services required by CFX. CFX has a core staff of CEI 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, Senior Project Administrator, Project Administrator, Contract Support Specialist, Senior Inspector, Inspector, Environmental Specialist, Senior ITS Inspector, ITS Inspector.
- 2.0 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 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.

Reference herein to this Agreement shall be considered to include any Supplemental Agreement thereto.

CFX's Director of Construction 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 Construction and the CONSULTANT shall comply with all of the directives of the Director of Construction 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 Director of Construction.

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

#### 3.0 TERM OF AGREEMENT

Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a three-year term from the date of the Notice to Proceed. An extension of the three-year term may be approved 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.

#### 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.

Contract No. 001399

The approved subconsultants are:

DRMP, Inc. - "

EAC Consulting, Inc. Intertek-PSI

Foundation & Geotechnical Engineering, LLC

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.

#### 5.0 SERVICES TO BE PROVIDED

The work covered by this Agreement includes providing Owner's Representative services

for a variety of CFX projects including, but not necessarily limited to, roadway and bridge construction, fence construction, signing construction, roadway lighting construction, drainage modifications/construction, utility construction, and toll facility renovations/modifications/construction.

#### 6.0 COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in Exhibit "B", Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$3,000,000.00. 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.

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.

The obligations in this section, compensation, shall survive the termination of the Agreement and continue in full force and effect.

#### 7.0 DOCUMENT OWNERSHIP AND RECORDS

Notwithstanding Paragraph 16, 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 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.

#### 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 Paragraph 6.0 are accurate, complete and current as of the date of this Agreement. It is further agreed that said price provided in Paragraph 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

Upon written notice, 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 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 transferred to 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 Paragraph 6.0 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 Executive Director.

#### 11.0 ADJUSTMENTS

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the Director of Construction 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.

#### 12.0 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.

#### 13.0 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 also 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.

To the extent that there are design professional services subject to Section 725.08, Florida Statutes, CONSULTANT shall indemnify and hold harmless CFX, and its officers and employees, from liability, 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 CONSULTANT and other persons employed or utilized by CONSULTANT in the performance of the Contract.

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

#### 14.0 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 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.

#### 15.0 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.

- 15.1 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 Five Million Dollars (\$5,000,000) 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. 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. 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.
- 15.2 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.

- 15.3 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.
- 15.4 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 requested by 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.

#### 16.0 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 Paragraph 7.00 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 of 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 trademarks, service marks, or 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.

#### 17.0 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 contract 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 contract 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.

#### 18.0 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.

#### 19.0 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.

#### 20.0 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 design of the projects. Subconsultants are also ineligible to pursue construction engineering and inspection projects where they participated in the design of the projects.

#### 21.0 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 21.0, Inspector General, shall survive the expiration or termination of this Agreement and continue in full force and effect.

# 22.0 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."

#### 23.0 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.

#### 24.0. COMPANIES PURSUANT TO SECTION 287,135 AND 215,473

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

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

#### 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 contract 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. The obligations in Section 26.0, Severability, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 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) business 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.

The obligations in Section 27.0, Audit and Examination of Records, shall survive the 28.6

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:

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

25

Johnson, Mirmiran & Thompson, Inc. 615 Crescent Executive Court, Suite 106 Lake Mary, FL. 32746. Attn: Jason Hahn, P.E.

TIME

40 WIGHT AVENUE HUNT VALLEY, MD 21030 Johnson, Mirmiran & Thompson, Inc.

615 Crescent Executive Court, Suite 106

Lake Mary, FL. 32746.

ATTN: GENERAL Attn: Karina Enrico, 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 29.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 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

20

2018 AUG 14 AM 9:45

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 August 9, 2018.

JOHNSON, MIRMIRAN & THOMPSON, INC.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Authorized Signature

Title: President

Print Name: John A. Muellee

ATTEST: (Seal

Director of Procurement

Print Name: ANOTH Williams

2018 AUG 14 AM 9:45

Approved as to form and execution, only.

General Counsel for CEX

# EXHIBIT A SCOPE OF SERVICES

### EXHIBIT "A" SCOPE OF SERVICES

#### CFX OWNER'S REPRESENTATIVE FOR I-4/SR 408 ULTIMATE INTERCHANGE AND THE COORDINATION FOR THE PLANNED BRIGHTLINE CONSTRUCTION ALONG SR 528 CONTRACT NO. 001399R, PROJECT NOS. 408-312B AND 528-915

#### I. PURPOSE

The services to be provided under this contract will include coordination and direct liaison between CFX and FDOT, contractors, and general consultants in relation to the I-4/SR 408 Ultimate Interchange and the coordination of the planned Brightline construction along SR 528.

The CONSULTANT shall minimize, to the extent possible, CFX's need to apply its own resources to assignments authorized by CFX. CFX, at its option, may elect to expand, reduce or delete the extent of each work element described in this Scope of Services.

There is no guarantee that any or all the services described in this Scope of Services will be assigned during the term of the Agreement. Further, the CONSULTANT will provide these services on a non-exclusive basis. CFX, at its option, may elect to have any of the services performed by other consultants or CFX staff.

#### II. <u>SERVICES</u>

The CONSULTANT shall provide a resource pool of technical and administrative personnel, in appropriate numbers and at the proper times, to assure that services and responsibilities assigned under the Contract are effectively and efficiently carried out. The CONSULTANT shall be totally familiar with CFX and Florida Department of Transportation specifications, design standards and agency procedures, Federal and State high speed rail specifications, project contract documents and any Interlocal Agreements associated with each project.

The CONSULTANT shall exercise its independent professional judgement in performing its obligations and responsibilities under the contract.

The CONSULTANT shall provide services necessary to verify that proper coordination of the activities of all parties involved in accomplishing completion of the assigned project is achieved; to provide oversight of project progress and provide project status reports to CFX as requested; to properly document the significant changes to the assigned project; to provide, upon request, interpretations of the plans, specifications and contract provisions; to make recommendations to CFX to resolve disputes which arise in relation to the assigned project; and to maintain an adequate level of surveillance of project activities and progress. The Consultant shall also perform any other engineering services that are required to fulfill its responsibilities under the

Contract. All records and documentation will be in accordance with standard procedures, format and content, and the policies and procedures of CFX.

The CONSULTANT will perform the following tasks in the conduct of the Agreement. The following tasks provide an example of the type of work to be required but are not intended to be all inclusive.

#### The CONSULTANT shall:

- 1. Ensure the Contractor's work is completed in accordance with the contract plans and CFX specifications.
- 2. Ensure the Contractor's work plan is in accordance with the contract requirements related to lane closure restrictions, completion milestones, special event days, etc. Special attention to nightly traffic control operations will be required.
- 3. Recommend courses of action to CFX when contract requirements are not being fulfilled.
- 4. Review of Disposition of Defective Material (DDM's) and Notice of Failing Test Results (NFTR's) and make recommendations.
- 5. Attend and represent CFX at all relevant project coordination meetings.
- 6. Work closely with the O&M Manager to ensure all construction work zones are safe, properly lighted, free of debris, and of overall satisfaction to CFX and its customers.
- 7. Ensure communication and coordination is ongoing with local businesses and residents and proper notifications are provided when neighboring entities will be affected by construction.
- 8. Interface with local municipalities regarding planning and permitting.
- 9. Ensure proper ingress/egress is being utilized at CFX approved locations.
- 10. Ensure all utility locates are current and all utility owners remain informed of the Contractor's work schedule.
- 11. Review progressive and final as-built plans.
- 12. Conduct reviews of all contract plans and specifications.
- 13. Provide independent assurance that construction processes are being applied in a manner consistent with good engineering practices.
- 14. Verify the Contractor's implementation of their Quality Control Plan regarding all construction materials including but not limited to concrete, earthwork and asphalt.
- 15. Maintain a Master Contact List for all relevant personnel.
- 16. Review the Contractor's schedule and remain up to date on all planned activities. Proactively address potential issues.
- 17. Document and accurately track project issues and estimated penalties accrued by the Contractor.
- 18. Provide additional construction and engineering consultant services as requested by CFX.

#### IV. OTHER SERVICES

The CONSULTANT will, upon written authorization by CFX, perform any additional services not otherwise identified in the Agreement as may be required in connection with the project. The following items are not included as part of the Agreement but may be required to supplement the CONSULTANT's services under the Agreement.

#### V. TERM OF CONTRACT

Work shall commence upon issuance of the written Notice to Proceed, limited or otherwise, from the Director of Construction. The Contract term will be three (3) years from the date established in the notice with options to extend the Contract for two (2) one (1) year periods. Exercise of the options may be made at the discretion and election of CFX by the CFX providing written notice of its exercise to the Consultant at least 90 days prior to the expiration of the initial three-year Contract Term and the first option period if applicable.

**END OF SCOPE** 

## CONSENT AGENDA ITEM #2

#### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

#### **MEMORANDUM**

TO: CFX Board Members

FROM: Aneth Williams Anoth Williams

Director of Procurement

DATE: August 25, 2020

SUBJECT: Approval of Contract Award to PI Consulting Services LLC for

Systemwide Construction Engineering and Inspection Consultant Services

Contract No. 001694

Letters of Interest for the above referenced project for Systemwide Construction Engineering and Inspection Consultant Services was advertised on May 24, 2020. Responses were received from three (3) firms by the June 15, 2020 deadline. Those firms were: A2 Group, Inc. Adaptive Consulting Engineers LLC and PI Consulting Services LLC.

The Evaluation Committee shortlisted all the firms.

The Technical Committee heard and scored oral presentations on July 23, 2020. After the oral presentations were completed, the Committee prepared its final ranking and the result is shown below:

Consultant Firm	Ranking
PI Consulting Services LLC	1
A2 Group, Inc.	2
Adaptive Consulting Engineers LLC	3

Board award of the contract to PI Consulting Services LLC in the amount of \$3,500,000.00 for a three year term with two one-year renewals is requested.

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

Reviewed by

Ben Dreiling, PE

Director of Construction

Glenn Pressimone, PE

### <u>AMENDED MINUTES</u> LOI-001694 Technical Review Committee Meeting August 20, 2020 Minutes

Technical Review Committee for **Systemwide CEI Services**, Contract No. 001694, held a duly noticed meeting on Thursday, August 20, 2020 at 9:00 a.m. via MS Teams.

#### **Committee Members Present:**

Will Hawthorne, Director of Engineering Ben Dreiling, Director of Construction Dana Chester, Manager of Engineering Jack Burch, Resident Engineer/Project Manager Kim Murphy, Project Administrator

#### **Other Attendees:**

Aneth Williams, Director of Procurement Brad Osterhaus, Senior Procurement/Q/C Administrator

#### Presentations / Q and A:

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

A2 Group, Inc.	9:00 - 9:40 a.m.
Adaptive Consulting Engineers LLC	9:50 - 10:30 a.m.
PI Consulting Services LLC	10:40 - 11:20 a.m.

#### **Evaluation Portion:**

The evaluation portion of the meeting is open to the public in accordance with Florida Statutes. The committee members individually scored the proposers and submitted the score 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>
PI Consulting Services LLC	7	1
A2 Group, Inc.	8	2
Adaptive Consulting Engineers LLC	15	3

Committee recommends CFX Board approve award of contracts to the top two ranked firms. Ben Dreiling reviewed and approved the minutes on behalf of the Committee.

There being no other business to come before the Committee; the meeting was adjourned at 11:42 a.m. These minutes are considered to be the official minutes of the Technical Review Committee meeting held Thursday, August 20, 2020 and no other notes, tapes, etc., taken by anyone takes precedence.

Submitted by:

Anoth Williams

Approved by:

Ben Dreiling

#### Clarification to LOI-001694 Technical Review Committee Meeting August 20, 2020 Minutes

Upon further review of the solicitation documents that were advertised, which states the "The selected consultant ..." The Procurement Director notified the Director of Construction that the award could only go to the top ranked firm.

Aneth Williams

Anoth Williams

#### **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

#### TECHNICAL COMMITTEE MEMBER FINAL SUMMARY RANKING

### SYSTEMWIDE CONSTRUCTION ENGINEERING & INSPECTION (CEI) SERVICES CONTRACT NO. 001694 (SSBE)

CONSULTANT	Ben Dreiling	Will Hawthome	Dana Chester	Jack Burch	Kim Murphy	TOTAL	RANKING
	RANK	RANK	RANK	RANK	RANK	RANK	
A2 GROUP, INC.	1	1	2	2	2	8	2
ADAPTIVE CONSULTING ENG., LLC.	3	3	3	3	3	15	3
PI CONSULTING SERVICES, LLC.	2	2	1	1	1	7	1

EVALUATION COMMITTEE MEMBERS:

Ben Dreiling Thursday, August 20, 2020

Will Hawthorne Thursday, August 20, 2020

Dana Chester Thursday, August 20, 2020

Jack Burch\_\_\_\_

Jack Burch (Aug 20, 2020 Thursday, August 20, 2020

Kim Murphy
Thursday, August 20, 2020

### **AGREEMENT**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND PI CONSULTING SERVICES LLC

# SYSTEMWIDE CONSTRUCTION ENGINEERING AND INSPECTION (CEI) SERVICES

CONTRACT NO. 001694 (SSBE)

**CONTRACT DATE: SEPTEMBER 10, 2020** 

**CONTRACT AMOUNT: \$3,500,000.00** 

AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS OF COSTS AND FEES, PROJECT ORGANIZATIONAL CHART, AND POTENTIAL CONFLICT OF INTEREST FORM

# AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS OF COSTS AND FEES, PROJECT ORGANIZATIONAL CHART, AND POTENTIAL CONFLICT OF INTEREST FORM

#### **FOR**

## SYSTEMWIDE CONSTRUCTION ENGINEERING AND INSPECTION SERVICES (SSBE)

CONTRACT NO. 001694

**SEPTEMBER 2020** 

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

#### TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
AG	Agreement	1 to 17
	Exhibit "A", Scope of Services	
	Exhibit "B", Method of Compensation	
	Exhibit "C", Details of Cost and Fees	
	Exhibit "D", Project Organization Chart	
	Exhibit "E", Potential Conflict of Interest Form	

### **Table of Contents**

1.0	SERVICES TO BE PROVIDED	1
2.0	TERM OF AGREEMENT AND RENEWALS	2
3.0	PROJECT SCHEDULE	2
4.0	PROFESSIONAL STAFF	2
5.0	COMPENSATION	3
6.0	DOCUMENT OWNERSHIP AND RECORDS	4
7.0	COMPLIANCE WITH LAWS	5
8.0	WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE	6
9.0	TERMINATION	6
10.0	ADJUSTMENTS	
11.0	HOLD HARMLESS AND INDEMNIFICATION, SOVEREIGN IMMUNITY	7
12.0	INFRINGEMENT OF PATENTS AND COPYRIGHTS	8
13.0	THIRD PARTY BENEFICIARY	8
14.0	INSURANCE	9
15.0	COMMUNICATIONS	11
16.0	STANDARD OF CONDUCT	11
17.0	DOCUMENTED ALIENS	11
18.0	E-VERIFY CLAUSE	12
19.0	CONFLICT OF INTEREST	12
20.0	INSPECTOR GENERAL	12
21.0	PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT	12
22.0	COMPANIES PURSUANT TO SECTION 287.135 AND 215.473	13
23.0	AVAILABILITY OF FUNDS	13
24.0	AUDIT AND EXAMINATION OF RECORDS	13
25.0	GOVERNING LAW AND VENUE	14
26.0	NOTICE	15
27.0	HEADINGS	15
28.0	CONTRACT LANGUAGE AND INTERPRETATION	15
29.0	ASSIGNMENT	16
30.0	SEVERABILITY	16
31.0	INTEGRATION	16
32.0	ATTACHMENTS	16

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY AGREEMENT FOR SYSTEMWIDE CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

CONTRACT NO. 001694 (SSBE)

THIS AGREEMENT, made and entered into this 10<sup>th</sup> day of September 2020, 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 PI Consulting Services LLC, hereinafter called "CONSULTANT", a Florida Limited Liability Company, registered and authorized to do business in the state of Florida, whose principal address is 711 Ciara Creek Cove, Suite 1009, Longwood, FL 32750.

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 Construction Engineering and Inspection (CEI) services required by CFX. CFX has a core staff of CEI 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, Project Administrator, Contract Support Specialist, Senior Inspector, Inspector, Asphalt Plant Inspector, Inspector's Aide, Survey Party Chief Instrument Man, Rod Man/Chain Man, Environmental Specialist, Casting Yard Engineer, Senior ITS Inspector, ITS Inspector.

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 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.

Reference herein to this Agreement shall be considered to include any Supplemental Agreement thereto.

CFX's Director of Construction 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 Construction and the CONSULTANT shall comply with all of the directives of the Director of Construction 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 Director of Construction.

The work covered by this Agreement includes providing CEI services for a variety of CFX projects including, but not necessarily limited to, roadway and bridge construction, landscaping construction, fence construction, signing construction, roadway lighting construction, drainage modifications/construction, utility construction, and toll facility renovations/modifications/construction.

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 three (3) year term from the date of the Notice to Proceed for the first task assignment. Renewal of this Agreement for up to two (2) one-year renewal 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 Construction, 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:

A2 Group, Inc.
AE Engineering, Inc.
CONSOR Engineers, LLC
Elipsis Engineering and Consulting LLC
GCI, Inc.
Mehta and Associates, Inc.
RS&H, Inc.
WSP USA, Inc.

Adaptive Consulting Engineers, LLC CDM Smith Inc.
Eisman & Russo Inc.
England-Thims & Miller Inc.
KCCS, Inc.
Metric Engineering, Inc.
RK&K, LLP

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.

#### 5.0 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 amount of \$3,500,000.00. 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 17, 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 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 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.

#### 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 "C", Details of Costs and Fees, supporting the compensation provided in Paragraph 5.0 are accurate, complete and current as of the date of this Agreement. It is further agreed that said price provided in Paragraph 5.0 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.

#### 9.0 TERMINATION

CFX may terminate this Agreement in whole or in part 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 for actual costs, as determined in Exhibit "B", for work 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.

The ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be 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 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 Construction 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

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 design professional 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 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 contract 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.

- 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 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 One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Each of the above insurance policies shall include the following provisions: (1) The standard severability of interest clause in the policy and when applicable the cross liability insurance coverage provision which specifies that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate

policies had been issued to each insured; (2) The stated limits of liability coverage for Commercial/Comprehensive General Liability, and Business Automobile Liability, assumes that the standard "supplementary payments" clause will pay in addition to the applicable limits of liability and that these supplementary payments are not included as part of the insurance policies limits of liability.

- 14.3 Workers' Compensation and Employer's Liability Insurance shall be provided as required by law or regulation (statutory requirements). Employer's Liability insurance shall be provided in amounts not less than \$100,000 per accident for bodily injury by accident, \$100,000 per employee for bodily injury by disease, and \$500,000 policy limit by disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of CFX for all work performed by the CONSULTANT, its employees, agents and subconsultants.
- 14.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) Combined Single Limit (CSL) or its equivalent, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

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

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

In the event any of the aforementioned insurance policies provide greater coverage or greater limits than the minimum requirements set forth herein, then CFX shall be entitled to the full coverage and limits of such policies, and these insurance requirements will be deemed to require such greater coverage and greater limits.

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

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

Compliance with these insurance requirements shall not relieve or limit the CONSULTANT's liabilities and obligations under this Agreement. Failure of CFX to demand such certificate or evidence of full compliance with these insurance requirements or failure of CFX to identify a deficiency from evidence provided will not be construed as a waiver of the CONSULTANT's obligation to maintain such insurance.

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

#### 15.0 COMMUNICATIONS

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 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 contract 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 contract 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 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 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, "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."

#### 22.0 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. been placed on the Scrutinized Companies with Activities in Sudan List; or
- 22.3. been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
- 22.4. been 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 contract 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.

#### 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 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.

- 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 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.
- 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 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.
- 24.5 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.
- 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: PI Consulting Services LLC

711 Ciara Creek Cove, Suite 1009

Longwood, FL 32750 Attn: Ms. Chaitali Prajapati

PI Consulting Services LLC 711 Ciara Creek Cove, Suite 1009

Longwood, FL 32750 Attn: Mr. Jitu Prajapati

#### 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.

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.

#### 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

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", Method of Compensation

Exhibit "C", Details of Cost and Fees

Exhibit "D", Project Organization Chart

Exhibit "E", 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 Governing Board at its meeting on September 10, 2020.

## 

#### EXHIBIT A SCOPE OF SERVICES

#### Contents

I.	PURPOSE	2
II.	GENERAL REQUIREMENTS	2
III.	BEGINNING AND LENGTH OF SERVICES	3
IV.	SERVICES	3
E	A. General B. Inspection Services C. Testing D. Management Engineering Services	4 4
V.	PERSONNEL	
E C E	A. General Requirements  B. Personnel Qualifications  C. Staffing  D. Licensing for Equipment Operation  E. Personnel Training and Experience Standards	8 9 9
	<ol> <li>Resident Engineer/Senior Project Engineer</li> <li>Project Administrator/Project Engineer</li> </ol>	
	Assistant Project Administrator/Project Engineer	
	4. Contract Support Specialist	
	S. Associate Contract Support Specialist	
	Senior Inspector/Senior Engineer Intern	
	7. Senior Inspector -Building/Structures	
	8. Inspector/Engineer Intern	
	9. Inspector – Building Structures/Electrical	
	10. Asphalt Plant Inspector	
	11. Inspector's Aide	
	12. Survey Party Chief	
	13. Instrument Man	
	14. Rod Man/Chain Man	
	15. Secretary/Clerk Typist	
	16. Senior ITS Inspector	
	17. ITS Inspector	
VI.	•	
	A. Quality Reviews	
	3. QA Plan	15
VII.	ITEMS TO BE FURNISHED BY CFX TO THE CONSULTANT	16

VIII.	ITEMS TO BE FURNISHED BY THE CONSULTANT	16
IX.	LIAISON	18
X.	COOPERATION AND PERFORMANCE OF THE CONSULTANT	18
XI.	SUBCONSULTANT SERVICES	19
XII.	OTHER SERVICES	19
XIII.	POST CONSTRUCTION CLAIMS REVIEW	19
XIV.	INVOICING INSTRUCTIONS	20
XV.	METHOD OF COMPENSATION:	20

#### EXHIBIT A SCOPE OF SERVICES

#### CONSTRUCTION ENGINEERING AND INSPECTION CONSULTANT

#### I. PURPOSE

CFX requires the services of a consultant in connection with Construction Engineering and Inspection (CEI) services. CFX has a core staff of CEI management personnel and is seeking assistance from a Consultant who will provide support personnel on an as-needed, per project basis. Support personnel required by CFX may include, but is not necessarily limited to, Resident/Sr. Project Engineer, Project Administrator/Project Engineer, Contract Support Specialist, Senior Inspector, Inspector, Inspector's Aide, Senior Inspector-Building Structures, Inspector-Building Structures/Electrical, Senior ITS Inspector, ITS Inspector and others deemed necessary and authorized by CFX on a variety of contracts scheduled to be awarded for construction.

The Consultant shall minimize, to the extent possible, CFX's need to apply its own resources to assignments authorized by CFX. CFX, at its option, may elect to expand, reduce or delete the extent of each work element described in this Scope of Services.

CFX will request Consultant services on an as-needed, per project basis as described below. There is no guarantee that any or all of the services described in this Scope of Services will be assigned during the term of the Agreement. Further, the Consultant, as indicated below, will provide these services on a non-exclusive basis. CFX, at its option, may elect to have any of the services performed by other consultants or CFX staff.

The Consultant is one of several consultants who are under contract to CFX to provide support personnel for various construction projects. At least thirty (30) days before the notice to proceed is issued to the construction contractor for a project, CFX will identify the CEI support personnel it will require by job classification and request from the consultants a list of resumes for available individuals. From these resumes, CFX will select the most qualified team and negotiate fees and expenses with that consultant. The intent of this process is to ensure that CFX has a resource pool of consultants who can provide qualified professional, technical and administrative personnel, in the required numbers and at the required times, to assure that services and responsibilities assigned under this Scope of Services are effectively and efficiently carried out.

#### II. GENERAL REQUIREMENTS

The Consultant shall exercise its independent professional judgment in performing its obligations and responsibilities under the Contract.

The Consultant shall be prequalified by the Florida Department of Transportation (FDOT) to perform the appropriate work categories established by the FDOT.

#### III. BEGINNING AND LENGTH OF SERVICES

Work shall commence upon issuance of the written Notice to Proceed from the Director of Construction. (References to CFX's Director of Construction shall be taken to mean his designated representative as well.) The Contract term will be three (3) years with two 1-year renewal options.

Services to be provided by the Consultant will be initiated and completed as directed by CFX's Director of Construction for each Task Work Order Assignment authorized under the Contract.

The Director of Construction shall furnish the Consultant a Letter of Authorization for each Task Work Order outlining the services to be performed and the compensation to be paid for services authorized pursuant to the Scope of Services document attached to the Letter of Authorization. No payment for work performed shall be made to the Consultant unless a Letter of Authorization for that Task Work Order has been mutually agreed to in writing by CFX and Consultant (refer to the Method of Compensation).

For the duration of each project assigned under the Contract, the Consultant shall coordinate closely with CFX to minimize rescheduling of Consultant activities due to construction delays or changes in scheduling of the construction contractor's activities.

For estimating purposes, the Consultant will be allowed an accumulation of fifteen (15) calendar days to perform preliminary administrative services prior to the issuance of the notice to proceed to the construction contractor and fifteen (15) days to demobilize after final acceptance by CFX of an assigned project.

#### IV. SERVICES

The Consultant will perform the following tasks in the conduct of the Agreement for each assigned project. The following tasks provide an example of the type of work to be required but are not intended to be all inclusive.

#### A. General

It shall be the responsibility of the Consultant to provide services as necessary to administer the construction contracts in a manner so as to verify that the projects are constructed in conformity with the plans, specifications, contract provisions and within the time allotted by the construction contracts.

The Consultant is expected to pursue its work in such a manner as to cover all major contractor activities and make periodic condition inspections regardless of time of day, or date, or weather conditions.

The Consultant shall advise CFX of any omissions, substitutions, defects, or deficiencies noted in the work of the construction contractor and the corrective action taken. The work provided by the

Contractor shall in no way relieve the construction contractor of responsibility for the satisfactory performance of the construction contract.

#### B. <u>Inspection Services</u>

The Consultant shall provide services to monitor the construction contractor's on-site construction operations as required to determine that the quality of workmanship and materials is such that the assigned project will be completed in substantial conformity with the plans, specifications, and other contract provisions, and within the specified contract time. The Consultant shall keep detailed, accurate records of the construction contractor's daily operations, progress, and significant events that affect the work.

The standard procedures and practices of CFX for inspection of construction projects are set forth in CFX's Construction Project Administration Manual (CPAM) (cfxway.com). The Consultant shall, in general, perform inspection services in accordance with these standard procedures and practices and approved variations as may be appropriate.

#### C. Testing

The Consultant shall perform field testing services including but not limited to nuclear density, moisture content, etc. Laboratory Testing of component materials shall be performed by others.

#### D. <u>Management Engineering Services</u>

The Consultant shall perform the management engineering services necessary to verify that proper coordination of the activities of all parties involved in accomplishing completion of the assigned project is achieved; to maintain complete, accurate records of all activities and events relating to the assigned project; to properly document the significant changes to the assigned project; to provide, upon request, interpretations of the plans, specifications and contract provisions; to make recommendations to CFX to resolve disputes which arise in relation to the assigned project; and to maintain an adequate level of surveillance of the construction contractor's activities. The Consultant shall also perform any other management engineering services that are required to fulfill its responsibilities under the Contract. All records and documentation will be in accordance with standard procedures, format and content, and the policies and procedures of CFX.

Services may include, but are not necessarily limited to the following:

1. At the direction of CFX, schedule and conduct a preconstruction conference for each assigned project. Record significant information and decisions made at this conference and distribute copies of the minutes to the appropriate parties.

- 2. Maintain project files in accordance with CFX's methods and utilizing CFX's filing system.
- 3. Receive, review, and recommend acceptance by CFX of the construction contractor's project construction schedule, prepared and submitted in accordance with the construction project's contract documents.
- 4. Maintain, on a daily basis, a complete and accurate record of the activities and events relating to the assigned project and a record of the work completed by the construction contractor, including quantities of pay items in conformity with final estimate preparation procedures and specifications. The Consultant shall immediately report apparent, significant changes in quantity, time, or cost as they are noted.
- 5. Maintain a construction diary, including weather, appropriate for the type of construction being performed.
- 6. Maintain a log of all materials entering into the work with proper indication of the basis of acceptance of each shipment of material.
- 7. Maintain records of all sampling and testing accomplished and analyze such records as required to ascertain acceptability of materials and completed work items. Reports for records of work and testing results shall be maintained in the Consultant's files for each assigned project.
- 8. Once each month, prepare a comprehensive tabulation of the quantity of each payitem satisfactorily completed to date. Quantities shall be based on daily records or calculations. Calculations shall be retained. The tabulation will be used for preparation of the monthly progress estimate. The monthly progress estimate will be jointly prepared by the construction contractor and Consultant. Progress estimates shall be submitted to CFX for review and processing.

The Consultant shall make and record such measurements as are necessary to calculate and document quantities for pay items; make and record preconstruction and excavated cross section surveys of the assigned project in those areas where earth work (subsoil excavation) will be paid by calculating volumes removed and paid for within authorized limits at contract unit prices specified in the construction contract. The Consultant shall perform incidental engineering surveys as may be necessary to carry out the services and to verify and confirm the accuracy of the construction contractor's survey layout work on an occasional and random basis.

9. If requested by CFX, provide to the construction contractor interpretations of the plans, specifications, and contract provisions. In such instances, the Consultant shall confer with CFX when an interpretation involves complex issues or may have an impact on the cost of performing the work.

- 10. Analyze problems that arise on a project and proposals submitted by the construction contractor and prepare and submit a recommendation to CFX.
- 11. Analyze changes to the plans, specifications, or contract provisions and extra work which appear to be necessary to carry out the intent of the contract when it is determined that a change or extra work is necessary and such work is within the scope and intent of the original contract for an assigned project.
- 12. When it is determined that a modification to the original contract for an assigned project is required due to a necessary change in the character of the work, negotiate prices with the construction contractor and prepare and submit for approval by CFX a change proposal requestin accordance with applicable procedures.
- 13. In the event that the construction contractor gives notice, either written or verbal, that it deems certain work to be performed is beyond the scope of the construction contract, and that it intends to claim additional compensation, the Consultant shall maintain accurate force account records of the costs involved in such work. These records shall include manpower and equipment times and materials installed (temporary or permanent) in the portion of the work in dispute.
- 14. In the event that the construction contractor submits a claim for additional compensation on an assigned project, analyze the submittal and prepare a recommendation to CFX covering validity and reasonableness of charges, and conduct negotiations leading to recommendations for settlement of the claim. Maintain complete force account and other records of work involved in claims.
- 15. In the event that the construction contractor for a project submits a request for extension of the allowable contract time on an assigned project, analyze the request and prepare a recommendation to CFX covering accuracy of statements and the actual effect of delaying factors on completion of controlling work items.
- 16. Prepare and submit to CFX all close out documentation for each assigned project, including, but not limited to, formal notification of Final Construction Inspection, Final Acceptance; assembled and indexed written guarantees, certifications, operation and maintenance manuals, and similar items required by the construction contract documents; completed project (Final) Quantity Computation Manual, with supporting documentation; a written summary of any outstanding issues, claims and matters affecting the Final Contract close out process; the Final Estimate; one full size set each from the construction contractor and the Consultant of the marked record drawings; and similar project close out requirements. The Consultant shall complete this task within fifteen (15) calendar days after final acceptance by CFX of the assigned project (demobilization period).

- 17. Assist CFX's representatives in preparing for arbitration hearings or litigation that may occur during the Consultant's contract time in connection with an assigned project.
- 18. Monitor each assigned project to the extent necessary to determine whether construction activities violate the requirements of any permits. Notify the construction contractor of any violations or potential violations and require the construction contractor's immediate resolution of the problem. Immediately report violations to CFX.
- 19. Track shop drawing/sample submittals and approvals for each assigned project. Tracking shall include maintaining the status of each submittal as it progresses through review and approval. The Consultant shall actively encourage all reviewers to accomplish reviews promptly. The Consultant shall review samples, catalog data, shop drawings, laboratory, shop, and mill tests of materials and equipment, and other data which the construction contractor is required to submit, only for conformance and compliance with the design concept of the assigned project as set forth by the construction contract documents.
- 20. Provide coordination between the construction contractor and utility companies to facilitate that conflicting utilities are removed, adjusted, or protected in-place in a timely manner to minimize delays to construction operations. Maintain documentation in accordance with the procedures for the assigned project.
- 21. Attend weekly meetings with the respective contractor, subcontractors, and/or utility companies for each assigned project to review plans, schedules, problems, or other areas of concern. Prepare and transmit meeting minutes to CFX within two (2) days following the meeting.
- 22. Conduct and document field review for each assigned project of the maintenance of traffic operation during and after normal working hours, weekends, holidays, and during inclement weather. If maintenance of traffic features create a potential hazard to the public, notify the construction contractor's representative immediately and verify that corrective action is taken.
- 23. When needed to prevent delays in construction contractor's operations, provide the timely analysis of a situation, recommend alternative solutions, prepare any necessary sketches, field data, and other resources required to continue the construction progress.
- 24. When requested by CFX, perform Independent Assurance Services on work being performed by other CCEI or Materials Testing Consultants in accordance with CFX's IA Manual.

#### V. PERSONNEL

#### A. General Requirements

The Consultant shall provide the required number of qualified personnel as necessary to effectively carry out its responsibilities under the Contract.

#### B. Personnel Qualifications

The Consultant shall use only competent personnel who are qualified by education, experience, and certification where required. When requested by CFX, the Consultant shall submit resumes detailing education, experience qualifications and certifications of personnel in the required job classifications that the Consultant is proposing for consideration for assignment to the construction project. Minimum qualifications for the Consultant's personnel are defined in Paragraph "E" of this Article.

Before the project begins, all project staff shall have a working knowledge of the current CPAM and must possess all the necessary qualifications/certifications for fulfilling the duties of the position they hold. Cross training of the Consultant's project staff is highly recommended to achieve a knowledgeable and versatile project inspection team but shall not be at any additional cost to CFX and should occur as workload permits.

#### C. Staffing

For each assigned Task Work Order the Consultant shall staff personnel as required to complete the final project closeout. Responsible personnel, thoroughly familiar with all aspects of construction and measurement of the various pay items, shall be available to resolve disputed final pay quantities until the assigned project/task has been closed out. An individual on an assigned project whose performance is subsequently determined by CFX to be unsatisfactory shall be replaced by the Consultant within one (1) week after notification and shall not be proposed for future assignments unless authorized in writing by the Director of Construction.

Consultant personnel assigned to a project are considered by CFX to be committed to performing services under the Contract. Any changes will require written approval of CFX.

When the construction contractor's operations on a project diminish, CFX will direct an appropriate reduction, by job classification, in the Consultant's personnel. Such reduction of the Consultant's forces by CFX shall be accomplished within one (1) week after notification.

In the event of a construction contract suspension on an assigned project requires the removal of Consultant forces from the project, the Consultant will be allowed up to a maximum of ten (10) days to demobilize, relocate, or terminate such forces.

#### D. <u>Licensing for Equipment Operation</u>

The Consultant shall be responsible for obtaining proper licenses for equipment and personnel operating equipment when licenses are required. Licensing of surface moisture/density (nuclear) gauges shall be obtained through the State of Florida Department of Health, Bureau of Radiation Control, Radio Active Materials Section. Only nuclear density inspectors approved by the FDOT shall be authorized to operate surface moisture/density gauges.

#### E. Personnel Training and Experience Standards

The following are the minimum training and experience standards for Consultant personnel.

#### 1. Resident Engineer/Senior Project Engineer

Registration by the Florida State Board of Engineer Examiners as a Professional Engineer and six (6) years of highway construction engineering experience. Experience shall include at least five (5) years of major road or bridge construction. Qualifications include the ability to communicate effectively and actively direct a highly complex and specialized construction engineering administration and inspection program; plan and organize the work of subordinate staff members; consult with CFX's Director of Construction and his staff; develop and review policies, methods, practices and procedures; review the program for conformity with FDOT standards and as amended by CFX. The Senior Project Engineer must be able to interpret and monitor scheduled construction progress; must be qualified to manage field changes, change orders, claims and public complaints.

#### Qualifications:

Attend the CTQP Quality Control Manager course and pass the examination.

#### Certifications:

FDOT Advanced MOT

#### Other:

Complete the Critical Structures Construction Issues, Self Study Course, and submit the mandatory Certification of Course Completion form (for projects with structures)A Master's Degree in Engineering may be substituted for one (1) year engineering experience.

#### 2. Project Administrator/Project Engineer

A Civil Engineering Degree plus four (4) years of engineering experience in construction of major road or bridge structures, or for non-degreed personnel eight (8) years of responsible and related engineering experience, two (2) years of which involved construction of major road or bridge structures.

Receives general instruction regarding assignments and is expected to exercise initiative and independent judgment in solution of work problems. Directs and assigns specific tasks to inspectors

and assistants for all phases of the construction project. Will be responsible for the progress and final estimates throughout the construction project duration. Must have the following:

#### Qualifications:

CTQP Final Estimates Level II

#### Certifications:

FDOT Advanced MOT

#### Other:

Attend CTQP Quality Control Manager Course and pass the examination. Complete the Critical Structures Construction Issues, Self Study Course, and submit the mandatory Certification of course Completion form (for projects with structures). A Master's Degree in Engineering may be substituted for one (1) year of engineering experience.

#### 3. Assistant Project Administrator/Project Engineer

A Civil Engineering degree plus one (1) year of engineering experience in construction of major road or bridge structures, or for non-degreed personnel six (6) years of responsible and related engineering experience, two (2) years of which involved construction of major road or bridge structures with the exception of Complex Category 2 (CC2) bridge structures.

#### Qualifications:

CTQP Final Estimates Level II

#### Certifications:

FDOT Intermediate MOT

#### 4. Contract Support Specialist

High school diploma or equivalent plus four (4) years construction project related experience. Should exercise independent judgment in planning work details and making technical decisions related to office aspects of the project. Must be able to interpret project drawings and technical specifications, organize and summarize construction quantities, and perform computer data entry. Must have technical skill to maintain As-Built (record) drawings.

#### Qualifications:

CTQP Final Estimates Levels I & II

#### 5. Associate Contract Support Specialist

High school graduate or equivalent plus three (3) years of secretarial and/or clerical experience including two (2) years experience in construction office management having performed project related duties (i.e., materials acceptance, progress and final estimates, compliance, processing

Construction Contract changes, etc.). Experienced in the use of standard word processing software. Should exercise independent initiative to help relieve the supervisor of clerical detail. Project specific work under the general supervision of the Senior Project Engineer and staff.

#### Qualifications:

CTQP Final Estimates Level I

#### 6. <u>Senior Inspector/Senior Engineer Intern</u>

High School graduate plus four (4) years of experience in construction inspection two (2) years of which shall have been in bridge and/or roadway construction). Responsible for performing highly complex technical assignments in field surveying and construction layout, making and checking engineering computations, inspecting construction work and conducting field tests and is responsible for coordinating and managing the lower level inspectors. Work is performed under general supervision of the Project Administrator. Must have the following:

#### Qualifications:

CTQP Concrete Field Inspector Level I

CTQP Concrete Transportation Construction Inspector (CTCI) Level II (all bridges)

CTQP Asphalt Roadway Level I (If applicable)

CTQP Asphalt Roadway Level II (If applicable)

CTQP Earthwork Construction Inspection Level I

CTQP Earthwork Construction Inspection Level II

CTQP Pile Driving Inspection (If applicable)

CTQP Drilled Shaft Inspection (If applicable – required for inspection of all drilled shafts including miscellaneous structures such as Sign structures, Lighting structures, and Traffic Signal structures)

CTQP Grouting Technician Level I (If applicable)

CTQP Post-Tensioning Technician Level I (If applicable)

CTQP Final Estimates Level I

#### Certifications:

FDOT Intermediate MOT

**Nuclear Radiation Safety** 

SSPC course: C-3 Supervisor/Competent Person Training for Deleading of Industrial Structures (If applicable)

#### 7. Senior Inspector -Building/Structures

High School Graduate plus eight (8) years of experience in construction inspection with four (4) years of experience in performing highly complex technical assignments in field surveying and construction layout, making and checking engineering computations, inspecting construction work and conducting fields tests. Senior Building Structures Inspector must be fully knowledgeable of all aspects of the building construction to include masonry work and familiarization with the local and State building codes and ordinances. Work is performed under the general supervision of the Sr. Project Engineer or Project Administrator.

#### 8. Inspector/Engineer Intern

High school graduate or equivalent plus two (2) years of experience in construction inspection, one year of which shall have been in bridge and/or roadway construction inspection, plus the following:

#### Qualifications:

CTQP Concrete Field Inspector Level I

CTQP Asphalt Roadway Level I (If applicable)

CTQP Earthwork Construction Inspection Level I

CTQP Pile Driving Inspection (If applicable)

CTQP Drilled Shaft Inspection (If applicable– required for inspection of all drilled shafts including miscellaneous structures such as Sign structures, Lighting structures, and Traffic Signal structures)

CTQP Final Estimates Level I

#### Certifications:

FDOT Intermediate MOT Nuclear Radiation Safety

Or a Civil Engineering degree with the ability to earn additional required qualifications within one year. (Note: Engineer Intern classification requires E.I.T. certificate.)

Responsible for performing assignments in assisting Senior Inspector in the performance of their duties. Receive general supervision from the Senior Inspector who reviews work while in progress. Civil Engineering graduates must obtain certifications within the first year of working as an inspector or Engineer Intern. Exceptions will be permitted on a case-by-case basis so long as qualifications and certifications are appropriate for specific inspection duties.

#### 9. Inspector – Building Structures/Electrical

High School Graduate plus five (5) years experience as a qualified building inspector or general contractor. Experience shall be actual field experience as a qualified building inspector or job superintendent. Inspector must be fully knowledgeable of all local and State building codes and ordinances.

#### 10. Asphalt Plant Inspector

High School graduate or equivalent plus one (1) year experience in the surveillance and inspection of hot mix asphalt plant operations and the following:

#### Qualifications:

CTQP Asphalt Plant Level I CTQP Asphalt Plant Level II

#### CTQP Final Estimates Level I

#### 11. <u>Inspector's Aide</u>

High School graduate or equivalent and able to perform basic mathematical calculation and follow simple technical instructions. Duties are to assist higher-level inspectors. Must obtain FDOT Intermediate MOT within the first six months of the assignment.

#### 12. Survey Party Chief

High School graduate plus four years of experience in construction surveying (including two (2) years as Party Chief). Experienced in field engineering and construction layout, making and checking survey computations and supervising a survey party. Work is performed under general supervision of Project Administrator.

#### 13. <u>Instrument Man</u>

High school graduate plus three (3) years of experience in construction surveying one (1) year of which shall have been as instrument-man. Responsible for performing assignments in assisting Party Chief in the performance of their duties. Receives general supervision from Party Chief who reviews work while in progress.

#### 14. Rod Man/Chain Man

High school graduate with some survey experience or training preferred. Receives supervision from and assists Party Chief who reviews work while in progress.

#### 15. <u>Secretary/Clerk Typist</u>

High school graduate or equivalent plus two (2) years of secretarial and/or clerical experience. Ability to type at a rate of 35 correct words per minute. Experienced in the use of standard word processing software. Should exercise independent initiative to help relieve the supervisor of clerical detail. Work under general supervision of the Senior Project Engineer and their staff.

#### 16. <u>Senior ITS Inspector</u>

High school graduate or equivalent plus four (4) years of experience in construction inspection, two (2) years of which shall have been in ITS construction inspection, or a Civl Engineering Degree and one (1) year of ITS CEI experience, plus the following:

#### Qualifications:

Fiber Installation Inspection and OTDR Fiber Testing

DMS Operation and Testing Controller Operation and Testing CCTV Installation, Operation and Testing Familiarity with Existing Communication Equipment and Switches

#### **Certifications:**

IMSA Level II

Responsible for inspecting construction work; monitoring ITS and electrical installation techniques to ensure conformance with the plans, specifications, National Electrical code and other applicable manuals and is responsible for coordinating and managing the lower level inspectors. Responsible for escalating any deficiencies to the Project Administrator.

#### 17. <u>ITS Inspector</u>

High school graduate or equivalent plus two (2) years of experience in construction inspection, one (1) year of which shall have been in ITS construction inspection, or an Engineer Intern with a Civil Engineering degree (requires certificate) having the ability to earn the required qualifications within one year, plus the following:

#### Qualifications:

Fiber Installation Inspection and OTDR Fiber Testing
DMS Operation and Testing
Controller Operation and Testing
CCTV Installation, Operation and Testing
Familiarity with Existing Communication Equipment and Switches

#### Certifications:

IMSA Fiber Optics for ITS Level I (or equivalent)

Responsible for performing assignments in assisting Senior Inspector in the performance of their duties. Receive general supervision from the Senior Inspector who reviews work while in progress. Civil Engineering graduates must obtain certifications within the first year of working as an inspector or Engineer Intern. Exceptions will be permitted on a case-by-case basis so long as qualifications and certifications are appropriate for specific inspection duties.

#### VI. QUALITY ASSURANCE (QA) PROGRAM

#### A. Quality Reviews

The Consultant shall conduct semi-annual reviews to make certain its organization is in compliance with the requirements cited in the Scope of Services. Quality Reviews shall be conducted to evaluate the adequacy of materials, processes, documentation, procedures, training, guidance, and staffing

included in the execution of the Contract. Quality Reviews shall also be developed and performed to achieve compliance with specific QA provisions contained in this Scope of Services. The semi-annual reviews shall be submitted to CFX in written form no later than one (1) month after the review.

On assigned projects with short duration (9 months or less), the Consultant shall perform an initial QA review within the first two (2) months of the start of construction.

On asphalt projects, the Consultant shall perform an initial QA review on its asphalt inspection staff after the construction contractor has completed ten (10) full work days of mainline asphalt paving operations, or 25% of the asphalt pay item amount (whichever is less) to validate that all sampling, testing, inspection, and documentation are occurring as required.

#### B. QA Plan

Within thirty (30) days after execution of the Contract, the Consultant shall furnish a QA Plan to the Director of Construction. The QA Plan shall detail the procedures, evaluation criteria, and instructions of the Consultant's organization for providing services pursuant to the Contract. Unless specifically waived, no payment will be made for any services until CFX approves the Consultant QA Plan.

Significant changes to the work requirements may require the Consultant to revise the QA Plan. The Consultant shall keep the plan current with the work requirements. The Plan shall include, but not be limited to, the following areas:

- 1. Organization: A description is required of the Consultant QA Organization and its functional relationship to the part of the organization performing the work under the Contract. CFX, responsibilities and autonomy of the QA organization shall be detailed as well as the names and qualifications of personnel in the quality control organization.
- 2. Quality Reviews: The Consultant QA shall detail the methods used to monitor and achieve organization compliance with Contract requirements for services and products.
- 3. Quality Records: The Consultant shall outline the types of records which will be generated and maintained during the execution of its QA program.
- 4. Control of Subconsultants and Vendors: The Consultant shall detail the methods used to control subconsultants and vendor quality.
- 5. Quality Assurance Certification: An officer of the Consultant firm shall certify that the inspection and documentation was done in accordance with specifications, plans, standard indices, and CFX procedures.
- 6. Quality Records: The Consultant shall maintain adequate records of the quality assurance

actions performed by its organization (including subcontractors and vendors) in providing services and products under the 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 available to CFX, upon request, during the term of the Contract. All records shall be kept at the primary job site and will be subject to audit review.

#### VII. ITEMS TO BE FURNISHED BY CFX TO THE CONSULTANT

The following printed documents, facilities, equipment and services are furnished by CFX, either directly or as provided by the Contractor on selected construction projects.

- A. Project Construction Contract.
- B. Project Construction (Design) Drawings.
- C. Project Supplemental Specifications.
- D. Project Special Provisions.
- E. R.O.W. Drawings, geotechnical reports, permits and similar documents.
- F. Copy of the original plan quantities project computation manual.
- G. CFX Policy and Procedures Manual.
- H. CFX standardized forms to be used with documentation and reporting procedures.
- I. CFX General Specifications and Technical Specifications.

Unless otherwise stated by CFX at the time of the Task Authorization, the Consultant shall provide office space for its personnel to effectively carry out the requirements of this Scope of Services. Such office expenses will not be paid separately but will be included in the fees negotiated for each assigned project.

#### VIII. ITEMS TO BE FURNISHED BY THE CONSULTANT

The Consultant shall furnish the quantity of the following items required to effectively perform the work and services required. Except as stated herein, these items are considered normal and incidental to the type of services provided and will not be reimbursed by CFX.

- A. FDOT Standard Specifications for Road and Bridge Construction, current edition.
- B. FDOT Design Standards, current edition.

- C. FDOT Structures Design Standards, current edition.
- D. FDOT Construction Manual, current edition.
- E. FDOT Materials Sampling, Testing and Reporting Guide, current edition.
- F. FDOT Qualified Products Listing, current edition.
- G. FDOT Utility Accommodation Guide, current edition.
- H. FDOT Inspection-In-Depth of the Materials and Construction Control Process Manual, current edition.
- I. FDOT Basis of Estimates and Computation Manual, current edition.
- J. FDOT Sample Computation Manual, Final Estimate Preparation Short Course, and Carter Key Manual, current edition.
- K. Miscellaneous office supplies and accommodations, such as stationery, rubber stamps, engineering rules, pads, pens, daily diaries, survey books, staplers, punches, electronic calculators, adding machines, tape recorder, mail box, postal fees, and any other items necessary to maintain an office.
- L. Project vehicles for CFX related business. Documentation of mileage for CFX related business will be required. Vehicles will be equipped with appropriate safety equipment and must be able to effectively carry out requirements of this Agreement. Vehicles shall have the name and phone number of the consulting firm visibly displayed on both sides of the vehicle.
- M. Project telephones and services, including long distance charges.
- N. CEI personnel qualification and registration fees, licenses, personnel badges, safety restrictions, carrying lockers, and security systems. Progress photographs, videos, project claim documentation, and expenditures directed by CFX's representatives.
- O. Applicable software to calculate Monthly Project Progress Estimates in a format acceptable to CFX and all other software packages determined by CFX to be essential to the execution of the Contract.
- P. The Consultant shall supply survey, inspection and testing equipment, essential in order to carry out the work under this Agreement. Such equipment includes those non-consumable and non-expendable items, which are normally needed for a CEI project and are essential in order to carry out the work under this Agreement.
- Q. Hard hats shall have the name of the consulting firm visibly displayed.

- R. Equipment described herein and expendable materials under this Agreement will remain the property of the Consultant and shall be removed at completion of the work.
- S. The Consultant's handling of nuclear density gauges shall be in compliance with their license.
- The Consultant shall retain responsibility for risk of loss or damage to said equipment during performance of this Agreement. Field office equipment shall be maintained and in operational condition at all times.
- U. Any additional equipment and furnishings considered by the Consultant to perform the required services are optional to the Consultant, at its expense.

#### IX. LIAISON

The Consultant shall be fully responsible for performing all tasks assigned under this Scope of Services and interrelated documents on each assigned project. All activities and decisions of the Consultant relating to the projects shall be subject to review and approval by CFX. The Consultant shall provide and maintain close coordination and support of all activities, correspondence, documentation, reports and other communication related to construction progress, delays, changes, claims, and significant events, whereby CFX may carry out its responsibilities.

Upon confirmation of award of an assigned project and scheduled start of construction, the Consultant shall be ready to assign personnel within two weeks after CFX's notification to the Consultant to begin the services. No personnel shall be assigned until written notification has been issued. Consultant personnel will generally be required at all times while the construction contractor is working on an assigned project.

#### X. COOPERATION AND PERFORMANCE OF THE CONSULTANT

During the term of the Contract, CFX will conduct reviews of the various phases and stages of the Consultant's operations.

Reviews will be conducted in accordance with established CFX policies on work phases to determine compliance with this Scope of Services and the sufficiency with which procedures are being effectively applied to verify that the construction work and administration activities are performed in reasonable conformity with policies, plans, specifications, and provisions of the assigned project. The Consultant shall cooperate and assist CFX's representative in the conduct of the reviews.

When deficiencies are indicated in a review, remedial action shall be immediately implemented by the Consultant in conformance with CFX's recommendations. CFX's remedial recommendations and the Consultant's actions will be documented by CFX. In general, remedial

action shall be required commensurate with the degree and nature of the deficiencies cited. Additional compensation will not be paid for remedial action taken to correct deficiencies by the Consultant. Remedial actions may include any or all of, but are not necessarily limited to, the following actions:

- A. Further subdivide assigned inspection responsibilities, re-assign inspection personnel or assign additional inspection personnel. The Consultant shall comply with this action within forty-eight (48) hours of notification.
- B. Replace personnel whose performance has been determined by CFX to be inadequate.
- C. Increase the frequency of the project control testing immediately in the appropriate phase of work when such is the responsibility of the Consultant.
- D. Increase the scope and frequency of training conducted by the Consultant.

#### XI. <u>SUBCONSULTANT SERVICES</u>

Services assigned to subconsultants must be approved in advance by CFX in accordance with the Contract requirements. The subconsultants must be qualified by CFX to perform all work assigned to them.

Subconsultant services will be paid in accordance with Exhibit "B".

#### XII. <u>OTHER SERVICES</u>

The Consultant shall, upon written authorization by CFX, perform any additional services not otherwise identified in this Scope of Services as may be required in connection with an assigned project. The following items are not included as part of the Contract but may be required to supplement the Consultant's services under the Contract.

- A. The Consultant shall, upon review, approval, and written authorization by CFX, make such changes and revisions to the plans and specifications as may be required in order to complete the construction activities for an assigned project.
- B. The Consultant shall, upon written request by CFX, provide qualified engineers and/or engineering technicians to serve as engineering witnesses, provide exhibits, and otherwise assist in any litigation or hearings in connection with the construction contract(s).
- C. The Consultant shall, upon written request by CFX, provide off-site inspection services.

#### XIII. POST CONSTRUCTION CLAIMS REVIEW

In the event the contractor for an assigned project submits a claim for additional compensation

and/or time, and the Consultant has completed the terms of the Contract, the Consultant shall, at the written request from CFX, analyze the claim, prepare a recommendation to CFX covering validity and reasonableness of charges and/or assist in negotiations leading to settlement of the claim. Compensation will be separately reimbursed by a supplement to the Contract.

#### XIV. INVOICING INSTRUCTIONS

Monthly invoices shall be submitted in a format and distribution schedule defined by CFX no later than the 20<sup>th</sup> day of the following month.

If the Consultant cannot submit their monthly invoice on time, the Consultant shall notify CFX's Resident Engineer prior to the due date the reason for the delay and the planned submittal date. Once submitted, the Consultant Project Principal or Senior Project Engineer shall notify CFX's Resident Engineer via e-mail of the total delay in calendar days and the reason(s) for the delay(s).

All invoices shall be submitted with timesheets and other backup as appropriate. A Final Invoice will be submitted to CFX no later than the 30<sup>th</sup> day following Final Acceptance of the individual project or as requested by CFX.

#### XV. <u>METHOD OF COMPENSATION:</u>

All consultant and subconsultant services authorized by CFX will be paid for in accordance with Exhibit "B".

END OF SCOPE OF SERVICES

# CONSENT AGENDA ITEM #3

#### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

#### **MEMORANDUM**

TO: CFX Board Members

FROM: Aneth Williams Anoth Williams

**Director of Procurement** 

DATE: August 25, 2020

SUBJECT: Approval of Final Ranking and Authorization for Fee Negotiations for

Construction Engineering and Inspection (CEI) Consultant Services for SR 429 Widening from Stoneybrook West Parkway (South) to Florida's Turnpike

Project No. 429-154, Contract No. 001698

Letters of Interest for the above referenced project was advertised on June 14, 2020. Six (6) responses were received by the July 9, 2020 deadline. Those firms were Adaptive Consulting Engineers, Inc., AE Engineering, Inc., Carnahan, Proctor and Cross, Inc., Elipsis Engineering & Consulting LLC, RS&H, Inc. and TRC Engineers, Inc.

The Evaluation Committee met on July 21, 2020 and after reviewing the letters of interest, shortlisted Adaptive Consulting Engineers, Inc., AE Engineering, Inc., Elipsis Engineering & Consulting LLC and RS&H, Inc.

The Technical Committee heard and scored oral presentations on August 21, 2020. After the oral presentations were completed, the Committee prepared its final ranking and the result is shown below:

Ranking	Firm
1	AE Engineering, Inc.
2	RS&H, Inc.
3	Elipsis Engineering & Consulting LLC
4	Adaptive Consulting Engineers, Inc.

Board approval of the final ranking and authorization to enter into negotiations in ranked order is requested. Once negotiations are completed, approval of the contract will be requested.

Reviewed by:

Ben Dreiling, PE

Director of Construction

Glenn Pressimone, PE

#### LOI-001698 Technical Review Committee Meeting August 21, 2020 Minutes

Technical Review Committee for CEI Services for SR 429 Widening from Stoneybrook West Parkway (South) to Florida's Turnpike, Project 429-154, Contract No. 001698, held a duly noticed meeting on Friday, August 21, 2020 at 9:00 a.m. via MS Teams.

#### **Committee Members Present:**

Glenn Pressimone, Chief of Infrastructure Will Hawthorne, Director of Engineering Ben Dreiling, Director of Construction Jack Burch, Resident Engineer/Project Manager Kim Murphy, Project Administrator

#### Other Attendees:

Aneth Williams, Director of Procurement Brad Osterhaus, Senior Procurement/Q/C Administrator

#### Presentations / Q and A:

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

Adaptive Consulting Engineers LLC	9:00 - 9:40 a.m.
AE Engineering, Inc.	9:50 - 10:30 a.m.
Elipsis Engineering & Consulting LLC	10:40 - 11:20 a.m.
RS&H, Inc.	11:30 – 12:10 p.m.

#### **Evaluation Portion:**

The evaluation portion of the meeting is open to the public in accordance with Florida Statutes. 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:

FIRM	<u>Points</u>	Ranking
AE Engineering, Inc.	10	1
RS&H, Inc.	11	2
Elipsis Engineering & Consulting LLC	12	3
Adaptive Consulting Engineers LLC	16	4

Committee recommends CFX Board approve ranking and authorize negotiations in ranked order. Ben Dreiling reviewed and approved the minutes on behalf of the Committee.

There being no other business to come before the Committee; the meeting was adjourned at 12:55 p.m. These minutes are considered to be the official minutes of the Technical Review Committee meeting held Friday, August 21, 2020 and no other notes, tapes, etc., taken by anyone takes precedence.

Submitted by:

Aneth Williams

Approved by:

Ben Dreiling

#### **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

#### TECHNICAL COMMITTEE MEMBER FINAL SUMMARY RANKING

# CONSTRUCTION ENGINEERING AND INSPECTION (CEI) SERVICES FOR SR 429 WIDENING FROM STONEYBROOK WEST PARKWAY (SOUTH) TO FLORIDA'S TURNPIKE PROJECT NO. 429-154 CONTRACT NO. 001698

CONSULTANT	Glenn Pressimone (RANK)	Will Hawthorne (RANK)	Ben Dreiling (RANK)	Jack Burch (RANK)	Kim Murphy (RANK)	TOTAL SCORE	RANKING
ADAPTIVE CONSULTING ENGINEERS, LLC	3	3	4	4	2	16	4
AE ENGINEERING, INC.	1	2	2	3	2	10	1
ELIPSIS ENGINEERING & CONSULTING, LLC	2	1	3	2	4	12	3
RS&H, INC.	4	4	1	1	1	11	2

#### **EVALUATION COMMITTEE MEMBERS:**

Glenn Pressimone	Friday, August 21, 2020
Glenn Pressimone	
Will Hawdhorne	Friday, August 21, 2020
	Friday, August 21, 2020
Sea Dreiling  Jack Burch  Jack Burch (Mag 21, 2010 12:45 10 T)	Friday, August 21, 2020
Jack Burch	
Kim Murphy With Murphy Shig 21, 2020 12:30 LOT1	Friday, August 21, 2020
Kim Murphy	

## CONSENT AGENDA ITEM #4

#### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

#### MEMORANDUM

TO: **CFX Board Members** 

Aneth Williams Anoth Williams FROM:

Director of Procurement

DATE: August 25, 2020

SUBJECT: Approval of Contract Award to Base Construction, Inc. for

Design/Build Services for CFX Magnolia Avenue E-PASS Service Center

Renovations

Project No. 599-421, Contract No. 001699

Notice to Contractors for the above referenced project was advertised on June 14, 2020. Six (6) responses were received by the July 8, 2020 deadline. Those contractors were BASE Construction, Inc./The Lunz Group, Inc., Clancey & Theys Construction Company/C.T. Hsu & Associates, Gomez Construction Company/KMF Architects, Hoar Construction/Architectural Design Collaborative/TLC Engineering Solutions, and RL Burns, Inc./Borrell + Partners, Inc./ S.A. Casey Construction, Inc.

The Evaluation Committee met on July 15, 2020 and shortlisted Clancey & Theys Construction/C.T. Hsu & Associates, BASE Construction, Inc./The Lunz Group and Gomez Construction/KMF Architects. Invitation to Bid was issued to those companies on July 16, 2020, with a due date of August 21, 2020.

Bid results were as follows:

	<u>Bidder</u>	<u> Bid Amount</u>
1.	Base Construction, Inc.	\$1,466,527.00
2.	Clancey & Theys Construction	\$1,724,588.00
3.	Gomez Construction Company	\$1,787,581.00

The engineer's estimate for this project is \$1,738,303.00. Included in the Five-Year Work Plan is \$654,000.00. Subsequent to the Five-Year Work Plan the following items were identified for replacement and/or upgrade: roofing system, roof top airhandler, fire suppression system and security system.



The services to be provided consist of design and construction of the interior/exterior renovations of CFX's building located at 525 S. Magnolia Avenue to support the relocation of the existing E-PASS Service Center.

The Engineer of Record reviewed the low bid submitted by Base Construction, Inc. and has determined there are no unbalanced bid items.

The Procurement Department has evaluated the bids and has determined that the bid from Base Construction, Inc. to be responsible and responsive to the bidding requirements. Board award of the contract to Base Construction, Inc. in the amount of \$1,466,527.00 is requested.

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

Reviewed by:

Ben Dreiling, PE

Director of Construction

Glenn Pressimone, PE

## **CONTRACT**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND BASE CONSTRUCTION, INC.

### DESIGN/BUILD SERVICES FOR CFX MAGNOLIA AVENUE E-PASS SERVICE CENTER RENOVATIONS

**PROJECT NO. 599-421** 

**CONTRACT NO. 001699** 

CONTRACT DATE: SEPTEMBER 10, 2020 CONTRACT AMOUNT: \$1,466,527.00

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

CONTRACT, MEMORANDUM OF AGREEMENT, SCOPE OF SERVICES, DESIGN CRITERIA, GENERAL SPECIFICATIONS, TECHNICAL SPECIFICATIONS, DRAWINGS, ADDENDA, PRICE PROPOSAL, PUBLIC CONSTRUCTION BOND, AND FORMS

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

CONTRACT, MEMORANDUM OF AGREEMENT, SCOPE OF SERVICES, DESIGN CRITERIA, GENERAL SPECIFICATIONS, TECHNICAL SPECIFICATIONS, DRAWINGS, ADDENDA, PRICE PROPOSAL, PUBLIC CONSTRUCTION BOND, AND FORMS

# DESIGN/BUILD SERVICES FOR CFX MAGNOLIA AVENUE E-PASS SERVICE CENTER RENOVATIONS

**PROJECT NO. 599-421 CONTRACT NO. 001699** 

**SEPTEMBER 2020** 

# TABLE OF CONTENTS

Section	<u>Title</u>	<u>Page</u>
В	CONTRACT	B-1 to B-7
	Memorandum of Agreement	1 to X
	Addendum No. 1 Addendum No. 2 Addendum No. 3  Deign Criteria Package	1 – 13
	Deigh Chiena i ackage	1 – 13
	Attachment A – Concept Plans Attachment B –General Specifications Attachment C –Technical Specifications (See Addendum No. 1) Attachment D –Special Provisions	
	Exhibit A – Scope of Services	A-1
C	Exhibit B – PROPOSAL (Proposal Bond Pages C-5 thru C-6 not included)	C-1 to C-12
PCB	PUBLIC CONSTRUCTION BOND	PCB-1 to PCB-4

# AGREEMENT FOR DESIGN/BUILD SERVICES FOR CFX MAGNOLIA AVENUE E-PASS SERVICE CENTER RENOVATIONS PROJECT 599-421, CONTRACT NO. 001699

THIS AGREEMENT FOR DESIGN/BUILD SERVICES FOR CFX MAGNOLIA AVENUE E-PASS SERVICE CENTER RENOVATIONS ("AGREEMENT") is made and entered into as of the 10<sup>th</sup> day of September 2020, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and corporate, and an agency of the state, under the laws of the State of Florida, whose address is 4974 ORL Tower Road, Orlando, Florida 32801-4414 (hereinafter called "CFX") and BASE Construction, Inc., (hereinafter called "DESIGN/BUILDER"), a Florida profit corporation, registered and authorized to conduct business in the State of Florida, whose principal address is 1199 N Orange Ave, Suite B, Orlando FL, 32804 and who is duly authorized. CFX and DESIGN/Builder may hereinafter be referred to individually as "Party" or collectively as "Parties".

# **RECITALS**

WHEREAS, CFX desires to obtain the professional architectural, engineering and construction services of DESIGN/BUILDER concerning certain services for the design, engineering and construction of CFX Magnolia Avenue E-PASS Service Center Renovations, Project 599-421 (hereafter referred to as the "Project"), said services being more fully described in the "Scope of Services" attached hereto as **Exhibit "A"** and incorporated herein ("Scope of Services"); and

WHEREAS, CFX issued a Request for Proposals for Design/Build Services for CFX Magnolia Avenue E-PASS Service Center Renovations, Project 599-421 ("RFP"); and

WHEREAS, DESIGN/BUILDER submitted a proposal in response to the RFP; and

**NOW, THEREFORE**, CFX and DESIGN/BUILDER, in consideration of the mutual covenants and provisions hereinafter set forth, agree as follows:

#### ARTICLE 1. WORK

1.1 DESIGN/BUILDER shall, consistent with applicable state licensing laws, provide professional architectural, engineering and construction services for the Project in accordance with the Contract Documents, as more particularly defined in Article 6 hereof. The "Work" is generally described and defined as any and all completed professional architectural, engineering and construction services, and the various separately identifiable parts thereof, required to be performed or furnished to complete the design, engineering and construction of the Project in accordance with the terms and conditions of the Contract Documents.

# ARTICLE 2. CONTRACT TIMES AND LIQUIDATED DAMAGES

# 2.1 Substantial and Final Completion

A. The "Commencement Date" shall be established in a written Notice to Proceed to be issued by CFX. Any Work performed by DESIGN/BUILDER prior to the

Commencement Date shall be at the sole risk and expense of DESIGN/BUILDER. The total period of time beginning with the Commencement Date and ending on the date the Work is fully completed and ready for Final Acceptable by CFX ("Final Completion") is referred to hereafter as the "Contract Time". The Work related to the design, engineering and construction of the Project shall reach Substantial Completion within 180 calendar days of the Commencement Date, plus such additional time as may have been granted by CFX. The entire Work shall be fully completed and ready for Final Acceptance by CFX within 190 calendar days of the Commencement Date, plus such additional time as may have been granted by CFX.,

# 2.2 <u>Liquidated Damages</u>

- A. <u>Substantial Completion</u>. CFX and the DESIGN/BUILDER recognize that time is of the essence of the Contract and that CFX will suffer financial loss if the Work is not completed within the times specified above or within such additional time as may have been granted by CFX. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by CFX if the Work is not completed on time. Accordingly, instead of requiring such proof, CFX and the DESIGN/BUILDER agree that CFX shall be entitled to assess as liquidated damages for delay (but not as a penalty), and the DESIGN/BUILDER shall pay CFX Five Hundred and 00/100 Dollars (\$500.00) for each calendar day that expires after the time specified above for Substantial Completion until the Work achieves Substantial Completion or until the scheduled Final Completion date, whichever occurs first.
- B. <u>Final Completion</u>. If the DESIGN/BUILDER shall neglect, refuse, or fail to complete the Work within the time specified above for Final Completion (plus such additional time as may have been granted by CFX), CFX and the DESIGN/BUILDER agree that CFX shall be entitled to assess as liquidated damages for delay (but not as a penalty), and the DESIGN/BUILDER shall pay CFX Two Hundred and 00/100 Dollars (\$200.00) for each calendar day that expires after the time specified above for Final Completion.

#### ARTICLE 3. CONTRACT PRICE

3.1 CFX will pay DESIGN/BUILDER the fixed amount of \$1,466,527.00 for completion of the Work in accordance with the price proposal attached hereto as **Exhibit "B"** and incorporated herein by reference, and any and all other Contract Documents ("Contract Price"). Any and all payments of the Contract Price shall be paid by CFX to DESIGN/BUILDER in accordance with Article 4 hereof.

#### ARTICLE 4. PAYMENT PROCEDURES

4.1 DESIGN/BUILDER shall submit, and CFX will review and if acceptable, process for payment, applications for payment in accordance with Section 7 of the General Specifications (hereinafter defined). DESIGN/BUILDERS'S monthly Applications for Payment shall be in such form and contain such detail and backup and other information, documentation, and materials as CFX reasonably may require.

A. <u>Progress Payments; Retainage</u>. DESIGN/BUILDER will receive from CFX partial payments of the Contract Price in monthly payments based on estimates of the amount of Work done or completed as of the date of the Application of Payment (including delivery of certain materials as specified below). The monthly payments shall be approximate only and all partial estimates and payments will be subject to correction in any subsequent monthly estimates and the final estimate and payment.

For any lump sum items included in the Contract Price, all such lump sum payments will be measured by the Schedule of Values prepared by DESIGN/BUILDER and agreed upon by CFX, less (i) an amount retained by CFX; and (ii) payments previously made by CFX to DESIGN/BUILDER for such lump sum item. For unit price items, payments will be made for quantities measured and accepted by CFX less (i) an amount retained by CFX; and (ii) payments previously made by CFX to DESIGN/BUILDER for unit price items. The amount retained shall be ten percent (10%) of the value of the Work completed exceeding 75% of the Contract Price.

B. <u>Progress Payments; Stored Materials</u>. Progress payments will be allowed for materials stockpiled in approved locations in the vicinity of the Project. 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 materials on which partial payment is to be made will be incorporated into the Project.
- 2. Delivery charges will be included in partial payments if properly documented.
- 3. Partial payments will not be made for materials that were stockpiled prior to award of the Contract for the Project.
- 4. In no case will partial payments for materials (including partial payments for delivery) exceed 50% of the value of the item.
- C. <u>Final Payment</u>. Upon Final Completion and Final Acceptance of the Work by CFX in accordance with paragraph 7.9 of the General Specifications, CFX shall pay to DESIGN/BUILDER the remainder of the Contract Price.

# ARTICLE 5. DESIGN/BUILDER'S REPRESENTATIONS

- 5.1 DESIGN/BUILDER makes the following representations:
- A. DESIGN/BUILDER has examined and carefully studied the Contract Documents (including the Addenda) listed in paragraphs 6.1.A through I.

- B. DESIGN/BUILDER has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, performance or furnishing of the Work.
- C. DESIGN/BUILDER is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, performance or furnishing of the Work.
- D. DESIGN/BUILDER is aware of the general nature of Work to be performed by CFX and others at the Site that relates to the Work as indicated in the Contract Documents.
- E. DESIGN/BUILDER has correlated the information known to DESIGN/BUILDER, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
- F. DESIGN/BUILDER has given CFX written notice of all conflicts, errors, ambiguities or discrepancies that DESIGN/BUILDER has discovered in the Contract Documents and the written resolution thereof by CFX is acceptable to DESIGN/BUILDER, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

# **ARTICLE 6. CONTRACT DOCUMENTS**

- 6.1 The Contract Documents which comprise the entire agreement between CFX and DESIGN/BUILDER concerning the Work consist of the following:
  - A. This Agreement (pages B-1 to B-7, inclusive) and any exhibits hereto, including, without limitation, the following:

Exhibit "A" - Scope of Services Exhibit "B" - Price Proposal

- B. Design Criteria including the Technical Specifications and Drawings.
- C. Memorandum of Agreement.
- D. Notice to Proceed.
- E. Performance and Payment Bond, consisting of pages PPB-1 through PPB-4.
- F. General Specifications of the Contract between CFX and DESIGN/BUILDER (pages 1 to 163, inclusive) including Appendix A, Disputes Review Board Three Party Agreement (pages ATT-1 to ATT-9) (collectively, the "General Specifications").

- G. Addenda numbers 1 through 3 inclusive.
- H. The following which may be delivered, prepared, or issued after the Effective Date of this Agreement and are not attached hereto.
  - 1. All Work Change Directives, Change Orders, Written Amendments, Field Orders, and other documents amending, modifying or supplementing the Contract Documents pursuant to Article 7 of the Agreement, duly executed by CFX.
- 2. Specifications as defined in Paragraph 1.3.54 of the General Specifications.
  - 3. Plans as defined in Paragraph 1.3.41 of the General Specifications.
- 6.2 The documents listed in paragraph 6.1 above are attached to this Agreement (except as expressly noted otherwise above).
- 6.3 There are no Contract Documents other than those listed above in this Article 6. The Contract Documents may only be amended, modified or supplemented as provided in Article 7 of the Agreement.

# ARTICLE 7. AMENDING AND SUPPLEMENTING CONTRACT DOCUMENTS

- 7.1 The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways:
  - A. CFX's approval of any required Submittals pursuant to the Contract

#### Documents;

- B. A Work Change Directive;
- C. A Supplemental Agreement;
- D. A formal Written Amendment; or
- E. A Field Order.

#### **ARTICLE 8. MISCELLANEOUS**

- 8.1 Terms used in this Agreement which are not otherwise defined herein shall have the mean attributed to them pursuant to Section 1 of the General Specifications as defined in Article 6.1E above and attached hereto and incorporated herein by reference ("General Specifications").
- 8.2 No assignment by a Party of any rights under or interests in the Contract Documents will be binding on another Party without the written consent of the Party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an

assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

- 8.3 CFX and DESIGN/BUILDER each binds itself, its partners, successors, assigns and legal representatives to the other Party, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 8.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CFX and DESIGN/BUILDER, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- 8.5. DESIGN/BUILDER agrees to abide by CFX's Code of Ethics, to the extent applicable, and to timely submit CFX's Potential Conflict Disclosure Form.
- 8.6 In accordance with Section 725.06, Florida Statutes, DESIGN/BUILDER shall indemnify and hold harmless CFX, its officers and employees, from liabilities, damages, losses and costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of DESIGN/BUILDER and persons employed or utilized by DESIGN/BUILDER in the performance of this Contract. If it is found that the monetary limitation in Section 725.06, Florida Statutes, applies to any indemnification provision in this Contract or application thereof, and the parties submit that the monetary limitation does not apply, then the monetary limitation of DESIGN/BUILDER'S liability shall be the total amount paid or to be paid on this Contract, as it may be amended or supplemented, which limitation DESIGN/BUILDER agrees bears a reasonable commercial relationship to the Contract and is part of the Project Specifications or bid documents.
- 8.7 To the extent that there are design professional services subject to Section 725.08, Florida Statutes, and notwithstanding the provisions of Section 725.06, Florida Statutes, DESIGN/BUILDER shall indemnify and hold harmless CFX, and its officers and employees, from liability, 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 DESIGN/BUILDER and other persons employed or utilized by DESIGN/BUILDER in the performance of the Contract.

# [SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, CFX and DESIGN/BUILDER have signed this Agreement on the date set forth below. All portions of the Contract Documents have been signed, initialed or identified by CFX and DESIGN/BUILDER. This Contract was awarded by CFX's Governing Board at its meeting on September 10, 2020.

	BASE CONSTRUCTION, INC.	
	By:	
	Print Name:	
	Title	
	DATE:	
ATTEST:	(Seal)	
DATE:		
	CENTRAL FLORIDA EXPRESSWAY AUTHORITY	
	By:	
	DATE:	
Approved as to form and exe for reliance by CFX only.		
General Counsel for CFX		

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**TO**: All Planholders of Record

**FROM** Aneth O. Williams, Director of Procurement

**DATE**: July 23, 2020

**SUBJECT:** CFX MAGNOLIA AVENUE E-PASS SERVICE CENTER RENOVATIONS;

Project 599-421, Contract No. 001699 - Addendum No. 1

This Addendum forms a part of the Contract Documents and modifies the original bidding documents dated July 2020, as noted below. Acknowledge receipt of this Addendum in the space provided on the Proposal form. Failure to do so may subject the bidder to disqualification. This Addendum consists of 1 page and the following attachments: CFX Technical Specifications Table of Contents.

# **Technical Specification Table of Contents**

1. **Add** the Technical Specification Table of Contents as Attachment C to the Request for Price Proposals. The AIA Masterspec 2018 (or latest version) Technical Specifications identified therein are incorporated by reference and made a part hereof.

END OF ADDENDUM NO. 1

#### TECHNICAL SPECIFICATIONS

PROVIDE APPLICABLE DIVISION 0 AND DIVISION 1 SPECIFICATION AS NECESSARY COORDINATE WITH OWNER'S REPRESENTATIVE. SPECIFICATION DIVISIONS INDICATED IN THE ATTACHED TABLE OF CONTENTS ARE MINIMUM RECOMMENDATIONS, INCLUDE ADDITIONAL SECTIONS AS NECESSARY TO PROVIDE A COMPLETE SET OF CONTRACT DOCUMENTS THAT COMPLIES WITH STATE AND LOCAL CODE REQUIREMENTS FOR PERMITTING AND CONSTRUCTION

# <u>DIVISION 01 – GENERAL REQUIREMENTS</u>

Not Used.

# <u>DIVISION 02 – EXISTNG CONDITIONS</u>

Section 024119 SELECTIVE DEMOLITION

# **DIVISION 03 – CONCRETE**

Section 033000 CAST-IN-PLACE CONCRETE

# **DIVISION 04 – MASONRY**

Not Used.

# **DIVISION 05 – METALS**

Section 051200	STRUCTURAL STEEL
Section 053100	STEEL DECKING
Section 055000	METAL FABRICATIONS

#### **DIVISION 06 – WOOD, PLASTICS, AND COMPOSITES**

DOLLGIA GA DEGUEDA
ROUGH CARPENTRY
MISCELLANEOUS ROUGH CARPENTRY
EXTERIOR ROUGH CARPENTRY
INTERIOR FINISH CARPENTRY
PLASTIC-LAMINATE-FACED ARCHITECTURAL CABINETS
WOOD TRIM

# **DIVISION 07 – THERMAL AND MOISTURE PROTECTION**

Section 070150.19	PREPARATION FOR RE-ROOFING
Section 071416	COLD FLUID-APPLIED WATERPROOFING
Section 072100	THERMAL INSULATION
Section 076200	SHEET METAL ELASHING AND TRIM

Section 077100	ROOF SPECIALTIES
Section 077200	ROOF ACCESSORIES
Section 076200	SHEET METAL FLASHING AND TRIM
Section 077100	ROOF SPECIALTIES
Section 077200	ROOF ACCESSORIES
Section 079200	JOINT SEALANTS

# **DIVISION 08 – OPENINGS**

Section 081113	HOLLOW METAL DOORS AND FRAMES
Section 081213	HOLLOW METAL FRAMES
Section 081216	ALUMINUM FRAMES
Section 081416	FLUSH WOOD DOORS
Section 084113	ALUMINUM-FRAMED ENTRANCES AND STOREFRONTS
Section 085113	ALUMINUM WINDOWS
Section 087100	DOOR HARDWARE
Section 087113	AUTOMATIC DOOR OPERATORS
Section 089119	FIXED LOUVERS

# <u>DIVISION 09 – FINISHES</u>

Section 092400	CEMENT PLASTERING
Section 095113	ACOUSTICAL PANEL CEILINGS
Section 096513	RESILIENT BASE AND ACCESSORIES
Section 096536	STATIC-CONTROL RESILIENT FLOORING
Section 096813	TILE CARPETING
Section 099113	EXTERIOR PAINTING
Section 099123	INTERIOR PAINTING
Section 099726	CEMENTITIOUS COATINGS

# **DIVISION 10 – SPECIALTIES**

Section 101100	VISUAL DISPLAY UNITS
Section 101419	DIMENSIONAL LETTER SIGNAGE
Section 102113.16	PLASTIC-LAMINATE-CLAD TOILET COMPARTMENTS
Section 102213	WIRE MESH PARTITIONS
Section 102600	WALL AND DOOR PROTECTION
Section 102800	TOILET
Section 104416	FIRE EXTINGUISHERS
Section 105613	METAL STORAGE SHELVING

# **DIVISION 11 – EQUIPMENT**

Section 111200 PATHWAYS FOR PARKING E-PASS TRANSPONDER EQUIPMENT

# **DIVISION 12 – FURNISHINGS**

Section 125900 SYSTEMS FURNITURE

# **DIVISION 13 – SPECIAL CONSTRUCTION**

Not Used.

# **DIVISION 14 – CONVEYING EQUIPMENT**

Not Used.

# <u>DIVISION 21 – FIRE SUPPRESSION</u>

(REFERENCE DESIGN CRITERIA PACKAGE)

# **DIVISION 22 - PLUMBING**

Section 220517	SLEEVES AND SLEEVE SEALS FOR PLUMBING PIPING
Section 220518	ESCUTCHEONS FOR PLUMBING PIPING
Section 220523.12	BALL VALVES FOR PLUMBING PIPING
Section 220523.13	BUTTERFLY VALVES FOR PLUMBING PIPING
Section 220523.14	CHECK VALVES FOR PLUMBING PIPING
Section 220523.15	GATE VALVES FOR PLUMBING PIPING
Section 220529	HANGERS AND SUPPORTS FOR PLUMBING PIPING AND EQUIPMENT
Section 220553	IDENTIFICATION FOR PLUMBING PIPING AND EQUIPMENT
Section 220719	PLUMBING PIPING INSULATION
Section 221116	DOMESTIC WATER PIPING
Section 221117	GRAY-WATER PIPING
Section 221119	DOMESTIC WATER PIPING SPECIALTIES
Section 221316	SANITARY WASTE AND VENT PIPING
Section 221319	SANITARY WASTE PIPING SPECIALTIES
Section 223300	ELECTRIC, DOMESTIC-WATER HEATERS
Section 224213.13	COMMERCIAL WATER CLOSETS
Section 224213.16	COMMERCIAL URINALS
Section 224216.13	COMMERCIAL LAVATORIES
Section 224216.16	COMMERCIAL SINKS
Section 224713	DRINKING FOUNTAINS

# <u>DIVISION 23 – HEATING VENTILATING AND AIR CONDITIONING</u>

(REFERENCE DESIGN CRITERIA PACKAGE)

# **DIVISION 26 – ELECTRICAL**

(REFERENCE DESIGN CRITERIA PACKAGE)

# **DIVISION 27 - COMMUNICATIONS**

(REFERENCE DESIGN CRITERIA PACKAGE)

# **DIVISION 28 - ELECTRONIC SAFETY AND SECURITY**

Section 280528	PATHWAYS FOR ELECTRONIC SAFETY AND SECURITY
Section 281600	INTRUSION DETECTION
Section 281643	PERIMETER SECURITY SYSTEMS
Section 283112	FIRE-ALARM SYSTEM

# **DIVISION 31 - EARTHWORK**

Not Used.

# <u>DIVISION 32 – EXTERIOR IMPROVEMENTS</u>

Section 323116 WELDED WIRE FENCES AND GATES Section 323300 SITE FURNISHINGS

# **DIVISION 33 - UTILITIES**

Not Used.

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TO: All Planholders of Record

**FROM** Aneth O. Williams, Director of Procurement

**DATE**: August 13, 2020

**SUBJECT:** CFX MAGNOLIA AVENUE E-PASS SERVICE CENTER RENOVATIONS;

Project 599-421, Contract No. 001699 - Addendum No. 2

This Addendum forms a part of the Contract Documents and modifies the original bidding documents dated July 2020, as noted below. Acknowledge receipt of this Addendum in the space provided on the Proposal form. Failure to do so may subject the bidder to disqualification. This Addendum consists of 6 pages and the following attachments: Revised Bid Form (599-421 Bid Form A2.xls), Revised Technical Specifications Table of Contents; and New Technical Specification 075216 and New Reference Documents.

# **CHANGES TO THE PROPOSAL**

1. **Discard** the original electronic copy of the Bid Form and **replace** it with the revised electronic copy of the Bid Form (599-421 Bid Form A2.xls) included with this Addendum. Bidders are reminded of the language in Article 9.01D of the Request for Price Proposal which states that if the Bidder discovers a conflict between any item numbers, quantities, units or descriptions in the summary of the pay items sheets shown in the Plans and the Proposal (Bid Form), or between any item numbers, quantities, units or descriptions in any other document and the Proposal, the item numbers, quantities, units and descriptions in the Proposal shall prevail.

# <u>CHANGES TO ATTACHMENT C – TECHNICAL SPECIFICATIONS</u>

- 2. Discard the Technical Specifications Table of Contents issued as a part of Addendum No.1 and **insert** the revised Technical Specifications Table of Contents attached to this addendum.
- 3. Add Technical Specification 075216 attached to this addendum.

# **CHANGES TO REFERENCE DOCUMENTS**

- 3. Add Delaney 1 (pdf) included with this Addendum.
- 4. Add Delaney 2 (pdf) included with this Addendum.
- 5. Add Delaney 3 (As-builts) (pdf) included with this Addendum.
- 6. **Add** Magnolia Ave-ADM Bldg\_40,41\_RECORD DWG-1 (pdf) included with this Addendum.

- 7. **Add** Magnolia Ave-ADM Bldg\_40,41\_RECORD DWG-2 (pdf) included with this Addendum.
- 8. **Add** Build Expand 1995 (folder) which contains 18 items; 17 dgn files and 1 windows batch file included with this Addendum.
- 9. Add Build Expand 1996 (folder) which contains 25 items; 20 individual DWG files and 5 sub folders (1) Approved for Const MEP folder containing 10 DWG files; (2) Approved for Const Struct folder containing 11 DWG files; (3) CONVERT folder containing 10 DGN files; (4) Interior Design folder containing 13 individual DWG files and 1 subfolder Revision 2 EXP-MIL folder containing 4 individual DWG files; and (5) Landscaping folder containing 6 DWG files included with this Addendum.
- 10. **Add** From Realtor (folder) which contains 9 individual pdf files included with this Addendum.
- 11. Add OOCEA\_Office (folder) which contains 18 items; 8 individual DGN files; 7 individual DWG files; 1 individual RSC file, 1 individual text document file; and 1 sub folder OOCEA\_Exhibit folder containing 7 items; 4 individual DGN files; 2 individual DWG files; and 1 sub folder plot folder which contains 2 individual I files included with this Addendum.

# **RESPONSE TO QUESTIONS RECEIVED**

- 12. The following questions were received from potential bidders of record. CFX's response follows the questions.
- Q001: Please confirm that all furnishings are to not be included on our Design Build proposal. Furniture, and Appliances to be provided by Owner.
  - R: The design/build team shall provide all workstations, cubicles, furniture, and appliances. D/B team will provide three quotes during design for all furnishings. An allowance for this has been added to the bid form. Design/build team shall provide set up for all TV/media (electrical and data infrastructure cables, outlets, etc.) and owner will furnish the TV's.
- Q002: 599-421 DB RFP, page 18 of 52, Site Improvements, Section (a.). Please provide contact information for CFX & FDOT for coordination of this item. For the purpose of bidding please advise if an allowance for this unknown scope can be dictated by CFX to all bidders.
  - R: POC will be the CEI consultant which has not been selected but will be by the time of project start. No allowance will be given, please include the cost of the sidewalk in the LS bid.

Q003: 599-421 DB RFP, page 18 of 52, Site Improvements, Section (b.) & Concept Plan Sheet AA-002 of Appendix A. This article states that design and coordination must be done with CFX and TEC. Please provide contact information. Details are required on the number of conduits, conduit size, power requirements, gantry size and weight, equipment configuration/weight/quantity. For the purpose of bidding please advise if an allowance for this unknown scope can be dictated by CFX to all bidders.

R: The POC will be David Boston, CFX (David.Boston@cfxway.com).

Regarding the connection details, please note the following:

- Install a 10' x 5' concrete pad, 2" thick
- Install new electrical pullboxes in concrete pad.
  - New pullboxes shall be 2 EA − 13"X24" electrical pullboxes, and 2 EA − 24"X36" communication pullboxes.
    - 1 EA 13"X24" shall be designated for non-UPS regulated circuit and pullbox lid shall be labeled CFX ELECTRIC.
    - 1 EA 13"X24" shall be designated for UPS regulated circuit and pullbox lid shall be labeled CFX UPS.
    - 1 EA 24"X36 shall be designated for E6 and pullbox lid shall be labeled CFX E6.
    - 1EA 24"X36" shall be designated for communications and shall be labeled CFX COMM.
    - Connect all pullboxes to new conduits coming from/to the building as noted below.
- Conduits needed:
  - $\circ$  2 EA 2" conduits between cabinet and each (4 EA from above) pullboxes.
    - 1 EA -2" to CFX COMM
    - 1 EA 2" to CFX E6
    - 1 EA -2" to CFX UPS
    - 1 EA 1" to CFX ELECTRIC

- Q004: 599-421 DB RFP, page 18 of 52, Architectural Design, Section (a.). This article states that design build firm should verify existence of ACM prior to commencing construction activities. Has CFX done a survey of this site yet? Please share this information if a report has been done. If it has not been done the cost for a survey during the design phase cane be included in our proposal, however if the survey finds anything that would be an unforeseen condition and there would be additional cost and time associated with this issue. If a survey can be provided before the bid due date this would help to mitigate any additional cost that could be associated with this item.
  - R: No ACM has been completed for the building. The cost of this item should be included in the bid. The cost of asbestos removal (if required) will be negotiated after project commencement.
- Q005: 599-421 DB RFP, page 15 of 52, Reference Documents. We are in receipt of the PDF versions of the as-built documents. Please provide any and all CAD versions of these documents that you may have.
  - R: See changes to Reference Documents
- Q006: 599-421 DB RFP, pages 18 of 23. FF&E items are generically identified in the room sections. However, the expectations for these items and the cost associated with them can vary greatly. Please provide specific information for these items. For example article (c.) states that 50" LCD screen should be provided for the waiting area. The cost for this item can range from \$250-\$1,000 depending on the specs required/desired. Chairs can also have a wide range of prices. For the purpose of bidding please advise if an allowance for this unknown scope can be dictated by CFX to all bidders.
  - R: The design/build team shall provide all workstations, cubicles, and attached furnishes. Owner will provide all other furnishings (desks, chairs, tables, etc.) Design/build team shall provide set up for all TV/media (electrical and data infrastructure cables, outlets, etc.) and owner will furnish the TV's.
- Q007: Attachment A, Sheet AA-002. This document states that the existing tank and piping is to be removed. Please provide information on the size of the tank, material of tank, any remaining fuel, depth of the tank. This information will be needed to determine what equipment and possibly shoring that might be required to remove it.
- R: The underground tank is a 1000-gallon propane tank and is shown on sheet E-1 of the file: Magnolia Ave-ADM Bldg\_40,41\_RECORD DWG-1. The tank is unregistered.

- Q008: 599-421 DB RFP, page 5 of 52, Article 3.02. This article states that it is the bidders obligation to due extensive investigation and examination of the site and subsurface conditions prior to bidding and being awarded the project. This is not practical. Please provide an existing Survey of the site with all utilities and known subsurface conditions identified. For the purpose of bidding please advise if an allowance for this unknown scope can be dictated by CFX to all bidders.
  - R: All existing site information (previous building and site PDF's and CADD drawings) are provided with. No additional allowance is made.
- Q009: Attachment D, SP-2, Escrow of Bid Documents. This article states that a safe deposit box is to be procured to hold the original bid documents. Please confirm that this is a requirement of this project or if a secured/encrypted PDF can be shared with team as a time capsule preserving this record document.
  - R: Yes, the safe deposit box is a requirement.
- Q010: 599-421 DB RFP, page 18 of 52, Architectural Design, Section (c.) Roof System & Attachment A, sheet AA-501. This article states the material of the new roof and references section 075216 in Appendix A, special provisions. This specification is not provided. Please provide.
  - R: Technical Specification 075216 is attached as part of this addendum.
- Q011: Attachment A, sheet AA-501. These details show new insulation to be installed, however an R-Value is not provided. Please confirm the type of insulation (Iso?), thickness and desired R-Value.
  - R: Provide a minimum R-Value of 25. Designer of Record shall verify all requirements of the Florida Building Code.
- Q012: Attachment A, sheet AA-501. Please advise if it is acceptable to do a roof core of the existing roof. This core will be patched back.
  - R: Yes, however, an appointment must be made to visit the building.
- Q013: The DCP calls for new furniture and appliances such as chairs, tables desks, cubicles/work stations, Televisions/monitors, refrigerator, microwave, etc. Is the contractor to furnish and install these FF&E items as part of our construction services or will they be furnished/installed by CFX?
  - R: The design/build team shall provide all workstations, cubicles, and attached furnishes. Owner will provide all other furnishings (desks, chairs, tables, etc.) Design/build team shall provide set up for all TV/media (electrical and data infrastructure cables, outlets, etc.) and owner will furnish the TV's.

- Q014: Will demo and removal of existing landscaping be required? Will there be any new exterior landscaping required at the courtyard or other exterior locations around the building area?
  - R: No. Landscaping is not part of this contract.
- Q015: Drawing AA-100 calls for new windows on the North elevation and there appear to be some new windows on the West elevation. Can you please clarify if we are to remove all existing windows and replace with new windows? Or if existing windows are to remain and new window locations to match the existing? Are new window sizes to match current existing window sizes? See attached drawing for reference.
  - R: Existing windows shall be removed and replaced with new windows and sizes shall match the existing openings.
- Q016: Is the size of the outdoor u/g fuel tank known and is it registered?
  - R: The underground tank is a 1000-gallon propane tank and is shown on sheet E-1 of the file: **Magnolia Ave-ADM Bldg\_40,41\_RECORD DWG-1.** The tank is unregistered.

END OF ADDENDUM NO. 2

# \* BID FORM \*

# CFX PROJECT NO. 599-421; CONTRACT NO. 001699, ADDENDUM NO. 2 CFX MAGNOLIA AVENUE E-PASS SERVICE CENTER

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
ARCH-1	1	LS	DESIGN SERVICES (CFX MAGNOLIA AVE SERVICE CENTER)		\$0.00
BUILDING-1	1	LS	CONSTRUCTION (BUILDING RENOVATION)		\$0.00
0999-000-000	N/A	N/A	ALLOWANCE FOR FURNISHINGS	\$10,000.00	\$10,000.00
0999-001-000	N/A	N/A	ALLOWANCE FOR DISPUTES REVIEW BOARD	\$10,000.00	\$10,000.00
0999-002-000	N/A	N/A	WORK ORDER ALLOWANCE	\$150,000.00	\$150,000.00
			TOTAL BID	l .	\$170,000.00

Contract No. 001699 Project No. 599-421 Addendum No. 2 August 13, 2020

#### TECHNICAL SPECIFICATIONS

PROVIDE APPLICABLE DIVISION 0 AND DIVISION 1 SPECIFICATION AS NECESSARY COORDINATE WITH OWNER'S REPRESENTATIVE. SPECIFICATION DIVISIONS INDICATED IN THE ATTACHED TABLE OF CONTENTS ARE MINIMUM RECOMMENDATIONS, INCLUDE ADDITIONAL SECTIONS AS NECESSARY TO PROVIDE A COMPLETE SET OF CONTRACT DOCUMENTS THAT COMPLIES WITH STATE AND LOCAL CODE REQUIREMENTS FOR PERMITTING AND CONSTRUCTION

# **DIVISION 01 – GENERAL REQUIREMENTS**

Not Used.

# **DIVISION 02 – EXISTNG CONDITIONS**

Section 024119 SELECTIVE DEMOLITION

# **DIVISION 03 – CONCRETE**

Section 033000 CAST-IN-PLACE CONCRETE

# **DIVISION 04 – MASONRY**

Not Used.

# **DIVISION 05 – METALS**

Section 051200	STRUCTURAL STEEL
Section 053100	STEEL DECKING
Section 055000	METAL FABRICATIONS

#### **DIVISION 06 – WOOD, PLASTICS, AND COMPOSITES**

DOLLGIA GA DEGUEDA
ROUGH CARPENTRY
MISCELLANEOUS ROUGH CARPENTRY
EXTERIOR ROUGH CARPENTRY
INTERIOR FINISH CARPENTRY
PLASTIC-LAMINATE-FACED ARCHITECTURAL CABINETS
WOOD TRIM

# **DIVISION 07 – THERMAL AND MOISTURE PROTECTION**

Section 070150.19 PREPARATION FOR RE-ROOFING
Section 071416 COLD FLUID-APPLIED WATERPROOFING
THERMAL DISTRIBUTION

Section 072100 THERMAL INSULATION

Section 075216 FL - Styrene-Butadiene-Styrene (SBS) Modified Bituminous Membrane Roofing (Addendum 2)

Section 076200	SHEET METAL FLASHING AND TRIM
Section 077100	ROOF SPECIALTIES
Section 077200	ROOF ACCESSORIES
Section 076200	SHEET METAL FLASHING AND TRIM
Section 077100	ROOF SPECIALTIES
Section 077200	ROOF ACCESSORIES
Section 079200	JOINT SEALANTS

# **DIVISION 08 – OPENINGS**

Section 081113	HOLLOW METAL DOORS AND FRAMES
Section 081213	HOLLOW METAL FRAMES
Section 081216	ALUMINUM FRAMES
Section 081416	FLUSH WOOD DOORS
Section 084113	ALUMINUM-FRAMED ENTRANCES AND STOREFRONTS
Section 085113	ALUMINUM WINDOWS
Section 087100	DOOR HARDWARE
Section 087113	AUTOMATIC DOOR OPERATORS
Section 089119	FIXED LOUVERS

# <u>DIVISION 09 – FINISHES</u>

Section 092400	CEMENT PLASTERING
Section 095113	ACOUSTICAL PANEL CEILINGS
Section 096513	RESILIENT BASE AND ACCESSORIES
Section 096536	STATIC-CONTROL RESILIENT FLOORING
Section 096813	TILE CARPETING
Section 099113	EXTERIOR PAINTING
Section 099123	INTERIOR PAINTING
Section 099726	CEMENTITIOUS COATINGS

# **DIVISION 10 – SPECIALTIES**

Section 101100	VISUAL DISPLAY UNITS
Section 101419	DIMENSIONAL LETTER SIGNAGE
Section 102113.16	PLASTIC-LAMINATE-CLAD TOILET COMPARTMENTS
Section 102213	WIRE MESH PARTITIONS
Section 102600	WALL AND DOOR PROTECTION
Section 102800	TOILET
Section 104416	FIRE EXTINGUISHERS
Section 105613	METAL STORAGE SHELVING

# **DIVISION 11 – EQUIPMENT**

Section 111200 PATHWAYS FOR PARKING E-PASS TRANSPONDER EQUIPMENT

# **DIVISION 12 – FURNISHINGS**

Section 125900 SYSTEMS FURNITURE

# **DIVISION 13 – SPECIAL CONSTRUCTION**

Not Used.

# **DIVISION 14 – CONVEYING EQUIPMENT**

Not Used.

# <u>DIVISION 21 – FIRE SUPPRESSION</u>

(REFERENCE DESIGN CRITERIA PACKAGE)

# **DIVISION 22 - PLUMBING**

Section 220517	SLEEVES AND SLEEVE SEALS FOR PLUMBING PIPING
Section 220518	ESCUTCHEONS FOR PLUMBING PIPING
Section 220523.12	BALL VALVES FOR PLUMBING PIPING
Section 220523.13	BUTTERFLY VALVES FOR PLUMBING PIPING
Section 220523.14	CHECK VALVES FOR PLUMBING PIPING
Section 220523.15	GATE VALVES FOR PLUMBING PIPING
Section 220529	HANGERS AND SUPPORTS FOR PLUMBING PIPING AND EQUIPMENT
Section 220553	IDENTIFICATION FOR PLUMBING PIPING AND EQUIPMENT
Section 220719	PLUMBING PIPING INSULATION
Section 221116	DOMESTIC WATER PIPING
Section 221117	GRAY-WATER PIPING
Section 221119	DOMESTIC WATER PIPING SPECIALTIES
Section 221316	SANITARY WASTE AND VENT PIPING
Section 221319	SANITARY WASTE PIPING SPECIALTIES
Section 223300	ELECTRIC, DOMESTIC-WATER HEATERS
Section 224213.13	COMMERCIAL WATER CLOSETS
Section 224213.16	COMMERCIAL URINALS
Section 224216.13	COMMERCIAL LAVATORIES
Section 224216.16	COMMERCIAL SINKS
Section 224713	DRINKING FOUNTAINS

# <u>DIVISION 23 – HEATING VENTILATING AND AIR CONDITIONING</u>

(REFERENCE DESIGN CRITERIA PACKAGE)

# **DIVISION 26 – ELECTRICAL**

(REFERENCE DESIGN CRITERIA PACKAGE)

# **DIVISION 27 - COMMUNICATIONS**

(REFERENCE DESIGN CRITERIA PACKAGE)

# **DIVISION 28 - ELECTRONIC SAFETY AND SECURITY**

Section 280528	PATHWAYS FOR ELECTRONIC SAFETY AND SECURITY
Section 281600	INTRUSION DETECTION
Section 281643	PERIMETER SECURITY SYSTEMS
Section 283112	FIRE-ALARM SYSTEM

# **DIVISION 31 - EARTHWORK**

Not Used.

# <u>DIVISION 32 – EXTERIOR IMPROVEMENTS</u>

Section 323116 WELDED WIRE FENCES AND GATES Section 323300 SITE FURNISHINGS

# **DIVISION 33 - UTILITIES**

Not Used.

# SECTION 075216 - STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS MEMBRANE ROOFING

#### PART 1 - GENERAL

# 1.1 RELATED DOCUMENTS

A. Drawings and general provisions of the Contract, including General and Supplementary Conditions, apply to this Section.

#### 1.2 SUMMARY

- A. Section Includes:
  - 1. Styrene-butadiene-styrene (SBS)-modified bituminous membrane roofing.
  - 2. Substrate board.
  - 3. Roof insulation.
  - 4. Cover board.
  - 5. Walkways.

#### 1.3 DEFINITIONS

A. Roofing Terminology: Definitions in ASTM D1079 and glossary of NRCA's "The NRCA Roofing Manual: Membrane Roof Systems" apply to Work of this Section.

#### 1.4 ACTION SUBMITTALS

- A. Product Data: For each type of product.
- B. Shop Drawings: Include plans, sections, details, and attachments to other work, including the following:
  - 1. Layout and thickness of insulation.
  - 2. Base flashings and membrane terminations.
  - 3. Flashing details at penetrations.
  - 4. Tapered insulation, including slopes.
  - 5. Roof plan showing orientation of steel roof deck and orientation of roof membrane, fastening spacings, and patterns for mechanically fastened roofing system.
  - 6. Crickets, saddles, and tapered edge strips, including slopes.
  - 7. Insulation fastening patterns for corner, perimeter, and field-of-roof locations.
  - 8. Tie-in with adjoining air barrier.
- C. Samples for Verification: For the following products:
  - 1. Cap Sheet: Samples of manufacturer's standard colors for selection by Authority

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 1 MEMBRANE ROOFING

 Contract No. 001699
 Addendum No. 2

 Project No. 599-421
 August 13, 2020

- 2. Flashing Sheet: Samples of manufacturer's standard colors for selection by Authority
- 3. Walkway Pads or Rolls: Samples of Samples of manufacturer's standard colors for selection by Authority.
- D. Wind Uplift Resistance Submittal: For roofing system indicating compliance with wind uplift performance requirements.

#### 1.5 INFORMATIONAL SUBMITTALS

- A. Qualification Data: For Installer, manufacturer and testing agency.
- B. Manufacturer Certificates:
  - 1. Performance Requirement Certificate: Signed by roof membrane manufacturer certifying that roofing system complies with requirements specified in "Performance Requirements" Article.
    - a. Submit evidence of complying with performance requirements.
  - 2. Special Warranty Certificate: Signed by roof membrane manufacturer, certifying that all materials supplied under this Section are acceptable for special warranty.
- C. Product Test Reports: For roof membrane and insulation, tests performed by a qualified testing agency, indicating compliance with specified requirements.
- D. Evaluation Reports: For components of membrane roofing system, from ICC-ES.
- E. Field quality-control reports.
- F. Sample Warranties: For manufacturer's special warranties.

#### 1.6 CLOSEOUT SUBMITTALS

- A. Maintenance Data: For roofing system to include in maintenance manuals.
- B. Certified statement from existing roof membrane manufacturer stating that existing roof warranty has not been affected by Work performed under this Section.

#### 1.7 OUALITY ASSURANCE

- A. Manufacturer Qualifications: A qualified manufacturer that is UL listed for roofing system identical to that used for this Project.
- B. Installer Qualifications: A qualified firm that is approved, authorized, or licensed by roofing system manufacturer to install manufacturer's product and that is eligible to receive manufacturer's special warranty.

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 2 MEMBRANE ROOFING

Contract No. 001699 Project No. 599-421

# 1.8 DELIVERY, STORAGE, AND HANDLING

- A. Deliver roofing materials to Project site in original containers with seals unbroken and labeled with manufacturer's name, product brand name and type, date of manufacture, approval or listing agency markings, and directions for storing and mixing with other components.
- B. Store liquid materials in their original undamaged containers in a clean, dry, protected location and within the temperature range required by roofing system manufacturer.
  - 1. Protect stored liquid material from direct sunlight.
  - 2. Discard and legally dispose of liquid material that cannot be applied within its stated shelf life.
- C. Protect roof insulation materials from physical damage and from deterioration by sunlight, moisture, soiling, and other sources.
  - 1. Store in a dry location.
  - 2. Comply with insulation manufacturer's written instructions for handling, storing, and protecting during installation.
- D. Handle and store roofing materials, and place equipment in a manner to avoid permanent deflection of deck.

#### 1.9 FIELD CONDITIONS

A. Weather Limitations: Proceed with installation only when existing and forecasted weather conditions permit roofing system to be installed according to manufacturer's written instructions and warranty requirements.

# 1.10 WARRANTY

- A. Special Warranty: Manufacturer agrees to repair or replace components of roofing system that fail in materials or workmanship within specified warranty period.
  - 1. Special warranty includes roof membrane, base flashings, roof insulation, fasteners, cover boards, vapor retarder, and substrate board and other components of roofing system.
  - 2. Warranty Period: **20** years from date of Substantial Completion.

#### PART 2 - PRODUCTS

# 2.1 PERFORMANCE REQUIREMENTS

A. General Performance: Installed roofing system and flashings shall withstand specified uplift pressures, thermally induced movement, and exposure to weather without failure due to defective manufacture, fabrication, installation, or other defects in construction. Roof system and flashings shall remain watertight.

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 3 MEMBRANE ROOFING

 Contract No. 001699
 Addendum No. 2

 Project No. 599-421
 August 13, 2020

- 1. Accelerated Weathering: Roof membrane shall withstand 2000 hours of exposure when tested according to ASTM G152, ASTM G154, or ASTM G155.
- 2. Impact Resistance: Roof membrane shall resist impact damage when tested according to ASTM D3746/D3746M, ASTM D4272/D4272M, or the "Resistance to Foot Traffic Test" in FM Approvals 4470.
- B. Material Compatibility: Roofing materials shall be compatible with one another and adjacent materials under conditions of service and application required, as demonstrated by roof membrane manufacturer based on testing and field experience.
- C. Wind Uplift Resistance: Design roofing system to resist the following wind uplift pressures when tested according to FM Approvals 4474, UL 580, or UL 1897:
- D. Energy Performance: Roofing system shall have an initial solar reflectance of not less than 0.25 and an emissivity of not less than 0.75 when tested according to CRRC-1.
- E. Exterior Fire-Test Exposure: ASTM E108 or UL 790, Class B; for application and roof slopes indicated; testing by a qualified testing agency.
  - 1. Identify products with appropriate markings of applicable testing agency.
- F. Fire-Resistance Ratings: Comply with fire-resistance-rated assembly designs indicated.
  - 1. Identify products with appropriate markings of applicable testing agency.

# 2.2 MANUFACTURER

# A. MANUFACTURER:

- 1. SOPREMA, located at: 310 Quadral Dr.; Wadsworth, OH 44281; Tel: 800-356-3521; Tel: 330-334-0066; Website: www.soprema.us.
- 2. No substitutions permitted.
- B. FLORIDA PRODUCT APPROVAL
  - 1. FL# 3915-R28

# 2.3 SBS MODIFIED BITUMINOUS MEMBRANE

#### A. BASE PLY

- 1. SOPREMA SOPRALENE FLAM 180: SBS-modified bitumen membrane with plastic burnoff film on top and bottom surfaces. Non-woven polyester reinforcement. Meets or exceeds ASTM D6164, Type I, Grade S, per ASTM D5147 test methods:
  - a. Thickness: 118 mils (3.0 mm)
  - b. Width: 39.4 in (1 m)c. Length: 32.8 ft (10 m)
  - d. Roll weight: 81 lb (36.7 kg)

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 4 MEMBRANE ROOFING

 Contract No. 001699
 Addendum No. 2

 Project No. 599-421
 August 13, 2020

#### B. CAP SHEET

- 2. SOPREMA ELASTOPHENE FLAM LS FR GR: SBS-modified bitumen membrane Cap Sheet with a burn-off film bottom surface and mineral granule top surface. Glass fiber reinforced. UL Class A for low-slope (LS) roof applications, ½:12 or less. Meets or exceeds ASTM D6163, Type I, Grade G, per ASTM D5147 test methods:
  - a. Thickness: 138 mils (3.5 mm)
  - b. Width: 39.4 in (1 m)
  - c. Length: 32.8 ft (10 m)
  - d. Roll weight: 106 lb (48.1 kg)
  - e. Granule Surfacing:
    - a) White mineral granules.

#### C. BASE FLASHING

- 1. SOPREMA SOPRALENE FLAM 180: SBS-modified bitumen membrane with plastic burnoff film on top and bottom surfaces. Non-woven polyester reinforcement. Meets or exceeds ASTM D6164, Type I, Grade S, per ASTM D5147 test methods:
  - a. Thickness: 118 mils (3.0 mm)
  - b. Width: 39.4 in (1 m)
  - c. Length: 32.8 ft (10 m)
  - d. Roll weight: 81 lb (36.7 kg)

#### D. BASE FLASHING

- SOPREMA SOPRALAST 50 TV ALU: SBS-modified bitumen membrane Cap Sheet with a
  plastic burn-off film bottom surface and aluminum foil-clad top surface. Glass grid reinforced. UL Class A for specified roof slope requirements. All SBS modified bitumen foilclad membrane and flashing sheets shall be manufactured by the supplier. Meets or exceeds
  ASTM D6298
  - a. Thickness: 157 mils (4.0 mm)
  - b. Width: 39.4 in (1 m)
  - c. Length: 32.8 ft (10 m)
  - d. Roll weight: 94 lb (42.7 kg)

#### E. VAPOR RETARDER

- 1. SOPREMA ELASTOPHENE SP 2.2: SBS-modified bitumen membrane with plastic burn-off film on the bottom surface and a sanded top surface. Glass fiber reinforcement. Meets or exceeds ASTM D6163, Type I, Grade S, per ASTM D5147 test methods:
  - a. Thickness: 87 mils (2.2 mm)
  - b. Width: 39.4 in (1 m)
  - c. Length: 49.2 ft (15 m)
  - d. Roll weight: 101 lb (45.8 kg)

# F. INSULATION

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 5 MEMBRANE ROOFING

- 1. POLYISOCYANUARATE INSULATION: SOPREMA SOPRA-ISO: Closed cell polyisocyanurate foam core bonded on each side to a glass fiber-reinforced felt facer.
  - a. Thickness: Total thickness to meet specified insulation system thermal resistance 'R' value
  - b. Dimensions: 4 x 4 ft or 4 x 8 ft boards
  - c. Meets or exceeds ASTM C1289, Type II, Class 1, Grade 2 (20 psi)

#### G. COVER BOARD

- 1. SOPRASMART BOARD 180: Non-woven polyester reinforced SBS modified bitumen membrane base ply factory laminated to 1/8 in thick SOPRABOARD.
  - a. Dimensions: 3'x8' board
  - b. Top Surfacing: SBS-modified bitumen membrane ply with plastic burn-off film on the top surface.
  - c. Side-laps: 3 in DUO-Selvage side-lap consisting of 2 in self-adhesive, and 1 in SBS-modified bitumen for heat welding
  - d. End-laps: Butted end-laps, with 1 in membrane overlap. Sealed watertight using SOPRALAP FLAM

#### PART 3 - EXECUTION

#### 3.1 EXAMINATION

- A. Examine substrates, areas, and conditions, with Installer present, for compliance with requirements and other conditions affecting performance of the Work.
  - 1. Verify that roof openings and penetrations are in place, curbs are set and braced, and roof-drain bodies are securely clamped in place.
  - 2. Verify that wood cants, blocking, curbs, and nailers are securely anchored to roof deck at penetrations and terminations and that nailers match thicknesses of insulation.
- B. Proceed with installation only after unsatisfactory conditions have been corrected.

# 3.2 PREPARATION

- A. Clean substrate of dust, debris, moisture, and other substances detrimental to roofing installation according to roofing system manufacturer's written instructions.
  - 1. Remove sharp projections.
- B. Prevent materials from entering and clogging roof drains and conductors and from spilling or migrating onto surfaces of other construction.
  - 1. Remove roof-drain plugs when no work is taking place or when rain is forecast.
- C. Perform fastener-pullout tests according to roof system manufacturer's recommendations.

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 6 MEMBRANE ROOFING

- 1. Submit test result within 24 hours of performing tests.
  - a. Include manufacturer's requirements for any revision to previously submitted fastener patterns required to achieve specified wind uplift requirements.
- D. Install sound absorbing insulation strips in ribs of acoustical roof decks according to acoustical roof deck manufacturer's written instructions.

# 3.3 INSTALLATION OF ROOFING, GENERAL

- A. Complete terminations and base flashings, and provide temporary seals to prevent water from entering completed sections of roofing system at the end of the workday or when rain is forecast.
  - 1. Remove and discard temporary seals before beginning work on adjoining roofing.
- B. Install roof membrane and auxiliary materials to tie in to existing roofing to maintain weathertightness of transition.

# C. Asphalt Heating:

- 1. Heat asphalt to its equiviscous temperature, measured at the mop cart or mechanical spreader immediately before application.
  - a. For cap sheets, heat asphalt according to cap sheet manufacturer's recommendations.
- 2. Circulate asphalt during heating.
- 3. Do not raise asphalt temperature above equiviscous temperature range more than one hour before time of application.
  - a. For cap sheets, comply with cap sheet manufacturer's recommendations.
- 4. Do not exceed asphalt manufacturer's recommended temperature limits during asphalt heating.
- 5. Do not heat asphalt within 25 deg F (14 deg C) of flash point.
- 6. Discard asphalt maintained at a temperature exceeding finished blowing temperature for more than four hours.
- 7. Apply hot roofing asphalt within plus or minus 25 deg F (14 deg C) of equiviscous temperature.
  - a. For cap sheets, comply with cap sheet manufacturer's recommendations.
- D. Asphalt Heating: Heat and apply SEBS-modified roofing asphalt according to roofing system manufacturer's written instructions.
- E. Substrate-Joint Penetrations: Prevent roofing asphalt and adhesives from penetrating substrate joints, entering building, or damaging roofing system components or adjacent building construction.

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 7 MEMBRANE ROOFING

# 3.4 INSTALLATION OF VAPOR RETARDER

- A. Self-Adhering-Sheet Vapor Retarder: Prime substrate if required by manufacturer. Install self-adhering-sheet vapor retarder over area to receive vapor retarder, side and end lapping each sheet a minimum of 3-1/2 and 6 inches (90 and 150 mm), respectively.
  - 1. Extend vertically up parapet walls and projections to a minimum height equal to height of the insulation and cover board.
  - 2. Seal laps by rolling.
- B. Completely seal vapor retarder at terminations, obstructions, and penetrations to prevent air movement into roofing system.

# 3.5 INSTALLATION OF INSULATION

- A. Coordinate installing roofing system components, so insulation is not exposed to precipitation or left exposed at the end of the workday.
- B. Comply with roofing system and insulation manufacturer's written instructions for installing roof insulation.
- C. Nailer Strips: Mechanically fasten 4-inch nominal- (89-mm actual-) width, wood nailer strips of same thickness as insulation perpendicular to sloped roof deck at the following spacing:
  - 1. 16 feet apart for roof slopes greater than 1 inch per 12 inches (1:12) but less than 3 inches per 12 inches (3:12).
- D. Insulation Cant Strips: Install and secure preformed 45-degree insulation cant strips at junctures of roofing system with vertical surfaces or angle changes greater than 45 deg F (14 deg C).
- E. Installation Over Concrete Decks:
  - 1. Install base layer of insulation with joints staggered not less than 24 inches (600 mm) in adjacent rows.
    - a. Where installing composite and noncomposite insulation in two or more layers, install noncomposite board insulation for bottom layer and intermediate layers, if applicable, and install composite board insulation for top layer. Trim insulation neatly to fit around penetrations and projections, and to fit tight to intersecting sloping roof decks.
    - b. Make joints between adjacent insulation boards not more than 1/4 inch (6 mm) in width
    - c. At internal roof drains, slope insulation to create a square drain sump, with each side equal to the diameter of the drain bowl plus 24 inches (600 mm).
      - 1) Trim insulation, so that water flow is unrestricted.
    - d. Fill gaps exceeding 1/4 inch (6 mm) with insulation.

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 8 MEMBRANE ROOFING

 Contract No. 001699
 Addendum No. 2

 Project No. 599-421
 August 13, 2020

e. Cut and fit insulation within 1/4 inch (6 mm) of nailers, projections, and penetrations.

# 3.6 INSTALLATION OF COVER BOARDS

- A. Install cover boards over insulation with long joints in continuous straight lines, with end joints staggered between rows. Offset joints of insulation below a minimum of 6 inches (150 mm) in each direction.
  - 1. Trim cover board neatly to fit around penetrations and projections, and to fit tight to intersecting sloping roof decks.
  - 2. At internal roof drains, conform to slope of drain sump.
    - a. Trim cover board, so that water flow is unrestricted.
  - 3. Cut and fit cover board tight to nailers, projections, and penetrations.

# 3.7 INSTALLATION OF ROOFING MEMBRANE, GENERAL

- A. Install roofing system according to roofing system manufacturer's written instructions and applicable recommendations in ARMA/NRCA's "Quality Control Guidelines for the Application of Polymer Modified Bitumen Roofing."
- B. Start installation of roofing in presence of roofing system manufacturer's technical personnel.
- C. Coordinate installation of roofing system so insulation and other components of the roofing system not permanently exposed are not subjected to precipitation or left uncovered at the end of the workday or when rain is forecast.
  - 1. Provide tie-offs at end of each day's work to cover exposed roofing sheets and insulation with a course of coated felt set in roofing cement or hot roofing asphalt, with joints and edges sealed.
  - 2. Complete terminations and base flashings, and provide temporary seals to prevent water from entering completed sections of roofing system.
  - 3. Remove and discard temporary seals before beginning work on adjoining roofing.

# 3.8 INSTALLATION OF WALKWAYS

- A. Walkway Pads: Install walkway pads using units of size indicated or, if not indicated, of manufacturer's standard size, according to walkway pad manufacturer's written instructions.
  - 1. Install walkways at the following locations:
    - a. Perimeter of each rooftop unit.
    - b. Between each rooftop unit location, creating a continuous path connecting rooftop unit locations.

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 9 MEMBRANE ROOFING

 Contract No. 001699
 Addendum No. 2

 Project No. 599-421
 August 13, 2020

- c. Between each roof hatch and each rooftop unit location or path connecting rooftop unit locations.
- d. Top and bottom of each roof access ladder.
- e. Between each roof access ladder and each rooftop unit location or path connecting rooftop unit locations.
- f. Locations indicated on Drawings.
- g. As required by roof membrane manufacturer's warranty requirements.
- 2. Provide 3-inch (76-mm) clearance between adjoining pads.
- 3. Heat weld to substrate or adhere walkway products to substrate with compatible adhesive according to roofing system manufacturer's written instructions.
- B. Walkway Cap Sheet Strips: Install walkway cap sheet strips over roofing membrane, using same application method as used for roofing cap sheet
  - 1. Install walkways strips at the following locations:
    - a. Perimeter of each rooftop unit.
    - b. Between each rooftop unit location, creating a continuous path connecting rooftop unit locations.
    - c. Between each roof hatch and each rooftop unit location or path connecting rooftop unit locations.
    - d. Top and bottom of each roof access ladder.
    - e. Between each roof access ladder and each rooftop unit location or path connecting rooftop unit locations.
    - f. Locations indicated on Drawings.
    - g. As required by roof membrane manufacturer's warranty requirements.
  - 2. Provide 3-inch (76 mm) clearance between adjoining strips.

# 3.9 PROTECTING AND CLEANING

- A. Protect roofing system from damage and wear during remainder of construction period.
  - 1. When remaining construction does not affect or endanger roofing, inspect roofing system for deterioration and damage, describing its nature and extent in a written report, with copies to Architect and Owner.
- B. Correct deficiencies in or remove roofing system that does not comply with requirements, repair substrates, and repair or reinstall roofing system to a condition free of damage and deterioration at time of Substantial Completion and according to warranty requirements.
- C. Clean overspray and spillage from adjacent construction using cleaning agents and procedures recommended by manufacturer of affected construction.

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 10 MEMBRANE ROOFING

2	10	ROOFING	INCTAI	I ED'C V	MADD	ANITV
Э.	10	KUUFING	INSTAL	LEKSV	VAKK	41111

A.	WHEREAS				of				, herein			
	called the following p	_	Installer,"	has	performed	roofing	and	associated	work	("work")	on	the
	10mo mmg r	oject.										

- 1. Owner:
- 2. Address:
- 3. Building Name/Type:
- 4. Address:
- 5. Area of Work:
- 6. Acceptance Date:
- 7. Warranty Period:
- 8. Expiration Date:
- B. AND WHEREAS Roofing Installer has contracted (either directly with Owner or indirectly as a subcontractor) to warrant said work against leaks and faulty or defective materials and workmanship for designated Warranty Period,
- C. NOW THEREFORE Roofing Installer hereby warrants, subject to terms and conditions herein set forth, that during Warranty Period Roofing Installer will, at Roofing Installer's own cost and expense, make or cause to be made such repairs to or replacements of said work as are necessary to correct faulty and defective work and as are necessary to maintain said work in a watertight condition.
- D. This Warranty is made subject to the following terms and conditions:
  - 1. Specifically excluded from this Warranty are damages to work and other parts of the building, and to building contents, caused by:
    - a. lightning;
    - b. peak gust wind speed exceeding 180 mph
    - c. fire
    - d. failure of roofing system substrate, including cracking, settlement, excessive deflection, deterioration, and decomposition;
    - e. faulty construction of parapet walls, copings, chimneys, skylights, vents, equipment supports, and other edge conditions and penetrations of the work;
    - f. vapor condensation on bottom of roofing; and
    - g. activity on roofing by others, including construction contractors, maintenance personnel, other persons, and animals, whether authorized or unauthorized by Owner.
  - 2. When work has been damaged by any of foregoing causes, Warranty shall be null and void until such damage has been repaired by Roofing Installer and until cost and expense thereof have been paid by Owner or by another responsible party so designated.
  - 3. Roofing Installer is responsible for damage to work covered by this Warranty but is not liable for consequential damages to building or building contents resulting from leaks or faults or defects of work.
  - 4. During Warranty Period, if Owner allows alteration of work by anyone other than Roofing Installer, including cutting, patching, and maintenance in connection with

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 11 MEMBRANE ROOFING

penetrations, attachment of other work, and positioning of anything on roof, this Warranty shall become null and void on date of said alterations, but only to the extent said alterations affect work covered by this Warranty. If Owner engages Roofing Installer to perform said alterations, Warranty shall not become null and void unless Roofing Installer, before starting said work, shall have notified Owner in writing, showing reasonable cause for claim, that said alterations would likely damage or deteriorate work, thereby reasonably justifying a limitation or termination of this Warranty.

- 5. During Warranty Period, if original use of roof is changed and it becomes used for, but was not originally specified for, a promenade, work deck, spray-cooled surface, flooded basin, or other use or service more severe than originally specified, this Warranty shall become null and void on date of said change, but only to the extent said change affects work covered by this Warranty.
- 6. Owner shall promptly notify Roofing Installer of observed, known, or suspected leaks, defects, or deterioration and shall afford reasonable opportunity for Roofing Installer to inspect work and to examine evidence of such leaks, defects, or deterioration.
- 7. This Warranty is recognized to be the only warranty of Roofing Installer on said work and shall not operate to restrict or cut off Owner from other remedies and resources lawfully available to Owner in cases of roofing failure. Specifically, this Warranty shall not operate to relieve Roofing Installer of responsibility for performance of original work according to requirements of the Contract Documents, regardless of whether Contract was a contract directly with Owner or a subcontract with Owner's General Contractor.

E.	IN	WITNESS THEREOF, this instrument has been duly executed this day of
		··
	1.	Authorized Signature:
	2.	Name:
	3.	Title:

END OF SECTION 075216

STYRENE-BUTADIENE-STYRENE (SBS) MODIFIED BITUMINOUS 075216 - 12 MEMBRANE ROOFING

Contract No. 001699 Project No. 599-421

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TO: All Planholders of Record

**FROM** Aneth Williams, Director of Procurement

**DATE**: August 14, 2020

**SUBJECT:** CFX MAGNOLIA AVENUE E-PASS SERVICE CENTER RENOVATIONS;

Project 599-421, Contract No. 001699 - Addendum No. 3

This Addendum forms a part of the Contract Documents and modifies the original bidding documents dated July 2020, as noted below. Acknowledge receipt of this Addendum in the space provided on the Proposal form. Failure to do so may subject the bidder to disqualification. This Addendum consists of 1 page.

# CHANGES TO ATTACHMENT A - CONCEPT PLANS

1. Add the following general note:

"General Note - The painting of the stucco on the exterior of the building is to be painted, but NOT the brick areas."

# CHANGES TO ATTACHMENT B – GENERAL SPECIFICATIONS

- 2. In Section 6.1.2, Specialty Work, add the following specialty work to the list:
  - o Design, Architecture, Engineering
  - o Plumbing, Heating, and Air-Conditioning
  - o Fire Protection
  - o Masonry, Stonework, Tile Setting, and Plastering
  - o Carpentry and Floor Work (this includes cabinetry, framing, door installation)
  - o Roofing, Siding, and Sheet Metal Work
  - o Concrete Work
  - o Glass and Glazing Work
  - o Drywall
  - o Furniture Assembly and Installation
  - o Demolition
  - o Specialty Wall and Ceiling Work
  - o Low Voltage
  - o Data and Communications

END OF ADDENDUM NO. 3

# **DESIGN CRITERIA PACKAGE**

Magnolia Avenue E-Pass Service Center

Prepared For:



# **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

Prepared By:



RS&H, INC.

301 E. Pine Street, Suite 350 Orlando, Florida 32801 407-893-5800

FINAL SUBMITTAL MAY 12, 2020 REVISED JUNE 15, 2020

#### TABLE OF CONTENTS

A.	DESIGN AND CONSTRUCTION CRITERIA			
1.	General	4		
2.	Codes and Regulations	4		
3.	Design Criteria			
	a. Existing Site Conditions	5		
	b. Site Improvements	6		
	c. Architectural Design	6		
	d. Interior Design and Finishes	6		
	e. Mechanical Design	11		
	f. Plumbing Design	12		
	g. Fire Protection Design	13		
	h. Electrical Design	13		
	i. Telecommunications and Security Design	13		

#### **ATTACHMENTS**

The Attachments listed below are hereby incorporated into and made a part of this Request for Price Proposal (RFP) as though fully set forth herein.

Attachment A – Concept Plans

Attachment B – General Specifications

Attachment C – Technical Specifications

Attachment D - Special Provisions

#### **REFERENCE DOCUMENTS**

The following documents are being provided with this RFP. Except as specifically set forth in the body of this RFP, these documents are being provided for reference and general information only. They are not being incorporated into and are not being made part of the RFP, the contract documents or any other document that is connected or related to this Project except as otherwise specifically stated herein. No information contained in these documents shall be construed as a representation of any field condition or any statement of facts upon which the Design-Build Firm can rely upon in performance of this contract. All information contained in these reference documents must be verified by a proper factual investigation. The bidder agrees that by accepting copies of the documents, any and all claims for damages, time or any other impacts based on the documents are expressly waived.

Delaney 3 (As-builts)
Magnolia Ave-ADM Bldg\_40,41\_RECORD DWG-1
Magnolia Ave-ADM Bldg\_40,41\_RECORD DWG-2

## A. DESIGN AND CONSTRUCTION CRITERIA

#### 1. General

This design criteria package and concept design is for the renovations of the old CFX Headquarters building located at 525 S Magnolia Avenue. The building is 15,000 square feet with the proposed renovations including approximately 4,200 square feet. The renovations of interior space are to support the relocation of the E-Pass Service Center operations currently located at 762 Goldenrod Road. The new E-Pass Service Center will include new interior space design, all new material finishes, plumbing systems, plumbing fixtures, HVAC distribution, HVAC systems and controls, electrical systems, lighting fixtures and fire protection measures, including modifications to the existing fire sprinkler system. The exterior improvements include a new roofing system and associated accessories, new windows, new HVAC Roof Top Unit (RTU), telecommunications, access control, intrusion detection, and CCTV system.

#### 2. CODES AND REGULATIONS

The applicable Manuals, Guidelines and Codes shall apply to this project:

a. The Florida Building Code (2017 FBC - 6<sup>th</sup> Edition) https://codes.iccsafe.org/content/FBC2017

```
Florida Building Code – Building
Florida Building Code – Plumbing
Florida Building Code – Mechanical
Florida Building Code – Energy Conservation
Florida Building Code – Existing Building
Florida Building Code – Accessibility
```

- b. Code of the City of Orlando https://library.municode.com/fl/orlando/codes/code\_of\_ordinances
- c. ASHRAE 90.1-2013 Energy Standard for Buildings
- d. ASHRAE 62.1-2013 Ventilation Standards
- e. ASHRAE 55-2013 Thermal Environmental Conditions for Human Occupancy
- f. ASHRAE 15-2013 Safety Code for Mechanical Refrigeration
- g. National Electric Code (2014)
- h. Florida Fire Prevention Code (2017 FBC- 6<sup>th</sup> Edition)
- i. National Fire Prevention Association (NFPA)
- j. Florida Statutes
- k. Florida Administrative Code (FAC)
- I. American Society for Testing and Materials (ASTM)
- m. American National Standards Institute (ANSI)
- n. FDOT Standard Specifications (most current issue)
- o. National Electrical Manufacturers Association (NEMA)
- p. Underwriters Laboratories (UL)
- q. IESNA Illuminating Engineering Society of North America

#### 3. DESIGN CRITERIA

# **Existing Site Conditions**

#### a. Overview

The existing building is located directly under an elevated portion of SR408 in downtown Orlando. It sits between Magnolia Avenue to the West and Rosalind Avenue to the East. Current construction of the I-4 Ultimate project has currently impacted the existing parking lot access road to the lot South of the building. The parking lot and access road are planned for reconstruction prior to any renovation work.

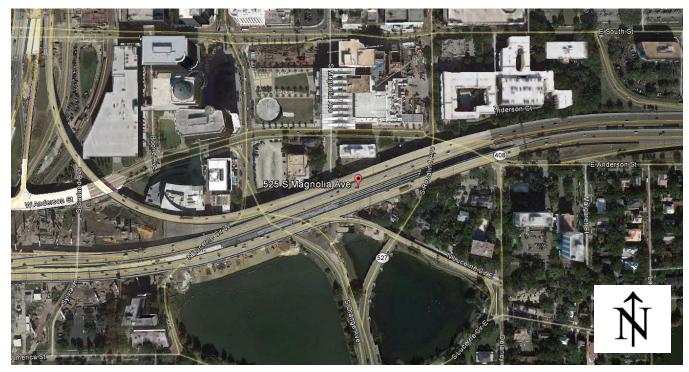


Figure 1-Location Map of Project Site

The parking lot is located on the east side of the building and has 59 spaces, including 3 ADA spaces. This currently meets the City of Orlando's requirements. The accessible route to the building, specifically the proposed E-Pass Service Center entrance, from the parking lot is not direct and needs to be addressed.

The existing power service is located on the North side of the building. The existing generator and below-ground LP fuel tank are not in commission and must be removed. The existing building water and sanitary sewer services are provided by the City and will be maintained.

# Site Improvements

- a. Provide a continuous ADA-compliant concrete sidewalk on the South side of the building from the parking lot to the E-Pass Service Center main entrance. See concept plan sheet AA-002 of Appendix A. Contractor to coordinate with CFX and ongoing adjacent construction project (FDOT FPID 432193-1-52-01) to improve Magnolia Avenue.
- b. Provide conduit, pullboxes, column, column foundation, gantry and associated infrastructure to support a new E-Pass transponder testing location on the North side of the building. The location is indicated in concept plan sheet AA-002 of Appendix A. The Design-Build (DB) Firm must coordinate with CFX and the Toll Equipment Contractor (TEC) for structural loads of equipment, equipment guidelines, interface requirements, and construction milestones for scheduling of installation and testing of equipment. The TEC will install the equipment and test it after all infrastructure is completed.

# **Architectural Design**

#### a. Demolition

All interior walls, ceilings and floors are to be demolished and removed, including all finish materials and support framing.

The DB Firm should verify existence of Asbestos Containing Material (ACM) prior to commencing construction activities. Should DB Firm encounter ACM, appropriate abatement procedures must be instituted.

The existing fire-rated partition providing tenant separation must be properly sealed to reinstate 1 hour rating after demolition of existing elements penetrating through the wall. All new penetrations must meet the requirements of the FBC.

### b. Exterior Wall

All new exterior windows and window frames must match the existing window systems in both material and color. Glazing, light and ventilation requirements must meet the current requirements of the FBC.

All new exterior doors and door frames must match the existing doors in both material and color. Glazing, light and ventilation requirements must meet the requirements of the FBC.

#### c. Roof System

The entire roof system, including area above space not part of interior renovation, should be replaced with a new 2-ply SBS modified bituminous membrane system. Refer to concept plan sheet AA-101 of Appendix A and special provision section 075216 SBS Modified Bituminous Membrane Roofing of Part II. All roof drains, scuppers, mechanical equipment frames, coping and flashing components must be replaced.

# **Interior Design and Finishes**

## a. Reception

Provide a reception desk near the main entrance.

The desk should consist of:

- 48" x 24" minimum worksurface dimensions
- 3/4" plywood and plastic laminate (min. 0.030" thickness) finish on all edges
- Receptacles
- Telecommunication outlet
- One (1) rolling desk chair

## b. Lobby

Area able to allow up to 20 customers in a standing queue line. Should maintain open concept to allow Customer Service Representatives (CSR) line of sight to all waiting customers.

# c. Waiting Area

Provide seating for a minimum of 12 customers.

Seating:

- Stationary guest chair
- Each chair to provide electronic device charging option

Information Display Monitors:

- Provide one (1) LED LCD Monitor
- Minimum size of 50" diagonal
- Mounting support hardware and wall blocking

#### d. Public Restroom

Provide an ADA compliant bathroom that includes

- One (1) floor-mounted water closet
- Wall-hung lavatory
- Wall-mounted mirror
- Stainless Steel Grab bars
- (2) Dual-roll toilet paper dispensers
- Wall-mounted soap dispenser
- Wall-mounted paper towel dispenser
- Free-standing dome-top waste receptacle minimum 18 gallon capacity

The door and door frame should be painted hollow metal. The door should have a minimum face thickness of 18 gauge and the welded frame should have a minimum thickness of 16 gauge.

#### e. CSR Work Stations

Provide a minimum of 12 and maximum of 15 workstations.

Each workstation should consist of:

- 60"x24" minimum worksurface dimensions
- Open knee space below with 3 drawers; 1 drawer should be keyed
- 3/4" plywood and plastic laminate (0.030" thickness) counters and cabinets
- Receptacles
- Telecommunication outlet
- One (1) rolling adjustable stool with back

Provide a location for a table-top printer with dedicated receptacle, for every 3 work stations. The work stations should have a clear, secure partition wall between the customers and the

CSRs. The partition material should be laminated glass able to withstand forced entry per ASTM F1233.

Information Display Monitors:

- Provide a minimum of four (4) LED LCD Monitors
- Minimum size of 50" diagonal
- Mounting support hardware and wall blocking

### f. Open Office

Provide an open office plan for flexible use of the space. Provide a minimum of 4 workstations. Each workstation should consist of:

- 8'-0' x 6'-0 space minimum
- Wall Panels
  - o 42" high fabric
  - o 6" high glass panels at top
- Worksurface:
  - o 24" depth
  - o 13/16" minimum thickness
  - o ABS edge band or vinyl T-mold
  - o Plastic laminate finish with 0.030" minimum thickness on worksurface
  - Minimum 45# density particleboard
  - End panels should be full-depth, 2 adjustable spring glides for leveling and plastic laminate finish
  - o 3" diameter grommet openings for wireway management
  - Capable of supporting the functional load of 0.5 pounds of linear inch of perimeter and deflection not exceeding .005 inches per linear inch of width
- Communication pathways at the base of the panel
- Panels shall be capable of being ported for both power and data above and below the worksurface
- Cable storage trays for mounting below the worksurface
- All panels shall be shipped with a raceway capable of distribution of three (3), 20 amp circuits
- Upper storage shelves with a depth of 13" minimum, powder coat paint finish
- One (1) rolling chair

Provide space for a copier with a dedicated receptacle, minimum floor space of 3'x6'. The area should have open office LED lighting to maintain flexibility.

#### g. Storage Room

Provide an enclosed storage room, minimum interior floor space of 4'x6'. Provide shelves, 12" deep at 2' intervals above the finish floor to a max height of 6'. Shelves and supports must be of a durable material (wood or steel).

### h. IT Closet

Provide a minimum interior floor space of 4'x4'. Coordinate with CFX IT for specific requirements of this space.

# i. Employee Restrooms

Provide a women's and men's restroom with isolated entry from open office area Women's Restroom:

- One (1) ADA-compliant stall
  - Floor-mounted water closet
  - Wall-mounted lavatory
  - Wall-mounted mirror
  - Stainless steel grab bars
  - Dual-roll toilet paper dispenser
  - Sanitary napkin waste receptacle
  - Wall-mounted soap dispenser
  - Wall-mounted paper towel dispenser
  - Wall-mounted waste receptacle
- One (1) additional stall
  - Floor-mounted water closet
  - Sanitary napkin waste receptacle
  - o Dual-roll toilet paper dispenser
- Toilet partitions
  - o Floor-mounted
  - Stainless steel hardware
- One (1) counter-mounted lavatory
  - Plastic laminate countertop over ¾" plywood construction
- Wall-mounted mirror above lavatory
- Free-standing dome-top waste receptacle minimum 18 gallon capacity

#### Men's Restroom:

- One (1) ADA-compliant stall
  - o Floor-mounted water closet
  - Wall-mounted lavatory
  - Wall-mounted mirror
  - Stainless steel grab bars
  - o Dual-roll toilet paper dispenser
  - Wall-mounted soap dispenser
  - Wall-mounted paper towel dispenser
  - Wall-mounted waste receptacle
- One (1) wall-mounted urinal
- Toilet partitions
  - o Floor-mounted
  - Stainless steel hardware
- One (1) counter-mounted lavatory
- Free-standing dome-top waste receptacle minimum 18 gallon capacity

#### Janitor's Closet

- One (1) mop sink
- One (1) mop shelf and rack

## j. Offices

Provide 3 offices

#### Office 105

- Minimum 10'x8' interior dimensions
- Desk
  - o minimum 60"x24" worksurface dimensions
  - o 3/4" plywood and plastic laminate finish
  - Receptacles
  - o Telecommunication outlet
- Shelving Unit minimum 48"W x 60"H x 12"D
- One (1) rolling desk chair
- Two (2) stationary guest chairs

#### Office 115

- Minimum 10'x8' interior dimensions
- Desk
  - o minimum 60"x24" worksurface dimensions
  - o ¾" plywood and plastic laminate finish
  - Receptacles
  - o Telecommunication outlet
- Shelving Unit minimum 48"W x 60"H x 12"D
- Credenza
- One (1) rolling desk chair
- One (1) stationary guest chairs

#### Office 116

- Minimum 10'x8' interior dimensions
- Desk
  - o minimum 60"x24" worksurface dimensions
  - o ¾" plywood and plastic laminate (0.030" min. thickness) finish
  - o Receptacles
  - o Telecommunication outlet
- Shelving Unit minimum 48"W x 60"H x 12"D
- Credenza
- One (1) rolling desk chair
- One (1) stationary guest chairs

#### k. Conference Room

Provide a space to accommodate an 8-10 person conference table. The room should be designed to accommodate audio-visual equipment on more than 1 wall. Provide audio-visual infrastructure, including power and data outlets at locations of mounted equipment. The conference table should have built-in wireways for both power and data. Provide a minimum of 12 rolling chairs.

• Provide dry erase board, minimum size of 48"x60", mounted to wall

## I. Break Room

Provide a break room adjacent to the proposed outdoor patio area.

The break room should consist of:

• Minimum 16 square feet of counter space

- o Counter tops to be 3/4" plywood with plastic laminate finish (0.030 min. thickness)
- Provide minimum 4" backsplash
- Provide base cabinets, minimum 8 linear feet
  - ¾" plywood with plastic laminate finish (0.030 min. thickness)
- Provide one (1) stainless steel sink, double-bowl
- Provide garbage disposal, minimum ¾ HP.
- Provide one (1) refrigerator, minimum 18 CU FT
- Provide one (1) microwave, minimum 1,000 watt
- Provide one (1) set of table and chairs, minimum 4 seats
- Provide two (2) lounge chairs
- Provide one (1) LED LCD Monitor
  - Minimum size of 50" diagonal
  - Mounting support hardware and wall blocking
- Provide one (1) free-standing dome-top waste receptacle minimum 18 gallon capacity

#### m. Outdoor Patio Area

Provide an enclosed patio area.

The outdoor patio area should consist of:

- New 4' concrete slab, sloped to drain away from the building
- Weather resistant table and chairs
  - Minimum of 4 seats
- Provide new 6' ornamental security fence
  - Minimum 36" gate with card reader access
  - Maintain existing access to adjacent tenant space

## Mechanical Design

#### a. Overview

The existing mechanical system will be demolished, including all ductwork, air terminal units, dampers, and air distribution devices (diffusers, registers, and grilles) on the NW side of the firewall as well as the existing rooftop unit (RTU) heat pump. Ductwork which penetrates the firewall will be demolished and the penetrations shall be repaired. The new mechanical system will serve only the spaces on the NW side of the firewall.

### b. Rooftop Unit

A new variable air volume rooftop unit (RTU) heat pump will be provided to serve the space. It will be used for cooling, heating, and dehumidifying the building. The approximately 10-ton RTU will include a 100% outside air economizer, high efficiency filters (prefilters, main filters, and air purification filters), cooling/heating coils, exhaust air heat recovery, and powered exhaust; outside air will be introduced to the RTU through the outdoor air hood. A factory mounted outdoor air monitoring station will be installed inside the RTU to continuously monitor for ventilation control. Demand-controlled ventilation will be utilized as required by code. RTU will meet or exceed minimum efficiency requirements stipulated by the 2017 Florida Energy Conservation Code. Provide Carrier or Trane manufacturer unit. No manufacturer substitutions are acceptable.

## c. Air Distribution System

Supply air distribution will consist of medium pressure (3 inches pressure rating) sheet metal ductwork from the RTU to the single-duct variable air volume terminal units (VAVs), which shall include electric reheat coils as needed. In addition, supply air distribution will also consist of low pressure (2 inches pressure rating) sheet metal ductwork from the air terminal units to the ceiling diffusers. All ductwork shall be galvanized sheet metal duct that is externally insulated in accordance with ASHRAE/SMACNA, latest edition. Return air will flow to the unit via an above-ceiling return air plenum. All electrical conduit and plumbing piping must be plenum-rated.

#### d. Ventilation

Roof mounted toilet exhaust fan(s) will be provided, ducted to the exhaust air grilles, and interlocked with the RTU.

## e. IT Room Cooling System

The IT Room will be cooled by the main RTU air distribution system. with a ductless, air-cooled split system to provide redundant cooling in the event of a failure of the main RTU.

# f. Building Automation System

The Building Automation System (BAS) will be non-proprietary at the equipment controller level and will utilize BACNET protocol.

## Plumbing Design

#### a. Overview

The existing plumbing system, except for the main sanitary line, will be demolished on the NW side of the firewall, including all fixtures. Plumbing lines which penetrate through or under the firewall will be cut, sealed, and capped. Domestic cold water will be supplied via a new line including a new meter and a backflow device from NW corner utility.

#### b. Fixtures

Unless otherwise specified, all fixtures will be "water saving".

<u>Fixture</u>	<u>Description</u>
Water Closets	Floor-mounted, 1.6/1.1 gallons per flush (dual flush). Exposed, top spud, self-
	sustaining, electronic sensor-operated water closet flush valves.
Urinals	Wall-mounted, 0.5 gallons per flush. Exposed, top spud, self-sustaining, electronic
	sensor-operated urinal flush valves.
Lavatories	Counter-mounted, vitreous china, wall-hung.
Lavatory Faucets	0.5 gallons per minute. Self-sustaining, electronic sensor-operated faucets.
Break Room Sink	Counter-mounted, stainless steel.
Sink Faucet	0.5 gallons per minute. Manual-operated.

Flush valves shall be specified with a manual flush override.

## c. Domestic Hot Water System

Domestic hot water will be supplied from an electric water heater, which will serve all restrooms, sinks, and janitor closets on the NW side of the firewall. Hot water heater temperature will be set at 140 degrees F unless otherwise noted. Main thermostatic mixing valve will be provided at the water heater.

## d. Drain-Waste-Vent System

Drain-waste-vent (DWV) system will attempt to reuse existing main sanitary line. Sanitary branches off this main will be cut and capped as required. A new 3" main vent pipe will run above the ceiling.

## e. Storm Drain System

All storm drain piping above ceiling will be replaced in-kind. Roof drains will be replaced when roof is replaced and will connect to new storm drain piping. The new storm drain piping must connect to the existing stormwater piping below grade.

## f. Piping Materials

Drain-waste-vent and storm drain piping will be service weight hubless cast iron with neoprene gasket and stainless steel bends. Pipe, fittings, and couplings will conform to the standards in the Cast Iron Soil Pipe Institute Standard 301. Domestic hot and cold water will be type "L" hard drawn copper tubing with wrought copper or cast bronze soldered fittings. Joints in all copper water lines will be soldered with solder containing no lead.

## Fire Protection Design

#### a. Overview

The existing fire suppression system will be modified to accommodate for the new layout of the EPass Service Center. The existing system is a wet pipe system.

The modifications shall be in accordance with the FBC 2017, Florida Fire Prevention Code (6<sup>th</sup> Edition), 2013 NFPA 13 and local requirements.

## **Electrical Design**

#### a. Electrical Demolition

Electrical demolition shall include disconnection and removal of all wiring and associated conduit in the portion of the building to be renovated. Existing panelboards in the renovated section may remain in place and be reused. All existing lights, receptacles, etc. in the renovated portion of the building shall be removed and disposed of. The existing standby generator, Automatic Transfer Switch, and underground Fuel Tank shall be removed and disposed of.

#### b. Electrical Power Service

The existing power service to the building consists of a power company owned pad-mounted transformer located outside the building that provides power to the building at 208Y/120 Volts, 3 phase. The transformer has a single power company meter that monitors power to the whole building. The feeder into the building feeds a 1200 Amp 208Y/120 Volt switchboard. This switchboard is in the electrical room in the East portion of the building. See one-line diagrams

for additional information and anticipated work. The power company must be contacted and coordinated with for splitting the power service between the portions of the building.

Under this contract the West portion of the building shall be served by a separate feeder from the existing pad-mounted transformer. A second power company meter shall be provided for the West portion of the building that is being renovated under this contract. The existing loads and panelboards on the existing main switchboard that serve the West portion of the building shall be transferred to the new service. The existing switchboard in the electrical room in the East portion of the building shall be retained to provide continued service to the East section of the building. Provide a new switchboard to serve the West section being renovated. The existing loads and panelboards serving this renovated area shall be transferred to this new switchboard. The proposed switchboard shall include additional breakers as required to accommodate any additional loads, HVAC, and additional panelboards for a complete operating building. The power company must be contacted and coordinated with for splitting the power service between the portions of the building. The power company shall also be informed of all associated electrical load changes in the buildings including providing them a copy of the electrical load analysis.

As a minimum the following calculations shall be provided: electrical load analysis, voltage drop analysis, device coordination, short circuit current analysis, and arc flash hazard analysis.

### c. Existing Standby Generator

There is an existing generator that provided standby power to the building that included an underground Fuel Tank and an Automatic Transfer Switch (ATS). This equipment shall be removed as part of this contract. No new standby system is required for this project.

#### d. Panelboards:

The existing panelboards may be re-used to serve lighting, receptacles, etc. under this contract to the fullest extent possible. New 208Y/120 Volt panelboards shall be added as required to provide power to the remaining portions of this facility. Panelboards that will serve computer equipment shall have a 200% rated neutral and feeder (see one-line diagrams for UPS powered panelboards). All panelboards, both existing and new, shall be provided with a Surge Protective Device, SPD.

#### e. Branch Circuits:

Install branch circuits in accordance with NEC. Branch circuits shall be in Electrical Metallic Tubing (EMT) concealed in walls in all finished areas. In areas where conduits are exposed, utilize Galvanized Rigid Steel Conduit (GRS). Metal Clad (MC) cable may be used for lighting circuits, but only in concealed areas.

Provide power connections for equipment installed by other trades. Local disconnecting means shall be provided for equipment not containing integral disconnects.

# f. Interior Lighting:

Interior lighting shall be LED type luminaires. These luminaires shall have a 4000-degree Kelvin temperature rating and a color rendering index (CR) of at least 85. Lighting will be mostly accomplished with recessed non-planar troffers. Lighting shall meet the latest Illuminating Engineering Society of North America (IESNA) Handbook and IESNA Recommended Practices. Lighting controls shall include occupancy sensors for corridors, restrooms, and common areas – installed to meet ASHRAE 90.1 requirements. Install vacancy sensors in all individual offices and storage areas. Mechanical, electrical, and telecommunication rooms shall have manual switching only. BAS System may be used for timeclock and occupancy control.

### g. Receptacles:

Duplex, Quadraplex receptacles and special purpose receptacles shall be provided throughout the facility. ASHRAE 90.1 requirements for controlled receptacles are applicable for this project.

# Telecommunications and Security Design

#### a. Telecommunications Demolition

Telecommunications demolition shall include disconnection and removal of all communications wiring and associated conduit in the portion of the building to be renovated. All existing telecommunication outlets shall be removed and disposed of. All security equipment associated with the renovated portion of the building shall be removed and disposed of. All associated security cabling and conduit shall be removed and disposed of.

# b. Telecommunications

A Telecommunication Enclosure (TE) located in the IT room shall be provided to accommodate the telecommunications needs of the facility. The TE shall include patch panels, space for owner of service provider switches, and a dedicated receptacle. The TE shall be fed from one of the UPS powered panelboards. Each individual office shall be provided a duplex outlet with a combination voice/data jack. Provide combination voice/data outlets for furniture in the open office area and CSR workstations. The conference room shall include four combination voice/data outlets, one on each wall. Each combination voice/data jack shall include two CAT 6 cables that terminates at a patch panel in the TE.

# c. Access Control Systems (ACS)

Empty conduit infrastructure and junction boxes shall be provided to all exterior doors, except the main entrance. These conduits shall terminate at a plywood backboard located in the electrical room where the security system hub equipment will be located. ACS infrastructure will be provided to all interior doors that lead to the building public access areas.

## d. Intrusion Detection Systems (IDS)

Empty conduit infrastructure and junction boxes shall be provided to the main entrance. These conduits shall terminate at a plywood backboard located in the electrical room where the security system hub equipment will be located.

# e. Closed Circuit TV (CCTV)

Empty conduit infrastructure and junction boxes shall be provided for CCTV cameras. These conduits shall terminate at a plywood backboard located in the electrical room where the CCTV monitoring equipment will be located. These CCTV cameral locations shall be at all exterior entrances and exits to the building, at the interior entrances and exits to the building, the common lobby, waiting room, and reception area.

# EXHIBIT "A" SCOPE OF SERVICES

# DESIGN/BUILD SERVICES FOR CFX MAGNOLIA AVENUE E-PASS SERVICE CENTER RENOVATIONS PROJECT 599-421, CONTRACT NO. 001699

#### 1.0 PROJECT DESCRIPTION

The project generally involves the design and construction of the interior/exterior renovations of the previous CFX Headquarters building located at 525 S. Magnolia Avenue, Orlando, Florida as identified in the Design Criteria package.

#### 2.0 DESIGN SERVICES

- 2.1 The Design/Builder shall provide the services necessary to complete the design of the previous CFX Headquarters building located at 525 S. Magnolia Avenue, Orlando, Florida and all site improvements in accordance with the Contract Documents.
- 2.2 The Design/Builder shall provide continuous quality control and quality assurance reviews prior to each submittal in accordance with the Design/Builder's approved quality control plan. The measures to be provided shall be sufficient to establish that "due care" has been used in the preparation of the work and documents.
- 2.3 Design Criteria are detailed in the Design Criteria Drawings and Design Criteria Specifications.

# 3.0 BUILD (CONSTRUCTION) SERVICES

3.1 The Design/Builder shall provide all labor, materials, equipment and incidentals necessary to construct the project in accordance with the plans and specifications prepared by the Design/Builder and approved by CFX.

## 4.0 ADDITIONAL SERVICES

Additional services may be assigned to the Design/Builder in accordance with the Agreement and this Scope of Services. No work shall be accomplished under additional services without prior written authorization from CFX to perform the work.

# 5.0 COMPENSATION

Compensation will be paid in accordance with the Contract documents.

## END OF SCOPE OF SERVICES

# CONSENT AGENDA ITEM #5

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

# **MEMORANDUM**

TO: CFX Board Members

FROM: Aneth Williams Anoth Williams

**Director of Procurement** 

DATE: August 25, 2020

SUBJECT: Approval of Contract Award to S & D Industrial Painting, Inc. for

SR 408 Systemwide Coatings – Summerlin Ave. to Chickasaw Trail

Project No. 599-756, Contract No. 001705

An Invitation to Bid for the above referenced project was advertised on July 5, 2020. Eight (8) responses were received by the August 6, 2020 deadline. One of the bidders did not meet the qualifications to bid on the project.

Bid results were as follows:

	<b>Bidder</b>	<b>Bid Amount</b>
1.	S & D Industrial Painting, Inc.	\$ 4,988,886.91
2.	Gulf Coast Contracting, LLC	\$ 5,795,000.00
3.	Southern Road & Bridge LLC	\$ 5,830,486.82
4.	Champion Painting Specialty Services Corp.	\$ 7,021,871.44
5.	Olympus Painting Contractors, Inc.	\$ 8,902,592.42
6.	Abhe & Svoboda, Inc.	\$ 9,526,849.61
7.	M & J Construction Co. of Pinellas County, Inc.	\$12,126,273.72

The engineer's estimate for this project is \$8,051,053.97. Included in the Five-Year Work Plan is \$8,008,000.00.

The work consists of providing all labor, materials, equipment and incidentals necessary for the cleaning and the application of coatings (paint and stain) for walls, barrier walls, pylons, bridges, etc. along SR 408.



The Engineer of Record reviewed the low bid submitted by S & D Industrial Painting, Inc. and has determined there are no unbalanced bid items.

The Procurement Department has evaluated the bids and has determined that the bid from S & D Industrial Painting, Inc. to be responsible and responsive to the bidding requirements. Board award of the contract to S & D Industrial Painting, Inc. in the amount of \$4,988,886.91 is requested.

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

Reviewed by:

Ben Dreiling, PE

Director of Construction

Glenn Pressimone, PE

# **CONTRACT**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND S & D INDUSTRIAL PAINTING, INC.

SR 408 SYSTEMWIDE COATINGS SUMMERLIN AVE. TO CHICKASAW TRAIL

> PROJECT NO. 599-756 CONTRACT NO. 001705

CONTRACT DATE: SEPTEMBER 10, 2020 CONTRACT AMOUNT: \$4,988,886.91

# 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, ADDENDA, PUBLIC CONSTRUCTION BOND AND FORMS

**FOR** 

SR 408 SYSTEMWIDE COATINGS SUMMERLIN AVE. TO CHICKASAW TRAIL

**PROJECT NO. 599-756 CONTRACT NO. 001705** 

**SEPTEMBER 2020** 

# TABLE OF CONTENTS

Section	<u>Title</u>	Page
C	CONTRACT	C-1 to C-2
	Memorandum of Agreement	1 to X
GS	GENERAL SPECIFICATIONS	GS-1 to GS-156
	Attachment A	ATT-1 to ATT-9
	(See General Specifications Table of Contenspecifications sections.)	nts for listing of individual
TS	TECHNICAL SPECIFICATIONS	TS-1 to TS-3
(See sections.)	e Technical Specifications Table of Contents for	or listing of individual specifications
SP	SPECIAL PROVISIONS	SP-1 to SP-13
(See	e Special Provisions Table of Contents for listin	g of each special provision.)
	Addendum No. 1 Addendum No. 3	Addendum No. 2 Addendum No. 4
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

Plans

#### **CONTRACT**

This Contract No. 001705 (the "Contract"), made this <u>10<sup>th</sup></u> day of September 2020, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and S & D Industrial Painting, Inc., of 1575 Rainville Road, Tarpon Springs, FL 34689, 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 599-756, SR 408 Systemwide Coatings: Summerlin Ave. to Chickasaw Trail, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 350 calendar days. The Contract Amount is \$4,988,886.9. This Contract was awarded by the Governing Board of CFX at its meeting on September 10, 2020.

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:	
Di	rector of Procurement
DATE:	
S & D INDUSTRIAL PAINT	ING, INC.
By:	
Sig	gnature
Pri	int Name
Tit	tle
ATTEST:	(Seal)
DATE:	
Approved as to form and exec	cution, only.
General Counsel	for CFX

Section Name			
Section 1 - A	Abbreviations and Definitions	1	
1.1	General	1	
1.2	Abbreviations	1	
1.3	Definitions	2	
Section 2 - S	Scope of Work	11	
2.1	Intent of Contract	11	
2.2	Work Not Covered by the General Specifications	11	
2.3	Alteration of Plans	11	
	2.3.1 General		
	2.3.2 Increase, Decrease or Alteration in the Work		
	2.3.3 Connections to Existing Pavements, Drives, and Walks		
	2.3.4 Differing Site Conditions		
	2.3.5 Changes Affecting Utilities		
	2.3.6 Cost Savings Initiative Proposal		
2.4	Claims by Contractor	24	
	2.4.1 General		
	2.4.2 Notice of Claim		
	2.4.3 Content of Written Claim		
	2.4.4 Action on Claim		
	2.4.5 Compensation for Extra Work or Delay		
	2.4.6 Mandatory Claim Records		
	2.4.7 Claims for Acceleration		
	2.4.8 Certificate of Claim		
	2.4.9 Non-Recoverable Items		
	2.4.10 Exclusive Remedies		
	2.4.11 Settlement Discussions		
	2.4.12 Personal Liability of Public Officials		
	2.4.13 Auditing of Claims		
2.5	Unforeseeable Work	31	
2.6	Right To and Use of Materials Found at the Site of the Work	31	
	2.6.1 Ownership and Disposal of Existing Materials		
	2.6.2 Ornamental Trees and Shrubs		
2.7	Restoration of Right of Way	32	

Section Nam	<u>e</u>		Page No
Section 3 - C	ontrol o	f Work	33
3.1	Plans	and Working Drawings	33
	3.1.1	Plans and Contract Documents	
	3.1.2	CFX Plans	
	3.1.3	Alterations in the Plans	
	3.1.4	Shop Drawings	
3.2	Coord	ination of Plans and Specifications	43
3.3	Confo	rmity of Work with Plans	43
	3.3.1	Record Drawings	
3.4	Pre-A	ward Meeting	44
3.5	Orders	s and Instructions	46
	3.5.1	Observation of the Work	
	3.5.2	Examination of the Work	
	3.5.3	Communications	
3.6	Engine	eering and Layout	48
	3.6.1	5	
	3.6.2	Furnishing of Stake Material	
	3.6.3	Layout of Work	
	3.6.4	Specific Staking Requirements	
	3.6.5	Personnel, Equipment, and Record Requirements	
	3.6.6	Global Navigation Satellite Systems (GNSS) Work Plan	
	3.6.7	Payment	
3.7		actor's Supervision	51
	3.7.1	Prosecution of Work	
		Contractor's Superintendent	
	3.7.3		
	3.7.4	Worksite Traffic Supervisor	
3.8		al Inspection Requirements	53
	3.8.1	Cooperation by Contractor	
	3.8.2	Failure of CFX to Reject Work During Construction	
	3.8.3	Failure to Remove and Renew Defective Materials and Work	
3.9		Inspection and Acceptance	54
	3.9.1	Maintenance Until Final Acceptance	
	3.9.2	Inspection for Substantial Completion	
	3.9.3	1	
	3.9.4	Final Acceptance	
	3.9.5	Recovery Rights Subsequent to Final Payment	_
3.10	Audit	and Examination of Contract Records and Bid Records	55

Section Nam	<u>ie</u>		Page No.
3.11	Escrov	w of Bid Records	57
3.12	Prevai	ling Party Attorney's Fees	58
Section 4 - C	Control of	f Materials	60
4.1	Accep	tance Criteria	60
		General	
	4.1.2	Sampling and Testing	
	4.1.3	Certification	
	4.1.4	Warranty and Guaranty	
4.2	Design	nation of a Specific Product as a Criterion ("Or Equal" Clause)	61
4.3	Source	e of Supply and Quality Requirements	61
	4.3.1	Only Approved Materials to be Used	
	4.3.2	Notification of Placing Order	
	4.3.3	Approval of Source of Supply	
4.4	Inspec	tion and Tests at Source of Supply	62
	4.4.1	General	
	4.4.2	Cooperation by Contractor	
	4.4.3	Retest of Materials	
4.5	Storag	e of Materials and Samples	63
	4.5.1	Method of Storage	
	4.5.2	Use of Right of Way for Storage	
		Responsibility for Stored Materials	
	4.5.4	Storage Facilities for Samples	
4.6	Defect	tive Materials	63
Section 5 - L	egal Req	quirements and Responsibility to the Public	65
5.1	Laws t	to be Observed	65
	5.1.1	General	
	5.1.2	Plant Quarantine Regulations	
	5.1.3	Introduction or Release of Prohibited Aquatic Plants, Plant Pesi	ts or
		Noxious Weeds	
	5.1.4	Compliance with Federal Endangered Species Act	
	5.1.5	Occupational Safety and Health Requirements	
		Discovery of Unmarked Human Burial Site	
	5.1.7	Insecticides and Herbicides	
5.2		ts and Licenses	67
5.3	Patente	ed Devices, Materials and Processes	67

Section Name		Page No.
5.4	Right of Way Furnished by CFX	68
5.5	Sanitary Provisions	68
5.6	Control of the Contractor's Equipment	68
	5.6.1 Traffic Interference	
	5.6.2 Overloaded Equipment	
	5.6.3 Crossings	
	5.6.4 Protection from Damage by Tractor-Type Equipment	
	5.6.5 Contractor's Equipment on Bridge Structures	
	5.6.6 Posting of the Legal Gross Vehicular Weight	
5.7	Structures Over Navigable Waters	70
	5.7.1 Compliance with Jurisdictional Regulations	
5.8	Use of Explosives	70
5.9	Preservation of Property	70
	5.9.1 General	
	5.9.2 Failure to Restore Damaged Property	
	5.9.3 Contractor's Use of Streets and Roads	
	5.9.4 Traffic Signs, Signal Equipment, Highway Lighting and Guardra	il
	5.9.5 Operations Within Railroad Right of Way	
	5.9.6 Utilities	
5.10	Responsibility for Damages, Claims, etc.	75
	5.10.1 Contractor to Provide Defense Against Claims and Suits	
	5.10.2 Guaranty of Payment for Claims	
5.11	Insurance	77
	5.11.1 Schedule of Required Limits for Workers' Compensation,	
	General Liability and Automobile Liability	
	5.11.2 Workers' Compensation and Employer's Liability Insurance	
	5.11.3 Comprehensive General Liability Insurance	
	5.11.4 Comprehensive Automobile Liability Insurance	
	5.11.5 Umbrella/Excess Liability Insurance	
	5.11.6 Builder's Risk	
	5.11.7 Railroad Insurance	
	5.11.8 Pollution Legal Liability	
	5.11.9 Professional Liability	
5.12	Contract Bond (Public Construction Bond) Required	83
	5.12.1 General Requirements of the Bond	
	5.12.2 Continued Acceptability of Surety	
5.13	Contractor's Responsibility for Work	83
5.14	Opening Section of Highway to Traffic	84
5.15	Scales for Weighing Materials	84

Section Name		Page No.		
	5.15.1 Applicable Regulations			
	5.15.2 Base for Scales			
	5.15.3 Protection and Maintenance			
5.16	Source of Forest Products	84		
5.17	Regulations of Air Pollution	84		
	5.17.1 General			
	5.17.2 Dust Control			
	5.17.3 Asphalt Material			
	5.17.4 Asphalt Plants			
5.18	Dredging and Filling	85		
5.19		85		
5.20	Contractor's Motor Vehicle Registration	85		
5.21	Internal Revenue Service Form W-9	85		
5.22	Tolls and Access	86		
5.23	Requests for References or Performance Evaluations	86		
5.24	Unauthorized Aliens	86		
5.25	Public Records	87		
5.26				
5.27	Convicted Vendor List			
5.28	Discriminatory Vendor List			
5.29	Severability	88		
5.30	Companies Pursuant to Florida Statute Sections 287.135 and 215.473	89		
Section 6 - 1	Prosecution and Progress of the Work	90		
6.1	Subletting or Assigning of Contract	90		
6.2	Work Performed by Equipment Rental Agreement	92		
6.3	Prosecution of Work	92		
	6.3.1 Sufficient Labor, Materials and Equipment			
	6.3.2 Impacts by Adjacent Projects			
	6.3.3 Submission of Preliminary, Baseline, Updated Baseline, and T Look-Ahead Schedules	Гwo-Week		
	6.3.4 Beginning Work			
	6.3.5 Provisions for Convenience of the Public			
	6.3.6 Pre-Construction Conference			
6.4	Limitations of Operations	110		
	6.4.1 Night Work			
	6.4.2 Sequence of Operations			
	6.4.3 Interference with Traffic			
	6.4.4 Coordination with Other Contractors			

Section Name			Page No.
	6.4.5	Drainage	
	6.4.6	Fire Hydrants	
	6.4.7	Protection of Structures	
		Fencing	
		Hazardous or Toxic Waste	
		Milling	
6.5		ications of Contractor's Personnel	114
6.6	-	orary Suspension of Contractor's Operations	114
	6.6.1	1 1	
		Prolonged Suspensions	
		Permission to Suspend Operations	
		Suspension of Contractor's Operations – Holidays	
6.7		act Time	115
		General	
		Date of Beginning of Contract Time	
	6.7.3	Adjusting Contract Time	
6.8		e of Contractor to Maintain Satisfactory Progress	117
		General	
6.9		t and Termination of Contract	118
		Determination of Default	
		Public Interest Termination of Contract	
	6.9.3	Completion of Work by CFX	
6.10	-	ated Damages for Failure to Complete the Work	121
		Liquidated Damages for Failure to Complete the Work	
		Determination of Number of Days of Default	
		Conditions Under Which Liquidated Damages are Imposed	
		Right of Collection	
		Allowing the Contractor to Finish Work	
		Liability for Liquidated Damages	
6.11		e of Contractor's Responsibility	121
6.12		ery of Damages Suffered by Third Parties	121
6.13	Expres	ss Warranty	122
Section 7 - Me	easurem	nent and Payment	123
7.1	Measu	rement of Quantities	123
	7.1.1	Measurement Standards	
	7.1.2	Method of Measurements	
	7.1.3	Determination of Pay Areas	
	714	Construction Outside Authorized Limits	

Section Name			Page No
	7.1.5	Truck Requirements	
	7.1.6	Ladders and Instrument Stands for Bridge Construction	
7.2	Scope of Payments		
	7.2.1	Items Included in Payment	
	7.2.2	Non-Duplication of Payment	
7.3	Compensation for Altered Quantities		
	7.3.1	General	
	7.3.2	Payment Based on Plan Quantity	
	7.3.3	Lump Sum Quantities	
	7.3.4	Deviation from Plan Dimensions	
7.4	Force Account Work		
	7.4.1	Method of Payment	
	7.4.2	Records	
	7.4.3	Preliminary Order-of-Magnitude Estimate	
7.5	Delete	d Work	133
7.6	Partial Payments		133
	7.6.1	General	
	7.6.2	Unsatisfactory Payment Record	
	7.6.3	Withholding Payment for Defective Work	
	7.6.4	Partial Payments for Delivery of Certain Materials	
	7.6.5	Certification of Payment to Subcontractors	
	7.6.6	Reduction of Payment for Unsatisfactory Services or Products	
7.7	Record of Construction Materials		
	7.7.1	General	
	7.7.2	Non-Commercial Materials	
7.8	Disput	ted Amounts Due Contractor	137
7.9	Acceptance and Final Payment		137
7.10	Offset	ting Payments	139
Section 8 – Di	sadvan	taged/Minority/Women Business Enterprise (D/M/WBE)	140
Pa	rticipat	ion	
8.1	Genera	al	140
8.2	Disadvantaged/Minority and Women Owned Businesses – Participation		
	Objectives		
	8.2.1	General	
	8.2.2	Definitions	
	8.2.3	Specific Requirements	
	8.2.4	Qualified Participation	
	8.2.5	Records and Reports	

# GENERAL SPECIFICATIONS

Section Nam	Page No.	
8.3	Subletting of Contracts - Participation Objectives	146
Section 9 - E	147	
Section 10 –	Partnering and Disputes Resolution	149
10.1	Partnering	149
10.2	Disputes Resolution	149
	10.2.1 Disputes Review Board	
	10.2.2 Continuance of Work During Dispute	
	10.2.3 Disputes Review Board Membership	
	10.2.4 Board Operations	
	10.2.5 Procedure for Disputes Resolution	
	10.2.6 Conduct of Disputes Hearings	
	10.2.7 Compensation	
	10.2.8 Three Party Agreement	

Attachment A - Disputes Review Board Three Party Agreement

#### 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.

AGMA American Gear Manufacturers Association

AIA American Institute of Architects
AISI American Iron and Steel Institute
ANSI American National Standards Institute
AREA American Railway Engineering Association
ASCE American Society of Civil Engineers

ASME American Society of Mechanical Engineers
ASTM American Society for Testing and Materials

AWG American Wire Gauge

AWPA American Wood Preservers Association

AWS American Welding Society

AWWA American Water Works Association
CRSI Concrete Reinforcing Steel Institute
EASA Electrical Apparatus Service Association

EPA Environmental Protection Agency of the United States Government

FDOT Florida Department of Transportation FHWA Federal Highway Administration

FNGLA Florida Nursery, Growers and Landscape Association

FSS Federal Specifications and Standards

IEEE Institute of Electrical and Electronics Engineers

IES Illuminating Engineering Society

IPCEA Insulated Power Cable Engineers Association ISO International Organization for Standards

MASH AASHTO Manual for Assessing Safety Hardware MUTCD Manual on Uniform Traffic Control Devices

NEC National Electrical Code

NEMA National Electrical Manufacturers Association

NFPA National Fire Protection Association

NIST National Institute for Standards and Technology NOAA National Oceanic and Atmospheric Administration OSHA Occupational Safety and Health Administration

SAE Society of Automotive Engineers
SI International System of Units
SSPC The Society for Protective Coatings

UL Underwriters' Laboratories

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 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 **Advertisement** The public announcement, as required by law, inviting bids for work to be performed or materials to be furnished, usually issued as "Notice to Contractors," or "Notice to Bidders."
- 1.3.2 **Addendum** A written or graphic instrument issued prior to the bid opening which modifies or interprets the proposed Contract Documents by additions, deletions, clarifications, or corrections
- 1.3.3 **Article** The prime subdivision of a Section of the General and/or Technical Specifications.
- 1.3.4 **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.
- 1.3.5 **Bidder** An individual, firm, or corporation submitting a proposal for the proposed work.
- 1.3.6 **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 multispan box culvert is considered a bridge when the length between the extreme ends of the openings exceeds 20 feet.
- 1.3.7 **Calendar Day** Every day shown on the calendar, ending and beginning at midnight.
- 1.3.8 **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.
- 1.3.9 **Construction Engineering & Inspection (CEI) Consultant** The firm employed by CFX to observe the progress and quality of the Work being performed by the Contractor.
- 1.3.10 **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.
- 1.3.11 **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.
- 1.3.12 **Contract Bond** The security furnished by the Contractor and the surety as a guaranty that the Contractor shall fulfill the terms of the Contract and pay all legal debts pertaining to the construction of the project.
- 1.3.13 **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.
- 1.3.14 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

Standard Plans (edition per plans).

- 1.3.15 **Contract Price** The money payable by CFX to the Contractor for completion of the Work in accordance with the Contract Documents.
- 1.3.16 **Contract Time** The number of calendar days allowed for completion of the Work including authorized time extensions.
- 1.3.17 **Contractor** The person, firm, or corporation with whom CFX has entered into the Contract.
- 1.3.18 Contractor's Engineer of Record A Professional Engineer registered in the State of Florida, other than the Engineer of Record or his subcontracted consultant, who undertakes the design and drawing of components of the permanent structure as part of a redesign or Cost Savings Initiative Proposal, or for repair designs and details of the permanent work. The Contractor's Engineer of Record may also serve as the Specialty Engineer.

The Contractor's Engineer of Record must be an employee of a prequalified firm. The firm shall be pre-qualified in accordance with the Rules of the Department of Transportation, Chapter 14-75. Any Corporation or Partnership offering engineering services must hold a Certificate of Authorization from the Florida Department of Business and Professional Regulation.

As an alternate to being an employee of a pre-qualified firm, the Contractor's Engineer of Record may be a Department-approved Specialty Engineer. For items of the permanent work declared by to be "major" or "structural", the work performed by a Department-approved Specialty Engineer must be checked by another Department-approved Specialty Engineer. An individual Engineer may become a Department-approved Specialty Engineer if the individual meets the Professional Engineer experience requirements set forth within the individual work groups in Chapter 14-75, Rules of the Department of Transportation, Florida Administrative Code. Department-approved Specialty Engineers are listed on the State Construction Website. Department-approved Specialty Engineers will not be authorized to perform redesigns or Cost Savings Initiative Proposal designs of items fully detailed in the Plans.

- 1.3.19 **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.
- 1.3.20 **Culverts** Any structure not classified as a bridge, which provides an opening under the roadway.
- 1.3.21 **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.
- 1.3.22 **Director of Construction** Director of Construction, Central Florida Expressway Authority, acting directly or through an authorized representative.
- 1.3.23 **Engineer** The term as may be used in various documents is understood to mean CFX or designated representative.
- 1.3.24 **Engineer of Record** The professional engineer or engineering firm, contracted 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.
- 1.3.25 **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.
- 1.3.26 **Executive Director** Executive Director, Central Florida Expressway Authority, acting directly or through an assistant or other representative authorized by him; the chief officer of the Central Florida Expressway Authority
- 1.3.27 **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."
- 1.3.28 **Federal, State, and Local Rules and Regulations -** The term "Federal, State and Local Rules and Regulations" includes: any and all Federal, State, and Local laws, bylaws, ordinances, rules, regulations, orders, permits, or decrees including environmental laws, rules, regulations, and permits.
- 1.3.29 **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.
- 1.3.30 **Highway, Street, or Road** A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way.
- 1.3.31 **Holidays** Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Independence Day

- (Observed); Labor Day; the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Veterans Day (Observed); the Wednesday immediately preceding Thanksgiving Day; Thanksgiving Day; the Friday, Saturday and Sunday immediately following Thanksgiving Day; and December 24 through January 2, inclusive.
- 1.3.32 **Inspector** An authorized representative of the Engineer, assigned to make official inspections of the materials furnished and of the work performed by the Contractor and to monitor compliance with the Plans and Specifications of the Contract.
- 1.3.33 **Invitation to Bid** The invitation by which the Contractor submitted its Bid for the Work.
- 1.3.34 **Laboratory** A Testing facility certified with the Florida Department of Transportation.
- 1.3.35 **Major Item of Work** Any item of Work having an original Contract value in excess of 5% of the original Contract amount.
- 1.3.36 **Materials** Any substances to be incorporated in the Work.
- 1.3.37 **Median** The portion of a divided highway or street separating the traveled ways for traffic moving in opposite directions.
- 1.3.38 **Memorandum of Agreement** A formal summarization of the Project Pre-Award meeting, signed by CFX and a representative of the Contractor and made part of the contract documents.
- 1.3.39 **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.
- 1.3.40 **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.
- 1.3.41 **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.
- 1.3.42 **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.

- 1.3.43 **Resident Engineer** The authorized representative of the CEI who may be assigned to the site or any part thereof.
- 1.3.44 **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.
- 1.3.45 **Roadbed** That portion of the roadway occupied by the subgrade and shoulders.
- 1.3.46 **Roadway** The portion of a highway within the limits of construction.
- 1.3.47 **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.
- 1.3.48 **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.
- 1.3.51 **Special Event** Any event, including but not limited to, a festival, fair, run or race, motorcade, parade, civic activity, cultural activity, charity or fund drive, sporting event, rocket/shuttle launch or similar activity.
- 1.3.49 **Special Provisions** Specific requirements for the Project not otherwise addressed in the General Specifications, Technical Specifications, or Standard Specifications.
- 1.3.50 **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 have their business registered with the Florida State Board of Professional Engineers and be qualified as a Professional Engineer licensed in Florida. 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.
- 1.3.52 **Specifications** The directions, provisions, and requirements contained in the General Specifications, Technical Specifications, Special Provisions, and Standard Specifications.
- 1.3.53 **Standard Plans** "Standard Plans for Road and Bridge Construction", an electronic book describing and detailing aspects of the Work. Where the term Design Standards appears in the Contract Documents, it will be synonymous with Standard Plans.
- 1.3.54 **Standard Specifications** The FDOT Standard Specifications for Road and Bridge Construction, July 2019 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.
- 1.3.55 State State of Florida
- 1.3.56 **Subarticle** Any headed subdivision of an Article of the General Specifications, Technical Specifications, or Standard Specifications.
- 1.3.57 **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.
- 1.3.58 **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.
- 1.3.59 **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 striping 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, striping, 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.

- 1.3.60 **Substructure** All of that part of a bridge structure below the bridge seats including the parapets, backwalls and wingwalls of abutments.
- 1.3.61 **Superintendent** The Contractor's authorized representative responsible and in charge of the Work.
- 1.3.62 **Superstructure** The entire bridge structure above the substructure including anchorage and anchor bolts but excluding the parapets, backwalls, and wingwalls of abutments.
- 1.3.63 **Supplemental Agreement** A written agreement between CFX and the Contractor, signed by the surety, modifying the Contract within the limitations set forth in these specifications.
- 1.3.64 **Surety** The corporate body that is bound by the Contract Bond with and for the Contractor and responsible for the performance of the Contract and for payment of all legal debts pertaining thereto.
- 1.3.65 **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.

- 1.3.66 **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.
- 1.3.67 **Travel Way** The portion of the roadway for the movement of vehicles, exclusive of shoulders and bicycle lanes.
- 1.3.68 **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.
- 1.3.69 **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.
- 1.3.70 **Working Day -** Any calendar day on which the Contractor works or is expected to work in accordance with the approved work progress schedule.
- 1.3.71 **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 Plans 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.

Upon execution of the Contract, written communication associated with the Contract may be conducted using a paperless electronic means. When the Specifications require a submission of documentation, such documents may be submitted and exchanged electronically.

Documents requiring a signature may be executed electronically by both parties in accordance with Chapter 668, Florida Statutes, and have the same force and effect as a written signature. All persons requiring access to any collaboration sites shall be identified during the preconstruction conference and instructions for access to this site will be discussed and documented in the minutes. Persons may be added or removed during the life of the Contract on an as needed basis. All signatories executing documents electronically must acquire digital signature certificates.

# 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, Technical Special Provisions 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 2.4.13. 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

<sup>\*</sup>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 at the original contract bond rate paid by the Contractor. Should the Contractor have previously elected to provide subguard coverage in lieu of requiring a bond from a sub on the original work, 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 a time extension due to delay of a controlling work item caused solely by CFX, 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.

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.
- 2.3.3 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.
- 2.3.4 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.

2.3.5 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.

- 2.3.6 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.

2.3.7 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.

2.3.8 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 Standard Plans identified in the Contract Documents.

2.3.9 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.

2.3.10 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.

# 2.3.11 Cost Savings Initiative Proposal

2.3.11.1 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.

- 2.3.11.2 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, Standard Plans, 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 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.
- 2.3.11.3 Processing Procedures: The Contractor shall submit 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.

2.3.11.4 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.

- 2.3.11.5 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.
- 2.3.11.6 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.
- 2.3.11.7 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 Standard Plans, Standard Plans 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 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 shall 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 Standard Plans 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 150 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. Each page shall be numbered consecutively for the series and the page 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 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 page size shall be no larger than 11 by 17 inches. Such information shall be clearly labeled and numbered and the page numbers shall indicate the total number of pages in the series (e.g., 1 of 12, 2 of 12, .... 12 of 12).

All documents shall be 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 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.

- 3.1.4.5 Submittal Paths and Copies: All submittals will be transmitted from the Contractor to the CEI. Should additional distribution be desired in order to expedite processing, contact information for additional reviewers will be provided to the Contractor. These contacts may include the Engineer of Record (EOR), General Engineering Consultant (GEC), Specialty Engineers, and/or CFX. At the preconstruction conference, CFX may notify the Contractor of any additional entities to be included in the submittal distribution.
  - 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.
  - 3.1.4.5.2 Signing, Lighting, Drainage Structures, Attenuators and other nonstructural items.
  - 3.1.4.5.3 Building Structures: Each series of working, shop and erection drawings.
  - 3.1.4.5.4 Contractor Originated Design or Redesign: The Contractor shall submit to the CEI each series of shop drawings and applicable calculations. The cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer. The submittal and copies 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, each series of shop drawings and applicable calculations. Each cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer.
  - 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 of each series of shop drawings and applicable calculations. Each cover sheet of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer.
  - 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 each series of shop drawings and applicable calculations. Each cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer.
- 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, 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/resubmittal 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 day 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 Standard Plans, 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 As-Built Drawings: During the entire construction operation, both the CEI and the Contractor shall maintain independent, separate records of all deviations from the plans and specifications including Requests for Information (RFI), field directives, sketches, etc. The Contractor shall submit a draft of the as-built drawings, including all deviations, to the CEI no less than once every two months for review. A minimum submittal would be a pdf with all changes in red, accurately plotted. The Contractor's as-built drawings shall be reviewed regularly throughout the course of the project by the CEI. The Contractor's final as-built drawing submittal shall also include cross-sections, prepared by a registered surveyor, of all retention ponds in the Project limits. The Contractor's final as-built drawings shall be submitted within 15 days of the Project acceptance or termination of Work. Retainage will not be released by CFX until the marked-up pdf and records have been submitted and accepted by the CEI.

# 3.4 Pre-Award Meeting

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

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

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

\*\*\*\*\*\* Area Intentionally Left Blank \*\*\*\*\*\*\*\*\*

### 3.5 Orders and Instructions

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

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

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

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

- 3.5.1.1 Make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine in general if the Work is proceeding in accordance with the Plans and Specifications. CFX will not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the Work, will not be responsible for the construction means, methods, procedures, techniques and will not be responsible for the Contractor's failure to perform the construction Work in accordance with the Plans and Specifications. CFX will not be responsible for safety precautions and procedures concerning the Work. During such visits and based on on-site observations, CFX may disapprove Work as failing to conform to the Plans and Specifications.
- 3.5.1.2 Check and approve samples, catalog data, schedules, shop drawings, laboratory, shop and mill tests of Materials and Equipment and other data which the Contractor is required to submit, only for conformance with the design concept of the Project and compliance with the information given by the Plans and Specifications.
- 3.5.1.3 Conduct, in company with the Contractor, a final inspection of the Project for conformance with the design concept of the Project and compliance with the information given by the Plans and Specifications.
- 3.5.1.4 Prepare final record drawings.

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

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

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

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

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

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

accordance with the approved procedure.

# 3.6 Engineering and Layout

# 3.6.1 Control Points Furnished by CFX

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

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

## 3.6.2 Furnishing of Stake Material

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

# 3.6.3 Layout of Work

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

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

### 3.6.4 Specific Staking Requirements

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

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

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

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

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

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

# 3.6.5 Personnel, Equipment, and Record Requirements

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

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

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

## 3.6.6 Global Navigation Satellite Systems (GNSS) Work Plan

If used, submit a comprehensive written GNSS Work Plan to the Engineer for review and acceptance at the preconstruction conference or at least 30 days before starting work using GNSS. Update the plan as necessary during construction and notify CFX of all changes. The GNSS Work Plan shall describe how GNSS enabled Automated Machine Guidance technology will be integrated into other technologies employed on the project. At a minimum, the GNSS Work Plan will include the following:

- 1. Designate which portions of the Contract will be done using GNSS enabled Automated Machine Guidance and which portions will be constructed using conventional survey methodology.
- 2. Describe the manufacturer, model, and software version of the GNSS equipment.
- 3. Provide information on the qualifications of Contractor staff. Include formal training and field experience. Designate a single staff person as the primary contact for GNSS technology issues.
- 4. Describe how project control will be established. Include a list and map showing control points enveloping the site.
- 5. Describe site calibration procedures. Include a map of the control points used for site calibration and control points used to validate the site calibration. Describe the frequency of site calibration and how site calibration will be documented. At a minimum, verify the site calibration twice daily.

6. Describe the Contractor's quality control procedures for verifying mechanical calibration and maintenance of construction and guidance equipment. Include the frequency and type of verification performed to ensure the constructed grades conform to the Contract Documents.

Keep on site and provide upon request, a copy of the project's most up-to-date GNSS Work Plan at the project site.

### 3.6.7 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 the phone numbers and names of personnel designated to be contacted in cases of emergency, along with a description of the project location, to CFX's Troop Master Sergeant of the Florida Highway Patrol and other local law enforcement agencies. 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: <a href="http://www.motadmin.com/find-a-training-provider.aspx">http://www.motadmin.com/find-a-training-provider.aspx</a>

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 other activities deemed necessary for Project maintenance and safety.

# 3.8 General Inspection Requirements

## 3.8.1 Cooperation by Contractor

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

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

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

# 3.8.2 Failure of CFX to Reject Work During Construction

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

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

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

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

# 3.9 Final Inspection and Acceptance

# 3.9.1 Maintenance Until Final Acceptance

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

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

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

### 3.9.2 Inspection for Substantial Completion

The CEI will make a semi-final inspection within 7 days after written notice from the Contractor of completion of the Project in its entirety. If, at the semi-final inspection, it is determined that all pay item work has been installed and other conditions as defined in Section 1.3, the project will be deemed Substantially Complete. Further, if

all construction provided for and contemplated by the Contract is complete and acceptable to the CEI, such inspection shall constitute the final inspection as described below.

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

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

# 3.9.3 Final Inspection

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

### 3.9.4 Final Acceptance

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

### 3.9.5 Recovery Rights Subsequent to Final Payment

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

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

CFX reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract

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

If CFX requests access to (or review and copy of) any Contract Records or Bid Records and the Contractor refuses such access or review, the Contractor shall be in default under its Contract with CFX. Such refusal shall, without any other or additional actions, constitute grounds for disqualification of the Contractor. This provision shall not be limited in any manner by the existence of any Contractor claims or pending disputes resolution or arbitration relating to the Contract. Disqualification or suspension of the Contractor for failure to comply with this section shall also preclude the Contractor from acting in the future as a subcontractor of another contractor doing work for CFX during the period of disqualification.

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

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

Contract Records shall include but not be limited to, all information, letters, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes, agreements, supporting documents, any other papers or preserved data related to the Contract or the Contractor's performance of the Contract determined necessary by CFX for any purpose. Bid Records shall include but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by the Contractor in determining labor, unit price, or any other component of a bid submitted to CFX. Bid Records shall also include but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subcontractors, truckers or material suppliers, profit contingencies and any manuals standard in the industry that may be used by the Contractor in determining its bid. These manuals shall be included in the Bid Records by reference and shall show the name and date of the publication and the publisher.

As a condition precedent to Contractor initially filing (and thereafter processing) any claim

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

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

### 3.11 Escrow of Bid Records

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

- 1. The Contractor, in the company of the CEI, shall rent a safe deposit box, at a bank in Orange, Seminole, Osceola, Lake or Brevard 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 degrees 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, or as approved by CFX, as defined by A.M. Best and Company's Key Rating Guide. 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:

Contract Amount	Workers' Comp/	General Liability	Automobile
	Employer's Liability	(per occurrence/ aggregate)	Liability
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 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.

Total D-B Contract Price Minimum Coverage Limits

Up to \$30 Million \$1 Million coverage \$30 to \$75 Million \$2 Million coverage More than \$75 Million \$5 Million coverage

This requirement maybe satisfied by the Design-Build Firm's professional team member qualified under Rule 14-75, FAC.

Contract Amount	Minimum Limit	Maximum Deductible
Up to \$1 million		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 is advised that the project is located within a hurricane region. The Contractor shall submit to CFX at the project Preconstruction Conference, a hurricane preparedness plan detailing the procedures to be followed by the Contractor to ensure the safety of personnel, equipment, stored materials, and the Work when a hurricane watch notice for the project area is issued by the United States Weather Service.

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, 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 consent of CFX. 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 Certification of Sublet Work request will be deemed acceptable by CFX, for purposes of CFX's consent, unless the Engineer notifies the Contractor within 5 business days of receipt of the Certification of Sublet Work that CFX is not consenting to the requested subletting. If, at any time, a subcontractor is determined to be discriminatory, debarred or suspended by the FHWA, CFX or FDOT, the determination will be considered grounds for removal from the project.

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.

Critical Path: Defined as the Longest Path.

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 P6 Professional, produced by Oracle, 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 that the most negative float in the CPM. The Contractor will not be permitted to alter float through such applications as extending duration estimates or changing 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 through the data date each month until the Baseline Schedule is accepted by 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 (P6 Professional) by Oracle, 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 P6 Professional for all schedule submittals. This includes using the "Retained Logic" setting for all calculations, unless CFX chooses to allow the use of the "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 CDs with exported copies of the above schedules in ".xer" format. Other methods of electronic submittal may be approved by the CEI.

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, road closures and openings, and any contractually dictated interim milestones 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.

Photovoltaic systems.

Integration of Photovoltaic and ITS systems.

Burn-In periods.

Tolls.

**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 Contract Completion Date as defined in section 6.3.2.1 shall be entered into the Primavera Project Details 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 Contractor shall define and assign as appropriate, project-specific activity codes to allow for filtering, grouping, and sorting of activities by category to facilitate review and use of the Progress Schedule. The Contractor shall define the activity codes using the project-level option. 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

Responsibility: Entity responsible for performing the work (i.e. CFX, Contractor, sub-Contractors, suppliers, utility companies, etc.).

Crew: Crew assigned to the work (i.e. Grading Crew #1, Drainage Crew #2, Pile Driving Crew, Concrete Crew, Paving Crew, Striping Crew, Signing Crew, etc.).

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:
  - FS -Finish to start
  - 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 Schedule Constraints: All Contract milestone activities shall be constrained, as applicable, with a "Start On or After" (Early Start) date or "Finish On or Before" (Late Finish) date equal to the "Start No Earlier Than" or "Must Finish By" date specified in the Contract, except as specified below. The Contractor's use of schedule constraints not associated with Contract milestones is not allowed, unless approved by the CFX. The use of schedule constraints such as "Start On" or "Finish On" for the purpose of manipulating float or the use of schedule constraints that violate network logic such "Mandatory Start" or "Mandatory Finish" will not be allowed. When a schedule constraint is used, other than the schedule constraints specified herein, the Contractor shall provide explanation for the use of such constraint in the Progress Schedule or Progress Schedule Narrative.

Project Calendars: The Contractor shall define and assign as appropriate, project-specific calendar to each activity to indicate when the activity can be performed. The Contractor shall define the project calendars using the project-level option. The project calendars shall all use the same standard working hours per day, such as 8:00AM to 4:00PM. 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.

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. Revenue shall be loaded using resources with the "Material" type. 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 must submit evidence to CFX that any revision to schedule logic, resources, or calendar assignment is a logical, reasonable, and necessary change. If CFX decides that the revision is not sufficiently supported and does not serve a useful purpose, CFX shall request that the Contractor remove the revision from the schedule update, and the Contractor shall comply. The Contractor shall not change an activity original duration for any

### 6.3.3.4.7 Revisions to the Baseline Schedule

- 1. Revisions to the accepted Baseline Schedule are only to be made at the request of CFX. 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 resubmit 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 exported in ".xer" format. The files shall be submitted on compact disk (cd) or via the electronic submittal process approved by the CEI. Each submission 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. Any float available as a result of a schedule showing early completion shall be considered project float for joint use by CFX and the Contractor.
- 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 GS-108

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, which shall be submitted in addition to a Progress-Only schedule update of the same data date:
- 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 GS-115

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, pandemics, 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;
  - 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. Consistent with this, any corrugations, rustications, or deviations in texture will not be quantified for surface area measurement and payment.

## 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 15th 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: <a href="https://www.fdot.gov/construction/fuel-bit/fuel-bit/shtm">https://www.fdot.gov/construction/fuel-bit/fuel-bit/shtm</a>.

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:

Ai = Fi (Pi - .95 Pb) during a period of decreasing prices.

Ai = Total dollar amount - positive or negative - of the cost adjustment for each kind of fuel used by the Contractor during the month "i."

Fi = Total gallons calculated as being used during the month (units produced/month x gallons/unit).

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

When fuel prices have increased between month of bid and month of this progress estimate:

Ai = Fi (Pi - 1.05 Pb) during a period of increasing prices.

Ai = Total dollar amount - positive or negative - of the cost adjustment for each kind of fuel used by the Contractor during the month "i."

Fi = 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:

\$ Adjustment = (ID)(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 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:

% Contract	Amount Completed	Amount Retained
0 00 , 0		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
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 paying or base construction operations begin except when a construction sequence designated by the CEI requires suspension of paying and base construction after the initial paying operations, partial payments will be reinstated until the paying 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, < <a href="supplier">supplier</a>> will be liable to the Contractor and the Central Florida Expressway Authority should < <a href="supplier">supplier</a>> 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 As-built 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:
  - 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

20		Agreement j	made and ent	ered into this
	, between the	CENTRAL	<b>FLORIDA</b>	<b>EXPRESSWAY</b>
ARD ("Board"),	consisting of	three member	ers:	,
and	("	'Members").		
EAS, the f the Board to assis	con t in resolving dis	sputes and clair	r") provides forms.	or the establishment
E	("CFX"),ARD ("Board"),and EAS, CFX is now each state of the Board to assist	("CFX"),  ARD ("Board"), consisting of and("  CAS, CFX is now engaged in the confidence of the Board to assist in resolving disconstructions.	("CFX"), ("Correct ("Correct ("Contract ("Contract ("Contract ("Contract of the Board to assist in resolving disputes and claim.")	("CFX"), ("Contractor") ar ARD ("Board"), consisting of three members:

## 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. <u>Furnishing Documents</u>. 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. <u>Site Visits</u>. 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. <u>Board Consideration of Disputes or Claims</u>. 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. <u>Miscellaneous Board Responsibilities</u>. 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. <u>Board Member Replacement</u>. 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. <u>Contract Related Documents</u>. 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. <u>Coordination and Services</u>. 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. <u>Payment</u>.

Each Board Member will be paid One Thousand Three Hundred Dollars (\$1,300.00) 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. <u>Inspection of Costs Records</u>. 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 AUT	HORITY
By:	
Print Name:	
Title:	
BOARD:	
DISPUTES REVIEW BOARD	
By:	
By:Print Name:	
By:	
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 120 days 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.

# CONSENT AGENDA ITEM #6

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## **MEMORANDUM**

TO: CFX Board Members

FROM: Aneth Williams Anoth Williams

**Director of Procurement** 

DATE: August 25, 2020

SUBJECT: Approval of Supplemental Agreement No. 2 with Inwood Consulting Engineers,

Inc. for SR 417 Widening from Boggy Creek Road to Narcoossee Road

Project No. 417-151, Contract No. 001394

Board approval of Supplemental Agreement No. 2 with Inwood Consulting Engineers, Inc. for a not-to-exceed amount of \$150,000.00 is requested. The original contract was for five years with five one-year renewals.

The services to be provided include design services for the part-time shoulder use structures, additional improvements on Narcoossee Road and survey services to cover areas not included in the original scope of services.

 Original Contract
 \$5,000,000.00

 Supplemental Agreement No. 1
 \$ 0.00

 Supplemental Agreement No. 2
 \$ 150,000.00

 Total
 \$5,150,000.00

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

Reviewed by:

Will Hawthorne, PE Director of Engineering Glenn Pressimone, PE

## **SUPPLEMENTAL AGREEMENT NO. 2**

#### TO

## AGREEMENT FOR PROFESSIONAL SERVICES

#### FINAL DESIGN

## SR 417 Widening from Boggy Creek Road to Narcoossee Road

T	HIS S	SUPPLEMEN'	TAL	AGREEME	NT	NO.	2	TO	AGREE	MENT	FOR
PROFESS	SIONAL	SERVICES	FINA	L DESIGN	("Su	pplem	enta	l Agr	eement")	is mad	e and
entered in	nto this		day c	of			,	2020	, by and	betwee	n the
CENTRA	L FLOF	RIDA EXPRES	SSWA	Y AUTHOR	ITY,	a corpo	orate	body	and agen	cy of the	e State
of Florida	ı, hereii	nafter called "	'CFX",	and the co	onsult	ing fir	m c	of INV	VOOD C	ONSUL	TING
ENGINEE	ERS, IN	C., a Florida c	orporat	ion, hereinaf	fter ca	alled th	ne "C	CONS	ULTANT	".	

WHEREAS, CFX and CONSULTANT entered into that certain Agreement for Professional Services between CFX and the CONSULTANT, dated August 20, 2019, as amended or supplemental by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated July 24, 2020 (collectively, "Agreement"); and

WHERAS, Articles 2.0 and 11.0 of the Agreement provide that in the event that CFX elects to add, delete or change the services outlined in the Scope of Services, as defined in the Agreement, and attached to the Agreement as Exhibit "A", the compensation to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon by CFX and the CONSULTANT in this Supplemental Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Supplemental Agreement, CFX and the CONSULTANT agree as follows:

- 1. CFX hereby authorizes the CONSULTANT to proceed with additional services as outlined in the Consultant's August 14, 2020 letter to CFX, which is attached hereto as Exhibit "A" and incorporated herein by reference ("Additional Services"). Exhibit "A" of the Agreement and the Scope of Services, as defined in the Agreement, shall be amended to include the Additional Services.
- 2. Exhibit "B" Method of Compensation of the Agreement is hereby amended as follows:
  - a. The Salary Related Costs are adjusted upward by \$201,546.65 to \$2,860,582.76.
  - b. The Direct Expenses Lump Sum (Prime) Costs are adjusted upward by \$3,614.00 to \$13,790.80.
  - c. The Subcontract Items are adjusted upward by \$196,753.62 to \$2,209,469.23 as follows:

0116 025 60

• ATKINS	\$116,823.68
• IF Rooks	\$2,209.63
• Tierra	\$77,718.31

A TOTAL TO

- d. The Allowance is adjustment downward by \$251,914.27 to \$66,157.21.
- e. The Total Maximum Limiting Amount is adjusted upward by \$150,000.00 to \$5,150,000.00.
- 3. All provisions of said Agreement, or any amendments or supplements thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this

Supplemental Agreement and the Agreement, or any existing supplements or amendments thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be executed the day and year first above written.

CENTRAL FLORIDA	
EXPRESSWAY AUTHORITY	
By: Aneth Williams, Director of Procurement	
Aneth Williams, Director of Procurement	
DWG OF GOVGLUTTING EVERYTHING INC	
INWOOD CONSULTING ENGINEERS, INC	
_	
By:Print Name:	
Print Name:	
Title:	
Approved as to form and execution for CFX's	
exclusive use and reliance.	
R <sub>V</sub> ·	
By:	
General Counsel	
General Counsel	

https://cfxgov.sharepoint.com/operations/engineering/Shared Documents/General/417-151 SR 417 Widening Boggy Creek Road to Narcoossee Road/2 Contract/2.A Supplemental Agreements/SA 2/Inwood-417-151-SA\_2.docx



#### **MEMORANDUM**

**Date:** August 20, 2020

To: Will Hawthorne, PE CFX Director of Engineering

From: Carnot Evans, PE

Subject: Design Consultant Services - Contract 001394

CFX Project No. 417-151

SR 417 Widening Boggy Creek Road to Narcoossee Road

Supplemental Agreement No. 2

#### **Comments:**

I have reviewed the fee sheet and scope of services submitted by Inwood provided via email on June 2, 2020 for the SR 417 Widening from Boggy Creek Road to Narcoossee Road design project. This requested contract amendment is to provide additional design services for PTSU structures, additional improvements on Narcoossee Road, and survey services for the project to cover areas not included in the original scope of services.

The work authorization request is attached and additional costs are detailed below:

\$ 205,160.65 Inwood as Prime

\$ 196,753.62 Total Subconsultant Fees

\$ 401,914.27 Total Requested Contract Amount

The total staff hours for each task are reasonable and acceptable, and the man hour rates are consistent with their contract; therefore, I recommend approval of this agreement in the amount of \$401,914.27.

Should you have questions or need additional information, please call me at 321.354.9757.

#### cc:

Keith Jackson, PE Dewberry File



August 14, 2020 CFX-002-01 Roadway Design **PD&E Studies** Structures Water Resources **Ecology** Utilities **Public Involvement** 

Will Hawthorne **Director of Engineering** Central Florida Expressway Authority 4974 ORL Tower Road Orlando, FL 32807

Re: SR 417 Widening - Boggy Creek Rd to Narcoossee Rd

Design Fee Proposal SA #2 CFX 417-151

Dear Mr. Hawthorne,

Enclosed you will find Inwood's design fee proposal for the additional work required for the SR 417 Widening Project from Boggy Creek Road to Narcoossee Road.

Please review the fee proposal and provide approval or comments at your earliest convenience. If you have any questions, or require additional information, please do not hesitate to contact me.

Very truly yours,

**Inwood Consulting Engineers, Inc.** 

Mark D. Hales, PE

Mak Hales

**Project Manager** 

3000 Dovera Drive Suite 200 Oviedo, FL 32765

P: 407-971-8850 F: 407-971-8955 www.inwoodinc.com

#### **EXHIBIT "A"**

SCOPE OF SERVICES SUPPLEMENTAL AGREEMENT NO. 2 SR 417 WIDENING From Boggy Creek Road to Narcoossee Road CFX Project No. 417-151

## 1.0 BACKGROUND:

CFX retained the CONSULTANT under Contract No. 001394 to provide complete construction plans to mill, resurface, and widen SR 417 from Boggy Creek Road to Narcoossee Road in Orange County, Florida.

#### 2.0 PURPOSE:

The purpose of this amendment is to extend the proposed design survey limits to include the following design changes:

- Structures Design and plan preparation for the toll gantries, multi-post sign structures, the existing bridge pot bearing replacement and additional retaining wall.
- ITS Address conflict areas related to roadway widening changes to accommodate the
  future Osceola Parkway Extension project, address changes due to additional widening
  planned on the southbound off ramp to Narcoossee Road, address power and
  communications connections to the new part time shoulder utilization equipment,
  account for arc hazard analysis of ITS cabinets, and add equipment in order to ensure
  100% CCTV coverage of the project roadway.
- Geotechnical Additional geotechnical services will be required to support the added PTSU Gantries, additional walls, and to support the preliminary plans for the Osceola Parkway Extension (SHWT borings).

This amendment will add additional fees to the existing contract to facilitate the additional services. A detailed description of the required updates is listed below.

## **3.0 SCOPE:**

#### TASK 14 – STRUCTURES-SRTUCTURAL STEEL

#### 14.42 Structural Steel Details

The Consultant shall provide plans and details including phasing notes for replacement of the existing two failing bridges pot bearings.

#### TASK 17 – STRUCTURES-RETAING WALLS

#### 17.2, & 17.17 Wall Design, Plans and Details

Thru The consultant shall provide design, plans and notes for one additional

17.21 permanent soldier pile and lagging wall with concrete facia.

#### TASK 18 – STRUCTURES-MISCELLANEOUS

## 18.14 Cantilever & Overhead Signs, Gantry signs & bridge mounted signs

Thru 18.17 The consultant shall provide design, plans for two cantilever signs not meeting the current standards, two DMS span signs, eight gantry signs and one bridge mounted sign (see table below for locations and additional information).

Station	Gantry No.	Gantry Type	Comments
SR 417 1012+50 NB	20	4	Single post @ median
SR 417 1038+50 NB	21A	1	Wide section due to bifurcation
SR 417 1038+50 SB	19	4	w/one static sign
SR 417 1051+25 NB/SB	NA	NA	DMS to be re-centered, includes static panel, bifurcation
SR 417 1064+60 NB	21B	1	
SR 417 1064+60 SB	20	4	w/two static sign
SR 417 1091+00 NB	22	2	
SR 417 1091+00 SB	21	2	
SR 417 1112+50 SB	NA	NA	Existing cantilever sign to be centered & redesigned
SR 417 1130+00 NB	23	1	
SR 417 1130+00 SB	22	2	
SR 417 1145+00 SB	NA	NA	Existing cantilever sign to be centered & redesigned
SR 417 1162+50 NB	24	4	7.3% super elevated, tall up rights
SR 417 1162+50 SB	23	2	
SR 417 1172+50 NB/SB	NA	NA	DMS to be re-centered, includes static panel
SR 417 1186+50 NB	25	4	It has one static signs
SR 417 1186+50 SB	24	1	
SR 417 1227+50 NB	26	4	Smaller panel and on steep sloped section near bridge
SR 417 1227+50 SB	25	2	up right on steep sloped section
Narcoosee 130 SB	NA	NA	Bridge Mounted

## TASK 19 - SIGNING & MARKING

## 19.4 Multi-post Sign Support Calculations

The Consultant shall provide designs for 15 multi-post sign supports.

#### TASK 28 – PHOTOGRAMMETRY

Edit / Merge Field Data provided by ECHO west of Narcoossee Road @ CFX Project Number 417-150, Contract #001393.

#### TASK 33 & 34 – ITS SYSTEM ANALYSIS & ITS SYSYEM PLANS

## Osceola Parkway Extension (OPE)

The roadway extension interchange will have impacts on the existing CFX ITS System when it is built in the future. Atkins will evaluate the existing design and relocate ITS

facilities that are within this project envelop, as needed, to eliminate conflicts with this future project. It is anticipated that 3 device locations should be relocated to avoid this future impact.

## **Boggy Creek Road to Lake Nona Roadway Changes**

The median within this section of SR 417 is being revised to accommodate future bridge supports for the OPE resulting in a wider median. Atkins will evaluate the existing ITS facilities that are within this area and relocate them, as needed, to accommodate this roadway change. In addition, we will reevaluate the new ITS facilities currently being designed in this area and relocate, as needed. It is anticipated that the backbone fiber optic system will be impacted for approximately 10,000' on one side of the road between Boggy Creek Road and Lake Nona Blvd.

## **Narcoossee Road Improvements**

The new Narcoossee Road southbound offramp will include triple left turn lanes and a dedicated right turn lane. This area will be evaluated to see if any of the existing ITS facilities are impacted by this work. Any impacts will be mitigated through the contract by relocating, as needed. It is anticipated that this will require the relocation of approximately 1900' of the backbone fiber optic system.

## **PTSU Gantry Installation**

The new PTSU gantries will require communications and power connections to be included within the ITS design plans. Based on the information provided, there are nine PTSU structures within the project limits. In addition, one of the PTSU locations is an ITS only location including DMS in each direction and no static signs. The ITS plans will include any necessary information related to the DMS for all locations, however, the structure design will be included within a separate set with all the project structures. For each PTSU location, a new fiber optic pull box will be included. In addition, a new fiber optic cable will be included on both sides of the road through the project limits for PTSU communications (8.6 miles of new fiber to be installed in existing or relocated/replaced conduit). Power connections will be designed for each PTSU location including power cables, services and transformers. The cabinet configuration for the PTSU locations will include one large ground mount cabinet; the details will be provided by CFX.

#### **Arc Hazard Analysis for ITS**

This is a new scope item affecting **lighting and ITS** cabinets (existing and proposed); lighting will be addressed by others; this scope only covers the ITS cabinet locaitons. New scope items include the following:

- a. Identify the locations of ITS load centers at the power service locations. Conduct a field visit to obtain any necessary data required for the arc flash hazard analysis.
- b. Data Collection
  - i. Obtain the feeder conductor sizes and lengths starting the utility transformer and continuing to all devices included in the arc flash analysis.
  - ii. Obtain all circuit breaker and fuse amperage, manufacturer, model, and trip unit settings.

- c. Utility Information Coordinate with the local power company to gather technical information on their transformers including impedance, KVA rating, operating voltage, service voltage configuration and available fault current.
- d. Prepare a One-Line Diagram of the system for each individual power service location. The results of analysis such as short circuit studies and arc flash hazard assessment shall be placed on the diagram.
- e. Perform a short Circuit Study Calculate the short circuit current in symmetrical RMS amperes for all buses or equipment, and for each possible operation mode.
- f. Calculate arc current for every required equipment or bus.
- g. Estimate arcing time by plotting Time-Current Curve and obtaining the trip time of branch and main circuit breakers.
- h. Estimate arc flash incident energy for the equipment at the given distances. Evaluate incident energy for each type of possible connection and arc current changing through the series of breaker operations.
- i. Determine the arc flash boundary.
- j. The arc flash hazard analysis shall be documented in a detailed report. The report should include the following:
  - i. The name of person performing the assessment
  - ii. The date of assessment.
  - iii. All data collected and used in the assessment, including protective device settings.
  - iv. Assumptions used in the absence of data.
  - v. The name of the software and the revision.
  - vi. Provide documentation for all results related to incident energy and arc flash boundary for each equipment.
- k. Arc Flash Labeling Provide sufficient details in the plans including direction that it will be the Contractor's responsibility to place Arc flash labels on the exterior cover of equipment at the power service-entrance locations. Equipment like, (a) Non-fused disconnect switch on the line side of meter, (b) service-entrance rated overcurrent protection device, (c) electrical distribution cabinet. Identify in the plans that Arc flash labels should be located in a place that is easily visible and readable from some distance. Provide the following information for the label: nominal voltage, arc flash boundary, and site-specific level of personal protection equipment, minimum arc rating of clothing, available incident energy and the corresponding working distance. Label information shall also be included in the design documentation report.

Seventeen existing ITS cabinets, 5 new ITS cabinets and 16 new PTSU cabinets will require this analysis for a total of 38 analysis locations.

## Camera Coverage for 100% of the Roadway

CFX has requested that when construction is complete, that ITS cameras cover 100% of the roadway including the shoulders and ramps. Therefore, we have done an initial analysis of the corridor to determine where camera coverage needs to be enhanced due to various factors including geometry, new sign structures and the new PTSU structures. Based on the initial analysis, 4 new cameras need to be included in the ITS design for this project.

#### Variable Speed Limit Sign Addition

CFX has requested the addition of variable speed limit (VSL) signs to work in conjunction with the PTSU gantries to help reduce speeds approaching incidents. This effort will include adding VSL signs to each PTSU upright (median and outside) within the project limits plus the addition of a VSL location as identified in the design directive at Sta. 1052+00 southbound; in conjunction with a DMS. The work at each location will include the sign mounting plus communications and power connections at each location. It is anticipated that the VSL equipment will be housed within either the PTSU cabinets or the DMS cabinet at each location. There is a total of 32 VSL signs to be included within the project limits. There are 7 full span PTSU structures with a total of 4 VSL signs (2 each direction) each, 1 half span PTSU structure with a total of 2 VSL signs and then per the directive there is one static sign that is being replaced at Sta 1052+00 (SB) with a pair of VSL signs.

#### TASK 35 – GEOTECHNICAL INVESTIGATION

Additional geotechnical services will be required to support the added PTSU Gantries, additional walls and to support the preliminary plans for the Osceola Parkway Extension (SHWT borings & muck probing).

- 35.1 The Consultant shall perform a geotechnical investigation of the project in accordance with the requirements of CFX.
- 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.
- 35.3 Additional services to be performed to support the project are as follows:

A total of eighty-six (86) hand auger borings (spaced at approximate 300 ft. intervals) and preliminary muck probing in wetland areas are planned to support the initial design and planning efforts associated with the Osceola Parkway Extension.

Ten (10) additional Standard Penetration Test (SPT) borings will be completed to a depth of 40 feet to support the added PTSU gantry sign structures associated with the project.

Seven (7) additional SPT borings will be completed to a depth of 50 feet to support the added permanent soldier pile and lagging wall.

35.4

The work includes, but is not limited to, external stability evaluation at proprietary retaining walls, groundwater and estimated seasonal high groundwater levels, evaluating the availability of structural fill material, location and depths of unsuitable material (muck) or other deleterious materials, and providing design alternatives based on geotechnical findings.

## 4.0 CONSULTANT RESPONSIBILITIES:

The CONSULTANT responsibilities shall remain the same as in the Original Agreement and any Supplemental Amendments issued to-date.

## 5.0 CFX RESPONSIBILITIES:

CFX responsibilities shall remain the same as in the Original Agreement and any Supplemental Amendments issued to-date.

## **6.0 SUMMARY OF COMPENSATION**

For a summary of all compensation for this Supplemental Amendment, please refer to the attached Exhibit 'B', which is incorporated herein by reference.

## 7.0 LENGTH OF SERVICES

The Services requested under this Supplemental Amendment be completed by such time as will support the project's original CFX-approved schedule, or any CFX-approved revisions thereto.

#### SUPPLEMENTAL AGREEMENT NO. 1

#### TO

## AGREEMENT FOR PROFESSIONAL SERVICES

#### FINAL DESIGN

## SR 417 Widening from Boggy Creek Road to Narcoossee Road

THIS SUPPLEMENTAL AGREEMENT NO. 1 TO AGREEMENT FOR PROFESSIONAL SERVICES FINAL DESIGN ("Supplemental Agreement") is made and entered into this <a href="mailto:24th">24th</a> day of <a href="mailto:July">July</a>, 2020, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, hereinafter called "CFX", and the consulting firm of INWOOD CONSULTING ENGINEERS, INC., a Florida corporation, hereinafter called the "CONSULTANT".

WHEREAS, CFX and CONSULTANT entered into that certain Agreement for Professional Services between CFX and the CONSULTANT, dated August 20, 2019 ("Agreement"); and

WHERAS, Articles 2.0 and 11.0 of the Agreement provide that in the event that CFX elects to add, delete or change the services outlined in the Scope of Services, as defined in the Agreement, and attached to the Agreement as Exhibit "A", the compensation to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon by CFX and the CONSULTANT in this Supplemental Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Supplemental Agreement, CFX and the CONSULTANT agree as follows:

- 1. CFX hereby authorizes the CONSULTANT to proceed with additional services as outlined in the Consultant's June 22, 2020 letter to CFX, which is attached hereto as Exhibit "A" and incorporated herein by reference ("Additional Services"). Exhibit "A" of the Agreement and the Scope of Services, as defined in the Agreement, shall be amended to include the Additional Services.
- 2. Exhibit "B" of the Agreement is hereby amended as follows:
  - a. The Salary Related Costs remain unchanged at \$2,659,036.11.
  - b. The Direct Expenses (Lump Sum) remain unchanged at \$10,176.80
  - c. The Subcontract Items are adjusted upward by \$87,798.15 to \$2,012,715.61.
    - ECHO \$87,798.15
  - d. The Allowance is adjusted downward by \$87,798.15 to \$318,071.48.
  - e. The Total Maximum Limiting Amount remains unchanged at \$5,000,000.00
- 3. All provisions of said Agreement, or any amendments or supplements thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and the Agreement, or any existing supplements or amendments thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be executed the day and year first above written.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams Date: 2020.07.24 06:55:09 -04'00'

Aneth Williams, Director of Procurement

INWOOD CONSULTING ENGINEERS, INC.

Approved as to form and execution for CFX's exclusive use and reliance.

Laura N. Digitally signed by Laura N. Kelly Date: 2020.07.23

By: **Kelly**Date: 2020.07.23
16:14:01 -04'00'
FOR

Diego "Woody" Rodriguez

General Counsel

Title: Chief Executive Officer

 $\underline{https://cfxgov.sharepoint.com/:f:/g/operations/engineering/EpjxORBo1U1CjYjwvCN1AvIBo4JWzaQnD012ye2H1EEDBA?e=y}\\ \underline{Sjr0X}$ 

## **AGREEMENT**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND INWOOD CONSULTING ENGINEERS, INC.

S.R. 417 WIDENING FROM BOGGY CREEK ROAD TO NARCOOSSEE ROAD

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

CONTRACT DATE: AUGUST 08, 2019 CONTRACT AMOUNT: \$5,000,000.00

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, PROJECT ORGANIZATIONAL CHART, PROJECT LOCATION MAP, AND SCHEDULE

# **FOR**

# S.R. 417 WIDENING FROM BOGGY CREEK ROAD TO NARCOOSSEE ROAD

CONTRACT NO. 001394 PROJECT 417-151

# **AUGUST 2019**

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY** 

# TABLE OF CONTENTS

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

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this 8<sup>th</sup> day of August 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 Inwood Consulting Engineers, 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 3000 Dovera Drive, Suite 200, Oviedo, FL. 32765.

# 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 417 Widening from Boggy Creek to Narcoossee Road identified as Project 417-151 and Contract No. 001394.

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:

Atkins North America, Inc. (Class I)

I.F. Rooks & Associates, LLC (Class I)

Traffic Engineering Data Solutions, Inc. (Class I)

AECOM Technical Services, Inc. (Class I and II (Survey))

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 \$5,000,000.00 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 3000 Dovera Drive, Suite 200, Oviedo, FL 32765.

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.

- 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.

- 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.
- 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.

# **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: Inwood Consulting Engineers, Inc.

3000 Dovera Drive, Suite 200

Oviedo, FL. 32765

Attn: Andrew D. DeWitt, PE

Inwood Consulting Engineers, Inc. 3000 Dovera Drive, Suite 200 Oviedo, FL. 32765
Attn: Mark Hales, PE

# 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 [Note: Attach if applicable]

Exhibit "F", Project Schedule [Note: Attach if applicable]

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 August 08, 2019.

INWOOD CONSULTING ENGINEERS, INC.

**CENTRAL FLORIDA** 

Print Name: Edwin H. Buck.

Title: Chief Executive Officer

Secretary or Notary

**EXPRESSWAY AUTHORITY** 

**Director of Procurement** 

Print Name: Awath William

Effective Date:

TASHA L MCGRAW MY COMMISSION # GG051028 EXPIRES February 28, 2021

Approved as to form and execution, only,

119 AUG 13 PHIZ:26

# Exhibit "A" Scope of Services

# Exhibit A

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

# **SCOPE OF SERVICES**

**FOR** 

S.R. 417 WIDENING FROM Boggy Creek Road to Narcoossee Road (SR 15)

PROJECT NO. 417-151

CONTRACT NO. 001394

IN ORANGE COUNTY, FLORIDA

July 25th, 2019

# Exhibit A SCOPE OF SERVICES

# TABLE OF CONTENTS

	Descri	iption	Page No. A-
1.0	GENE	ERAL	5
	1.1	Location	5
	1.2	Description	5
	1.3	Purpose	5
	1.4	Organization	5
	1.5	Term of Agreement for Design Services	6
2.0	STAN	DARDS	7
3.0	DESIC	GN CRITERIA	8
	3.1	General	8
	3.2	Geometry	8
	3.3	Bridge and Other Structures	10
4.0	WORK	K PERFORMED BY CONSULTANT	11
	4.1	Design Features	11
	4.2	Governmental Agencies	11
	4.3	Preliminary Design Report - Review	11
	4.4	Surveys and Mapping	12
	4.5	Geotechnical Investigation	15
	4.6	Contamination Impact Analysis	16
	4.7	Pavement Design	16
	4.8	Governmental Agency and Public Meetings	16
	4.9	Environmental Permits	16
	4.10	Utilities	18
	4.11	Roadway Design	19
	4.12	Structures Design	20
	4.13	Drainage Design	21
	4.14	Roadway Lighting	22
	4.15	Traffic Engineering	23
	4.16	Signing and Pavement Marking Plans	25
	4.17	Signalization Plans	26

	4.18	Right-of-Way Surveys	26
	4.19	Cost Estimates	26
	4.20	Special Provisions and Specifications	26
	4.21	Fiber Optic Network (FON)	
	4.22	Toll Plazas	30
	4.23	Post-Design Services	30
5.0	MATE	ERIALS FURNISHED BY CFX OR ITS DESIGNEE	31
	5.1	Record Documents	31
	5.2	Traffic Data	32
	5.3	Other	32
6.0	WORK	K PERFORMED BY CFX OR ITS DESIGNEE	32
	6.1	Right-of-Way Acquisition	32
	6.2	Utility Agreements	32
	6.3	Public Involvement	32
	6.4	Contracts and Specifications Services	33
	6.5	Post-Design Services	33
	6.6	Environmental Permits	33
	6.7	Conceptual Specialty Design	33
7.0	ADMI	NISTRATION	33
	7.1	Central Florida Expressway Authority	33
	7.2	CFX's Project Manager	33
	7.3	Consultant	34
	7.4	Project Control	35
	7.5	Work Progress	35
	7.6	Schedule	35
	7.7	Project Related Correspondence	35
	7.8	Quality Control	36
	7.9	Consultant Personnel	36
	7.10	Site Visit	36
	7.11	Acceptability of the Work	36
	7.12	Design Documentation	36
	7.13	Reviews and Submittals	38
	7.14	30% Roadway Plan Submittal	39
	7.15	30% Bridge and Structural Plan Submittal	40
	7.16	60% Roadway Plan Submittal	41

7.17	90 % Bridge and Structure Plan Submittal.	. 42
7.18	90% Roadway Plan Submittal	
7.19	100% Roadway, Bridge, Structural and Right-of-Way Plans	. 44
7.20	Pre-Bid Plans	. 44
7.21	Bid Set	. 44

# 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. 417 inside widening from Boggy Creek Road to Narcoossee Road (SR 15). Specifically, the project consists of widening to the inside (median) to accommodate an additional general use travel lane in each direction with full depth shoulders for a portion of the remainder of median areas to facilitate hard shoulder running in the future. All mainline bridges within the project limits, SR 15, 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, ITS (fiber optic network), maintenance of traffic, utility design and coordination, geotechnical analysis, 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. 417 inside widening from Boggy Creek Road to SR 15.
- 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, utility coordination and final utility adjustment 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 and updates of the applicable standards and policies in effect at the time of Contract execution shall be used as follows for this project:
  - 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
  - 3. The FDOT Design Manual,
  - 4. The FDOT Basis of Estimates Handbook
  - 5. The AASHTO Policy on Geometric Design of Highway and Streets (Green Book), 2011 edition
  - 6. The FHWA Manual on Uniform Traffic Control Devices (MUTCD), 2009 edition, as currently amended

# 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 MAINLINE	RAMPS	CROSSROADS/ COLLECTORS
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.  Lane Drop Tapers	0.10	0.10	0.05 Urban 0.10 Rural
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 MAINLINE	RAMPS	CROSSROADS/ COLLECTORS
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	12 inner lanes
		15 min. single lane	12-16 outer lanes
Shoulder width, ft.	4-Lane	Single Lane	
Right	12 (10 paved)	6 (4 paved)	8 (4* paved)
Left	8 (4 paved)	6 (2 paved)	2 (2 paved)
			* min. 5' paved
Right Left	6-Lane 12 (10 paved) 12 (10 paved)	Dual Lane 10* (8* paved) 8 (4 paved) (* add 2' for interstate)	
Bridges, ft.	4-Lane	Single-Lane	
Right	10	6	
Left	6	6	
Right Left	6(or more)-Lanes 12 12	Dual Lane 10 6	
Cross Slopes			
Traffic Lanes	2% (4-lane)	2%	2%
	3% or tbd (6-lane)		'
Bridge Lanes	2% typ. (no break)	50/	50/
Left Shoulder Right Shoulder	Match Mainline Match Mainline	5% 6%	5% 6%
Might bilonidel	I Maich Maillille	070	U70

DESIGN ELEMENT	EXPRESSWAY MAINLINE	RAMPS	CROSSROADS/ COLLECTORS
Median Width (4-lane), ft. (E.O.P./E.O.P.)	64' (typical) 26' (with barrier)	N/A	22' or 40'
Lateral Offset Vertical Clearance, ft.	FDM 215.2.4	FDM 215.2.4	FDM 215.2.4
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 following standards and specifications in effect at the time of contract execution: AASHTO LRFD Bridge Design Specifications, FDOT Structures Manual, FDOT Design Manual, FDOT Standard Plans, FDOT Load Rating Manual, 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. 417 inside widening from Boggy Creek Road (Station 1005 +/-) to north of the SR 15 bridge (Station 1244 +/-). Specifically, the project consists of widening to the inside for the additional general use lane and widening to the median to accommodate appropriate inside shoulder width. All mainline bridges within the project limits, SR 15, will also be widened to accommodate the appropriate shoulder widths, additional general use lane or ramp modifications as per the concept. The use of hard shoulder running will be incorporated into the design elements of this project. 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, FDOT, FDEP, FAA, 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.

B. Preliminary Design Report (PDR) - Review: Brief report addressing the

# following items:

- 1. Horizontal sight distance and outside widening through third horizontal curve or reduce inside shoulder width.
- 2. Vertical analysis to ensure adequate drainage is maintained along the barrier wall (approximately 9,200')
- 3. Potential walls along SR 417 for flattening slopes near Narcoossee Rd. Interchange?
- 4. Osceola Parkway Extension PD&E Re-evaluation/Coordination.
- 5. DDI at Narcoossee. Proposed Narcoossee Road widening project will require coordination with the City of Orlando.
- 6. The future opening of the second NB left-turn lane on Lake Nona Blvd. (by others) This will require ramp widening.
- 7. Jeff Fuqua exit ramp. Add new signage, route shield, guardrail and parallel deceleration lane.
- 8. Add parallel deceleration lane for the SB Lake Nona Boulevard exit ramp.
- 9. Pavement analysis
- 10. Hydroplaning Analysis

# 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

Right of Way dgn/geopak files and alignment dgn/geopak files (as available) to be provided to design team by CFX. Calculate/Locate Alignment and R/W for construction purposes. Alignment and R/W will not be set/staked in field. Alignment will be referenced by station and offset of control established in 27.1 and 27.2 and included in CTL/PNC sheets prepared in 27.5.

### C. Reference Points

1. Utilize Right of Way dgn/geopak files and alignment dgn/geopak files (as available) provided to design team by CFX, control established in Task 27.1 and Task 27.2 and alignment/RW from Task 27.3. Prepare CTL/PNC sheets for Design Plans (mainline and side streets)

# D. Bench Levels

1. The Consultant shall establish new benchmarks at 1000' intervals.

# E. Topography

- 1. Planimetric mapping and a digital terrain model (DTM), suitable for 1"=50' display scale shall be conducted by the Consultant.
- 2. Topographic survey will extend from the edge of paved shoulder to toe of slope and/or right of way fence. Provide DTM to existing or R/W throughout the corridor.
- 3. The Consultant will obtain existing pavement elevations and cross slopes along the inside travel lane and outside travel lane every 100'.
- 4. Cross-sections will be performed at 1000' intervals along the mainline to verify DTM.
- 5. Additional topographic and DTM surveys, as needed for the project design, are the responsibility of the Consultant. These may include existing water bodies and pavement elevations.

# F. Drainage Survey

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

# G. Underground Utilities

Locate all underground utilities, horizontally and vertically as flagged by respective utility companies or a qualified utility marking consultant. Provide

soft excavation verifications as needed to verify location and at utility conflict areas.

# H. Side Street Surveys

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

# I. Bridge Survey

Provide complete bridge survey data as needed for engineering design. Utilize Terrestrial Mobile and/or Static Lidar for clearance, features, and any other extraction needed to support design.

# J. Jurisdictional Line Surveys

Perform Jurisdictional Line Surveys as needed for engineering design and permitting. Locate wetland flags delineated by CFX's GEC: anticipate  $\pm xx$  mile of wetland delineation (includes surveying flagging for surface waters or roadside ditches).

# 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, 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.

Project 417-151 A-15

## 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** 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.

#### **4.9** 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.
- Determine extent of floodplain impacts, if any, and provide compensatory flood stages as required
- 12. Preliminary field evaluation of general land use and wildlife habitat within existing ROW, pond sites, and bridges
- 13. Pre-application meeting with FDEP

#### **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 120 days 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.

#### 4.10 Utilities

#### A. Location

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

## B. Utility Coordination

- 1. The Consultant shall identify utility owners within the project limits and contact each to obtain utility system maps, plan mark-ups or equivalent utility sketches and/or as-built drawings depicting the location of their facilities. The Consultant shall prepare reproducible utility adjustments plans based on information provided by respective utility 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

#### 4.11 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 Preliminary Engineering Memorandum 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

#### 4.12 Structures Design

- A. Prior to commencement of final design, the consultant shall prepare a Bridge Concept Memorandum which documents a limited range of structural alternatives and identifies preferred alternatives. Specifically, the alternatives to be examined include 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 Widening designs will be provided for both bridges over Narcoossee Road. Widening shall be to the inside completely closing the median of SR 417. Includes outside barrier retrofit with structural steel tubing.
  - 2. Retaining walls (may vary based on final design limits)
    - Permanent walls:
      - i Permanent wall along SR 417 for slope correction—approximately 200 LF.
    - b. Critical Temporary Walls
      - i Walls in median for construction of end bent caps & tie back.
  - 3. Box Culverts, (NA)
  - 4. Approach slabs for bridge widenings
  - 5. Summary quantity tables
  - 6. Special provisions and specifications are not anticipated to be required for the structures work, however, if required will be included.
  - 7. 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.

## 8. Sign\Signal structures:

- a. Structural evaluation of the following existing structures:
  - i. 12 Cantilever Truss Sign Structures (6 each direction)
  - ii. 3 Overhead trusses (2 signs with one side static + 1 side DMS, 1 sign- static)
  - iii. 6 multi-post signs
- Structural and foundation redesigns for the existing signs not meeting the current criteria per the Ancillary Structures Report.
   6 cantilever signs and 3 overhead signs with DMS and static panel
- c. Structural design of 10 Mast Arms at Narcoossee DDI
- d. Structural design of 2 overhead span signs and 2 cantilever signs at Narcoossee DDI.
- 9. Noise walls. Structural design and plans for 1000 LF of noise wall. Location to be determined.
- 10. 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.
- 11. 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.
- 12. The existing Lake Nona Boulevard piers located in the median of SR 417 will be evaluated and the appropriate shielding will be specified and detailed.

## 4.13 Drainage Design

- A. As part of the drainage design requirements, the Consultant shall:
  - 1. Perform all drainage design in accordance with the approved criteria from Section 3.1D.
  - 2. Finalize the pond design at the 30% submittal. Modify existing ponds for additional treatment for the ramp modification areas and slight increase of mainline impervious area.
  - 3. Have its chief drainage engineer available at the scheduled (biweekly/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. Prepare a technical memorandum identifying existing drainage concerns along the corridor and potential fixes or modifications. Known existing drainage concerns include: None at this time.
- 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
  - Lateral ditches/channels
  - 5. Outfall ditches/channels
  - 6. Retention/detention ponds/exfiltration system

#### 4.14 Roadway Lighting

- A. The Consultant shall provide a complete set of final roadway lighting documents in accordance with FDOT and CFX design criteria. 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.

Project 417-151

- 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
- D. Perform an under-deck lighting analysis
- E. Coordination with FAA

## 4.15 Traffic Engineering

- A. Traffic Data will be furnished by CFX.
- B. Traffic Modeling for Narcoosee Road Interchange
  - 1. Data Collection
    - A vendor will be hired to conduct the field data collection (72-hour approach counts, 8-Hour Intersection TMCS, Queue Data Collection, and Travel Time Runs)
    - Field Review of the Traffic Conditions during data collection for model calibration purposes.
    - c. Traffic Data Review and collecting pertinent data from other agencies such as signal timing.
    - d. Development of Existing Condition Traffic Data for the AM and PM peak periods of 3 hour each. Balanced existing peak hour volumes for the study segment will be provided by CFX and only a minor amount of coordination and data development will be needed from Consultant.
  - 2. VISSIM Model Development & Model Calibration
    - a. Synchro model for existing condition for input to VISSIM
    - b. VISSIM Roadway network development
    - c. O-D Spreadsheet development
    - d. Model Calibration
    - e. Draft & Final Model runs and results compilation

#### f. Calibration documentation

## 3. No-Build Future Analysis

- a. Development of Future Forecast using approved linear growth rate. A growth rate will be provided by CFX to develop the future volumes. This growth rate will be applied to all volumes. No other method will be used for developing the future volumes.
- b. Synchro Traffic Model Development with Optimized Signal Timing. No Synchro summary tables will be prepared. Only the signal timing will be used for input into the VISSIM model.
- c. VISSIM Traffic Model Development for Opening & Design Years
- d. O-D Spreadsheet Development for Opening & Design Years
- e. Draft & Final Model Runs and Results Compilation
- 4. Build 1 TDI Analysis with Triple Left Turns (Opening and Design Year)

The Build 1 Condition will be modeled with 6 lanes on Narcoossee Road and triple left turn lanes from SB exit ramp for a Tight Diamond Interchange (TDI).

- a. Development of Future Forecast using approved linear growth rate. A growth rate will be provided by CFX to develop the future volumes. This growth rate will be applied to all volumes. No other method will be used for developing the future volumes.
- b. Synchro Traffic Model Development with Optimized Signal Timing. No Synchro summary tables will be prepared. Only the signal timing will be used for input into the VISSIM model.
- VISSIM Traffic Model Development for Opening & Design Years
- d. O-D Spreadsheet Development for Opening & Design Years
- e. Draft & Final Model Runs and Results Compilation
- 5. Build 2 Future Analysis (Opening & Design Year for DDI)

The Build 2 Condition will be modeled with 6 lanes on Narcoossee Road and triple left turn lanes from SB exit ramp for a Diverging Diamond Interchange (DDI).

- a. Development of Future Forecast using approved linear growth rate. A growth rate will be provided by CFX to develop the future volumes. This growth rate will be applied to all volumes. No other method will be used for developing the future volumes.
- b. Synchro Traffic Model Development with Optimized Signal Timing. No Synchro summary tables will be prepared. Only the signal timing will be used for input into the VISSIM model.
- c. VISSIM Traffic Model Development for Opening & Design Years

- d. O-D Spreadsheet Development for Opening & Design Years
- e. Draft & Final Model Runs and Results Compilation
- f. Comparison of TDI and DDI
- 6. Interchange Operational Analysis Report (IOAR), Meetings & Coordination
  - a. Draft & Final IOAR Preparation
  - b. Meetings & Coordination

#### C. Maintenance of Traffic Plans

- 1. The Consultant shall prepare maintenance of traffic plans at scale no smaller than 1"=100' to safely and effectively move vehicular and pedestrian traffic during all phases of construction. The designs shall include construction phasing of roadways ingress and egress to existing property owners and businesses, routing, signing and pavement markings, and detour quantity tabulations. Special consideration shall be given to the construction of the drainage system when developing the construction phases. Positive drainage must be maintained at all times.
- 2. The Consultant shall investigate the need for temporary traffic signals, signs, alternative detour roads, arrow boards, flagging operations, and the use of materials such as sheet pilings in the analysis. A certified designer who has completed the FDOT training course shall prepare the maintenance of traffic plan.
- 3. Traffic shall be maintained during all phases of project construction at all locations, including existing posted speed, lane widths and number of lanes unless determined by CFX and other governmental agencies. This includes meeting with the governmental agencies which may be impacted by the maintenance of traffic plans.

## **4.16** Signing 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).
- D. The Consultant shall determine the existing structures that will be impacted by the widening and need to be replaced.

#### 4.17 Signalization Plans

- A. Signal plans may be needed for the DDI at Narcoossee Road.
- B. If needed, 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.
- C. Plan sheets will be developed at a scale of 1" =50' (11"x17" format).

#### 4.18 Right-of-Way Surveys

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

#### **4.19** 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.

## **4.20** 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.

#### **4.21** 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 duct banks, 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. In general intent is to replace existing devices with new if they are being damaged or impacted by the widening.
  - 2. Fiber optic network (FON) plans shall include the following:
    - 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
- 1. Connectivity with the FON backbone conduits
- m. Fiber cable splice details for new or relocated fiber optic cabling.
- n. Controller cabinet, CCTV/ TMS pole, and foundation details for proposed CCTV/ TMS sites.
- o. Power interconnect, calculations to support conductor size, and details. Power conductors to each device location shall be sized to the maximum connected load in the cabinet plus 10A to accommodate other loads such as UPS battery charging or Maintenance equipment (lowering device drill, shop vac, etc.). 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. Design Methodology Report shall include voltage drop calculation, typical cabinet load summary table and CCTV sighting for proposed camera locations. Power conductors to each device location shall be sized to the capacity of the main breaker in the cabinet and shall also include a 10 Amp maintenance load that is carried to the end of each circuit.
- q. Grounding
- r. Table of quantities
- s. Special notes
- t. Maintenance of fiber operations (protection of existing FON through all phases of construction and cutover phasing to ensure continuous operation of existing ITS devices)
- u. All existing and proposed FON to be included and shown with roadway cross sections and drainage cross sections
- v. Replacement of existing CCTV sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing CCTV is not compatible with proposed construction
- w. Replacement of existing data collection sensor (DCS) sites and any necessary structures, foundations, attachment details, power

- service, fiber optic connections, and cabinets (standard details provided), in the event existing DCS would not survive project construction.
- x. Relocation of existing dynamic message sign (DMS) to be centered over the proposed roadway. If site is to be impacted by widening activities then the Designer is to replace the existing site and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided).
- y. Replacement of existing traffic monitoring sites (TMS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing TMS would not survive project construction.
- z. Conversion of any existing ITS devices within the project limits from point-to-point fiber optic modems to gigabit Ethernet field switches, relocation of video encoders from the mainline toll plazas to the CCTV cabinets and upgrading other cabinet equipment as needed to meet current CFX ITS equipment standards.
- aa. Install new WWDS at the off-ramps that currently do not have WWDS (NB exit ramp at Narcoossee Rd).
- bb. Conduits and pull boxes to facilitate future installation of hard shoulder running ITS devices, based on conceptual device layouts provided by CFX, or their representative, to the Consultant.
- cc. Toll Violation Structure: Northbound and southbound structure and associated control circuit to be removed due to inside widening.
- dd. Replace any existing Skyline DMS within project limits to the new CFX standard. Coordinate with CFX staff to obtain manufacturer for new proposed sign.
- 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 surge suppression (TVSS) standards for ITS devices, etc.)
- i. Leased conduits in CFX FON duct bank that are occupied by the fiber optic cable of other agencies or entities.
- j. Location of proposed sound walls

## B. Splice and Cable Routing Details

- 1. The Consultant shall provide splicing detail diagrams to document proposed fiber optic splices within and between manholes, ITS devices, tollbooths, and other junction points. 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.

#### 4.22 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.

#### 4.23 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 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-offincluded.
- 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

# CONSENT AGENDA ITEM #7

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams Aneth Williams

**Director of Procurement** 

DATE: August 25, 2020

SUBJECT: Approval of Supplemental Agreement No. 3 with Parsons Transportation Group,

Inc. for SR 429 Widening from Florida's Turnpike to West Road

Project No. 429-152, Contract No. 001395

Board approval of Supplemental Agreement No. 3 with Parsons Transportation Group, Inc. for a not-to-exceed amount of \$376,076.98 is requested. The original contract was for five years with five one-year renewals.

The services to be provided include preparing additional construction plans and bid documents including changes on the pavement design, FTE coordination, retaining walls and the integration of Variable Speed Limit signs.

Original Contract	\$6,75	0,000.00
Supplemental Agreement No.1	\$	0.00
Supplemental Agreement No.2	\$2,06	1,383.23
Supplemental Agreement No.3	\$ 37	6,076.98
Total	\$9,18	7,460.21

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

Reviewed by:

Will Hawthorne, PE Director of Engineering Glenn Pressimone, PE

#### SUPPLEMENTAL AGREEMENT NO. 3

#### TO

## AGREEMENT FOR PROFESSIONAL SERVICES

#### FINAL DESIGN

## SR 429 Widening from Florida's Turnpike to West Road

THIS SUPPLEMENTAL AGREEMENT NO. 3 TO AGREEMENT FOR PROFESSIONAL SERVICES FINAL DESIGN ("Supplemental Agreement") is made and entered into this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_, 2020, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, hereinafter called "CFX", and the consulting firm of PARSONS TRANSPORTATION GROUP, INC., a Florida corporation, hereinafter called the "CONSULTANT".

WHEREAS, CFX and CONSULTANT entered into that certain Agreement for Professional Services between CFX and the CONSULTANT, dated November 8, 2018, as amended or supplemental by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated March 17, 2020, and as amended or supplemental by that certain Supplemental Agreement No. 2 between CFX and CONSULTANT dated June 15, 2020 (collectively, "Agreement"); and

WHERAS, Articles 2.0 and 11.0 of the Agreement provide that in the event that CFX elects to add, delete or change the services outlined in the Scope of Services, as defined in the

Agreement, and attached to the Agreement as Exhibit "A", the compensation to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon by CFX and the CONSULTANT in this Supplemental Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Supplemental Agreement, CFX and the CONSULTANT agree as follows:

- 1. CFX hereby authorizes the CONSULTANT to proceed with additional services as outlined in the Consultant's August 11, 2020 letter to CFX, which is attached hereto as Exhibit "A" and incorporated herein by reference ("Additional Services"). Exhibit "A" of the Agreement and the Scope of Services, as defined in the Agreement, shall be amended to include the Additional Services.
- 2. Exhibit "B" Method of Compensation of the Agreement is hereby amended as follows:
  - a. The Salary Related Costs are adjusted upward by \$317,818.84 to \$4,256,850.61.
  - b. The Direct Expenses Lump Sum (Prime) remains unchanged at \$19,540.63.
  - c. The Subcontract Items are adjusted upward by \$58,258.14 to \$4,911,068.97 as follows:

• BASE	\$42,831.76
<ul><li>Moffatt &amp; Nichol</li></ul>	\$15,426.38

- d. The Allowance remains unchanged at \$0.00.
- e. The Total Maximum Limiting Amount is adjusted upward by \$376,076.98 to \$9,187,460.21.
- 3. All provisions of said Agreement, or any amendments or supplements thereto, not specifically modified herein, shall remain in full force and effect, the same as if they

had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and the Agreement, or any existing supplements or amendments thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement to be executed the day and year first above written.

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY
By:
By: Aneth Williams, Director of Procurement
PARSONS TRANSPORTATION GROUP, INC.
Rv·
By: Print Name:
Title:
Approved as to form and execution for CFX's
exclusive use and reliance.
By:
Diego "Woody" Rodriguez
General Counsel

https://cfxgov.sharepoint.com/operations/engineering/Shared Documents/General/429-152 SR 429 Widening FTE to West Road/1\_Administration/1.2\_Contract/1.2.A Supplemental Agreements/SA 3/429-152 SA 3 Parsons.docx

#### Exhibit A



#### **MEMORANDUM**

**Date:** August 27, 2020

To: Will Hawthorne, PE CFX Director of Engineering

From: Scott Kamien SMK, PE

Subject: Design Consultant Services - Contract 001395

CFX Project No. 429-152

SR 429 Widening from FTE to West Road - Supplemental Agreement #3

#### **Comments:**

I have reviewed the fee sheet and scope of services submitted by Parsons Transportation Group provided via email first on August 11, 2020 and finalized on August 25, 2020 for the SR 429 Widening from FTE to West Road. SA #3 is for additional professional services to prepare construction plans and bid documents including changes on the pavement design, FTE coordination, retaining walls associated with the noisewall locations and the integration of the Variable Speed Limit signs.

Supplemental Agreement #3 request is attached and costs are detailed below:

\$ 317.818.84 Parsons as Prime

\$ 58,258.14 Total Subconsultant Fees

\$ 376,076.98 Total Requested Contract Amount

The total staff hours for each task are reasonable and acceptable, and the man hour rates are consistent with their contract; therefore, I recommend approval of this Supplemental Agreement in the amount of \$376,076.98.

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

#### CC:

Keith Jackson, PE Dewberry File



201 E. Pine Street, Suite 900 • Orlando, Florida 32801-2722 • (407) 702-6800 • Fax: (407) 702-6950 • www.parsons.com

August 11, 2020

Mr. Scott Kamien, P.E. Sr. Project Manager Dewberry Engineers, Inc. 800 N. Magnolia Ave., Suite 1000 Orlando, FL 32803

Re: SR 429

From South of Florida's Turnpike to West Road Contract 001395; Project 429-152 Supplemental Agreement #3

Dear Scott:

For your review and approval for the Authority's execution, please find attached one (1) copy of Supplemental Agreement (SA) No. 3 for the revisions to the scope of work for the subject project. This SA No. 3 package includes the following:

- 1. Scope of Work Revisions
- 2. Additional Staff Hours
- 3. Revised Fee Details

The SA includes noise barrier and variable speed limit sign directive (and other directive) modifications. Should you have any questions or need any additional information, please feel free to contact me at 407-415-4648 or <a href="mailto:Thomas.e.Davidson@Parsons.com">Thomas.e.Davidson@Parsons.com</a>. I look forward to continuing our work together on this important CFX project.

Sincerely,

Ted Davidson, P.E. Project Manager

Cc: file 649388



# **PARSONS**

201 E. Pine Street, Suite 900 ● Orlando, FL 32801 ● (407) 702-6800 ● Fax: (407) 702-6950 ● www.parsons.com

#### **SR 429**

#### From Florida's Turnpike to West Road CONTRACT 001395 PROJECT NO. 429-152

#### SUPPLEMENTAL AGREEMENT #3 AUGUST 11, 2020 (REV 1 AUGUST 25, 2020)

#### **SCOPE OF WORK**

This Supplemental Agreement (SA) is prepared due to additional noise barrier limits and the associated additional mainline widening to accommodate the ultimate typical section within the limits of proposed noise barriers. Other added scope includes the addition of Variable Speed Limit signs, pavement design modifications, and additional critical temporary wall resulting from new design directives. Also, there is additional scope of work related to temporary drainage for temporary traffic control and restoration of diversions for bridge construction over Florida's Turnpike.

The original Scope of Work items affected by these changes are listed below along with a description of the additional primary and ancillary work required. The staff hours and fee estimates are included as an attachment to this Scope of Work. In addition, these changes to the original scope of work on the project impact the design schedule. The previous 21-month schedule has been amended to a 24-month schedule to accommodate the scope changes.

#### 1) Scope of Work Items

#### 1. Project Control

A. Contract maintenance and progress meetings for an additional 3 months.

#### 2. 4.7 Pavement Design

A. Parsons will update pavement designs to include milling to the top of base per design directive.

#### 3. 4.12 Roadway Design

- A. Parsons will design for the additional outside widening from approximately Sta. 1131 to Sta. 1159 and from Sta. 159 to Sta. 182 on the SB side to accommodate the ultimate noise barrier placement.
- B. Parsons will add 8' high CIP Noise Barrier along Ramp D (On-ramp to NB SR 429) at Plant Street from approximately Sta. 602 to Sta. 620.
- C. Parsons will provide restoration plans on Florida's Turnpike following a temporary diversion and widening of the bridge over Florida's Turnpike.
- D. Parsons will preserve existing landscaping where feasible.

#### 4. 4.13 Structures Design

- A. Parsons will design new roadway retaining wall within the modified roadway limits to accommodate the ultimate noise barrier placement and prevent ROW encroachment. Also included in the request are additional roadway retaining walls to prevent ROW or pond encroachment that were not previously estimated.
- B. Parsons will add 8' high CIP noise barrier along the Trail and Warrior Road bridges.
- C. Parsons will design new critical temporary retaining wall in the median based on the new design directive that 1:1 slopes or less necessitate critical temporary wall.
- D. BASE will prepare additional noise barrier control drawings and details within the roadway limits mentioned above.

#### Exhibit A

E. BASE will coordinate or design any necessary PTSU/Sign Structure structural modifications to accommodate the VSL signs.

#### 5. 4.14 Drainage Design

A. Parsons will design additional collection and conveyance systems and update analyses and plans for the widened roadway limits above to accommodate ultimate placement of noise barriers.

#### 6. 4.16 Traffic Engineering

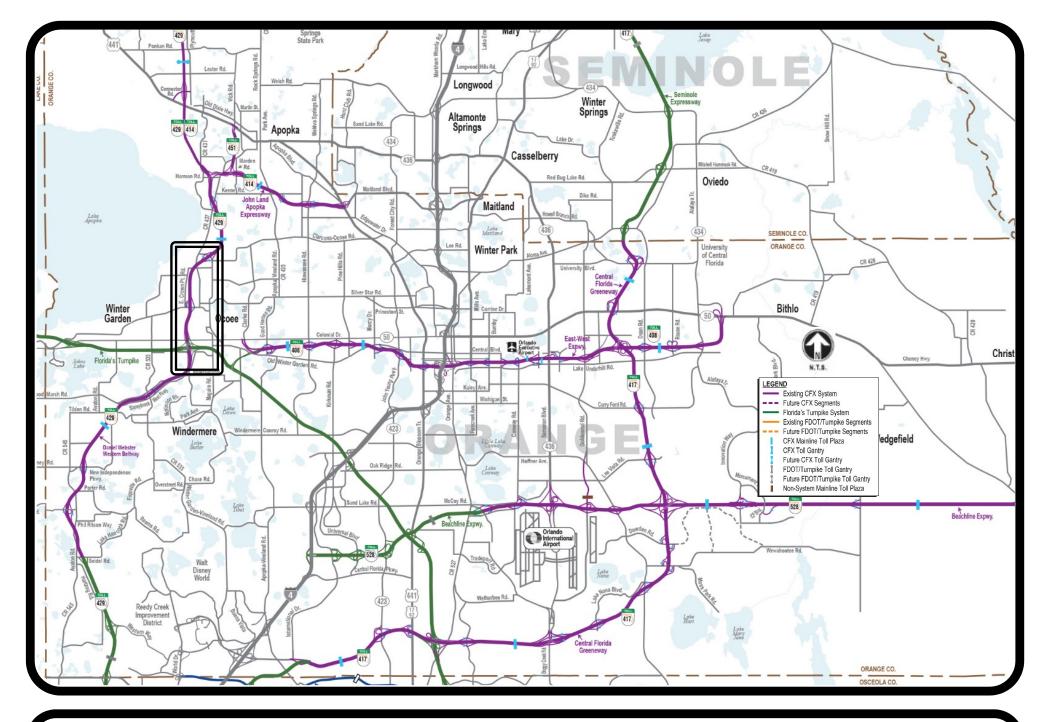
A. Maintenance of Traffic Plans: Moffatt and Nichol will prepare additional traffic control documentation and temporary drainage for a diversion needed on Florida's Turnpike based on coordination with FTE, as well as additional temporary drainage analyses for SR 429.

#### 7. 4.17 Signing & Pavement Marking Plans

A. Parsons will update the signing plans to include Variable Speed Limit (VSL) signs per the directive. In addition, Parsons will adjust overhead sign structures impacted by the roadway modifications for noise barrier ultimate placement. Also, Parsons will restripe a portion of Florida's Turnpike impacted by Traffic Control measures based on coordination with FTE.

#### 8. 4.22 Fiber optic Network (FON) & Intelligent Transportation Systems (ITS)

- A. Parsons will revise FON & ITS design plans to include accommodations for the VSL signs, including electrical design and plans.
- B. Parsons will revise FON & ITS design plans to accommodate the roadway modifications for ultimate noise barrier placement.



Project Location Map for SR 429 Widening from Florida's Turnpike to West Road (429-152)

#### **SUPPLEMENTAL AGREEMENT NO. 2**

#### TO

#### AGREEMENT FOR PROFESSIONAL SERVICES

#### FINAL DESIGN

#### SR 429 Widening from Florida's Turnpike to West Road

	THIS SUPP	LEMENTAL AGREEMENT is made and entered into this <del>15th</del> day
of	June	, 2020, by and between the CENTRAL FLORIDA EXPRESSWAY
AUTH(	ORITY, a cor	porate body and agency of the State of Florida, hereinafter called "CFX"
and the	consulting fi	rm of PARSONS TRANSPORTATION GROUP, INC. of Orlando, Florida,
hereina	fter called the	"CONSULTANT".

WHEREAS, Articles 2.0 and 11.0 of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 8<sup>th</sup> day of November 2018, provides that in the event that CFX shall change the amount of work in Exhibit "A" of the said Agreement for Professional Services, the fees to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon:

#### NOW, THEREFORE, BE IT RESOLVED THAT:

- CFX hereby authorizes the CONSULTANT to proceed with additional services as
  outlined in the Consultant's May 15, 2020 letter to CFX, which is attached hereto and
  made a part of this Supplemental Agreement.
- 2. Exhibit "B", Article 2.00 of the Agreement for Professional Services is amended as follows:
  - a. The Salary Related Costs are adjusted upwards by \$788,858.29 to \$3,939,031.77.
  - b. The Direct Expenses Lump Sum (Prime) are adjusted upwards by \$600.00 to \$19,540.63.
  - c. The Subcontract Items are adjusted upward by \$1,697,442.70 to \$4,852,810.83.

• Moffatt & Nichol	\$176,457.72
•TEDS	\$179,045.62
∙FBT	\$207,825.52
•GEC	\$339,268.98
•MGV	\$150,758.34
•BASE	\$275,405.23
• Antillian	\$349,386.22
•WBQ	\$17,256.60
•IF Rooks	\$2,038.47

d. The Allowance is adjusted downward by \$425,517.76 to \$0.00.

The Total Maximum Limiting Amount is adjusted upwards by \$2,061,383.23 to \$8,811,383.23.

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

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

EXPRESSWAY AUTHORITY
By:
PARSONS TRANSPORTATION GROUP, INC.  By: Print Name: Rhet L. Schmidt, P.E. Title: Vice President
Approved as to form and execution, only.
General Counsel for CFX

CENTRAL FLORIDA

C:\Users\hawthornew\Central Florida Expressway Authority\Engineering - Engineering Documents\General\429-152 SR 429 Widening FTE to West Road\1\_Administration\1.2\_Contract\1.2.A Supplemental Agreements\SA 2\Parsons-429-152 -SA2.docx



#### **MEMORANDUM**

**Date:** May 18, 2020

To: Will Hawthorne, PE CFX Director of Engineering

From: Scott Kamien, PE MK

Subject: Design Consultant Services - Contract 001395

CFX Project No. 429-152

SR 429 Widening from FTE to West Road – Supplemental Agreement #2

#### **Comments:**

I have reviewed the fee sheet and scope of services submitted by Parson Transportation Group provided via email first on January 30, 2020 and finalized on May 15, 2020 for the SR 429 Widening from FTE to West Road. SA #2 is for additional professional services to prepare construction plans and bid documents for the ParClo interchange at Plant Street., MPO cross-section along Plant Street and the auxiliary lane for the project add the additional associated bridge widenings.

Supplemental Agreement #2 request is attached and costs are detailed below:

\$ 789,458.29 Parson as Prime

\$1,697,442.70 Total Subconsultant Fees

\$ 2,486,900.99 Total Requested Contract Amount

The total staff hours for each task are reasonable and acceptable, and the man hour rates are consistent with their contract; therefore, I recommend approval of this Supplemental Agreement in the amount of \$2,486,900.99.

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

#### CC:

Keith Jackson, PE Dewberry File



201 E. Pine Street, Suite 900 • Orlando, Florida 32801-2722 • (407) 702-6800 • Fax: (407) 702-6950 • www.parsons.com

May 15, 2020

Mr. Scott Kamien, P.E. Sr. Project Manager Dewberry Engineers, Inc. 800 N. Magnolia Ave., Suite 1000 Orlando, FL 32803

Re: SR 429

From South of Florida's Turnpike to West Road Contract 001395; Project 429-152 Supplemental Agreement #2

Dear Scott:

For your review and approval for the Authority's execution, please find attached one (1) copy of Supplemental Agreement (SA) No. 2 for the revisions to the scope of work for the subject project. This updated SA No. 2 package includes the following:

- 1. Scope of Work Revisions
- 2. Additional Staff Hours
- 3. Revised Fee Details

The SA has been updated to include Part Time Shoulder Use infrastructure as well as additional ramp modifications, this is in addition to Plant Street Interchange Modifications and adding of auxiliary lanes. The initial submittal of the SA included an audit package for RS&H, which has not been included with this update. A separate SA (SA 1) was prepared for the toll infrastructure work by RS&H.

Should you have any questions or need any additional information, please feel free to contact me at 407-415-4648 or <a href="mailto:Thomas.e.Davidson@Parsons.com">Thomas.e.Davidson@Parsons.com</a>. I look forward to continuing our work together on this important CFX project.

Sincerely,

Ted Davidson, P.E. Project Manager

Cc: file 649388



# **PARSONS**

201 E. Pine Street, Suite 900 ● Orlando, FL 32801 ● (407) 702-6800 ● Fax: (407) 702-6950 ● www.parsons.com

#### SR 429

#### From Florida's Turnpike to West Road CONTRACT 001395 PROJECT NO. 429-152

# SUPPLEMENTAL AGREEMENT #2 JANUARY 30, 2020 (REVISED MARCH 27, 2020)

#### SCOPE OF WORK

This Supplemental Agreement (SA) is prepared due to additional mainline inside widening limits, a new interchange configuration at Plant Street (including widening of Plant Street), a new ramp configuration at the NB exit to Florida's Turnpike, additional auxiliary lanes in each direction between Florida's Turnpike and West Road, additional ramp resurfacing limits, infrastructure for Part Time Shoulder Use (PTSU)/incident management (see Page 5 below for scope desired by Authority), and additional lighting currently missing between Plant Street and West Road (includes conversion of existing outside lighting to median lighting). It should be noted that outside ramp widening (auxiliary lanes) has been pulled back from Station 1106 to Station 1126 on the SB roadway. This will be considered in the adjusted hours.

One new tolling facility is being added within the limits of the Plant Street Interchange. Adding the tolling facility requires a new subconsultant to be added to the design team. A separate earlier SA was prepared for this work for the new subconsultant, RS&H. Support work for that facility, other than RS&H's tasks are included in this SA.

The original Scope of Work items affected by these changes are listed below along with a description of the additional primary and ancillary work required. The staff hours and fee estimates are included as an attachment to this Scope of Work. In addition, these changes to the original scope of work on the project impact the design schedule. The original 15-month schedule was previously amended to a 21-month schedule to accommodate the scope changes.

#### 1) Scope of Work Items

#### 1. Project Control

A. Contract maintenance and progress meetings for an additional 6 months.

#### 2. 4.3 Preliminary Design Report (PDR)

A. Parsons will update and submit a revised PDR for modification to the Plant Street Interchange alternatives, including compatibility with adjacent projects and turning movement evaluations, auxiliary lanes, and NB exit to Florida's Turnpike. A discussion of the proposed tolling facility will also be added. This will include revisions to the roadway, drainage, structures, and traffic write ups and revisions to figures, tables and appendices.

#### 3. 4.4 Surveys and Mapping

- A. MG Vera will collect additional topo survey along Plant Street and within the Plant Street Interchange R/W to encompass the area of improvement along Plant Street and Drainage Pond modifications. They will also re-survey the Plant Street Ramps that were recently resurfaced and acquire pond bottom information. Additional survey along the NB exit to Florida's Turnpike will also be acquired.
- B. WBQ will collect additional R/W survey limits between E. Crown Point Road and Ocoee-Apopka Road along Plant/Franklin Street and provide up to 4 legal descriptions/sketches as needed for R/W acquisition. (Note: It is assumed that the cities of Winter Garden and Ocoee will buy the R/W. It is also assumed that no R/W maps will be provided, meaning only sketches and legal descriptions are assumed by the estimate to be needed).

C. IF Rooks will combine the additional survey from MG Vera and WBQ into the overall survey master file.

#### 4. 4.5 Geotechnical Investigations

- A. For the Plant Street Interchange, GEC will perform geotechnical services for the new Plant Street Ramp alignments; widening of Plant Street; new ramp bridge over Palm Drive (using hours for a new braided ramp bridge originally negotiated); additional FCRR bridge widening; and widening of the NB Plant Street bridge (using hours for a new braided ramp bridge previously negotiated); new retaining wall along the ramp limits; new toll facilities; and new pond configurations. Note that consideration will be made for the geotechnical services already included in the original estimate for the assumed two new bridges and retaining walls for a braided ramp alternative that has been replaced with the Plant Street Interchange.
- B. GEC will also perform geotechnical services for the new inside roadway widening limits from Station 1126 to Station 1166 (project begin to just south of Florida's Turnpike), which includes new inside widening of bridge structures at the Trail and Warrior Road bridges from the extension of the roadway inside widening limits. They will also perform geotechnical services for the additional ramp widening of the NB off-ramp to Florida's Turnpike, including outside widening of the existing NB Warrior Road bridge.
- C. Antillian will provide geotechnical services for the additional bridge and retaining wall widening (due to the new auxiliary lanes) on the outsides of the SB Plant Street Bridge, SB Palm Drive Bridge, NW Ditch bridges, Fuller's Cross bridges, and Ocoee-Apopka Road bridges, as well as for PTSU/incident management structures and additional sign structures.

#### 5. 4.6 Contamination Impact Analysis

A. GEC will update their contamination report for the additional Plant Street Interchange limits.

#### 6. 4.7 Pavement Design

A. Parsons will provide additional ramp pavement designs and Plant Street pavement design due to the Plant Street Interchange and NB off-ramp to Florida's Turnpike improvements.

#### 7. 4.10 Environmental Permits

A. Eagle's nest impacts related to the SB off-ramp improvements at Plant Street may require additional coordination, but no direct environmental support hours are requested.

#### **8. 4.11 Utilities**

- A. MG Vera will carry out additional Subsurface Utility Exploration along the limits of the new Plant Street Ramps and Plant Street widening improvements, as well as along the widening limits of the NB off-ramp to Florida's Turnpike.
- B. WBQ will provide utility coordination services related to any utility considerations from the modified Plant Street Interchange and Plant Street improvements, but this time is already encompassed by the original estimate and no additional time is requested.

#### 9. 4.12 Roadway Design

- A. Parsons will design for the additional inside widening from approximately Sta. 1126 to Sta. 1166, while also accounting for the elimination of outside ramp widening from Sta. 1106 to Sta. 1126.
- B. Parsons will design for additional ramp length over the originally assumed braided ramp for the preferred alternative Partial Clover Leaf Ramp at Plant Street and resulting realigned NB on-ramp as well as modifications to the existing SB on-ramp to accommodate new turning movements, mainline auxiliary lane, and toll plaza modifications. Parsons will also design for additional ramp length for the widened NB off-ramp to Florida's Turnpike.
- C. Parsons will design roadway improvements on Plant Street between E. Crown Point Road and Ocoee-Apopka road due to the interchange modifications.

- D. Parsons will design for a new NB auxiliary lane from the Florida's Turnpike NB on-ramp to the West Road off-ramp. Parsons will also design for an extension of the SB auxiliary lane from West Road to the Florida's Turnpike off-ramp.
- E. Parsons will design increased ramp resurfacing limits over the original proposal based on maintenance limits provided by CFX.

#### 10. 4.13 Structures Design

- A. Parsons will design for the new inside bridge widenings and retaining wall modifications for the Pedestrian Walkway (Trail) and Warrior Road Bridges.
- B. Parsons will design for new outside widening of the NB Warrior Road Bridge due to the widening of the NB exit ramp to Florida's Turnpike.
- C. Parsons will design for the additional outside bridge widening and retaining wall modifications for the FCRR Bridge.
- D. Parsons will design for the additional outside bridge widening and retaining wall modifications of the Plant Street Bridge in the SB direction due to the upgrade of the on-ramp from one to two lanes and alson on the NB side for ramp improvements. The NB widening has significant width, which also varies.
- E. Parsons will design for the new single span ramp bridge with MSE walls over Palm Drive (Note that no additional hours are requested for this design based on original estimate assuming two single span bridges for a future braided ramp. The hours for one of the assumed single span bridges is used for this bridge, the other has been credited back).
- F. Parsons will design for the outside widening of the NB Palm Drive Bridge to accommodate the auxiliary lane.
- G. Parsons will review the existing Palm bridge for extension of the MSE Wall and possible accommodation of future piles in between the existing Palm Bridge and the new Palm Bridge to avoid impacting MSE wall straps in the future.
- H. Parsons will design for the outside bridge widenings and slope protection modification in the NB and SB directions for the NW Ditch Bridge.
- I. Florida Bridge & Transportation will develop the design documents for the outside bridge widenings and retaining wall modifications in the NB and SB directions for the Fuller's Cross and Ocoee-Apopka Road bridge crossings.
- J. BASE will develop the structural design documentation for the additional sign structures and signal structures required due to the Plant Street Interchange, new auxiliary lanes, and Conceptual Signing Plan (CSP). They will also prepare the structure designs for all static and dynamic message signs needed for implementing PTSU and incident management.
- K. BASE will evaluate existing sign structures for panel replacement based on the CSP.
- L. Retaining Walls: Parsons will design and provide wall control drawings for retaining walls to keep toe of slope within limited access right-of-way for the Plant Street Interchange Ramps, as well as at bridge ends impacted by the additional bridge widenings.

#### 11. 4.14 Drainage Design

- A. Parsons will prepare design documentation for the new pond modifications/locations associated with the Plant Street Interchange, extended inside widening limits, ramp improvements and auxiliary lanes. Design for the auxiliary lanes will include hydroplaning evaluation.
- B. Parsons will prepare design documentation for the modifications of the stormwater collection system to accommodate the interchange modifications, new inside widening limits and auxiliary lanes.
- C. Parsons will design collection and conveyance systems for the Plant Street Widening, including incorporating off-site runoff.

#### 12. 4.15 Lighting Plans

A. TEDS will prepare design documentation for extending the lighting limits from just north of Plant Street to just south of West Road (approximately 1 mile of new lighting).

- B. TEDS will prepare design documentation for existing outside lighting impacted by the new auxiliary lanes with consideration for implementing median lighting.
- C. TEDS will prepare design documentation for new interchange lighting at Plant Street.
- D. TEDS will take over the underdeck bridge lighting and optional services lighting for potentially upgrading Turnpike Interchange lights to LED from Parsons.

#### 13. 4.16 Traffic Engineering

- A. Traffic Studies: TEDS will develop turning movement analyses for the Plant Street Interchange alternatives.
- B. Maintenance of Traffic Plans: Moffat and Nichol will prepare additional traffic control documentation for the new inside widening locations, auxiliary lane locations (new outside phase), additional ramp modifications, and Plant Street Interchange modifications. This will include traffic control for widening Plant Street.

#### 14. 4.17 Signing & Pavement Marking Plans

- A. Parsons will design additional signing for the Plant Street Interchange Modifications, additional ramp modifications, Auxiliary Lanes and CSP. This will include incorporating signing information provided by others for PTSU and incident management into the plans. Static and dynamic sign panels for incident management will be included and quantified for construction. This includes overhead lane control DMS panels (Red X, Yellow Arrow, Green Arrow).
- B. Parsons will design additional Pavement Markings required for the new inside widening, auxiliary lanes, ramp modifications, and Plant Street Interchange improvements.

#### 15. 4.18 Signalization Plans (New Scope Item)

A. TEDS will design 6 new signal locations and 1 signal modification for the Plant Street Interchange.

#### 16. 4.20 Cost Estimates

A. Parsons will prepare additional costing data for the Plant Street Interchange, additional inside widening, additional ramp improvements, and auxiliary lane improvements.

#### 17. 4.21 Special Provisions and Specifications

A. No original scope of work change.

#### 18. 4.22 Fiber optic Network (FON) & Intelligent Transportation Systems (ITS)

- A. Parsons will revise FON & ITS design plans to accommodate the Plant Street Interchange, auxiliary lanes, additional ramp improvements, and new or modified toll facilities on the project.
- B. ITS design will also include all fiber, power supply, conduit, pull boxes, control cabinets, etc. needed for future PTSU operations (Overall PTSU concept design provided by others).

#### 19. 4.23 Toll Plazas (New Scope Item)

A. The work being done by RS&H was added under SA 1.

# SCOPE ADDITION: PTSU Infrastructure Design (Provided by Authority GEC)

#### **REQUESTED SCOPE CHANGE** (By Authority):

Complete design of all infrastructure needed for future Part-time Shoulder Use (PTSU) and Incident Management. This includes plans, quantities and specs for construction.

#### WHAT THIS AFFECTS:

CFX wants to go forward with the construction of all OH sign gantries identified in the latest SR 429 Conceptual Signing Plan. The Incident Management capabilities of the system will be operational on opening day. The PTSU lanes themselves will not be used on opening day; they will be used in a future year when traffic volumes/delays warrant their use.

The overall gantry design is to include all future static signs and dynamic message signs related to both PTSU and Incident Management.

Construction plans and quantities are to include the gantry design with all static and dynamic signs related to incident management only. This includes overhead lane control DMS panels (Red X, Yellow Arrow, Green Arrow).

The static sign panels and overhead lane control DMS panels for PTSU will be added in the future when opening the PTSU lanes is warranted.

Additional geotech borings and structural design is needed for the ultimate gantry and foundation designs.

ITS design is to include all fiber, power supply, conduit, pull boxes, control cabinets, etc. needed for future PTSU operations

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

March 17, 2020

Mr. Rhet Schmidt, P.E. Parsons Transportation Group, Inc. 201 East Pine Street, Suite 900 Orlando, Florida 32801

> RE: SR 429 Widening from Florida's Turnpike to West Road

> > Supplemental Agreement No. 1 Contract 001395; Project 429-152

Dear Mr. Schmidt:

For your records, please find attached one executed original of Supplemental Agreement No. 1 for the above referenced project. This letter serves as your notice to proceed.

Sincerely,

CENTRAL FLORIDA **EXPRESSWAY AUTHORITY** 

Hawthorne, PE Director of Engineering

S. Rivas, CFX Procurement cc:

> J. Perez, CFX Engineering Dewberry, CFX GEC

#### SUPPLEMENTAL AGREEMENT NO. 1

#### TO

#### AGREEMENT FOR PROFESSIONAL SERVICES

#### FINAL DESIGN

### SR 429 Widening from Florida's Turnpike to West Road

	THIS SUP	PLEMENTAL AGREEMENT is made and entered into thisc	day			
of	MARCH	, 2020, by and between the CENTRAL FLORIDA EXPRESSWA	Y			
AUT	HORITY, a co	rporate body and agency of the State of Florida, hereinafter called "CFX"				
and the consulting firm of PARSONS TRANSPORTATION GROUP, INC. of Orlando, Florida,						
hereir	nafter called th	e "CONSULTANT".				

WHEREAS, Articles 2.0 and 11.0 of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 8<sup>th</sup> day of November 2018, provides that in the event that CFX shall change the amount of work in Exhibit "A" of the said Agreement for Professional Services, the fees to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon:

'20 MAR 13 PM 2:11

#### NOW, THEREFORE, BE IT RESOLVED THAT:

>

- CFX hereby authorizes the CONSULTANT to proceed with additional services as
  outlined in the Consultant's February 20, 2020 letter to CFX, which is attached hereto
  and made a part of this Supplemental Agreement.
- 2. Exhibit "B", Article 2.00 of the Agreement for Professional Services is amended as follows:
  - a. The Salary Related Costs remain unchanged at \$3,150,173.48.
  - b. The Direct Expenses Lump Sum (Prime) remains unchanged at \$18,940.63.
  - c. The Subcontract Items are adjusted upward by \$90,239.23 to \$3,155,368.13.
    - RS&H \$90,239.23
  - d. The Allowance is adjusted downward by \$90,239.23 to \$425,517.76. The Total Maximum Limiting Amount remains unchanged at \$6,750,000.00.
- 3. All provisions of said Agreement for Professional Services, or any Supplements thereto, not modified by the above, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Supplemental Agreement and of the said Consultant Agreement, or any Supplements thereto, the provisions of this Supplemental Agreement, to the extent such provision is reasonable, shall take precedence.

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Director of Procurement

PARSONS TRANSPORTATION GROUP, INC.

Witness:

Print Name: Thomas E. Davidson

By: \_

Title: VICE PRESIDENT

Approved as to form and execution, only.

General Counsel for CF

\\dfsprd1.oocea.internal\Store\Departments\Engineering\General\429-152 SR 429 Widening FTE to West Road\1\_Administration\1.2\_Contract\1.2.A Supplemental Agreements\SA 1\Parsons-429-152 -SA1.docx



#### **MEMORANDUM**

Date:

February 21, 2020

To:

Will Hawthorne, PE CFX Director of Engineering

From:

Scott Kamien SMK, PE

Subject:

Design Consultant Services - Contract 001395

CFX Project No. 429-152

SR 429 Widening from FTE to West Road – Supplemental Agreement #1 (Toll Plaza)

#### Comments:

I have reviewed the fee sheet and scope of services submitted by Parson Transportation Group provided via email first on December 11, 2019 and finalized on February 20, 2020 for the SR 429 Widening from FTE to West Road. SA #1 is for additional professional services to prepare construction plans and bid documents for a relocated toll plaza gantry for the northbound SR 429 exit to Plant Street

Supplemental Agreement #1 request is attached and costs are detailed below:

\$ 000.00

Parson as Prime

\$ 90,239.23

Total Subconsultant Fees

\$ 90,239.23

**Total Requested Contract Amount** 

The total staff hours for each task are reasonable and acceptable, and the man hour rates are consistent with their contract; therefore, I recommend approval of this Supplemental Agreement in the amount of \$90,239.23.

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

#### CC:

Keith Jackson, PE Dewberry File



201 E. Pine Street, Suite 900 • Orlando, Florida 32801-2722 • (407) 702-6800 • Fax: (407) 702-6950 • www.parsons.com

February 20, 2020

Mr. Scott Kamien, P.E. Sr. Project Manager Dewberry Engineers, Inc. 800 N. Magnolia Ave., Suite 1000 Orlando, FL 32803

Re: SR 429

From South of Florida's Turnpike to West Road Contract 001395; Project 429-152 Supplemental Agreement #1 – Adding Toll Facility – Comment Update

#### Dear Scott:

For your review and approval for the Authority's execution, please find attached one (1) copy of Supplemental Agreement (SA) No. 1 for the revisions to the scope of work for adding a toll facility to the subject project. This SA No. 1 package includes the following:

- 1. Scope of Work
- 2. Staff Hours
- 3. Fee Details

The SA is for adding design services for a Toll Facility at the reconstructed Plant Street Interchange. A previous submittal included an audit package for RS&H, the proposed toll facility designer, which has not been included with this submittal.

Should you have any questions or need any additional information, please feel free to contact me at 407-415-4648 or <a href="mailto:Thomas.e.Davidson@Parsons.com">Thomas.e.Davidson@Parsons.com</a>. I look forward to continuing our work together on this important CFX project.

Sincerely,

Ted Davidson, P.E. Project Manager

Cc: file 649388



# **PARSONS**

201 E. Pine Street, Suite 900 ● Orlando, FL 32801 ● (407) 702-6800 ● Fax: (407) 702-6950 ● www.parsons.com

#### **SR 429**

#### From Florida's Turnpike to West Road CONTRACT 001395 PROJECT NO. 429-152

#### SUPPLEMENTAL AGREEMENT #1 FEBRUARY 20, 2020

#### SCOPE OF WORK

This Supplemental Agreement (SA) is prepared due to the need for a new All Electronic Tolling (AET) facility for ramp improvements at the Plant Street Interchange. The SA is for design services related to adding the facility to the reconstructed NB SR 429 Off-Ramp to Plant Street. Adding the tolling facility requires a new subconsultant to be added to the design team. The request for adding the subconsultant, RS&H, along with their audit package, was previously submitted.

The Scope of Work item added for this change is listed below. Any ancillary items, such as geotechnical borings, are covered under a separate SA that includes other unrelated new work. The staff hours and fee estimates are included as an attachment to this Scope of Work. This work is not expected to affect the current 21-month design schedule duration.

#### 1) Scope of Work Items

#### 1. 4.23 Toll Plazas (New Scope Item)

A. RS&H will design one new AET Tolling Point facility (2-lane) for the relocated NB SR 429 off-ramp to Plant Street, including all civil, structural and electrical work. The design includes a gantry and equipment cabinets (no building). A more detailed breakdown of the tasks is included as part of the staff hours.

# **AGREEMENT**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND PARSONS TRANSPORTATION GROUP, INC.

SR 429 WIDENING FROM FLORIDA'S TURNPIKE TO WEST ROAD

**CONTRACT NO. 001395, PROJECT NO. 429-152** 

CONTRACT DATE: NOVEMBER 8, 2018 CONTRACT AMOUNT: \$6,750,000.00

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**

# SR 429 WIDENING FROM FLORIDA'S TURNPIKE TO WEST ROAD PROJECT NO. 429-152

**DESIGN ENGINEERING SERVICES** 

CONTRACT NO. 001395

**NOVEMBER 2018** 

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

#### TABLE OF CONTENTS

Section	Title	
AG	Agreement (See Agreement Table of Contents for listing of individual sections.)	1-19
A	Exhibit "A", Scope of Services	
В	Exhibit "B", Method of Compensation	
C	Exhibit "C", Details of Cost and Fees	
D	Exhibit "D", Project Organization Chart	
E	Exhibit "E", Project Location Map	
F	Exhibit "F", Schedule	

## Agreement for Design Professional Services

# Table of Contents

1.0.	DEFINITIONS	1
2.0.	SERVICES TO BE PROVIDED	l
3.0.	TERM OF AGREEMENT AND RENEWALS	2
4.0.	PROJECT SCHEDULE	2
5.0.	PROFESSIONAL STAFF	3
6.0.	COMPENSATION	
7.0.	DOCUMENT OWNERSHIP AND RECORDS	5
8.0.	COMPLIANCE WITH LAWS	
9.0.	WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE	7
10.0.	TERMINATION	7
	ADJUSTMENTS	
	HOLD HARMLESS AND INDEMNIFICATION, SOVEREIGN IMMUNITY	
13.0.	INFRINGEMENT OF PATENTS AND COPYRIGHTS	10
14.0.	THIRD PARTY BENEFICIARY	10
15.0.	INSURANCE	10
16.0.	COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS	12
17.0.	STANDARD OF CONDUCT	13
18.0.	DOCUMENTED ALIENS	13
19.0.	E-VERIFY CLAUSE	13
20.0.	CONFLICT OF INTEREST	. 14
	INSPECTOR GENERAL	
	PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT	
23.0.	COMPANIES PURSUANT TO SECTION 287.135 AND 215.473	15
24.0.	AVAILABILITY OF FUNDS	15
25.0.	AUDIT AND EXAMINATION OF RECORDS	15
26.0.	GOVERNING LAW AND VENUE	16
27.0.	NOTICE	17
28.0.	HEADINGS	17
	CONTRACT LANGUAGE AND INTERPRETATION	
30.0.	ASSIGNMENT	18
	SEVERABILITY	
	INTEGRATION	
	ATTACHMENTS	

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this 8th day of November, 2018, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter "CFX," and Parsons Transportation Group, 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 201 East Pine Street, Suite 900, 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 Florida's Turnpike to West Road identified as Project No. 429-152 and Contract No. 001395.

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:

Class II - Antillian Engineering Associates, Inc.

Class I - BASE Consultants, Inc.

Class I - Florida Bridge and Transportation, Inc.

Class II - Geotechnical and Environmental Consultants, Inc.

Class I - I.F. Rooks & Associates, LLC

Class I - Manuel G Vera & Associates, Inc.

Class II - Manuel G Vera & Associates, Inc. (survey)

Class I - Moffatt & Nichol, Inc.

Class I - Scalar Consulting Group, Inc.

Class I - Traffic Engineering Data Solutions, Inc.

Class I - WBQ Design & Engineering, Inc.

Class II - WBQ Design & Engineering, Inc. (survey)

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 \$6,750,000.00 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 201 East Pine Street, Suite 900, 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. 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.

#### 15.0. 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.

- 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.
- 15.2 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.

- 15.3 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.
- 15.4 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.

#### 16.0. 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.

#### 17.0. 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, 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 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. 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 contract for cause. 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.

#### 18.0. 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 18.0, Documented Aliens, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 19.0. 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.

#### 20.0. 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.

#### 21.0. 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.

# 22.0. 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."

#### 23.0. COMPANIES PURSUANT TO SECTION 287.135 AND 215.473

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

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

#### 24.0. 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.

#### 25.0. AUDIT AND EXAMINATION OF RECORDS

#### 25.1 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.

- 25.2 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.
- 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.
- 25.4 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.
- 25.5 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.
- 25.6 The obligations in Section 25.0, Audit and Examination of Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

# 26.0. 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 26.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

#### 27.0. 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: Parsons Transportation Group, Inc.

201 East Pine Street, Suite 900

Orlando, FL. 32801 Attn: Rhet Schmidt

Parsons Transportation Group, Inc.

201 East Pine Street, Suite 900

Orlando, FL. 32801 Attn: Ted Davidson

#### 28.0. 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.

# 29.0. 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.

#### 30.0. ASSIGNMENT

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

#### 31.0. 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.

## 32.0. 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.

## 33.0. 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

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 November 8, 2018.

**CENTRAL FLORIDA** PARSONS TRANSPORTATION GROUP, INC. **EXPRESSWAY AUTHORITY** BY: BY: Director of Procurement Authorized Signature Print Name: ANOTH WILLIAMS Print Name: RHET L. SCHMIDT Title: VICE PRESIDENT Effective Date: (Seal) ATTEST: MICHELLE L RIVERS Secretary of Notary MY COMMISSION # GG 146868 EXPIRES: October 20, 2021 Bonded Thru Notary Public Underwriters

Approved as to form and execution, only.

18 NOV 77 AA 8:59

# EXHIBIT A SCOPE OF SERVICES

#### Exhibit A

# **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

# **SCOPE OF SERVICES**

**FOR** 

# S.R. 429 WIDENING FROM FLORIDA'S TURNPIKE TO WEST ROAD

**PROJECT NO. 429-152** 

IN ORANGE COUNTY, FLORIDA

October 22, 2018

# Exhibit A SCOPE OF SERVICES

# TABLE OF CONTENTS

	Descr	iption	Page No. A-	
1.0	GENERAL		5	
	1.1	Location		
	1.2	Description		
	1.3	Purpose	5	
	1.4	Organization		
	1.5	Term of Agreement for Design Services		
2.0	STAN	DARDS		
3.0		GN CRITERIA		
	3.1	General		
	3.2	Geometry	8	
	3.3	Bridge and Other Structures		
4.0	WORI	K PERFORMED BY CONSULTANT		
	4.1	Design Features		
	4.2	Governmental Agencies	11	
	4.3	Preliminary Design Report - Review		
	4.4	Surveys and Mapping	11	
	4.5	Geotechnical Investigation	15	
	4.6	Contamination Impact Analysis		
	4.7	Pavement Design		
	4.8	Borrow Pits	17	
	4.9	Governmental Agency and Public Meetings	17	
	4.10	Environmental Permits	18	
	4.11	Utilities	19	
	4.12	Roadway Design	20	
	4.13	Structures Design		
	4.14	Drainage Design	23	
	4.15	Roadway Lighting	25	
	4.16	Traffic Engineering		
	4.17	Signing and Pavement Marking Plans	26	

	4.18	Signalization Plans	26
	4.19	Right-of-Way Surveys	26
	4.20	Cost Estimates	
	4.21	Special Provisions and Specifications	27
	4.22	Fiber Optic Network (FON)	27
	4.23	Toll Plazas	30
	4.24	Post-Design Services	30
5.0	MATE	RIALS FURNISHED BY CFX OR ITS DESIGNEE	32
	5.1	Record Documents	32
	5.2	Traffic Data	32
	5.3	Other	32
6.0	WORK	PERFORMED BY CFX OR ITS DESIGNEE	32
	6.1	Right-of-Way Acquisition	32
	6.2	Utility Agreements	33
	6.3	Public Involvement	33
	6.4	Contracts and Specifications Services	33
	6.5	Post-Design Services	33
	6.6	Environmental Permits	33
	6.7	Conceptual Specialty Design	33
7.0	ADMII	NISTRATION	33
	7.1	Central Florida Expressway Authority	33
	7.2	CFX's Project Manager	34
	7.3	Consultant	34
	7.4	Project Control	35
	7.5	Work Progress	35
	7.6	Schedule	35
	7.7	Project Related Correspondence	36
	7.8	Quality Control.	36
	7.9	Consultant Personnel	36
	7.10	Site Visit	36
	7.11	Acceptability of the Work	36
	7.12	Design Documentation	. 37
	7.13	Reviews and Submittals	38
	7.14	30% Roadway Plan Submittal	. 39
	7.15	30% Bridge and Structural Plan Submittal	. 41

7.10	60% Roadway Plan Submittal	41
7.17	90 % Bridge and Structure Plan Submittal	44
7.18	90% Roadway Plan Submittal	44
7.19	100% Roadway, Bridge, Structural and Right-of-Way Plans	45
7.20	Pre-Bid Plans	45
7.21	Bid Set	45

#### 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 Florida's Turnpike to West Road. Specifically, the project consists of widening to the inside for the additional general use lane and widening to the median to accommodate appropriate inside shoulder width (closed 40' median with median barrier). All mainline bridges within the project limits, Trail, Warrior Road, Turnpike, SR 50, Story Road, Florida Central Railroad, Plant Street (SR 438), Palm Drive, Northwest Ditch, East Crown Point Road (Fuller's Cross) and Ocoee Apopka Road (CR 437), will also be widened to accommodate the appropriate shoulder widths, additional general use lane or ramp modifications as per the concept. Ramp improvements will also be made at the following locations; SR 429 NB to Turnpike, Turnpike to NB SR 429, West Road to SR 429 SB, SR 429 SB to SR 50, SR 429 SB to Turnpike and Turnpike to SR 429 SB. 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, 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 Florida's Turnpike to West Road.
- B. The Consultant shall perform those engineering services as required for final roadway/drainage plans, final bridge plans, final lighting plans, final traffic control plans, final utility plans, final 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:
  - 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 MAINLINE	RAMPS	CROSSROADS/ COLLECTORS
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.  Lane Drop Tapers	0.10	0.10	0.05 Urban 0.10 Rural
Transitions	<b>70</b> :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 MAINLINE	RAMPS	CROSSROADS/ COLLECTORS
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	12 inner lanes
		15 min. single lane	12-16 outer lanes
Shoulder width, ft.	4-Lane	Single Lane	
Right	12 (10 paved)	6 (4 paved)	8 (4* paved)
Left	8 (4 paved)	6 (2 paved)	2 (2 paved)
			* min. 5' paved
Right Left	6-Lane 12 (10 paved) 12 (10 paved)	Dual Lane 10* (8* paved) 8 (4 paved) (* add 2' for interstate)	
Bridges, ft.	4-Lane	Single-Lane	
Right	10	6	
Left	6	6	
Right Left	6(or more)-Lanes 12 12	Dual Lane 10 6	
Cross Slopes			
Traffic Lanes	2% (4-lane)	2%	2%
	3% or tbd (6-lane)		
Bridge Lanes	2% typ. (no break)	50/	50/
Left Shoulder	Match Mainline	5% 6%	5%
Right Shoulder	Match Mainline	6%	6%

DESIGN ELEMENT	EXPRESSWAY MAINLINE	RAMPS	CROSSROADS/ COLLECTORS
Median Width (4-lane), ft.	64' (typical)	N/A	22' or 40'
(E.O.P./E.O.P.)	26' (with barrier)		
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 Florida's Turnpike (Station 1172.00 +/-) to north of the West Road bridge (Station 325+00). Specifically, the project consists of widening to the inside for the additional

general use lane and widening to the median to accommodate appropriate inside shoulder width. All mainline bridges within the project limits; Trail, Warrior Road, Turnpike, SR 50, Story Road, Florida Central Railroad, SR 438, Palm Drive, Northwest Ditch, East Crown Point Road and CR 437 will also be widened to accommodate the appropriate shoulder widths and additional general use lane or ramp modifications as per the concept. Ramp improvements will also be made at the following locations; SR 429 NB to Turnpike, Turnpike to NB SR 429, West Road to SR 429 SB, SR 429 SB to SR 50, SR 429 SB to Turnpike and Turnpike to SR 429 SB. 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, 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. Alternatives for a braided ramp and trumpet interchange shall be studied for the Plant Street exit from NB SR 429. Once of these alternatives is considered to be carried to final design. In addition, an auxiliary lane from West Road on-ramp to Palm Drive off-ramp on SB SR 429 shall be reviewed.

#### 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

Right of Way dgn/geopak files and alignment dgn/geopak files (as available) to be provided to design team by CFX. Calculate/Locate Alignment and R/W for construction purposes. Alignment and R/W will not be set/staked in field. Alignment will be referenced by station and offset of control established in Task 27.1 Horizontal Project Control (HPC) and Task 27.2 Vertical PC/Bench Line and included in CTL/PNC sheets prepared in Task 27.5 Reference Points.

#### C. Reference Points

Utilize Right of Way dgn/geopak files and alignment dgn/geopak files (as available) provided to design team by CFX, control established in Task 27.1 and Task 27.2 and alignment/RW from Task 27.3. Prepare CTL/PNC sheets for Design Plans (mainline and side streets)

#### D. Bench Levels

1. Bench marks are included on control 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 from LAMP data sufficient to create a pavement DTM.
- 3. Natural Ground/soft shots will be collected by conventional survey means and merged with pavement LAMP data to create on overall DTM for the project.
- 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

- Quality Level B Designating: Provide Utility Designates at each street crossing within the LA R/W (Warrior Rd, SR50, E Story Rd, E. Plant St., Palm Drive, N Fullers Cross Rd., Ocoee Apopka Rd, Clarcona Ocoee Rd) = Total Linear footage of Utilities: 10.92 miles
  - a. SR 429 Mainline
    - CFX will designate the FON on both sides of SR 429 throughout project limits
  - Street lighting along the mainline is not included in this scope of services
  - b. Warrior Road -0.13 mile x 6 utilities = 0.78 miles of DES
  - c. SR50 Road 0.17 mile x 15 utilities =2.55 miles of DES
  - d. E. Story Road 0.12 mile x 10 utilities = 1.20 miles of DES
  - e. E. Plant Street -0.28 mile x 10 utilities = 2.80 miles of DES
  - f. Palm Drive -0.08 mile x 10 utilities =0.80 miles of DES
  - g. N. Fullers Cross Road 0.09 mile x 10 utilities = 0.95 miles of DES
  - h. Ocoee Apopka Road -0.08 mile x 10 utilities = 0.80 miles of DES
  - i. Clarcona Ocoee Road 0.13 mile x 8 utilities = 1.04 miles of DES
- 2. Locates for verification of QLB and non-tonables: Total Test Hole Bank: 70
  - a. Cross Streets/Interchange 8 sides streets with 5 test holes per side street = 40 test holes
  - b. Laterals crossing mainline and misc. locations as needed to confirm utility alignment = 30 test holes
- 3. Quality Level A Locating Total Test Hole Bank: 230
  - a. SR 429 Mainline: 3-Overhead Truss Signs (30THs), 3-Overhead Cantilever Signs (15 THs), 10 Multi-post Signs (100 THs), 1 Box Culvert Ext. (3 THs), 1 pipe culvert extension (2 THs), 4 CCTV Poles (20 THs), 6 cantilever DMS if HSR chosen (30 THs), 1 cantilever DMS (5 THs), 1 Full Span DMS (10 THs), 3 MVDS poles (15 THs), Test Holes for drainage are not anticipated.
  - b. Miscellaneous locating (50THs)
- 4. Survey
  - a. Stake all proposed sign, signal, and structure locations prior to QLA locating
  - b. Map all utility designates and locates (including FON marked by CFX)

#### 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. Low Altitude Mapping Photography

1. Furnish all aerial photography, photogrammetry, and related products for the total project in accordance with the Florida Department of Transportation Surveying & Mapping Procedures, Topic No. 550-030-101.

The following procedures shall be utilized for this project: 3D topographic hard-surface survey along the SR-429 corridor from Toe-of-Slope to Toe-of-Slope.

- a. Flight: Perform the flight utilizing helicopter at 350 feet above grade using a high precision aerial mapping camera with (FMC) forward motion compensation and with an average weighted resolution of 105 and above. Photography shall be at a negative scale of approximately 1" = 50'.
- b. Limits: Mapping from Toe-of-Slope to Toe-of-Slope along the SR-429 from  $\pm$  1.5 miles south of Florida's Turnpike to north of West Road (Station 335).

- c. Limits at the Florida Turnpike include the on/off ramps to and from SR 429. The flyovers are not included in the LAMP mapping.
- d. Field Survey: Aerial targets are placed right and left of the alignment and spaced along the project as directed by the photogrammetrist. Target size is specified by the photogrammetrist and should have a contrasting black and white pattern. Horizontal values and vertical elevations are required on all targets.
- e. Analytical Triangulation: Normal A.T. procedures shall be used similar to that which is performed for other flight scales.
- f. DTM Collection: Data shall be collected at spots and break lines similar to what is done with all photogrammetric projects. Scales of 1"=20' shall have data points collected at approximately 33 feet and 1"=50' at 65 feet intervals. All data shall be delivered as MicroStation files on CD ROM conforming to DEPARTMENT mapping procedures.
- g. Raster imagery to be provided in HMR & TIFF format from the fixed-wing flight at 1" = 40'.

#### O. 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 design considerations. and resistivity conditions requiring stability and benching in shrinkage/swell characteristics, slope 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

Project 429-152 A-16

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.
- C. Milling and resurfacing limits extend from approximately Station 1106+20 to north of West Road, approximately Station 335+00. Portions of ramps at gore areas impacted by widening are included.
- D. Full depth pavement shall be provided in the median shoulders, except for 3' adjacent to the median barrier.

#### 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 markups 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

Project 429-152 A-19

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 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

#### 4.13 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. Two new single span bridge structures for a braided ramp flyover of the Plant Street Exit Ramp.
  - 2. Complete Bridge Widening designs will be provided for widening of the following bridges:
    - a. Trail SB outside widening
    - b. Trail NB outside widening
    - c. Warrior Road SB outside widening
    - d. Turnpike SB inside widening
    - e. Turnpike NB inside widening
    - f. Colonial Drive (SR 50) SB inside widening
    - g. Colonial Drive (SR 50) NB inside widening
    - h. Story Road SB inside widening
    - i. Story Road NB inside widening
    - j. Florida Central Railroad SB inside & outside widening

- k. Florida Central Railroad NB inside widening
- Plant Street (SR 438) SB inside widening
- m. Plant Street (SR 438) NB inside widening
- n. Palm Drive SB inside widening
- o. Palm Drive NB inside widening
- p. Northwest Ditch SB inside widening
- q. Northwest Ditch NB inside widening
- r. East Crown Point Road (Fuller's Cross) SB inside widening
- s. East Crown Point Road (Fuller's Cross) SB inside widening
- t. Ocoee Apopka Road (CR 437) SB inside widening
- u. Ocoee Apopka Road (CR 437) SB inside widening
- 3. Retaining walls (may vary based on final design limits)
  - a. Permanent MSE walls:
  - Wall extension at Trail Bridge SB, south abutment approximately 100 LF
  - Wall extension at Trail Bridge SB, north abutment approximately 100 LF
  - Wall extension at Trail Bridge NB, south abutment approximately 100 LF
  - Wall extension at Trail Bridge NB, north abutment approximately 100 LF
  - Wall between Trail and Warrior Road, west side approximately 1000 LF
  - Wall extension at Warrior Road Bridge SB, south abutment – approximately 30 LF
  - Wall extension at Warrior Road Bridge SB, north abutment – approximately 100 LF
  - Wall extension at Florida Central RR Bridge SB, south abutment – approximately 100 LF
  - Wall extension at Florida Central RR Bridge SB, south abutment – approximately 100 LF
  - Wall adjacent to Pond CP-5 north of Story Road, west side – approximately 500 LF
  - b. Critical Temporary Walls (may vary based on final design limits)
  - Soldier pile wall for construction of Trail Bridge permanent walls (4 total) – 60 LF (40 LF anchored, 20 LF cantilever)
  - Soldier pile wall for construction of Warrior Road Bridge SB permanent walls (2 total) - 60 LF (40 LF anchored, 20 LF cantilever)
  - Soldier pile wall for construction of permanent MSE wall between Trail and Warrior Road - 1000 LF (anchored)
  - Soldier pile wall for construction of permanent MSE wall adjacent to Pond CP-5 north of Story Road - 50 LF (anchored)

- 4. Box Culverts Extension of one side of double 9' x 5' Box Culvert at approximately Station 157.
- 5. Slope protection as required for the spill through abutments at Northwest Ditch
- 6. Approach slabs for bridge widenings
- 7. Summary quantity tables
- Special provisions and specifications are not anticipated to be required for the structures work, however, if required will be included.
- 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.
- 10. Sign\Signal structures: To replace existing structures impacted by the widening and provide additional anticipated sign structures.
  - a. 9 Overhead Cantilever Sign Structures (Including 6 DMS Structures for active traffic control for Hard Shoulder Running)
  - b. 4 Overhead Span Sign Structures (Including 1 structure(s) with walkin or single line DMS)
  - c. No signal structures are anticipated.
- 11. Structural design of sound walls. CFX to provide limits and locations. Assumed 1400 LF along Westfield Community per CFX preliminary cost estimate.
- 12. The Consultant shall perform Load Rating Analysis per FDOT criteria for bridges at the 90% design phase. The Load Rating Analysis packages shall be submitted 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.

#### 4.14 Drainage Design

- A. As part of the drainage design requirements, the Consultant shall:
  - 1. Perform all drainage design in accordance with the approved criteria from Section 3.1D.
  - 2. Finalize the pond design at the 30% submittal. Modify ten (10)

existing ponds for additional treatment for the ramp modification areas and slight increase of mainline impervious area. Treatment and attenuation calculations will be prepared for ten (10) existing ponds. Modify outfall control structures for 6-lane configuration for ten (10) existing pond structures.

- 3. Have its chief drainage engineer available at the scheduled (biweekly/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. Prepare one (1) Bridge Hydraulics Report(s) that includes Northwest Ditch. The BHR is anticipated to be reviewed and approved by CFX, Orange County, and FEMA. No CLOMR is anticipated.
- 8. Modification of existing floodplain analysis and compensation ponds is included to obtain required permits.
- 9. Perform cross drain analysis for seven crossings due to widening. One crossing will be a CBC and the remainder are pipes.
- Prepare a technical memorandum identifying existing drainage concerns along the corridor and potential fixes or modifications. Known existing drainage concerns include:
  - A. Seepage along the northbound front slope approaching West Road
  - B. Closure of an existing well at Plant Street
- 11. Critical duration analysis is not included in this effort and, if required, shall be added to the scope by Supplemental Agreement. A pond siting report is not required.
- B. The Consultant shall prepare designs and contract documents for drainage features including, but not necessarily limited to:
  - 1. Connector pipes
  - 2. Drainage structure details

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

#### **4.15** Roadway Lighting

- A. The Consultant shall provide a complete set of final roadway lighting documents in accordance with FDOT and CFX design criteria. 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

#### **4.16** Traffic Engineering

- A. Traffic Data will be furnished by CFX.
- B. Maintenance of Traffic Plans
  - 1. The Consultant shall prepare maintenance of traffic plans at scale of 1"=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.

#### 4.17 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).
- D. The following existing structures will be impacted by the widening and need to be replaced; three (3) cantilevers, three (3) span trusses (one full and two half span), and ten (10) multi-post sign structures.

#### **4.18** 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).

#### **4.19** Right-of-Way Surveys

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

#### 4.20 Cost Estimates

A. The Consultant shall prepare and submit to CFX construction cost estimates at the 60%, 90%, 100%, Pre-Bid and Bid Set submittals outlined

herein. The estimate shall be based on the current unit prices as applied to the latest concept of the proposed construction.

# **4.21** Special Provisions and Specifications

A. The Consultant shall prepare and submit at the 90% level special provisions, special specifications, and technical special provisions for items, details and procedures not adequately covered by CFX's Technical Specifications.

# **4.22** Fiber Optic Network (FON)

# A. Fiber Optic Infrastructure Plans

- 1. The site construction plans shall be developed at a scale of 1" equals 50 feet. These plans shall include the relocation of all existing fiber optic ductbanks, cables, manholes, and pull boxes in areas where the existing locations conflict with construction and as necessary to relocate the FON into the new paved shoulder. The Consultant shall identify existing physical features and utilities that will impact the construction and installation of the equipment. The Consultant shall review and modify standard FON details as necessary.
- 2. Fiber optic network (FON) plans shall include the following:
  - a. Roadway geometry
  - b. Rights-of-Way
  - c. Existing utilities within the right-of-way including CFX's FON
  - d. Physical features affecting construction/installation (sign structures, light poles, fences, etc.)
  - e. Manhole/Pull box locations and stub-out details (standard details provided)
  - f. Device layout
  - g. Device installation details
  - h. Conduit installation details (standard details provided)
  - i. Fiber optic cable route marker detail (standard details provided)
  - j. Fiber count per conduit
  - k. Communications interconnect
  - 1. Connectivity with the FON backbone conduits
  - m. Fiber cable design to include link loss budget calculations, per Corning standard recommended procedure for new or relocated fiber optic cabling.
  - n. Fiber cable routing summaries, fiber cable allocation charts, and splice details and tables for new or relocated fiber optic cabling.
  - o. Controller cabinet, structure, and foundation details for proposed CFX device sites.
  - p. Power interconnect, calculations to support conductor size, and details. Power conductors to each device location shall be sized to the capacity of the main breaker in the cabinet. Determination on

conductor sizing and voltage drop limits are only required for proposed sites and existing sites where the total site load is being significantly modified.

- q. Grounding
- r. Table of quantities
- s. Special notes
- t. Maintenance of fiber operations (protection of existing FON through all phases of construction and cutover phasing to ensure continuous operation of existing ITS devices)
- u. All existing and proposed FON to be included and shown with roadway cross sections and drainage cross sections
- v. Replacement of the existing FON to inside of the new paved shoulder, including attachment of the FON to SR 429 bridges over intersecting arterials and installation of fiber optic manholes in the paved shoulder.
- w. Relocation of existing CCTV sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing CCTV is not compatible with proposed construction. All existing analog CCTV within the project limits shall be upgraded to HD cameras.
- x. Relocation of existing data collection sensor (DCS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing DCS would not survive project construction. Support the FCC application process for any relocated DCS sites.
- y. Relocation of existing traffic monitoring sites (TMS) and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing TMS would not survive project construction. All TMS to be re-configured and calibrated during construction to account for any lane shifts and the added lanes.
- z. Relocation of existing one-line and three-line dynamic message sign (DMS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing DMS would not survive project construction. All existing Skyline DMS shall be replaced with new generation color DMS.
- aa. 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.
- bb. Design of active traffic management system for hard shoulder running, which includes 6 DMS locations.

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

# B. Splice and Cable Routing Details

- 1. The Consultant shall provide splicing detail diagrams to document proposed fiber optic splices within and between manholes, ITS devices, tollbooths, and other junction points. 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 and fiber allocation charts in CFX's standard format to document the functional connectivity between proposed fiber optic conduit and splices.

# C. Maintenance Of Fiber Operations

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

#### D. Inside Plant Plans

- 1. The Consultant shall be responsible for any data collection necessary to complete its design.
- 2. All equipment shown on the inside-plant construction plans shall be clearly delineated as existing, proposed, or by-others. The Consultant shall be responsible for identifying and detailing on the inside-plant construction plans with notes and drawings any make-ready work required. The Consultant shall also provide a table of quantities for all materials and equipment specified in the inside-plant construction plans.
- 3. The Consultant shall sign and seal final inside-plant construction plans by a licensed professional Electrical Engineer registered in the state of Florida. The inside-plant construction plans shall be subject to the review and approval of CFX.
- E. Standard CFX specifications will be provided to the Consultant. The Consultant shall review the specifications and modify them as necessary.

#### 4.23 Toll Plazas

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

# 4.24 Post-Design Services

- A. Services shall begin after authorization by CFX. The Consultant compensation for post-design services may be added by Supplemental Agreement and shall be at an hourly rate, inclusive of overhead, profit and expenses, and exclusive of travel. No compensation will be made for correction of errors and omissions.
- B. The Consultant shall support the post design process as follows:
  - 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

1. 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

A-35

# 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,

Project 429-152

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

Project 429-152 A-37

- 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:
  - 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:
  - 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-offincluded.

- 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
  - 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

# CONSENT AGENDA ITEM #8

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

# **MEMORANDUM**

TO: CFX Board Members

FROM: Aneth Williams Anoth Williams

**Director of Procurement** 

DATE: August 25, 2020

SUBJECT: Approval of Final Ranking and Authorization for Fee Negotiations for

Design Services for SR 528 Widening From SR 417 to Innovation Way

Project No. 528-161, Contract No. 001697

Letters of Interest for the above referenced project was advertised on June 7, 2020. Twelve (12) responses were received by the July 1, 2020 deadline. Those firms were GAI Consultants, Inc., Heath & Lineback Engineers, Inc., Jacobs Engineering Group, Inc., Patel, Greene & Associates LLC, Protean Design Group, Inc., RS&H, Inc., Scalar Consulting Group, Inc., Tetra Tech, Inc., T.Y. Lin International, Vanasse Hangen Brustlin, Inc., Volkert, Inc. and WBQ Design & Engineering, Inc.

The Evaluation Committee met on July 9, 2020, and after reviewing the letters of interest, shortlisted WBQ Design & Engineering, Inc., Scalar Consulting Group, Inc., Tetra Tech, Inc. and RS&H, Inc.

The Technical Committee heard and scored oral presentations on August 18, 2020. After the oral presentations were completed, the Committee prepared its final ranking and the result is shown below:

Ranking	Firm
1	WBQ Design & Engineering, Inc.
2	Scalar Consulting Group, Inc.
3	RS&H, Inc.
4	Tetra Tech, Inc.

Board approval of the final ranking and authorization to enter into negotiations in ranked order is requested. Once negotiations are completed, approval of the contract will be requested.

Reviewed by:

Will Hawh orne, PE Director of Engineering Glenn Pressimone, PE

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



#### LOI-001697 Technical Review Committee Meeting August 18, 2020 Minutes

Technical Review Committee for **Design Consultant Services for SR 528 Widening from SR 417 to Innovation Way. Project 528-161, Contract No. 001697,** held a duly noticed meeting on Tuesday, August 18, 2020 at 9:00 a.m. via MS Teams.

#### **Committee Members Present:**

Glenn Pressimone, Chief of Infrastructure Will Hawthorne, Director of Engineering David Boston, Mgr. of Toll Technical Systems Dana Chester, Manager of Engineering Jamison Edwards, Engineering Project Manager

#### Other Attendees:

Aneth Williams, Director of Procurement
Brad Osterhaus, Senior Procurement/Q/C Administrator

# Presentations / Q and A:

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

RS&H, Inc.	9:00 - 9:40 a.m.
Scalar Consulting Group Inc.	9:50 - 10:30 a.m.
Tetra Tech, Inc.	10:40 - 11:20 a.m.
WBQ Design & Engineering, Inc.	11:30 - 12:10 p.m.

#### **Evaluation Portion:**

The evaluation portion of the meeting is open to the public in accordance with Florida Statutes. 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:

FIRM	<b>Points</b>	<u>Ranking</u>
WBQ Design & Engineering, Inc.	10	1
Scalar Consulting Group Inc.	11	2
RS&H, Inc.	12	3
Tetra Tech, Inc.	17	4

Committee recommends CFX Board approve ranking and authorize negotiations in ranked order. Will Hawthorne reviewed and approved the minutes on behalf of the Committee.

There being no other business to come before the Committee; the meeting was adjourned at 12:40 p.m. These minutes are considered to be the official minutes of the Technical Review Committee meeting held Tuesday, August 18, 2020 and no other notes, tapes, etc., taken by anyone takes precedence.

Submitted by:

Aneth Williams Digitally signed by Aneth Williams

Aneth Williams

Aneth Williams

Aneth Williams

Will Hawhorne

#### **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

#### TECHNICAL COMMITTEE MEMBER FINAL SUMMARY RANKING

# DESIGN SERVICES FOR SR 528 WIDENING FROM SR 417 TO INNOVATION WAY PROJECT NO. 528-161 CONTRACT NO. 001697

CONSULTANT	Glenn Pressimone (RANK)	Will Hawthorne (RANK)	Dana Chester (RANK)	Jamison Edwards (RANK)	David Boston (RANK)	TOTAL SCORE	RANKING
RS&H, Inc.	2	1	3	3	3	12	3
Scalar Consulting Group, inc.	4	3	1	11	2	11	2
Tetra Tech, inc.	3	2	4	4	4	17	4
WBQ Design & Engineering, Inc.	1	4	2	2	1	10	1

#### **EVALUATION COMMITTEE MEMBERS:**

Glenn Pressimone Glenn Pressimone (Aug 18, 2020 12:33 EDT)	Tuesday, August 18, 2020
Glenn Pressimone	Tuesday, August 18, 2020
Will Hawthorne  Dava Coffee  Dana Chester	Tuesday, August 18, 2020
Jamison Edwards Jamison Edwards	Tuesday, August 18, 2020
David Boston David Boston (Aug 18, 2020 12:36 E0T) David Boston	Tuesday, August 18, 2020

# CONSENT AGENDA ITEM #9

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

# **MEMORANDUM**

TO: CFX Board Members

FROM: Aneth Williams Aneth Williams

**Director of Procurement** 

DATE: August 24, 2020

SUBJECT: Approval of First Contract Renewal with PFM Financial Advisors LLC for

Financial Advisor Services

Contract No. 001245

Board approval is requested for the first renewal of the referenced contract with PFM Financial Advisors LLC in the amount of \$260,000.00 for one year beginning October 1, 2020 and ending September 30, 2021. The original contract was for three years with two one-year renewals.

The services include providing financial advisory services.

 Original Contract
 \$ 765,000.00

 First Renewal
 \$ 260,000.00

 Total
 \$1,025,000.00

This contract is included in the OM&A Budget.

Reviewed by:

isa Lumbard

Chief Financial Officer

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY CONTRACT RENEWAL NO. 1 AGREEMENT CONTRACT NO. 001245

THIS CONTRACT RENEWAL NO. 1 AGREEMENT ("Renewal Agreement"), is made and entered into this 10th day of September 2020, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called "CFX", and PFM FINANCIAL ADVISORS LLC, a Florida corporation, hereinafter called the ("Consultant"). CFX and Consultant are referred to herein sometimes as a "Party" or the "Parties".

#### WITNESSETH

WHEREAS, CFX and the Consultant entered into that certain Contract Agreement dated August 10, 2017, (collectively, the "Original Agreement"), with a Notice to Proceed date of September 1, 2017, and a time extension to September 30, 2020, whereby CFX retained the Consultant to provide financial advisory services; and

**WHEREAS**, pursuant to Article 2 of the Original Agreement, CFX and Consultant wish to renew the Original Agreement for a period of one (1) year in accordance with the terms and conditions hereof.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and promises set forth in this Renewal Contract, the Parties agree as follows:

- 1. **Recitals**. The above recitals are true and correct and are hereby incorporated by reference as if fully set forth herein.
- 2. <u>Renewal Term.</u> CFX and Consultant agree to exercise the first renewal of said Initial CFX Contract, which renewal shall begin on October 1, 2020 and end on September 30, 2021 ("Renewal Term"), unless otherwise extended as provided in the Original Contract.
- 3. <u>Compensation for Renewal Term</u>. The Consultant shall be compensated for any and all services performed during the Renewal Term under this Renewal Agreement in accordance with <u>Exhibit "B"</u> of the Original Agreement, in an amount up to \$260,000.00 ("Renewal Compensation"). The Renewal Compensation shall be in addition to the original compensation paid by CFX to the Consultant pursuant to the terms of the Original Agreement, and any supplements or amendments thereto.
- 4. <u>Effect on Original Agreement</u>. All terms and conditions of said Original Agreement and any supplements and amendments thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Renewal Agreement and the Original Agreement, or any existing supplements or amendments thereto, the provisions of this Renewal Agreement, shall take precedence.
- 5. <u>Counterpart and Electronic Signatures</u>. This Renewal Agreement may be executed in multiple counterparts, including by electronic or digital signatures in compliance with Chapter 668, Florida Statutes, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.

**IN WITNESS WHEREOF**, the Parties have caused this Renewal Agreement to be executed by their duly authorized officers effective on the day and year set forth above.

# PFM FINANCIAL ADVISORS LLC

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By:		By:
Print Name:	_	Aneth Williams, Director of Procurement
Title:	_	
ATTEST:	_(SEAL)	
Secretary or Notary		Approved as to form and legality by legal counsel
If Individual, furnish two witnesses:		to the Central Florida Expressway Authority on this day of, 2020 for its exclusive use and reliance.
By:		
Print Name:	<del></del>	By:
		Diego "Woody" Rodriguez, General Counsel
By:		- · · · · · · · · · · · · · · · · · · ·
Print Name:	<del></del>	

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY

August 12, 2020

Mr. David Miller PFM Financial Advisors LLC 300 South Orange Avenue, Suite 1170 Orlando, Florida 32801

RE: Financial Advisor Services

**Time Extension Request** Contract No. 001245

Dear Mr. Miller:

This letter will serve as time extension of the referenced contract until September 30, 2020, with no increase in the contract amount. All terms and conditions of the referenced contract and any additions or amendments thereto remain in effect.

Please acknowledge acceptance of the time extension and the stated terms by signing below and returning this letter to my attention.

Sincerely,

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Aneth Williams

Director of Procurement

Anoth Williams

Accepted: PFM Financial Advisors LLC

By: \_ Dec Note-

Title: \_\_Managing Director\_\_\_\_\_

Date: 8/12/20

cc: Lisa Lumbard, CFO

# CONTRACT

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND PFM FINANCIAL ADVISORS LLC PFM SWAP ADVISORS LLC

FINANCIAL ADVISOR SERVICES

CONTRACT NO. 001245

CONTRACT DATE: AUGUST 10, 2017 CONTRACT AMOUNT: \$765,000.00

AND LANGER AND LINE OF A STATE OF

a table of the same affigures

CONTRACT, SCOPE OF SERVICES, POTENTIAL CONFLICT DISCLOSURE FORM, AND FEE PROPOSAL

# FINANCIAL ADVISOR SERVICES

# CONTRACT NO. 001245

# **AUGUST 2017**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

# TABLE OF CONTENTS

	Page
CONTRACT	1 to 18
EXHIBITS EXHIBIT A - SCOPE OF SERVICES Attachment EXHIBIT A-1 – WORK ORDER	A-1 to A-6 A-1-1 TO A-1-3
EXHIBIT B - POTENTIAL CONFLICT OF INTEREST FORM (PFM FINANCIAL ADVISORS LLC)	B-1 to B-6
EXHIBIT B - POTENTIAL CONFLICT OF INTEREST FORM (PFM SWAP ADVISORS LLC)	B-1 to B-6
EXHIBIT C - PRICE PROPOSAL	C-1 to C-5

#### CONTRACT

This Contract is made this 10th day of August 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 PFM FINANCIAL ADVISORS LLC ("FINANCIAL ADVISOR"), together with its affiliate, PFM SWAP ADVISORS LLC ("FINANCIAL ADVISOR AFFILIATE"), Delaware limited liability companies, registered and authorized to do business in the State of Florida, whose principal address is 300 S. Orange Avenue, Suite 1170, Orlando, Florida 32801 hereinafter "the FINANCIAL ADVISOR, pursuant to which FINANCIAL ADVISOR and FINANCIAL ADVISOR AFFILIATE will render the services under this Contract, as applicable.

FINANCIAL ADVISOR and FINANCIAL ADVISOR AFFILIATE shall be bound to the terms and conditions of this Contract; provided, however, that FINANCIAL ADVISOR AFFILIATE shall provide its services pursuant to a separate "Work Order" which shall include FINANCIAL ADVISOR AFFILIATE's scope of services, compensation, and any other applicable regulatory or legal requirements.

#### 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 FINANCIAL ADVISOR to provide financial advisory services and related tasks as may be assigned to the FINANCIAL ADVISOR by CFX; and

**WHEREAS,** on or about June 11, 2017, CFX issued a Request for Proposals seeking qualified firms to perform such tasks; and

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

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

#### 1. SERVICES TO BE PROVIDED

The FINANCIAL ADVISOR 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; provided, however that FINANCIAL ADVISOR AFFILIATE shall perform its portion of the services pursuant to the separate scope of services set forth in its Work Order attached to Exhibit "A" as Exhibit "A-1". The Contract shall be performed and services provided to the satisfaction of the duly authorized representatives of CFX, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include performing financial advisory services as detailed in the Addendum to the Scope of Services, and the FINANCIAL ADVSOR AFFILIATE Work Order, attached hereto collectively as **Exhibit "A"**, and incorporated by reference as though set forth fully herein.

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 FINANCIAL ADVISOR 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 financial advisors or CFX staff.

#### 2. TERM AND NOTICE

The initial term of the Contract will be three (3) years from the date indicated in the Notice to Proceed from 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 FINANCIAL ADVISOR are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide FINANCIAL ADVISOR 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 FINANCIAL ADVISOR'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 FINANCIAL ADVISOR (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. FINANCIAL ADVISOR will be paid for all work properly performed prior to termination. FINANCIAL ADVISOR 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 FINANCIAL ADVISOR: (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 FINANCIAL ADVISOR of such delay, neglect or default. If the Contract is declared in default, CFX may take over the work covered by the Contract.

If FINANCIAL ADVISOR (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 FINANCIAL ADVISOR 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 FINANCIAL ADVISOR's default (including the costs of completing Contract performance) shall be charged against the FINANCIAL ADVISOR. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the FINANCIAL ADVISOR 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, FINANCIAL ADVISOR demonstrates an intent and ability to cure the default in accordance with CFX's requirements, CFX may, but is not obligated to, permit FINANCIAL ADVISOR 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 FINANCIAL ADVISOR under the Contract. Any such costs incurred by CFX which exceed the remaining amount due on the Contract shall be reimbursed to CFX by FINANCIAL ADVISOR. 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 FINANCIAL ADVISOR 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 FINANCIAL ADVISOR or any employee, servant, or agent of the FINANCIAL ADVISOR 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 FINANCIAL ADVISOR 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 FINANCIAL ADVISOR shall be placed in either voluntary or involuntary bankruptcy or an assignment is made for the benefit of creditors. Such termination shall be deemed a termination for default.

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

3.1 The Contract Amount for the Initial Contract Term is \$765,000.00.

#### 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 FINANCIAL ADVISOR'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 FINANCIAL ADVISOR 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 FINANCIAL ADVISOR 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 FINANCIAL ADVISOR or any subcontractor. By submitting a response to the Request for Proposal, FINANCIAL ADVISOR 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 FINANCIAL ADVISOR refuses such access or review, FINANCIAL ADVISOR 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 FINANCIAL ADVISOR. These provisions shall not be limited in any manner by the existence of any FINANCIAL ADVISOR claims or pending litigation relating to the Contract. Disqualification or suspension of the FINANCIAL ADVISOR for failure to comply with this section shall also preclude the FINANCIAL ADVISOR from acting in the future as a subcontractor of another FINANCIAL ADVISOR doing work for CFX during the period of disqualification or suspension. Disqualification shall mean the FINANCIAL ADVISOR is not eligible for and shall be precluded from doing future work for CFX until reinstated by CFX.

Final Audit for Project Closeout: The FINANCIAL ADVISOR shall permit CFX, at CFX'S option, to perform or have performed, an audit of the records of the FINANCIAL ADVISOR and any or all subcontractors to support the compensation paid the FINANCIAL ADVISOR. The audit will be performed as soon as practical after completion and acceptance of the contracted services.

In the event funds paid to the FINANCIAL ADVISOR 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 FINANCIAL ADVISOR agrees that such amounts are due to CFX upon demand. Final payment to the FINANCIAL ADVISOR shall be adjusted for audit results.

FINANCIAL ADVISOR 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," FINANCIAL ADVISOR 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 FINANCIAL ADVISOR 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, FINANCIAL ADVISOR 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. FINANCIAL ADVISOR warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for FINANCIAL ADVISOR, to solicit or secure this Contract, and that FINANCIAL ADVISOR 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.

FINANCIAL ADVISOR 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. FINANCIAL ADVISOR acknowledges that it has read the CFX's Code of Ethics and, to the extent applicable, FINANCIAL ADVISOR 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, FINANCIAL ADVISOR 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 "B."** 

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

FINANCIAL ADVISOR 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.

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

### 7. FINANCIAL ADVISOR INSURANCE

FINANCIAL ADVISOR 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. FINANCIAL ADVISOR shall carry and keep in force the following insurance coverage, and provide CFX with correct certificates of insurance (ACORD forms) upon Contract execution:

- 7.1 **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 FINANCIAL ADVISOR under this Agreement.
- 7.2 **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;
- 7.3 **Workers' Compensation Insurance** Coverage, including all coverage required under the laws of the state of Florida (as amended from time to time hereafter);
- 7.4 **Unemployment Insurance** Coverage in amounts and forms required by Florida law, as it may be amended from time to time hereafter;
- 7.5 **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 FINANCIAL ADVISOR.

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. FINANCIAL ADVISOR 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 FINANCIAL ADVISOR hereunder, FINANCIAL ADVISOR 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 FINANCIAL ADVISOR'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 FINANCIAL ADVISOR'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 FINANCIAL ADVISOR'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 FINANCIAL ADVISOR 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 FINANCIAL ADVISOR's expense and deduct such costs from FINANCIAL ADVISOR payments. Alternately, CFX may declare FINANCIAL ADVISOR in default for cause.

### 8. FINANCIAL ADVISOR RESPONSIBILITY

FINANCIAL ADVISOR shall comply with, and shall cause its employees, agents, officers and subcontractors and all other persons for whom FINANCIAL ADVISOR 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.

#### 9. INDEMNITY

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

Further, FINANCIAL ADVISOR 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 FINANCIAL ADVISOR, its subcontractors, officers, agents or employees, or due to any negligent or intentional act or occurrence of omission or commission of the FINANCIAL ADVISOR, its subcontractors, officers, agents or employees, including without limitation any misappropriation or violation of third party copyright, trademark, patent, trade secret, publicity, or other intellectual property rights or other third party rights of any kind, by or arising out of any one or more of the following:

- 9.1 violation of same by FINANCIAL ADVISOR, its subcontractors, officers, agents or employees,
- 9.2 CFX's use or possession of the FINANCIAL ADVISOR Property or FINANCIAL ADVISOR Intellectual Property (as defined herein below),
- 9.3 CFX's full exercise of its rights under any license conveyed to it by FINANCIAL ADVISOR,
- 9.4 FINANCIAL ADVISOR's violation of the confidentiality and security requirements associated with CFX Property and CFX Intellectual Property (as defined herein below).
- 9.5 FINANCIAL ADVISOR's failure to include terms in its subcontracts as required by this Contract,
- 9.6 FINANCIAL ADVISOR's failure to ensure compliance with the requirements of the Contract by its employees, agents, officers, or subcontractors, or
- 9.7 FINANCIAL ADVISOR's breach of any of the warranties or representations contained in this Contract.

FINANCIAL ADVISOR 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 FINANCIAL ADVISOR for performance of each task authorized under the Contract is the specific consideration

from CFX to FINANCIAL ADVISOR for FINANCIAL ADVISOR's indemnity and the parties further agree that the 1% is included in the amount negotiated for each authorized task.

### 10. PRESS RELEASES

FINANCIAL ADVISOR 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.

### 11. PERMITS, LICENSES, ETC.

Throughout the Term of the Contract, the FINANCIAL ADVISOR shall procure and maintain, at its sole expense, all permits and licenses that may be required in connection with the performance of Services by FINANCIAL ADVISOR; 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.

### 12. NONDISCRIMINATION

FINANCIAL ADVISOR, 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.

### 13. ASSIGNMENT AND REMOVAL OF KEY PERSONNEL

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

Name and Title of Key Personnel
David Miller, Managing Director
Brent Wilder, Managing Director
Mary Francoeur, Managing Director
Cristina Nieto Gomez, Director
Margaret (Hope) Davidson, Senior Managing Consultant

And, FINANCIAL ADVISOR'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, FINANCIAL ADVISOR 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, FINANCIAL ADVISOR shall use all reasonable and diligent efforts to promptly hire and retain one or more individuals possessing such experience or expertise.

FINANCIAL ADVISOR 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 FINANCIAL ADVISOR, are listed above and CFX shall be notified in advance of any changes in the individuals, and any replacement shall be subject to the approval of CFX, which approval shall not be unreasonably withheld. 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, FINANCIAL ADVISOR 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 FINANCIAL ADVISOR hereunder. FINANCIAL ADVISOR 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, FINANCIAL ADVISOR 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 FINANCIAL ADVISOR'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.

### 14. NOTIFICATION OF CONVICTION OF CRIMES

FINANCIAL ADVISOR shall notify CFX if any of FINANCIAL ADVISOR'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.

### 15. COMPLIANCE WITH LAWS; EQUAL OPPORTUNITY EMPLOYMENT

FINANCIAL ADVISOR 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, FINANCIAL ADVISOR 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.

### 16. SUBLETTING AND ASSIGNMENT

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

List of Subcontractors	
N/A	

Therefore, FINANCIAL ADVISOR shall not further sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the FINANCIAL ADVISOR'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 FINANCIAL ADVISOR 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, FINANCIAL ADVISOR desires to subcontract any portion(s) of the work to a subcontractor that was not disclosed by the FINANCIAL ADVISOR 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 FINANCIAL ADVISOR shall first submit a request to CFXs 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 FINANCIAL ADVISOR until it has been approved by CFX Board. In the event of a designated emergency, the FINANCIAL ADVISOR 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.

### 17. DISPUTES

All services shall be performed by the FINANCIAL ADVISOR 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, provided, however, that FINANCIAL ADVISOR retains a right to initiate a proceeding for adjudication or enforcement. 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.

### 18. 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.

#### 19. 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.

## 20. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

FINANCIAL ADVISOR 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."

FINANCIAL ADVISOR 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."

### 21. 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 FINANCIAL ADVISOR for work properly performed and materials furnished at the prices submitted with the Proposal.

### 22. RELATIONSHIPS

FINANCIAL ADVISOR acknowledges that no employment relationship exists between CFX and FINANCIAL ADVISOR or FINANCIAL ADVISOR's employees. FINANCIAL ADVISOR shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. FINANCIAL ADVISOR 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.

FINANCIAL ADVISOR shall conduct no act or omission that would lead FINANCIAL ADVISOR's employees or any legal tribunal or regulatory agency to believe or conclude that FINANCIAL ADVISOR'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.

#### 23. 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 FINANCIAL ADVISOR 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, FINANCIAL ADVISOR may immediately notify CFX and request clarification of CFX's interpretation of the Contract.

### 24. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

The FINANCIAL ADVISOR 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.

### 25. 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:

- 25.1 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
- 25.2 Payment to FINANCIAL ADVISOR for satisfactory work performed or for termination expenses, if applicable; and
- 25.3 Prohibition on non-competition agreements of FINANCIAL ADVISOR's employees with respect to any successor of FINANCIAL ADVISOR; and
  - 25.4 Obligations upon expiration or termination of the Contract; and
- 25.5 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.

### 26. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT

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

### 27. INSPECTOR GENERAL

FINANCIAL ADVISOR 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

FINANCIAL ADVISOR 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 FINANCIAL ADVISOR during the term of the contract. FINANCIAL ADVISOR 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.

full force and effect and shall be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

### 19. 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

### 20. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

FINANCIAL ADVISOR 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."

FINANCIAL ADVISOR 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."

### 21. 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 FINANCIAL ADVISOR for work properly performed and materials furnished at the prices submitted with the Proposal.

to FINANCIAL ADVSIOR, its personnel and its role as IRMA, including in the written representation of CFX required under SEC Rule 15Ba1-1(d)(3)(vi)(B) shall be subject to prior approval by FINANCIAL ADVISOR. CFX further agrees not to represent that FINANCIAL ADVSIOR is CFX's IRMA with respect to any aspect of a municipal securities issuance or municipal financial product, outside of the scope of services without FINANCIAL ADVISOR's prior written consent.

MSRB Rule G-42 requires that municipal advisors make written disclosures to their clients of all material conflicts of interest and certain legal or disciplinary events. Such disclosures are provided in FINANCIAL ADVISOR's Disclosure Statement delivered to CFX together with this Agreement.

### 33. INFORMATION TO BE FURNISHED TO MUNICIPAL ADVISOR

All information, data, reports, and records ("Data") in the possession of CFX or any third party necessary for carrying out any services to be performed under this Agreement shall be furnished to FINANCIAL ADVISOR upon request. To the extent CFX requests that FINANCIAL ADVSIOR provide advice with regard to any recommendation made by a third party, CFX will provide to FINANCIAL ADVISOR written direction to do so as well as any Data it has received from such third party relating to its recommendation. CFX acknowledges and agrees that while FINANCIAL ADVISOR is relying on the Data in connection with its provision of the services under this Agreement, FINANCIAL ADVISOR makes no representation with respect to and shall not be responsible for the accuracy or completeness of such Data.

### 34. EXHIBITS

This Contract references the exhibits listed below.

Exhibit "A" Scope of Services

Exhibit "B" Potential Conflict Disclosure Form

Exhibit "C" Fee Proposal

[SIGNATURES TO FOLLOW]

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 August 10, 2017.

### **ACCEPTED AND AGREED TO BY:**

PFM FINANCIAL ADVISORS LLC	2017 OCT 2 PM 2:31
By: Dare Allen	
Managing Director	
Title  ATTEST: COM PM	_(Seal)
DATE: 9/26/17	_
PFM SWAP ADVISORS LLC	
By: Jeffy M. Pearall  Managing Director  Title	
ATTEST: Mourca Crawful	_(Seal)
DATE: 9/27/17	-:
CENTRAL FLORIDA EXPRESSWAY AUTHORITY  By: (2) (2)	
Director of Procurement	
Print Name: ANeth Williams	
Date: (0/4/17	
Approved as to form and execution for the use of CFX only.	and reliance by
General Counsel for CFX	-

### Exhibit A

### SCOPE OF SERVICES FINANCIAL ADVISOR SERVICES

This Scope of Services covers the entire spectrum of services customarily provided to governmental entities by financial advisors, but may generally be divided into three groups: services related to financial planning, services related to debt issuance, and special services. The services provided should include, but need not necessarily be limited to, the following:

### 1. SERVICES RELATED TO FINANCIAL PLANNING

In consultation with CFX's staff and various consultants, the Financial Advisor will design and monitor the plan of finance for CFX's capital improvement plan. The plan will include, but will not be necessarily limited to, the following:

- A. An overall evaluation of the legal structure and all financing sources presently available to CFX, including, but not limited to, internally generated funds, debt financing, leasing, federal or state grants, private sources, and various combinations of all these sources.
- B. A comprehensive analysis of CFX's current debt and financial capacity.
  - 1. This analysis includes a long-term financial feasibility analysis for each significant capital improvement project contained in CFX's plan for which financing must be considered. Implicit in this analysis is an evaluation of the impact of the operating costs of these improvements upon the financial capacity of CFX.
  - 2. The financial advisor should also review all indebtedness of CFX presently outstanding, and provide recommendations relative to the refinancing or early retirement of said obligations.
- C. Provide an analysis of all available financing options.
  - 1. As stated previously, this analysis should not be limited to a consideration of which type of debt should be issued to finance a particular project, but should also consider whether or not a financing alternative to debt exists.

- 2. In the event that the issuance of debt is determined to represent the most viable financing alternative, this analysis should include recommendations as to the structure of the debt and any variations that would be appropriate for and advantageous to CFX.
- D. Recommendations as to the need for short or intermediate term financing prior to or in conjunction with long term financing, as appropriate.
- E. Recommendations as to possible changes in or additions to the existing financial resources and legal structures.
- F. Advice on terms and features of bonds and on timing and marketing of bond issues.
- G. Providing CFX with assistance in the preparation of cash flow forecasts for proposed issues addressing debt service requirements and sources of funding.
- H. Performance of other related services as required related to the development of a financing plan.

### 2. SERVICES RELATED TO DEBT ISSUANCE

The Financial Advisor shall, as requested, provide the following services in conjunction with the issuance of debt instruments by CFX:

- A. Prepare a Debt Financing Structure. This is a complex function, which will generally consist of, but need not necessarily be limited to, development of the following structural components:
  - 1. Establishment of sizing parameters for the debt to be issued, taking into consideration both the cash flow requirements associated with the capital improvements being financed, as well as reinvestment yields estimated to be available during the term of the project.
  - 2. Determination of maturity schedule for the proposed debt. This evaluation should take into account the estimated useful life of the project to be constructed utilizing the proceeds of the debt, as well as future demands upon the funds pledged for the repayment of the debt. Functionally related to the proposed maturity schedule is a determination of whether or not to use exclusively serial instruments or an appropriate combination of term and serial obligations.
  - 3. Recommendation of an appropriate credit structure. One of the most critical elements in the design of any capital facility debt financing is a determination of source of funds to be used, to repay the debt, which

is acceptable from the perspective of both the issuer and the purchaser. This evaluation will include recommendations as to appropriate primary as well as secondary revenue sources to be pledged for the repayment of the debt, and should also give serious consideration to the form of the pledge.

- 4. Evaluate and recommend, where appropriate, the use of appropriate types of credit enhancements. This analysis should result in recommendations relating to, among other things, the use of bond insurance or letters of credit.
- 5. Recommendations concerning the timing of the issuance of debt obligations to fund the improvements. This analysis includes an analysis not only of when to issue the debt to take advantage of the most favorable market conditions, but also should include a recommendation as to the desirability of utilizing interim financing techniques, such as bond or revenue anticipation notes.
- 6. Advising and preparing analysis as to the advantages and disadvantages of a negotiated versus competitive sale of bonds. In the event that a negotiated sale is the preferred method, the financial advisor may be required to assist in the preparation of a request for proposals for underwriting services and in the selection process.
- B. Administer the Marketing and Sale of the Obligations. Services provided in connection with this multi-task function will include the following:
  - 1. Assist in the development of documentation prerequisite to the issuance of the debt. Included in the documents to be prepared, include, but may not be limited to, the following:
    - a. Resolutions authorizing the issuance and sale of the obligations
    - b. Official Statement and, when deemed necessary, Preliminary Official Statement relating to the sale of the obligations
    - c. Purchase Contract(s) between CFX and the purchasers of the obligations
    - d. Other additional documents and contracts relating to the sale and closing of the obligations.
  - 2. Assist CFX and Bond Counsel in any validation proceedings, as necessary.

- 3. Prepare, and make presentations on behalf of CFX, to one or more of the nationally recognized credit rating organizations in order to obtain the highest possible credit rating for the obligations of CFX. This task envisions not only obtaining a rating for CFX, but also ensuring the maintenance of the ratings obtained, where possible.
- 4. Develop the broadest possible interest among potential purchasers of the obligations. Whether sold competitively or negotiated, this item contemplates an aggressive marketing campaign by the financial advisor in attracting either prospective bidders and preparing bid documents, in the case of a competitive sale, or prospective underwriters in the case of a negotiated sale. In either event the intent is to obtain the lowest possible cost of borrowing for CFX.
- 5. Oversee the actual sale and closing on the obligations issued, including a recommendation by the financial advisor to accept, reject, or renegotiate the proposals. This process typically includes verifying the spread and average interest cost calculations, expressing an opinion on the competitive character of the bids in light of current market conditions, and evaluating the marketing effort required to sell the obligations.
- 6. Advising and preparing the financial analysis as to the advantages and disadvantages of cash debt service reserves versus surety arrangements, as applicable.
- 7. Advising and preparing the financial analysis as to the advantages and disadvantages of issuing insured versus uninsured bonds.
- 8. Prepare and updated schedules and distribution lists for each bond issuance and distribute to the working group.
- 9. Advising CFX as to the cost effectiveness of obtaining on or more ratings on its bond issues.
- 10. Assist CFX in the procurement of various types of professional services required in connection with the issuance of the obligations, including, but not limited to, the following:
  - a. Investment Banking (Underwriting) Services (negotiated sale only)
  - b. Bond Counsel
  - c. Disclosure Counsel
  - d. Issuers Counsel

- e. Printing Services
- f. Bond Registration, Paying Agent, and Trustee services (if applicable)
- g. Remarketing Agents
- h. Bond Insurance and Surety Policies
- i. Verification Agents
- j. Rating Agency Services
- k. Other related services

It is intended that the inclusion of this responsibility within the Scope of Services provided by the Financial Advisor also envisions the post issuance evaluation by the Financial Advisor of the services so obtained.

- 11. Participate and assist in closings.
- 12. Present a written and oral report and summary conclusions on each bond issue to CFX staff, Finance Committee, and when requested, CFX Board after closing.
- 13. Provide an opinion as to the appropriateness and fairness of each bond issue including an evaluation of the underwriters' performance.
- 14. Perform other debt related services as required.
- 15. Provide continuing updates on the impact of current or proposed state or federal legislation, or the effects of changing market conditions, which could potentially affect the financing plans of CFX.

### 3. SPECIAL SERVICES

From time to time CFX may request other financial planning and/or general advisory services not described above. Such services may include, but may not necessarily be limited to the following:

- A. Modeling of revenue and expenditures and debt profile.
- B. Analysis of financing alternatives for specified programs or projects.

- C. Assist in the development of goals, objectives and criteria to be incorporated in a long-range comprehensive debt management system.
- D. Preparation of a rating agency program or presentation(s) not directly related to the issuance of debt.
- E. Assist in the evaluation of investment programs. This includes monitoring of escrow accounts and providing advice on restructuring where appropriate. 1
- F. Assistance in implementation of investment strategies including, but not limited to, forward rate agreements or escrow account restructuring. The Financial Advisor may prepare cash flow and yield calculations, assist in preparing procurement documents, negotiate or conduct competitive bidding for procurement of investments and generally advise on the structuring, timing and procurement of investments to implement a specific strategy. This may require coordination with CFX's Investment Advisor.<sup>2</sup>
- G. Continuous program research provide evaluations of CFX's debt structure and provide innovative or creative ideas for enhancing CFX's position (i.e., improving coverage, reducing debt load, reducing interest rate, reducing portfolio risk, removing restrictive covenants, etc.). This includes the monitoring and evaluation of unsolicited proposals received by CFX.
- H. Provide financial or economic impact of specific programs being considered or proposed.
- I. Attend meetings as required of CFX Board and CFX Finance Committee and other planning meetings.
- J. Provide other related services as required as it relates to financial planning and general financial advisory services.

### End of Scope of Services

<sup>&</sup>lt;sup>1</sup> If requested by the client, these services will be provided by PFM Swap Advisors LLC or PFM Investment Advisors LLC, as appropriate and under separate agreement.

<sup>&</sup>lt;sup>2</sup> If requested by the client, these services will be provided by PFM Swap Advisors LLC or PFM Investment Advisors LLC, as appropriate and under separate agreement.

### Exhibit A-1 Work Order PFM Swap Advisors LLC

The terms and conditions of the Contract between Central Florida Expressway Authority, PFM Financial Advisors LLC and PFM Swap Advisors LLC ("PFMSA") are incorporated by reference herein.

Working with PFM Financial Advisors LLC, PFMSA will serve Central Florida Expressway Authority ("CFX") as Municipal Advisor and designated Qualified Independent Representative ("QIR") in the provision of general swap advisory services related to any swap-related communication, interaction or other discussion ("Swap Communication") between CFX and Swap Dealers (as such term is defined by the Securities and Exchange Commission ("SEC") and the Commodity Futures Trading Commission ("CFTC")). PFMSA shall be obligated to comply with the applicable requirements of CFTC Regulation 17 CFR 23.450(b)(1) in providing QIR services to CFX.

Additionally, PFMSA shall perform calculations relating to the valuation of certain interest rate exchange agreements, which may include swaps, swaptions, caps, floors, or other similar contracts. The calculations are to be performed with respect to all swap transactions in which CFX is a party (each, a "Transaction").

### **Ongoing Swap QIR Services**

As QIR to CFX, PFMSA will make available qualified professionals to participate in discussions and other interactions with Swap Dealers CFX finds necessary or desirable. Additionally, PFMSA will assist CFX with analysis of any proposals from Swap Dealers. PFMSA may assist CFX with other swap related tasks such as helping write a swap policy or other related analysis upon CFX request. PFMSA will also assist CFX, as needed, in completing the ISDA Dodd-Frank Protocols and other matters to comply with the regulatory requirements imposed under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

### **Derivative Valuations Services**

PFMSA will calculate, on a monthly basis the mark-to-market value of certain Transactions as of the close of business of each month (each calculation, a "Calculation Date"), based on market levels at such time as obtained from generally recognized pricing sources and PFMSA's valuation models. The results shall be made available for viewing by CFX through PFMSA's online service known as SwapViewer®. The results will also contain the publicly available credit ratings of the Transaction counterparties as of each calculation date. In addition, PFMSA will make available online, selected Transaction documents to CFX.

To facilitate the preparation of the calculations and documents, CFX will provide or cause to be provided to PFMSA relevant data in its possession requested by PFMSA from time to time, with respect to each Transaction and Calculation Date, and CFX agrees to cooperate with all reasonable requests in connection herewith. PFMSA will rely on this information in preparing the calculations of the mark-to-market value for each Transaction. PFMSA may rely on market information services which are used generally by marketmakers for pricing instruments similar to the

Transactions, including information furnished by one or more brokers who engage in such transactions. The calculated mark-to-market value will be based upon available mid-market levels. The mark-to-market value is not an indication of a level where CFX could enter into an actual Transaction, nor is it indicative of the level where CFX could liquidate a Transaction. PFMSA shall not have any obligation to update any valuation calculated hereunder because of events occurring or data or information received subsequent to the Calculation Date.

PFMSA Team Leaders:
Jeff Pearsall, Managing Director

PFMSA Team Members:
Alfred Mukunya, Director
George Hu, Senior Managing Consultant
Other personnel to be assigned as necessary

Estimated Fee for PFMSA Services: \$15,000 annually for PFMSA's ongoing swap QIR and SwapViewer® services, payable in equal monthly installments of \$1,250.00. The aggregate fiscal year fee cap of \$325,000 includes PFMSA's SwapViewer® services. Swap transactions will be considered as separate transactions.

PFMSA proposes the following fee schedule if selected as swap advisor:

Swap and Derivatives Advisory	Fee Schedule	
General QIR or DEA Services (Review an Analysis) <sup>1</sup>	d Included in annual PFMSA fee	
Transaction Execution (per transaction)		
	New Swap	<u>Termination</u>
Structuring and Competitive Bid	\$25,000	\$15,000
Structuring and Negotiation	\$35,000	\$20,000
<b>Transaction Monitoring</b> Valuation and Reporting	Included in annual PFM	SA fee1²

- Written report included with all engagements; Fair Market Opinion included for negotiated transactions. No additional out of pocket fees will be charged.

CFX acknowledges that PFMSA may provide additional services upon the request of CFX under a separate fee arrangement.

PFMSA may rely upon the advice of its counsel and upon information supplied by accountants, swap dealers, inter-dealer brokers and other persons believed by it in good faith to be experts in

<sup>&</sup>lt;sup>1</sup> Applies to CFX's existing swap portfolio

<sup>&</sup>lt;sup>2</sup>Assumes monthly valuation for CFX's existing swap portfolio and includes 24-hour access to SwapViewer\* website

the matters upon which they are consulted including market information services which are used generally by market-makers for pricing instruments similar to the Transactions.

PFMSA agrees that it will not deal with itself or with any other affiliated company or individual in making purchases or sales of the Swaps or any securities pursuant to this engagement, nor will PFMSA take a long or short position in securities subject to purchase or sale in connection with the Swaps. PFMSA confirms that it has no interest in the purchase or sale of the Swaps other than as described herein and except for any financial or investment advisory agreement between CFX and any affiliate of PFMSA.

PFMSA is a registered municipal advisor with the SEC and the Municipal Securities Rulemaking Board (the "MSRB"), pursuant to the Securities Exchange Act of 1934 Rule 15Ba1-2. As of the date of this Agreement Letter, CFX has **not** designated PFMSA as its independent registered municipal advisor ("IRMA") for purposes of SEC Rule 15Ba1-1(d)(3)(vi) (the "IRMA exemption."). CFX agrees not to represent that PFMSA is CFX's IRMA with respect to any aspect of a municipal securities issuance or municipal financial product, without PFMSA's prior written consent.

# EXHIBIT "C" FEE PROPOSAL FINANCIAL ADVISOR SERVICES CONTRACT NO. 001245

The Proposer shall complete the information required below and on the following sheets. Additional information required in response to items 3, 4 and 5 below shall be attached.

The original and one (1) copy of this Exhibit C and attachments shall be submitted in a sealed envelope, separate from the Technical Proposal. The envelope shall be identified as the Fee Schedule and shall include the same information on the outside as shown for the Technical Proposal.

PROPOSER:		
PFM Financial Advisors LLC		
Name of Firm		
By: David C. Miller		
Print Name		
Signature: De A. Oli		
Title: Managing Director		
Witness:		
Witness: NorenaBilains		
PFM Swap Advisors LLC		
Name of Firm		
By: Jeff Pearsall		
Signature: Jeffy M. Levell		
Title: Managing Director		
Witness: Audula		
Witness: Dorera Bland		

## CONSENT AGENDA ITEM #10

### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

### **MEMORANDUM**

TO:

**CFX Board Members** 

FROM:

Aneth Williams Ansth Williams

**Director of Procurement** 

DATE:

August 28, 2020

SUBJECT:

Approval of Contract Award to Tews Consulting, Inc. for

Staffing Services Contract No. 001729

Board award of the contract to Tews Consulting, Inc. in the amount of \$175,000.00 for a one year term with options to renew is requested. This contract is exempt from the competitive procurement process established by the Procurement Policy.

The service includes providing temporary staffing.

This contract is included in the OM&A Budget.

Reviewed by

Evelyn Wilson

Director of Human Resources

### **CONTRACT**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AND
TEWS CONSULTING, INC.

STAFFING SERVICES

CONTRACT NO. 001729

CONTRACT DATE: September 10, 2020 CONTRACT AMOUNT: \$175,000.00

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY STAFFING SERVICES CONTRACT NO. 001729

This Contract is made this 10th day of September 2020, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called "CFX" and TEWS CONSULTING, INC. dba TEWS COMPANY, 1000 Legion Place, Suite 730, Orlando, FL 32801, hereinafter the "CONTRACTOR":

### WITNESSETH:

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

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

WHEREAS, CFX has determined that it is necessary and convenient in the conduct of its business to retain the services of a CONTRACTOR to provide staffing services which is exempt from the Procurement process; 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 BEPROVIDED

The CONTRACTOR shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all equipment, supplies, labor and incidentals necessary to perform this Contract in the manner and to the full extent as required by CFX.

### 2. CONTRACT TERM AND AMOUNT

The term of the Contract will be one (1) year beginning September 14, 2020. There may be renewal options. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide the CONTRACTOR with written notice of its intent at least 60 days prior to the expiration of the initial three-year Contract terms. The Contract amount shall not exceed \$175,000.00.00 during the term.

### 3. COMPENSATION FOR SERVICES

Compensation shall be in accordance with the CONTRACTOR's Master Service Agreement.

### 4. CONTRACTOR RESPONSIBILITY

CONTRACTOR shall take all reasonable precautions in the performance of the services and shall cause its employees, agents and subcontractors to do the same.

- 4.1 CONTRACTOR shall comply, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible, with 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
- 4.2 CONTRACTOR shall be responsible for all damage and loss that may occur with respect to any and all property in any way involved in the provision of services by CONTRACTOR, whether such property is owned by CONTRACTOR, CFX, or any other person, to the extent such damage or loss shall have been caused or brought about by the acts or omissions of CONTRACTOR or its employees, agents, officers or subcontractors or any other persons for whom CONTRACTOR may be legally or contractually responsible.
- 4.3 CONTRACTOR shall ensure that all of its activities and the activities of its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible are undertaken in a manner that will minimize the effect on surrounding property and the public.

### 5. INDEMNITY

The CONTRACTOR shall indemnify, defend and hold harmless CFX and all of its respective officers, agents, CONTRACTOR's or employees from all 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). 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.

### 6. PUBLIC RECORDS

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify CFX. Thereafter, CONTRACTOR shall follow CFX's instructions with regard to such request. To the extent that such request seeks non-exempt public records, CFX shall direct CONTRACTOR to provide such records for inspection and copying incompliance with Chapter 119. A subsequent refusal or failure by CONTRACTOR to timely grant such public access will be grounds for immediate, unilateral cancellation of the Contract by CFX.

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

Central Florida Expressway Authority 4974 ORL Tower Road Orlando, Florida 32807 (407) 690-5000 PublicRecords@CFXWay.com

### 7. MEDIA 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, without first notifying CFX and securing its consent in writing.

### 8. 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.

### 9. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT

CONTRACTOR acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Ethics Policy. To the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

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

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

### 10. 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.

### 11. SUBLETTING AND ASSIGNMENT

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

### 12. DISPUTES AND TERMINATION

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

CFX shall have the right to terminate or suspend the Contract, in whole or in part, at any time, for any reason, with 7 days' notice for convenience or 10 days' notice for cause.

### 13. 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.

### 14. GOVERNING LAW

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.

### 15. RELATIONSHIPS

CONTRACTOR acknowledges that no employment relationship exists between CFX and CONTRACTOR or CONTRACTOR's employees. CONTRACTOR shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. CONTRACTOR shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax and income tax withholding, unemployment compensation, workers compensation, and employment benefits.

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

### 16. 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. Reference to one gender shall include all genders. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the stated statute or regulation. Words not otherwise defined and that have well-known technical, industry, or legal meanings, are used in accordance with such recognized meanings, in the order stated. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities. If CONTRACTOR discovers any material discrepancy, deficiency, or ambiguity in this Contract, or is otherwise in doubt as to the meaning of any provision of the Contract, CONTRACTOR may immediately notify CFX and request clarification of CFX's interpretation of the Contract. The Contract, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

### 17. SURVIVAL OF EXPIRATION OR TERMINATION

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

- 17.1 Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and
- 17.2 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.

### 18. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT

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

IN WITNESS WHEREOF, the authorized signatures named below have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written.

CE	ENTRAL FLORIDA EXPRESSWAY AUTHORITY
Ву	Director of Procurement
	VS CONSULTING, INC.
Бу:	
	Title
Approved as to form and e	execution, only.
CFX General Counsel	

### EXHIBIT "A"

# TEWS CONSULTING, INC. MASTER AGREEMENT

### **Tews Company - Master Service Agreement**

This agreement for staffing and payrolling services is entered into between **Tews Consulting**, **Inc** (**dba Tews Company**) and **Central Florida Expressway Authority** (**Client**). Tews Company will provide, upon Client's request, payrolling services to include payment of contractor's hourly wages, associated employment taxes, workers compensation and insurance.

### Fee Schedule & Payment Terms

Client shall compensate Tews Company for services rendered at the hourly rate listed below for payrolling services provided.

Payrolling Rate (Employee Declines Benefits) - 30%

Payrolling Rate (Employee Elects Benefits) - 43%

### **Contract Amount Not To Exceed \$175,000**

Invoices are payable upon receipt. Invoices not paid within 30 days shall bear interest at the maximum rate allowed by law. Client agrees to bear all reasonable and necessary costs of collection, including attorney's fees and costs. Client further waives all rights to trial by jury in any dispute between Client and Tews Company.

### **Overtime Pay**

Federal overtime provisions contained in the Fair Labor Standards Act require that employees (unless exempt) must receive overtime pay for any time worked over 40 hours in a work week at a rate not less than time and one-half their regular hourly pay. Client accepts responsibility for the development and implementation of internal policies in accordance with FLSA overtime requirements and acknowledges control for all hours worked by a Tews Company employee at their worksite.

### Candidate Health Care Insurance/Affordable Care Act

Tews Company is fully compliant with the Patient Protection and Affordable Care Act (ACA). Tews Company employees assigned to contract assignments working a minimum of 30 hours per week for 120 consecutive days or longer will be offered the option to enroll in Tews Company's health insurance plan. Should an employee elect to enroll in Tews Company's health insurance plan Client bill rate shall increase \$1.50 per hour commencing on the employee's 91st business day of employment at Client worksite.

### **Co-Employment & Client Worksite Requirements**

If a Tews Company Employee is injured, Client agrees to immediately report the accident and shall cooperate in any investigation or litigation related to the accident or claim. Client agrees that it shall report all claims, demands, or threats it receives from any Tews Company employee and shall advise Tews Company of any concerns or disputes involving Tews Company employees.

Client agrees not to entrust contract or contract to hire employees with unsupervised care, custody and control of financial property including cash, checks, accounts, ledgers, balance sheets, reconciliations and payroll deposits. Client acknowledges that they alone control the work environment at Client's business offices. Client acknowledges complete responsibility for implementing reasonable internal controls and procedures to prevent misuse of financial documents and property. Client further acknowledges that Tews Company recommends that Client seek out the advice of a Certified Public Accountant regarding comprehensive internal control procedures to implement in Client's business.

Client further agrees that it shall be solely responsible for compliance with all laws prohibiting discrimination, harassment, and retaliation in the workplace since age, gender, sex, religion, disability, marital status, veteran status, national origin, race, color or creed.

The Agreement shall be governed by the laws of the State of Florida and Client and Tews Company mutually agree that the venue for any suit seeking relief under this Agreement shall be the Circuit Court of Orange County, Florida, or the U.S. District Court, Middle District of Florida, Orlando Division. The parties hereby specifically waive any and all objections to venue in such courts including without limitation any objection based on a claim of inconvenient forum.

Client Authorized Signature	
Print Name	
Finit Name	
Client Name (Legally Incorporated As)	
Date	
Tews Company Authorized Signature	
10ws Company Munorized Signature	
Date	

### Tews Company Addendum I – Background Check Compliance & Reporting Policies

Thank you for choosing to partner with Tews Company. In order to provide quality candidates for our clients, we are committed to conducting a strict pre-employment screening process.

Tews Company will conduct a criminal background check on all Accounting and Information Technology candidates placed at Client worksites. Criminal background checks will be performed on all Administrative candidates working assignments a minimum of four weeks in duration or longer.

Tews Company's policy is to report the following information upon receipt of candidate background check:

Felony convictions within the past 7 years Misdemeanor Theft/Petty Theft convictions

Tews Company <u>will not</u> report Non – Conviction court dispositions or charges with Deferred Adjudication, Adjudication Withheld, or charges that have been Dismissed/Nollo Prosse.

Additional background checks may be run on Tews Company candidates at the cost(s) listed below:

	10 Panel Drug Screen	\$35.00	
	Education Verification	\$19.00	
Shoul below	d Client require additional screening/r	requirements that are not listed a	bove, please provide
Client	t Name		
Autho	orized Signature		
Printe	d Name/Title		-
Date			

#### <u>Tews Company Addendum II – Placement Fees</u>

Contract/Contract To Hire Placement	
Position Title:	Contract To Hire Hours:600 (*)
Bill Rate:	
(*) Client solely responsible for tracking total h	ours worked by candidate.
<b>Direct Hire Placement</b>	
% Of Annual Base Salary:	Guarantee Period: 90 days
Client Name	
Authorized Signature	
Printed Name/Title	
Date	

### CONSENT AGENDA ITEM #11

#### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

#### **MEMORANDUM**

TO: CFX Right-of-Way Committee Members

Laura N. Kelly

FROM: Laura Newlin Kelly, Associate General Counsel

DATE: August 26, 2020

RE: Agreement for Grant of Easement Between Tohopekaliga Water Authority

("TWA") and the Central Florida Expressway Authority ("CFX")

Project No. 538-165

#### **BACKGROUND**

As a part of the Poinciana Parkway Extension Project Development and Environment Study approved by the CFX Board in October 2019 ("PD&E Study"), CFX identified the need to decommission, remove, relocate, and replace two existing wastewater force mains and a reclaimed water main (collectively, "Existing Lines") owned by TWA that were constructed within the right-of-way for State Road ("SR") 538 ("Project"). A map of the Project is attached hereto for reference as **Attachment "A"**.

In order to facilitate the decommissioning, removal, relocation and replacement of TWA's Existing Lines and to capitalize on the economies of scale, TWA and CFX entered into an interlocal agreement, whereby CFX agreed to undertake and manage the decommissioning and removal of the Existing Lines, and the design, engineering, permitting and construction of the replacement force mains and reclaimed water main (collectively, "Replacement Lines") as a part of the Poinciana Parkway Extension Project, subject to reimbursement from TWA for 100% of the costs and expenses associated with the decommissioning, removal, relocation and replacement of the Existing Lines. A copy of the approved Interlocal Agreement Regarding Relocation of Utilities Along SR 538 Between Tohopekaliga Water Authority and the Central Florida Expressway Authority as approved by the CFX Board on June 11, 2020 is attached hereto as **Attachment "B"** ("Interlocal Agreement").

Pursuant to the terms of the Interlocal Agreement, TWA will be required to expend an estimated \$1,600,000 for the design, decommissioning, relocation and replacement of the Existing Lines. Prior to the Interlocal Agreement, TWA previously funded the initial construction of the Existing Lines in 2002 and the relocation of the Existing Lines in 2016 as part of the Poinciana Parkway Project. In order to avoid uncertainty in the future regarding the location of the Replacement Lines and any additional expenditure of public funds related to the Replacement Lines, TWA requested an easement or conveyance of a fee simple interest in the location where the Replacement Lines will be located ("Easement Area") as an assurance from CFX that the Replacement Lines, once paid for by TWA as part of the Project, will not need to be relocated

again. To address the concerns of TWA, CFX agreed in the Interlocal Agreement to use its best efforts to present to the CFX Right-of-Way Committee for consideration an instrument mutually agreed upon by CFX and TWA, conveying to TWA either an easement interest or fee simple ownership interest in the real property upon which the Replacement Lines will be located. In exchange for the proposed easement, TWA would agree to maintain the Replacement Lines and the access road located within the Easement Area that currently provides access to additional real property owned by TWA. The exact location of the Easement Area will be determined when the installation of the Replacement Lines is completed and a legal description and sketch is prepared for the Easement Area. A copy of the proposed Agreement for Grant of Easement Between CFX and TWA is attached hereto as **Attachment "C"** ("Easement Agreement").

Pursuant to CFX's Property Acquisition, Disposition & Permitting Procedures Manual ("Policy"), CFX staff and CFX's General Engineering Consultant ("GEC") have examined the proposed Easement Area and determined that the grant of the easement would not (1) impede or restrict the operation of the Expressway System; (2) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System; or (3) otherwise impair traffic operations or public safety. A copy of the draft certification is attached hereto as **Attachment "D"**. The certification will be finalized when the final location of the Easement Area is determined.

Based on TWA's proposed use, operation and maintenance of the Easement Area for the Replacement Lines and the access road, the proposed Easement Agreement was prepared and provided to TWA for review and consideration. TWA has reviewed the Easement Agreement and agrees with its form, subject to confirmation of the exact legal descriptions and the technical portions of the Easement Agreement. GEC has reviewed the proposed location, maintenance functions, and maintenance responsibilities.

The Right-of-Way Committee met and reviewed this item on August 26, 2020 and has recommended approval of the Easement Agreement to the CFX Board, subject to receipt of an updated certificate from the GEC when the final location of the Easement Area is determined and any minor or clerical modifications or revisions approved by the General Counsel or his designee. Approval of this Easement Agreement will confer upon the Chairman, or her designee, the authority to execute any and all documents reasonably required to effectuate the terms of the Easement Agreement.

#### **REQUEST**

CFX Board's approval of the Agreement for Grant of Easement Between CFX and TWA in a form substantially similar to the attached Easement Agreement, subject to receipt of an updated certificate from the GEC when the final location of the Easement Area is determined and any minor or clerical modifications or revisions approved by GEC and any minor or clerical revisions approved by the General Counsel or designee.



#### **ATTACHMENTS**

- A. Map of Project
- B. Interlocal Agreement Regarding Relocation of Utilities Along SR 538 Between Tohopekaliga Water Authority and the Central Florida Expressway Authority
- C. Agreement for Grant of Easement Between Tohopekaliga Water Authority and the Central Florida Expressway Authority
- D. Draft Certificate from CFX's General Engineering Consultant

Reviewed by: Woody Rodrigusz

#### **Attachment A**

### CONCEPT PLANS FOR

## SR-538 UTILITIES RELOCATION



**APRIL**, 2020

Clarence Thacker

**Domingo Sanchez** 

Jim Swann

**Hector Lizasuain** 

William "Bill" Land

Todd Swingle

Robert F. Pelham, P.E.

#### TELEPHONE LISTINGS

TOHOPEKALIGA WATER AUTHORITY	407-944-5000
CITY OF KISSIMMEE PUBLIC WORKS & ENGINEERING	407-518-2170
FLORIDA POWER CORPORATION	407-700-8744
SPRINT FLORIDA INC (EMBARQ)	407-814-5344
TECO/PEOPLE'S GAS	407-425-4661
FLORIDA GAS TRANSMISSION	407-295-4341
TIME-WARNER CABLE (BRIGHTHOUSE)	407-532-8509
SUNSHINE STATE ONE-CALL OF FLORIDA (NO-CUTS)	



**LOCATION MAP** 

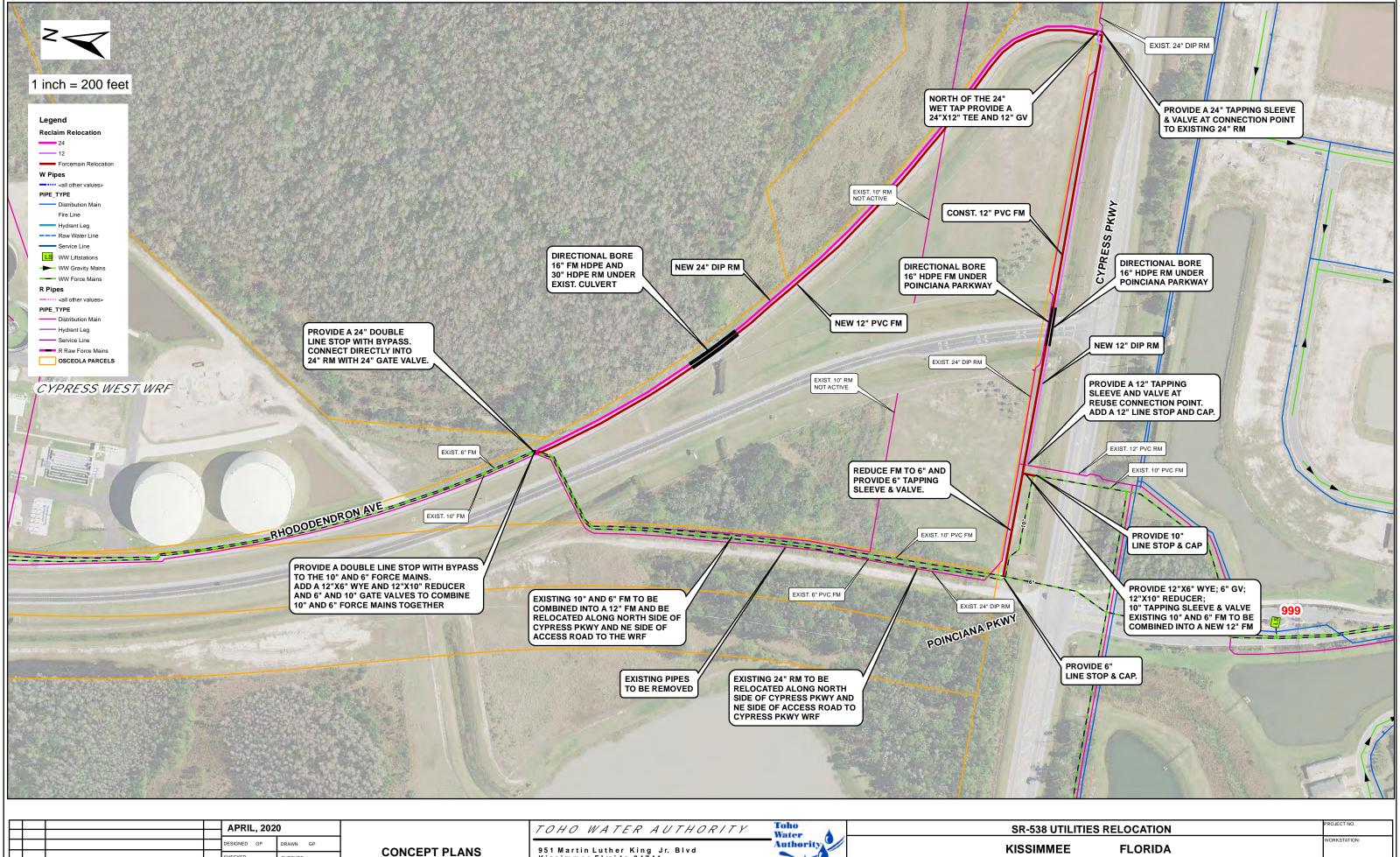
#### Prepared by:

#### TOHOPEKALIGA WATER AUTHORITY

951 Martin Luther King Blvd. Kissimmee, Florida 34741

#### **INDEX OF DRAWINGS**

1 OF 3	COVER SHEE
2 OF 3	PLAN
3 OF 3	DETAILS

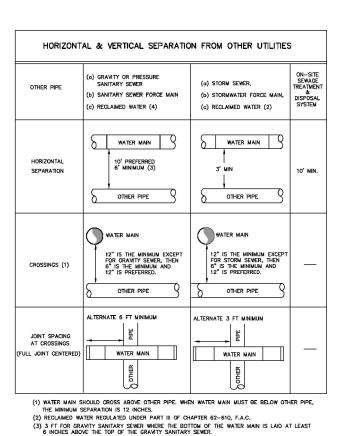


					APRIL, 202	n
					Ai KiL, 202	
					DESIGNED GP	DRAWN GP
ĺ					CHECKED	CHECKED
						***************************************
	NO	DATE	BEVISION	BV	SUPERVISED BY RO	BERT F. PELHAM, PE

951 Martin Luther King Jr. Blvd Kissimmee, Florida 34741 (407) - 944 - 5000



SR-538 UTILITIE	S RELOCATION	PROJECT NO.
KISSIMMEE	FLORIDA	WORKSTATION:
PLAN ANI	DETAILS	SHEET 2 OF 3



(4) RECLAIMED WATER NOT REGULATED UNDER PART III OF CHAPTER 62-610, F.A.C.

PIPING CLEARANCES

PLACE AND COMPACT COMMON FILL MATERIAL IN 12" LIFTS SHEETED , UNSHEETED 24" FINISH GRADE LOCATOR BALL. MAX DEPTH OF 4' FINAL BACKFILL-- SIDE SLOPE PER AS REQ'D OSHA REQUIREMENTS WARNING TAPE (SEE NOTES) SECONDARY ZONE -LOCATOR WIRE (SEE NOTE 4) SPRINGLINE OF PIPE EXCAVATION LIMITS FOR DRY UNDISTURBED EARTH BEDDING PRIMARY ZONE-6" BEDDING-NORMAL EXCAVATION LIMIT FOR COMPACTED FILL BEDDING 4/3 OD+18" (36" MIN.) 4'MIN. FOR SHEETED

SEE SPECIFICATIONS FOR ADDITIONAL INFORMATION AND REQUIREMENTS.

#### NOTES:

- BEDDING SHALL BE No. 57 CRUSHED STONE, IF EARTH BEDDING IS YIELDING.
- 2. PRIMARY AND SECONDARY ZONES SHALL BE INDIVIDUALLY COMPACTED LAYERS OF CLEAN FILL.
- COMPACTION OF BACKFILL BENEATH STRUCTURES, PAVING AND PARKWAYS, SHALL BE 98% OF AASHTO T-180; ALL OTHER COMPACTION SHALL BE 95%, EXCEPT AS OTHERWISE REQUIRED BY PERMITTING AUTHORITY.
- 4. INSTALL CONTINUOUS 14 GAUGE INSULATED COPPER WIRE FOR ALL PIPE, EXCEPT GRANTY SEWERS. TERMINATE THESE LOCATOR WIRES AT TOP OF EACH VALVE PAD WITH 12" OF EXTRA WIRE. CONNECT SPLICED WIRES WITH WIRE NUTS AND SEAL IN WATER—TIGHT SILICONE FILLED JACKET.
- 5. PLACE APPROVED METALLIC PRINTED WARNING TAPE 12"-18" ABOVE PIPE.
- 6. SIDE SLOPE AND BENCH PER OSHA REQUIREMENTS.
- 7. PLACE SEWER LOCATOR BALLS PER TWA-05. DO DOT EXCEED 4' OF DEPTH.

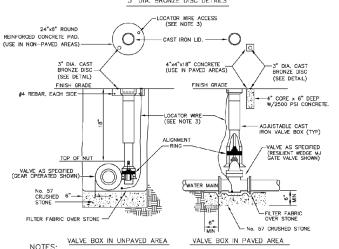
TYPICAL PIPE TRENCH SECTION

3" DIA. TOHO WATER AUTHORITY — TOHO WATER

— SERVICE TYPE

— VALVE SIZE

— VALVE TYPE 3" DIA. CAST BRONZE DISC. ANCHOR INTEGRALLY CAST OR DIRECTION & # OF 3" DIA. BRONZE DISC DETAILS



- 1. CRUSHED STONE BEDDING 6" MINIMUM BELOW VALVE TO BE COVERED WITH FILTER FABRIC.
  2. LOCATOR WIRE ACCESS IN UNPAVED AREA USE 2" SCH80 PVC, FEMALE ADAPTOR COUPLING AND 2" BRASS FLUG w/RCCESSED NUT. ITEMMINATE INSULATED, SOLID 14 GA. COPPER WIRES AT 170 Pw /12" OF EXTRA WIRE.

  IN PAVED AREA, TERMINATE SOLID 14 GA. COPPER WIRES INSIDE OF TOP PORTION OF VALVE BOX W/12" OF EXTRA WIRE.

  3. MAINTAIN A MINIMUM OF 3" CLEARANCE FREE OF ALL PLANTINGS & STRUCTURES AROUND VALVE BOX.
- PRIVATELY MAINTAINED WATER SYSTEMS SHALL HAVE "PRIVATE" STAMPED ON BRONZE ID DISC. FIRE LINE VALVES SHALL HAVE "FIRE LINE VALVE" STAMPED ON BRONZE DISC AND VALVE BOX COVER SHALL BE PANIED RED.
- OPERATING NUT TO BE BOLTED. SHEER PINS NOT ALLOWED.
- PVC PIPE OR DUCTILE IRON PIPE EXTENSIONS SHALL NOT BE USED ON VALVE BOX INSTALLATION.
- SCREW TYPE ADJUSTABLE VALVE BOX ONLY.

VALVE AND BOX DETAILS

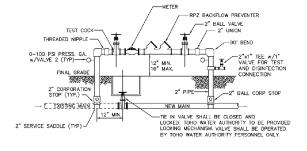
TUBING TO ODOR VENT UNDER STONE BED PRIVATE PROPERTY EASEMENT —ARV ENCLOSURE WATER PLUS CORPO∹ATION MODEL#131632 (GREEN) AIR RELEASE VALVE STAINLESS STEEL LOCATE WIRE
CONCRETE SLAB AROUND
ENCLOSURE 12"x12" -HNISHED GRADE FDOT #57 STONE -CORPORATION,

FOR NEW PIPE : SIZE PER SIZE TEE W/ TAPPED PLUG. (SEE TABLE BELOW TAP SIZE)

- PROVIDE ANGLE STOP FOR REMOTE ARV. PIPING.
  PROVIDE STAINLESS STEEL PIPE WITH STAINLESS STEEL VALVES,
  STOPS NIPPLES, AND FITTINGS SIZED TO ARV INLET.
- 3. No. 57 CRUSHED STONE BEDDING TO BE COVERED WITH FILTER FABRIC
- THE ENCLOSURE VENTS MUST BE CAPABLE OF ALLOWING AT LEAST THE SAME AVOUNT OF AIRFLOW AS THE VALVE.
- OFFSET DISTANCE TO BE FIELD DETERMINED AND AS CLOSE TO THE RIGHT OF WAY AS POSSIBLE AND CLEAR OF PEDESTRIAN WALKWAYS. IF PIPE IS ALRIGHED WAY LINE, ND OFFSET IS REQUIRED.
- ABOVE DETAIL APPLIES TO A 2" ARV. FOR LARGER ARVS, PIPE DIAMETER AND VALVES SHALL BE EQUAL TO THE SIZE OF THE ARV.

MAIN DIAMETER 12" AND UNDER 18"

AIR RELEASE VALVE ABOVE GROUND OFFSET PIPE LAYOUT-SEWER ONLY



#### NOTES

- . A TEMPORARY JUMPER CONNECTION IS REQUIRED AT ALL CONNECTIONS BETWEEN EXISTING ACTIVE WATER MAINS AND PROPOSED NEW WATER MAIN IMPROVEMENTS.
- MAINS AND PROPOSED NEW WATER MAIN IMPROVEMENTS.

  THE DETAIL FORM IS TO BE USED FOR FILLIOR NIN YEW WATER MAIN OF ANY SIZE FROM EXISTING ACTIVE WATER MAINS AND FOR FULSHING OF NEW MAINS UP TO B' DIAMETER (2.5 FPS) MIL VELOCITY AND FOR PULLING BACHEROLOGICAL SAMPLES FROM ANY NEW WATER MAIN OF ANY SIZE. THE JUMPER COMNICTION SHALL BE MAINTAINED UNTIL AFTER FILLIOR, FLUSHING, TESTING AND DISINFECTION OF THE NEW MAIN HAS BEEN SUCCESSFULLY COMPLETED AND CLEARANCE FOR USE FROM FILORIDO EXPANIBLY OF ENVIRONMENTAL PROTECTION (FEP) AND OTHER PERTINENT ACENCES HAS BEEN RECEIVED, PIEW AND FITTING SUDJECTION OF THE MEN HAS PROTECTION OF THE AND FITTING SUDJECTION OF THE MEN HAS PROTECTION OF THE AND FITTING SUDJECTION OF THE MEN HAS PROTECTION OF THE EXPENDING PARKS HAVE BEEN RECEIVED, PIEW AND THIS MAIN FOR THE EXTENSIVE PROVINCE OF THE MAIN TO BE TAPPED AND THE TAPPING SADULE WITH 1% HYPOCHLORITE SOLUTION.
- THE CONTRACTOR SHALL EITHER PROVIDE DOCUMENTATION DEMONSTRATING THAT RPZ BACKFLOW PREVENTION DEVICE HAS BEEN TESTED AND IS IN GOOD WORKING ORDER AT TIME OF INSTALLATION.
- ALL INSTALLATION AND MAINTENANCE OF THE TEMPORARY JUMPER CONNECTION AND ASSOCIATED BACKFLOW PREVENTIONS DEVICE, FITTINGS AND VALVES, ETC., SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
- 5. ABANDONED JUMPER CONNECTION POINTS MUST BE INCLUDED IN THE RECORD DRAWINGS.

TEMPORARY JUMPER CONNECTION

SEE DETAIL TWA-20 CROSS PLUGGED END SEE DETAIL SEE DETAIL TEE TEE AND VALVE SEE DETAIL TWA-20 ∠PLUGGED END IN-LINE VALVE DEAD END WITH OR WITHOUT BLOW-OFF

#### NOTES:

- MECHANICAL PIPE RESTRAINING SYSTEMS SHALL BE PROVIDED AS STANDARD. THRUST BLOCKING IS NOT SUITABLE EXCEPT AS SPECIFICALLY ALLOWED. WHERE PVCP IS USED PROVIDE PVC/MJ RESTRAINER UNIFLANGE SERIES 1300; EBAA IRON OF EQUAL.
- 2. ALL MECHANICAL JOINTS AT FITTINGS AND VALVES SHALL BE RESTRAINED
- 3. RESTRAIN THROUGH VALVES.

THRUST RESTRAINT DETAILS

USE THIS THRUST RESTRAINT TABLE FOR THESE TRENCH CONDITIONS:

- -- MIN. 50% SOIL RETAINED ON No. 200 SIEVE.
- -- MIN. 95% COMPACTION, AASHTO T-180. -- MIN. 3' OF COVER.
- NUMBER OF FULL LENGTH RESTRAINED PIPE SECTIONS REQUIRED AT ALL FITTINGS AND VALVE JOINTS

		BENDS																
SIZE	9(	o•	45	5*	22-	1/2°	11-	1/4°	VER1		DEAL	END	CROS	S OR VE	RU	JN TE	E BRA	NCH
IN.	100 psi	150 psi																
4	1	1	1	1	1	1	1	1	1	1	2	2	1	1	1	1	2	2
6	1	2	1	1	1	1	1	1	1	2	2	3	1	1	1	1	2	2
8	1	2	1	1	1	1	1	1	2	2	2	4	1	1	1	1	2	2
10	2	2	1	1	1	1	- 1	1	2	2	3	4	1	1	1	1	2	2
12	2	2	1	1	1	1	1	1	2	3	3	5	1	1	1	1	2	2
14	2	3	1	1	1	1	1	1	2	3	4	6	1	1	1	1	2	2
16	2	3	1	1	1	1	1	1	2	3	4	6	1	1	1	2	2	3
18	2	3	1	2	1	1	1	1	3	4	5	7	1	1	1	2	2	3
20	2	3	1	2	1	1	1	1	3	4	5	8	1	1	1	2	2	4
24	3	4	1	2	1	1	1	1	3	4	6	9	1	1	1	3	2	5
30	3	4	2	2	1	1	1	1	4	5	7	10	1	1	2	4	3	7

MHERE CONDITIONS VARY FROM THOSE STATED ABOVE, HAVE A FLORIDA REGISTERED PROFESSIONAL ENGINEER DETERMINE THE REQUIRED RESTRAINED LENGTH OF PIPING.

- WATER MAIN AND REUSE MAIN TEST PRESSURE 150 psi MINIMUM
- . SANITARY FORCE MAIN PRESSURE PIPE 100 psi MINIMUM. RESTRAIN THROUGH VALVING.
- ALL FITTINGS AND VALVES SHALL BE RESTRAINED AT LEAST ONE (1) FULL LENGTH OF PIPE IN ALL DIRECTIONS.
- 5. PRESSURE CONNECTIONS SHALL BE TREATED AS A TEE.

NOTE: THIS TABLE INCLUDES A 1.5 SAFETY FACTOR ABOVE THE LISTED TEST PRESSURES.

RESTRAINED JOINT TABLE

				APRIL, 2020			
				711 1112, 2020			
				DESIGNED GP	DRAWN GP		
				CHECKED	CHECKED		
					********		
NO.	DATE	REVISION	BY	SUPERVISED BY RO	BERT F. PELHAM, PE		

**CONCEPT PLANS** 

TOHO WATER AUTHORITY

Kissimmee, Florida 34741 (407) - 944 - 5000



**SR-538 UTILITIES RELOCATION** 

**KISSIMMEE FLORIDA DETAILS** 

SHEET 3 OF 3

ROJECT NO.

#### INTERLOCAL AGREEMENT REGARDING RELOCATION OF UTILITIES ALONG SR 538

THIS INTERLOCAL AGREEMENT REGARDING RELOCATION OF UTILITIES ALONG STATE ROAD ("SR") 538 ("Agreement"), effective as of the last date of execution ("Effective Date"), is entered into by and between TOHOPEKALIGA WATER AUTHORITY, an independent special district, established and created pursuant to Chapter 189, Florida Statutes, by special act of the Florida Legislature, whose address is 941 Martin Luther King Boulevard, Kissimmee, Florida 34741 ("TWA") and CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and corporate, and an agency of the state, under the laws of the State of Florida, whose address is 4974 ORL Tower Road, Orlando, Florida 32801-4414 ("CFX") (each, a "Party and, collectively, the "Parties").

#### **RECITALS**

WHEREAS, CFX was created pursuant to Part III, Chapter 348, Florida Statutes ("CFX Act") to, among other things, construct, improve, maintain and operate a limited access toll road known as the Central Florida Expressway System, and was granted all powers necessary and convenient to conduct its business, including the power to contract with other public agencies; and

WHEREAS, TWA was created by special act of the Florida Legislature, Chapter 2003-368, Laws of Florida (the "TWA Act") to, among other things, carry out the provision of potable and nonpotable water and wastewater services and facilities in areas of Osceola County and adjacent areas Florida, and was granted all powers necessary and convenient to conduct business, including the power to contract with other public agencies; and

WHEREAS, Section 163.01, Florida Statutes, authorizes the Parties to enter into an interlocal agreement; and

WHEREAS, TWA is the owner of two existing wastewater force mains ("Existing FM") and one existing reclaimed water main ("Existing RWM") crossing SR 538, constructed in 2002 and modified in 2016 by the original construction of SR 538 (F/K/A Poinciana Parkway) by CFX's predecessor-in-interest, the Osceola Expressway Authority; and

WHEREAS, CFX intends to construct a four-lane divided roadway along the existing SR 538 alignment and improve the interchange of SR 538 and Cypress Parkway to accommodate the future eastern extension of SR 538 ("SR 538 Project"), necessitating the decommissioning, removal, relocation and replacement of TWA's Existing FM and Existing RWM, from approximately SR 538 Station 867+00.00 to Station 884+40.00 along the existing TWA access driveway, all as part of CFX Project 538-165 and more particularly depicted on **Exhibit "A"** attached hereto and incorporated herein by reference ("Project"); and

WHEREAS, CFX intends to procure the firm responsible for the design and construction of the SR 538 Project ("Design Build Firm") through a design-build request for proposal in accordance with the requirements of Section 287.055, Florida Statutes; and

WHEREAS, the Design Build Firm will be responsible for the design, permitting and construction of the Project, on behalf of TWA, during the design, permitting and construction of the SR 538 Project in accordance with the terms and conditions hereof, provided; however, the Project will not include the replacement of any of TWA's existing force main or reclaimed water main beyond the Project limits set forth in Exhibit "A" attached hereto; and

WHEREAS, in order capitalize on the economic efficiencies of design, permitting and constructing the Project during the design, permitting and construction of the SR 538 Project, CFX and TWA desire to enter into this Agreement to set forth the terms and conditions for decommissioning the Existing FM and Existing RWM (collectively, "Existing Lines") and constructing the relocation and replacement wastewater force mains and the replacement reclaimed water main ("Replacement FM" and "Replacement RWM"), and the connection thereto, to accommodate the improvements related to the SR 538 Project.

**NOW, THEREFORE,** in consideration of the mutual covenants and promises set forth in this Agreement, the Parties agree as follows:

- 1. Recitals. The above recitations are true and correct and are incorporated herein as fully as if set forth hereafter.
- 2. <u>Project Managers.</u> Each of the Parties shall designate an authorized representative to oversee and manage the planning, design, construction and development of the Project (individually, the "Project Manager," collectively, the "Project Managers"). TWA hereby designates Edwin Matos, PE, as its Project Manager (the "TWA PM"). CFX hereby designates Will Hawthorne as its Project Manager (the "CFX PM"). Either of the Parties may elect to substitute their respective Project Manager by notice to the other Party in accordance with Section 21 hereof.

#### 3. Planning and Design Process.

- a. <u>Conceptual Plan.</u> On April 14, 2020, TWA delivered to CFX's representative a Conceptual Plan, as hereinafter defined, along with specifications and other criteria for the design of the Project for CFX to incorporate into the advertisement for a request for proposals for the Design Build Firm ("RFP"). The "Conceptual Plan" shall refer to the conceptual design plan, specifications and criteria reasonably necessary for the Design Build Firm to develop engineered construction plans, specifications, drawings or amendments thereto, and any other documentation reasonably required to specify the size, character and design of the improvements required for the construction of the Project ("Construction Plans").
- b. <u>Selection of Design Build Firm.</u> Upon receipt of the Conceptual Plan, CFX will issue a RFP for procurement of the Design Build Firm responsible for the design, permitting and construction of the SR 538 Project, which RFP shall include the Project. CFX shall select and procure the Design Build Firm in accordance with CFX's procurement process and Section 287.055, Florida Statutes. CFX reserves the right to replace or substitute the Design Building Firm at any time with the approval of TWA, which approval shall not be unreasonably i. delayed, ii. conditioned, or iii. withheld. Subject to the provisions hereof, the Design Build Firm shall use a professional engineering firm ("Design Consultant") to design and permit, if necessary, the Project.
- c. <u>Design and Construction Plans</u>. CFX, through the Design Consultant, shall prepare the Construction Plans required by CFX for the design and construction of the Project. The

Construction Plans shall be the property of CFX, but will be irrevocably licensed by CFX for the use of TWA in perpetuity, subject to the reimbursement provisions set forth below. The Construction Plans shall be signed and sealed by the Design Consultant and certified for use and reliance by TWA.

d. Review of Construction Plans. TWA, through the TWA PM, shall have the right to review and approve the Construction Plans related to the Project during the design and development of the Project (collectively, "Design Review"), which approval shall not be unreasonably i. conditioned, ii. withheld, or iii. delayed. CFX shall coordinate with the TWA PM to provide TWA with a complete set of the Construction Plans for the Project necessary for TWA PM to determine, in its reasonable discretion, if the Project meets the intent of the RFP and the Conceptual Plans of TWA. No later than twenty days following TWA PM's review of the Construction Plans, the TWA PM shall notify CFX of any revisions, corrections, value engineering, upgrades or enhancements to the Project as depicted in the Construction Plans as may be reasonably required or desired by TWA.

CFX and TWA understand and acknowledge that the Construction Plans will include portions of the SR 538 Project not otherwise included in the Project, and as such, TWA, acting through its TWA PM, shall only have the right to approve, or deny approval of, those portions of the Construction Plans related to the Project. Any denial of approval by TWA shall be in accordance with the notice provision set forth herein and shall set forth with reasonable specificity the specific elements that are not approved, and shall specify what changes are reasonably necessary in order for approval to be obtained. Notwithstanding the foregoing, TWA's right to inspect the Project as set forth herein shall be separate and distinct from any permitting and inspection requirements otherwise required hereunder.

- 4. **Applicable Permits and Approvals**. Prior to any obligation by CFX to commence construction of the Project, TWA shall obtain a utility permit or any other permit reasonably required by CFX for construction of third-party utilities within the limited access right-of-way of SR 538.
- 5. **Design and Construction Schedule.** The timeline to design and construct the SR 538 Project is currently estimated to be 36 months as more particularly outlined in **Exhibit "B"** attached hereto and incorporated herein by reference ("Preliminary Construction Schedule"). TWA acknowledges and understands that the Preliminary Construction Schedule is an estimate for reference only, and in no event shall CFX be liable or responsible if the timing of the Project differs from the estimates set forth in the Preliminary Construction Schedule.

#### Design and Construction Budgets.

a. <u>Estimated Construction Budget</u>. The cost to design and construct the Project is currently estimated to be \$1,600,000 as more particularly outlined in **Exhibit "C"** attached hereto and incorporated herein by reference ("Estimated Construction Budget"). TWA shall not be liable or responsible for costs related to the design, permitting, and construction that exceed \$1,758,600 (which represents the Estimated Construction Budget plus a reasonable contingency of 10% of the Estimated Construction Cost [the "Project Not-To-Exceed Amount"), without formal amendment to this Agreement. The TWA Executive Director must approve the expenditure of any contingency related to the Project.

#### Construction Budget.

i. <u>Preparation of Construction Budget</u>. After completion and approval of the Construction Plans, CFX shall cause the Design Build Firm, with input from the Design

Consultant and receipt of the lowest bids from the subcontractors, to develop the Construction Budget, which shall consist of (a) a line item budget for the out-of-pocket hard and soft costs incurred by CFX associated with the design, permitting, engineering, development and construction of the Project, including, without limitation, the design, permitting, engineering and construction costs, reimbursable expenses, construction administration or general contractor fees, general expenses or general requirements incurred by CFX to construct the Project in accordance with the design build agreement executed by CFX, as may be amended from time to time ("Design and Construction Costs"), (b) any and all costs associated with the decommissioning, closure and removal of the Existing Lines; (c) the construction contingency in the amount of ten percent of the total Design and Construction Costs ("Construction Contingency"), and (d) the construction, engineering, and inspection consultant's fee in the amount of six percent of the Design and Construction Costs plus the Construction Contingency ("CEI Fee"). The Design and Construction Costs, Construction Contingency, and CEI Fee shall be collectively referred to herein as the "Total Project Costs." CFX may, in its sole and absolute discretion, cause the Construction Budget to be prepared by the Design Build Firm for the entirety of the SR 538 Project and in such event, the Construction Budget shall specifically identify and segregate the Total Project Costs attributable to the Project. If the Construction Budget related to the Total Project Costs attributable to the Project (also referred to as the "Project Construction Budget") exceeds the Project Not-To-Exceed Amount, then a formal amendment to this Agreement is required.

- ii. Review of Construction Budget. Upon receipt of the Construction Budget, CFX shall provide to TWA a copy of the Construction Budget for review and approval which shall outline the Total Project Costs attributable to the Project to be paid by TWA ("TWA's Share"). TWA shall have ten business days from receipt of the Construction Budget to provide notice to CFX of TWA's intent to approve or deny the Project Construction Budget if the Project Construction Budget is equal to or less than the Project Not-to-Exceed Amount, which approval shall not be unreasonably i. withheld, ii. conditioned, or iii. delayed. If the Project Construction Budget exceeds the Project Not-To-Exceed Amount, then TWA shall provide notice to CFX of TWA's intent to approve or deny the Project Construction Budget within 45 days from receipt of the Construction Budget. Failure to approve or deny the Project Construction Budget within the required time period shall constitute a rejection of the Construction Budget.
- iii. <u>Acceptance of the Construction Budget</u>. TWA's acceptance of the Construction Budget shall constitute TWA's agreement to pay one hundred percent (100%) of the Total Project Costs, subject to any Change Orders (hereinafter defined) in accordance with the Florida Prompt Payment Act, Part VII of Chapter 218, Florida Statutes (2019) ("Payment Period"). TWA agrees and acknowledges that the Total Project Costs shall be invoiced by the Design Build Firm on a monthly basis based on the work in place and as such, TWA shall be prepared to submit payments of TWA's Share within said Payment Period.
- iv. <u>Rejection of the Construction Budget</u>. In the event TWA denies approval of the Construction Budget, TWA shall provide notice to CFX of such denial and shall outline with reasonable specificity the reason or deficiency for such rejection ("Rejection Notice"). Within ten business days of the Rejection Notice, CFX may, in its sole and absolute discretion, elect to cure any issue or deficiencies outlined in the Rejection Notice by providing TWA notice of such election ("Cure Notice"). In the event CFX fails to issue a Cure Notice, TWA and CFX agree that TWA shall, at its sole cost and expense, design, permit and construct, or cause to be designed, permitted and constructed, the Project no later than one hundred eighty days from the Rejection Notice, subject to the requirements of, and rights of CFX pursuant to, Section 7.c. hereof. In the event TWA rejects the Construction Budget, CFX shall be relieved of any and all obligations hereunder to design, permit or construct the

Project, and TWA shall otherwise reimburse CFX for any and all costs incurred by CFX associated with the design, engineering, and permitting of the Project within thirty (30) days of the Rejection Notice ("Reimbursement Costs"). Failure to pay the Reimbursement Costs outlined herein shall constitute a default under this Agreement.

#### Construction of the Project.

- a. <u>Commencement and Administration of Construction</u>. CFX, through the Design Build Firm, shall use its best efforts to commence construction of the SR 538 Project within one hundred twenty days of approval of the Construction Budget by TWA. Once construction has commenced on the SR 538 Project, CFX shall cause the Design Build Firm to diligently and in good faith proceed with the construction of the SR 538 Project in general accordance with the Preliminary Construction Schedule, subject to (i) any revision prior to the commencement of construction, (ii) any revisions during the pendency of construction if in an agreed upon Change Order, and (iii) Force Majeure (defined below). CFX and TWA agree and acknowledge that CFX shall have the right to direct the Design Build Firm and the construction of the SR 538 Project and the Project; provided, however, such construction directives shall comply with the Construction Plans, as approved by CFX and TWA.
- b. Conformance with Construction Plans and Change Orders. The construction of the Project shall be in substantial conformance with the Construction Plans. During the course of the work on the Project, if either CFX or TWA observes, or otherwise become aware of, any defects, conflicts, or necessary changes to the Project that requires a change to the Construction Plans as they existed as of the date of issuance of the notice to proceed ("Change Order"), that Party shall immediately notify the other Party of such Change Order. To the extent feasible, the Change Order shall include any and all costs and expenses associated with the Change Order and the impact on TWA's Share ("Change Order Costs") and any time extensions required to complete the work outlined in the Change Order ("Time Extensions"). TWA and CFX agree that time is of the essence in making any decisions or interpretations as to any Change Orders with respect to design, materials, and other matters pertinent to the Project covered by the construction contract so as to not materially delay the work of the Design Build Firm and the completion of the SR 538 Project. The Design Build Firm, not TWA, shall be responsible for any costs associated with Change Orders required due to design defects or issues resulting from deviations from the TWA-provided Conceptual Plans or TWA standards and specifications relating to the construction of wastewater force main and reclaimed water main.
- i. Approval of Change Order by CFX. In the event CFX determines that a Change Order is necessary for the Project, CFX shall provide notice to the TWA PM detailing the content and extent of the Change Order. Any Change Order that directly or indirectly affects the Project shall be subject to the review and approval of the TWA PM and shall be approved or denied within ten business days of receipt by the TWA PM. Change Orders that directly or indirectly affect the Project and require the expenditure of Construction Contingency require the approval of the TWA Executive Director and shall be approved or denied within ten business days by TWA. In the event the cumulative Change Order Costs exceed the Construction Contingency, the Change Order and the Change Order Cost shall be subject to amendment of this Agreement. Change Orders affecting the SR 538 Project but not affecting the Project shall not require TWA's approval. Unless the Change Order Costs exceed the Construction Contingency or unless otherwise agreed upon by the Parties, any Change Order Costs approved by TWA shall be deducted from the Construction Contingency.
- ii. <u>Approval of Change Order by TWA</u>. In the event TWA determines that a Change Order is necessary for the Project, TWA shall provide notice to the CFX PM detailing the

content and extent of the Change Order. Within ten business days of receipt of notice of the Change Order, CFX PM shall review the Change Order and provide notice of its approval or disapproval of the Change Order, which approval shall not be unreasonably i. withheld, ii. conditioned or iii. delayed. Unless the Change Order Costs exceed the Construction Contingency or unless otherwise agreed upon by the Parties, any Change Order Costs approved by TWA shall be deducted from the Construction Contingency. Any Change Order Cost that relates to the Project, in whole or in part, that exceeds or causes the exceedance of the Project Not-To-Exceed Amount must be approved by amendment to this Agreement.

Change Directive. In the event (a) TWA denies a Change Order where iii. the cumulative Change Order Costs exceed the Construction Contingency, and (b) such denial would otherwise impact the critical schedule for completion of the SR 538 Project, CFX may, in its sole and absolute discretion, elect to direct the Design Build Firm to proceed with any Change Order reasonably necessary to ensure the completion of the SR 538 Project in accordance with the Preliminary Construction Schedule incorporated into the Design Build Firm's agreement, subject to the resolution of the Change Order Costs in accordance with Section 7.b.iv below. The Change Order will be processed by CFX with the Design Build Firm as a directive and at CFX's sole risk until the Change Order Costs can be resolved. Notwithstanding the foregoing, in the event TWA fails to agree to any Change Order Costs in excess of the Construction Contingency related to the Project, CFX, reserves the right to cease construction of the Project until such time as TWA, CFX, the Committee (hereinafter defined), and Design Build Firm reach a resolution on the costs in excess of the Construction Contingency. In no event shall CFX be responsible for completing the Project, or incur any costs related to the design, permitting or construction of the Project, in the event TWA fails to pay any Change Order Costs above the Construction Contingency.

iv. <u>Committee</u>. In the event TWA is not in agreement any Change Order, the Parties agree and understand that the Change Order Costs shall be heard and resolved by a committee ("Committee") composed of CFX's Chief of Infrastructure or his designee, the TWA Executive Director or his designee, and a third member selected by the other two. The Parties agree to be bound by the final determination of the Committee as to whether the Change Order Costs shall be paid and the Party responsible for paying such Change Order Costs. Such Committee shall make a good faith effort to resolve any such issues as expeditiously as possible and any such issues shall be resolved within three business days from the time the Committee first considers it, unless a majority of the Committee consisting of two-thirds (2/3) of the members agrees otherwise.

In the event the Committee denies a Change Order or the Change Order Costs, then CFX shall have the right to reject the Change Order, discontinue the construction work on the Project or otherwise take any and all action reasonably necessary to mitigate additional costs to CFX related to the Change Order and the Project, and TWA shall, at its sole cost and expense, assume the responsibility for completing the construction of the Project in accordance with, and subject to the requirements of, Section 7.c. hereof. In the event of such denial of the Change Order, TWA shall remain liable for any and all Total Project Costs incurred by CFX up to and including the date of the denial of the Change Order by TWA.

v. <u>Emergency Change Orders</u>. In the event a situation arises that constitutes an emergency or threat to the health, safety and welfare of the general public, CFX, TWA, or the Design Build Firm or any of their agents, employees, contractors, invitees, users, guests or consultants, CFX will have the authority to execute any Change Order or change directive reasonably necessary to cure said emergency or threat without the prior consent of TWA, provided; however, CFX

shall provide such notice and opportunity for TWA to consent to such Change Order as soon as reasonably possible thereafter. In the event of such emergency or threat to public health, safety or welfare, CFX may elect, in its reasonable discretion, to use the TWA's Construction Contingency provided for in the Total Project Costs.

- vi. <u>Dispute with Design Build Firm</u>. In the event there is a dispute between the Design Build Firm and CFX, pertaining to an issue relating to Project, TWA shall have the right to attend any dispute resolution proceeding and provide input to the CFX PM. TWA shall be responsible for payment resolutions or liability arising from the Design Build Firm's or subcontractor's disputes or delay claims arising or resulting from design, engineering, permitting, development or construction of the Project as a result of the Design Build Firm's proper use and reliance on the Conceptual Plan and other information provided by TWA for the purpose of the design or construction of the Project, or any claims resulting from activities or representations of TWA, or TWA PM, if such claims are payable pursuant to a final order as a result of arbitration, a judicial proceeding, or other binding dispute resolution proceeding, provided that TWA was made a party to any dispute resolution proceeding.
- c. Construction by TWA. In the event of a Change Order is denied, TWA shall, at its sole cost and expense, assume the responsibility of completing the design, permitting and construction of the Project within the earlier of (a) one hundred eighty (180) days from the denial of the Change Order; or (b) eighteen (18) months from the issuance of a notice to proceed with construction for the SR 538 Project ("Project Deadline"). TWA shall take any and all action reasonably necessary to commence the construction of the Project within 120 days from the date of the denial of the Change Order. In the event TWA either fails to commence the design, permitting and construction of the Project in accordance with this Section, fails to continuously prosecute the performance of the same to completion with due diligence, or fails to complete the construction of the Project by the Project Deadline, CFX may, upon thirty (30) days prior notice and opportunity to cure to TWA, elect, at CFX's sole and absolute discretion, to terminate TWA's utility permit and otherwise complete construction of the Project, at the sole cost and expense of TWA, which costs and expenses may include, without limitation, any and all acceleration or Change Order costs reasonably required to complete the construction of the Project by the Project Deadline.

#### 8. Completion of Construction.

- a. Final Project Costs. Upon completion of the Project, CFX shall provide to TWA a written statement ("Final Invoice") setting forth and reconciling TWA's Share of the actual out-of-pocket hard and soft costs actually accrued by CFX associated with the design, permitting, engineering, development and construction of the Project, including, without limitation, the design, permitting, engineering and construction costs, the decommissioning, closure and removal of the Existing Lines, reimbursable expenses, construction administration or general contractor fees, general expenses or general requirements incurred by CFX to construct the Project in accordance with the design build agreement executed by CFX, as may be amended from time to time, any Change Order approved by TWA, the use of the Construction Contingency, and the CEI Fee (collectively, "TWA's Final Construction Cost"). TWA shall pay TWA's Final Construction Cost to CFX in accordance with the Florida Prompt Payment Act.
- b. <u>Additional Project Costs</u>. In the event TWA's Final Construction Cost reflected on the Final Invoice exceeds the Total Project Costs ("Additional Costs"), CFX shall provide such additional written documentation reasonably requested by TWA to review, approve and fund the Additional Costs, which approval shall not be unreasonably i. withheld, ii. conditioned or iii. delayed.

TWA shall have ten business days thereafter to make objection to TWA's Final Construction Cost and the Additional Costs by notifying CFX of any such objection. TWA shall pay CFX an amount equal to TWA's Final Construction Cost in accordance with the Florida Prompt Payment Act. In the event TWA fails to pay an invoice for the TWA's Final Construction Cost or the Additional Costs in accordance with the Florida Prompt Payment Act, CFX shall have the right to exercise any and all rights in law or equity.

- 9. **Dispute Resolution.** In the event a dispute arises between TWA and CFX related to any approvals required hereunder related to the Project Construction Budget or any Change Order, Change Order Costs or as to the interpretation, performance or enforcement of this Agreement, the Parties agree and understand that CFX's Chief of Infrastructure or his designee, and the TWA Executive Director or his designee, and each of their respective legal counsel (collectively, "Dispute Resolution Committee"), shall convene to hear and resolve the dispute within three business days of the dispute arising, or receipt of any notice invoking this section. In the event CFX's Chief of Infrastructure or his designee, and the TWA Executive Director or his designee, are unable to reach a resolution within ten business days, the Parties will mutually agree upon a third-party cost estimator to assist in the resolution of the dispute, who shall be deemed a member of the Dispute Resolution Committee. Any fees of the third-party cost estimator shall be borne equally by the Parties. The Parties agree to be bound by the final determination of the Dispute Resolution Committee. Such Dispute Resolution Committee shall make a good faith effort to resolve any such issues as expeditiously as possible and any such issues shall be resolved within three business days from the time the Dispute Resolution Committee first considers it, unless a majority of the Dispute Resolution Committee consisting of two-thirds (2/3) of the members agrees otherwise.
- 10. **Insurance; Bond.** CFX shall incorporate its standard insurance and Public Construction Bond requirements in the construction contract documents for the Project. The general liability insurance policy provided by the Design Build Firm shall name TWA and CFX as additional insureds. The Public Construction Bond shall remain in full force and effect until one year after substantial completion of the Project.

#### Inspections.

- a. <u>During Construction.</u> During construction, TWA shall have the right to inspect the Project on a regular basis and at all significant events. Any deficiencies in the Project observed by TWA shall be reported in writing to CFX PM and the construction, engineering, and inspection consultant ("CEI") within forty-eight hours. All such identified deficiencies in the construction of the Project shall be corrected or otherwise resolved by the Design Build Firm as mutually agreed upon by TWA, CFX and the CEI. TWA reserves the right to (i) have the TWA PM or another representative of TWA present for any activities related to the Project by CFX, the Design Build Firm, CEI, or its contractors, employees and agents; and (ii) impose reasonable restrictions and requirements, subject to CFX's approval, to protect the Existing Lines or any connections to TWA's wastewater system or reclaimed water system, which must be followed by CFX agents and employees while working on the Project.
- b. <u>Final Inspection.</u> Upon completion of the Project, CFX shall provide notice of such completion and final as-built plans to TWA ("Completion Notice"). Within thirty days after receipt by TWA of the Completion Notice, TWA and CFX shall jointly conduct a final inspection to ensure substantial compliance with the Construction Plans and any Change Orders and for acceptance into TWA's utility system. Any deficiencies in work shall be set forth on a "punch list." Upon completion or correction of all outstanding issues listed on the punch list to TWA's reasonable

satisfaction, TWA shall promptly notify CFX in writing of its acceptance of the Project. Upon acceptance of the Project, any and all Replacement FM and Replacement RWM shall be owned, operated and maintained by TWA, at its sole cost and expense, in accordance with the utility permit issued by CFX.

- Post Design Services. In the event the Design Build Firm is engaged to perform any post-design services attributable to the Project, including, without limitation, shop drawing review, plan revision, site visits or any other tasks or activities reasonably required for the performance, operation or maintenance of the Project (collectively, the "Post Design Services"), TWA shall be solely responsible for any costs or expenses related to such services. In such event, TWA shall have the right to review the Post Design Services, assist in the negotiations of, and approve, any costs or expenses associated with the Post Design Services. TWA shall pay to CFX the cost and expenses associated with Post Design Services in accordance with the Florida Prompt Payment Act. The cost of Post Design Services that exceeds \$25,000.00 must be approved by amendment to this Agreement.
- Ownership Interest. CFX will use its best efforts to present to the CFX Right-of-Way Committee at the August 2020 meeting of CFX Right-of-Way Committee for consideration an instrument mutually agreed upon by CFX and TWA, conveying to TWA either an easement interest or fee simple ownership interest in the real property upon which the Replacement FM and Replacement RWM will be located. If using its best efforts, CFX is unable to present the instrument mentioned herein to the CFX Right-of-Way Committee at its August 2020 meeting, then CFX shall present the instrument to the CFX Right-of-Way as soon as practicable thereafter but no later than the substantial completion date of the Project. TWA understands and acknowledges that CFX neither represents nor guarantees the approval of any such proposal by the CFX Right-of-Way Committee.
- General Provisions. No failure of either Party to exercise any power given hereunder 14. or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of either Party's right to demand exact compliance with the terms hereof. This Agreement contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon either Party unless such amendment is in writing and executed by TWA and CFX. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors. Nothing in this Agreement is intended to confer any rights, privileges, benefits, obligations or remedies upon any other person or entity except as expressly provided for herein. Whenever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday, or Legal Holiday, such time for performance shall be extended to the next business day. This Agreement may be executed in multiple counterparts, including by electronic or digital signatures, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph of this Agreement are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph. This Agreement shall be interpreted under the laws of the State of Florida. TWA and CFX acknowledge that this Agreement was prepared after substantial negotiations between the Parties and this Agreement shall not be interpreted against either Party solely because such Party or its counsel drafted the Agreement. The Parties agree that venue for any legal action authorized hereunder shall be exclusively in the courts of Ninth Judicial Circuit of Florida. Unless otherwise specified herein, any references to "days" shall refer to calendar days.

#### 15. Public Records Law.

- a. The Parties acknowledge that by virtue of this Agreement all of their respective documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If either Party will act on behalf of the other party, as provided under Section 119.011(2), Florida Statutes, acting party, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:
- i. Keep and maintain public records required by the other party to perform the service.
- ii. Upon request from the other party's custodian of public records, provide the other party 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 by Florida law.
- iii. 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 other party.
- iv. Upon completion of the Agreement and Project, transfer, at no cost, to the other Party all public records in possession of the acting Party or keep and maintain public records required by the other Party to perform the service. If the acting Party transfers all public records to the other party upon completion of the contract, the acting Party shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the acting Party keeps and maintains public records upon completion of the contract, the acting Party shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the other Party, upon request from the other Party's custodian of public records, in a format that is compatible with the information technology systems of the other party.
- v. If the acting Party does not comply with a public records request, the other party shall enforce the contract provisions in accordance with the Agreement.
- b. IF THE DESIGN BUILD FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DESIGN BUILD FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT, AS FOLLOWS:

As to TWA:
Records Retention
951 Martin Luther King Blvd.
Kissimmeee, Florida 34741
(407) 483-3822
publicrecordsrequests@tohowater.com

As to CFX:
Director of Records Management
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807
407-690-5366
PublicRecords@cfxway.com

- 16. <u>Time is of the essence</u>. Time is of the essence of this agreement and each and every provision hereof.
- 17. **Waiver of Jury Trial**. TWA AND CFX VOLUNTARILY WAIVE A TRIAL BY JURY IN ANY LITIGATION OR ACTION ARISING FROM THIS AGREEMENT.
- 18. <u>Design, Location and Funding Disclosure; Termination</u>. In accordance with Section 5.2.5 of CFX's Property Acquisition, Disposition and Permitting Procedures Manual, TWA acknowledges that: (i) the design and location of any contemplated or proposed roadway systems or access scenarios are not guaranteed unless otherwise specified therein; and (ii) this Agreement may be subject to funding by a CFX bond issue or other applicable sources. This Agreement terminates on the fifth anniversary of its Effective Date unless terminated earlier by mutual agreement of the Parties.
- 19. <u>Inspector General</u>. The Parties agree to comply with Section 20.055(5), Florida Statutes, and agree to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. The Parties agree to incorporate the obligation to comply with Section 20.055(5) in all subcontracts such Party enters into in connection with the Existing Lines or the Project contemplated herein.
- 20. **No Third-Party Benefits.** This Agreement is solely for the benefit of the Parties herein, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party that is not a party hereto.
- 21. **Formal Notice**. Any formal notice, consent, approval or rejection required or allowed in accordance with the terms of this Agreement shall be in writing and be deemed to be delivered (a) when hand delivered to the official hereinafter designated, (b) one (1) days after deposited with an overnight carrier; or (c) three (3) days from when such notice is deposited in the United States mail, postage prepaid, certified mail return receipt requested, addressed to a Party at the address set forth opposite the Party's name below, or at such other address as the Party shall have specified in written notice to the other Party in accordance herewith.

CFX: CENTRAL FLORIDA EXPRESSWAY AUTHORITY

4974 ORL Tower Road Orlando, Florida 32807 Attn: Executive Director

Copy to: CENTRAL FLORIDA EXPRESSWAY AUTHORITY

4974 ORL Tower Road Orlando, Florida 32807 Attn: Chief of Infrastructure Copy to:

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

4974 ORL Tower Road Orlando, Florida 32807 Attn: General Counsel

TWA:

TOHO WATER AUTHORITY

951 Martin Luther King Boulevard

Kissimmee, Florida 34741

Attention: Edwin Matos, Project Manager

Copy to:

TOHOPEKALIGA WATER AUTHORITY

951 Martin Luther King Boulevard

Kissimmee, Florida 34741 Attention: General Counsel

Other notices may be delivered by email to the CFX Director of Construction or his designee and TWA's designated representative or designee.

- 22. <u>Defaults and Remedies</u>. Each of the Parties hereto shall give the other Party notice of any alleged default hereunder and shall allow the defaulting Party thirty days from the date of receipt to cure such default, provided; however, that if the default is not reasonably capable of being cured with commercially reasonable efforts within thirty days, the Party shall have such longer time to cure such default as may be reasonably necessary, not to exceed one hundred twenty days ("Cure Period"). In the event either of the Parties fails to cure such non-performance or breach within the Cure Period, the other Party, in its sole discretion, shall be entitled to (a) exercise the right of specific performance with respect to such non-performance or breach; (b) pursue all other rights and remedies available to said Party; or (c) terminate this Agreement and upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect.
- 23. **Severability.** If any court finds part of this Agreement invalid or unenforceable, such invalidity or unenforceability shall not affect the other parts of the Agreement (a) if the rights and obligations of the Parties contained therein are not materially prejudiced and (b) if the intentions of the Parties can continue to be effective. To that end, this Agreement is declared severable.
- 24. **Sovereign Immunity**. Nothing herein is intended as a waiver of any Party's sovereign immunity under Section 768.28, Florida Statutes. 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.
- 25. **Force Majeure.** The time for the performance of the Parties' obligations under this Agreement, including without limitation CFX's performance of the design, permitting and construction requirements set forth herein, will be extended for a period of time equal to any period of delay experienced by CFX, or the number of days lost, due to any of the following ("Force Majeure"): strikes, civil riots or commotion, war, invasion, acts of terrorism, explosion, fire or other casualty, pandemic, sabotage, theft, vandalism, Acts of God, labor disputes, unavailability of labor or materials, hurricane, tropical storm, tornado, or other adverse weather conditions, act or failure to act of governmental authorities, act or failure to act of third-party utility service providers, or

other causes beyond the reasonable control of CFX.

[SIGNATURE PAGES TO FOLLOW]

**IN WITNESS WHEREOF** the Parties hereto have executed this Agreement on the day and year first above written.

(SEAL)

ATTEST:

Print Name: /

TOHOPEKALIGA WATER AUTHORITY

By:
Print Name: Tooo Sweet B.
Its:
Executive Diffector

[ADDITIONAL SIGNATURE PAGE TO FOLLOW]

Two Witnesses as to CFX:

"CFX"

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Brenda Carey, Chairman

Date: June 11, 2000

Regla ('Mini'') Lamaute Board Services Coordinator

By: 2 & 4

Diego "Woody" Rodriguez General Counsel

# CONCEPT PLANS FOR SR-538 UTILITIES RELOCATION



#### **APRIL, 2020**

Clarence Thacker

Domingo Sanchez

Jim Swann

Hector Lizasuain William "Bill" Land

Todd Swingle

Robert F. Pelham, P.E.

#### TELEPHONE LISTINGS

TOHOPEKALIGA WATER AUTHORITY	
CITY OF KISSIMMEE PUBLIC WORKS & ENGINEERING	
FLORIDA POWER CORPORATION	407-700-8744
SPRINT FLORIDA INC (EMBARQ)	407-814-5344
TECO/PEOPLE'S GAS.	407-425-4661
FLORIDA GAS TRANSMISSION	407-295-4341
TIME-WARNER CABLE (BRIGHTHOUSE)	407-532-8509
SUNSHINE STATE ONE-CALL OF FLORIDA (NO-CUTS)	800-432-4770



LOCATION MAP

Prepared by:

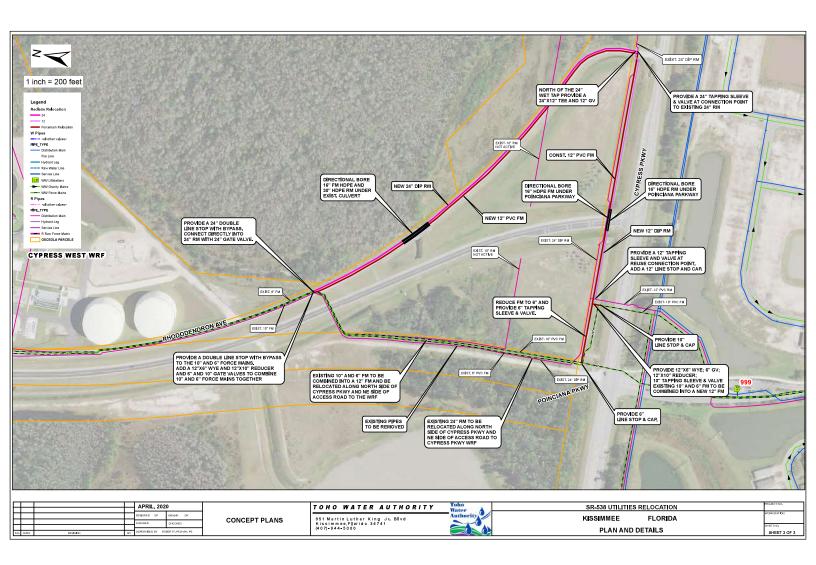
#### TOHOPEKALIGA WATER AUTHORITY

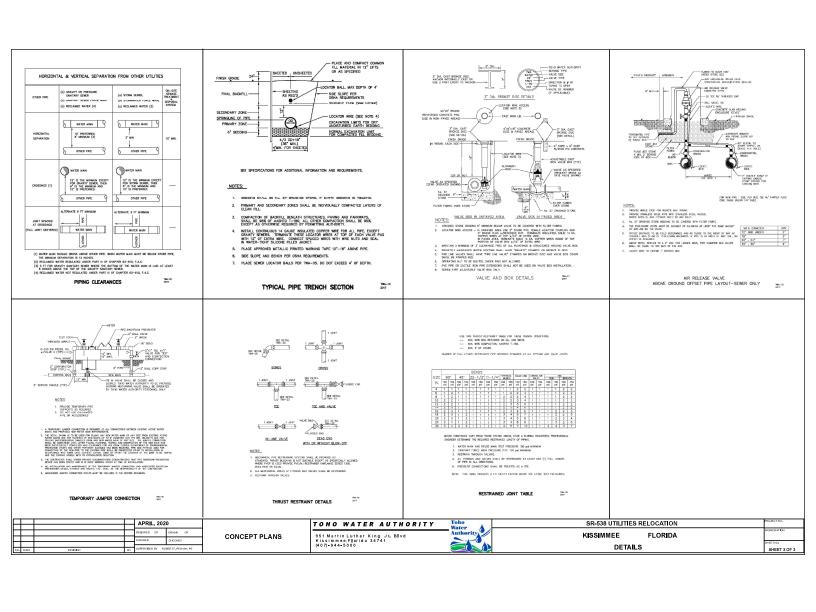
951 Martin Luther King Blvd. Kissimmee, Florida 34741

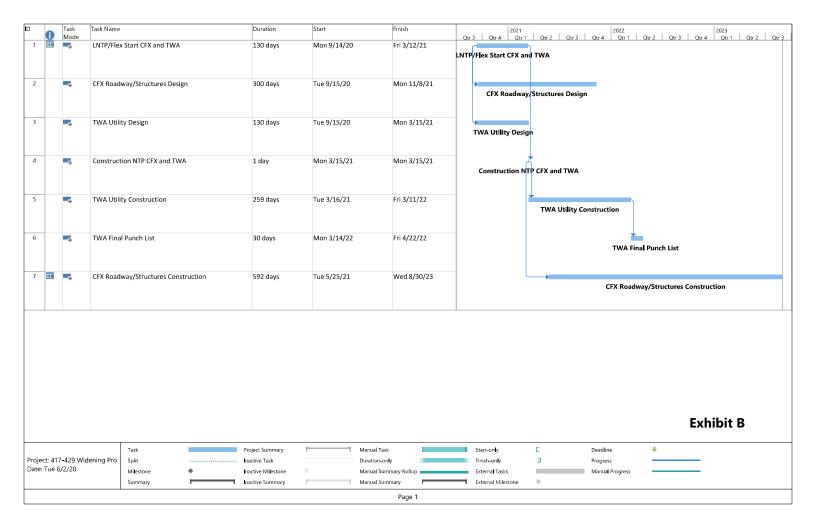
#### INDEX OF DRAWINGS

1 OF 3	COVER SHEET
2 OF 3	PLAN
3 OF 3	DETAILS

**Exhibit A** 







### \* EXHIBIT C - ESTIMATED CONSTRUCTION BUDGET \* INTERLOCAL AGREEMENT REGARDING RELOCATION OF UTILITIES ALONG SR 538

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL
					\$0.00
	1,200	LF	24" DIP RECLAIM WATER MAIN	\$150.00	\$180,000.00
	1,800	LF	12" PVC FORCE MAIN	\$55.00	\$99,000.00
	600	LF	30" HDPE RECLAIM WATER MAIN (DIRECTIONAL BORE)	\$500.00	\$300,000.00
	1,200	LF	16" HDPE FORCE MAIN (DIRECTIONAL BORE)	\$155.00	\$186,000.00
	600	LF	16" HDPE RECLAIM WATER MAIN (DIRECTIONAL BORE)	\$155.00	\$93,000.00
	700	LF	12" DIP RECLAIM WATER MAIN	\$55.00	\$38,500.00
	250	LF	6' PVC RECLAIM WATER MAIN	\$66.00	\$16,500.00
	1	EΑ	6" DOUBLE LINE STOP WITH BYPASS	\$6,000.00	\$6,000.00
	1	EΑ	10" DOUBLE LINE STOP WITH BYPASS	\$11,000.00	\$11,000.00
	1	EΑ	24" DOUBLE LINE STOP WITH BYPASS	\$25,000.00	\$25,000.00
	1	EΑ	6" LINE STOP AND CAP (FORCE MAIN)	\$4,000.00	\$4,000.00
	1	EΑ	12" LINE STOP AND CAP (RECLAIM WATER MAIN)	\$7,000.00	\$7,000.00
	1	EΑ	6" TAPPING SLEEVE AND VALVE (FORCE MAIN)	\$4,000.00	\$4,000.00
	1	EΑ	10" TAPPING SLEEVE AND VALVE (FORCE MAIN)	\$8,000.00	\$8,000.00
	1	EΑ	12" TAPPING SLEEVE AND VALVE (RECLAIMED WATER MAIN)	\$10,000.00	\$10,000.00
	1	EΑ	24" TAPPING SLEEVE AND VALVE (RECLAIMED WATER MAIN)	\$36,000.00	\$36,000.00
	1	EΑ	6" GATE VALVE (FORCE MAIN)	\$2,000.00	\$2,000.00
	1	EΑ	10" GATE VALVE (FORCE MAIN)	\$3,500,00	\$3,500,00
	1	EΑ	12" GATE VALVE (RECLAIM WATER MAIN)	\$4,500.00	\$4,500.00
	1	EΑ	24" GATE VALVE (RECLAIM WATER MAIN)	\$20,000.00	\$20,000.00
	2	EΑ	12" X 6" WYE (FORCE MAIN)	\$700.00	\$1,400.00
	2	EΑ	12" X 10" REDUCER (FORCE MAIN)	\$1,000.00	\$2,000.00
	1	EΑ	24" X 12" TEE (RECLAIM WATER MAIN)	\$10,000.00	\$10,000.00
	1,200	LF	6" EXISTING FORCE MAIN PIPE REMOVAL	\$12.00	\$14,400.00
	1,500	LF	10" EXISTING FORCE MAIN PIPE REMOVAL	\$12.00	\$18,000,00
	1,900	LF	10" EXISTING RECLAIM WATER MAIN PIPE REMOVAL	\$12.00	\$22,800.00
	2,500	_	24" EXISTING RECLAIM WATER MAIN PIPE REMOVAL	\$20.00	\$50,000.00
	1	LS	UTILITY DESIGN SERVICES	\$293,000.00	\$293,000.00
	1	LS	GENERAL REQUIREMENTS	\$129,000.00	\$129,000.00
	1		CONTINGENCY	\$164,000.00	\$164,000.00
				, ,	\$0.00
					\$0.00
					\$0.00
					\$0.00
					\$0.00
			TOTAL		\$1,758,600.00

### **Exhibit C**

## AGREEMENT FOR GRANT OF EASEMENT BETWEEN CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND TOHOPEKALIGA WATER AUTHORITY

THIS AGREEMENT FOR GRANT OF EASEMENT ("Agreement") is made and entered into on the last date of execution ("Effective Date") below by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 ("CFX") and TOHOPEKALIGA WATER AUTHORITY, an independent special district, established and created pursuant to Chapter 189, Florida Statutes, by special act of the Florida Legislature, whose address is 941 Martin Luther King Boulevard, Kissimmee, Florida 34741 ("TWA"). CFX and TWA are sometimes collectively referred to herein as the "Parties."

#### WITNESSETH:

WHEREAS, pursuant to Section 348.753, Florida Statutes, CFX is empowered to construct, improve, maintain, and operate the Central Florida Expressway System ("Expressway System") and, in connection therewith, to construct any extensions, additions or improvements to said system or appurtenant facilities, including all necessary approaches, roads, bridges, and avenues of access; and

WHEREAS, TWA was created by special act of the Florida Legislature, Chapter 2003-368, Laws of Florida (the "TWA Act") to, among other things, carry out the provision of potable and nonpotable water and wastewater services and facilities in areas of Osceola County and adjacent areas Florida, and was granted all powers necessary and convenient to conduct business, including the power to contract with other public agencies; and

**WHEREAS**, Section 163.01, Florida Statutes, authorizes both Parties to this Agreement to enter into interlocal agreements; and

WHEREAS, on or about June 11, 2020, the Parties entered into that certain Interlocal Agreement Regarding Relocation of Utilities Along State Road 538 ("Relocation Agreement") governing the decommissioning, relocation and replacement of an existing force mains and reclaimed water main (collectively, "Existing Lines") located within the right-of-way for State Road ("SR") 538; and

WHEREAS, pursuant to the terms of the Relocation Agreement, CFX is responsible for the decommissioning, removal, relocation, and replacement of the Existing Lines during the construction of the future eastern extension of SR 538 ("SR 538 Project"), subject to

reimbursement from TWA for one hundred percent of the costs associated with the decommissioning, relocation and replacement of the Existing Lines; and

**WHEREAS**, it is anticipated that the force mains and reclaimed line that will replace the Existing Lines (collectively, the "Replacement Lines") will be relocated outside of the right-of-way necessary for the SR 538 Project; and

**WHEREAS**, TWA was previously required to relocate the Existing Lines to their current location in 2016; and

WHEREAS, in order to avoid uncertainty in the future regarding the location of the Replacement Lines and any additional expenditure of public funds to decommission, remove, relocate and replace the Replacement Lines, TWA and CFX have agreed to locate the Replacement Lines from approximately SR 538 Station 867+00.00 to Station 884+40.00 along the existing TWA access driveway located in Osceola County, Florida as more particularly identified in Exhibit "A" attached hereto and incorporated herein by reference ("Easement Area"); and

WHEREAS, CFX acquired fee simple ownership of the Easement Area in the course of construction of SR 538; and

WHEREAS, the Parties desire to enter into this Agreement granting an easement interest of the Easement Area to TWA upon completion of the installation of the Replacement Lines in accordance with the Relocation Agreement and satisfaction of all Conditions Precedent (hereinafter defined); and

**WHEREAS**, the Parties also desire to define the future and continuing maintenance responsibilities for the easement interest and the access roadway located within the Easement Area.

**NOW, THEREFORE,** in consideration of the mutual covenants and promises set forth in this Agreement, the Parties agree as follows:

- 1. **Recitals**. The above recitations are true and correct and are incorporated herein as fully as if set forth hereafter.
- 2. **Grant of Easement**. CFX agrees to grant, bargain, sell and convey to TWA, and TWA agrees to accept from CFX, a non-exclusive, perpetual easement on, upon, under, over, across and through the Easement Area located in Osceola County, Florida ("Easement") for the purpose of ingress and egress to the real property owned by TWA, maintenance, repair and replacement of the access driveway in the Easement Area, and the maintenance, operation, repair and replacement of the Replacement Lines, provided; however, this Easement shall not include the right of TWA to install additional utility lines, mains or facilities or access roadways within the Easement Area without the express written consent of CFX. CFX and TWA agree that the Easement to be executed and delivered under the provisions of this section shall be substantially in the form attached hereto as **Exhibit "B"** and incorporated herein by reference ("Easement Agreement"), which Easement Agreement shall incorporate the following terms, at a minimum:

- Maintenance of Easement Area. TWA, at its sole cost and expense and without reimbursement from CFX, shall maintain and replace, to the extent necessary, the Easement Area and the access roadway or TWA-owned utilities located within the Easement Area (collectively, the "Facilities") in (i) a good state of repair and condition; and (ii) accordance with all applicable governmental regulations. In the event TWA disturbs or damages any areas within the Easement Area, TWA shall, at its sole cost and expense, repair and replace the any disturbed areas in the Easement Area to the reasonable satisfaction of CFX; provided, however, any such repair, replacement or maintenance shall be conducted by TWA with first class materials, in a good and workmanlike manner, and in accordance with all rules, regulations and permitting requirements governing the repair, replacement, installation or construction of similar facilities on real property owned by CFX. Due to the non-exclusive nature of the easement, TWA shall not be responsible for the repair or replacement of the Facilities from damage caused by CFX, any other entities or individuals granted an easement or license by CFX, or either of their employees, contractors, or invitees. CFX shall remain responsible for the repair and replacement of the Facilities and the Easement Area for any damage cause by CFX, its employees, contractors, and invitees.
- b. Right of Relocation of Easement. CFX, at its expense, shall have the right from time to time to relocate or reconfigure all or any portion of the Easement Area and the Facilities located within the Easement Area as it deems necessary so long as such relocation or reconfiguration does not interfere with or disrupt TWA access to the real property owned by TWA or the operation and maintenance of the utility lines or mains. During the term of the Easement Agreement, TWA hereby consents to any relocation or reconfiguration of the Easement Area and/or Facilities (either in whole or in part) proposed by CFX; provided that (i) the Easement Area and/or Facilities (or portions thereof), as so relocated or reconfigured, shall provide TWA with substantially the same size, quality and capacity of access and utility rights as existed prior to such relocation or reconfiguration; (ii) CFX shall pay for any expenses incurred in the relocation or reconfiguration of the Easement Area and/or Facilities (either in whole or in part) in compliance with all governmental permits, approvals, and (iii) CFX shall deliver to TWA an amendment to the Easement Agreement together with a legal description for the relocated Easement Area and/or Facilities (either in whole or in part), as applicable.
- 3. <u>Consideration</u>. The consideration for the grant of the Easement shall be the value attributed to the Easement Area and the continuing and future obligations to maintain the Easement Area.
- 4. <u>Legal Description of the Easement Area</u>. The Parties understand and acknowledge that CFX, subject to reimbursement from TWA, shall install the Replacement Lines in the Easement Area during the pendency of the SR 538 Project in accordance with the terms and conditions of the Relocation Agreement. Prior to Closing (hereinafter defined), the description of the Easement Area will need to be finalized, revised or adjusted in order to accommodate revisions in CFX's right-of-way needs as design and construction progresses for expansion of SR 538 Project. CFX and TWA understand and agree that the Easement Area is anticipated to accommodate the location of the Replacement Lines; provided, however, in no event shall an easement be granted over any portion of the real property owned by CFX to the extent such easement would encroach upon, encumber, or otherwise restrict the use of CFX's right-of-way for SR 538, including, without

limitation, the required width of SR 538 or as otherwise determined by CFX's Consulting Engineer (hereinafter defined). CFX and TWA acknowledge that the Easement Area as a stand-alone parcel has not been previously surveyed. The Parties agree to cooperate with one another to accommodate such finalization, revisions or adjustments to the description of the Easement Area as may be reasonably necessary.

No later than thirty days after receipt by TWA of the Completion Notice, as defined in the Relocation Agreement, TWA shall, at its sole cost and expense, obtain a current survey or sketch and legal description of the Easement Area prepared by a registered surveyor, licensed in the State of Florida. The surveyor shall provide certified legal description and sketch of said description and the legal description will be included in the Easement Agreement subject to the approval of the Parties. In the event the Parties agree in writing, CFX may obtain the legal description and sketch of the Easement Area, subject to reimbursement from TWA at the Closing.

Subject to written approval by both Parties, which approval shall not be unreasonably withheld, conditioned or delayed, the metes and bounds legal descriptions resulting from such legal description shall be substituted for the depiction/description of the Easement Area set forth in **Exhibit** "A" and such substituted legal description shall be used in the Easement Agreement and any other documents reasonably required to effectuate the terms of this Agreement at the Closing. Notwithstanding the foregoing, the above-referenced process for finalizing the legal description of the Easement Area shall not serve as grounds for TWA or CFX to terminate this Agreement. TWA and CFX hereby waive any claim or defense that this Agreement is not binding and enforceable due to lack of specificity in the legal description of the Easement Area at the time the Agreement was executed.

- 5. <u>Evidence of Title</u>. At any time before Closing, TWA may, at its sole cost and expense, order a commitment from an agent for a policy of owner's title insurance covering the easement interest in the Easement Area ("Commitment") which shall be written on a title insurance company reasonably satisfactory and acceptable to the Parties.
- 6. <u>Conditions Precedent to Granting the Easement</u>. CFX obligation to grant the Easement over the Easement Area to TWA shall be expressly conditioned upon the fulfillment of each of the following on or before the Closing Date (hereinafter defined) ("Conditions Precedent"):
  - a. <u>Compliance with the terms of the Relocation Agreement</u>. The Parties shall be in compliance with any and all terms of the Relocation Agreement, including, without limitation, the following:
    - i. Any and all decommissioning, removal, relocation and replacement of the Existing Lines and installation of the Replacement Lines shall have been completed and accepted by TWA.
    - ii. TWA shall have paid CFX any and all amounts due and payable for the decommissioning, removal, relocation and replacement and installation of the Replacement Lines in accordance with the terms and conditions of the Relocation Agreement, and shall have no outstanding obligations under the Relocation Agreement.

- b. <u>Legal Description</u>. The Parties shall have obtained, mutually agreed upon, and finalized the legal description of the Easement Area.
- c. Consulting Engineer Certification. CFX shall have received a certificate from its Consulting Engineer (as such term is defined in the CFX's Amended and Restated Master Bond Resolution adopted by the CFX's governing Board on February 3, 2003, as supplemented and amended from time to time, hereinafter referred to as the "Master Bond Resolution") stating, in the opinion of such Consulting Engineer, that the grant of the Easement to TWA as finally described does not impede or restrict the operation by the CFX of the Expressway System. The Parties agree that, as of the Effective Date, there is not sufficient information as to the description of the Easement Area under which the Consulting Engineer can issue such opinion.
- d. <u>Bond Counsel Certification</u>. CFX shall have received, pursuant to Section 5.4 of the Master Bond Resolution, the written opinion of the CFX's Bond Counsel, as defined in the Master Bond Resolution, that the grant of the Easement to TWA and anticipated operations and activities of TWA thereunder do not or will not cause the interest payable on any of CFX's outstanding tax-exempt debt to be no longer excludable from gross income for federal income tax purposes.
- 7. Closing Date and Location. The grant of the Easement contemplated under this Agreement ("Closing") shall be held on or before sixty (60) days after the satisfaction of the Conditions Precedent or such earlier date selected by CFX upon not less than ten (10) days' prior written notice to TWA ("Closing Date"), at the offices of CFX, or CFX's attorney, or any other place which is mutually acceptable to the Parties. The Closing Date is subject to an option to extend that may be exercised with written approval from the Executive Director of TWA and the Executive Director of CFX, as applicable.
- 8. <u>Closing Documents</u>. At Closing, CFX shall sign a closing statement, if applicable, and such other documents as are necessary to complete the transaction. In the event TWA elects to obtain a Commitment, CFX shall execute an owner's affidavit including matters referenced in Section 627.7842(b) and (c), Florida Statutes.
- 9. **Recording.** TWA agrees to record, either by hand delivery to the Clerk of Court, or electronic recording, at TWA's sole cost and expense, the Easement Agreement no later than thirty (30) days after delivery of the original Easement Agreement to TWA. TWA agrees to deliver to CFX a copy of the recorded Easement Agreement by email to LNK@CFXway.com.
- As-Is Conveyance. TWA hereby agrees, acknowledges and understands that the Easement Area is being conveyed to TWA "AS IS, WHERE IS, WITH ALL FAULTS," in such condition as the same may be on the Closing Date, without any representations or warranties by CFX as to any condition of the Easement Area, including, without limitation, surface and subsurface environmental conditions, whether latent or patent. CFX makes no guarantee, warranty, or representation, express or implied, as to the quality, character, or condition of the Easement

Area, or any part thereof, or to the fitness of the Easement Area, or any part thereof, for any use or purpose, or any representation as to the nonexistence of any hazardous substances. Neither party shall have any claim against the other, in law or in equity, based upon the condition of the Easement Area, or the failure of the Easement Area to meet any standards. In no event shall CFX be liable for any incidental, special, exemplary, or consequential damage. In the event that any hazardous substances are discovered on, at, or under the Easement Area, neither party shall maintain any action or assert any claim against the other, its successors and their respective members, employees, and agents arising out of or relating to any such hazardous substances. The provisions of this Section shall survive the Closing. (CFX Manual, Sec. 5-6.09) TWA has read and understands the provisions of this Section and acknowledges and agrees that except as expressly set forth in this Agreement, it is acquiring the Easement Area "AS-IS, WHERE IS AND WITH ALL FAULTS" and that CFX has disclaimed herein any and all warranties, express or implied.

- 11. <u>Cross Default</u>. In the event TWA defaults under the terms and conditions of the Relocation Agreement, said default shall be deemed a default under this Agreement and in such event, CFX shall have the right, but not the obligation, to terminate this Agreement.
- 12. **Notices**. Any formal notice, consent, approval or rejection required or allowed in accordance with the terms of this Agreement shall be in writing and be deemed to be delivered (a) when hand delivered to the official hereinafter designated, (b) one (1) days after deposited with an overnight carrier; or (c) three (3) days from when such notice is deposited in the United States mail, postage prepaid, certified mail return receipt requested, addressed to a Party at the address set forth opposite the Party's name below, or at such other address as the Party shall have specified in written notice to the other Party in accordance herewith.

CFX: CENTRAL FLORIDA EXPRESSWAY AUTHORITY

4974 ORL Tower Road Orlando, Florida 32807 Attn: Executive Director

Copy to: CENTRAL FLORIDA EXPRESSWAY AUTHORITY

4974 ORL Tower Road Orlando, Florida 32807 Attn:

Chief of Infrastructure

Copy to: CENTRAL FLORIDA EXPRESSWAY AUTHORITY

4974 ORL Tower Road Orlando, Florida 32807 Attn: General Counsel

TWA: TOHO WATER AUTHORITY

951 Martin Luther King Boulevard

Kissimmee, Florida 34741

Attention: Edwin Matos, Project Manager

Copy to: TOHOPEKALIGA WATER AUTHORITY

951 Martin Luther King Boulevard Kissimmee, Florida 34741 Attention: General Counsel

Other notices may be delivered by email to the CFX Director of Construction or his designee and TWA's designated representative or designee.

- 13. <u>Defaults and Remedies</u>. Each of the Parties hereto shall give the other Party notice of any alleged default hereunder and shall allow the defaulting Party thirty days from the date of receipt to cure such default, provided; however, that if the default is not reasonably capable of being cured with commercially reasonable efforts within thirty days, the Party shall have such longer time to cure such default as may be reasonably necessary, not to exceed one hundred twenty days ("Cure Period"). In the event either of the Parties fails to cure such non-performance or breach within the Cure Period, the other Party, in its sole discretion, shall be entitled to (a) exercise the right of specific performance with respect to such non-performance or breach; (b) pursue all other rights and remedies available to said Party; or (c) terminate this Agreement and upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect.
- 14. General Provisions. No failure of either Party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of either Party's right to demand exact compliance with the terms hereof. This Agreement contains the entire agreement of the Parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon either Party unless such amendment is in writing and executed by TWA and CFX. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors. Nothing in this Agreement is intended to confer any rights, privileges, benefits, obligations or remedies upon any other person or entity except as expressly provided for herein. Whenever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday, or Legal Holiday, such time for performance shall be extended to the next business day. This Agreement may be executed in multiple counterparts, including by electronic or digital signatures in compliance with Chapter 668, Florida Statutes, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph of this Agreement are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph. TWA and CFX do hereby agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms of this Agreement shall be executed and delivered by each party at or prior to Closing. This Agreement shall be interpreted under the laws of the State of Florida. TWA and CFX acknowledge that this Agreement was prepared after substantial negotiations between the Parties and this Agreement shall not be interpreted against either Party solely because such Party or its counsel drafted the Agreement. The Parties agree that venue for any legal action authorized hereunder shall be exclusively in the courts of Ninth Judicial Circuit of Florida. Unless otherwise specified herein, any references to "days" shall refer to calendar days.

#### 15. Public Records Law.

- a. The Parties acknowledge that by virtue of this Agreement all of their respective documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If either Party will act on behalf of the other party, as provided under Section 119.011(2), Florida Statutes, acting party, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:
- i. Keep and maintain public records required by the other party to perform the service.
- ii. Upon request from the other party's custodian of public records, provide the other party 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 by Florida law.
- iii. 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 other party.
- iv. Upon completion of the Agreement and SR 538 Project, transfer, at no cost, to the other Party all public records in possession of the acting Party or keep and maintain public records required by the other Party to perform the service. If the acting Party transfers all public records to the other party upon completion of the contract, the acting Party shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the acting Party keeps and maintains public records upon completion of the contract, the acting Party shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the other Party, upon request from the other Party's custodian of public records, in a format that is compatible with the information technology systems of the other party.
- v. If the acting Party does not comply with a public records request, the other party shall enforce the contract provisions in accordance with the Agreement.
- b. IF ANY PARTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PARTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT, AS FOLLOWS:

As to TWA:
Records Retention
951 Martin Luther King Blvd.
Kissimmeee, Florida 34741
(407) 483-3822
publicrecordsrequests@tohowater.com

As to CFX:
Director of Records Management
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807
407-690-5366

PublicRecords@cfxway.com

- 16. <u>Time is of the essence</u>. Time is of the essence of this agreement and each and every provision hereof.
- 17. <u>Waiver of Jury Trial</u>. TWA AND CFX VOLUNTARILY WAIVE A TRIAL BY JURY IN ANY LITIGATION OR ACTION ARISING FROM THIS AGREEMENT.
- 16. **No Third-Party Benefits.** This Agreement is solely for the benefit of the Parties herein, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party that is not a party hereto.
- 17. <u>Survival of Provisions</u>. All representations and warranties set forth in this Agreement shall survive the Closing and shall survive the execution or delivery of any and all deeds and other documents at any time executed or delivered under, pursuant to, or by reason of this Agreement, and shall survive the payment of all monies made under, pursuant to, or by reason of this Agreement.
- 18. <u>Severability</u>. If any court finds part of this Agreement invalid or unenforceable, such invalidity or unenforceability shall not affect the other parts of the Agreement (a) if the rights and obligations of the Parties contained therein are not materially prejudiced and (b) if the intentions of the Parties can continue to be effective. To that end, this Agreement is declared severable.
- 19. <u>Sovereign Immunity</u>. Nothing herein is intended as a waiver of any Party's sovereign immunity under Section 768.28, Florida Statutes. 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.
- 20. <u>Force Majeure.</u> The time for the performance of the Parties' obligations under this Agreement, including without limitation CFX's performance of the design, permitting and construction requirements set forth herein, will be extended for a period of time equal to any period of delay experienced by CFX, or the number of days lost, due to any of the following ("Force Majeure"): strikes, civil riots or commotion, war, invasion, acts of terrorism, explosion, fire or other casualty, pandemic, sabotage, theft, vandalism, Acts of God, labor disputes, unavailability of labor or materials, hurricane, tropical storm, tornado, or other adverse weather conditions, act or failure to act of governmental authorities, act or failure to act of third-party utility service providers, or other causes beyond the reasonable control of CFX.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in a manner and form sufficient to bind them on the date set forth herein below.
[ SIGNATURES TO FOLLOW]

### "TWA"

### TOHOPEKALIGA WATER AUTHORITY

	By:
	Print Name: Todd P. Swingle, P.E.
	Its: Executive Director
(SEAL)	
ATTEST:	
	Date:
By: Print Name: Anthony J. Cotter, its General C	ounsel

[ADDITIONAL SIGNATURE PAGE TO FOLLOW]

### "CFX"

### **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**

	By:
	Brenda Carey, Chairman
	Date:
ATTEST: Regla ("Mimi") Lamaute	
Recording Clerk	
S	Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this day of,
	2020 for its exclusive use and reliance.
	D
	By: Diego "Woody" Rodriguez
	General Counsel

<u>LIST OF EXHIBITS</u> Exhibit "A" - Easement Area **Exhibit "B" - Easement Agreement** 

## Exhibit "A" Easement Area

# CONCEPT PLANS FOR

# SR-538 UTILITIES RELOCATION



**APRIL**, 2020

Clarence Thacker

Domingo Sanchez

Vice-Chair

Jim Swann

Hector Lizasuain

William "Bill" Land

oard Members

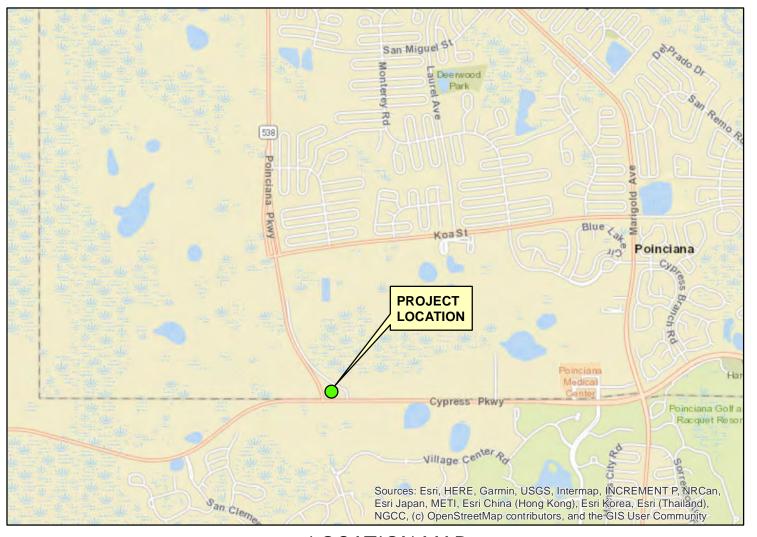
Todd Swingle

Robert F. Pelham, P.E.

Director of Engineering

### **TELEPHONE LISTINGS**

TOHOPEKALIGA WATER AUTHORITY	407-944-5000
CITY OF KISSIMMEE PUBLIC WORKS & ENGINEERING	407-518-2170
FLORIDA POWER CORPORATION	407-700-8744
SPRINT FLORIDA INC (EMBARQ)	407-814-5344
TECO/PEOPLE'S GAS	407-425-4661
FLORIDA GAS TRANSMISSION	407-295-4341
TIME-WARNER CABLE (BRIGHTHOUSE)	407-532-8509
SUNSHINE STATE ONE-CALL OF FLORIDA (NO-CUTS)	



**LOCATION MAP** 

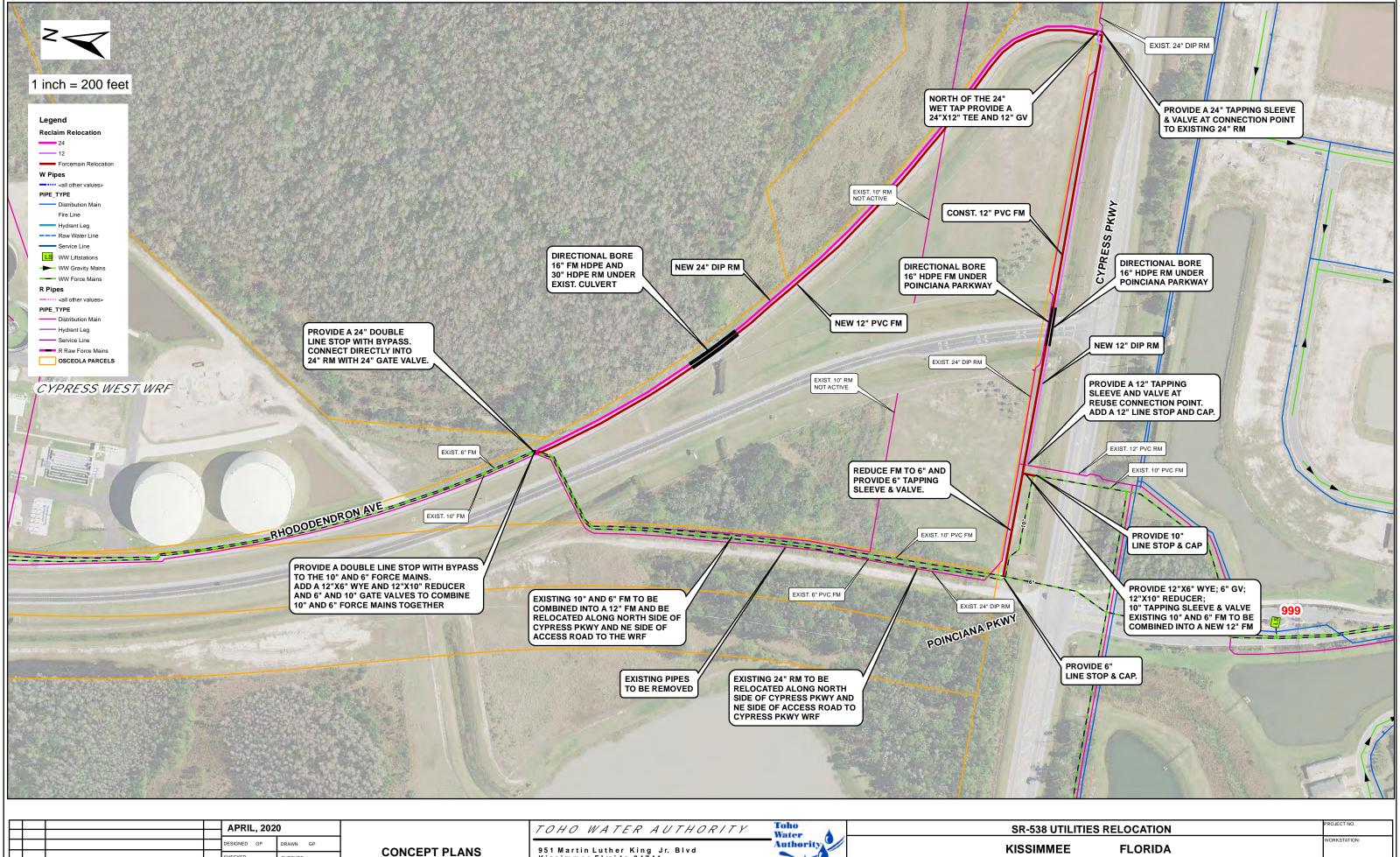
### Prepared by:

### TOHOPEKALIGA WATER AUTHORITY

951 Martin Luther King Blvd. Kissimmee, Florida 34741

### **INDEX OF DRAWINGS**

1 OF 3	COVER SHEE
2 OF 3	PLAN
3 OF 3	DETAILS

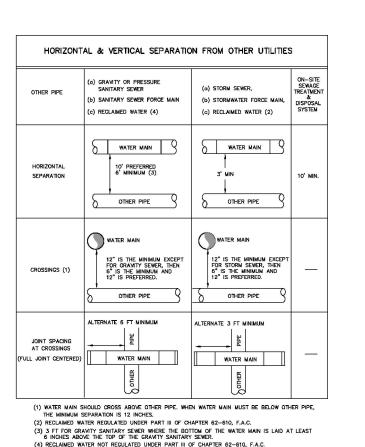


					APRIL, 202	n
					Ai KiL, 202	
					DESIGNED GP	DRAWN GP
ĺ					CHECKED	CHECKED
						***************************************
	NO	DATE	BEVISION	BV	SUPERVISED BY RO	BERT F. PELHAM, PE

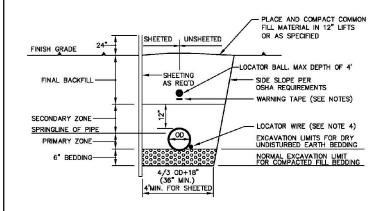
951 Martin Luther King Jr. Blvd Kissimmee, Florida 34741 (407) - 944 - 5000



SR-538 UTILITIE	PROJECT NO.		
KISSIMMEE	FLORIDA		WORKSTATION:
PLAN AND	DETAILS		SHEET 2 OF 3



PIPING CLEARANCES

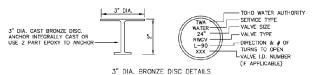


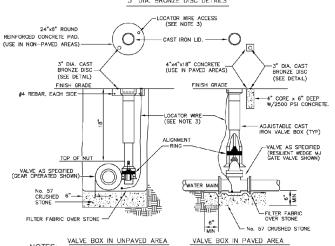
SEE SPECIFICATIONS FOR ADDITIONAL INFORMATION AND REQUIREMENTS.

### NOTES:

- BEDDING SHALL BE No. 57 CRUSHED STONE, IF EARTH BEDDING IS YIELDING.
- PRIMARY AND SECONDARY ZONES SHALL BE INDIVIDUALLY COMPACTED LAYERS OF CLEAN FILL.
- COMPACTION OF BACKFILL BENEATH STRUCTURES, PAVING AND PARKWAYS, SHALL BE 98% OF AASHTO T-180; ALL OTHER COMPACTION SHALL BE 95%, EXCEPT AS OTHERWISE REQUIRED BY PERMITTING AUTHORITY.
- 4. INSTALL CONTINUOUS 14 GAUGE INSULATED COPPER WIRE FOR ALL PIPE, EXCEPT GRANTY SEWERS. TERMINATE THESE LOCATOR WIRES AT TOP OF EACH VALVE PAD WITH 12" OF EXTRA WIRE. CONNECT SPLICED WIRES WITH WIRE NUTS AND SEAL IN WATER—TIGHT SILICONE FILLED JACKET.
- 5. PLACE APPROVED METALLIC PRINTED WARNING TAPE 12"-18" ABOVE PIPE.
- 6. SIDE SLOPE AND BENCH PER OSHA REQUIREMENTS.
- 7. PLACE SEWER LOCATOR BALLS PER TWA-05. DO DOT EXCEED 4' OF DEPTH.

TYPICAL PIPE TRENCH SECTION





NOTES: CRUSHED STONE BEDDING 6" MINIMUM BELOW VALVE TO BE COVERED WITH FILTER FABRIC.

- 1. CRUSHED STONE SEDDING 6" MINIMUM BELOW VALVE TO BE COVERED WITH FILTER FABRIC.
  2. LOCATOR WRE ACCESS IN UNPAVED AREA USE 2" SCHOOL PVC, FEMALE ADAPTOR COUPLING AND 2" BRASS FLUG "W, FRECESSED NUT. TERMINATE INSULATED, SOUID 14 GA. COPPER WIRES AT TOP "W,12" OF EXTRA WITE.

  IN PAVED AREA, TERMINATE SOUID 14 GA. COPPER WIRES INSIDE OF TOP PORTION OF VALVE BOX W,12" OF EXTRA WITE.

  3. MAINTAIN A MINIMUM OF 3" CLEARANCE FREE OF ALL PLANTINGS & STRUCTURES AROUND VALVE BOX.
- PRIVATELY MAINTAINED WATER SYSTEMS SHALL HAVE "PRIVATE" STAMPED ON BRONZE ID DISC. FIRE LINE VALVES SHALL HAVE "FIRE LINE VALVE" STAMPED ON BRONZE DISC AND VALVE BOX COVER SHALL BE PANIED RED.
- OPERATING NUT TO BE BOLTED. SHEER PINS NOT ALLOWED.
- PVC PIPE OR DUCTILE IRON PIPE EXTENSIONS SHALL NOT BE USED ON VALVE BOX INSTALLATION.
- SCREW TYPE ADJUSTABLE VALVE BOX ONLY.

VALVE AND BOX DETAILS

—ARV ENCLOSURE WATER PLUS CORPO∹ATION MODEL#131632 (GREEN) AIR RELEASE VALVE ENCLOSURE 12"x12" -HNISHED GRADE FDOT #57 STONE -CORPORATION,

TUBING TO ODOR VENT UNDER STONE BED

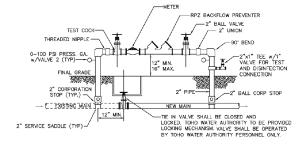
FOR NEW PIPE : SIZE PER SIZE TEE W/ TAPPED PLUG. (SEE TABLE BELOW TAP SIZE)

PRIVATE PROPERTY EASEMENT

- PROVIDE ANGLE STOP FOR REMOTE ARV. PIPING.
  PROVIDE STAINLESS STEEL PIPE WITH STAINLESS STEEL VALVES,
  STOPS NIPPLES, AND FITTINGS SIZED TO ARV INLET.
- No. 57 CRUSHED STONE BEDDING TO BE COVERED WITH FILTER FABRIC
- THE ENCLOSURE VENTS MUST BE CAPABLE OF ALLOWING AT LEAST THE SAME AVOUNT OF AIRFLOW AS THE VALVE.
- OFFSET DISTANCE TO BE FIELD DETERMINED AND AS CLOSE TO THE RIGHT OF WAY AS POSSIBLE AND CLEAR OF PEDESTRIAN WALKWAYS. IF PIPE IS ALRIGHED WAY LINE, ND OFFSET IS REQUIRED.
- ABOVE DETAIL APPLIES TO A 2" ARV. FOR LARGER ARVS, PIPE DIAMETER AND VALVES SHALL BE EQUAL TO THE SIZE OF THE ARV.

MAIN DIAMETER 12" AND UNDER

AIR RELEASE VALVE ABOVE GROUND OFFSET PIPE LAYOUT-SEWER ONLY



### NOTES

- PROVIDE TEMPORARY PIPE SUPPORTS AS REQUIRED
- . A TEMPORARY JUMPER CONNECTION IS REQUIRED AT ALL CONNECTIONS BETWEEN EXISTING ACTIVE WATER MAINS AND PROPOSED NEW WATER MAIN IMPROVEMENTS.
- MAINS AND PROPOSED NEW WATER MAIN IMPROVEMENTS.

  2. THE DETAIL SHOWIN IS TO BE USED FOR FILLION ANY NEW WATER MAIN OF ANY SIZE FROM EXISTING ACTIVE WATER MAINS MAD FOR FULLISHING DOES NEW MAINS UP TO IT GIAMETER (2.5 FPS MIN. MELOCITY) AND FOR PULLING BACKFROD GOOL MAD MADE FROM MAY NEW WATER MAIN OF ANY SIZE. THE JUMPER COMMICTION SHALL BE MAINTAINED UNTIL AFTER FILLION, FLUSHING, TESTING AND DISN'ECTION OF THE NEW MAIN HAS BEEN SUCCESSFULLY COMPLETED AND GENERAL FROM THE MESH PROPERTY OF THE MEN MAIN HAS RENN SUCCESSFULLY COMPLETED AND GENERAL FROM USER WATER WATER AND FITTINGS USED FOR CONNECTION IT HE KNY PIPE. THE EXTENSIVE SHALL BEED MADE THINGS USED FOR CONNECTION THE KNY PIPE. THE EXTENSIVE SHALL BEED MADE THE EXTENSIVE AND STRUCKED FOR TO MAIN MAINTAIN AND THE TAPPING SADOLE WITH IX HYPOCHLORITE SOLUTION.
- THE CONTRACTOR SHALL EITHER PROVIDE DOCUMENTATION DEMONSTRATING THAT RPZ BACKFLOW PREVENTION DEVICE HAS BEEN TESTED AND IS IN GOOD WORKING ORDER AT TIME OF INSTALLATION.
- ALL INSTALLATION AND MAINTENANCE OF THE TEMPORARY JUMPER CONNECTION AND ASSOCIATED BACKFLOW PREVENTIONS DEVICE, FITTINGS AND VALVES, ETC., SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
- 5. ABANDONED JUMPER CONNECTION POINTS MUST BE INCLUDED IN THE RECORD DRAWINGS.

TEMPORARY JUMPER CONNECTION

SEE DETAIL TWA-20 CROSS PLUGGED END SEE DETAIL SEE DETAIL TEE TEE AND VALVE SEE DETAIL TWA-20 ∠PLUGGED END IN-LINE VALVE DEAD END WITH OR WITHOUT BLOW-OFF

### NOTES:

- MECHANICAL PIPE RESTRAINING SYSTEMS SHALL BE PROVIDED AS STANDARD. THRUST BLOCKING IS NOT SUITABLE EXCEPT AS SPECIFICALLY ALLOWED. WHERE PVCP IS USED PROVIDE PVC/MJ RESTRAINER UNIFLANGE SERIES 1300;
- 2. ALL MECHANICAL JOINTS AT FITTINGS AND VALVES SHALL BE RESTRAINED
- 3. RESTRAIN THROUGH VALVES.

THRUST RESTRAINT DETAILS

USE THIS THRUST RESTRAINT TABLE FOR THESE TRENCH CONDITIONS:

-- MIN. 50% SOIL RETAINED ON No. 200 SIEVE. -- MIN. 95% COMPACTION, AASHTO T-180.

-- MIN. 3' OF COVER.

NUMBER OF FULL LENGTH RESTRAINED PIPE SECTIONS REQUIRED AT ALL FITTINGS AND VALVE JOINTS

		BENDS																
SIZE	9	0.	45	5*	22-	1/2°	11-	1/4°	VER1		DEAL	END	CROS	S OR LVE	RU		E BRA	NCH
IN.	100 psi	150 psi	100 psi	150 psi	100 psi	150 psi												
4	1	1	1	1	1	1	1	1	1	1	2	2	1	1	1	1	2	2
6	1	2	1	1	1	1	1	1	1	2	2	3	1	1	1	1	2	2
8	1	2	1	1	1	1	1	1	2	2	2	4	1	1	1	1	2	2
10	2	2	1	1	1	1	1	1	2	2	3	4	1	1	1	1	2	2
12	2	2	1	1	1	1	1	1	2	3	3	5	1	1	1	1	2	2
14	2	3	1	1	1	1	1	1	2	3	4	6	1	1	1	1	2	2
16	2	3	1	1	1	1	1	1	2	3	4	6	1	1	1	2	2	3
18	2	3	1	2	1	1	1	1	3	4	5	7	1	1	1	2	2	3
20	2	3	1	2	1	1	1	1	3	4	5	8	1	1	1	2	2	4
24	3	4	1	2	1	1	1	1	3	4	6	9	1	1	1	3	2	5
30	3	4	2	2	1	1	1	1	4	5	7	10	1	1	2	4	3	7

HERE CONDITIONS VARY FROM THOSE STATED ABOVE, HAVE A FLORIDA REGISTERED PROFESSIONAL ENGINEER DETERMINE THE REQUIRED RESTRAINED LENGTH OF PIPING.

- SANITARY FORCE MAIN PRESSURE PIPE 100 psi MINIMUM.
- 3. RESTRAIN THROUGH VALVING.
- ALL FITTINGS AND VALVES SHALL BE RESTRAINED AT LEAST ONE (1) FULL LENGTH OF PIPE IN ALL DIRECTIONS.
- 5. PRESSURE CONNECTIONS SHALL BE TREATED AS A TEE.

NOTE: THIS TABLE INCLUDES A 1.5 SAFETY FACTOR ABOVE THE LISTED TEST PRESSURES.

RESTRAINED JOINT TABLE

						,
				APRIL, 2020	0	
				Al INE, 202	•	
				DESIGNED GP	DRAWN GP	
				CHECKED	CHECKED	
					OTILORES	
NO.	DATE	REVISION	BY	SUPERVISED BY ROI	BERT F. PELHAM, PE	

**CONCEPT PLANS** 

TOHO WATER AUTHORITY

951 Martin Luther King Jr. Blvd Kissimmee, Florida 34741 (407) - 944 - 5000



SR-538 UTILITIES F	RELOCATION	
KISSIMMEE	FLORIDA	
DETAILS	3	

ROJECT NO. SHEET 3 OF 3

## Exhibit "B" Easement Agreement

Project	538-165	State	Road	538
Parcel				

### EASEMENT AND MAINTENANCE AGREEMENT

THIS EASEMENT AND MAINTENANCE AGREEMENT (hereinafter, the "Agreement") is made and entered as of the Effective Date (hereinafter defined), by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 ("CFX") and TOHOPEKALIGA WATER AUTHORITY, an independent special district, established and created pursuant to Chapter 189, Florida Statutes, by special act of the Florida Legislature, whose address is 941 Martin Luther King Boulevard, Kissimmee, Florida 34741 ("TWA"). CFX and TWA are sometimes collectively referred to herein as the "Parties."

### WITNESSETH:

**WHEREAS**, pursuant to Section 348.753, Florida Statutes, CFX is empowered to construct, improve, maintain, and operate the Central Florida Expressway System ("Expressway System") and, in connection therewith, to construct any extensions, additions or improvements to said system or appurtenant facilities, including all necessary approaches, roads, bridges, and avenues of access; and

WHEREAS, TWA was created by special act of the Florida Legislature, Chapter 2003-368, Laws of Florida (the "TWA Act") to, among other things, carry out the provision of potable and nonpotable water and wastewater services and facilities in areas of Osceola County and adjacent areas Florida, and was granted all powers necessary and convenient to conduct business, including the power to contract with other public agencies; and

WHEREAS, TWA is the fee simple owner of that certain real property more particularly described in **Exhibit "A"** attached hereto and incorporated herein by reference ("TWA Property"); and

WHEREAS, on or about June 11, 2020, the Parties entered into that certain Interlocal Agreement Regarding Relocation of Utilities Along State Road 538 ("Relocation Agreement") governing the decommissioning, relocation and replacement of an existing force mains and reclaimed water main (collectively, "Existing Lines") located within the right-of-way for State Road ("SR") 538; and

WHEREAS, on or about \_\_\_\_\_\_\_, 2020, the Parties entered into that certain Agreement for Grant of Easement between CFX and TWA, whereby CFX agreed to grant to TWA a utility and access easement over, across and upon portions of the real property owned by CFX more particularly described in Exhibit "B" attached hereto and incorporated herein by reference ("Easement Area"); and

**WHEREAS,** CFX and TWA have agreed to the establishment of the easement as set forth herein and the establishment of the maintenance obligations relating thereto and have further agreed to other matters contained herein.

**NOW THEREFORE,** in consideration of mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree to and with each other as follows:

- 1. **Recitals.** That the foregoing recitals are true and correct and are incorporated herein by this reference.
- 2. <u>Easement</u>. CFX agrees to grant, bargain, sell, convey, and confirm unto TWA, and TWA agrees to accept from CFX, a non-exclusive, perpetual easement (collectively, "Easement") on, upon, under, over, across and through the Easement Area, for the purpose of ingress and egress to the TWA Property, maintenance, repair and replacement of the access driveway in the Easement Area, and the maintenance, operation, repair and replacement of the replacement force mains and reclaimed water main owned by TWA in the Easement Area (collectively, the "Facilities"), subject to any and all applicable permits and other governmental requirements. TWA shall have all incidental rights reasonably necessary for the use and enjoyment of the Easement for its intended purposes, including, specifically, the right of entry onto the Easement Area for purposes of maintenance, operation, repair, and construction of the Facilities now or hereafter located within the Easement Area, provided; however, this Easement shall not include the right of TWA to install additional utility lines, mains or facilities or access roadways within the Easement Area without the express written consent of CFX.
- Maintenance of the Easement Area. TWA, at its sole cost and expense and without reimbursement from CFX, shall maintain and replace, to the extent necessary, the Easement Area and the Facilities in (i) a good state of repair and condition; and (ii) accordance with all applicable governmental regulations. In the event TWA disturbs or damages any areas within the Easement Area, TWA shall, at its sole cost and expense, repair and replace the any disturbed areas in the Easement Area to the reasonable satisfaction of CFX; provided, however, any such repair, replacement or maintenance shall be conducted by TWA with first class materials, in a good and workmanlike manner, and in accordance with all rules, regulations and permitting requirements governing the repair, replacement, installation or construction of similar facilities on real property owned by CFX. Due to the non-exclusive nature of the easement, TWA shall not be responsible for the repair or replacement of the Facilities from damage caused by CFX, any other entities or individuals granted an easement or license by CFX, or either of their employees, contractors, or invitees. CFX shall remain responsible for the repair and replacement of the Facilities and the Easement Area for any damage cause by CFX, its employees, contractors, and invitees.
- 4. Right of Relocation of Easement. CFX, at its expense, shall have the right from time to time to relocate or reconfigure all or any portion of the Easement Area and the Facilities located within the Easement Area as it deems necessary so long as such relocation or reconfiguration does not interfere with or disrupt TWA access to the TWA Property, or the operation and maintenance of the Facilities. During the term of this Agreement, TWA hereby consents to any relocation or reconfiguration of the Easement Area and/or Facilities (either in whole or in part) proposed by CFX; provided that (i) the Easement Area and/or Facilities (or portions thereof), as so relocated or reconfigured, shall provide TWA with substantially the same size, quality and capacity of access and utility rights as existed prior to such relocation or reconfiguration; (ii) CFX shall pay for any expenses incurred in the relocation or reconfiguration of the Easement Area and/or Facilities (either in whole or in part) in compliance with all governmental permits, approvals, and (iii) CFX shall deliver to TWA an amendment to this Agreement together with a legal description for the relocated Easement Area and/or Facilities (either in whole or in part), as applicable.
- 5. <u>Non-Disturbance of Easement Rights.</u> Except as otherwise provided in this Agreement, the Parties hereto agree not to build, construct, or place any buildings, structures, barriers, and fill or other hindrances in the Easement Area other than the Facilities, and not to in any way materially modify or change the lands encumbered by the Easement in a manner that would disturb or interfere with the proper

construction, operation, or maintenance of such Easement.

- Facilities installed and maintained by TWA with one hundred eighty (180) days prior written notice to CFX, in which event, TWA shall return the Easement Area to its original state as it existed prior to the construction of the Facilities and shall execute and record a written termination of easement in the Public Records of Osceola County, Florida. In the event of damage to or destruction of all or a portion of the Easement Area due to such removal, TWA, at its sole cost and expense, shall return the Easement Area and replace any improvements located on the Easement Area to the condition as they existed immediately prior to such damage or destruction by CFX and to the reasonable satisfaction of CFX. If the Facilities are replaced, the provisions of this Agreement shall remain in full force and effect, including TWA's obligation to maintain said Facilities.
- 7. <u>Compliance with all Legal Rules</u>. TWA shall, at its sole expense, comply with all present and future valid and applicable laws, ordinances, and regulations of the federal government and its agencies, the State of Florida, and Osceola County, unless otherwise agreed between TWA and CFX.
- As-Is Conveyance. TWA hereby agrees, acknowledges and understands that the Easement is being conveyed to TWA "AS IS, WHERE IS, WITH ALL FAULTS," in such condition as the same may be on the Effective Date, without any representations or warranties by CFX as to any condition of the Easement Area, including, without limitation, surface and subsurface environmental conditions, whether latent or patent. CFX makes no guarantee, warranty, or representation, express or implied, as to the quality, character, or condition of the Easement Area, or any part thereof, or to the fitness of the Easement Area, or any part thereof, for any use or purpose, or any representation as to the nonexistence of any hazardous substances. Neither party shall have any claim against the other, in law or in equity, based upon the condition of the Easement Area, or the failure of the Easement Area to meet any standards. In no event shall CFX be liable for any incidental, special, exemplary, or consequential damage. In the event that any hazardous substances are discovered on, at, or under the Easement Area, neither party shall maintain any action or assert any claim against the other, its successors and their respective members, employees, and agents arising out of or relating to any such hazardous substances. The provisions of this Section shall survive the termination or expiration of this Agreement. TWA has read and understands the provisions of this Section and acknowledges and agrees that except as expressly set forth in this Agreement, it is acquiring the Easement Area "AS-IS, WHERE IS AND WITH ALL FAULTS" and that CFX has disclaimed herein any and all warranties, express or implied.
- 9. <u>Notices</u>. Any formal notice, consent, approval or rejection required or allowed in accordance with the terms of this Agreement shall be in writing and be deemed to be delivered (a) when hand delivered to the official hereinafter designated, (b) one (1) days after deposited with an overnight carrier; or (c) three (3) days from when such notice is deposited in the United States mail, postage prepaid, certified mail return receipt requested, addressed to a Party at the address set forth opposite the Party's name below, or at such other address as the Party shall have specified in written notice to the other Party in accordance herewith.

CFX: CENTRAL FLORIDA EXPRESSWAY AUTHORITY

4974 ORL Tower Road Orlando, Florida 32807 Attn:

**Executive Director** 

Copy to: CENTRAL FLORIDA EXPRESSWAY AUTHORITY

4974 ORL Tower Road Orlando, Florida 32807 Attn: Chief of

Infrastructure

Copy to: CENTRAL FLORIDA EXPRESSWAY AUTHORITY

4974 ORL Tower Road Orlando, Florida 32807 Attn:

General Counsel

TWA: TOHO WATER AUTHORITY

951 Martin Luther King Boulevard

Kissimmee, Florida 34741

Attention: Edwin Matos, Project Manager

Copy to: TOHOPEKALIGA WATER AUTHORITY

951 Martin Luther King Boulevard

Kissimmee, Florida 34741 Attention: General Counsel

Other notices may be delivered by email to the CFX Director of Construction or his designee and TWA's designated representative or designee.

- 10. <u>Defaults and Remedies</u>. Each of the Parties hereto shall give the other Party notice of any alleged default hereunder and shall allow the defaulting Party thirty days from the date of receipt to cure such default, provided; however, that if the default is not reasonably capable of being cured with commercially reasonable efforts within thirty days, the Party shall have such longer time to cure such default as may be reasonably necessary, not to exceed one hundred twenty days ("Cure Period"). In the event either of the Parties fails to cure such non-performance or breach within the Cure Period, the other Party, in its sole discretion, shall be entitled to (a) exercise the right of specific performance with respect to such non-performance or breach; (b) pursue all other rights and remedies available to said Party; or (c) terminate this Agreement and upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect.
- **General Provisions.** No failure of either Party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of either Party's right to demand exact compliance with the terms hereof. This Agreement contains the entire agreement of the Parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon either Party unless such amendment is in writing and executed by TWA and CFX. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors. Nothing in this Agreement is intended to confer any rights, privileges, benefits, obligations or remedies upon any other person or entity except as expressly provided for herein. Whenever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday, or Legal Holiday, such time for performance shall be extended to the next business day. This Agreement may be executed in multiple counterparts, including by electronic or digital signatures in compliance with Chapter 668, Florida Statutes, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph of this Agreement are for convenience only, and do not add to or subtract from the meaning of the contents of each paragraph. TWA and CFX do hereby agree that such documents as may be legally necessary or otherwise appropriate to carry out the terms of this Agreement shall be executed and delivered by each party at or prior to Closing. This Agreement shall be

interpreted under the laws of the State of Florida. TWA and CFX acknowledge that this Agreement was prepared after substantial negotiations between the Parties and this Agreement shall not be interpreted against either Party solely because such Party or its counsel drafted the Agreement. The Parties agree that venue for any legal action authorized hereunder shall be exclusively in the courts of Ninth Judicial Circuit of Florida. Unless otherwise specified herein, any references to "days" shall refer to calendar days.

- 12. <u>Effective Date.</u> The effective date of this Agreement shall be effective upon which the last of the Parties hereto executes this Agreement ("Effective Date").
- 13. **Recording. TWA** shall cause this Agreement to be recorded in the Public Records of Osceola County, Florida.
- 14. <u>Waiver of Jury Trial</u>. TWA AND CFX VOLUNTARILY WAIVE A TRIAL BY JURY IN ANY LITIGATION OR ACTION ARISING FROM THIS AGREEMENT.
- 15. <u>No Third-Party Benefits</u>. This Agreement is solely for the benefit of the Parties herein, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party that is not a party hereto.
- 16. <u>Survival of Provisions</u>. All representations and warranties set forth in this Agreement shall survive the Closing and shall survive the execution or delivery of any and all deeds and other documents at any time executed or delivered under, pursuant to, or by reason of this Agreement, and shall survive the payment of all monies made under, pursuant to, or by reason of this Agreement.
- 17. <u>Severability</u>. If any court finds part of this Agreement invalid or unenforceable, such invalidity or unenforceability shall not affect the other parts of the Agreement (a) if the rights and obligations of the Parties contained therein are not materially prejudiced and (b) if the intentions of the Parties can continue to be effective. To that end, this Agreement is declared severable.
- 18. <u>Sovereign Immunity</u>. Nothing herein is intended as a waiver of any Party's sovereign immunity under Section 768.28, Florida Statutes. 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.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed in a manner and form sufficient to bind them on the date set forth herein below.

[SIGNATURE PAGES TO FOLLOW]

### "TWA"

### TOHOPEKALIGA WATER AUTHORITY

	By: Print Name: Its:
ATTEST:	
	Date:
By: Print Name:	
STATE OF FLORIDA ) COUNTY OF )	
The foregoing instrument was	acknowledged before me this day of, 202, by
behalf of the organization. She/he is peas identification.	of the Tohopekaliga Water Authority, on ersonally known to me OR produced
	NOTARY PUBLIC
	Signature of Notary Public - State of Florida Print Name:
	Commission No.:  My Commission Expires:

[ADDITIONAL SIGNATURE PAGE TO FOLLOW]

Signed, sealed, and delivered in the presence of:	"CFX"
	CENTRAL FLORIDA EXPRESSWAY AUTHORITY
Signature	_
Print Name	By:Print Name::
Signature	Date:
Print Name	
ATTEST:  Regla ("Mimi") Lamaute Recording Clerk	Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this day of, 202 for its exclusive use and reliance.
	By: Diego "Woody" Rodriguez General Counsel
STATE OF FLORIDA ) COUNTY OF )	
The foregoing instrument was ackreby, as Chairn the organization. She/he is personally know as identification.	nowledged before me this day of, 202, nan of the Central Florida Expressway Authority, on behalf of n to me OR produced
	NOTARY PUBLIC
	Signature of Notary Public - State of Florida Print Name:
	Commission No.:  My Commission Expires:

LIST OF EXHIBITS
Exhibit "A" - TWA Property
Exhibit "B" - Legal Description of the Easement Area

407 843 5120 407.649.8664 fax Orlando, FL 32803 | www.dewberry.com

August 18, 2020

Dewberry

### Attachment D

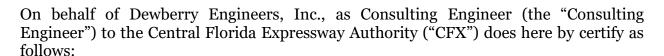
DRAFT

Mr. Glenn Pressimone, P.E. Chief of Infrastructure Central Florida Expressway Authority 4974 ORL Tower Road Orlando, FL 32807

**Agreement for Easement** RE:

Project 538-165 CFX Parcels Tract 1 and Tract 2

Dear Mr. Pressimone:



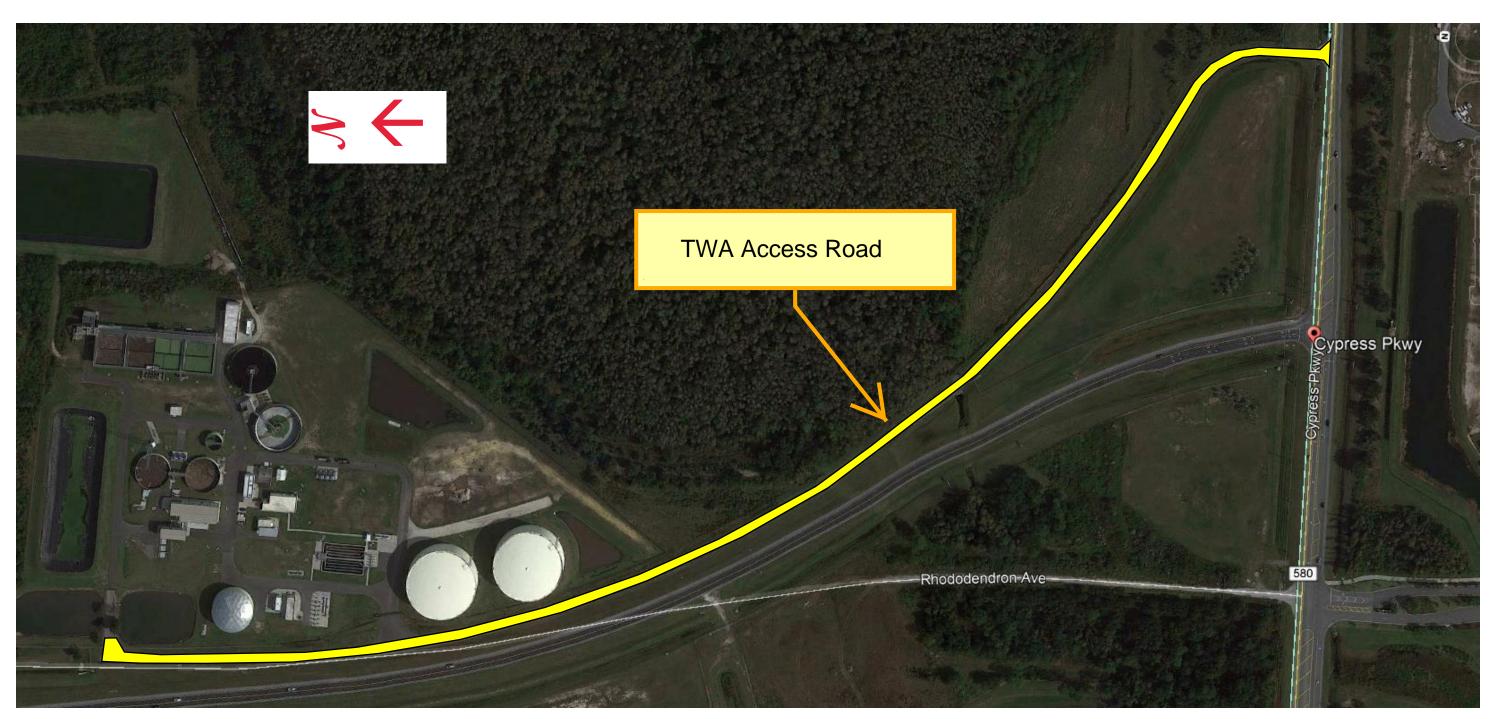
- 1. We have reviewed the limits of the access road along the right-of-way for the Poinciana Parkway described in Exhibit A, attached. The installation of the water lines has been completed at 538 interchange with Cypress Parkway. It was previously agreed upon in an Interlocal Agreement with the Tohopekaliga Water Authority (TWA) that an easement would be created for the access road. Additionally, the maintenance of the access road would be the responsibility of the TWA. In our opinion, based upon the foregoing, we certify that this easement would not (1) impede or restrict the operation of the Expressway System; (2) materially affect or interfere with the present or future construction, use, operation, repair or maintenance of any portion of the Expressway System; or (3) otherwise impair traffic operations or public safety.
- 2. Furthermore, this certificate is being provided by the Consulting Engineer to CFX solely for the purposes of complying with Section 5.4 of CFX's Amended and Restated Master Bond Resolution and the requirements set forth in CFX's Manual and may not be relied on by any other person or party for any other purpose.

Sincerely,

R. Keith Jackson, P.E. Program Manager

Attachments

Laura N Kelly, Esq. CFX (w/enc.) cc:



Disclaimer - This exhibit is for informational purposes and does not replace a survey

## CONSENT AGENDA ITEM #12

### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## **MEMORANDUM**

TO: CFX Board Members

FROM: Aneth Williams Aneth Williams

**Director of Procurement** 

DATE: August 24, 2020

SUBJECT: Approval of Purchase Order to Oracle America, Inc. for

Software Update Licenses and Support

Board authorization is requested to issue a purchase order to Oracle America, Inc. in the amount of \$113,854.60 for updating various database software licenses and to continue product support for a one-year period from November 15, 2020 to November 14, 2021.

Oracle America, Inc. has been designated as a single source provider for these services.

This is included in the OM&A Budget.

Reviewed by: Rafasl Millan

Rafael Millan Director of IT Jim G

### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

DATE: August 24, 2020

VENDOR NAME: ORACLE AMERICA INC

VENDOR ADDRESS: PO BOX 71028

Chicago, IL 60694-1028

The software purchased from this vendor is currently used as the database platform for CFX Toll Collection System on both the main Host and backup Host servers as well as on all legacy servers located in the plazas. The software support is purchased directly from the software manufacturer and it includes new software versions, security updates, bug fixes and technical support for troubleshooting problems at no additional cost. Without this maintenance we would be unable to address any potential bug, security vulnerability or problem with the software. Since Oracle is the manufacturer, only they can make modifications to their proprietary software, so there is no other vendor that can provide this support to us.

Jum Greer

Chief of Technology/Operations

Signature of Procurement Director: Ansth Williams

Date: 8/24/2020

## CONSENT AGENDA ITEM #13

### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

### **MEMORANDUM**

TO: CFX Board Members

FROM: Aneth Williams Ansth Williams

Director of Procurement

DATE: August 27, 2020

SUBJECT: Approval of First Contract Renewal with 4 Corner Resources LLC

for Information Technology Services

Contract No. 001347

Board approval is requested for the first renewal of the referenced contract with 4 Corner Resources LLC in the amount of \$0.00 for one year beginning on October 3, 2020 and ending October 2, 2021. The original contract was for three years with two one-year renewals.

The service to be performed under this renewal is to provide information technology staffing.

 Original Contract
 \$2,063,000.00

 First Renewal
 \$ 0.00

 Total
 \$2,063,000.00

Reviewed by: Rafael Millan

Rafael Millan

Rafael Millan Director of IT Jim C

### CENTRAL FLORIDA EXPRESSWAY AUTHORITY CONTRACT RENEWAL NO. 1 AGREEMENT CONTRACT NO. 001347

THIS CONTRACT RENEWAL NO. 1 AGREEMENT ("Renewal Agreement"), is made and entered into this 10th day of September 2020, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called "CFX", and 4 Corner Resources LLC, hereinafter called the ("Contractor"). CFX and Contractor are referred to herein sometimes as a "Party" or the "Parties".

### WITNESSETH

**WHEREAS**, CFX and the Contractor entered into that certain Contract Agreement dated September 7, 2017, whereby CFX retained the Contractor to provide information technology staffing services; and

**WHEREAS**, pursuant to Article 2.10 of the Original Agreement, CFX and Contractor wish to renew the Original Agreement for a period of one (1) year in accordance with the terms and conditions hereof.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and promises set forth in this Renewal Contract, the Parties agree as follows:

- 1. <u>Recitals</u>. The above recitals are true and correct and are hereby incorporated by reference as if fully set forth herein.
- 2. <u>Renewal Term</u>. CFX and Contractor agree to exercise the first renewal of said Original Agreement, which renewal shall begin on October 3, 2020 and end on October 2, 2021 ("Renewal Term"), unless otherwise extended as provided in the Original Contract.
- 3. <u>Compensation for Renewal Term</u>. The Contractor shall be compensated for any and all services performed during the Renewal Term under this Renewal Agreement in accordance with <u>Exhibit "B"</u> of the Original Agreement in an amount up to \$0.00 ("Renewal Compensation"). The Renewal Compensation shall be in addition to the original compensation paid by CFX to the Contractor pursuant to the terms of the Original Agreement, and any supplements or amendments thereto.
- 4. <u>Effect on Original Agreement</u>. All terms and conditions of said Original Agreement and any supplements and amendments thereto, not specifically modified herein, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this Renewal Agreement and the Original Agreement, or any existing supplements or amendments thereto, the provisions of this Renewal Agreement, shall take precedence.
- 5. <u>Counterpart and Electronic Signatures</u>. This Renewal Agreement may be executed in multiple counterparts, including by electronic or digital signatures in compliance with Chapter 668, Florida Statutes, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.

**IN WITNESS WHEREOF**, the Parties have caused this Renewal Agreement to be executed by their duly authorized officers effective on the day and year set forth above.

### 4 CORNER RESOURCES LLC

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Print Name: Title:	By:Aneth Williams, Director of Procurement
ATTEST:(SEAL)	
Secretary or Notary If Individual, furnish two witnesses:	Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this day of, 2020 for its exclusiv use and reliance.
By:	
Print Name:	By: Diego "Woody" Rodriguez, General Counsel
By:	Diego Woody Rodinguez, General Counsel
Print Name:	

## **CONTRACT**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND 4 CORNER RESOURCES, LLC

## INFORMATION TECHNOLOGY SERVICES

**CONTRACT NO. 001347** 

CONTRACT DATE: September 7, 2017 CONTRACT AMOUNT: \$2,063,000.00

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY COOPERATIVE PURCHASE AGREEMENT INFORMATION TECHNOLOGY SERVICES CONTRACT NO. 001347

This Contract is made this 7<sup>th</sup> day of September, 2017, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called CFX and 4 CORNER RESOURCES, LLC, 135 E. Colonial Drive, Suite 200, Orlando, FL 32801, hereinafter the CONTRACTOR:

### WITNESSETH:

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

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

WHEREAS, CFX has determined that it is necessary and convenient in the conduct of its business to retain the services of a CONTRACTOR to provide information technology services; and,

WHEREAS, on or about November 15, 2016, the CONTRACTOR entered an agreement with State of Florida Department of Management services (DMS) under its Contract No. 973-561-10-1 to provide substantially the same services as required by CFX; and,

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

WHEREAS, the CONTRACTOR agrees to provide the services under the same terms, conditions and rates as included in its contract with the City, a copy of which is attached to this Contract, and such additional terms and conditions as detailed below;

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

### 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 equipment, supplies, labor and incidentals necessary to perform this Contract in the manner and to the full extent as required by CFX

### 2. CONTRACT TERM AND AMOUNT

The term of the Contract will be three (3) years beginning October 3, 2017. There shall be two (2) renewal options of one year each. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONTRACTOR are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide the CONTRACTOR with written notice of its intent at least 60 days prior to the expiration of the initial three-year Contract terms. The Contract amount shall not exceed \$2,063,000.00 during the term.

### 3. COMPENSATION FOR SERVICES

Compensation shall be in accordance with the pricing sheet included in the CONTRACTOR's contract with DMS.

### 4. CONTRACTOR INSURANCE

CONTRACTOR shall carry and keep in force during the period of this Contract, the required amount of coverage as stated in the CONTRACTOR's contract with the City with additional coverage as required below. Compliance with these insurance requirements shall not relieve or limit the CONTRACTOR's liabilities and obligations under this Contract. 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. Additional coverage shall be as follows:

- 4.1 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;
- 4.2 Workers' Compensation Insurance Coverage, including all coverage required under the laws of the state of Florida (as amended from time to time hereafter);
- 4.3 Unemployment Insurance Coverage in amounts and forms required by Florida law, as it may be amended from time to time hereafter.

Such policy or policies shall be carried without deductible, without co-insurance, and shall (a) include CFX, and such other parties CFX 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, (d) provide that the policy may not be canceled or 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. At least fifteen (15) days prior to the expiration of any such policy of insurance required to be carried by CONTRACTOR hereunder, CONTRACTOR shall deliver insurance certificates to CFX evidencing a renewal or new policy to take the place of the one expiring. Procurement of insurance shall not be construed to limit CONTRACTOR's obligations or liabilities under the Contract. The requirement of insurance shall not be deemed a waiver of sovereign immunity by CFX.

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

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide CFX with certificates of same, CFX may obtain such polices and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments.

### 5. CONTRACTOR RESPONSIBILITY

CONTRACTOR shall take all reasonable precautions in the performance of the services and shall cause its employees, agents and subcontractors to do the same.

- 5.1 CONTRACTOR shall comply, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible, with 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
- 5.2 CONTRACTOR shall be responsible for all damage and loss that may occur with respect to any and all property in any way involved in the provision of services by CONTRACTOR, whether such property is owned by CONTRACTOR, CFX, or any other person, to the extent such damage or loss shall have been caused or brought about by the acts or omissions of CONTRACTOR or its employees, agents, officers or subcontractors or any other persons for whom CONTRACTOR may be legally or contractually responsible.
- 5.3 CONTRACTOR shall ensure that all of its activities and the activities of its employees, agents, officers and subcontractors and all other persons for whom CONTRACTOR may be legally or contractually responsible are undertaken in a manner that will minimize the effect on surrounding property and the public.

### 6. INDEMNITY

The CONTRACTOR shall indemnify, defend and hold harmless CFX and all of its respective officers, agents, CONTRACTOR's or employees from all 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). 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.

### 7. PUBLIC RECORDS

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify CFX. Thereafter, CONTRACTOR shall follow CFX's instructions with regard to such request. To the extent that such request seeks non-exempt public records, CFX shall direct CONTRACTOR to provide such records for inspection and copying incompliance with Chapter 119. A subsequent refusal or failure by CONTRACTOR to timely grant such public access will be grounds for immediate, unilateral cancellation of the Contract by CFX. 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

Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, Florida 32807
(407) 690-5000
PublicRecords@CFXWay.com

### 8. MEDIA 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, without first notifying CFX and securing its consent in writing.

### 9. 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.

### 10. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT

CONTRACTOR acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Ethics Policy. To the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

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

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

### 11. 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.

### 12. SUBLETTING AND ASSIGNMENT

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

### 13. DISPUTES AND TERMINATION

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

CFX shall have the right to terminate or suspend the Contract, in whole or in part, at any time, for any reason, with 7 days notice for convenience or 10 days notice for cause.

### 14. 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.

### 15. GOVERNING LAW

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.

### 16. RELATIONSHIPS

CONTRACTOR acknowledges that no employment relationship exists between CFX and CONTRACTOR or CONTRACTOR's employees. CONTRACTOR shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. CONTRACTOR shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax and income tax withholding, unemployment compensation, workers compensation, and employment benefits.

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

### 17. 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. Reference to one gender shall include all genders. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the stated statute or regulation. Words not otherwise defined and that have well-known technical, industry, or legal meanings, are used in accordance with such recognized meanings, in the order stated. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities. If CONTRACTOR discovers any material discrepancy, deficiency, or ambiguity in this Contract, or is otherwise in doubt as to the meaning of any provision of the Contract, CONTRACTOR may immediately notify CFX and request clarification of CFX's interpretation of the Contract. The Contract, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and nullifies all prior and contemporaneous negotiations, representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

### 18. 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:

- 18.1 Payment to CONTRACTOR for satisfactory work performed or for termination expenses, if applicable; and
- 18.2 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.

### 19. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT

CONTRACTOR shall initiate settlement of all outstanding liabilities and claims arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of CFX. This Contract was awarded by the CFX Board of Directors at its meeting on July 14, 2016.

IN WITNESS WHEREOF, the authorized signatures named below have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By:	abella	
-	Director of Procurement	

2017 OCT 5 PM 3:44

Approved as to form and execution, only.

General Counsel for CFX

### CENTRAL FLORIDA EXPRESSWAY AUTHORITY INFORMATION TECHNOLOGY SERVICES CONTRACT NO. 001347

## ACKNOWLEDGMENT OF STANDARD OF CONDUCT AND CODE OF ETHICS

The undersigned covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes Chapter 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 and, to the extent applicable to the undersigned, agrees to abide with such policy.

4 CORNER RESOURCES, LLC

% ignature

Print Name: Peter Porebsui

Title: Operations Manager

## CONSENT AGENDA ITEM #14

### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

### **MEMORANDUM**

TO: CFX Board Members

FROM: Aneth Williams Aneth Williams

**Director of Procurement** 

DATE: August 24, 2020

SUBJECT: Approval of Purchase Order to Temple, Inc. for Ruggedcom RSG 2300 Field

**Ethernet Switch Equipment** 

Project No. 599-542

An Invitation to Bid for the above-referenced project was advertised on August 9, 2020. Responses to the Invitation were received from five (5) contractors by the August 24, 2020 deadline.

Bid results were as follows:

<u>Bidder</u>	Bid Amount
1. Temple, Inc.	\$249,288.55
2. Intelligent Transportation Services, Inc.	\$264,395.00
3. Siemens Industry, Inc.	\$270,380.45
4. Holzberg Communications, Inc.	\$279,266.75
5. Data Connect Enterprise	\$304,362.90

Included in the Five-Year Work Plan is \$250,000.00.

The purchase of network equipment will be used to replace existing equipment that has reached the end of useful life.

The Procurement Department has evaluated the bids and has determined the bid from Temple, Inc. to be responsible and responsive to the bidding requirements. Board approval to issue a purchase order to Temple, Inc. in the amount of \$249,288.55 is requested.

This is included in the Five-Year Work Plan.

Reviewed by:
Bryan Homayouni, PE

Manager of Traffic Operations

Glenn Pressimone, PE



## CONSENT AGENDA ITEM #15

## CENTRAL FLORIDA EXPRESSWAY AUTHORITY

## **MEMORANDUM**

TO: CFX Board Members

FROM: Aneth Williams Ansth Williams

**Director of Procurement** 

DATE: July 24, 2020

SUBJECT: Approval of Contract Award to SICE, Inc. for

Dynamic Message Sign (DMS) Replacement Project

Project No. 599-545, Contract No. 001704

An Invitation to Bid for the above referenced project was advertised on July 5, 2020. Six (6) responses were received by the August 6, 2020 deadline.

Bid results were as follows:

	<u>Bidder</u>	<u>Bid Amount</u>
1.	SICE, Inc.	\$5,949,106.04
2.	Traffic Control Devices, Inc.	\$6,215,215.00
3.	Highway Safety Devices, Inc.	\$6,268,750.00
4.	Chinchor Electric, Inc.	\$6,468,788.10
5.	United Signs and Signals	\$6,519,432.34
6.	Traffic Management Solutions, Inc.	\$6,608,000.00

The engineer's estimate for this project is \$7,211,935.87. Included in the Five-Year Work Plan is \$7,400,000.00.

The work consists of providing all labor, materials, equipment and incidentals necessary to transport, install, test and successfully replace fourteen (14) 3 Line DMS signs along the SR 429, 414, 451, 453, 408, 528 and 520 corridors.

The Engineer of Record (EOR) for Project No. 599-545 has reviewed the low bid submitted by SICE, Inc. and has determined that one item was unbalanced. A Bids Review and Award meeting was held with the contractor to explain his cost. The Committee and the EOR agreed that based on the information provided and SICE, Inc.'s explanation, the price difference was acceptable.



The Procurement Department has evaluated the bids and has determined that the bid from SICE, Inc. to be responsible and responsive to the bidding requirements. Board award of the contract to SICE, Inc. in the amount of \$5,949,106.04 is requested.

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

Reviewed by:

Bryan Momayouni, PE

Manager of Traffic Operations

Glenn Pressimone, PE

# **CONTRACT**

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND SICE, INC.

# DMS REPLACEMENT PROJECT

PROJECT NO. 599-545 CONTRACT NO. 001704

CONTRACT DATE: SEPTEMBER 10, 2020 CONTRACT AMOUNT: \$5,949,106.04

# 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, ADDENDA, PUBLIC CONSTRUCTION BOND AND FORMS

**FOR** 

DMS REPLACEMENT PROJECT

PROJECT NO. 599-545 CONTRACT NO. 001704

**SEPTEMBER 2020** 

# TABLE OF CONTENTS

Section	<u>Title</u>	<u>Page</u>	
C	CONTRACT	C-1 to C-2	
	Memorandum of Agreement	1 to 5	
GS	GENERAL SPECIFICATIONS	GS-1 to GS-146	
	Attachment A	ATT-1 to ATT-9	
	(See General Specifications Table of Contents for listing of ind specifications sections.)	lividual	
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-7	
(See Special Provisions Table of Contents for listing of each special provision.)			
	Addendum No. 1		
P	PROPOSAL	P-1 to P-13	
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2	
PCB	PUBLIC CONSTRUCTION BOND	PCB-1 to PCB-4	

Plans

#### CONTRACT

This Contract No. 001704 (the "Contract"), made this <u>10<sup>th</sup></u> day of September 2020, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and SICE, Inc., of 14350 NW 56th CT, # 105, Miami, FL 33054, 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 599-545, DMS Replacement Project, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 450 calendar days. The Contract Amount is \$5,949,106.04. This Contract was awarded by the Governing Board of CFX at its meeting on September 10, 2020.

#### 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:		
SICE, INC.		
By:		
•	Signature	
	Print Name	
	Title	
ATTEST:		_(Seal)
DATE:		
DATE.		
Approved as to form and e	execution, only.	
General Cour	nsel for CFX	

#### MEMORANDUM OF AGREEMENT

## PRE-AWARD MEETING TO REVIEW PLANS, SPECIFICATIONS AND DOCUMENTS August 14, 2020

This Pre-Award Meeting Memorandum ("Memorandum") for DMS Replacement, CFX Project No. 599-545, is made and entered this 14th day of August 2020, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY a corporate body and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter "CFX,", and the apparent successful responsive and responsible bidder, SICE Inc. ("Contractor"), a Florida corporation with offices at 14350 NW 56<sup>th</sup> CT, #105, Miami, FL 33054, (Individually, Party and collectively, Parties).

#### **WITNESSETH THAT:**

WHEREAS, the CFX will enter into an agreement with the Contractor to construct Project No. 599-545 DMS Replacement pursuant to the execution of this Memorandum;

WHEREAS, CFX has solicited the services of the Contractor to provide labor, equipment and materials ("Services") to construct Project No. 599-545 and the Contractor has agreed to provide such Services in accordance with its bid of August 6, 2020;

WHEREAS, the Services generally consists of providing all labor, materials, equipment and incidentals necessary to transport, install, test, and successfully replace fourteen (14) 3 Line DMS signs along the SR 429, 414, 451, 453, 408, 528 and 520 corridors. These locations include installing backup LP generator systems and integration into nearby toll plazas to tie into the generator backup systems. Infrastructure for the deployment of portable generators is included at various DMS locations throughout the system. The project includes the development of an electrical microgrid system for the SR 528 corridor which will install multiple LP Generator systems at the electrical point of services to provide all corridor devices redundant power supply as shown on the Plans;

WHEREAS, the Contractor has demonstrated its qualification, capability and willingness to provide the Services;

NOW, THEREFORE, the Parties agree as follows:

### 1. PRE-AWARD MEETING TO REVIEW PLANS, SPECIFICATIONS AND DOCUMENTS

A meeting was held on August 14, 2020, between 1:30 p.m. and 2:30 p.m., in accordance with Article 3.4, Pre-Award Meeting, of the General Specifications. The purpose of the meeting was to address all questions or differences in interpretations of the documents, to disclose advantages that may have been gained through a strict and literal interpretation of the bid documents (i.e., if the Contractor suspects or believes, based on the Contractor's prior experience or on the

overall specifications, that a literal interpretation of one or more particular specifications does not accurately reflect what CFX wants or needs, then the Contractor should raise such issue at the preaward meeting so the parties can reach agreement as to how the specification should be handled and whether any adjustments to the specification and/or bid price are appropriate), and to provide clarifications. The Contractor's key personnel together with CFX's representatives, attended the meeting.

#### 2. PROCEDURES

At the meeting, the Plans, Specifications and other Contract Documents which were used by the Contractor in preparing its bid were reviewed. Items that could be the cause of potential claims were identified and CFX will make such corrections and interpretations as CFX deems necessary to reflect the intent of the Plans and Specifications.

#### 3. ITEMS DISCUSSED AND AGREED TO

- A. The Contractor acknowledged that they have reviewed the Bid Documents in detail. The Contractor stated that they have not identified any errors, omissions, or items of concern with the Bid Documents as it relates to their bid and has agreed to proceed with the work in accordance with all requirements outlined within these Bid Documents.
- B. The Contractor acknowledged and agreed to SP-2 requiring that the work reach Substantial Completion within 360 calendar days and that the work shall be completed and ready for Final Acceptance within 450 calendar days after the charging of Contract Time begins. The Contractor understands that the 90-day period between Substantial Completion and Final Acceptance is reserved for burn-in and Conditional Acceptance testing and addressing of punch list items.
- C. The Contractor acknowledged the requirement for the Notice to Proceed (NTP) to be issued within 30 calendar days of Contract execution. The Contract will go for Board approval at the September 10<sup>th</sup>, Board meeting. Therefore, a mid to late-October NTP is anticipated.
- D. The Contractor acknowledged and understands the requirements of bid item 102-1 Maintenance of Traffic. All MOT operations must meet the requirements of the FY 2019-20 FDOT Standard Plans and the detailed Temporary Traffic Control Plan, MOT Detour Sheet, Pacing Plan Detail, Lane Tapering Detail, Lane Closure Detail, MOT Road Closure Typical Detail, and MOT Road Closure Detail in the plans. If the work requires MOT that is not covered by a specific FDOT Standard Plan Index or the construction plans, the Contractor will be required to submit a Signed & Sealed site-specific MOT drawing for review and approval as part of their TCP submittal.
- E. The Engineer of Record (EOR) clarified that the 102-14 Traffic Control Officer bid item was included for off-duty officer hours required for pacing operations only. It was discussed that nowhere in the Bid Documents does it clarify that this item is only

intended for traffic pacing operations. The Contractor's interpretation was that all off-duty officers required for MOT operations would be paid for separately and they did not account for off-duty officer hours in the 102-1 Maintenance of Traffic lump sum bid item. CFX and the EOR will investigate an alternate MOT approach for the planned pacing for the DMS 520-NB location which will substantially reduce the off-duty officer hours required for the project.

- F. The Contractor acknowledged CFX's concern that the bid price for bid item 639-5-2 Emergency Generator Permanent (26-50 kW) is unbalanced based on an analysis by the EOR. A meeting will be held next week with the Contractor, CFX, and the EOR to thoroughly discuss the unbalanced bid item so CFX can determine how to proceed.
- G. The Contractor acknowledged and understands the requirements of bid item 700-9-600 Walk-In Dynamic Message Sign, Remove. CEI clarified the pay item note in the plans which requires DMS removals to be coordinated with CFX at least one week in advanced so ITS Maintenance can remove any desired spare parts from the existing Skyline signs.
- H. The Contractor confirmed the unit prices and quantities for bid items 729-11 Dynamic Message Sign System (LED) (3 Line) (Daktronics) (F&I) at 3 Each and 729-11 Dynamic Message Sign System (LED) (3 Line) (F&I) (Ledstar) at 11 Each.
- I. Pay item note 28 for item 729-11C Dynamic Message Sign System (LED) (3-Line), Catwalk on plan sheet IT-11 requires the Contractor to submit shop drawings and design calculations signed and sealed by a licensed Professional Engineer in the State of Florida for each proposed location. The Contractor acknowledged this requirement. The EOR can provide LIDAR structure scan that were performed during design if needed. CEI also clarified that shop drawings for the existing structures were provided in the Bid Documents.
- J. The Contractor understands that all bid documents associated with their bid on this project must be placed in escrow, in accordance with SP-7, prior to the Contract becoming binding on CFX.
- K. The Contractor acknowledged and understands that various elements of the proposed work under this project have been identified as requiring a permit or coordination with the following agencies: Florida's Turnpike Enterprise (FTE), Florida Department of Transportation (FDOT), Orlando Utilities Commission (OUC), Florida Gas Transmission (FGT), Orange County, and City of Orlando. The Contractor understands that they will be required to pay any permitting fees and meet permit requirements deemed necessary to complete the work. CFX and the EOR have already begun the initial coordination and filed some of the permit applications that were identified as necessary during design. The Contractor will be responsible to take over the coordination and ensure the necessary permits are executed prior to proceeding with the subject work.
- L. Contractor acknowledged and agreed to the requirements of SP-9 requiring coordination

with adjacent construction contracts which may require them to delay their work activities at certain locations to avoid conflicts with other ongoing construction projects.

### 4. EXECUTION

It is agreed and understood by the Parties that the execution of this Memorandum and its effectiveness is contingent upon execution of the Contract by and between CFX and Contractor.

IN WITNESS WHEREOF, this agreement has been executed by CFX and the Contractor effective on the day and year first written above.

CENTRAL FLORIDA EXP	PRESSWAY AUTHORITY
Ву:	
Name Director of Goo	
Director of Con	Alexan
Witne	ess
SICE, Inc.	Digitally signed by RAFAEL I
By: Rafael Casasus	CASASUS ACEVEDO Date: 2020.08.21 17:16:40 -04'00'
Name	2
Senior Vice President	
Title	
Witne	ess

## ATTACHMENT A

# CENTRAL FLORIDA EXPRESSWAY AUTHORITY DMS REPLACEMENT PROJECT PROJECT NO. 599-545 PRE-AWARD MEETING TO REVIEW PLANS, SPECIFICATIONS AND DOCUMENTS

### LIST OF ATTENDEES

## August 14, 2020

NAME & COMPANY	ADDRESS	PHONE/FAX
1. Brent Dustin, P.E. Metric Engineering	525 Technology Park Ste. 153, Lake Mary, FL 32746	407-885-9120
2. Andrea McCorkindale, Metric Engineering	525 Technology Park Ste. 153, Lake Mary, FL 32746	407-575-2049
3. Brian Vosberg, Metric Engineering	525 Technology Park Ste. 153, Lake Mary, FL 32746	484-868-5537
4. Aneth Williams, CFX	4974 ORL Tower Rd, Orlando, FL 32807	407-690-5000
5. Kim Murphy, CFX	4974 ORL Tower Rd, Orlando, FL 32807	407-690-5000
6. Bryan Homayouni, CFX	4974 ORL Tower Rd, Orlando, FL 32807	407-284-9376
7. Jack Burch, CFX	4974 ORL Tower Rd, Orlando, FL 32807	407-690-5000
8. Joe Perri, VHB	225 E. Robinson St. Suite 300, Orlando, FL 32801	407-792-1725
9. Jared Knight, VHB	225 E. Robinson St. Suite 300, Orlando, FL 32801	407-839-4006
10. Chirayu Amin, AECOM	150 N. Orange Ave., Ste. 200, Orlando, FL 32801	407-790-5667
11. Pablo Loriente, SICE	2721 Forsyth Rd, Unit 400, Winter Park, FL 32792	305-772-8082
12. Rafael Casasus, SICE	2721 Forsyth Rd, Unit 400, Winter Park, FL 32792	305-222-7040
13. Fernando Nieto, SICE	2721 Forsyth Rd, Unit 400, Winter Park, FL 32792	305-222-7040

# ATTACHMENT B CENTRAL FLORIDA EXPRESSWAY AUTHORITY DMS REPLACEMENT PROJECT PROJECT NO. 599-545

## PRE-AWARD MEETING TO REVIEW PLANS, SPECIFICATIONS AND DOCUMENTS August 14, 2020

#### INTRODUCTIONS - See Attachment A for attendance list

SCOPE - Replacement of fourteen (14) 3-Line DMS signs along the SR 429, 414, 451, 453, 408, 528 and 520 corridors. Including installation of backup LP generator systems and integration into nearby toll plazas to tie into the generator backup systems. Infrastructure for the deployment of portable generators is included at various DMS locations throughout the system. The project includes the development of an electrical microgrid system for the SR 528 corridor which will install multiple LP Generator systems at the electrical point of services to provide all corridor devices redundant power supply. Additionally, the Contractor shall install a floating photovoltaic system as shown on the Plans.

PURPOSE – Joint review of Contractor's bid and the documents on which the bid is based to determine if the bid is consistent with the intent of the plans and specifications. Determination if there are any known errors or omissions and opportunity to provide clarifications on the bid documents prior to entering into a Contract.

#### **REVIEW TOPICS**

- 1. General Specifications, Technical Specifications and Special Provisions
  - Governing Contract Documents include:
    - o CFX Special Provisions
    - CFX Technical Specifications
    - CFX General Specifications
    - o January 2020 FDOT Standard Specifications (Division II & III only)
- 2. Bid Tabulation
  - Bid items were reviewed. Particular bid items discussed/clarified are outlined in Section 3 of the MOA above.
- 3. Maintenance of Traffic
  - FY 2019-20 FDOT Standard Plans 102 Series
  - Temporary Traffic Control Plans
- 4. Plans (Bid Plans dated June 2020)
- 5. Addenda
  - Addendum No.1 Issued July 29, 2020
    - Revised Plan Sheets to clarify various items To be included in the approved AFC Plans
    - Responses to questions
  - 6. Contract Time (SP-2)

- Substantial Completion 360 calendar days
- Final Acceptance 450 calendar days
- Burn in 90 calendar days following Substantial Completion
- Procurement
  - Lead times Approximately 6 months for DMS signs

#### OTHER BUSINESS

- 2. Notice-to-Proceed (NTP) Date *TBD* (within 30 days of contract execution)
  - September 10<sup>th</sup> Board Meeting
- 3. Schedule date for Pre-Construction Conference *TBD (anticipated mid-October)*
- 4. Escrow of Bid Records (SP-7)
  - Contractor and CEI will coordinate on a date to place bid records in safety deposit box
- 5. Permits
  - FDOT General Use Permit
    - o DMS 520-NB, power service adjustments, and detours onto FDOT roads
  - OUC RR Crossing
    - o Bore on SR 528 WB @ Monument Pkwy
    - o \$1,450 permit application fee
    - o Flagman will be required to be on-site
    - o Coordination will be required
  - FGT Gas Crossing
    - o Bore on SR 528 WB @ Monument Pkwy
    - o Coordination will be required and FGT will be onsite
  - FTE Permit
    - MOT signage of adjacent roadways on SR 528 WB located near MM 36
    - o Advanced signage near 408-1.0-EB
    - Coordination will be required
- 6. Concurrent Construction Contracts (SP-9) *CEI to assist with the coordination efforts*

#### **EXECUTION OF MEMORANDUM**

- 1. Discussion of MOA and Contract execution Signed MOA must be submitted by the August 25<sup>th</sup> Consent Agenda deadline
  - Submittal of P-7 (D/M/WBE Utilization Form) *P-7 form must be submitted by August 25<sup>th</sup> Consent Agenda deadline*
  - Contractor to make good faith effort to increase M/D/WBE Utilization and provide documentation

Section Nan	<u>ne</u>	Page No.
Section 1 - A	Abbreviations and Definitions	1
1.1	General	1
1.2	Abbreviations	1
1.3	Definitions	2
Section 2 - S	Scope of Work	11
2.1	Intent of Contract	11
2.2	Work Not Covered by the General Specifications	11
2.3	Alteration of Plans	11
	2.3.1 General	
	2.3.2 Increase, Decrease or Alteration in the Work	
	2.3.3 Connections to Existing Pavements, Drives, and Walks	
	2.3.4 Differing Site Conditions	
	2.3.5 Changes Affecting Utilities	
	2.3.6 Cost Savings Initiative Proposal	
2.4	Claims by Contractor	24
	2.4.1 General	
	2.4.2 Notice of Claim	
	2.4.3 Content of Written Claim	
	2.4.4 Action on Claim	
	2.4.5 Compensation for Extra Work or Delay	
	2.4.6 Mandatory Claim Records	
	2.4.7 Claims for Acceleration	
	2.4.8 Certificate of Claim	
	2.4.9 Non-Recoverable Items	
	2.4.10 Exclusive Remedies	
	2.4.11 Settlement Discussions	
	2.4.12 Personal Liability of Public Officials	
	2.4.13 Auditing of Claims	
2.5	Unforeseeable Work	31
2.6	Right To and Use of Materials Found at the Site of the Work	31
	2.6.1 Ownership and Disposal of Existing Materials	
	2.6.2 Ornamental Trees and Shrubs	
2.7	Restoration of Right of Way	32

Section Name	2		Page No
Section 3 - Co	ontrol o	f Work	33
3.1	Dlana	and Wanking Drawings	33
3.1		and Working Drawings Plans and Contract Documents	33
	3.1.1	CFX Plans	
		Alterations in the Plans	
		Shop Drawings	
3.2			36
3.2		ination of Plans and Specifications rmity of Work with Plans	37
3.3	3.3.1	·	37
3.4		ward Meeting	38
3.4		s and Instructions	39
3.3		Observation of the Work	39
		Examination of the Work	
	3.5.2	Communications	
3.6		eering and Layout	41
3.0		Control Points Furnished by CFX	41
		Furnishing of Stake Material	
		Layout of Work	
	3.6.4		
	3.6.5		
	3.6.6	Global Navigation Satellite Systems (GNSS) Work Plan	
	3.6.7	Payment	
3.7		actor's Supervision	44
3.7		Prosecution of Work	77
	3.7.1		
	3.7.2	1	
		Worksite Traffic Supervisor	
3.8		al Inspection Requirements	45
3.0	3.8.1	Cooperation by Contractor	73
	3.8.2	Failure of CFX to Reject Work During Construction	
	3.8.3	Failure to Remove and Renew Defective Materials and Work	
3.9		Inspection and Acceptance	47
3.9	3.9.1	Maintenance Until Final Acceptance	7/
	3.9.2	Inspection for Substantial Completion	
	3.9.2	Final Inspection	
	3.9.4	Final Acceptance	
	3.9.5	Recovery Rights Subsequent to Final Payment	
3 10		and Examination of Contract Records and Rid Records	48

Section Nam	<u>ie</u>		Page No.
3.11	Escrov	w of Bid Records	50
3.12	Prevai	iling Party Attorney's Fees	51
Section 4 - C	Control o	f Materials	53
4.1	Accep	otance Criteria	53
	4.1.1	General	
	4.1.2	Sampling and Testing	
	4.1.3	Certification	
	4.1.4	Warranty and Guaranty	
4.2	Design	nation of a Specific Product as a Criterion ("Or Equal" Clause)	54
4.3	Source	e of Supply and Quality Requirements	54
	4.3.1	Only Approved Materials to be Used	
	4.3.2	Notification of Placing Order	
	4.3.3	Approval of Source of Supply	
4.4	Inspec	ction and Tests at Source of Supply	55
		General	
		Cooperation by Contractor	
		Retest of Materials	
4.5	_	ge of Materials and Samples	56
		Method of Storage	
	4.5.2	Use of Right of Way for Storage	
		Responsibility for Stored Materials	
		Storage Facilities for Samples	
4.6	Defect	tive Materials	56
Section 5 - L	egal Rec	quirements and Responsibility to the Public	58
5.1	Laws	to be Observed	58
0.11		General	
		Plant Quarantine Regulations	
	5.1.3	Introduction or Release of Prohibited Aquatic Plants, Plant Pest	ts or
	01110	Noxious Weeds	,5 01
	5.1.4	Compliance with Federal Endangered Species Act	
	5.1.5	Occupational Safety and Health Requirements	
		Discovery of Unmarked Human Burial Site	
	5.1.7	Insecticides and Herbicides	
5.2		ts and Licenses	60
5.3		red Devices, Materials and Processes	60

Section Name		Page No.
5.4	Right of Way Furnished by CFX	61
5.5	Sanitary Provisions	
5.6	Control of the Contractor's Equipment	61
	5.6.1 Traffic Interference	
	5.6.2 Overloaded Equipment	
	5.6.3 Crossings	
	5.6.4 Protection from Damage by Tractor-Type Equipment	
	5.6.5 Contractor's Equipment on Bridge Structures	
	5.6.6 Posting of the Legal Gross Vehicular Weight	
5.7	Structures Over Navigable Waters	63
	5.7.1 Compliance with Jurisdictional Regulations	
5.8	Use of Explosives	63
5.9	Preservation of Property	63
	5.9.1 General	
	5.9.2 Failure to Restore Damaged Property	
	5.9.3 Contractor's Use of Streets and Roads	
	5.9.4 Traffic Signs, Signal Equipment, Highway Lighting and Guardra	il
	5.9.5 Operations Within Railroad Right of Way	
	5.9.6 Utilities	
5.10	Responsibility for Damages, Claims, etc.	68
	5.10.1 Contractor to Provide Defense Against Claims and Suits	
	5.10.2 Guaranty of Payment for Claims	
5.11	Insurance	70
	5.11.1 Schedule of Required Limits for Workers' Compensation,	
	General Liability and Automobile Liability	
	5.11.2 Workers' Compensation and Employer's Liability Insurance	
	5.11.3 Comprehensive General Liability Insurance	
	5.11.4 Comprehensive Automobile Liability Insurance	
	5.11.5 Umbrella/Excess Liability Insurance	
	5.11.6 Builder's Risk	
	5.11.7 Railroad Insurance	
	5.11.8 Pollution Legal Liability	
	5.11.9 Professional Liability	
5.12	Contract Bond (Public Construction Bond) Required	76
	5.12.1 General Requirements of the Bond	
	5.12.2 Continued Acceptability of Surety	
5.13	Contractor's Responsibility for Work	76
5.14	Opening Section of Highway to Traffic	77
5.15	Scales for Weighing Materials	77

Section Name		Page No.
	5.15.1 Applicable Regulations	
	5.15.2 Base for Scales	
	5.15.3 Protection and Maintenance	
5.16	Source of Forest Products	77
5.17	Regulations of Air Pollution	77
	5.17.1 General	
	5.17.2 Dust Control	
	5.17.3 Asphalt Material	
	5.17.4 Asphalt Plants	
5.18	Dredging and Filling	78
5.19	Erosion Control	78
5.20	Contractor's Motor Vehicle Registration	78
5.21	Internal Revenue Service Form W-9	78
5.22	Tolls and Access	79
5.23	Requests for References or Performance Evaluations	79
5.24	Unauthorized Aliens	79
5.25	Public Records	80
5.26	Inspector General	81
5.27	Convicted Vendor List	81
5.28	Discriminatory Vendor List	81
5.29	Severability	
5.30	Companies Pursuant to Florida Statute Sections 287.135 and 215.4	73 82
Section 6 - Pro	osecution and Progress of the Work	83
6.1	Subletting or Assigning of Contract	83
6.2	Work Performed by Equipment Rental Agreement	85
6.3	Prosecution of Work	85
	6.3.1 Sufficient Labor, Materials and Equipment	
	6.3.2 Impacts by Adjacent Projects	
	6.3.3 Submission of Preliminary, Baseline, Updated Baseline, and Look-Ahead Schedules	d Two-Week
	6.3.4 Beginning Work	
	6.3.5 Provisions for Convenience of the Public	
	6.3.6 Pre-Construction Conference	
6.4	Limitations of Operations	103
	6.4.1 Night Work	
	6.4.2 Sequence of Operations	
	6.4.3 Interference with Traffic	
	6.4.4 Coordination with Other Contractors	

Section Name			Page No.
	6.4.5	Drainage	
	6.4.6	Fire Hydrants	
	6.4.7	Protection of Structures	
	6.4.8	Fencing	
	6.4.9	Hazardous or Toxic Waste	
	6.4.10	Milling	
6.5	Qualif	ications of Contractor's Personnel	107
6.6	Tempo	orary Suspension of Contractor's Operations	107
	6.6.1	CFX to Suspend Contractor's Operations	
	6.6.2	Prolonged Suspensions	
	6.6.3	Permission to Suspend Operations	
	6.6.4	Suspension of Contractor's Operations – Holidays	
6.7	Contra	act Time	108
	6.7.1	General	
	6.7.2	Date of Beginning of Contract Time	
	6.7.3	Adjusting Contract Time	
6.8	Failure	e of Contractor to Maintain Satisfactory Progress	110
	6.8.1	General	
6.9	Defaul	t and Termination of Contract	111
	6.9.1	Determination of Default	
	6.9.2	Public Interest Termination of Contract	
	6.9.3	Completion of Work by CFX	
6.10	Liquid	ated Damages for Failure to Complete the Work	114
	6.10.1	Liquidated Damages for Failure to Complete the Work	
	6.10.2	Determination of Number of Days of Default	
	6.10.3	Conditions Under Which Liquidated Damages are Imposed	
	6.10.4	Right of Collection	
	6.10.5	Allowing the Contractor to Finish Work	
		Liability for Liquidated Damages	
6.11	Releas	e of Contractor's Responsibility	114
6.12	Recov	ery of Damages Suffered by Third Parties	114
6.13	Expres	ss Warranty	115
Section 7 - Me	easurem	nent and Payment	116
7.1	Measu	rement of Quantities	1116
	7.1.1	Measurement Standards	
	7.1.2	Method of Measurements	
		Determination of Pay Areas	
		•	
	7.1.4	Construction Outside Authorized Limits	

Section Name			Page No
	7.1.5	Truck Requirements	
	7.1.6	Ladders and Instrument Stands for Bridge Construction	
7.2	Scope	of Payments	117
	7.2.1	Items Included in Payment	
	7.2.2	Non-Duplication of Payment	
7.3	Comp	ensation for Altered Quantities	117
		General	
		Payment Based on Plan Quantity	
		Lump Sum Quantities	
		Deviation from Plan Dimensions	
7.4		Account Work	120
		Method of Payment	
	7.4.2	Records	
		Preliminary Order-of-Magnitude Estimate	
7.5		ed Work	123
7.6		Payments	123
		General	
		Unsatisfactory Payment Record	
		Withholding Payment for Defective Work	
		Partial Payments for Delivery of Certain Materials	
		Certification of Payment to Subcontractors	
		Reduction of Payment for Unsatisfactory Services or Products	
7.7		d of Construction Materials	127
	7.7.1		
		Non-Commercial Materials	
7.8	-	ted Amounts Due Contractor	127
7.9	-	tance and Final Payment	127
7.10	Offset	ting Payments	129
Section 8 – Di	sadvan	taged/Minority/Women Business Enterprise (D/M/WBE)	130
Pa	rticipat	tion	
8.1	Gener	al	130
8.2	Disad	vantaged/Minority and Women Owned Businesses – Participation	
	Object	tives	131
	8.2.1	General	
	8.2.2	Definitions	
	8.2.3	Specific Requirements	
	8.2.4	Qualified Participation	
	8.2.5	Records and Reports	

## GENERAL SPECIFICATIONS

Section Name		Page No.
8.3	Subletting of Contracts - Participation Objectives	136
Section 9 - Binding Arbitration		137
Section 10 – Disputes Resolution		139
10.1	Disputes Resolution 10.1.1 Disputes Review Board 10.1.2 Continuance of Work During Dispute 10.1.3 Disputes Review Board Membership 10.1.4 Board Operations 10.1.5 Procedure for Disputes Resolution 10.1.6 Conduct of Disputes Hearings	139
	<ul><li>10.1.7 Compensation</li><li>10.1.8 Three Party Agreement</li></ul>	

Attachment A - Disputes Review Board Three Party Agreement

#### 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.

AGMA American Gear Manufacturers Association

AIA American Institute of Architects
AISI American Iron and Steel Institute
ANSI American National Standards Institute
AREA American Railway Engineering Association
ASCE American Society of Civil Engineers

ASME American Society of Mechanical Engineers
ASTM American Society for Testing and Materials

AWG American Wire Gauge

AWPA American Wood Preservers Association

AWS American Welding Society

AWWA American Water Works Association
CRSI Concrete Reinforcing Steel Institute
EASA Electrical Apparatus Service Association

EPA Environmental Protection Agency of the United States Government

FDOT Florida Department of Transportation FHWA Federal Highway Administration

FNGLA Florida Nursery, Growers and Landscape Association

FSS Federal Specifications and Standards

IEEE Institute of Electrical and Electronics Engineers

IES Illuminating Engineering Society

IPCEA Insulated Power Cable Engineers Association ISO International Organization for Standards

MASH AASHTO Manual for Assessing Safety Hardware MUTCD Manual on Uniform Traffic Control Devices

NEC National Electrical Code

NEMA National Electrical Manufacturers Association

NFPA National Fire Protection Association

NIST National Institute for Standards and Technology NOAA National Oceanic and Atmospheric Administration OSHA Occupational Safety and Health Administration

SAE Society of Automotive Engineers
SI International System of Units
SSPC The Society for Protective Coatings

UL Underwriters' Laboratories

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 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 **Advertisement** The public announcement, as required by law, inviting bids for work to be performed or materials to be furnished, usually issued as "Notice to Contractors," or "Notice to Bidders."
- 1.3.2 **Addendum** A written or graphic instrument issued prior to the bid opening which modifies or interprets the proposed Contract Documents by additions, deletions, clarifications, or corrections
- 1.3.3 **Article** The prime subdivision of a Section of the General and/or Technical Specifications.
- 1.3.4 **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.
- 1.3.5 **Bidder** An individual, firm, or corporation submitting a proposal for the proposed work.
- 1.3.6 **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 multispan box culvert is considered a bridge when the length between the extreme ends of the openings exceeds 20 feet.
- 1.3.7 **Calendar Day** Every day shown on the calendar, ending and beginning at midnight.
- 1.3.8 **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.
- 1.3.9 Construction Engineering & Inspection (CEI) Consultant The firm employed by CFX to observe the progress and quality of the Work being performed by the Contractor.
- 1.3.10 **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.
- 1.3.11 **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.
- 1.3.12 **Contract Bond** The security furnished by the Contractor and the surety as a guaranty that the Contractor shall fulfill the terms of the Contract and pay all legal debts pertaining to the construction of the project.
- 1.3.13 **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.
- 1.3.14 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

Standard Plans (edition per plans).

- 1.3.15 **Contract Price** The money payable by CFX to the Contractor for completion of the Work in accordance with the Contract Documents.
- 1.3.16 **Contract Time** The number of calendar days allowed for completion of the Work including authorized time extensions.
- 1.3.17 **Contractor** The person, firm, or corporation with whom CFX has entered into the Contract.
- 1.3.18 Contractor's Engineer of Record A Professional Engineer registered in the State of Florida, other than the Engineer of Record or his subcontracted consultant, who undertakes the design and drawing of components of the permanent structure as part of a redesign or Cost Savings Initiative Proposal, or for repair designs and details of the permanent work. The Contractor's Engineer of Record may also serve as the Specialty Engineer.

The Contractor's Engineer of Record must be an employee of a prequalified firm. The firm shall be pre-qualified in accordance with the Rules of the Department of Transportation, Chapter 14-75. Any Corporation or Partnership offering engineering services must hold a Certificate of Authorization from the Florida Department of Business and Professional Regulation.

As an alternate to being an employee of a pre-qualified firm, the Contractor's Engineer of Record may be a Department-approved Specialty Engineer. For items of the permanent work declared by to be "major" or "structural", the work performed by a Department-approved Specialty Engineer must be checked by another Department-approved Specialty Engineer. An individual Engineer may become a Department-approved Specialty Engineer if the individual meets the Professional Engineer experience requirements set forth within the individual work groups in Chapter 14-75, Rules of the Department of Transportation, Florida Administrative Code. Department-approved Specialty Engineers are listed on the State Construction Website. Department-approved Specialty Engineers will not be authorized to perform redesigns or Cost Savings Initiative Proposal designs of items fully detailed in the Plans.

- 1.3.19 **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.
- 1.3.20 **Culverts** Any structure not classified as a bridge, which provides an opening under the roadway.
- 1.3.21 **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.
- 1.3.22 **Director of Construction** Director of Construction, Central Florida Expressway Authority, acting directly or through an authorized representative.
- 1.3.23 **Engineer** The term as may be used in various documents is understood to mean CFX or designated representative.
- 1.3.24 **Engineer of Record** The professional engineer or engineering firm, contracted 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.
- 1.3.25 **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.
- 1.3.26 **Executive Director** Executive Director, Central Florida Expressway Authority, acting directly or through an assistant or other representative authorized by him; the chief officer of the Central Florida Expressway Authority
- 1.3.27 **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."
- 1.3.28 **Federal, State, and Local Rules and Regulations -** The term "Federal, State and Local Rules and Regulations" includes: any and all Federal, State, and Local laws, bylaws, ordinances, rules, regulations, orders, permits, or decrees including environmental laws, rules, regulations, and permits.
- 1.3.29 **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.
- 1.3.30 **Highway, Street, or Road** A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way.
- 1.3.31 **Holidays** Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Independence Day

- (Observed); Labor Day; the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Veterans Day (Observed); the Wednesday immediately preceding Thanksgiving Day; Thanksgiving Day; the Friday, Saturday and Sunday immediately following Thanksgiving Day; and December 24 through January 2, inclusive.
- 1.3.32 **Inspector** An authorized representative of the Engineer, assigned to make official inspections of the materials furnished and of the work performed by the Contractor and to monitor compliance with the Plans and Specifications of the Contract.
- 1.3.33 **Invitation to Bid** The invitation by which the Contractor submitted its Bid for the Work.
- 1.3.34 **Laboratory** A Testing facility certified with the Florida Department of Transportation.
- 1.3.35 **Major Item of Work** Any item of Work having an original Contract value in excess of 5% of the original Contract amount.
- 1.3.36 **Materials** Any substances to be incorporated in the Work.
- 1.3.37 **Median** The portion of a divided highway or street separating the traveled ways for traffic moving in opposite directions.
- 1.3.38 **Memorandum of Agreement** A formal summarization of the Project Pre-Award meeting, signed by CFX and a representative of the Contractor and made part of the contract documents.
- 1.3.39 **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.
- 1.3.40 **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.
- 1.3.41 **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.
- 1.3.42 **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.

- 1.3.43 **Resident Engineer** The authorized representative of the CEI who may be assigned to the site or any part thereof.
- 1.3.44 **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.
- 1.3.45 **Roadbed** That portion of the roadway occupied by the subgrade and shoulders.
- 1.3.46 **Roadway** The portion of a highway within the limits of construction.
- 1.3.47 **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.
- 1.3.48 **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.
- 1.3.51 **Special Event** Any event, including but not limited to, a festival, fair, run or race, motorcade, parade, civic activity, cultural activity, charity or fund drive, sporting event, rocket/shuttle launch or similar activity.
- 1.3.49 **Special Provisions** Specific requirements for the Project not otherwise addressed in the General Specifications, Technical Specifications, or Standard Specifications.
- 1.3.50 **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 have their business registered with the Florida State Board of Professional Engineers and be qualified as a Professional Engineer licensed in Florida. 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.
- 1.3.52 **Specifications** The directions, provisions, and requirements contained in the General Specifications, Technical Specifications, Special Provisions, and Standard Specifications.
- 1.3.53 **Standard Plans** "Standard Plans for Road and Bridge Construction", an electronic book describing and detailing aspects of the Work. Where the term Design Standards appears in the Contract Documents, it will be synonymous with Standard Plans.
- 1.3.54 **Standard Specifications** The FDOT Standard Specifications for Road and Bridge Construction, July 2019 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.
- 1.3.55 State State of Florida
- 1.3.56 **Subarticle** Any headed subdivision of an Article of the General Specifications, Technical Specifications, or Standard Specifications.
- 1.3.57 **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.
- 1.3.58 **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.
- 1.3.59 **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 striping 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, striping, 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.

- 1.3.60 **Substructure** All of that part of a bridge structure below the bridge seats including the parapets, backwalls and wingwalls of abutments.
- 1.3.61 **Superintendent** The Contractor's authorized representative responsible and in charge of the Work.
- 1.3.62 **Superstructure** The entire bridge structure above the substructure including anchorage and anchor bolts but excluding the parapets, backwalls, and wingwalls of abutments.
- 1.3.63 **Supplemental Agreement** A written agreement between CFX and the Contractor, signed by the surety, modifying the Contract within the limitations set forth in these specifications.
- 1.3.64 **Surety** The corporate body that is bound by the Contract Bond with and for the Contractor and responsible for the performance of the Contract and for payment of all legal debts pertaining thereto.
- 1.3.65 **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.

- 1.3.66 **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.
- 1.3.67 **Travel Way** The portion of the roadway for the movement of vehicles, exclusive of shoulders and bicycle lanes.
- 1.3.68 **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.
- 1.3.69 **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.
- 1.3.70 **Working Day -** Any calendar day on which the Contractor works or is expected to work in accordance with the approved work progress schedule.
- 1.3.71 **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 Plans 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.

Upon execution of the Contract, written communication associated with the Contract may be conducted using a paperless electronic means. When the Specifications require a submission of documentation, such documents may be submitted and exchanged electronically.

Documents requiring a signature may be executed electronically by both parties in accordance with Chapter 668, Florida Statutes, and have the same force and effect as a written signature. All persons requiring access to any collaboration sites shall be identified during the preconstruction conference and instructions for access to this site will be discussed and documented in the minutes. Persons may be added or removed during the life of the Contract on an as needed basis. All signatories executing documents electronically must acquire digital signature certificates.

## 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, Technical Special Provisions 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 2.4.13. 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

<sup>\*</sup>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 at the original contract bond rate paid by the Contractor. Should the Contractor have previously elected to provide subguard coverage in lieu of requiring a bond from a sub on the original work, 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 a time extension due to delay of a controlling work item caused solely by CFX, 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.

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.
- 2.3.3 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.
- 2.3.4 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.

2.3.5 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.

- 2.3.6 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.

2.3.7 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.

2.3.8 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 Standard Plans identified in the Contract Documents.

2.3.9 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.

2.3.10 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.

# 2.3.11 Cost Savings Initiative Proposal

2.3.11.1 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.

- 2.3.11.2 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, Standard Plans, 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 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.
- 2.3.11.3 Processing Procedures: The Contractor shall submit 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.

2.3.11.4 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.

- 2.3.11.5 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.
- 2.3.11.6 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.
- 2.3.11.7 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 Standard Plans, Standard Plans 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 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 shall 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 Standard Plans 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 Standard Plans, 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.

As-Built Drawings: During the entire construction operation, both the CEI and the Contractor shall maintain independent, separate records of all deviations from the plans and specifications including Requests for Information (RFI), field directives, sketches, etc. The Contractor shall submit a draft of the as-built drawings, including all deviations, to the CEI no less than once every two months for review. A minimum

submittal would be a pdf with all changes in red, accurately plotted. The Contractor's as-built drawings shall be reviewed regularly throughout the course of the project by the CEI. The Contractor's final as-built drawing submittal shall also include cross-sections, prepared by a registered surveyor, of all retention ponds in the Project limits. The Contractor's final as-built drawings shall be submitted within 15 days of the Project acceptance or termination of Work. Retainage will not be released by CFX until the marked-up pdf and records have been submitted and accepted by the CEI.

# 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 Global Navigation Satellite Systems (GNSS) Work Plan

If used, submit a comprehensive written GNSS Work Plan to the Engineer for review and acceptance at the preconstruction conference or at least 30 days before starting work using GNSS. Update the plan as necessary during construction and notify CFX of all changes. The GNSS Work Plan shall describe how GNSS enabled Automated Machine Guidance technology will be integrated into other technologies employed on the project. At a minimum, the GNSS Work Plan will include the following:

- 1. Designate which portions of the Contract will be done using GNSS enabled Automated Machine Guidance and which portions will be constructed using conventional survey methodology.
- 2. Describe the manufacturer, model, and software version of the GNSS equipment.
- 3. Provide information on the qualifications of Contractor staff. Include formal training and field experience. Designate a single staff person as the primary contact for GNSS technology issues.
- 4. Describe how project control will be established. Include a list and map showing control points enveloping the site.
- 5. Describe site calibration procedures. Include a map of the control points used for site calibration and control points used to validate the site calibration. Describe the frequency of site calibration and how site calibration will be documented. At a minimum, verify the site calibration twice daily.
- 6. Describe the Contractor's quality control procedures for verifying mechanical calibration and maintenance of construction and guidance equipment. Include the frequency and type of verification performed to ensure the constructed grades conform to the Contract Documents.

Keep on site and provide upon request, a copy of the project's most up-to-date GNSS Work Plan at the project site.

## 3.6.7 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 the phone numbers and names of personnel designated to be contacted in cases of emergency, along with a description of the project location, to CFX's Troop Master Sergeant of the Florida Highway Patrol and other local law enforcement agencies. 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: <a href="http://www.motadmin.com/find-a-training-provider.aspx">http://www.motadmin.com/find-a-training-provider.aspx</a>

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 other activities deemed necessary for Project maintenance and safety.

## 3.8 General Inspection Requirements

# 3.8.1 Cooperation by Contractor

The Contractor shall provide CFX with every reasonable facility for ascertaining whether the Work performed and Materials used are in accordance with the

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

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

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

# 3.8.2 Failure of CFX to Reject Work During Construction

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

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

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

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

# 3.9 Final Inspection and Acceptance

## 3.9.1 Maintenance Until Final Acceptance

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

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

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

## 3.9.2 Inspection for Substantial Completion

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

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

repaired and/or replaced and the Work is acceptable to the CEI.

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

# 3.9.3 Final Inspection

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

# 3.9.4 Final Acceptance

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

### 3.9.5 Recovery Rights Subsequent to Final Payment

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

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

CFX reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Bid Records (as herein defined) of the Contractor or any subcontractor. By submitting a Bid, the Contractor or any first or second tier subcontractor submits to and agrees to comply with the provisions of this Article. In addition, the Contractor shall be entitled to enter into subcontracts with proper CFX approval provided that all subcontracts shall include the same or similar terms as are in this Contract with respect to subcontractors, providing CFX with equal or greater protections than herein.

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

manner by the existence of any Contractor claims or pending disputes resolution or arbitration relating to the Contract. Disqualification or suspension of the Contractor for failure to comply with this section shall also preclude the Contractor from acting in the future as a subcontractor of another contractor doing work for CFX during the period of disqualification.

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

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

Contract Records shall include but not be limited to, all information, letters, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes, agreements, supporting documents, any other papers or preserved data related to the Contract or the Contractor's performance of the Contract determined necessary by CFX for any purpose. Bid Records shall include but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by the Contractor in determining labor, unit price, or any other component of a bid submitted to CFX. Bid Records shall also include but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subcontractors, truckers or material suppliers, profit contingencies and any manuals standard in the industry that may be used by the Contractor in determining its bid. These manuals shall be included in the Bid Records by reference and shall show the name and date of the publication and the publisher.

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

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

#### 3.11 Escrow of Bid Records

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

- 1. The Contractor, in the company of the CEI, shall rent a safe deposit box, at a bank in Orange, Seminole, Osceola, Lake or Brevard 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 degrees 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, or as approved by CFX, as defined by A.M. Best and Company's Key Rating Guide. 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>	Workers' Comp/	General Liability	Automobile
	<b>Employer's Liability</b>	(per occurrence/ aggregate)	Liability
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 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.

Total D-B Contract Price Minimum Coverage Limits

Up to \$30 Million \$1 Million coverage \$30 to \$75 Million \$2 Million coverage More than \$75 Million \$5 Million coverage

This requirement maybe satisfied by the Design-Build Firm's professional team member qualified under Rule 14-75, FAC.

Contract Amount	Minimum Limit	Maximum Deductible
Up to \$1 million	50% of project cost, minimum of \$100,000 per occurrence	
\$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 is advised that the project is located within a hurricane region. The Contractor shall submit to CFX at the project Preconstruction Conference, a hurricane preparedness plan detailing the procedures to be followed by the Contractor to ensure the safety of personnel, equipment, stored materials, and the Work when a hurricane watch notice for the project area is issued by the United States Weather Service.

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, 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 consent of CFX. 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 Certification of Sublet Work request will be deemed acceptable by CFX, for purposes of CFX's consent, unless the Engineer notifies the Contractor within 5 business days of receipt of the Certification of Sublet Work that CFX is not consenting to the requested subletting. If, at any time, a subcontractor is determined to be discriminatory, debarred or suspended by the FHWA, CFX or FDOT, the determination will be considered grounds for removal from the project.

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.

Critical Path: Defined as the Longest Path.

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 P6 Professional, produced by Oracle, 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 that the most negative float in the CPM. The Contractor will not be permitted to alter float through such applications as extending duration estimates or changing 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 through the data date each month until the Baseline Schedule is accepted by 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 (P6 Professional) by Oracle, 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 P6 Professional for all schedule submittals. This includes using the "Retained Logic" setting for all calculations, unless CFX chooses to allow the use of the "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 CDs with exported copies of the above schedules in ".xer" format. Other methods of electronic submittal may be approved by the CEI.

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, road closures and openings, and any contractually dictated interim milestones 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.

Photovoltaic systems.

Integration of Photovoltaic and ITS systems.

Burn-In periods.

Tolls.

**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 Contract Completion Date as defined in section 6.3.2.1 shall be entered into the Primavera Project Details 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 Contractor shall define and assign as appropriate, project-specific activity codes to allow for filtering, grouping, and sorting of activities by category to facilitate review and use of the Progress Schedule. The Contractor shall define the activity codes using the project-level option. 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

Responsibility: Entity responsible for performing the work (i.e. CFX, Contractor, sub-Contractors, suppliers, utility companies, etc.).

Crew: Crew assigned to the work (i.e. Grading Crew #1, Drainage Crew #2, Pile Driving Crew, Concrete Crew, Paving Crew, Striping Crew, Signing Crew, etc.).

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:
  - FS -Finish to start
  - 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 Schedule Constraints: All Contract milestone activities shall be constrained, as applicable, with a "Start On or After" (Early Start) date or "Finish On or Before" (Late Finish) date equal to the "Start No Earlier Than" or "Must Finish By" date specified in the Contract, except as specified below. The Contractor's use of schedule constraints not associated with Contract milestones is not allowed, unless approved by the CFX. The use of schedule constraints such as "Start On" or "Finish On" for the purpose of manipulating float or the use of schedule constraints that violate network logic such "Mandatory Start" or "Mandatory Finish" will not be allowed. When a schedule constraint is used, other than the schedule constraints specified herein, the Contractor shall provide explanation for the use of such constraint in the Progress Schedule or Progress Schedule Narrative.

Project Calendars: The Contractor shall define and assign as appropriate, project-specific calendar to each activity to indicate when the activity can be performed. The Contractor shall define the project calendars using the project-level option. The project calendars shall all use the same standard working hours per day, such as 8:00AM to 4:00PM. 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.

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. Revenue shall be loaded using resources with the "Material" type. 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 must submit evidence to CFX that any revision to schedule logic, resources, or calendar assignment is a logical, reasonable, and necessary change. If CFX decides that the revision is not sufficiently supported and does not serve a useful purpose, CFX shall request that the Contractor remove the revision from the schedule update, and the Contractor shall comply. The Contractor shall not change an activity original duration for any

#### 6.3.3.4.7 Revisions to the Baseline Schedule

- 1. Revisions to the accepted Baseline Schedule are only to be made at the request of CFX. 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 resubmit 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 exported in ".xer" format. The files shall be submitted on compact disk (cd) or via the electronic submittal process approved by the CEI. Each submission 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. Any float available as a result of a schedule showing early completion shall be considered project float for joint use by CFX and the Contractor.
- 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 GS-101

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, which shall be submitted in addition to a Progress-Only schedule update of the same data date:
- 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 GS-108

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, pandemics, 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;
  - 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. Consistent with this, any corrugations, rustications, or deviations in texture will not be quantified for surface area measurement and payment.

## 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:

% Contract Amount Completed	Amount Retained
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 paying or base construction operations begin except when a construction sequence designated by the CEI requires suspension of paying and base construction after the initial paying operations, partial payments will be reinstated until the paying 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 As-built 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:
  - 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

20		Agreement )	made and ent	ered into this
	, between the	CENTRAL	<b>FLORIDA</b>	<b>EXPRESSWAY</b>
ARD ("Board"),	consisting of	three member	ers:	,
and	("	'Members'').		
EAS, the f the Board to assis	con t in resolving dis	tract ("Contrac sputes and clain	t") provides forms.	or the establishment
E	("CFX"),	("CFX"),  ARD ("Board"), consisting of and("  CAS, CFX is now engaged in the confidence of the Board to assist in resolving disconstructions.	("CFX"), ("Co ARD ("Board"), consisting of three members and ("Members").  CAS, CFX is now engaged in the construction of the contract ("Contract for the Board to assist in resolving disputes and claim	("CFX"), ("Contractor") ar ARD ("Board"), consisting of three members:

# 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. <u>Furnishing Documents</u>. 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. <u>Site Visits</u>. 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. <u>Board Consideration of Disputes or Claims</u>. 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. <u>Miscellaneous Board Responsibilities</u>. 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. <u>Board Member Replacement</u>. 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. <u>Contract Related Documents</u>. 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. <u>Coordination and Services</u>. 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. <u>Payment</u>.

Each Board Member will be paid One Thousand Three Hundred Dollars (\$1,300.00) 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. <u>Inspection of Costs Records</u>. 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 AUTI	HORITY
By:	
Print Name:	
Title:	
BOARD:	
DISPUTES REVIEW BOARD	
By:	
By:Print Name:	
By:	
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 120 days 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.

E.
Reports

# 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: August 26, 2020 Mill Cold

RE: July 2020 Financial Reports

Attached please find the July 2020 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 JULY 31, 2020 AND YEAR-TO-DATE

		FY 21 MONTH ACTUAL	FY 21 MONTH BUDGET	FY 21 YEAR-TO-DATE ACTUAL		FY 21 YEAR-TO-DATE BUDGET		FY 21 YEAR-TO-DATE VARIANCE		FY 21 YEAR-TO-DATE % VARIANCE	FY 20 - 21 YEAR-TO-DATE COMPARISON
REVENUES											
TOLLS*	\$	34,400,956	\$ 20,500,000	\$	34,400,956	\$	20,500,000	\$	13,900,956	67.8%	-18.5%
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	5	495,905	479,833		495,905		479,833		16,072	3.3%	-36.1%
TRANSPONDER SALES		67,200	72,650		67,200		72,650		(5,450)	-7.5%	-16.0%
OTHER OPERATING		12,689	6,814		12,689		6,814		5,876	86.2%	-47.1%
INTEREST		699,763	500,000		699,763		500,000		199,763	40.0%	-42.8%
MISCELLANEOUS		62,090	61,929		62,090		61,929	_	160	0.3%	-7.2%
TOTAL REVENUES	\$	35,738,604	\$ 21,621,226	\$	35,738,604	\$	21,621,226	\$	14,117,378	65.3%	-19.5%
O M & A EXPENSES											
OPERATIONS	\$	2,666,843	\$ 2,922,931	\$	2,666,843	\$	2,922,931	\$	256,088	8.8%	-8.3%
MAINTENANCE		163.751	166,238		163,751		166,238		2.488	1.5%	4.9%
ADMINISTRATION		515,907	527,419		515,907		527,419		11,512	2.2%	-19.4%
OTHER OPERATING								_			
TOTAL O M & A EXPENSES	\$	3,346,501	\$ 3,616,588	\$	3,346,501	\$	3,616,588	\$	270,087	7.5%	-9.7%
NET REVENUES BEFORE DEBT SERVICE	\$	32,392,103	\$ 18,004,638	\$	32,392,103	\$	18,004,638	\$	14,387,465	79.9%	-20.4%
COMBINED NET DEBT SERVICE	\$	18,362,884	\$ 18,348,816	\$	18,362,884	\$	18,348,816	\$	(14,068)	-0.1%	22.8%
NET REVENUES AFTER DEBT SERVICE	\$	14,029,219	\$ (344,178)	\$	14,029,219	\$	(344,178)	\$	14,373,397	4176.1%	-45.5%

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 2021 FOR THE MONTH ENDING JULY 31, 2020 AND YEAR-TO-DATE

	FY 2021 ACTUAL	 FY 2021 BUDGET	_	VARIANCE		FY 21 YEAR-TO-DATE % VARIANCE
Operations	\$ 2,666,843	\$ 2,922,931		\$	256,088	8.8%
Maintenance	163,751	166,238			2,488	1.5%
Administration	515,907	527,419			11,512	2.2%
Other Operating	 	 	_			0.0%
Total O M & A	\$ 3,346,501	\$ 3,616,588		\$	270,087	7.5%
Capital Expenditures						
Operations	\$ -	\$ 50,000		\$	50,000	100.0%
Maintenance	-	-			-	0.0%
Administration		 3,750	_		3,750	100.0%
Total Capital Expenditures	\$ -	\$ 53,750		\$	53,750	100.0%



### Central Florida Expressway Authority Operations - Comparison of Actual to Budget For the One Month Ending July 31, 2020

	YTD Actual	YTD Budget	Budget Variance	Variance Percentage	
Toll Operations	41,263	42,418	1,155	2.72%	
Image Review	79,407	85,000	5,593	6.58%	
Special Projects	5,215	7,809	2,594	33.22%	
Information Technology	188,857	200,606	11,748	5.86%	
E-PASS Service Center	870,988	967,818	96,830	10.00%	
E-PASS Business Services	9,806	9,951	145	1.46%	
Public Outreach/Education	2,415	4,321	1,906	44.11%	
Subtotal CFX	\$1,197,950	\$1,317,922	\$119,971	9.10%	
Plazas	1,468,893	1,655,010	186,117	11.25%	
Subtotal Toll Facilities	\$1,468,893	\$1,655,010	\$186,117	11.25%	
Total Operations Expenses	\$2,666,843	\$2,972,931	\$306,088	<u>10.30%</u>	

Data Date: 8/26/2020 Print Date: 8/26/2020 Report Date / Time: 8/26/2020 / 11:40:36AM



### Central Florida Expressway Authority Maintenance - Comparison of Actual to Budget For the One Month Ending July 31, 2020

	YTD Actual	YTD Budget	Budget Variance	Variance Percentage
Maintenance Administration	83,175	85,637	2,462	2.88%
Traffic Operations	78,526	78,551	25	0.03%
Routine Maintenance	2,050	2,050	0	0.00%
Total Maintenance Expenses	\$163,751	\$166,238	\$2,488	1.50%

Data Date: 8/26/2020 Print Date: 8/26/2020 Report Date / Time: 8/26/2020 / 12:04:16PM



### Central Florida Expressway Authority Administration - Actual to Budget by Cost Center For the One Month Ending July 31, 2020

	YTD Actual	YTD Budget	Budget Variance	Variance Percentage
General	48,718	51,430	2,712	5.27%
Administrative Services	200,159	206,737	6,578	3.18%
Communications	32,328	35,205	2,877	8.17%
Human Resources	15,821	16,248	427	2.63%
Supplier Diversity	12,789	12,954	165	1.27%
Accounting	76,684	77,289	605	0.78%
Construction Administration	4,256	4,764	508	10.67%
Risk Management	10,069	10,182	113	1.11%
Procurement	42,252	42,474	221	0.52%
Legal	44,356	44,458	102	0.23%
Internal Audit	0	0	0	0.00%
525 Magnolia	1,663	1,663	0	0.00%
Engineering	4,868	5,235	366	7.00%
Records Management	21,943	22,530	588	2.61%
Grand Total Evnences			<b>*</b> 45.000	0.070/
Grand Total Expenses	\$515,907	\$531,169	\$15,262	<u>2.87%</u>

### CENTRAL FLORIDA EXPRESSWAY AUTHORITY CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS PREVIOUS YEAR BUDGET TO ACTUAL COMPARISON FOR THE MONTH ENDING JULY 31, 2020 AND YEAR-TO-DATE

	YE	FY 21 AR-TO-DATE ACTUAL	YE	FY 21 AR-TO-DATE BUDGET		FY 21 AR-TO-DATE VARIANCE	YE	FY 20 AR-TO-DATE ACTUAL	YE	FY 20 AR-TO-DATE BUDGET		FY 20 AR-TO-DATE VARIANCE	,	AR-TO-DATE VARIANCE OMPARISON
REVENUES TOLLS*	\$	34.400.956	\$	20.500.000	\$	13.900.956	\$	42.227.808	\$	41.086.639	\$	1.141.169	\$	12,759,787
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	;	495,905	•	479,833	Ť	16,072	*	775,814	*	389,186	*	386,628	*	(370,556)
TRANSPONDER SALES		67,200		72,650		(5,450)		79,990		59,166		20,824		(26,274)
OTHER OPERATING		12,689		6,814		5,876		23,974		9,322		14,652		(8,776)
INTEREST		699,763		500,000		199,763		1,222,302		773,538		448,764		(249,001)
MISCELLANEOUS	_	62,090	_	61,929	_	160	_	66,889	_	60,845		6,044		(5,884)
TOTAL REVENUES	\$	35,738,604	\$	21,621,226	\$	14,117,378	\$	44,396,777	\$	42,378,696	\$	2,018,081	\$	12,099,297
O M & A EXPENSES														
OPERATIONS	\$	2,666,843	\$	2,922,931	\$	256,088	\$	2,908,547	\$	3,090,475	\$	181,928	\$	74,160
MAINTENANCE		163,751		166,238		2,488		156,136		166,112		9,976		(7,488)
ADMINISTRATION		515,907		527,419		11,512		640,290		681,120		40,830		(29,318)
OTHER OPERATING	_	-	_	-	_	-	_	-	_	-	_	-	_	-
TOTAL O M & A EXPENSES	\$	3,346,501	\$	3,616,588	\$	270,087	\$	3,704,973	\$	3,937,707	\$	232,734	\$	37,353
NET REVENUES BEFORE DEBT SERVICE	\$	32,392,103	\$	18,004,638	\$	14,387,465	\$	40,691,804	\$	38,440,989	\$	2,250,815	\$	12,136,650
COMBINED NET DEBT SERVICE	\$	18,362,884	\$	18,348,816	\$	(14,068)	\$	14,957,508	\$	15,250,757	\$	(293,249)	\$	279,181
NET REVENUES AFTER DEBT SERVICE	\$	14,029,219	\$	(344,178)	\$	14,373,397	\$	25,734,296	\$	23,190,232	\$	2,544,064	\$	11,829,333

### CENTRAL FLORIDA EXPRESSWAY AUTHORITY CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS PREVIOUS YEAR COMPARISON FOR THE MONTH ENDING JULY 31, 2020 AND YEAR-TO-DATE

	 FY 21 MONTH ACTUAL	_	FY 20 MONTH ACTUAL	SA	FY 20 - 21 FY 21  SAME MONTH YEAR-TO-DAT  COMPARISON ACTUAL		AR-TO-DATE	FY 20 YEAR-TO-DATE ACTUAL		YE	FY 20 - 21 AR-TO-DATE OMPARISON
REVENUES											
TOLLS*	\$ 34,400,956	\$	42,227,808	\$	(7,826,852)	\$	34,400,956	\$	42,227,808	\$	(7,826,852)
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	495,905		775,814		(279,909)		495,905		775,814		(279,909)
TRANSPONDER SALES	67,200		79,990		(12,790)		67,200		79,990		(12,790)
OTHER OPERATING	12,689		23,974		(11,285)		12,689		23,974		(11,285)
INTEREST	699,763		1,222,302		(522,539)		699,763		1,222,302		(522,539)
MISCELLANEOUS	 62,090	_	66,889		(4,799)	_	62,090		66,889		(4,799)
TOTAL REVENUES	\$ 35,738,604	\$	44,396,777	\$	(8,658,173)	\$	35,738,604	\$	44,396,777	\$	(8,658,173)
O M & A EXPENSES											
OPERATIONS	\$ 2,666,843	\$	2,908,547	\$	(241,704)	\$	2,666,843	\$	2,908,547	\$	(241,704)
MAINTENANCE	163,751		156,136		7,615		163,751		156,136		7,615
ADMINISTRATION	515,907		640,290		(124,383)		515,907		640,290		(124,383)
OTHER OPERATING	 				<u> </u>						- '-
TOTAL O M & A EXPENSES	\$ 3,346,501	\$	3,704,973	\$	(358,472)	\$	3,346,501	\$	3,704,973	\$	(358,472)
NET REVENUES BEFORE DEBT SERVICE	\$ 32,392,103	\$	40,691,804	\$	(8,299,701)	\$	32,392,103	\$	40,691,804	\$	(8,299,701)
COMBINED NET DEBT SERVICE	\$ 18,362,884	\$	14,957,508	\$	3,405,376	\$	18,362,884	\$	14,957,508	\$	3,405,376
NET REVENUES AFTER DEBT SERVICE	\$ 14,029,219	\$	25,734,296	\$	(11,705,077)	\$	14,029,219	\$	25,734,296	\$	(11,705,077)

## E.3.

**Executive Director's Report** 

### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

### Executive Director Report September 2020

#### DASHBOARD

### Wrong Way Driving Program

In July there were 19 detections system-wide with 18 of the 19 detections resulting in documented turn arounds. Details of the remaining event is listed below:

### SR 417 SB Exit 37 at University Blvd; Sunday 7/5/2020 5:20 pm

A red SUV was observed traveling down the ramp in the wrong direction. The vehicle entered the ramp from the grass shoulder and proceeded up to the first wrong way driving sign and veered back off in to the grass shoulder outside of the range of the outgoing radar. There were no citations or crashes associated with this event.

#### Financial Indicators

The COVID-19 revenue impacts were the most severe in April with average daily revenue down approximately 53% from 2019 levels. May, June, July and August estimated revenues indicate a slow recovery at -38%, -26%, -20% and -11% over 2019 levels respectively.

#### Reload Service Lanes

Reload service lanes and manned cash lanes were closed in April and May and were reopened on June 1, 2020.

#### **Customer Service Center**

Call wait times averaged 2 minutes, 2 seconds in July, with call volumes increasing as traffic increases on the CFX system overall. CDC guidelines and social distancing requirements have limited the number of customer call center representative workstations available at any given time. The Customer Service Center hours are 7:00 am to 11:30 pm, Monday through Friday and 8:00 am to 5:30 pm on Saturday.

Alliance One, Inc. transitioned over as CFX's Call Center staffing contractor on September 1. Call Center staff transition to the new contract went smoothly.

#### **COMMUNITY FOCUS**

#### Florida Trend

CFX will provide information in cooperation with the Orlando Economic Partnership for the January 2021 issue of Florida Trend, which will feature a special Orlando Region Portrait. The Portrait will focus on the area's economic development initiatives, industry business sectors, tourism, lifestyle and the arts. A range of featured topics will include education, healthcare, technology, the financial markets and **transportation**.

### Orange County Public Schools

Representatives from Orange County Public Schools will join CFX on September 25 to explore ideas for a hands-on learning experience for students interested in science and technology. Opportunities to track the Lake-Orange Expressway design and construction activities with emerging STEM programs may be an area of interest.

#### TRANSPORTATION PARTNERSHIPS

### City of Apopka

Mayor Nelson reported that the public safety communications tower being constructed in partnership with the City of Apopka on CFX property is progressing. The tower itself has been erected and is now ready for the cabling and antenna installs.





#### E-ZPass

The Tampa-Hillsborough Expressway Authority has agreed to begin accepting E-ZPass transactions in the near future. An action item is on this month's agenda that permits CFX to be the portal that transfers their transactions to the E-ZPass states for payment. Tampa-Hillsborough Expressway Authority hopes to be ready to accept E-ZPass transactions before Thanksgiving.

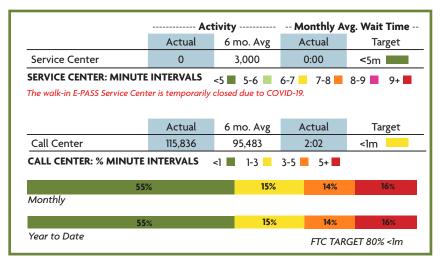
The Florida Department of Transportation has also agreed to begin accepting E-ZPass transactions in the near future as well. FDOT and the E-ZPass Group are working toward a similar timeline for completion. This is great news for all Florida drivers!



### PERFORMANCE DASHBOARD JULY 2020

Fiscal year runs from July 1-June 30

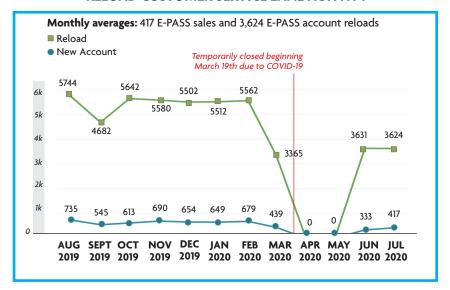
#### **CUSTOMER SERVICE**



#### WRONG WAY DRIVING (WWD)

Month	DEC	JAN	FEB	MAR	APR	MAY	JUNE	JULY
Total Vehicles Detected	9	16	9	15	8	2	10	19
Documented Turn Arounds	7	14	9	15	7	2	9	18

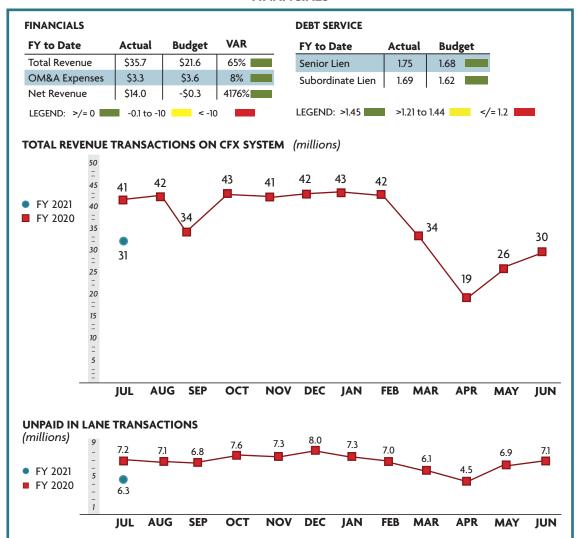
#### **RELOAD CUSTOMER SERVICE LANE ACTIVITY**



#### PROGRESS OF MAJOR CONSTRUCTION PROJECTS

	Contract (millions)	Spent (millions)	% Time	% Spent	VAR	Contract Completion Date
SR 429 Stoneybrook West Interchange	\$10.8	\$7.0	67%	65%		Nov. 2020
SR 528 / SR 436 Interchange Improvements	\$106.5	\$11.0	0%	10%		Jan. 2023
SR 417 Widening from Econlockhatchee to Seminole Co.	\$45.2	\$44.4	99%	98%		Aug. 2020
LEGEND: % Time - % Spent ≤ 10 11-20 ≥ 2	21					
	Contract (millions)	Spent (millions)	Lanes Complet 229/415	C 0.	. VA	Lane IR Completion Date
Toll System Replacement	\$54.4	\$33.6	55%	57%	6	March 2021
LEGEND: % Lanes Complete - % Lanes Goal >/= 0 -0.1	to -10	< -10				

#### **FINANCIALS**

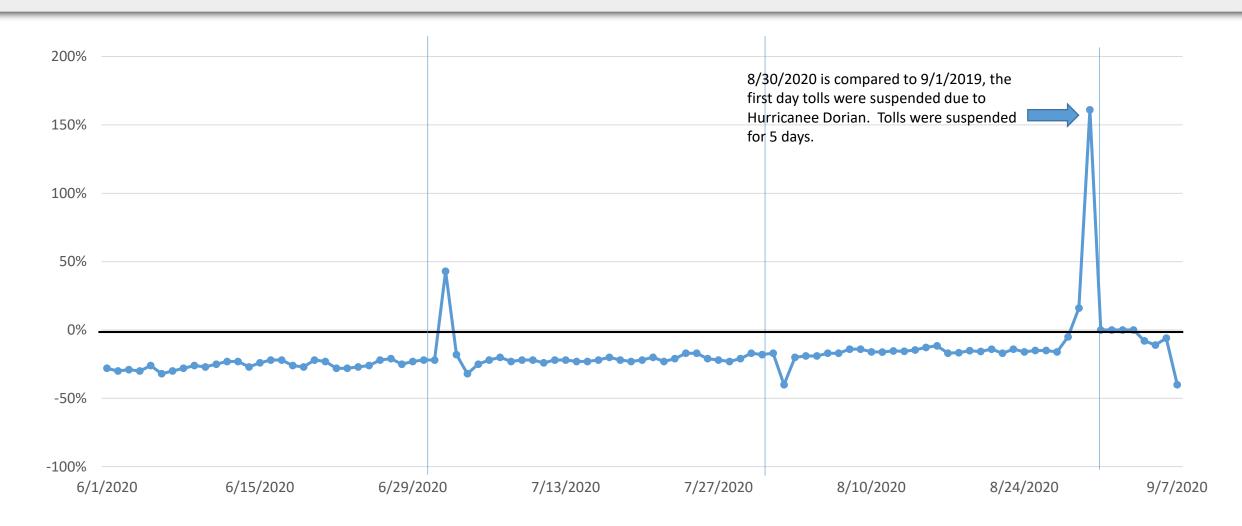


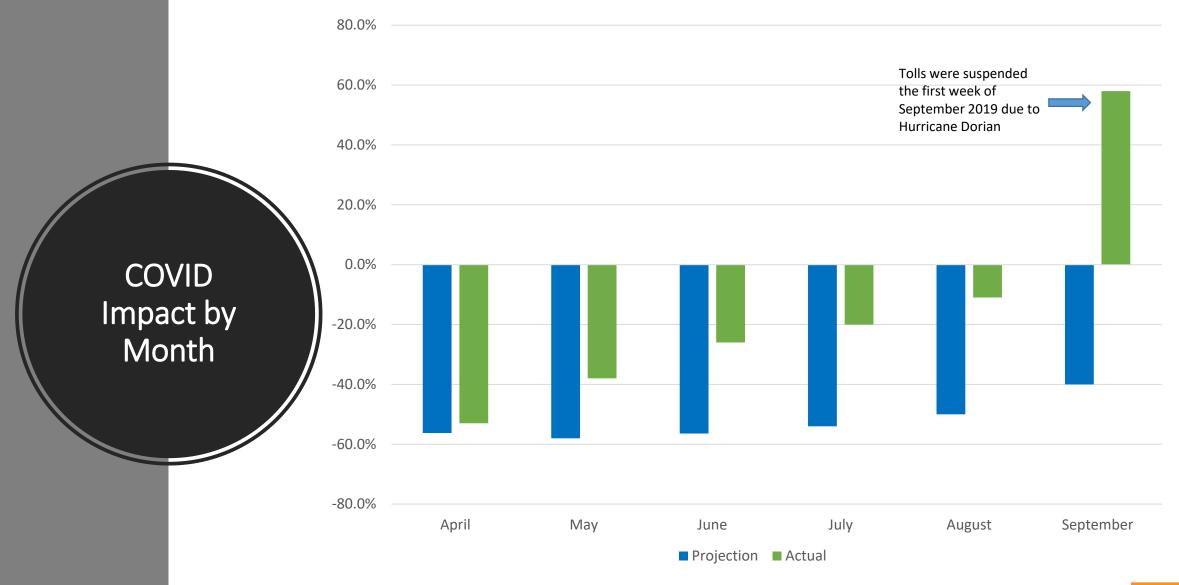
# F. 1.



### **Daily Revenue Variance Over Prior Year**









### Strengths

779 days cash on hand

\*as of 08.28.2020

Reserve balance of \$172,195,601

\*as of 08.28.2020

Construction fund cash balance is \$421,140,135

 Amount available for Construction Projects \$168,758,419

\*as of 08.28.2020



### **Construction Fund Allocation**

### **As of September 2020**

- Dynamic Message Sign Replacements
- Renovation of E-PASS Service Center
- SR 408 Aesthetic Coatings
- SR 429 Pavement Repair
- SR 408 Widening SR 417 to Alafaya Trail
- SR 408/SR 417 Interchange Improvements
- SR 417 Widening Econlockhatchee Trail to Seminole County Line
- Guide Sign Replacement
- SR 417 Widening International Drive to John Young Parkway

- Supplemental Data Collection Sensor and CCTV Deployment
- SR 414 and SR 528 Milling and Resurfacing
- Systemwide Pay By Plate Signage
- SR 429/New Independence Parkway Interchange Improvements
- SR 528/SR 436 Interchange Improvements
- SR 429/Stoneybrook West Parkway Interchange
- SR 408/Mills Avenue Exit Ramp Improvements
- Toll System Upgrade
- SR 417 and SR 528 Expansion and Repair of Pond and Replacement of Guardrail











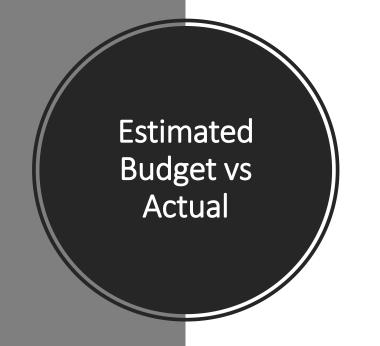












	FY 2021 Year-to- Date Budget	FY 2021 Year- to-Date Actual	FY 2021 Year-to- Date % Variance
Total Revenues	\$46,098,401	\$72,401,238	57.1%
Total OM&A Expenses	8,406,657	7,622,425	9.3%
Net Revenues After Debt Service	994,111	28,015,959	2718.2%
Work Plan Expenses	262,658,000	5,685,173	2.0%





# F. 2.



### Florida Law on Public Comment

- Section 286.0114, Florida Statutes 2013
  - "Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission."
- Opportunity to be heard does not have to occur at the same meeting when the board takes official action on the matter
- Does not prohibit a board from maintaining orderly conduct or proper decorum in a public meeting
- Encourages the adoption of rules or procedures
- Failure to provide an opportunity to be heard can result in the assessment of attorney's fees by a court





### Florida Law on Public Comment

- A board that adopts policies and follows them for public comment, is in compliance with the Florida law
- The policies can include guidelines regarding:
  - The amount of time a speaker is given to speak
  - Procedures for groups to address the board
  - Forms to use in order to inform the board
  - Procedures designating a specified period of time for public comment





### **Current CFX Procedure**

- The public's right to be heard is endorsed
- Allows any citizen the right to appear before the Board about an item within the Board's authority and jurisdiction
- Speaker limited to 3 minutes unless extended by the Chairman
- The appropriate forms for a Public Comment Request by citizens are made available on the CFX website and in the lobby area outside the Board's meeting room
- Speakers must be courteous
  - Chairman may take action to halt disruptive behavior





### **Proposed Procedure Amendments**

- Process to sign up to speak
- Amount of time allotted to speakers
- Public comments received in advance of meeting
- Use of audio and visual aids and distribution of materials





### **Process to Speak**

### Current CFX Procedure:

- Does not provide a deadline to sign up to speak
- Speakers to sign up at any time
- Staff creates the public comment form

- Speakers may still sign up online or in person
- Speakers must be present and submit their public comments forms to the Recording Secretary at least 5 minutes prior to the scheduled start of the meeting





### **Speaker Allotment Time**

### • Current CFX Procedure:

- Each speaker is limited to three minutes
- Silent as to whether minutes can be transferred to other speakers

- Chair may modify the amount of time per speaker, including reducing it based on the number of speakers addressing the same topic
- Prohibits the transfer of time
  - Allows for one representative of a group to be designated as a spokesperson.
  - The spokesperson is not provided additional time





### **Public Comments in Advance of Meeting**

### Current CFX Procedure:

- Does not specifically address written comments
- During the pandemic, written public comments received, have been read into the record if they are less than 3 minutes

- Allows for written comments on agenda items to be submitted in advance and made a part of the record
  - A written comment may be read during the meeting if it does not exceed 3 minutes
- Requires written comments to be submitted at least 48 hours in advance





# Audio/Visual Aids and Distribution of Materials

### Current CFX Procedure:

Not addressed

- Speakers may utilize audio or visual aids if submitted at least 48 hours in advance of the Board Meeting
  - Materials must meet technical specifications and be appropriate based on established legal standards
- Any member of the public may distribute written materials to the Board
  - Must provide 13 copies of the materials to the Recording Secretary, at least 5 minutes prior to the start of the meeting





### **Recommended Motion**

Adoption of Resolution and Amendment of the Central Florida Expressway Authority's Rules of Procedure for Board Meetings.



#### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

### **RULES OF PROCEDURE FOR BOARD MEETINGS**

#### Part I - General

- 1-1.001 Organization. Pursuant to Section 348.754(2)(m), Florida Statutes, these Rules of Procedure are approved by the governing Board of the Central Florida Expressway Authority (the "Board") and shall govern all proceedings of the Board except to the extent they may be inconsistent with Florida law in which case Florida law shall govern.
- 1-1.002 Purpose. The purpose of these Rules is to provide for the smooth and orderly functioning of the business of the Board of the Central Florida Expressway Authority and to facilitate an open exchange of ideas among Board members and between Board members and the public. Board members shall at all times observe and comply with the provisions of Florida's Government in the Sunshine Law, s. 286.011 Florida Statutes.

These rules shall not grant additional grounds or standing to challenge an action of the Board or Authority other than those grounds already existing in constitutional, statutory or case law.

#### 1-1.003 Definitions.

1. Authority shall mean the Central Florida Expressway Authority or "CFX" as created by Florida Statutes Chapter 348 Part III, Sections 348.751 et. seq.

The Authority is legally classified as an independent special district under Chapter 189, F.S., and is listed as such by the Department of Economic Opportunity. Although the Authority is designated as an "agency of the State" in its Enabling Act, it is not an executive branch agency. Instead it is designated as an "agency of the State" because it shares certain powers conferred by law on other state governmental bodies.

2. Board shall mean the governing body of the Authority, consisting of ten (10) members in accordance with Section 348.753(3), Florida Statutes 2017.

- 3. Chairman shall mean the member of the Board elected by the Board to serve as Chairman. The Chairman shall be the presiding officer at all meetings of the Authority except that in the Chairman's absence, the Vice Chairman shall preside. The Chairman shall have all rights and privileges while he/she is presiding (e.g. the right to make motions, second motions, speak and vote), without relinquishing the chair.
- 4. Vice-Chairman shall mean the member of the Board elected by the Board to serve as Vice-Chairman. The Vice-Chairman shall preside at all meetings when the Chairman is not present or unable to serve.
- 5. The Treasurer shall mean the member of the board elected by the Board to serve as Treasurer. The Treasurer shall give a report each meeting as to the expenditures of the Authority.
- 6. The Executive Director of Florida Turnpike Enterprise is a non-voting advisor to the Board.
- 7. Executive Assistant shall be an employee of the Authority to assist in the preparation and execution of documents and records.
- 1-1.004 <u>Membership & Terms of Office</u>. Membership and terms on the Board shall be as prescribed by Section 348.753(3) Florida Statutes.

Should the Chairman resign from Board services, become incapacitated or otherwise have his or her term expire; and the seat filled by another; the Vice-Chairman will assume the position of Chairman until a special election for Chairman is held at the first meeting following the expiration of the Chairman's term. If the Vice-Chairman, or Treasurer is elected Chairman, then an election shall be held for that position's successor.

The elected successor(s) will fill the unexpired portion of the term and be eligible for reappointment to a full term at the discretion of the Board at the regular elections in January.

1-1.005 Officers – Term of Officers. Officers for the position of Chairman, Vice-Chairman and Treasurer shall be elected by nomination and majority vote annually at the regular meeting held in January. If a regular meeting is not scheduled for January, officer nominations and elections shall take place in December or at the next regularly scheduled Board meeting.

#### **1-1.006 Meetings.**

1. Regular Meetings

The Board shall meet once each month, on the second Thursday of the month at 9:00 a.m. so long as there is business to conduct. All regular meetings shall be held at the Authority's offices at 4974 ORL Tower Road, Orlando, Florida 32807. The date, time and place of meetings may be changed by the Board from time to time provided the notice requirements set forth below have been satisfied.

### 2. Special and Emergency Meetings

Special and Emergency Meetings may be called by (1) the Chairman at his/her discretion or (2) in the absence or incapacity of the Chairman by the Vice Chairman or (3) by any six (6) or more Board members during a Board meeting or (4) at the discretion of the Executive Director upon a request from a Board member.

#### 1-1.007 Notice.

#### 1. Notice Required for Regular and Special Meetings or Hearings

- A. Written notice of regular and special meetings or hearings shall be electronically mailed to each Board member at least seven (7) days prior to the meeting date. A copy of such notice shall be prominently displayed in the Authority offices and shall also be given by the Authority to the appropriate persons at Orange County, Lake County, Osceola County, Seminole County, Brevard County and at the City of Orlando to be displayed in a prominent place in the various County Administration Buildings and at Orlando City Hall at least seven (7) days prior to the meeting. In addition, notices shall be electronically mailed to all persons who, at least fourteen (14) days prior to such mailing, have requested advance notice of Authority proceedings.
- B. In addition, pursuant to Section 189.015, Florida Statutes, the Authority shall publish a schedule of its regular meetings which shall be filed in January of each year with Orange, Lake, Osceola, Seminole, Brevard Counties and the City of Orlando. The schedule shall be published annually in January in a newspaper of general paid circulation in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least five (5) days a week and be one of general interest and readership in the community and not one of limited subject matter.

### 2. Form of Notice for Regular and Special Meetings or Hearings

The notice for regular and special meetings or hearings shall state:

- (1) The date, time and place of the meeting.
- (2) A brief description of the purpose of the meeting and the business to be transacted.

#### 3. Notice for Emergency Meetings or Emergency Hearings

By their very nature, Emergency Meetings and Emergency Hearings may preclude advance notice. However, reasonable efforts (electronic mail, telephone, fax and hand delivery) shall be made to notify all Board members in advance of the Emergency Meeting or Emergency Hearing. Reasonable efforts shall also be made prior to Emergency Meeting to provide notice by issuing press releases and to give notice to persons who have requested advance notice of Authority meetings by electronic mail. The notice requirements in 1-1.007(1) and (2) above shall not apply to Emergency Meetings or Emergency Hearings. If practicable, notices shall be posted at Authority offices, the Orange, Lake, Osceola, Seminole, and Brevard County Administration Buildings and Orlando City Hall. Following an Emergency Meeting or Emergency Hearing the Authority shall forward to all persons entitled to receive notice of regular, annual and special meetings a notice of the date, time and place of the Emergency Meeting or Emergency Hearing, a statement explaining why it was held and the action taken. All actions taken at an Emergency Meeting or Emergency Hearing are void unless ratified by the Board at the next regular meeting.

#### 1-1.008 Agendas for Regular and Special Meetings or Hearings.

#### 1. Advance Preparation Required

An agenda for each regular and special meeting or hearing shall be prepared by the Authority sufficiently in advance of the meeting or hearing to ensure that an electronic copy of the agenda may be received seven (7) days before the meeting by all Board members and any person who has requested a copy and pays the reasonable cost thereof, if any.

#### 2. Agenda Items

A. The Executive Director shall be responsible for preparing the agenda. Any Board member with an item to be placed on an agenda shall provide the item in writing, together with any backup information, to the Executive Director no later than 12:00 Noon on the eighth calendar day preceding the Board meeting. Such items shall be placed on the next upcoming meeting agenda unless the

Board member agrees to a postponement or to withdraw the item. The Executive Director shall provide the Board members a reminder via electronic mail of the deadline date for the agenda items.

B. The Executive Director or any Board member may add an item to an agenda that has been made available to Board members and the public no later than noon on the third business day prior to the meeting date. The Executive Director shall provide an amended agenda electronically to the Board members and all persons who, at least fourteen (14) days prior to such mailing, have requested advance notice of Authority proceeding by close of business on that same day.

#### 3. Form of Agenda

The agenda shall list the items to be resolved at the meeting, in the order in which they are to be considered. For good cause stated, items may be taken out of order with the approval of the Chairman or presiding officer. The form of agenda shall be substantially as follows, subject to change from time to time by the Board:

#### DATE, TIME AND PLACE OF MEETING LOCATION

- (1) Call to order
- (2) Public Comment
- (3) Review and approval of Minutes of Preceding Meeting
- (4) Approval of Consent Agenda
- (5) Chairman's Report
- (6) Treasurer's Report
- (7) Executive Director's Report
- (8) Regular Agenda: Separate Motion
- (9) Board member Comment

Notice that the meeting is open to the public and that any person who decides to appeal any decision made at the meeting will need a record of the proceedings and that for such purpose, may need to ensure that a verbatim record of the proceedings is made which record includes

testimony and evidence upon which the appeal is to be based per Florida Statutes 286.0105.

#### 1-1.009 <u>Authority Board Meeting Minutes.</u>

The Executive Assistant of the Authority shall keep the official minutes of the Authority, transcribe them into writing and have them approved at the next subsequent meeting. The minutes shall indicate who made each motion and how each Board member voted.

The minutes of each meeting of the Authority, when approved, shall be the original and controlling record of the meeting. Before being submitted for approval, staff shall provide the Board members a draft copy in advance of the next scheduled meeting.

#### 1-1.010 Quorum and Voting.

A quorum at any meeting shall require the physical presence of at least six Board members. A quorum shall be required for the conducting of all official business. The vote of the majority of the members present at a meeting where a quorum exists (with at least six members casting an affirmative vote) shall be necessary for any action taken by the Authority. Due to scheduling conflicts or illness a Board member may appear by telephone and vote on Authority matters where a quorum is physically present not to exceed three meetings per calendar year. The participating absent Member must be able to hear all participants in the meeting and be heard by all participants.

- A. Voice Votes; Roll Call Votes. Except as provided otherwise in this Section, all votes shall be taken by an "aye" or "no" vote (voice vote) unless it is determined by the Chairman or a Board member that a roll call vote would be in order.
- 1. A Roll call vote shall be taken by alphabetical order, with the Chairman voting last.
- 2. When a roll call vote is called, after the Chairman has made clear the motion, the Executive Assistant shall be directed to call the roll; no member shall be entitled to speak on the motion, nor shall any motion be in order until such roll call is completed and the result announced by the Chairman.
- B. Proper Voting. All voice votes shall be taken requesting those in favor to say "aye" and those opposed to say "no." A vote requesting those in favor to say "aye" and those opposed "like sign" (meaning "aye") shall not be used.

- C. Regardless of the number of Board members voting, an affirmative vote of six (6) members of the Board shall be required to pass any agenda item, F.S. 348.753(4)(a).
- D. Abstentions. Neither the Chairman nor any other Board member who is present at any meeting of the Board at which an official decision, ruling, or other official act is to be taken or adopted may abstain from voting in regard to any decision, ruling, or act, and a vote shall be recorded for each such Board member present, except when, with respect to any such member, there is or appears to be a possible conflict of interest, in which case the Board member shall comply with Section 112.3143 of Florida Statutes or other applicable law.

#### 1-1.011 **Public Comment.**

The right to be heard and the right to public input is hereby endorsed and adopted as follows: Any citizen has the right to appear before the Board on a non-agenda item or an agenda item for the presentation, adjustment or determination of an issue, matter or request within the Board's authority and jurisdiction, so far as the orderly conduct of public business permits. Matters shall be reasonably scheduled for the convenience of the general public, so that the public may know when a matter has been scheduled.

Each speaker shall be limited to three minutes unless otherwise modified extended by the Chairman. No speaker may transfer or designate his or her time to another speaker. However, an organization may designate a single speaker to speak on behalf of a group of attendees. No additional time shall be provided to the designated speaker. The provisions of this subsection, however, shall not be construed to supersede, supplement, or modify any citizen participation process established in state law for public hearings before the Board, such as the procedures for quasi-judicial hearings. Nor shall the provisions of this subsection be used to avoid, supersede or modify the Authority's procurement rules, including, but not limited to, the "protest process" and the "black-out period."

The Authority's staff is directed to prepare the appropriate forms for a Public Comment Request by citizens which forms shall be made available both on the Authority's internet website and in the lobby area outside the Board's meeting room. Only those speakers that are present and have submitted their completed form to the Recording Secretary at least 5 minutes prior to the scheduled start of the meeting will be called to speak.

Members of the public may also submit written comments in advance of the meeting on any topic on the agenda. Comments on agenda items submitted at least 48 hours in advance of the scheduled start time of the meeting shall be included as part of the record and may be read at the meeting if the written comments do not exceed three minutes in length when read.

The use of any audio or video presentation materials, such as PowerPoints, shall be submitted at least 48 hours in advance of the scheduled start time of the meeting. CFX reserves the right to refuse any materials that do not meet technical specifications as specified by staff or are otherwise deemed inappropriate based on existing legal standards. All submissions become public records and may not be returned. Any member of the public seeking to distribute materials to Board Members at a public meeting shall provide the Recording Secretary with at least 13 copies of any materials at least 5 minutes prior to the scheduled start time of the meeting.

Speakers must be courteous and non-disruptive. If a person continues disruptive behavior after being asked to stop, the Chairman may take appropriate action.

#### 1-1.012 <u>Committees of the Board.</u>

The Board may create standing committees for specific areas of the Authority. The policies, procedures and appointment method shall be approved by the Board when a standing committee is created.

#### Part II - Motions

#### 1-1.013 Motions To Be Stated by the Chairman.

No motion or resolution shall be adopted until the motion or resolution, in substance, is stated by the Chairman.

#### **1-1.014 Main Motion.**

A main motion shall be a motion whose introduction brings business before the Board. A second is required.

#### 1-1.015 Motion to Amend.

If a member feels that the main motion might be more acceptable in another way, other than the way presented, the member may amend in either of the two ways presented:

A. By consent of the members. The Chairman, or another member through the Chairman, may ask if certain changes may be made to the motion. If there are no objections from the members, the motion will

stand as changed (amended). If there are no objections, the second shall remain. ("No objection" implies that the person seconding the motion agrees.) The main motion shall then be as it was changed (or amended by general consent). If there is an objection from any member, a second to the amendment shall be required and a vote taken. There may be discussion to the amendment at that time, and an affirmative vote of six members shall be required to pass the amendment.

B. Formal Amendment. An amendment may be presented formally by moving to amend the motion in some way (e.g., insert, add words or paragraph, strike out words or paragraph, or strike out and insert words or paragraphs). If it is in the form of a formal motion to amend, a second shall be required and discussion shall follow on the amendment. If an amendment passes by an affirmative vote of six members, the main motion shall be the motion as amended. If it fails, the motion shall be the motion as it was before the amendment was presented.

### 1-1.016 <u>Call the Question (Previous Question) or Motion to End</u> <u>Discussion/Debate.</u>

A member of the Board may "call the question" (a motion to end debate) when it is clear that further discussion is unnecessary. A second is required, and no discussion may be allowed on this motion. An affirmative vote of six members shall be required to pass this motion.

#### 1-1.017 Motion to Reconsider.

If in the same meeting new information or changed situations make it appear that a different result might reflect the will of the Board, a member may move to reconsider the vote. A motion to reconsider may be applied to a vote that was either affirmative or negative and shall propose no specific change in a decision, but simply propose that the motion be reopened for discussion and re-vote. The motion to reconsider may be made by any member of the prevailing side of the vote. A second shall be required, and there may be discussion as to the reasons for reconsidering. An affirmative vote of six members shall be required to pass this motion.

#### 1-1.018 Motion to Rescind.

If a Board member wishes to annul an action taken at a previous meeting, the motion to rescind may be used, subject to the restrictions in this rule. A request to annul an action by a Board member is required to be noticed and placed on an agenda. The Board member making this request shall make a motion to rescind and a second is required. Discussion can go into the merits of the motion involved in rescinding. Once the previous action is rescinded by an affirmative vote of six members, the question of

whether a further motion and vote is needed will depend on the circumstances.

#### 1-1.019 Point of Order.

A member may call for a point of order if he/she believes that the Chairman has failed to notice a breach in the Rules. This point of order shall require the Chairman to make a ruling on the question involved. The General Counsel, or his/her designee in his/her absence, shall serve as parliamentarian and shall advise and assist the Chairman and the Board on matters of Board procedure.

#### 1-1.020 <u>Recess</u>.

A recess may be taken as it appears on the agenda or at any time by the Chairman when he/she deems it advisable, or by a motion from a member. If the motion is made by a member, a second shall be required and an affirmative vote of six members is required.

#### Part III - Amendment, Review and Effective Date

#### 1-1.021 Robert's Rules.

The rules contained in the 11<sup>th</sup> edition of Robert's Rules of Order Newly Revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these Rules of Procedure for Board meetings, special rules of order the Board may adopt, and the laws of the State of Florida.

#### 1-1.022 **Amendments and Revisions.**

These rules may be amended or revised by an affirmative vote of six (6) or more members of the Board at a regular or special meeting.

#### 1-1.023 <u>Review.</u>

The Board shall institute a review of the rules at least every two years.

#### 1-1.024 Effective Date, Repeal and Codification.

These Rules of Procedure shall be effective upon adoption, and shall be codified as Chapter 1-1 of the Authority's permanent rules.

#### A RESOLUTION OF THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AMENDING RULES OF PROCEDURE FOR BOARD MEETINGS

**WHEREAS**, Florida Statutes Chapter 348 Part III Section 348.753 creates the governing Board of the Central Florida Expressway Authority ("CFX") and sets forth the powers, duties and obligations of such Board; and,

WHEREAS, Section 286.0114, Florida Statutes, provides that "Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission;" and,

WHEREAS, Section 286.0114, Florida Statutes, also allows for the adoption of rules or policies to maintain the orderly conduct and proper decorum of public meetings; and,

**WHEREAS**, the governing Board of the CFX previously adopted its Rules of Procedure to establish certain procedures for public comment in Section 1-1.011 Public Comment; and,

WHEREAS, the Board now seeks to amend and supplement those procedures.

### NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY as follows:

Section 1. <u>AMENDMENT TO SECTION 1-1.011 PUBLIC COMMENT</u>. Section 1-1.011 of the Rules of Procedure for Board Meetings is hereby amended as follows:

#### 1-1.011 Public Comment.

The right to be heard and the right to public input is hereby endorsed and adopted as follows: Any citizen has the right to appear before the Board on a non-agenda item or an agenda item for the presentation, adjustment or determination of an issue, matter or request within the Board's authority and jurisdiction, so far as the orderly conduct of public business permits. Matters shall be reasonably scheduled for the convenience of the general public, so that the public may know when a matter has been scheduled.

Each speaker shall be limited to three minutes unless otherwise <u>modified</u> extended by the Chairman. No speaker may transfer or designate his or her time to another speaker. However, an organization may designate a single speaker to speak on behalf of a group of attendees. No additional time shall be provided to the designated speaker. The provisions of this subsection, however, shall not be construed to supersede, supplement, or modify any citizen participation process established in state law for public hearings before the Board, such as the procedures for quasi-judicial hearings. Nor shall the provisions of this

subsection be used to avoid, supersede or modify the Authority's procurement rules, including, but not limited to, the "protest process" and the "black-out period."

The Authority's staff is directed to prepare the appropriate forms for a Public Comment Request by citizens which forms shall be made available both on the Authority's internet website and in the lobby area outside the Board's meeting room. Only those speakers that are present and have submitted their completed form to the Recording Secretary at least 5 minutes prior to the scheduled start of the meeting will be called to speak.

Members of the public may also submit written comments in advance of the meeting on any topic on the agenda. Comments on agenda items submitted at least 48 hours in advance of the scheduled start time of the meeting shall be included as part of the record and may be read at the meeting if the written comments do not exceed three minutes in length when read.

The use of any audio or video presentation materials, such as PowerPoints, shall be submitted at least 48 hours in advance of the scheduled start time of the meeting. CFX reserves the right to refuse any materials that do not meet technical specifications as specified by staff or are otherwise deemed inappropriate based on existing legal standards. All submissions become public records and may not be returned. Any member of the public seeking to distribute materials to Board Members at a public meeting shall provide the Recording Secretary with at least 13 copies of any materials at least 5 minutes prior to the scheduled start time of the meeting.

Speakers must be courteous and non-disruptive. If a person continues disruptive behavior after being asked to stop, the Chairman may take appropriate action.

Section 2. <u>EFFECTIVE DATE</u>. This Resolution shall take effect immediately upon adoption by the CFX Governing Board.

AD	OPTED this day of Sept	ember, 2020.	
ATTEST:_	Regla "Mimi" Lamaute Board Services Coordinator	Brenda Carey CFX Board Chairman	
		Approved as to form and legality	
		Diego "Woody" Rodriguez General Counsel	

#### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

# NOTICE OF INTENT TO AMEND RULES OF PROCEDURE FOR BOARD MEETINGS

Notice is hereby given that at the September 10, 2020 Board meeting, the governing Board of the Central Florida Expressway Authority ("CFX") shall consider amending its Rules of Procedure for Board Meetings, Section 1-1.011 Public Comment.

The Amendment is scheduled to take effect upon passage.

Dated this 2<sup>nd</sup> day of September, 2020.

Mimi Lamaute

**Board Services Coordinator** 

\*Posted at CFX Building (front door) on 9/2/2020



# F. 3.



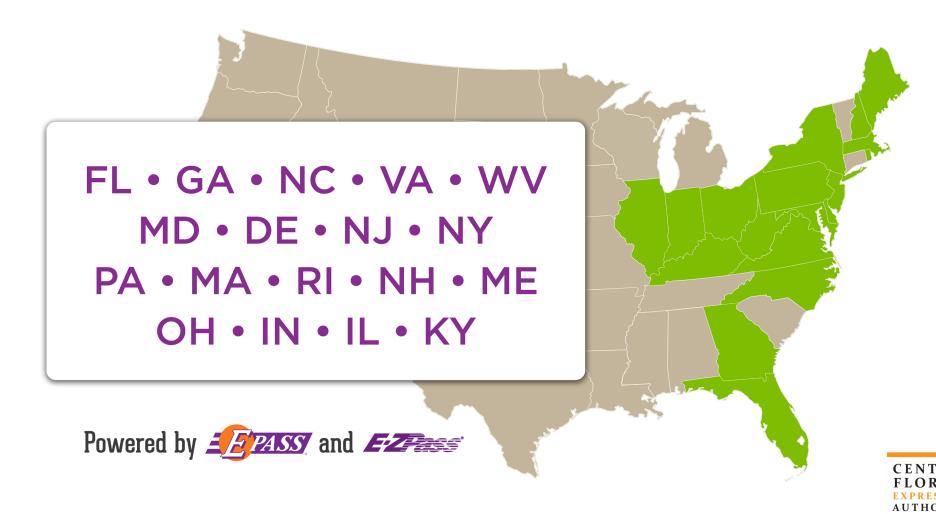
# MEMORANDUM OF UNDERSTANDING

Laura Kelley, Executive Director

— September 10, 2020 —

# CFX Joined the E-ZPass Group Sept. 2018





# Memorandum of Understanding











Tampa-Hillsborough Expressway Authority Board approved a memorandum of understanding on August 24, 2020.



### **Recommended Motion**

Board approval of the Memorandum of Understanding with the Tampa Hillsborough Expressway Authority (THEA) for CFX to process THEA's E-ZPass prepaid electronic transactions to further enhance tolling interoperability for customers.



#### MEMORANDUM OF UNDERSTANDING

#### TAMPA-HILLSBOROUGH COUNTY EXPRESSWAY AUTHORITY

and

#### CENTRAL FLORIDA EXPRESSWAY AUTHORITY

(E-ZPass Transactions Processing)

The Tampa-Hillsborough County Expressway Authority, a body politic and corporate and an agency of the state existing under and by virtue of Chapter 348, Part II, Florida Statutes and other applicable laws of the State of Florida (hereinafter "THEA") and the Central Florida Expressway Authority, a body politic and corporate, an agency of the state existing under and by virtue of Chapter 348, Part III, Florida Statutes and other applicable laws of the State of Florida (hereinafter "CFX" and together with THEA, collectively, the "Parties") hereby enter into this Memorandum of Understanding (the "MOU") as of the date indicated, as follows:

- 1. <u>Purpose</u>. This MOU is intended to outline the general understanding of the parties regarding the implementation by CFX of electronic toll processing of E-ZPass transactions on THEA facilities by CFX (the "Program"), all as described in more detail in the attached <u>EXHIBIT "A"</u>. The Parties acknowledge and agree that this MOU is expressly subject to the applicable business rules of E-ZPass.
- 2. <u>Mutual Cooperation</u>. The parties shall mutually cooperate with each other to develop and implement the Program, including, without limitation, providing access to the THEA facilities for the installation of any equipment and performing any tests associated with processing E-ZPass transactions. The Parties shall designate in writing appropriate points of contact within their respective organizations for the Program. The Parties shall mutually agree on responsibility for any costs and expenses associated with the Program.
- 3. <u>Mutual Hold Harmless</u>. The Parties hereto do hereby agree to hold each other harmless from and against all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) (collectively, "Losses"), which arise from or are in any way connected with any Losses in connection with the implementation of the Program, including but not limited to, (a) injury to property or other interests of the Parties or any third party, including without limitation, E-ZPass; (b) violation of Applicable Law (defined herein); (c) strict liability imposed by Applicable

Law; or (d) breach of confidentiality or data security obligations with respect to the Program.

- 4. <u>MUTUAL LIMITATION OF LIABILITY</u>: TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HERETO SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES, WHETHER IN CONTRACT, TORT, EQUITY, OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, EVEN IF SUCH DAMAGES ARE FORESEEABLE, AND REGARDLESS OF WHETHER OR NOT EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR UNRECOVERED OVERHEAD.
- 5. <u>Applicable Law.</u> This MOU shall be subject to and construed in accordance with the applicable laws of the State of Florida ("Applicable Law").
  - 6. Effective Date; Termination and Intent.
- (a) This MOU shall be dated and shall become effective upon execution by the last party to sign, and once the Program is implemented, this MOU may be terminated by either Party upon reasonable prior written notice to the other Party hereto.
- (b) The terms and provisions of this MOU shall apply and be controlling amongst the Parties hereto until such time as this MOU is amended or superseded by a subsequent written memorandum or agreement between the Parties, or until this MOU is terminated.

The parties have executed this Memorandum of Understanding on the date listed below.

EXPRESSWAY AUTHORITY	EXPRESSWAY AUTHORITY
By:  Laura Kelley,  Executive Director	By:  Joseph Waggoner  Executive Director
Date:	Date: 9/1/2020

# Adding THEA to E-ZPass

Exhibit "A"

This document proposes a method for CFX to process E-ZPass transactions on THEA roads.

The E-ZPass Group communicates and enforces Business Rules with group members through the following file exchanges:

#### Tag and Plate files:

- ITAG Transponders and their statuses
- ICLP/ICLN Valid License plates for Revenue and Non-Revenue (ICLN is Florida only)

#### **Transaction files:**

- ICTX Transaction files for Transponder and Plate Based Transactions (PART 1)
- ICRX Acceptance/Rejection of Transactions from an ICTX (PART 2)

#### **Correction files:**

- ITXC Transactions for Toll Corrections initiated by an agency
- IRXC Acceptance/Rejection of Transactions from an ITXC file

# TAGS and PLATES

ITAG, ICLP/ICLN files are time critical (more than the transaction and correction files).

#### As Transponder (ITAG) and Plate (ICLP/ICLN) Files are received by CFX:

- CFX validates and loads the files for use in subsequent processing.
- Acknowledges receipt and processing of the files via an ACK to the sending Agency with an ACK Date.
- This ACK date is critical to determine when tags and plates are considered "good" and eligible for guaranteed payments. Before the lane is updated, a transaction accepted using the previous tag status can be sent under "grace" to IAG but the payment will not be guaranteed.
- CFX maintains 60-120 days of ITAG and ICLP/ICLN data
  - Sample one day total for all agencies (includes CFX, FTE and IAG agencies)

• Tag (Transponders) 73,718,857 • License plates 68,054,014

The recommended solution for sharing transponder and plate data will optimize revenue collection and reduce, as much as possible, any revenue losses.

- TAGS: CFX will provide AVI Tag files to THEA to expeditiously provide tag statuses to THEA lanes
- ITOLLING: CFX provides THEA an asynchronous message queue to identify license plate eligibility

THEA needs to update their lanes to accept CFX formatted AVI tag files and use token **TRANSPONDER** file

THFA will need to format and download AVI Tag Files to THEA lanes for all non E-ZPass agencies

### Part 1 - TAGS

Business Rules include: · Duplicate checking

- ITAG status

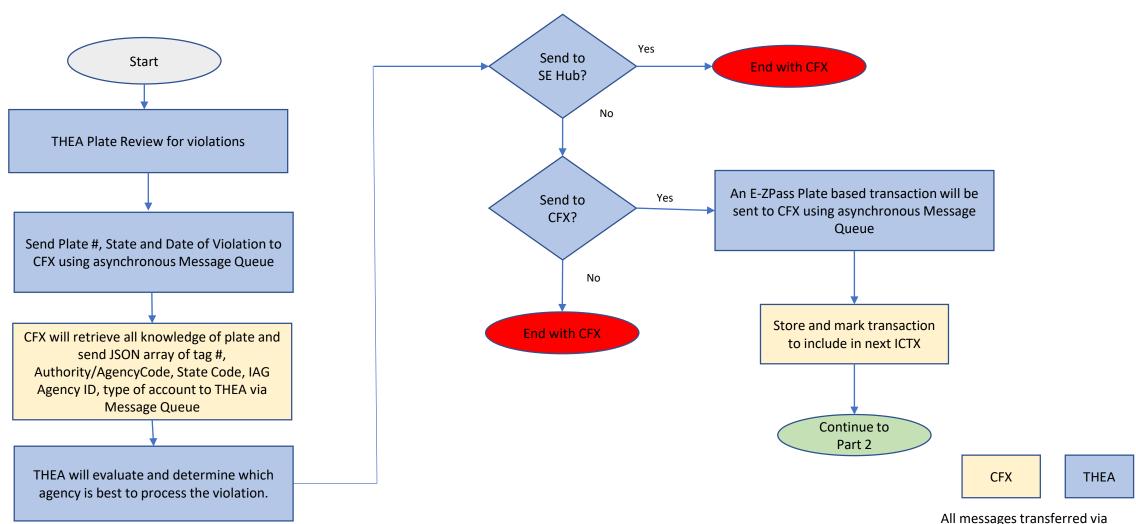
**Prep THEA Transactions for E-ZPass Agencies E-ZPass Transponder Processing on THEA Roads** 

Start of Part 1 As ITAG files are received by CFX, they will be converted into AVI Tag files and SFTP'd Passed Mark transaction to include to THEA zipped **Business** Yes in next ICTX as it meets Continue to Rules requirements for an IAG Part 2 using guaranteed Payment ITAG? THEA will download AVI Tag Files to THEA lanes **Passed** Yes Mark transaction to include "Grace" Continue to As Transactions are received at THEA back in next ICTX as "Under Business Part 2 office, E-ZPass Tag based transactions will Grace" Rules? be sent to CFX using asynchronous Message Queue No Reject Transaction and send to THEA via Message Queue CFX will process each THEA transaction on the Message Queue for IAG Business Rules THEA End with CFX support CFX THEA activities

> All messages transferred via Message Queue, unless otherwise stated, will be in JSON format

### Part 1 - PLATES

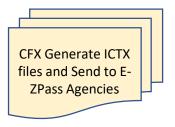
Prep THEA Transactions for E-ZPass Agencies E-ZPass Plate Processing on THEA Roads

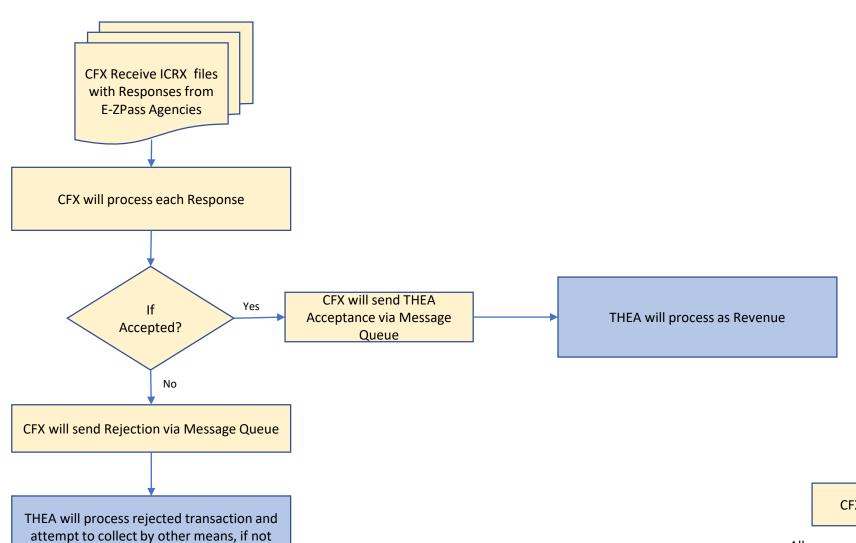


All messages transferred via Message Queue, unless otherwise stated, will be in JSON format

# Part 2 - RESPONSES

**THEA Transactions Processed by E-ZPass Agencies** 





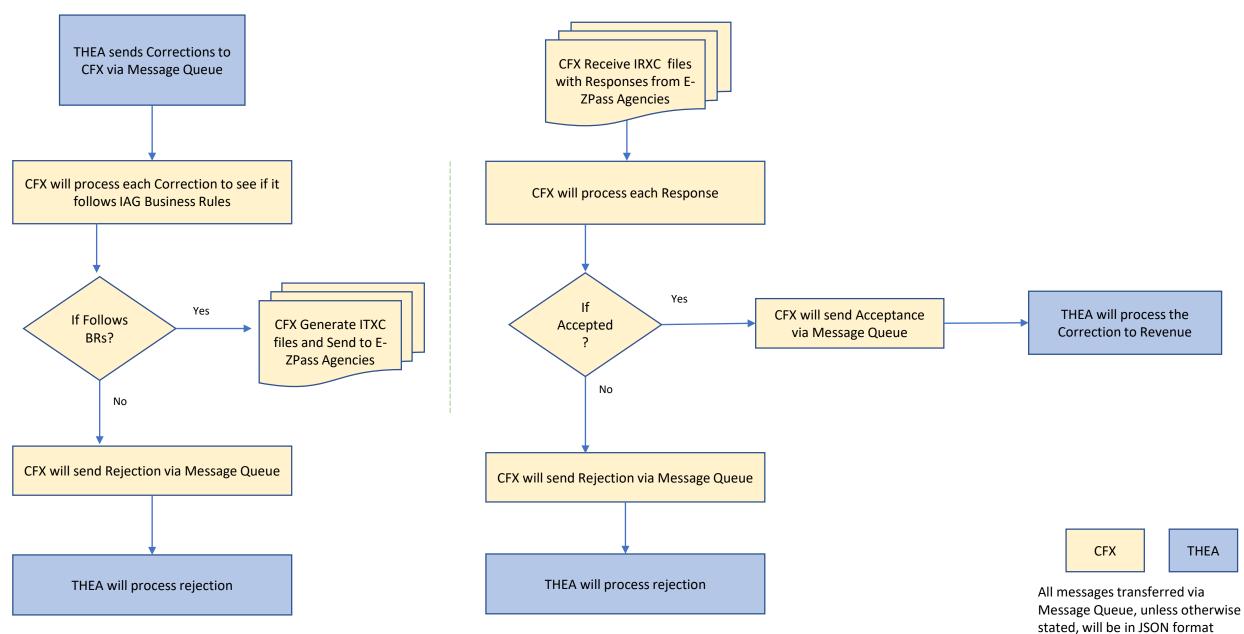
rejected as a Duplicate

CFX

THEA

All messages transferred via Message Queue, unless otherwise stated, will be in JSON format

# **THEA Initiated Corrections**



# Reporting

- Use Standard IAG reports that will include THEA as child of CFX
- Generate IAG reports that will be THEA only to be exchanged between the 2 agencies
- Add Monitoring reports for Message Queue
- Reconciliation reports for transaction exchange at THEA and CFX