AMENDED AGENDA BOARD MEETING June 10, 2021 9:00 a.m.

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

A. CALL TO ORDER / PLEDGE OF ALLEGIANCE

B. PUBLIC COMMENT

Pursuant to Section 286.0114, Florida Statutes and CFX Rule 1-1.011, the governing Board for CFX provides for an opportunity for public comment at the beginning of each regular meeting. The Public may address the Board on any matter of public interest under the Board's authority and jurisdiction, regardless of whether the matter is on the Board's agenda but excluding pending procurement issues. Each speaker shall be limited to 3 minutes. The Public may also submit written comments in advance of the meeting to 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.

- C. APPROVAL OF MAY 13, 2021 BOARD MEETING MINUTES (action Item)
- D. APPROVAL OF CONSENT AGENDA (action Item)

E. REPORTS

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

F. REGULAR AGENDA ITEMS

- 1. BRIGHTLINE UPDATE Michael Cegelis, Executive Vice President, Brightline (info item)
- 2. **BRIGHTLINE MEMORANDUM OF UNDERSTANDING** Laura Kelley, Executive Director (info item)
- 3. MONTHLY COVID-19 FINANCIAL ASSESSMENT Lisa Lumbard, Chief Financial Officer (info item)

(CONTINUED ON PAGE 2)

- 4. APPROVAL OF 2021B, 2021C AND 2021D BOND ISSUANCES Lisa Lumbard, Chief Financial Officer (action item)
- 5. **SR 417 WIDENING FROM NARCOOSSEE ROAD TO SR 528** *Will Hawthorne, Director of Engineering* (action item)
- 6. **VISITOR TOLL PASS STATUS** *Jim Greer, Chief of Technology/Operations* (info 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, they will need a record of the proceedings, and that, for such purpose, they 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 (3) 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 accommodations to participate in this proceeding, then they should contact the Central Florida Expressway Authority at (407) 690-5000 no later than two (2) business days prior to the proceeding.

Please note that participants attending meetings held at the CFX Headquarters Building are subject to certain limitations and restrictions in order to adhere to the CDC guidelines and to ensure the safety and welfare of the public.

C.

APPROVAL OF BOARD MEETING MINUTES

MINUTES BOARD MEETING May 13, 2021

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

A. CALL TO ORDER

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

Board Members Present:

Mayor Buddy Dyer, City of Orlando (Chairman) Commissioner Sean Parks, Lake County (Vice Chairman) Mayor Jerry Demings, Orange County (Treasurer) Commissioner Brandon Arrington, Osceola County Commissioner Lee Constantine, Seminole County Jay Madara, Gubernatorial Appointment Christopher "CJ" Maier, Gubernatorial Appointment Rafael "Ralph" Martinez, Gubernatorial Appointment Commissioner Victoria Siplin, Orange County Commissioner Curt Smith, Brevard County

Staff Present at Dais:

Laura Kelley, Executive Director Mimi Lamaute, Recording Secretary Diego "Woody" Rodriguez, General Counsel

Non-Voting Advisor Not Present:

Nicola Liquori, Executive Director, Florida's Turnpike Enterprise

B. PUBLIC COMMENT

Mr. Diego "Woody" Rodriguez, General Counsel, read into the record a written comment that was received in accordance with CFX's policy, attached Exhibit "A."

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



C. APPROVAL OF MEETING MINUTES

1. April 8, 2021 Board Meeting

A motion was made by Commissioner Constantine and seconded by Mayor Demings to approve the April 8, 2021 Board Meeting Minutes as presented. The motion carried unanimously with all ten (10) board members in attendance voting AYE by voice vote.

2. April 8, 2021 Board Workshop

A motion was made by Commissioner Arrington and seconded by Mr. Madara to approve the April 8, 2021 Board Workshop Minutes as presented. The motion carried unanimously with all ten (10) board members in attendance voting AYE by voice vote.

D. APPROVAL OF CONSENT AGENDA

The Consent Agenda was presented for approval.

CONSTRUCTION

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

a. Projects	417-162 & 528-166	Southern Development & Construction, Inc.	(\$ 20,389.12)
b. Project	414-754	Ranger Construction Industries, Inc.	(\$306,173.58)
c. Project	414-755	Ranger Construction Industries, Inc.	(\$305,428.26)

2. Approval of Contract Award to Mehta and Associates, Inc. for Construction Engineering and Inspection Services for SR 429 Widening from Florida's Turnpike to West Road, Project No. 429-152, Contract No. 001739 (Agreement Value: \$11,315,400.00)

ENGINEERING

- Approval of Supplemental Agreement No. 5 with Inwood Consulting Engineers, Inc. for Design Consultant Services for SR 417 Widening from Boggy Creek Road to Narcoossee Road - Post Design Services, Project No. 417-151, Contract No. 001394 (Agreement Value: not-to-exceed \$694,619.05)
- 4. Authorization of Mitigation Credit Purchases with TM-Econ Mitigation Bank for Project No. 417-151 (Agreement Value: not-to-exceed \$405,000.00)

FINANCE

- 5. Approval of Second Contract Renewal with PFM Financial Advisors LLC for Financial Advisory Services, Contract No. 001245 (Agreement Value: \$260,000.00)
- 6. Approval of Contract Award to U.S. Bank N.A. for Treasury Custody Services, Contract No. 001757 (Agreement Value: \$54,000.00)

INTERNAL AUDIT

- 7. Acceptance of the Following Completed Internal Audits:
 - a) Prior Audit Recommendations: Semi-Annual Follow Up
 - b) Contact Center Transition Review
 - c) Toll Revenue Audit
 - d) Business Continuity Management Review

LEGAL

- 8. Approval of Cooperative Purchase Agreement with The Appraisal Group of Central Florida, Inc. for Appraisal Services, Contract No. 001789 (Agreement value: not-to-exceed \$150,000.00)
- 9. Approval of Cooperative Purchase Agreement with Pinel & Carpenter, Inc. for Appraisal Services, Contract No. 001790 (Agreement value: not-to-exceed \$150,000.00)
- 10. Approval of Cooperative Purchase Agreement with The Spivey Group, Inc. for Appraisal Services, Contract No. 001791 (Agreement value: not-to-exceed \$150,000.00)
- 11. Approval of Single Source Contract with Lowndes, Drosdick, Doster, Kantor & Reed, P.A. for Right of Way Counsel Services, Contract No. 001792 (Agreement Value: \$175,000.00)

MAINTENANCE

- 12. Approval of Second Contract Renewal with Traffic Engineering and Management, LLC d/b/a Control Specialists for Traffic Signal Maintenance Services, Contract No. 001322 (Agreement Value: \$200,000.00)
- 13. Approval of Third Contract Renewal with Rockhopper Services, Inc. for Systemwide Aquatic Vegetation Control Services, Contract No. 001412 (Agreement Value: \$200,400.00)
- 14. Approval of Second Contract Renewal with Ayres Associates, Inc. for Systemwide Overhead Sign Inspection Services, Contract No. 001432 (Agreement Value: \$320,000.00)

- 15. Approval of Supplemental Agreement No. 7 with AutoBase, Inc. for Road Ranger Safety Service Patrol, Contract No. 001437 (Agreement Value: not-to-exceed \$311,029.44)
- 16. Approval of Third Contract Renewal with Chavez's Lawn Services, Inc. for Mowing and Landscaping Services of the Poinciana Parkway, Contract No. 001650 (Agreement Value: \$250,000.00)

RISK MANAGEMENT

17. Approval of Roadway Insurance Policy with Zurich American Insurance Company (Agreement Value: \$750,000.00)

TECHNOLOGY/TOLL OPERATIONS

- 18. Approval of Cooperative Purchase Agreement with Kyra Solutions, Inc. for Informational Technology Staff Augmentation Services, Contract No. 001785 (Agreement Value: not-to-exceed \$2,700,000.00)
- 19. Approval of Cooperative Purchase Agreement with Epic Engineering & Consulting Group, LLC for Informational Technology Staff Augmentation Services, Contract No. 001786 (Agreement Value: not-to-exceed \$1,600,000.00)
- 20. Approval of Purchase Order to PC Solutions & Integrations, Inc. for Extreme Network Switches Annual Support and Maintenance (Agreement Value: \$129,883.85)

A motion was made by Commissioner Siplin and seconded by Commissioner Arrington to approve the Consent Agenda as presented. The motion carried unanimously with all ten (10) board members in attendance voting AYE by voice vote.

E. REPORTS

1. CHAIRMAN'S REPORT

Chairman Dyer provided an overview of the upcoming items for today's Board meeting.

2. TREASURER'S REPORT

Mayor Demings reported that as of the end of March, CFX's toll revenue year-to-date was \$350,480,867, which is 17.0% over budget and 5% under prior year.

Total Operations, Maintenance and Administration expenses were \$59,673,646 year-to-date, which is 6% under budget.

After debt service, the total net revenue available for projects year-to-date through March was \$141.8 million.

3. EXECUTIVE DIRECTOR'S REPORT

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

In addition, Ms. Kelley expanded on the following:

- Commissioner Sean Parks represented CFX Knight Pass at the UCF Spring Game;
- Ms. Kelley thanked Yvonne Rodriguez and Brad Friel for their assistance with the CFX Visitor Toll Pass program at the Orlando International Airport; and
- Provided details of her April 28th meeting with FDOT regarding Brightline.

F. REGULAR AGENDA ITEMS

1. BRIGHTLINE UPDATE

Mr. Michael Cegelis, Executive Vice President with Brightline provided a status update on Brightline's Florida system including their new stations. He detailed the nine (9) requirements that must be completed by Brightline prior to July 31st.

The board members asked questions which were answered by Mr. Cegelis.

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

2. 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: actual revenue versus budgeted and CDM Smith's revised projections, CFX strengths and estimated budget versus actual.

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

3. <u>BUDGET - FY 2022 OPERATIONS, MAINTENANCE & ADMINISTRATION/FY 2022 THROUGH FY 2026 FIVE-YEAR WORK PLAN</u>

Lisa Lumbard, Chief Financial Officer, and Glenn Pressimone, Chief of Infrastructure, detailed the FY 2022 Operations, Maintenance & Administration Budget / FY 2022 through FY 2026 Five-Year Work Plan Budget.

Ms. Lumbard stated that the FY 2022 through FY 2026 Five-Year Work Plan is fully fundable. She explained the capital planning model results and projected senior lien coverage ratio.

The board members asked questions which were answered by Ms. Lumbard.

A motion was made by Mayor Demings and seconded by Mr. Madara for approval of Fiscal Year 2022 Operations, Maintenance and Administration and Fiscal Years 2022-2026 Five-Year Work Plan Budget. The motion carried unanimously with all ten (10) board members in attendance voting AYE by voice vote.

4. SR 417 WIDENING FROM LANDSTAR BOULEVARD TO BOGGY CREEK ROAD

Mr. Will Hawthorne, Director of Engineering presented CFX's next segment of widening on SR 417 from Landstar Boulevard to Boggy Creek Road.

The project is currently scheduled to begin construction in May and is slated for completion in the 4th quarter of 2023. Mr. Hawthorn detailed the bids received for this project.

The board members asked questions which were answered by Mr. Hawthorne.

A motion was made by Mr. Madara and seconded by Commissioner Siplin for award of the contract to Sacyr Construccion SA, Inc. for the SR 417 Widening from Landstar Boulevard to Boggy Creek Road in the amount of \$77,876,338.00. The motion carried unanimously with all ten (10) board members in attendance voting AYE by voice vote.

G. BOARD MEMBER COMMENT

There were no board member comments.

H. ADJOURNMENT

Chairman Dyer adjourned the meeting at approximately 10:03 a.m.

Mayor Buddy Dyer Chairman Central Florida Expressway Authority

Mimi Lamaute Recording Secretary Central Florida Expressway Authority

Minutes approved on ______, 2021.

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



May 10, 2021

Via Email Only (Public.comment@cfxway.com)

Governing Board Central Florida Expressway Authority 4974 ORL Tower Road Orlando, FL 32807

> Brightline High-Speed Rail Re: Orlando to Tampa, Florida

To the Honorable CFX Governing Board:

This firm represents Hunter's Creek Community Association, Inc. ("HCCA"), as well as Hunter's Creek Town Center Property Owners Association, Inc. (HCTCPOA) and Tract 181 Property Owners Association, Inc. (181POA). HCCA is the master association for the Hunter's Creek residential community located in Orlando, Orange County, Florida. HCTCPOA and 181POA are property owners' associations for commercial development. Hunter's Creek is a mature and thriving master planned mixed use golf course community with over 5,900 single family residences and over 2,700 apartment units, along with supporting commercial and institutional uses such as parks, schools, and churches. As you are well aware the Hunter's Creek Community is bisected by SR-417, a limited access toll road owned and operated by CFX.

HCCA, HCTCPOA, and 181POA (together "the Associations") have learned that CFX is in discussions with Brightline regarding the proposed use of the SR-417 corridor for the installation of segments of the Brightline high-speed rail from Orlando to Tampa. Quite naturally, the Associations are concerned about the impacts to the Hunter's Creek Community caused by such corridor sharing. Our residents and business owners are expressing concerns about noise, safety, dirt, and property values. The proposed route through the SR-417 would impose all of the burdens of a high-speed train on the Hunter's Creek community with none of the benefit. The Associations would request that their opposition to the use of the SR-417 corridor for high-speed rail be on record with CFX.

It is our understanding that the very large Hunter's Creek community is now the only residential community proposed to be impacted by the Brightline SR-417 route. The right-of-way for SR-417 was acquired through eminent domain from American Newland, the developer of Hunter's Creek, when the project was in the beginning stages of development. We are certain that you must be aware of a reservation of rights set forth in the Stipulated Final Judgment that CFX Governing Board May 10, 2021

concluded that litigation. The Stipulated Final Judgment reserved to American Newland and its successors in title the right to claim additional damages if the acquired right-of-way was ever used for high-speed rail. Initial research indicates that nearly all of the property owners within Hunter's Creek north of Town Center Boulevard would be successors in title to American Newland. If the SR-417 corridor is ultimately selected for the construction of the Brightline train, the Associations intend to exercise any and all rights conferred upon them by the Stipulated Final Judgment as it relates to Association-owned property. The Associations cannot speak for individual property owners but the Associations are endeavoring to keep their constituents apprised of developments and informed of their rights.

Development of Hunter's Creek began in the 1980s and today this community stands as a model for master planned community success. Almost 25,000 Orange County residents call Hunter's Creek Home. On behalf of these residents and the commercial community within Hunter's Creek, we ask that you not allow the community to be ruined by a high-speed train.

Very truly yours,

Mary Doty Solik

MDS/aw

cc: Ruthanne Connor-King (general@hunterscreek.net)

Michelle Ouimet (mouimet@hunterscreek.net)

Lori Joens (Ijoens@hunterscreek.net)

Jason Watts (Jason.Watts@dot.state.fl.us)

Brad Thoburn (Brad.Thoburn@dot.state.fl.us)

D.Consent Agenda

CONSENT AGENDA June 10, 2021

CONSTRUCTION

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

a. Projects 429-758	Hubbard Construction Co.	(\$ 214,153.86)
b. Project 528-143	SEMA Construction, Inc.	\$1,247,188.59
c. Project 538-165	The Lane Construction Corp.	\$ 87,255.76

- 2. Approval of Cooperative Purchase Agreement with Wood Environmental and Infrastructure Solutions, Inc. for Materials Inspection, Sampling and Testing, Contract No. 001800 (Agreement Value: not-to-exceed \$1,000,000.00)
- 3. Approval of First Contract Renewal with Elipsis Engineering & Consulting, Inc. for Systemwide Construction Engineering and Inspection Services, Contract No. 001368 (Agreement Value: \$1,000,000.00)
- Approval of First Contract Renewal with Johnson, Mirmiran & Thompson, Inc. for CFX Owner's Representative for I-4/SR 408 Ultimate Interchange and Coordination for the Planned Brightline Construction along SR 528 Project Nos. 408-312B and 528-915, Contract No. 001399 (Agreement Value: \$1,000.000.00)
- 5. Approval of First Contract Renewal with Mehta and Associates, Inc. for Systemwide Construction Engineering and Inspection (CEI) Services, Contract No. 001406 (Agreement Value: \$750,000.00)
- Approval of Contract Award to A2 Group, Inc. for Construction Engineering and Inspection Services for SR 417 Widening from Boggy Creek Road to Narcoossee Road, Project No. 417-151, Contract No. 001750 (Agreement Value: \$6,024,563.74)

ENGINEERING

- 7. Approval of Supplemental Agreement No. 5 with Parsons Transportation Group, Inc. for Design Consultant Services for SR 429 Widening from Florida's Turnpike to West Road Post Design Services, Project No. 429-152, Contract No. 001395 (Agreement Value: \$1,377,030.10)
- 8. Approval of Contract Award to Kenyon & Partners, Inc. for Air Conditioner Replacements for Toll Plazas on SR 408, SR 414 and SR 429, Project No. 599-419, Contract No. 001771 (Agreement Value: \$1,585,054.73)
- 9. Approval of Contract Award to Ranger Construction Industries, Inc. for SR 408 Resurfacing from Woodbury Road to North of SR 50, Project No. 408-764, Contract No. 001783 (Agreement Value: \$2,741,835.23)

LEGAL

10. Approval of Donald W. McIntosh Associates, Inc. and Breedlove, Dennis & Associates, Inc. as Subconsultants to Nelson Mullins Riley & Scarborough LLP for Right-of-Way Counsel Services, Contract No. 001477

MAINTENANCE

11. Approval of Second Contract Renewal with G4S Secure Solutions (USA) Inc. for Security Guard Services Contract No. 001319 (Agreement Value: \$325,000.00)

TECHNOLOGY/TOLL OPERATIONS

- 12. Approval of Eighth Contract Renewal with TransCore, LP for System Software Maintenance, Contract No. 000179 (Agreement Value: \$3,450,000.00)
- 13. Approval of Cooperative Purchase Agreement with Ciber Global, LLC for Information Technology Staff Augmentation Services, Contract No. 001787 (Agreement Value: \$4,400,000.00)
- 14. Approval of Purchase Orders to Trans Core, LP for Purchase of Transponders (Agreement Value: \$6,996,720.00)

The following items are for information only:

- A. The following is a list of advertisement(s) from May 16, 2021 through June 6, 2021:
 - 1. Information Technology Services Consultant
 - 2. 417-761: SR 417 Resurfacing from SR 408 to Canal E-4 Bridge
 - 3. 417-151: SR 417 Widening from Boggy Creek Road to Narcoossee Road
 - 4. 408-628B: SR 408 Guide Sign Replacements Construction

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. 429-152: SR 429 Widening from South of FTE to West Road Construction
 - 429-154: SR 429 Widening from Tilden Road to South of FTE Construction
 - 3. 429-427: Independence Mainline Photovoltaics Deployment Design/Build
 - 4. 599-545B: DMS Replacement Phase II Construction
 - 5. 408-128A: SR 408 Sign Truss Installation Construction
 - 6. 408-763: SR 408 Milling & Resurfacing from Yucatan Drive to SR 417 Construction
 - 7. 528-163: SR 528 and SR 520 Interchange Lighting Construction
 - 8. 429-153: SR 429 Widening between West Road to SR 414 CEI Services
 - 9. 528-160: SR 528 Widening from Narcoossee Road to SR 417 Construction
 - 10. 599-759: South Access Road Slope Repair Construction
 - 11. 414-640: SR 414 Guide Sign Replacements Construction
 - 12. 599-416B: McCoy Road Facility Sewer Line Installation
 - 13. 408-831: SR 408/417 Interchange Landscape
 - 14. 408-830: SR 408 from SR 417 to Alafaya Trail Landscape
 - 15. 599-416A: McCoy Road Facility Water Line Installation
 - 16. Advocacy Services
 - 17. Disclosure Counsel Services

CONSENT AGENDA ITEM #1

MEMORANDUM

TO: CFX Board Members

FROM: Ben Dreiling, P.E.

Director of Construction

DATE: May 16, 2021

SUBJECT: Construction Contract Modifications

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

Project No.	Contractor	Contract Description	Original Contract Amount (\$)	Previous Authorized Adjustments (\$)	Requested (\$) June 2021	Total Amount (\$) to Date*	Time Increase or Decrease
429-758	Hubbard Construction Co.	SR 429 Resurfacing, CR 535 to CR 437A	\$ 2,898,958.22	\$ 483,691.85	\$ (214,153.86)	\$ 3,168,496.21	0
528-143	SEMA Construction, Inc.	SR 528 / SR 436 Interchange Improvements	\$ 106,520,000.00	\$ (790,899.05)	\$ 1,247,188.59	\$ 106,976,289.54	0
538-165	The Lane Construction Corp.	SR 538 Widening, Ronald Reagan Parkway to Cypress Parkway	\$ 92,628,420.00	\$ -	\$ 87,255.76	\$ 92,715,675.76	0

TOTAL \$ 1,120,290.49

Reviewed By:

Glenn M. Pressimone, P.E., Chief of Infrastructure

^{*} Includes Requested Amount for this current month.

Project 429-758: SR 429 Resurfacing, CR 535 to CR 437A Hubbard Construction Co. SA 429-758-0621-03

Painted Pavement Markings

Painted pavement markings were used in lieu of the thermoplastic pavement markings.

ADD THE FOLLOWING ITEM:	
Painted Pavement Markings	\$ 36,223.88
DELETE THE FOLLOWING ITEMS:	
Thermoplastic, Standard, White, Solid, 12" for Interchange Markings	\$ (2,550.80)
Thermoplastic, Standard, White, Message or Symbol	\$ (1,177.00)
Thermoplastic, Standard, White, Arrow	\$ (1,392.00)
Thermoplastic, Standard, Other Surfaces, White, Solid, 6"	\$ (26,197.88)
Thermoplastic, Standard, Other Surfaces, White, Solid, 8"	\$ (7,013.64)
Thermoplastic, Standard, Other Surfaces, Yellow, Solid, 6"	\$ (18,618.60)
Pavement Marking, Preformed Tape, White, Skip, 12"	\$ (14,766.80)
	\$ (71,716.72)
DECREASE THE FOLLOWING ITEM:	

DECKEASE THE FOLLOWING ITEM

Pavement Marking, Preformed Tape, Contrast, Skip, 9" \$ (78,484.50)

Subtotal: Painted Pavement Markings \$ (113,977.34)

Adjust Quantities for Existing Contract Pay Items

Quantity adjustments to reflect the actual authorized and measured quantities under the contract.

INCREASE THE	FOLLOWING ITEMS:
INCKEASE THE	FULLOWING HEMS:

Milling Existing Asphalt Pavement, 1 1/2" Avg Depth	\$ 204.60
Asphalt Concrete Friction Course, Traffic D, FC-12.5, PG 76-22, Black Granite	\$ 1,048.10
Asphalt Concrete Friction Course, Incl. Bit., FC-5, PG 76-22, Black Granite	\$ 38,698.40
	\$ 39,951.10

DECREASE THE FOLLOWING ITEMS:

Portable Changeable Message Sign, Temporary	\$ (59.00)
Milling Existing Asphalt Pavement, 3/4" Avg Depth	\$ (59,170.50)
Retro-Reflective Pavement Markers, RPMS	\$ (1,444.80)
Work Order Allowance	\$ (67,691.62)
	\$ (128,365.92)

Subtotal: Adjust Existing Contract Pay Items \$ (88,414.82)

Fuel Price Adjustments

The contract has a provision for the fuel price index adjustments. Adjustments were made only if the current month fuel price is greater than or less than 5% of the bid/base fuel price. In accordance with contract specifications, the engineer has calculated the adjustment for the period of November 2020 through April 2021. During this period of time, \$2,483,012.39 of construction was performed/produced.

ADD THE FOLLOWING ITEMS:

Fuel Price Index Adjustments: November 2020 - April 2021 \$ 1,353.99

Bituminous Price Adjustments

The contract has a provision for the bituminous price index adjustments. In accordance with contract specifications, the engineer has calculated adjustments for the period of October 2020 through March 2021. The bituminous adjustments are made only when the current month fuel price varies by more than 5% from the bid/base price, and then only on the portion that exceeds 5%.

ADD THE FOLLOWING ITEMS:

Bituminous Price Adjustments: October 2020 - March 2021 \$ (13,115.69)

<u>TOTAL AMOUNT FOR PROJECT 429-758</u> \$ (214,153.86)

Project 528-143: SR 528 / SR 436 Interchange Improvements

SEMA Construction, Inc.

SA 528-143-0621-02

Delete Lighting Adjustments East of Goldenrod Rd.

Delete lighting adjustments east of Goldenrod Road that would have been impacted by an upcoming SR 528 widening project between Goldenrod Road and Narcoossee Road. The material procured prior to this deletion is being retained by CFX for use on other projects.

ADD THE FOLLOWING ITEM:		
Lighting Material: Furnish Only	\$	116,553.45
DECREASE THE FOLLOWING ITEMS:		
Conduit, F&I, Open Trench	\$	(1,640.00)
Conduit, F&I, Bridge Mount	\$	(12,660.00)
Conduit, Remove, Bridge Mount	\$	(986.40)
Pull & Splice Box, F&I, 13"x24" Cover Size	\$	(31,000.00)
Junction Box, F&I, Mounted	\$	(5,280.00)
Prestressed Concrete Pole, F&I, Type P-11 Service Pole	\$	(2,430.00)
Lighting Conductors, F&I, Insulated, #10 or <	\$	(4,485.00)
Lighting Conductors, F&I, Insulated, #8 to #6	\$	(747.00)
Light Pole Complete, F&I, Standard Pole Standard Foundation, 45' Mount Height	\$	(5,800.00)
Luminaire & Bracket Arm, Replace Luminaire & Arm on Existing Pole	\$	(36,800.00)
Luminaire, F&I, Under Deck, Pendant Hung	\$	(63,000.00)
Luminaire, F&I, Replace Existing Luminaire on Existing Pole, Roadway, Cobra Head	\$	(73,920.00)
Luminaire, Remove	\$	(1,680.00)
Remote LED Driver Cabinet, F&I, Small	\$	(42,000.00)
Remote LED Driver Cabinet, F&I, Large	\$	(6,400.00)
Pole Cable Distribution System, Conventional	\$	(111,870.00)
	\$	(400,698.40)
	6	(20414407)
Subtotal: Delete Lighting Adjustments East of Goldenrod Rd.	\$	(284,144.95)

LED Remote Driver Cabinets - Owner Furnished

Eight LED remote driver cabinets were furnished by CFX for incorporation into this project. This provides CFX credit for the material furnished.

ADD THE FOLLOWING ITEM:

LED Remote Driver Cabinets - Owner Furnished

\$ (25,560.00)

Plan Revision 2

Plan Revision 2 provides adjustments to the east end of the project to accommodate the planned future widening between Goldenrod and Narcoossee. This provides estimated contract pay item quantity adjustments authorized by the revision.

ADD THE FOLLOWING ITEMS:

Plan Revision 2 - Mobilization, Clearing, MOT, Erosion Control, Miscellaneous Asphalt	\$ 193,069.32
Median Concrete Barrier, CSIP, Unit Costs for Water Barrier	\$ 808.60
Median Concrete Barrier, CSIP, Unit Contractor's Shared Savings	\$ 1,150.70
Large Fiber Optic Pull Box, 36" Diameter, F&I	\$ 2,803.90
DCS Field Equipment, 5-Lanes, F&I	\$ 22,589.60
Overhead Static Sign, Structure, F&I, Cantilever, 31-40 FT	\$ 109,121.10
Sign Panels, Overlays, 301-400 SF	\$ 11,716.10
Pavement Marking, Preformed Tape, HP, Yellow, Solid, 8"	\$ 5,808.00
Pavement Marking, Preformed Tape, HP, Yellow, Solid, 18"	\$ 7,021.30
	\$ 354,088.62

INCREASE THE FOLLOWING ITEMS:

CREASE THE POLEOWING HEMS.	
Regular Excavation	\$ 4,000.00
Embankment	\$ 19,438.90
Type B Stabilization	\$ 19,435.00
Optional Base Group 05	\$ 598.00
Optional Base Group 08	\$ 21,510.00
Optional Base Group 12	\$ 52,338.00
Milling Existing Asphalt Pavement, 1 1/2" Avg Depth	\$ 586.80
Milling Existing Asphalt Pavement, 2 1/4" Avg Depth	\$ 15,034.70
Superpave Asphaltic Concrete, Traffic D	\$ 135,863.70
Superpave Asphaltic Concrete, Traffic D, PG 76-22	\$ 63,708.00
Asphalt Concrete Friction Course Incl. Bit., FC-5, PG 76-22	\$ 35,751.00
Miscellaneous Asphalt Pavement	\$ 1,377.00
Inlets, DT Bot, Type C, <10	\$ 21,600.00
Manholes, P-8, <10'	\$ 7,400.00
Pipe Culvert Optional Material Round, 12" S/CD	\$ 73,560.00
Pipe Culvert Optional Material Round, 18" S/CD	\$ 53,720.00
Trench Drain, Standard	\$ 16,000.00
Median Concrete Barrier, Short Grade-Separated	\$ 136,840.00
Guardrail-Roadway, General TL-3	\$ 6,409.00
Ground-In Rumble Strips, 16"	\$ 1,107.00
Performance Turf, Sod	\$ 3,664.50
Conduit, F&I, Open Trench	\$ 205.00
Conduit, F&I, Directional Bore	\$ 24,046.00
Fiber Optic Cable, 12-SM Fiber, F&I	\$ 1,425.00
Fiber Optic Cable, 72-SM Fiber, F&I	\$ 10,170.00
Fiber Optic Cable, Existing - Remove	\$ 2,011.75
Fiber Optic Splice Enclosure, 72 Splice, F&I	\$ 1,760.00
Fiber Optic Fusion Splice	\$ 312.00
Pull Box, Remove - All Types	\$ 330.00
Pull & Splice Box, F&I, 13"x24" Cover Size	\$ 6,000.00
Concrete Manhole 4x6.5x6.5, F&I	\$ 23,400.00
Conduit, 3- 1" HDPE, Trench or Plow, F&I	\$ 1,920.00
Conduit, 9-1" HDPE, Trench or Plow, F&I	\$ 23,520.00
Conduit, 1 - 2" PVC, Trench or Plow, F&I	\$ 32.90
Conduit, 6" BSP Split Duct, Trench or Plow	\$ 1,140.00
Single Post Sign, F&I, Ground Mount, 12-20 SF	\$ 1,200.00
Single Post Sign, F&I, Ground Mount, 21-30 SF	\$ 1,800.00
Multi-Post Sign, Remove	\$ 1,100.00
Sign Panel, F&I, Overhead Mount, 101-200 SF w/ Lighting	\$ 29,400.00
Retro Reflective Pavement Markers	\$ 52.50
Pavement Marking - Preformed Tape, HP, White, Solid, 8"	\$ 1,210.50
Pavement Marking - Preformed Tape, HP, White, Solid, 18"	\$ 1,755.00
Pavement Marking - Preformed Tape, HP, B/W Contrast, Solid, 9"	\$ 1,677.50
Pavement Marking, Preformed Tape, HP, B/W Contrast, Skip, 9", 10'-30'	\$ 6,039.00
Lighting Conductors, F&I, Insulated, #8 to #6	\$ 5,980.50
Lighting Conductors, F&I, #1/0 to #3/0	\$ 1,713.80
Lighting Conductors, Remove & Dispose, Contractor Owns	\$ 2,608.50
Light Pole Complete, F&I, Standard Pole Standard Foundation, 45' Mounting Height	\$ 29,000.00
Light Pole Complete, Remove Pole & Foundation	\$ 5,500.00
	\$ 875,251.55
	•

DECREASE THE FOLLOWING ITEMS:

Shoulder Concrete Barrier, Retaining Section	\$ (71,530.00)
Conduit, 2 - 2" PVC, Trench or Plow, F&I	\$ (1,274.00)
DCS Field Equipment, 4 Lanes, F&I	\$ (19,800.00)
Closet Connector Housing Panel w/ Factory Terminated Pigtails, F&I	\$ (680.00)
Closet Connector Housing Panel, Remove	\$ (62.00)
Splice Tray	\$ (93.00)
Sign Panel, F&I, Overhead Mount, 301-400 SF w/ Lighting	\$ (44,400.00)
Overhead Static Sign Structure, F&I, Cantilever, 41-50 FT	\$ (103,200.00)
Thermoplastic, Standard, White Message	\$ (170.00)
Thermoplastic, Standard, White, Arrow	\$ (1,820.00)
Pavement Marking, Preformed Tape, HP, White, Solid, 12"	\$ (3,909.60)
Pavement Marking, Preformed Tape, HP, White, Skip, 12", 3'-12'	\$ (1,161.60)
Pavement Marking, Preformed Tape, HP, Yellow, Solid, 6"	\$ (1,187.20)
Luminaire, F&I, Replace Existing Luminaire on Existing Pole/Arm, Roadway, Cobra Head	\$ (3,300.00)
	\$ (252,587.40)
Subtotal: Plan Revision 2	\$ 976,752.77

Abandon Box Culvert SR 528 WB

An unforeseen box culvert, with associated headwalls, was discovered crossing under SR 528. Proper abandonment of this box culvert required flowable fill and headwall removal.

ADD THE FOLLOWING ITEM:

Remove Headwalls of Existing Box Culvert	\$ 4,018.95
INCREASE THE FOLLOWING ITEM: Flowable Fill, Culvert Filling	\$ 81,000.00
Subtotal: Abandon Box Culvert SR 528 WB	\$ 85.018.95

Type S Inlet Grate Elevations

A plan discrepancy regarding grate elevations of Type S inlets was discovered which required adjustments to 12 structures in various stages of fabrication and installation.

ADD THE FOLLOWING ITEM:

Type S Inlet Grate Elevations \$ 61,129.71

Executed Work Orders #01 - #39

Executed work orders #01 - #39 were established for additional unforeseen work. The executed work orders also authorized adjustments to existing pay item work that was not identified in the original contract.

ADD THE FOLLOWING ITEMS:

Executed Work Orders #01 - #39	\$ 238,727.56
INCREASE THE FOLLOWING ITEMS:	
Type B Stabilization	\$ 7,590.00
Optional Base Group 02	\$ 10,989.00
Optional Base Group 10	\$ 19,160.00
Pipe Culvert, Opt Material, Round, 36" S/CD	\$ 840.00
Filling & Plugging Pipe, Place Out of Service	\$ 13,786.00
Conduit, F&I, Embedded Concrete Barriers & Traffic Railings	\$ 660.00
Fiber Optic Cable, 12-SM Fiber, F&I	\$ 497.50

Pull Box, F&I	\$ 2,400.00
Small Fiber Optic Pull Box, 24" Diameter, F&I)	\$ 1,400.00
Conduit, 3 - 2" PVC (Trench OR Plow) (F&I)	\$ 143.00
Conduit, 6" HDPE Outer Duct W/2-2" HDPE (Directional Bore) (F&I)	\$ 3,160.00
Conduit, 6" HDPE Outer Duct W/2-2" PVC (Directional Bore) (F&I)	\$ 740.00
Tubular Route Marker, Fiber	\$ 110.00
Electrical Conductors, Insulated, #4, F&I	\$ 379.20
Electrical Conductors, Insulated, #6, F&I	\$ 685.20
Electrical Conductors, Insulated, #10, F&I	\$ 162.45
Thermoplastic, Preformed, White, Message	\$ 1,020.00
Thermoplastic, Preformed, Multi Color, Message	\$ 8,000.00
	\$ 71,722.35
DECREASE THE FOLLOWING ITEMS:	
Milling Existing Asphalt Pavement, 2 3/4" Avg Depth	\$ (11,460.00)
Milling Existing Asphalt Pavement, 2" Avg Depth	\$ (1,380.00)
Roadway Repair, Base Repair	\$ (34,927.80)
Mitered End Section, Optional Round, 36" CD	\$ (7,600.00)
Conduit, 1 - 1" HDPE & 1 - 2" PVC, Directional Bore	\$ (160.00)
Conduit, 1 - 2" PVC, Trench or Plow, F&I	\$ (799.00)
TMS, Composite Cable, F&I	\$ (595.00)
	\$ (56,921.80)
Subtotal: Executed Work Orders #01 - #39	\$ 253,528.11

Tentative Final Quantities of Contract Pay Items of Work

The following are adjustments to pay item quantities to reflect tentative final quantities for pay items of completed work. Adjustments are consistent with contract provisions.

INCREASE THE FOLLOWING ITEM:

TOTAL AMOUNT FOR PROJECT 528-143

Steel Piling, HP 14x89	\$ 203,184.00
DECREASE THE FOLLOWING ITEM: Test Piles - Steel, HP 14x89	\$ (22,720.00)
Subtotal: Tentative Final Quantities of Contract Pay Items of Work	\$ 180,464.00

\$ 1,247,188.59

Project 538-165: SR 538 Widening, Ronald Reagan Parkway to Cypress Parkway The Lane Construction Corp. SA 538-165-0621-01

SFWMD Permitting Issues

The design-build firm was directed to prepare and submit applications for required South Florida Water Management District (SFWMD) permits.

ADD THE FOLLOWING ITEM:

Environmental Permitting for SFWMD Permits #53-00216-P and 49-0094-S-66

\$ 37,609.00

Existing Groundline Elevations

The elevation at several locations of existing ground encountered in the field was lower than anticipated. This compensates the Contractor for the additional necessary embankment material.

ADD THE FOLLOWING ITEM:

Regular Embankment for Existing Elevation Changes

\$ 49,646.76

TOTAL AMOUNT FOR PROJECT 538-165

\$ 87,255.76

CONSENT AGENDA ITEM #2

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams

Director of Procurement

DATE: May 22, 2021

SUBJECT: Approval of Cooperative Purchase Agreement with Wood Environmental and

Infrastructure Solutions, Inc. for Materials Inspection, Sampling and Testing

Contract No. 001800

Board award of cooperative purchase agreement with Wood Environmental and Infrastructure Solutions, Inc. in a not-to-exceed amount of \$1,000,000.00 is requested. This is a cooperative purchase (piggyback) agreement based on a contract between Florida Department of Transportation and Wood Environmental and Infrastructure Solutions, Inc. which will allow CFX to take advantage of the favorable rates already negotiated.

The service to be provided includes materials inspection, sampling and testing throughout the system.

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 COOPERATIVE PURCHASE AGREEMENT CONTRACT NO. 001800

THIS COOPERATIVE PURCHASE AGREEMENT ("Agreement") is made this 10th day of June 2021, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, whose address is 4974 ORL Tower Road, Orlando, Florida 32827 ("CFX") and WOOD ENVIRONMENTAL & INFRASTRUCTURE SOLUTIONS, INC., whose address is 6256 Greenland Road, Jacksonville, FL 32258 who is registered and authorized to conduct business in the State of Florida ("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 CFX, 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 materials inspection, sampling and testing; and

WHEREAS, on or about February 16, 2018, the CONTRACTOR entered into an agreement with Florida Department of Transportation ("FDOT") to provide the same services as required by CFX; and

WHEREAS, the contract between the CONTRACTOR and FDOT was procured through a competitive bidding process, which process is substantially similar to those required by CFX, and included Bid Solicitation 18906 Major Project and the receipt of sealed bids from other contractors; and

WHEREAS, competitive bids seeking qualified contractors to perform such services for CFX was not required because the CONTRACTOR has an existing contract with FDOT, attached hereto as Exhibit "1" and incorporated herein by reference, which was awarded through a competitive bidding process ("FDOT Contract") for the same services to be provided hereunder, and CFX has decided to contract with CONTRACTOR for the performance of the services described herein under the same conditions previously negotiated by FDOT, subject to the terms and conditions hereof; and

WHEREAS, the CONTRACTOR agrees to provide the services under substantially the same terms and conditions as included in its contract with FDOT subject to the additional terms and conditions 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. RECITALS

The recitals are true and incorporated as terms. Any capitalized terms not specifically defined herein shall have the meaning ascribed to them in the FDOT Contract.

2. ADOPTION OF TERMS IN THE FDOT CONTRACT

The parties adopt all parts of the FDOT Contract by reference as though set forth fully herein, subject to the following substitutions or revisions.

- 2.1 The terms "FDOT", "State of Florida Department of Transportation", "Department of Transportation" or "Department" in the FDOT Contract shall be replaced with the "Central Florida Expressway Authority."
- 2.2 In Article 2, of the Contract, the contract term of "5 year term" is hereby replaced with "three (3) year term with two one-year renewals"
- 2.3 In Article 2-B of the Contract, the total amount "\$7,500,000.00 Budgetary Ceiling" is hereby replaced with "\$1,000,000.00 Budgetary Ceiling".
- 2.4 Article 5 on page GC-3 entitled "FLORIDA PUBLIC RECORDS LAW" in the County Contract shall be supplemented with the following:
 - IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT Phone: 407-690-5000, e-mail: publicrecords@cfxway.com, and address: Central Florida Expressway Authority, 4974 ORL Tower Road, Orlando, FL. 32807.
- **3. SERVICES TO BE PROVIDED.** On a Work Order basis, 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 Agreement in the manner and to the full extent as required by CFX.

4. WORK ORDER PROCESS

- 4.1 CFX Construction Dept will notify the CONTRACTOR in writing of a project to be completed with the allowed construction time and the specific technical specifications, special provisions and plans.
- 4.2 CONSTRACTOR shall have three (3) days to respond with a proposal in writing utilizing the unit prices outlined in the FDOT Contract attached hereto as **Exhibit "1"**.
- 4.3 CFX Construction shall issue a work order based upon the documents outlined in 4.1 and 4.2 above. The work order shall include the start date or if unknown, a Notice to Proceed shall be issued when the date is known.
- 4.4 CONTRACTOR shall commence and complete the work in accordance with work order and contract documents.
- **5. COMPENSATION FOR SERVICES.** Compensation shall be in accordance with the Price Proposal for each specific work order attached to this Agreement.

6. CONTRACTOR INSURANCE.

CONTRACTOR shall carry and keep in force during the period of this Agreement, the required amount of coverage as stated in Section 3 of the FDOT Contract.

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

WOOD ENVIRONMENTAL & INFRASTRUCTURE SOLUTIONS, INC.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By:	By:
Authorized Signature	Aneth Williams, Director of Procuremen
Print Name:	Date:
Title:	
Attest:	(Seal)
Date:	
	Approved as to legal form and sufficiency for the exclusive use and reliance of the Central Florida Expressway Authority.
	By:

Exhibits

- **1.** FDOT Contract
- 2. Name Change



Florida Department of Transportation

DATE: February 22, 2018

TO: AMEC Foster Wheeler Environment & Infrastructure, Inc.

Project Manager: Steve Duke FDOT Financial Services

FROM: Procurement Office – Professional Services

SUBJECT: Transmittal of Consultant Agreement

Contract Number: C9X94

Agreement: Standard Professional Services Agreement

Attached is a copy of an executed agreement between the Department and <u>AMEC Foster Wheeler Environment & Infrastructure, Inc.</u>. The Consultant is advised that no work should be performed under this agreement until receipt of a written Notice to Proceed or Task Work Order (for task assignment contracts). The Department's Project Manager will provide such a document to the Consultant with one copy to FDOT Financial Services and one to the Procurement Office.

These services were acquired in compliance with section 287.055, Florida Statutes.

The Consultant is also advised that invoices should be submitted to the Department's Project Manager.

DBE commitments must be submitted in the Department's Equal Opportunity Compliance (EOC) System located at the following website:

https://fdotwp1.dot.state.fl.us/EqualOpportunityCompliance/Account.aspx/LogIn?ReturnUrl=%2fEqualOpportunityCompliance

Failure to timely input DBE commitment information into the Equal Opportunity Compliance System may adversely impact the DBE commitment letter grade for your consultant firm as well as the District DBE utilization numbers, and will cause your firm to appear as delinquent on the Equal Opportunity Compliance Report. Note: For TWO contracts, DBE commitments can only be entered into the EOC after the prime invoice has been paid in CITS.

Execution Date: 2/16/2018

Service Ending Date: 2/15/2023

Term End Date (i.e. Ending Date in CFM):

2/15/2023

STANDARD PROFESSIONAL SERVICES AGREEMENT

C	ontract	t No.: <u>C</u>	<u>C9X94</u>
F	OOT F	inancial	ID No.(s)
			Il Number(s)/Line Item Number(s) for ract, pursuant to s. 216.313, F.S. SB2500/1914 (required for contracts in excess of \$5 million)
F.	A.P. N	lo.	(regarded for contracts in excess or go million)
	ATE C		REEMENT, made and entered into on2/16/2018 8:40 AM EST, by and between the, by and between the
(FE	ID No	. <u>F911</u>	641772) of 6256 Greenland Road, Jacksonville FL, 32258
aut	horize	d to con	duct business in the State of Florida, hereinafter called the Consultant, agree as follows:
Th.		م دمه دارین	and the Department mount college area to chide by the Department's Ctandard Destactional Commission
			nd the Department mutually agree to abide by the Department's Standard Professional Services
_			ns, dated September, 2016 which are available as an appendix to this form in the
-			fessional Services web site or from the Department's Office of Procurement. The Standard
Pro	fessi	onal Se	rvices Agreement Terms, with the exception of the following non-applicable sections:
No	ne		
_			
are	incorp	oorated	by reference and made a part of this Agreement.
1.	SEF	RVICES	AND PERFORMANCE
	A. The Department does hereby retain the Consultant to furnish certain services as described in Exhibit "A",		
	7		ed hereto and made a part hereof, in connection with
		Mate	rials Inspection, Sampling and Testing
	B.		s changed by written agreement, the site for inspection of work referenced in Section 1.I of the Standard ssional Services Terms , will be 6256 Greenland Road, Jacksonville FL, 32258.
2	TEE		osional del vices Terms, will be ozoo oreemand road, dacksonville L., 52250.
		 Unless	s otherwise provided herein or by Supplemental Agreement or Amendment, the provisions of this ment will remain in full force and effect through completion of all services required of the Consultant or a
		5	year term from the date of execution of this Agreement, whichever occurs first.
	B.	Chack	applicable terms
	Б.		
			The scheduled project services to be rendered by the Consultant will commence, subsequent to execution of this Agreement, on the date specified in the written notice to proceed from the Department's which notice to proceed will become part of this Agreement. The Consultant will complete scheduled project services within months of the commencement date specified in the notice to proceed or as modified by subsequent Amendment or Supplemental Agreement.
			The project services to be rendered by the Consultant for each task assignment will commence, upon written notice from the Department's <u>Project Manager</u> and will be completed within the time period specified in each task assignment. All services performed under this contract will be completed within <u>60</u> months from the date of this Agreement. The total fee for all accumulated task assignments may not exceed \$7,500,000.00
			The scheduled project services to be rendered by the Consultant will commence, subsequent to execution of this Agreement, on the date specified in the written notice to proceed from the Department's which notice to proceed will become part of this Agreement. The Consultant will complete scheduled project services within calendar days following completion of the construction contract(s) with which consultant services are associated. The anticipated length of the consultant services is months.

375-030-12 PROCUREMENT OGC - 09/16 Page 2 of 2

STANDARD PROFESSIONAL SERVICES AGREEMENT

3. **INSURANCE**

The amount of liability insurance to be maintained by the Consultant in accordance with Section 4.B of the **Standard Professional Services Agreement Terms** is \$500,000.00.

4. SUBCONTRACTS

The following subconsultants are authorized under this Agreement in accordance with Section 7.A. of the **Standard Professional Services Agreement Terms**:

AREHNA Engineering Inc.; CDM Smith Inc.; CSI Geo, Inc.; Protective Coating Solutions, Inc.

5. **COMPENSATION**

The Department agrees to pay the Consultant compensation as detailed in Exhibit "B", attached hereto and made a part hereof.

6. MISCELLANEOUS

A.	Reference in this Agreement to Director will mean the Chief Engineer.				
B.	B. The services provided herein do do not involve the expenditure of federal funds. In the event federal funds are involved, Section 9 of the Standard Professional Services Agreement Terms is incorporated by reference.				
C.	C. The following attachments are hereby incorporated into this Agreement as part hereof as though fully set forth herein.				
	Page A-1 through Page A-5: Exhibit "A", Scope of Services				
	Page <u>B-1</u> through Page <u>B-5</u> : Exhibit "B", Method of Compensation				
IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers on the day, month and year set forth above.					
,,		STATE OF FLORIDA			
	C Foster Wheeler Environment & Infrastructure, Inc.	DEPARTMENT OF TRANSPORTATION			
Name	of Consultant DocuSigned by:	DocuSigned by:			
BY:	Michael Holm	BY: Mygon			
	Authorities Author	52B9EE5B3ABE421			
	Michael J. Holm	Courtney Drummond, P.E.			
	(Print/Type)	(Print/Type)			
Title:	Office Manager	Title: Chief Engineer			
FOR DEPARTMENT USE ONLY					
AP	APPRQYED;				
	Incisha Whitfield	Sonya Daws			
0.420475754.445					
Pro	Professional Services Unit General Counsel Office				

STANDARD PROFESSIONAL SERVICES AGREEMENT TERMS September, 2016

1. SERVICES AND PERFORMANCE

- A. Before making any additions or deletions to the work described in the Agreement, and before undertaking any changes or revisions to such work, the parties will negotiate any necessary cost changes and will enter into a Supplemental Agreement covering such work and compensation. Reference herein to the Agreement will be considered to include any Supplemental Agreement.
- B. In the performance of professional services, the Consultant will use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The Consultant will use due care in performing its services and will have due regard for acceptable engineering standards and principles. Consultant's standard of care shall not be altered by the application, interpretation, or construction of any other provision of this Agreement.
- C. The Consultant agrees to provide project schedule progress reports in a format acceptable to the Department and at intervals established by the Department. The Department 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 will be maintained by the Consultant with representatives of the Department, or of other agencies interested in the project on behalf of the Department. Either party to the Agreement may request and be granted a conference.
- D. All services will be performed by the Consultant to the satisfaction of the Director who will decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of the Agreement, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof; and the decision upon all claims, questions and disputes will be final and binding upon the parties hereto. Adjustments of compensation and contract time because of any major changes in the work that may become necessary or desirable as the work progresses will be subject to mutual agreement of the parties, and Supplemental Agreement(s) of such a nature as required will be entered into by the parties in accordance herewith.

In the event that the Consultant and the Department are not able to reach an agreement as to the amount of compensation to be paid to the Consultant for supplemental work desired by the Department, the Consultant will be obligated to proceed with the supplemental work in a timely manner for the amount determined by the Department to be reasonable. In such event, the Consultant will have the right to file a claim with the Department 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.

- E. In the event the work covered by this Agreement includes the preparation of construction plans, it is understood that the work may be divided into two or more construction projects by the Director and that, if this is done, the Consultant will supply construction plans for each project.
- F. The Consultant is authorized to use the Department's computer facilities utilizing Department programs required for the performance of the services herein. The Consultant will identify the programs required and submit a written request to the Department's Project Manager for approval.
- G. All design work performed by the Consultant for projects where anticipated construction cost is one million dollars (\$1,000,000) or more will be subject to Value Engineering. The Department further reserves the right to subject projects of lesser construction cost to Value Engineering should the Department deem circumstances are present that warrant such a decision. Value Engineering may be performed at any stage of the design process. Unless specifically identified in the Agreement, the Consultant will not be required to perform the Value Engineering analysis.
- H. The Consultant will not be liable for use by the Department of plans, documents, studies or other data for any purpose other than intended by the terms of this Consultant Agreement.
- I. All tracings, plans, specifications, maps, computer files and/or reports prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, will be

considered works made for hire and will become the property of the Department upon completion or termination without restriction or limitation on their use and will be made available, upon request, to the Department at any time during the performance of such services and/or upon completion or termination of this Agreement. Upon delivery to the Department of said document(s), the Department will become the custodian thereof in accordance with Chapter 119, Florida Statutes. The Consultant will not copyright any material and products or patent any invention developed under this agreement. The Department will have the right to visit the site for inspection of the work and the products of the Consultant at any time.

2. **TERM**:

A. Services required after completion of scheduled project services, including, but not limited to, design assistance, construction assistance, and litigation assistance, will be completed within the term of this Agreement at written direction of the department. Supplemental Agreements may be negotiated for any post project schedule services needed by the Department after scheduled project services.

In the event it becomes impracticable or impossible for the Consultant to complete the expected services within the term of this Agreement due to delays on the part of the department or circumstances beyond the control of the Consultant, the Agreement may be extended. An extension of the Agreement must be in writing.

B. In the event there are delays caused by the Department in approval of any of the materials submitted by the Consultant or if there are delays occasioned by circumstances beyond the control and without fault or negligence of the Consultant which delay the scheduled project completion date, the Department may grant an extension of time equal to the aforementioned project schedule delay, as a minimum and not to exceed the Agreement term, by issuance of a Time Extension Letter. This letter will be for time only and does not include any additional compensation.

It will be the responsibility of the Consultant to ensure at all times that sufficient time remains in the Project Schedule within which to complete the services on the project. In the event there have been delays which would affect the project completion date, the Consultant will submit a written request to the Department 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. The Department will review the request and make a determination as to granting all or part of the requested extension.

In the event time for performance of the scheduled project services expires and the Consultant has not requested, or if the Department has denied, an extension of the Project Schedule completion date; partial progress payments will be stopped on the date time expires. No payment shall be made for work performed after the Project Schedule completion date until a time extension is granted or all work has been completed and accepted by the Department if the Agreement term has not expired.

3. **COMPENSATION:**

- A. Bills for fees or other compensation for services or expenses will be submitted to the Department in detail sufficient for a proper preaudit and postaudit thereof. The Department will render approval or disapproval of services within five working days of the receipt of a written progress report unless otherwise stated in the Agreement. The progress report will be accompanied by an appropriate invoice.
- B. The bills for any travel expenses, when authorized by terms of this Agreement and by the Department's Project Manager, will be submitted in accordance with Section 112.061, Florida Statutes. In addition, if compensation for travel is authorized under this Agreement and by the Department's Project Manager, then the Department shall not compensate the Consultant for lodging/hotel expenses in excess of \$150.00 per day (excluding taxes and fees). The Consultant may expend their own funds to the extent the lodging/hotel expense exceeds \$150.00 per day. The Department, in its sole discretion and pursuant to its internal policies and procedures, may approve compensation to the Consultant for lodging/hotel expenses in excess of \$150.00 per day.
- C. Records of costs incurred under terms of this Agreement will be maintained and made available upon request to the Department at all times during the period of this Agreement and for three years after final payment for the work pursuant to this Agreement is made. Copies of these documents and records will be furnished to the Department upon request.

- D. Records of costs incurred will include 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 the Department for a proper audit of project costs.
- E. The general cost principles and procedures for the negotiation and administration, and the determination or allowance of costs under this Agreement will be as set forth in the Code of Federal Regulations, Titles 23, 48, 49, Rule Chapter 14-75, Florida Administrative Code, and other pertinent Federal and State Regulations, as applicable, with the understanding that there is no conflict between State regulations and Federal regulations in that the more restrictive of the applicable regulations will govern.
- F. The Consultant should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services, unless the Agreement specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.
- G. If a payment is not available within 40 days, a separate interest penalty at a rate established pursuant to Section 215.422, Florida Statutes, will be due and payable, in addition to the invoice amount, to the Consultant. Interest penalties of less than one dollar will not be paid unless the Consultant requests payment. Invoices which have to be returned to a Consultant because of Consultant preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.
- H. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.
- I. Except for issues arising from contract indemnification provisions, the Department will have the right to retain out of any payment due the Consultant under this Agreement an amount sufficient to satisfy any amount due and owing to the Department by the Consultant on any other Agreement between the Consultant and the Department. The Department may withhold payment on any invoice in the event that the Consultant is in default under any provision of this Agreement or any other Agreement between the Consultant and the Department as of the time of processing the invoice or as of the time payment is made available on the invoice. This right to withhold will continue until such time as the default has been cured, and, upon cure, the Department will have the right to retain an amount equal to the damages suffered as a result of the default.
- J. It is mutually agreed and understood that the following provision will be applicable to this Agreement if the compensation to be paid to the Consultant, whether by lump sum or cost-plus-a-fixed-fee, will exceed the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY FOUR.
 - The Consultant hereby certifies, covenants and warrants that wage rates and other factual unit costs provided the Department to support the compensation are accurate, complete and current as of the date of this Agreement. It is further agreed that the Agreement price will be adjusted to exclude any significant sums by which the Department determines the Agreement price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such Agreement adjustments must be made within one year following the end of the Agreement. For this purpose, the end of the Agreement is the date of final billing or acceptance of the work by the Department, whichever is later.
- K. The Department, during any fiscal year, will not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department will require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained will prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years. Accordingly, the Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

4. <u>INDEMNITY AND INSURANCE:</u>

A. If the Consultant is an individual or entity licensed by the state of Florida who holds a current certificate of registration under Chapter 481, Florida Statutes, to practice architecture or landscape architecture, under Chapter 472, Florida Statutes, to practice land surveying and mapping, or under Chapter 471, Florida Statutes, to practice engineering, and who enters into a written agreement with the Department relating to the planning, design, construction, administration, study, evaluation, consulting, or other professional and technical support services furnished in connection with any actual or proposed construction improvement, alteration, repair, maintenance, operation, management, relocation, demolition, excavation, or other facility, land, air, water, or utility development or improvement, the Consultant will indemnify and hold harmless the Department, 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 Consultant in the performance of the contract.

The parties agree that 1% of the total compensation to the Consultant for performance of this Agreement is the specific consideration from the Department to the Consultant for the Consultant's indemnity agreement.

- B. The Consultant will have and maintain during the term of this Agreement, a professional liability insurance policy or policies, or an irrevocable letter of credit established pursuant to Chapter 675 and Section 337.106, Florida Statutes, with a company or companies authorized to do business in the State of Florida, affording professional liability coverage for the professional services to be rendered in accordance with this Agreement in the amount specified in the Agreement.
- C. Under the terms of this agreement, the plans, reports and recommendations of the Consultant will be reviewed by the Department for conformity with Department standards and agreement terms. However, review by the Department does not constitute detailed review or checking of design components and related details, or the accuracy with which designs are depicted on the plans.
- D. Acceptance of the work by the Department or Agreement termination does not constitute Department approval and will not relieve the Consultant of the responsibility for subsequent corrections of any errors and/or omissions and the clarification of any ambiguities. The Consultant shall make all necessary revisions or corrections resulting from errors and/or omissions on the part of the Consultant without additional compensation. If these errors and/or omissions are discovered during the construction of the project, they shall be corrected without additional compensation.

5. COMPLIANCE WITH LAWS:

- A. All final plans, documents, reports, studies and other data prepared by the Consultant shall bear the professional's seal/ signature, in accordance with the applicable Florida Statute that governs and Administrative Rules promulgated by the Department of Business and Professional Regulation, and guidelines published by the Department, in effect at the time of execution of this Agreement. In the event that changes in the Statute or Rules create a conflict with the requirements of the published guidelines, requirements of the Statute and/or Rules shall take precedence.
- B. Chapter 337.162 Florida Statutes applies as follows:
 - (1) If the Department has knowledge or reason to believe that any person has violated the provisions of state professional licensing laws or rules, it will submit a complaint about the violations to the Department of Business and Professional Regulation. The complaint will be confidential.
 - (2) Any person who is employed by the Department and who is licensed by the Department of Business and Professional Regulation and who, through the course of his employment, has knowledge to believe that any person has violated the provisions of state professional licensing laws or rules will submit a complaint about the violations to the Department of Business and Professional Regulation. Failure to submit a complaint about the violations may be grounds for disciplinary action pursuant to Chapter 455 and the state licensing law applicable to that licensee. The complaint will be confidential.
 - (3) Any confidential information submitted to the Department of Business and Professional Regulation will remain confidential pursuant to Chapter 455 and applicable state law.

- C. The Consultant will comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof, and will not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the performance of work under this Agreement.
- D. The Consultant warrants that the Consultant 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 he 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, the Department 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.
- E. The Consultant shall comply with Chapter 119, Florida Statutes. Specifically, the Consultant shall:
 - (1) Keep and maintain public records required by the Department to perform the service.
 - (2) Upon request from the Department's custodian of public records, provide the Department 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 Chapter 119, Florida Statutes, 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 Agreement term and following completion of the Agreement if the Consultant does not transfer the records to the Department.
 - (4) Upon completion of the Agreement, transfer, at no cost, to the Department, all public records in possession of the Consultant or keep and maintain public records required by the Department to perform the service. If the Consultant transfers all public records to the Department upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Department, upon request from the Department's custodian of public records, in a format that is compatible with the information technology systems of the Department.

Failure by the Consultant to comply with Chapter 119, Florida Statutes, shall be grounds for immediate unilateral cancellation of this Agreement by the Department.

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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

Central Office

850-414-5355 COprcustodian@dot.state.fl.us Office of the General Counsel Florida Department of Transportation 605 Suwannee Street, MS 58 Tallahassee, Florida 32399-0458

- F. The Consultant agrees that it will 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 the Department and securing its consent in writing. The Consultant also agrees that it will not publish, copyright or patent any of the data developed under this Agreement, it being understood that such data or information is the property of the Department.
- G. Consultant covenants and agrees that it and its employees will be bound by the standards of conduct provided in applicable Florida Statutes and applicable rules of the Department of Business and Professional Regulation as they relate to work performed under this Agreement. Consultant further covenants and agrees that when a former state employee is employed by the Consultant, the Consultant will require that strict adherence by the former state employee to Florida Statutes 112.313(9) and 112.3185 is a condition of employment of said former state employee. These statutes will by reference be made a part of this Agreement as though set forth in full. Consultant agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed pursuant to this Agreement.
- H. 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 on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids 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 Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- I. The Department will consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. Such violation will be cause for unilateral cancellation of this Agreement, by the Department, if the Consultant knowingly employs unauthorized aliens.
- J. DISCRIMINATION: An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.
- K. The Consultant agrees to comply with the Title VI Nondiscrimination Contract Provisions, Appendices A and E, available at http://www.dot.state.fl.us/procurement/index.shtm, incorporated herein by reference and made a part of this Agreement.
- L. The contractor/consultant/vendor agrees to comply with section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with section 20.055(5), Florida Statutes.

6. TERMINATION AND DEFAULT

- A. The Department may terminate this Agreement in whole or in part at any time the interest of the Department requires such termination, as follows:
 - (1) If the Department determines that the performance of the Consultant is not satisfactory, the Department may notify the Consultant of the deficiency with the requirement that the deficiency be corrected within a specified time; but not less than 10 days. Otherwise the Agreement will be terminated at the end of such time or thirty (30) days whichever is sooner.
 - (2) If the Department requires termination of the Agreement for reasons other than unsatisfactory performance of the Consultant, the Department will notify the Consultant of such termination, with instructions as to the effective date of work stoppage or specify the stage of work at which the Agreement is tobe terminated.

- (3) If the Agreement is terminated before performance is completed, the Consultant will be paid for the work satisfactorily performed. Payment is to be on the basis of substantiated costs, not to exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by the Agreement.
- B. The Department reserves the right to cancel and terminate this Agreement in the event the Consultant or any employee or agent of the Consultant is convicted for any crime arising out of or in conjunction with any work being performed by the consultant for or on behalf of the Department, without penalty. It is understood and agreed that in the event of such termination, all tracings, plans specifications, computer files, maps, and data prepared or obtained under this Agreement will immediately be turned over to the Department. The Department reserves the right to terminate or cancel this Agreement in the event the Consultant will be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. The Department further reserves the right to suspend the qualifications of the Consultant to do business with the Department upon any such conviction.
- C. For Contracts \$1,000,000 and greater, if the Department determines the Consultant submitted a false certification under Section 287.135(5) of the Florida Statutes, or if the Consultant has been placed on the Scrutinized Companies with Activities in the Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List, the Department shall either terminate the Contract after it has given the Consultant notice and an opportunity to demonstrate the Department's determination of false certification was in error pursuant to Section 287.135(5)(a) of the Florida Statutes, or maintain the Contract if the conditions of Section 287.135(4) of the Florida Statutes are met.

7. ASSIGNMENT AND SUBCONTRACTORS

- A. The Consultant will maintain an adequate and competent professional staff so as to enable Consultant to timely perform under this Agreement and must be authorized to do business within the State of Florida and may associate with it such subconsultants, for the purpose of its services hereunder, without additional cost to the Department, other than those costs negotiated within the limits and terms of this Agreement. The Consultant is fully responsible for satisfactory completion of all subcontracted work. The Consultant, however, will not sublet, assign or transfer any work under this Agreement to other than subconsultants specified in the Agreement without the written consent of the Department.
- B. The Consultant must state in all subcontracts that services performed by any such subconsultant will be subject to the Professional Consultant Work Performance Evaluation System as defined in Chapter 14-75, Florida Administrative Code.
- C. The following provision is hereby incorporated in and made a part of this Agreement when the services provided herein do not involve the expenditure of Federal funds:

It is expressly understood and agreed that any articles which are the subject of, or required to carry out this contract will be purchased from the Corporation identified under Chapter 946, Florida Statutes, in the same manner and under the same procedures set forth in Section 946.515(2) and (4), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract will be deemed to be substituted for this agency insofar as dealings with such Corporation.

The Corporation referred to in the above paragraph is Prison Rehabilitative Industries and Diversified Enterprises, Inc. Available pricing, products, and delivery schedules may be obtained by contacting:

PRIDE Enterprises 12425 28th Street North Suite 300 St Petersburg, Florida 33716

8. MISCELLANEOUS

- A. All words used herein in the singular form will extend to and include the plural. All words used in the plural form will extend to and include the singular. All words used in any gender will extend to and include all genders.
- B. In the event that a court of valid jurisdiction finally determines that any provision of this Agreement is illegal or unenforceable, this Agreement will be construed as not containing such provision, and all other provisions

which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.

- C. There are no understandings or agreements except as herein expressly stated.
- D. This Agreement will be governed by and construed in accordance with the laws of the State of Florida.
- E. In any legal action related to this Agreement, instituted by either party, Consultant hereby waives any and all privileges and rights it may have under chapter 47 and Section 337.19, Florida Statutes, relating to venue, as it now exists or may hereafter be amended, and any and all such privileges and rights it may have under any other statute, rule or case law, including, but not limited to those grounded on convenience. Any such legal action may be brought in the appropriate Court in any county chosen by the Department and in the event that any such legal action is filed by Consultant, Consultant hereby consents to the transfer of venue to the county chosen by the Department upon the Department filing a motion requesting the same.

F. Consultant:

- 1. 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; and
- 2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- G. The Department may grant the Consultant's employees or subconsultants access to the Department's secure networks as part of the project. In the event such employees' or subconsultants' participation in the project is terminated or will be terminated, the Consultant shall notify the Department's project manager no later than the employees' or subconsultants' separation date from participation in the project or immediately upon the Consultant acquiring knowledge of such termination of employees' or subconsultants' participation in the project, whichever occurs later.

9. TERMS FOR FEDERAL AID CONTRACTS (APPENDIX I):

The following terms apply to all contracts in which it is indicated in Section 6.B of the Standard Professional Services Agreement that the services involve the expenditure of federal funds: During the performance of this contract, the Consultant, for itself, its assignees and successors in interest agrees as follows:

- A. It is understood and agreed that all rights of the Department relating to inspection, review, approval, patents, copyrights, and audit of the work, tracing, plans, specifications, maps, data, and cost records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America.
- B. It is understood and agreed that, in order to permit federal participation, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of the U.S. Department of Transportation, anything to the contrary in this Agreement not withstanding.
- C. Compliance with Regulations: The Consultant shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- D. Nondiscrimination: The Consultant, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- E. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations made by the Consultant, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor or supplier shall

be notified by the Consultant of the Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.

- F. Information and Reports: The Consultant will provide all information and reports required by the Regulations, or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administrations appropriate, and shall set forth what efforts it has made to obtain the information.
- G. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to,
 - (1) withholding of payments to the Consultant under the contract until the Consultant complies and/or
 - (2) cancellation, termination or suspension of the contract, in whole or in part.
- H. Incorporation or Provisions: The Consultant will include the provisions of Paragraph C through I in every subcontract, including procurements of materials and leases of equipment unless exempt by the Regulations, or directives issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the Florida Department of Transportation to enter into such litigation to protect the interests of the Florida Department of protect the interests of the United States.
- Compliance with Nondiscrimination Statutes and Authorities: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seg.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from

discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

- J. Interest of Members of Congress: No member of or delegate to the Congress of the United States will be admitted to any share or part of this contract or to any benefit arising therefrom.
- K. Interest of Public Officials: No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof. For purposes of this provision, public body shall include municipalities and other political subdivisions of States; and public corporations, boards, and commissions established under the laws of any State.
- L. Participation by Disadvantaged Business Enterprises: The Consultant shall agree to abide by the following statement from 49 CFR 26.13(b). This statements shall be included in all subsequent agreements between the Consultant and any subconsultant or contractor.

The Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in termination of this contract or other such remedy as the recipient deems appropriate.

- M. It is mutually understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this Agreement is a violation of the Federal Law. Accordingly, United States Code, Title 18, Section 1020, is hereby incorporated by reference and made a part of this Agreement.
- N. It is understood and agreed that if the Consultant at any time learns that the certification it provided the Department in compliance with 49 CFR, Section 26.51, was erroneous when submitted or has become erroneous by reason of changed circumstances, the Consultant shall provide immediate written notice to the Department. It is further agreed that the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction" as set forth in 49 CFR, Section 29.510, shall be included by the Consultant in all lower tier covered transactions and in all aforementioned federal regulation.
- O. The Department hereby certifies that neither the consultant nor the consultant's representative has been required by the Department, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract, to
 - employ or retain, or agree to employ or retain, any firm or person, or
 - (2) pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

The Department further acknowledges that this agreement will be furnished to a federal agency, in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

- P. The Consultant hereby certifies that it has not:
 - (1) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the above contractor) to solicit or secure this contract;
 - (2) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this contract; or
 - (3) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for the above contractor) any fee contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract.

The consultant further acknowledges that this agreement will be furnished to the State of Florida

375-030-12 PROCUREMENT OGC - 09/16 Page A11 of 11

Department of Transportation and a federal agency in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

A. Objective:

To provide inspection, sampling and testing services as required in connection with construction materials that will be utilized in FDOT construction and maintenance operations at facilities and locations throughout the United States. This contract may also be used for all inspection, sampling and testing services that the firm can provide. Inspection services beyond the United States may be required. All services shall conform to the requirements of the contract documents of the Department's construction contracts for which commercial inspection services are assigned and the desires of the Department as made known to the consultant. The Department may during the life of this agreement issue statements which clarify specification requirements. These statements will apply to all specifications which may be pertinent to Consultants' inspection, sampling and testing services.

B. Services:

The consultant will be qualified to provide services not limited to the following elements as required by the Department:

- 1. The inspection of structural steel and miscellaneous metal products. This shall include all investigations, recommendations, observations of fabrication or work in progress, sampling and testing together with the proper recording and reporting which are necessary to ensure that the work is fabricated of accepted materials by approved processes, completed through shipment where required in accordance with the requirements of the Contract Documents and applicable FDOT Specifications.
- 2. Coatings inspections and analysis of metalizing, galvanizing, powder coating, and wet painting or other applicable methods.
- Precast Concrete, Prestressed Concrete, and Cementitious Materials: Performs independent assurance (IA), evaluations for qualifications (concrete field and concrete strength) to the active FDOT technicians assigned as described in department procedures and the Federal Aid Policy Guide. Document report findings.

Participate with the FDOT Districts when required/planned in the inspections, troubleshooting, and problems solving of the identified problems in the production of cementitious materials and precast/prestressed concrete products at the plants and/or project sites. Provide technical recommendations.

Review of the following documents: quality control plans, construction plans, specifications, procedures, and other appropriate documents as required.

Provide materials related technical support to district and central office in the area of concrete precast pipe and drainage structures. Provided technical support to the District Material Office during the review of the producer's quality control plans.

Perform field inspection of the pipe and precast drainage structure plants during the initial and routine annual plant qualification reviews.

- 4. The Consultant shall furnish the Department with records and reports covering the various work inspected, sampled and tested. Such records shall be submitted in PDF format to the Project Manager.
- 5. Provide engineering expertise to FDOT or the Engineer of Record in helping to solve project related problems related to engineering, design, structural, welding or other problems that may arise during fabrication.
- When shipped to the job site, major components and all Bills of Lading for inspected and accepted material shall bear marks which will identify the Consultant and the inspector.

C. Qualifications

- Demonstrate knowledge, experience, and abilities of AWS D1.1 Structural Welding Code Steel
- 2. Demonstrate knowledge, experience, and abilities of AWS D1.5 Bridge Welding Code.
- Demonstrate knowledge, experience, and abilities of AWS D 1.2 Structural Welding Code Aluminum
- 4. All in-shop and field welding inspectors providing services to the Department at a minimum will be AWS CWI certified. Other certifications may be required but not limited to the following, depending on assignment:
 - i. ASNT MT Level II
 - ii. ASNT PT Level II
 - iii. ASNT UT Level II
 - iv. ASNT RT Level II
 - v. ASNT VT Level II
 - vi. AWS Certified Radiographic Interpreter
 - vii. SSPC BCI Level I with a minimum of 2 years documented shop work experience.
 - viii. SSPC BCI level II
 - ix. NACE Level, I, II, or III
- 5. Precast Concrete, Prestressed Concrete, and Cementitious Materials
 - i. Minimum two year experience in precast/prestressed operations
 - ii. CTQP Concrete Field Technician Level I
 - iii. CTQP Concrete Laboratory Level I
 - iv. Precast/Prestressed Concrete Institute (PCI) Quality Control Personnel Certification - Level II
- 6. Demonstrate knowledge, experience, and abilities of the following:

- i. Florida Department of Transportation Materials Manual
- Florida Methods, 5-581 Performing Rotational Capacity Test Long Bolts in Tension Calibrator, 5-582 Rotational Capacity Test Bolts to Short to Fit into Tension Calibrator, 5-583 Direct Tension Indicator Device Performance
- iii. Florida Department of Transportation Standard Specifications for Road and Bridge Construction, applicable issues
- iv. Florida Department of Transportation Design Standards
- v. Other Methods, Standards, Codes, and Manuals as required by work assignments.
- 7. The Consultant(s) will supply a list of inspectors containing at a minimum all inspectors' names, locations, and certifications held by each inspector to the Project Manager. The Project Manager will be notified of any changes prior to the beginning of any work. The list will be kept current.

D. Authorization of Services

The Department will request Consultant services on an as needed basis by a Task Work Order (TWO) for Professional Services. Services to be provided by the Consultant under this Agreement will be initiated and completed as directed by the Project Manager. Individual projects will be completed by the completion date indicated on the TWO. There is no guarantee that any or all of the services described in this scope will be assigned during the term of this agreement. Further, the Consultant is providing these services on a nonexclusive basis. The Department, at its option, may elect to have any of the services set forth herein performed by other consultants or Department staff.

The TWO will specify the work to be done and the authorized funds. No work shall be commenced by the Consultant until a TWO is executed.

All invoicing will be submitted in the Department's CITS program; invoice substantiating documents will be scanned and submitted via e-mail to the Project Manager. After inspection services are completed for each TWO the consultant will furnish the Department a Final Status Summary Report. The Department will execute a Termination Agreement between the Consultant and Department for that TWO.

E. Responsibilities of the Department

The Department shall provide a Project Manager who shall be responsible for all coordination with the Consultant pertaining to all contractual matters, invoicing and reporting. The Department may also designate a manager for each Task Work Order who shall be responsible for working with the Consultant Project Manager to define the specific work to be performed and the schedule for completion of each task, the Consultant staffing to be provided, and the cost. The Department Project Manager

shall be responsible for approval of any additional staffing to be provided including additional consultant staff (approval must be coordinated with the Procurement Office), and shall give approval of all products and services.

F. Responsibilities of the Consultant

The Consultant shall provide and maintain an up-to-date list of staff with agreed-to classifications and approved salaries (subject to the contract Exhibit "B") that would be available to be assigned to specific Task Work Orders. No consultant staff, except those specifically identified in a Task Work Order or those specifically agreed to by the Department Project Manager, shall charge time to that particular Task Work Order.

Consultant must request approval from the Department's Project Manager for any modifications or additions to the list of available staff prior to the initiation of any work by that individual. If applicable, new job classifications may be added to the contract via contract amendment. Consultant shall submit a copy of the resume and payroll register before new staff can be added.

G. Personnel Qualifications

The Consultant shall assign only competent technical and professional personnel qualified by the necessary experience and education to perform assigned work. The Consultant is responsible for ensuring that staff assigned to work under this Agreement has the training established by the Department as a prerequisite for consultant staff to perform work. If the required training is such that it can be applied by the trainee to work on other contracts, (regardless of whether or not the trainee would work on other agreements), the cost of the trainee's time and expenses associated with the training is not directly billable to the Department on this contract, and shall only be recoverable thru overhead for the Consultant firm.

H. Subconsultant Services

Services assigned to any subconsultants must be approved in writing and in advance by the Department Project Manager, Procurement Office, and the Consultant Project Manager in accordance with this Agreement. All subconsultants must be technically qualified by the Department to perform all work assigned to them. Additional subconsultants with specialized areas of expertise may be required to complete specific Task Work Order assignments. Any subconsultant to be hired and all work assignments to be performed, and all rates of compensation shall be agreed to by the Department Project Manager, Procurement Office and the Consultant Project Manager and documented in the contract file prior to any work being performed by the subconsultant.

I. Consultant Not Employee or Agent

The Consultant and its employees, agents, representatives, or subconsultants/ subcontractors are not employees of the Department and are not entitled to the benefits of State of Florida employees. Except to the extent expressly authorized herein, Consultant and its employees, agents, representatives, or subconsultants/subcontractors are not agents of the Department or the State for any purpose or authority such as to bind or represent the interests thereof, and shall not represent that it is an agent or that it is acting on the behalf of the Department or the State. The Department shall not be bound by any unauthorized acts or conduct of Consultant.

J. Ownership of Works and Inventions

The Department shall have full ownership of any works of authorship, inventions, improvements, ideas, data, processes, computer software programs, and discoveries (hereafter called intellectual property) conceived, created, or furnished under this Agreement, with no rights of ownership in Consultant or any subconsultants/subcontractors. Consultant and subconsultants/subcontractors shall fully and promptly disclose to the Department all intellectual property conceived. created, or furnished under this Agreement. Consultant or subconsultant/ subcontractor hereby assigns to the Department the sole and exclusive right, title. and interest in and to all intellectual property conceived, created, or furnished under this Agreement, without further consideration. This Agreement shall operate as an irrevocable assignment by Consultant and subconsultants/subcontractors to the Department of the copyright in any intellectual property created, published, or furnished to the Department under this Agreement, including all rights thereunder in perpetuity. Consultant and subconsultants/subcontractors shall not patent any intellectual property conceived, created, or furnished under this Agreement. Consultant and subconsultants/subcontractors agree to execute and deliver all necessary documents requested by the Department to effect the assignment of intellectual property to the Department or the registration or confirmation of the Department's rights in or to intellectual property under the terms of this Agreement. Consultant agrees to include this provision in all its subcontracts under this Agreement.

EXHIBIT "B" METHOD OF COMPENSATION

1.0 PURPOSE

This exhibit defines the method and limits of compensation to be made to the Consultant for the services described in Exhibit "A", Scope of Services, and the method by which payments will be made.

2.0 COMPENSATION

For satisfactory completion of services authorized under this Agreement, the Department will pay the Consultant a Total Maximum Limiting Amount not to exceed \$7,500,000.00. This is a task assignment type agreement. The Department will furnish the Consultant a task work order specifying the services to be performed and the fees to be paid for each project assigned under this agreement. The Department will confirm funds availability prior to issuing a task work order to the Consultant.

The Department shall request Consultant services on an as-needed basis. There is no guarantee that any or all of the services described in Exhibit "A" of this Agreement will be assigned during the term of this Agreement. Further, the Consultant is providing these services on a non-exclusive basis. The Department may, at its option, elect to have any of the services set forth herein performed by other consultants or Department staff.

The following firms are each subject to a contract fee limit up to but less than \$500,000 for the term of the Agreement: <u>Protective Coating Solutions, Inc.</u> This contract fee limitation may be removed at such time as the subconsultant firm submits an FDOT approved overhead audit performed by an independent CPA.

2.1 Summary of Compensation

Fees for each task work order will be negotiated either as a lump sum amount (fixed price), a limiting amount (cost reimbursement), or as a combination lump sum and limiting amount. Where lump sum amounts are established, fees will be negotiated in accordance with Section 2.2. Where limiting amount fees are established, compensation will be in accordance with Section 2.2. Compensation for direct expense costs may be included in task work order fees, in accordance with Section 2.2.

This Agreement does not involve the purchase of Tangible Personal Property, as defined in Section 273.02 Florida Statutes.

2.2 Details of Compensation

Lump Sum Elements

For task work order compensation elements established as lump sum, the Department may compensate the Consultant in accordance with one or more of the following methods of payment:

LS1- At Completion of Task

(LS-1) The Consultant will receive payment upon completion and acceptance by the Department of the subject task required under this agreement.

LS-2- % of Completion of Services

(LS-2) The Consultant will receive progress payments for services based on the percentage of services that have been completed and accepted by the Department during the billing period.

Limiting Amount/Cost Reimbursable Elements

For task work order compensation elements established as limiting amounts, the Department will compensate the Consultant, subject to the total established limiting amount, for all reasonable, allocable and allowable costs incurred in the categories defined below. The reasonableness, allocability and allowability of compensation sought under this agreement is expressly made subject to the terms of this Agreement; Federal Acquisition Regulations; Office of Management and Budget Circulars A-21, A-87, A-102, A-110; and any pertinent Federal and State Law.

Loaded Labor Rates - (LA-4)

Subject to the established limiting amount, the Consultant will be compensated for these services based on the rates provided in Table 6 of Section 5.0. No additional multipliers will be applied to these rates. Payment for such services will be based on approved time incurred during the billing period.

Labor rates established for the following consultants are inclusive of wages, administrative overhead and fringe benefit expenses, Facilities Cost of Money (FCCM) where applicable, direct expense rate, and Operating Margin plus Contract Duration Adjustment Factor:

AMEC Foster Wheeler Environment & Infrastructure, Inc. AREHNA Engineering Inc.

CDM Smith, Inc.

CSI Geo. Inc.

Protective Coating Solutions, Inc.

Miscellaneous Direct Expenses- LA-5

Subject to the established limiting amount, only the following subconsultant firms are approved to receive compensation for loaded rates and itemized miscellaneous direct expenses when authorized and when properly supported by evidence of costs incurred: <u>may be added via amendment</u>. For travel expenses, state travel vouchers must be submitted.

3.0 INVOICING PROCEDURE

The Consultant will be eligible for progress payments under this agreement at monthly intervals or when individual tasks or mileposts defined in this agreement are completed or reached.

Invoices for this agreement will be prepared by the Consultant and submitted through the Department's web-enabled Consultant Invoice Transmittal System (CITS) Internet application. The invoices will be supported by such information as may be required by Department procedures to substantiate the charges being invoiced. The Consultant will maintain for this purpose a job cost accounting system that is acceptable to the Department.

If requested by the Department, the final invoice for this agreement will be accompanied by a certified job cost summary report generated by the Consultant's accounting system. The report will include at a minimum the total number of hours and salary cost actually charged to the project, the total miscellaneous direct expense, and total sub-consultant cost charged to the project.

The Consultant will report sub-consultant payments through the Department's Equal Opportunity Compliance System on the Internet. Failure to submit sub-consultant payment information may be cause for rejection of the invoice. Within thirty days after receipt of final payment, the Consultant will report final sub-consultant payments through the Equal Opportunity Compliance System. The Consultant will pay all sub-consultants their proportionate share of payments received from the Department within thirty days of the Consultant's receipt of payment from the Department.

The Department will render a decision on the acceptability of services within 10 working days of receipt of either the services, invoice, or progress report, whichever is later. The Department reserves the right to withhold payments for work not completed, or work completed unsatisfactorily, or work that is deemed inadequate or untimely by the Department. Any payment withheld will be released and paid to the Consultant promptly when work is subsequently performed.

3.1 Project Cost Accounting

Project costing is used to track the total costs of a project as well as the use of budget and funds, so the Department knows the financial status of

its projects at any point in time. This Continuing contract has been designated for project costing up front for task work orders, by programming and encumbering funds to the project specific financial project number, where possible. Only activities or services of a general nature may be encumbered to the general financial project number established for this contract. The districtwide general financial project number should not be used where individual project specific numbers can be identified.

When consultants are performing work related to specific projects or corridors, it is appropriate to pay for these costs with work program budget. In such instances, projects should be opened in advance of work being performed, and funds encumbered to the project specific number prior to issuance of the task work order. The task work order should include an approved encumbrance to the project specific number.

4.0 PROJECT CLOSEOUT

4.1 Final Audit

If requested, the Consultant will permit the Department to perform an audit of the records of the Consultant and any or all sub-consultants to support the compensation paid the Consultant. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the Consultant under this Agreement are subsequently properly disallowed by the Department because of accounting errors or charges not in conformity with this Agreement, the Consultant agrees that such disallowed amounts are due to the Department upon demand. Further, the Department will have the right to deduct, from any payment due the Consultant under any other contract, any amount due the Department.

4.2 Certificate of Completion

A Certificate of Completion will be prepared for execution by both parties stating the total compensation due the Consultant, the amount previously paid, and the difference.

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

5.0 COMPENSATION RATES

The following tables are provided for definition of contractual rates. Table numbers not listed are not included in this document.

Table 6 – Loaded Billing Rates

METHOD OF COMPENSATION TABLES

TABLE 6
LOADED RATES

LOADED RATES						
No Multipliers will be added to the following rates.						
Consultant Job Class/Name Unit Rates						
Amec Foster Wheeler	Chief Engineer	Hour	\$	258.48		
Environment & Infrastructure,	Chief Scientist	Hour	\$	268.03		
Inc.	MAT CADD/Computer Technician	Hour	\$	79.71		
	MAT Engineering Technician	Hour	\$	76.90		
	MAT Principal Engineer	Hour	\$	225.55		
	MAT Project Manager	Hour	\$	107.64		
	MAT Senior Engineer	Hour	\$	167.38		
	MAT Senior Engineering Technician	Hour	\$	112.61		
	MAT Senior Inspector - Field	Hour	\$	94.85		
	Senior Engineering Technician	Hour	\$	149.81		
	Senior Scientist	Hour	\$	127.27		
AREHNA Engineering, Inc.	Project Manager	Hour	\$	152.78		
	MAT Inspector - Field	Hour	\$	39.39		
	MAT Senior Inspector - Field	Hour	\$	52.61		
CDM Smith, Inc.	Senior Inspector – Field	Hour	\$	96.03		
CSI Geo, Inc.	MAT Chief Engineer	Hour	\$	110.05		
	MAT Senior Engineer	Hour	\$	113.41		
	MAT Senior Engineering Technician	Hour	\$	94.56		
	MAT Senior Asphalt Plant Inspector - Field	Hour	\$	54.91		
	MAT Senior Inspector - Field	Hour	\$	50.84		
Protective Coating Solutions, Inc.	CEI Bridge Inspector - Field	Hour	\$	76.70		





BARBARA K. CEGAVSKE Secretary of State 202 North Carson Street Carson City, Nevada 89701-4201 (775) 684-5708 Website: www.nvsos.gov

Filed in the office of Document Number

Barbora K agaste

Filing Date and Time

Barbara K. Cegavske Secretary of State State of Nevada

03/26/2018 1:45 PM

20180135367-66

Entity Number C8316-1994

Certificate of Amendment

(PURSUANT TO NRS 78.385 AND 78.390)

USE BLACK INK ONLY - DO NOT HIGHLIGHT

ABOVE SPACE IS FOR OFFICE USE ONLY

Certificate of Amendment to Articles of Incorporation For Nevada Profit Corporations (Pursuant to NRS 78.385 and 78.390 - After Issuance of Stock)

1. Name of corporation:

Amec Foster Wheeler Environment & Infrastructure, Inc.

2. The articles have been amended as follows: (provide article numbers, if available)

Article 1: The name of the corporation is "Wood Environment & Infrastructure Solutions, Inc."

3. The vote by which the stockholders holding shares in the corporation entitling them to exercise at least a majority of the voting power, or such greater proportion of the voting power as may be required in the case of a vote by classes or series, or as may be required by the provisions of the articles of incorporation* have voted in favor of the amendment is: 100%

4. Effective date and time of filing: (optional)

Date: | April 16, 2018 |

Time: 12:01:00 AM PST

(must not be later than 90 days after the certificate is filed)

5. Signature: (required)

Signature of Officer

*If any proposed amendment would alter or change any preference or any relative or other right given to any class or series of outstanding shares, then the amendment must be approved by the vote, in addition to the affirmative vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series affected by the amendment regardless to limitations or restrictions on the voting power thereof.

IMPORTANT: Failure to include any of the above information and submit with the proper fees may cause this filing to be rejected. Nevada Secretary of State Amend Profit-After This form must be accompanied by appropriate fees. Revised: 1-5-15



Department of State / Division of Corporations / Search Records / Search by Entity Name /

Detail by Entity Name

Foreign Profit Corporation

WOOD ENVIRONMENT & INFRASTRUCTURE SOLUTIONS, INC.

Filing Information

Document Number F00000004389 **FEI/EIN Number** 91-1641772 **Date Filed** 08/03/2000

State NV

Status ACTIVE

Last Event NAME CHANGE AMENDMENT

Event Date Filed 04/20/2018

Event Effective Date NONE

Principal Address

1105 LAKEWOOD PARKWAY

SUITE 300

ALPHARETTA, GA 30009

Changed: 12/21/2011

Mailing Address

2020 WINSTON PARK DRIVE

SUITE 700

OAKVILLE, ON L6H6X-7 CA

Changed: 10/01/2010

Registered Agent Name & Address

UNITED AGENT GROUP INC.

801 US HIGHWAY 1

NORTH PALM BEACH, FL 33408

Name Changed: 02/16/2018

Address Changed: 02/05/2020

Officer/Director Detail

Name & Address

Title Associate Surveyor

Gardiner, Charles

75 East Amelia Street Ste. 200 Orlando, FL 32801-1320

Title President, Director

TROUTT, LYTLE C, Jr. 3800 EZELL RD., SUITE 100 NASHVILLE, TN 37211

Title Treasurer, CFO, Director

Sherrill, Kendall H 1105 Lakewood Parkway, Suite 300 Alpharetta, GA 30009

Title Secretary

Knight, Bradley J 1105 LAKEWOOD PARKWAY SUITE 300 ALPHARETTA, GA 30009

Title Associate Architect

Barrett, Jeffrey A 2801 Yorkmont Road Suite 100 Charlotte, NC 28208

Title Assistant Treasurer

Karakashian, Joanne 1105 LAKEWOOD PARKWAY SUITE 300 ALPHARETTA, GA 30009

Title Director

Sczurko, Jr., Joseph J. 511 Congress Street Ste. 200 Portland, ME 04101

Title Secretary

Fanelli, Jason 1105 LAKEWOOD PARKWAY SUITE 300 ALPHARETTA, GA 30009

Title VP

Diblin, Mark C. 404 SW 140th Terrace Gainesville, FL 32669

Title VP

Lewis, Jennifer C. 550 Northlake Blvd., Suite 1000 Altamonte Springs, FL 32701

Annual Reports

Report Year	Filed Date
2021	01/04/2021
2021	03/30/2021
2021	03/31/2021

<u>Document Images</u>	
03/31/2021 AMENDED ANNUAL REPORT	View image in PDF format
03/30/2021 AMENDED ANNUAL REPORT	View image in PDF format
01/04/2021 ANNUAL REPORT	View image in PDF format
02/14/2020 AMENDED ANNUAL REPORT	View image in PDF format
01/10/2020 ANNUAL REPORT	View image in PDF format
07/08/2019 AMENDED ANNUAL REPORT	View image in PDF format
01/15/2019 ANNUAL REPORT	View image in PDF format
05/10/2018 AMENDED ANNUAL REPORT	View image in PDF format
04/20/2018 Name Change	View image in PDF format
02/16/2018 Reg. Agent Change	View image in PDF format
01/18/2018 ANNUAL REPORT	View image in PDF format
10/26/2017 AMENDED ANNUAL REPORT	View image in PDF format
01/11/2017 ANNUAL REPORT	View image in PDF format
10/06/2016 AMENDED ANNUAL REPORT	View image in PDF format
01/15/2016 ANNUAL REPORT	View image in PDF format
02/12/2015 ANNUAL REPORT	View image in PDF format
01/07/2015 Name Change	View image in PDF format
09/29/2014 AMENDED ANNUAL REPORT	View image in PDF format
01/16/2014 ANNUAL REPORT	View image in PDF format
05/06/2013 AMENDED ANNUAL REPORT	View image in PDF format
01/21/2013 ANNUAL REPORT	View image in PDF format
01/05/2012 ANNUAL REPORT	View image in PDF format
12/21/2011 ANNUAL REPORT	View image in PDF format
11/22/2011 Merger	View image in PDF format
11/01/2011 Name Change	View image in PDF format
10/21/2011 ANNUAL REPORT	View image in PDF format
03/29/2011 ANNUAL REPORT	View image in PDF format
10/01/2010 ANNUAL REPORT	View image in PDF format
03/30/2010 ANNUAL REPORT	View image in PDF format
04/03/2009 ANNUAL REPORT	View image in PDF format
04/04/2008 ANNUAL REPORT	View image in PDF format

CENTRAL OFFICE

Major Work :

9.3 - Highway Materials Testing

10.3 - Construction Materials Inspection

Under-Utilized Work Groups:

GROUP9 - Soil Exploration, Materials Testing
GROUP10 - Rdwy Construction Engineering Inspection

Contract: 18906 Major Project (Department approved overhead audit required for major projects \$500,000 or more)

Selection Method : Selection from Expanded Letter of Response

Project Description:

Materials Inspection, Sampling, and Testing
The Department is seeking consultant firms to provide
inspection, sampling and testing services as required in
connection with construction materials that will be utilized
in FDOT construction and maintenance operations at
facilities and locations throughout the United States.
This contract may also be used for all inspection,
sampling and testing services that the firm can provide.
Inspection services beyond the United States may be
required.

Examples of services that may be required are:

- 1) The inspection of structural steel and miscellaneous metal products. This shall include all investigations, recommendations, observations of fabrication or work in progress, sampling and testing together with the proper recording and reporting which are necessary to ensure that the work is fabricated of accepted materials by approved processes, completed through shipment where required in accordance with the requirements of the Contract Documents and applicable FDOT Specifications.
- 3) Precast Concrete, Prestressed Concrete, and Cementitious Materials: Perform independent assurance (IA), evaluations for qualifications (concrete field and concrete strength) to the assigned active FDOT technicians. Perform field inspection of the pipe and precast drainage structure plants
- 4) The Consultant shall furnish the Department with records and reports covering the various work inspected, sampled and tested. Such records shall be submitted in PDF format to the Project Manager.
- 5) Provide engineering expertise to FDOT or the Engineer of Record in helping to solve project related problems related to engineering, design, structural, welding or other problems that may arise during fabrication.
- 6) When shipped to the job site, major components and all Bills of Lading for inspected and accepted material shall

bear marks which will identify the Consultant and the inspector.

-

Eligibility:

All firms holding an active State Materials Office inspection contract as a prime executed within the last 12 months are precluded from competing for this contract.

Project Manager: Duke, Steve

Maximum Contract Amount: \$7,500,000 See Standard Notes Above: 4,8,10

4 - Selection will be made directly from Expanded LOR to include the following

- 5.5 pages of text
- Resumes 2 pages each
- Org Chart / qualification matrix

Number of contracts that may be awarded from this advertisement: 2

Special Notes:

Expanded Letters of Response must be submitted on the Standard FDOT Expanded Letter of Response form, Form No. 375-030-23. Consultant shall also submit resumes which are restricted to 2 pages each and an organization chart or staffing chart (one page, can be either 8-1/2x11 or 11x17, at the discretion of the Consultant). All submittals except organization chart, staffing chart, other required forms, and certifications shall adhere to a font size of 11, with one-half inch margins. Resumes, organization chart or staffing chart shall be submitted in the same e-mail with the Expanded Letter of Response. The Expanded Letter of Response file size is not restricted to 1MB, however, Consultants are advised that the Expanded Letter of Response Form electronic submittal should not exceed FDOT's internal server file size restriction of 15 MB.

The required forms are: Truth in Negotiations Certificate; Vendor Certification Regarding Scrutinized Companies Lists; Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Federal Aid Contracts; Certification for Disclosure of Lobbying Activities on Federal Aid Contracts; and Disclosure of Lobbying Activities.

Please indicate your firm's proposed DBE utilization on the Professional Services DBE or Small Business Commitment Form. The forms are available on the FDOT Procurement website, go to "More", then go to the" Professional Services Forms" link. A list of forms and form numbers are included as an attachment to the Scope of Services. All e-mail submittals must be received prior to 5:00PM Eastern on the Response deadline date and should be sent to the address noted in the Respond To: section of this advertisement.

Criteria for Evaluating Letters of Response are

included as an attachment to the Scope of Services document for this advertisement.

Scoring Criteria

Technical Plan 0 - 30 PTS

- Understanding of Scope (15 pts)
- Approach to the Project (15 pts)

Project/Task Manager 0 - 25 pts

- Experience/Commitment (15 pts)
- Responsiveness to Department Inquires (05 pts)
- Commitment to Satisfy FDOT Needs (05 pts)

Management Plan 0 - 45 pts

- Capability & Experience of Team (35 pts)
- Sufficiency of Resources (05 pts)
- Quality Control (05 pts)

View proposed scope

(Adobe Acrobat® PDF file)

Advertisement Date : 05SEP2017
Response Deadline Date : 29SEP2017

Shortlist Selection Date : 260CT2017 Time: 2:00 PM
Tech. Rev. Cmte Meeting Date : 130CT2017 Time: 9:30 AM
Final Selection Meeting Date : 260CT2017 Time: 2:00 PM
1st Date Negotiations Meetings : 09NOV2017 Time: 8:00 AM
Last Date Negotiations Meetings: 21NOV2017 Time: 5:00 PM

Response Deadline : 29SEP2017

Respond To:

co.profserv@dot.state.fl.us
Attn.: Aneisha Whitfield
Phone: (850) 414-4288

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

PROCUREMENT PROFESSIONAL SERVICES LETTER OF RESPONSE

11/14

Advertisement No.: 17907 DOT	FM Number: TBD	
Project Name: Materials Inspection, Samp	oling and Testing	
rioject Name. <u>Materials Inspection, Samp</u>	ming, and resung	
Consultant's Name: Amec Foster Wheeler	r Environment & Infrastructure	e, Inc.
Street Address: 6256 Greenland Road		
City: Jacksonville	State: Florida	Zip : <u>32258</u>
Office Location: Jacksonville	Contact pe	rson: Adil H. Khan, PE
	Contact email: adil.khan@a	
By submittal of this letter the Consultant certifies that affirms that staff proposed are currently employed by	all information provided in the letter	is true and accurate. The Consultant further

become employed by the identified firm(s). Please provide the following information:

- Proposed approach and understanding of critical issues.
- Relevant project experience Similar type of work experience.
- Other content provided by firm.
- Proposed key personnel and their proposed roles (do not include resumes).

Consultants: Please be aware that all font (including in graphics, tables, and captions on photos) must be standard Arial Narrow, 11 point, single line spacing with no modification of font or spacing allowed. 1/2" clear margin on all sides must be maintained on all pages. It is the Consultant's responsibility, due to font and format restrictions within this form, to work within the constraints of the form and its format. Character styling such as use of color, bold, and italics is allowed. Use of a table is recommended for text boxes. The page layout may be modified to add columns, tables, graphics, and photos. All graphics and photos must be created in a clean, blank word document and the "text wrapping square" option applied before cutting and pasting into this form. Consultants may add their logo at the top of the first page (directly underneath the header), however, the Consultant shall not extend the form beyond the pages allocated for the Letter to accommodate insertion of the logo. Consultants are not permitted to insert any other information in the header other than the logo. After pasting your letter into this form, highlight all text and ensure the font size of Arial Narrow, 11 point was retained. Once your content is inserted, delete any additional blank pages that are generated by pressing your delete key after the last word in the Letter of Response. Recreation of the form in another software application to modify the form format is not permitted. This form works best when saved with a .docx extension. *Please retain the source document as it may be requested at a later date in the procurement, to verify adherence with aforementioned restrictions. Note: You may begin typing on this page.

Dear Mr. Baker:

Amec Foster Wheeler Environment & Infrastructure, Inc. (Amec Foster Wheeler), in association with our subconsultants Ex-Imp Global, Inc. (DBE), Terracon, Inc., Central States Inspection Services, Inc. (SB) and SGS Canada Inc. is pleased to respond to your advertisement for professional services to provide Highway Materials Testing (Category 9.3) and Construction Materials Inspection (Category 10.3), as well as sampling of materials for the State Materials Office (SMO) in the United States and abroad. We understand that the Department requires specialized coatings inspection that may include metallizing, galvanizing, powder coatings, and wet painting. We will also be required to provide design, structural engineering, and other engineering services as needed. We are committed to offer a minimum of 8% DBE participation on this contract.

The Amec Foster Wheeler team has enjoyed a positive working relationship while providing these services to FDOT-SMO for more than 30 years. We are prequalified in both 9.3 and 10.3 work categories and have a successful track record of providing welding and coatings inspections on more than 55 steel- and coatings-related TWOs for the Department within the last 10 years. With our involvement on our current and past contracts of similar scopes, our engineers, technicians, and steel and coatings inspectors are knowledgeable of the Department's requirements and methods of operations. In addition to our standard expertise in nondestructive testing methods, we bring experience with Phased Array Ultrasonic testing and equipment, that will lead the way in establishing new and cost effective testing

methods for the Department during the course of this new contract. On the previous contracts, we demonstrated our ability to perform as an integral extension of the FDOT-SMO staff, and our experience, technical capabilities, and testing equipment resources allow us to respond quickly and efficiently to the Department's needs. Amec Foster Wheeler has been a pioneer in proactive fabrication management and will continue to provide this service for the Department. We are confident we can deliver the required services in a timely, high-quality manner.

Amec Foster Wheeler's management and project approach, combined with proposed staff, separates us from the competition. Our overall approach to the project is to provide quality service to the Department by serving as a technical expert, advocate, and responsible team player. This approach has been refined over the years during our working relationship with the Department and its personnel at FDOT-SMO and at the District level. We have selected a focused, yet broad-based team with demonstrated excellent customer service and quality orientated efforts. This response outlines our expertise in each of the critical materials areas and our commitment to communication and teamwork.

Project Approach and Understanding of Critical Issues

Amec Foster Wheeler will continue to manage the proposed contract from our Jacksonville, Florida Office. The Contract Manager, Project Manager, Quality Assurance Manager, and Task Managers are Jacksonville residents and will operate from our Jacksonville Office. An overriding principal to our approach is to have qualified technicians dispersed geographically. We believe that in order to deliver the quality desired, engineering and inspection personnel need to be permanent employees. In Florida where most of the steel is being fabricated, and across the east coast, west coast, and the Midwest, we have a network of more than 56 CWIs and NDT personnel. Of these, we have 15 CWI and NACE/BCI Certified coatings inspectors in key locations across North, Central, and South Florida. Amec Foster Wheeler approaches the management of every TWO with a well thought out process beginning and ending with constant communication.

A summary of our project approach for all assignments includes:

- ▶ Following initial communication with Department personnel, Amec Foster Wheeler's Project Manager prepares a work plan/cost estimate
- ▶ Amec Foster Wheeler prepares the pre-fabrication outline and conducts the meeting with the project team
- ► Amec Foster Wheeler assigns an appropriate inspector(s)
- During the project, shop/field inspectors perform inspections and help with ongoing technical/administrative communications. Inspectors review Bill of Lading documents for fabricated and inspected/accepted materials. Accepted materials are identified as acceptable by consultant and inspector.
- ▶ Reports prepared on a daily basis are submitted to the Project Manager

Relevant Project Experience

Amec Foster Wheeler has a long history or providing structural steel and coatings inspection, materials testing and inspections, consulting, problem solving, and specialty engineering (gearing and hydraulics) services to FDOT-SMO, various Districts of FDOT and the Turnpike. We will provide these same services and additional materials testing services as needed on this contract. Over the last 10 years, we have been awarded several contracts directly with FDOT resulting in hundreds of successfully completed TWOs, on time and within the assigned budgets. Many of these TWOs have involved specialty engineering and testing services that required expertise in gearing technology, advanced hydraulics, and innovative brake systems technology. Some of our most notable projects in the recent past include the widening of Veterans Expressway in Hillsborough County; NW 25th Street Viaduct in Miami-Dade County; emergency response towards the repairs of Matthews Bridge in Duval County; Flagler Memorial Bridge in Palm Beach County; SFRC bridge replacement; and the SR 862/Eller Drive construction project in Broward County.

Our designated Task Managers are metallurgical, materials, and welding engineers that have previously served on FDOT projects and have provided project management and technical administration to the Department. These individuals will continue to play a vital role as coordinators between Amec Foster Wheeler inspectors, contractors, resident engineers, and FDOT-SMO. Our knowledge of FDOT-SMO specifications minimizes FDOT-SMO's involvement in inspection activities. In addition to our steel expertise, our team member **Terracon**, **Inc.** brings a wealth of experience and knowledge in coatings, metallizing, galvanizing, and specification writing, along with their experience working with the Department and various districts.

A critical requirement for this contract is the capacity to deliver qualified, experienced steel and coatings inspectors for all individual tasks that will be assigned throughout the contract term. The level of effort will fluctuate from time to time and may increase beyond the load experienced during our current contract. We understand there will be occasions when certain projects will require an accelerated schedule

wherein one or more inspectors may be required within a 24- to 48-hour period for emergency work. Given our depth of inspection staff when faced with an accelerated schedule, we have proven we can satisfy this requirement on our most recent contract and will be able to react without delay or interruption on this contract.

Key Personnel and their Proposed Roles

Adil H. Khan, PE, Project Manager – A key element on this contract is that of the Project Manager who serves as the primary contact with the Department. We have designated Mr. Khan from our Jacksonville branch to continue his role as the Project Manager. In addition to serving as a Project Manager and Specialist Metallurgical Engineer, Mr. Khan has 38 years of experience in metallurgical engineering, including materials selection, failure analysis, and corrosion control. He is intimately familiar with FDOT contract specifications for special testing of gearing systems, hydraulics, braking systems and strain gauge installation and monitoring. Mr. Khan is also active with steel fabrication task groups of the National Steel Bridge Alliance.

Michael J. Holm, PE, Contract Manager and Quality Control – Mr. Holm will serve as the Amec Foster Wheeler Contract Manager in charge of all aspects of the contract. He is a Branch Leader and is ultimately responsible for all projects performed by the branch. Mr. Holm has 16 years of experience in the construction industry and has been successfully managing large complex inspection and testing endeavors for much of that time.

Edward F. Borowski, Welding Engineer, CWI – Mr. Borowski has more than 24 years of experience in metallurgical evaluation and testing, welding design, process analysis, procedure development, and materials weldability. He works closely with each fabricator and contractor to ensure they understand the pertinent FDOT welding-related project requirements and provides assistance to them with their welding procedure. He is currently responsible for reviewing bridge fabricators' welding procedures for the Department utilizing AWS D1.1 (Structural Steel), D1.2 (Aluminum), D1.3 (Sheet Steel), D1.4 (Reinforcing Steel), D1.5 (Bridge), D1.6 (Stainless Steel), various AASHTO codes, and AWS D1.2 Structural Welding Code for Aluminum.

Phil Dzikowski, EI, CWI – Mr. Dzikowski serves as project-level support for multi-disciplinary projects in facilities engineering, materials testing, and steel inspection. He has more than nine years of experience providing quality assurance shop inspections for FDOT for fabricated and welded structural steel bridges and is familiar with AWS D1.1-Structural Welding Code Steel, AWS D1.5-Bridge Welding Code, and the FDOT Standard Specifications for Road and Bridge Construction. Mr. Dzikowski's expertise in problem solving and client communication to resolve time sensitive challenges has proven effective over the past several years. His most recent involvement with the construction QA inspection of steel on the new Atlanta Falcons stadium has won praises from all parties involved in the construction of this challenging structure.

Robert Pekrul, CWI – Mr. Pekrul is a materials engineer with 15 years of experience and has served as a project manager for FDOT projects for almost 10 years, managing numerous small and large projects for FDOT during that time. Mr. Pekrul collaborated with FDOT-SMO in the rewrite Chapter 11 of the Materials Manual and the 460 Section of the Standard Specifications. He also serves a diverse clientele as a materials engineer providing general consulting. His experience and expertise are in the areas of failure analysis and physical property analysis. Mr. Pekrul has been assigned to provide project management of bridge and roadway construction projects involving sometimes complex fabrication issues and a disparate group of small fabricators.

Salman Inam, Task Manager – Mr. Inam has more than 15 years of experience working as project administrator and cost estimator for all fabrication projects. He is also involved in managing sign structures projects and new and rehabilitation projects of bascule bridges. He has a strong working relationship with FDOT-SMO staff, CEI firms, and structural steel fabricators, and works closely with all to ensure inspection personnel are in place when and where needed to meet the inspection needs of each FDOT project assigned to Amec Foster Wheeler.

Craig Cavins, CWI, Senior Inspector – Mr. Cavins is an AWS Certified Welding Inspector; ASNT Level II in Radiographic Film Interpretation, Dye Penetrant and Magnetic Particle Testing; and SSPC Level 1 Bridge Coatings Inspector; and has received a FDOT Certificate of Training in High Strength Bolts for Bridges. He has 38 years of experience in various types of construction materials testing (CMT) and inspection. He has been providing quality assurance shop inspection for FDOT for fabricated and welded structural steel bridges for 29 years, and is very familiar with AWS D1.5 and AWS D1.1 Structural Welding Codes, FDOT Standard Specifications, and the FDOT Material Manual.

Christopher Eure, Senior Engineering Technician, SCWI – Mr. Eure, with more than 18 years of NDT experience, will be available for this contract to perform Phased Array Ultrasonic testing on as as-needed basis. He is a Level III NDT inspector in UT and MT, and is

Level II across all disciplines in all other NDT test methods. He has been involved in preparing welding procedures and administering welder qualifications, bridge inspection, crane inspection, lifting device inspection, steel frame, bolt-up, and special inspections. Mr. Eure also has experience with conducting fabrication shop audits to ensure project and code compliance of QC procedures, instructing handson training of NDT methods, including UT phased array. He is also involved in the training of UT Phased Array personnel at various levels.

In addition to the services listed in the scope of work, Amec Foster Wheeler also has the expertise, capability, and experience to provide additional services when requested by the Department:

- Construction engineering inspection
- Geotechnical engineering and investigations
- Asbestos/hazardous materials consulting
- CMT (concrete, earthwork, asphalt, aggregates)
- Pavement evaluation
- Survey and SUE
- ► Lead-based paint testing and evaluation
- ▶ Environmental assessments and remediation

Amec Foster Wheeler looks forward to your selection and successful completion of this contract with you and your staff.

Michael J. Holm, PE

Adil H. Khan, PE Project Manager

Adil Khan

Contract Manager Pro

Prequalification of Prime Consultant and any proposed Subconsultants by advertised type(s) of work:

Consultant Name			Project Advertised Major & Minor Work Types											
		9.3	10.3									DBE	SB	UU
Prime	Amec Foster Wheeler Environment & Infrastructure, Inc.		\boxtimes											
	Ex-Imp Global, Inc.													
	Terracon, Inc.	\boxtimes	\boxtimes											
	Central States Inspection Services, Inc.												\boxtimes	
	SGS Canada Inc.													
ıts														
Subconsultants														
ารแ														
pcq														
งเ														

SB = Small Business

UU = Under-utilized work type; subconsultant is fulfilling an under-utilized work type

CONSENT AGENDA ITEM #3

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams

Director of Procurement

DATE: May 20, 2021

SUBJECT: Approval of First Contract Renewal with Elipsis Engineering & Consulting, Inc.

for Systemwide Construction Engineering and Inspection (CEI) Services

Contract No. 001368

Board approval is requested for the first renewal of the referenced contract with Elipsis Engineering & Consulting, Inc. in the amount of \$1,000,000.00 for one year beginning on August 9, 2021 and ending August 8, 2022. The original contract was for three years with two one-year renewals.

The work to be provided is systemwide CEI services.

 Original Contract
 \$3,500,000.00

 Supplemental Agreement No. 1
 \$1,200,000.00

 First Renewal
 \$1,000,000.00

 Total
 \$5,700,000.00

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 CONTRACT RENEWAL NO. 1 AGREEMENT CONTRACT NO. 001368

THIS CONTRACT RENEWAL NO. 1 AGREEMENT ("Renewal Agreement"), is made and entered into this 10th day of June 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called "CFX", and Elipsis Engineering & Consulting, LLC. hereinafter called the ("Consultant"). CFX and Consultant are referred to herein sometimes as a "Party" or the "Parties".

WITNESSETH

WHEREAS, on August 8, 2018, CFX and the Consultant entered into a Contract Agreement (the "Original Agreement"), whereby CFX retained the Consultant to provide systemwide construction engineering and inspection services.

WHEREAS, the Parties seek to renew the Initial CFX Contract 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 August 9, 2021 and end on August 8, 2022 ("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 the compensation schedule of the Original Agreement in an amount up to \$1,000,000.00 ("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. **Effect on Original Agreement**. 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.

ELIPSIS ENGINEERING & CONSULTING, INC. CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Print Name: Title:	By: Aneth Williams, Director of Procurement
ATTEST:(SE	EAL)
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, 2021 for its exclusive use and reliance.
By:	
Print Name:	By:
	Diego "Woody" Rodriguez, General Counsel
By:	
Print Name:	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Systemwide Construction, Engineering and Inspection Services

Contract No: 001368

This Supplemental Agreement No. 1 entered into this 11th day of June 2020, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and ELIPSIS ENGINEERING & CONSULTING, INC. (the "Consultant"), the same being supplementary to the Contract between the aforesaid, dated August 8, 2018.

- 1. CFX desires to increase the Scope of Work in the amount of \$1,200,000.00. This will allow for upcoming renewal and replacement projects in the Five-Year Work Plan, to include but not limited to miscellaneous drainage and stormwater projects and systemwide coatings projects.
- 2. The Consultant hereby agrees to the increase scope of work and amount with no increase in the term of the Contract.
- 3. CFX and Consultant agree that this Supplemental Agreement No.1 shall not alter or change in any manner the force and effect of the Contract except insofar as the same is altered and amended by this Supplemental Agreement No. 1; that acceptance of this Supplemental Agreement No. 1 signifies the Consultant's waiver of all future rights for additional compensation, with respect to this Supplemental Agreement, which is not already defined herein or in the fee proposal.

SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Systemwide Construction, Engineering and Inspection Services

Contract No.: 001368

Cost of additional services: \$1,200,000.00

This Supplemental Agreement No. 1 entered as of the day and year first written above.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams Date: 2020.07.01 12:54:01 -04'00'

Director of Procurement

ELIPSIS ENGINEERING & CONSULTING, INC.

By: Sarah m Blake

Sarah M. Blake

Print Name

Title: Manager

M. but Mr. Clarifit

Date: 6/11/2020

Approved as to form and execution, only.

Diego "Woody" Rodriguez Digitally signed by Diego "Woody" Rodriguez Date: 2020.07.01 08:08:42 -04'00'

General Counsel for CFX

AGREEMENT

CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND ELIPSIS ENGINEERING & CONSULTING, LLC

SYSTEMWIDE CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

CONTRACT NO. 001368

CONTRACT DATE: AUGUST 9, 2018 CONTRACT AMOUNT: \$3,500,000.00

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

SYSTEMWIDE CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

CONTRACT NO. 001368

AUGUST 2018

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TABLE OF CONTENTS

Section Title Page

AG Agreement 1 to 18

Exhibit "A", Scope of Services

Exhibit "B", Method of Compensation

Exhibit "C", Details of Cost and Fees

Exhibit "D", Project Organization Chart

Agreement for Systemwide Miscellaneous CEI Services

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY AGREEMENT FOR SYSTEMWIDE CONSTRUCTION ENGINEERING AND INSPECTION SERVICES CONTRACT NO. 001368

THIS AGREEMENT, made and entered into this 9th 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 III, Florida Statutes) hereinafter called the "CFX" and Elipsis Engineering & Consulting, LLC, hereinafter called "CONSULTANT", a Florida Limited Liability Company, registered and authorized to do business in the state of Florida, whose principal address is 530 S. Main Street, Winter Garden, FL. 34787.

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 renewals periods may be exercised by CFX at its sole discretion. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONSULTANT are satisfactory and adequate for CFX's needs.

The CONSULTANT agrees to commence the scheduled services for each assigned project within ten (10) calendar days from the date specified in the written Notice to Proceed from the Director of 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. ~ 037 28

AE Engineering, Inc., -29520

Kinard-Stone, Inc., -32638

Metric Engineering
                                            Adaptive Consulting Engineers, LLC – 32636
Civil Site Engineeric
                                            Civil Site Engineering, Inc., - 2 698 4
                                            Madrid Engineering Group, Inc. - 32335/
 Metric Engineering, Inc. - 00274
                                            Pi Consulting Services, LLC - 23198-
 AECOM, Inc. - 30273
                                            CDM Smith, Inc. - 20415 -
                                            Eisman & Russo, Inc. 107372
 England, Thims & Miller, Inc. - 309 77
 DRMP, Inc. - DOIY6
                                            EXP U.S. Services, Inc. - 32635
                                           HNTB Corporation _ 00237

#GPI, LLC 

#
                                            KCCS, Inc. -05951
 Johnson, Mirmiran, & Thompson, Inc. 1
                                            PRAGMA Consulting, LLC - 05955
 Jones, Wood & Gentry, Inc. - 03966
 Target Engineering Group, LLC- 10476
                                            Transystems Corporation Consultants *
 Rummel, Klepper & Kahl, LLP dba RK&K - 13474
```

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.

14.1 Commercial General Liability coverage shall be on an occurrence form policy for all

operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with 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: Elipsis Engineering & Consulting, LLC

530 S. Main Street

Winter Garden, FL. 34787

Attn: Sarah Blake

Elipsis Engineering & Consulting, LLC

530 S. Main Street

Winter Garden, FL. 34787

Attn: Chris Nolen

HEADINGS 27.0

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 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.

ELIPSIS ENGINEERING & CONSULTING, LLC

Authorized Signature

Title: Managing Member

ATTEST: (Seal)

Secretary or Notary
STEPHANIE CROWE
MY COMMISSION # GG009395
EXPIRES July 06, 2020

Approved as to form and execution, only.

Joseph Spassiatore

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Director of Procurement

Print Name: ANOTH Williams

2018 AUG 9 AM 9:25

General Counsel for CFX

EXHIBIT A SCOPE OF SERVICES

EXHIBIT A SCOPE OF SERVICES

CONSTRUCTION ENGINEERING AND INSPECTION CONSULTANT

I. PURPOSE

The Central Florida Expressway Authority (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; Senior Project Engineer, Project Administrator, 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 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 authorized assignments. 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 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. Inspection Services

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 Construction Project Administration Manual (CPAM: https://www.cfxway.com/doing-business/contractor-resources/cpam-manual/) 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. Management Engineering Services

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.
- 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. Assess the need for plant testing or inspection, ensure inspectors are scheduled as needed and monitor material testing invoicing for accuracy
- Once each month, prepare a comprehensive tabulation of the quantity of each pay item 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.
- 10. 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.

- 11. 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.
- 12. Analyze problems that arise on a project and proposals submitted by the construction contractor and prepare and submit a recommendation to CFX.
- 13. 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.
- 14. 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 request in accordance with applicable procedures.
- 15. 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.
- 16. 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.
- 17. 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.
- 18. 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).

- 19. 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.
- 20. 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.
- 21. 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.
- 22. 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.
- 23. Conduct 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.
- 24. 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.
- 25. 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.

26. 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 (https://www.cfxway.com/doing-business/contractor-resources/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.

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 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. Licensing for Equipment Operation

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.

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.

Qualification:

FDOT Advanced MOT

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

Certifications:

None

A Master's Degree in Engineering may be substituted for one (1) year engineering experience.

Project Administrator

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:

FDOT Intermediate MOT CTQP Final Estimates Level II

Other:

Attend CTQP Quality Control Manager Course and pass the examination.

A Master's Degree in Engineering may be substituted for one (1) year of engineering experience

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

4. <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:

CTOP 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)

CTOP 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) FDOT Intermediate MOT CTQP Final Estimates Level I

Certifications:

Nuclear Radiation Safety

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

Resident Compliance Specialist

Graduation from an accredited high school or equivalent with one (1) year of experience as a resident compliance officer on a construction project or two (2) years of assisting the compliance officer in monitoring the project. Should have prior experience in both State funded and Federal Aid funded construction projects with FDOT and knowledge of EEO/AA laws and FDOT's DBE and OJT programs. Ability to analyze, collect, evaluates data, and take appropriate action when necessary. Must attend all training workshops or meetings for Resident Compliance Specialists as determined necessary.

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

High school graduate or equivalent plus two (2) years experience in construction inspection, one (1) year of which shall have been in bridge and/or roadway construction inspection, plus the following:

Qualifications:

CTOP Concrete Field Inspector Level I

CTOP Asphalt Roadway Level I (If applicable)

CTOP Earthwork Construction Inspection Level I

CTOP 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:

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.

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

Certifications:

None

Inspector's Aide

High School graduate or equivalent and able to perform basic mathematical calculation and follow simple technical instructions. Duties are to assist higher-level inspectors.

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.

10. Instrument Man

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.

11. 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.

Secretary/Clerk Typist

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.

Environmental Specialist

A bachelors degree with a major in one of the physical or natural sciences or engineering and two (2) years of professional experience in environmental protection, regulation or health; one of the physical or natural sciences; or engineering; or a Masters degree in one of the physical or natural sciences or engineering and one (1) year of professional experience described above; or a Doctorate degree in one of the physical of natural sciences or engineering or one (1) year of experience as an Environmental Specialist I with the State Of Florida. Receives general instruction regarding assignments and is expected to exercise initiative, and independent judgment in the solution of work problems. Must have knowledge of the terminology, principles, data collection, and analytical techniques and procedures of the physical or natural sciences. Also must have ability to collect, evaluate, analyze, and interpret scientific or technical data.

Geotechnical Engineer

Be a registered Professional Engineer in the State of Florida (or if registered in another state, have the ability to obtain registration in Florida within 6 months) with a minimum of 5 years of experience in being in responsible charge of the geotechnical foundation construction engineering and dynamic testing work on at least five (5) CFX or FDOT bridge projects, including FDOT Structures Design Category 2 bridge projects, having driven pile foundations/drilled shaft foundations or similar projects for other State Department of Transportations. "Responsible charge" experience shall include verifiable and successful drilled shaft installation and coring inspections and constructions, static, Osterberg Cell and/or Statnamic load test experience, as well as Pile Driving Analyzer (PDA), WEAP computer program and CAPWAP computer programs to analyze concrete/steel/timber piling.

15. Geotechnical Technician

Knowledge in the use and provisions of the PDA system, WEAP and CAPWAP computer programs to analyze concrete/steel/timber piling in conjunction with dynamic load tests with a minimum of three (3) years of experience on at least two (2) CFX or FDOT bridge projects.

Qualifications:

CTQP Pile Driving Inspection CTQP Drilled Shaft Inspection

16. Public Information Officer

High school graduate or equivalent and be knowledgeable in public information and/or advertising involving mass circulation or distribution of literature, mass advertising or other similar activities and performed such work for a at least three (3) years.

17. Utility Coordinator

High school graduate or equivalent and be knowledgeable of CFX's Standards, policies, procedures, and agreements and shall have a minimum of 4 years of experience performing utility coordination in accordance with CFX or FDOT Standards, policies, procedures, and agreements.

Senior ITS Inspector

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, 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

or a Civil Engineering degree and one (1) year of ITS CEI experience.

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 the general supervision of the Project Administrator.

19. ITS Inspector

High school graduate or equivalent plus two (2) years experience in construction inspection, one (1) year of which shall have been in ITS construction inspection, 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:

None

or a Civil Engineering degree.

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. OUALITY 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 OA 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. The authority, 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.

- T. 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 20th 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 in hard copy formats with timesheets and other backup as appropriate. A Final Invoice will be submitted to CFX no later than the 30th day following Final Acceptance of the individual project or as requested by CFX.

XV. CONTRADICTIONS:

In the event of a contradiction between the provisions of this Scope of Services and the Consultant's proposal as made a part of their Agreement, the provisions of the Scope of Services shall apply.

XVI. METHOD OF COMPENSATION:

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

END OF SCOPE

CONSENT AGENDA ITEM #4

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: **CFX Board Members**

Aneth Williams FROM:

Director of Procurement

DATE: May 20, 2021

SUBJECT: Approval of First Contract Renewal with Johnson, Mirmiran & Thompson, Inc.

for CFX Owner's Representative for I-4/SR 408 Ultimate Interchange and

Coordination for the Planned Brightline Construction Along SR 528

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

Board approval is requested for the first renewal of the referenced contract with Johnson, Mirmiran & Thompson, Inc. in the amount of \$1,000,000.00 for one year beginning on August 9, 2021 and ending August 8, 2022. The original contract was for three years with two one-year renewals.

The services to be provided include owner's representative services for I-4 Ultimate and Brightline construction project.

> \$3,000,000.00 **Original Contract** Supplemental Agreement No. 1 \$ 1,700,000.00 First Renewal \$ 1,000,000.00 Total \$ 5,700,000.00

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

Reviewed by:

Ben Dreiling, PE

Director of Construction

WWW.CFXWAY.COM

CENTRAL FLORIDA EXPRESSWAY AUTHORITY CONTRACT RENEWAL NO. 1 AGREEMENT CONTRACT NO. 001399

THIS CONTRACT RENEWAL NO. 1 AGREEMENT ("Renewal Agreement"), is made and entered into this 10th day of June 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called "CFX", and Johnson, Mirmiran & Thompson, Inc., hereinafter called the ("Consultant"). CFX and Consultant are referred to herein sometimes as a "Party" or the "Parties".

WITNESSETH

WHEREAS, on August 9, 2018, CFX and the Consultant entered into a Contract Agreement (the "Original Agreement"), whereby CFX retained the Consultant to provide owner's representative for I-4/SR408 ultimate interchange and coordination for the planned Brightline construction along SR 528 services.

WHEREAS, the Parties seek to renew the Initial CFX Contract 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. Renewal Term. CFX and Consultant agree to exercise the first renewal of said Initial CFX Contract, which renewal shall begin on August 9, 2021 and end on August 8, 2022 ("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 the compensation schedule of the Original Agreement in an amount up to \$1,000,000.00 ("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. **Effect on Original Agreement**. 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.

By: ______ Diego "Woody" Rodriguez, General Counsel

By:_____
Print Name:_____

By:_____
Print Name:______

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 10th 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: Aneth Williams Digitally signed by Aneth Williams Date: 2020.09.23 09:11:14 -04'00'

Director of Procurement

JOHNSON, MIRMIRAN AND THOMPSON, INC.

By: Jh gh

Print Name: JASON

Title: VICE PRESIDENT

Attest: Unly

Title: Administrative Assistant

Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this 22 day of September..., 2020 for its exclusive use and reliance.

Diego "Woody Rodriguez, Gweral 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	<u>Title</u>	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 9th 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.

The approved subconsultants are:

DRMP, Inc. - 00359

Foundation & Geotechnical Engineering, LLC

EAC Consulting, Inc. -04180 Intertek-PSI -05229

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

4

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.

- Commercial General Liability coverage shall be on an occurrence form policy for 15.1 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.

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

expiration or termination of this Agreement and continue in full force and effect.

29.0 NOTICE

All notices required pursuant to the terms hereof shall be sent by First Class United States

Mail. Unless prior written notification of an alternate address for notices is sent, all notices shall be sent

to the following addresses:

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 COUNSEL

Attn: Karina Enrico, P.E.

20

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

2018 AUG 14 AK 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.

BY:

JOHNSON, MIRMIRAN & THOMPSON, INC.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Authorized Signature

Title: Yourdent

Print Name: John A. Muellee

ATTEST: (Seal)

Director of Procurement

2018 AUG 14 AM 9:45

Approved as to form and execution, only.

General Counsel for CFX

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 #5

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams

Director of Procurement

DATE: May 20, 2021

SUBJECT: Approval of First Contract Renewal with Mehta and Associates, Inc.

for Systemwide Construction Engineering and Inspection (CEI) Services

Contract No. 001406

Board approval is requested for the first renewal of the referenced contract with Mehta and Associates, Inc. in the amount of \$750,000.00 for one year beginning on August 10, 2021 and ending August 9, 2022. The original contract was for three years with two one-year renewals.

The work to be provided is systemwide CEI services.

 Original Contract
 \$ 3,500,000.00

 First Renewal
 \$ 750,000.00

 Total
 \$ 4,250,000.00

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

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



CENTRAL FLORIDA EXPRESSWAY AUTHORITY CONTRACT RENEWAL NO. 1 AGREEMENT CONTRACT NO. 001406

THIS CONTRACT RENEWAL NO. 1 AGREEMENT ("Renewal Agreement"), is made and entered into this 10th day of June 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called "CFX", and Mehta and Associates, Inc., hereinafter called the ("Consultant"). CFX and Consultant are referred to herein sometimes as a "Party" or the "Parties".

WITNESSETH

WHEREAS, on August 9, 2018, CFX and the Consultant entered into a Contract Agreement (the "Original Agreement"), whereby CFX retained the Consultant to provide systemwide construction engineering and inspection services.

WHEREAS, the Parties seek to renew the Initial CFX Contract 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 August 10, 2021 and end on August 9, 2022 ("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 the compensation schedule of the Original Agreement in an amount up to \$750,000.00 ("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. **Effect on Original Agreement**. 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.

MEHTA AND ASSOCIATES, INC.

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, 2021 for its exclusive use and reliance.
By:	use and renance.
Print Name:	Ву:
	Diego "Woody" Rodriguez, General Counsel
By:	
Print Name:	

AGREEMENT

CENTRAL FLORIDA EXPRESSWAY AUTHORITY AND MEHTA AND ASSOCIATES, INC.

SYSTEMWIDE CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

CONTRACT NO. 001406

CONTRACT DATE: AUGUST 9, 2018 CONTRACT AMOUNT: \$3,500,000.00

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

SYSTEMWIDE CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

CONTRACT NO. 001406

AUGUST 2018

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TABLE OF CONTENTS

Section	<u>Title</u>	Page
AG	Agreement	1 to 18
	Exhibit "A", Scope of Services	
	Exhibit "B", Method of Compensation	
	Exhibit "C", Details of Cost and Fees	
	Exhibit "D", Project Organization Chart	

Agreement for Systemwide Miscellaneous CEI Services

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	4
6.0	DOCUMENT OWNERSHIP AND RECORDS	4
7.0	COMPLIANCE WITH LAWS	
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	8
12.0	INFRINGEMENT OF PATENTS AND COPYRIGHTS	9
13.0	THIRD PARTY BENEFICIARY	9
14.0	INSURANCE	9
15.0	COMMUNICATIONS	11
16.0	STANDARD OF CONDUCT	12
17.0	DOCUMENTED ALIENS	
18.0	E-VERIFY CLAUSE	12
19.0	CONFLICT OF INTEREST	13
20.0	INSPECTOR GENERAL	
21.0	PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT	
22.0	COMPANIES PURSUANT TO SECTION 287.135 AND 215.473	14
23.0	AVAILABILITY OF FUNDS	14
24.0	AUDIT AND EXAMINATION OF RECORDS	14
25.0	GOVERNING LAW AND VENUE	15
26.0	NOTICE	15
27.0	HEADINGS	16
28.0	CONTRACT LANGUAGE AND INTERPRETATION	16
29.0	ASSIGNMENT	17
30.0	SEVERABILITY	17
31.0	INTEGRATION	17
32 N	ATTACHMENTS	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY AGREEMENT FOR SYSTEMWIDE CONSTRUCTION ENGINEERING AND INSPECTION SERVICES CONTRACT NO. 001406

THIS AGREEMENT, made and entered into this 9th 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 III, Florida Statutes) hereinafter called the "CFX" and Mehta and Associates, Inc., hereinafter called "CONSULTANT", a Florida Profit Corporation, registered and authorized to do business in the state of Florida, whose principal address is One Purlieu Place, Suite 100, Winter Park, FL. 32792.

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 renewals periods may be exercised by CFX at its sole discretion. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONSULTANT are satisfactory and adequate for CFX's needs.

The CONSULTANT agrees to commence the scheduled services for each assigned project within ten (10) calendar days from the date specified in the written Notice to Proceed from the Director of 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.
                                          Adaptive Consulting Engineers, LLC *
   Carnahan, Proctor and Cross, Inc. *
                                          Civil Site Engineering, Inc.,
                                          The Corradino Group, Inc. *
   ESA Scheda Corporation *
   Metric Engineering, Inc.
                                        —Pi Consulting Services, LLC
  AECOM, Inc. /
                                         CDM Smith, Inc.
  -DRMP, Inc.
                                          Eisman & Russo, Inc.
                                          EXP U.S. Services, Inc. *
   England, Thims & Miller, Inc. /
  RS&H, Inc.
                                          →HNTB Corporation 
                                          KCCS, Inc.
 Johnson, Mirmiran, & Thompson, Inc.
                                          PRAGMA Consulting, LLC
   Page One Consultants, Inc. /
                                          JBS Engineering Technical Services, Inc.
  Target Engineering Group, LLC -
 Rummel, Klepper & Kahl, LLP dba RK&K Volkert, Inc.
Geotech Consultants Intl. Inc. dba GCI, Inc.
```

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

If, during the term of the Contract, CONSULTANT desires to subcontract any portion(s) of the work to a subconsultant that was not disclosed by the CONSULTANT to CFX at the time that the Contract was originally awarded, and such subcontract would, standing alone or aggregated with prior subcontracts awarded to the proposed subconsultant, equal or exceed twenty five thousand dollars (\$25,000.00), the CONSULTANT shall first submit a request to CFX's Director of Procurement for

authorization to enter into such subcontract. Except in the case of an emergency, as determined by the Executive Director or his/her designee, no such subcontract shall be executed by the CONSULTANT until it has been approved by CFX Board. In the event of a designated emergency, the CONSULTANT may enter into such a subcontract with the prior written approval of the Executive Director or his/her designee, but such subcontract shall contain a provision that provides that it shall be automatically terminated if not approved by CFX Board at its next regularly scheduled meeting.

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: Mehta and Associates, Inc.

One Purlieu Place, Suite 100 Winter Park, FL. 32792 Attn: Radha Mehta

Mehta and Associates, Inc. One Purlieu Place, Suite 100 Winter Park, FL. 32792 Attn: Kimanh Le

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

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.

MEHTA AND ASSOCIATES, INC.

CENTRAL FLORIDA

Authorized Signature

Title:

ATTEST:

(Seal)

Lough I Presiatore

Approved as to form and execution, only.

EXPRESSWAY AUTHORITY

Director of Procurement

Print Name: ANETH Williams

2018 AUG 6 PM12:10

General Counsel for CFX

EXHIBIT A SCOPE OF SERVICES

EXHIBIT A SCOPE OF SERVICES

CONSTRUCTION ENGINEERING AND INSPECTION CONSULTANT

I. PURPOSE

The Central Florida Expressway Authority (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; Senior Project Engineer, Project Administrator, 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 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 authorized assignments. 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 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 Construction Project Administration Manual (CPAM: https://www.cfxway.com/doing-business/contractor-resources/cpam-manual/) 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. Management Engineering Services

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. Assess the need for plant testing or inspection, ensure inspectors are scheduled as needed and monitor material testing invoicing for accuracy
- Once each month, prepare a comprehensive tabulation of the quantity of each pay item 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.
- 10. 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.

- 11. 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.
- 12. Analyze problems that arise on a project and proposals submitted by the construction contractor and prepare and submit a recommendation to CFX.
- 13. 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.
- 14. 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 request in accordance with applicable procedures.
- 15. 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.
- 16. 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.
- 17. 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.
- 18. 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).

- 19. 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.
- 20. 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.
- 21. 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.
- 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.
- 23. Conduct 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.
- 24. 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.
- 25. 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.

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 (https://www.cfxway.com/doing-business/contractor-resources/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.

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 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. Licensing for Equipment Operation

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.

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.

Qualification:

FDOT Advanced MOT

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

Certifications:

None

A Master's Degree in Engineering may be substituted for one (1) year engineering experience.

Project Administrator

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:

FDOT Intermediate MOT CTQP Final Estimates Level II

Other:

Attend CTQP Quality Control Manager Course and pass the examination.

A Master's Degree in Engineering may be substituted for one (1) year of engineering experience

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

Senior Inspector/Senior Engineer Intern

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:

CTOP Concrete Field Inspector Level I

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

CTOP Asphalt Roadway Level I (If applicable)

CTOP Asphalt Roadway Level II (If applicable)

CTOP Earthwork Construction Inspection Level I

CTOP 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) CTOP Grouting Technician Level I (If applicable)

CTQP Post-Tensioning Technician Level I (If applicable) FDOT Intermediate MOT CTQP Final Estimates Level I

Certifications:

Nuclear Radiation Safety

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

Resident Compliance Specialist

Graduation from an accredited high school or equivalent with one (1) year of experience as a resident compliance officer on a construction project or two (2) years of assisting the compliance officer in monitoring the project. Should have prior experience in both State funded and Federal Aid funded construction projects with FDOT and knowledge of EEO/AA laws and FDOT's DBE and OJT programs. Ability to analyze, collect, evaluates data, and take appropriate action when necessary. Must attend all training workshops or meetings for Resident Compliance Specialists as determined necessary.

6. Inspector/Engineer Intern

High school graduate or equivalent plus two (2) years experience in construction inspection, one (1) year of which shall have been in bridge and/or roadway construction inspection, plus the following:

Qualifications:

CTOP Concrete Field Inspector Level I

CTQP Asphalt Roadway Level I (If applicable)

CTOP Earthwork Construction Inspection Level I

CTOP 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:

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.

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

Certifications:

None

8. <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.

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.

10. Instrument Man

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.

11. 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.

12. Secretary/Clerk Typist

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.

13. Environmental Specialist

A bachelors degree with a major in one of the physical or natural sciences or engineering and two (2) years of professional experience in environmental protection, regulation or health; one of the physical or natural sciences; or engineering; or a Masters degree in one of the physical or natural sciences or engineering and one (1) year of professional experience described above; or a Doctorate degree in one of the physical of natural sciences or engineering or one (1) year of experience as an Environmental Specialist I with the State Of Florida. Receives general instruction regarding assignments and is expected to exercise initiative, and independent judgment in the solution of work problems. Must have knowledge of the terminology, principles, data collection, and analytical techniques and procedures of the physical or natural sciences. Also must have ability to collect, evaluate, analyze, and interpret scientific or technical data.

Geotechnical Engineer

Be a registered Professional Engineer in the State of Florida (or if registered in another state, have the ability to obtain registration in Florida within 6 months) with a minimum of 5 years of experience in being in responsible charge of the geotechnical foundation construction engineering and dynamic testing work on at least five (5) CFX or FDOT bridge projects, including FDOT Structures Design Category 2 bridge projects, having driven pile foundations/drilled shaft foundations or similar projects for other State Department of Transportations. "Responsible charge" experience shall include verifiable and successful drilled shaft installation and coring inspections and constructions, static, Osterberg Cell and/or Statnamic load test experience, as well as Pile Driving Analyzer (PDA), WEAP computer program and CAPWAP computer programs to analyze concrete/steel/timber piling.

15. Geotechnical Technician

Knowledge in the use and provisions of the PDA system, WEAP and CAPWAP computer programs to analyze concrete/steel/timber piling in conjunction with dynamic load tests with a minimum of three (3) years of experience on at least two (2) CFX or FDOT bridge projects.

Qualifications:

CTQP Pile Driving Inspection CTQP Drilled Shaft Inspection

16. Public Information Officer

High school graduate or equivalent and be knowledgeable in public information and/or advertising involving mass circulation or distribution of literature, mass advertising or other similar activities and performed such work for a at least three (3) years.

17. Utility Coordinator

High school graduate or equivalent and be knowledgeable of CFX's Standards, policies, procedures, and agreements and shall have a minimum of 4 years of experience performing utility coordination in accordance with CFX or FDOT Standards, policies, procedures, and agreements.

Senior ITS Inspector

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, 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

or a Civil Engineering degree and one (1) year of ITS CEI experience.

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 the general supervision of the Project Administrator.

19. ITS Inspector

High school graduate or equivalent plus two (2) years experience in construction inspection, one (1) year of which shall have been in ITS construction inspection, 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:

None

or a Civil Engineering degree.

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. The authority, 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.

- T. 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. <u>LIAISON</u>

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. SUBCONSULTANT SERVICES

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. OTHER SERVICES

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 20th 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 in hard copy formats with timesheets and other backup as appropriate. A Final Invoice will be submitted to CFX no later than the 30th day following Final Acceptance of the individual project or as requested by CFX.

XV. CONTRADICTIONS:

In the event of a contradiction between the provisions of this Scope of Services and the Consultant's proposal as made a part of their Agreement, the provisions of the Scope of Services shall apply.

XVI. METHOD OF COMPENSATION:

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

END OF SCOPE

CONSENT AGENDA ITEM #6

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams

Director of Procurement

DATE: May 21, 2021

SUBJECT: Approval of Contract Award to A2 Group, Inc.

for Construction Engineering and Inspection (CEI) Services for SR 417 Widening

from Boggy Creek Road to Narcoossee Road Project No. 417-151, Contract No. 001750

The Board approved on March 11, 2021, the final ranking and authorization to negotiate with firms for CEI Services for SR 417 Widening from Boggy Creek Road to Narcoossee Road.

The work to be provided is CEI services for the construction of the SR 417 widening from Boggy Creek Road to Narcoossee Road.

Board award of the contract to A2 Group, Inc. is requested in the amount of \$6,024,563.74.

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

Reviewed by:

Ben Dreiling, PE

Director of Construction

Glenn Pressimone, PE

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



AGREEMENT



AND

A2 GROUP, INC.

CONSTRUCTION ENGINEERING AND INSPECTION SERVICES FOR

SR 417 WIDENING BOGGY CREEK ROAD TO NARCOOSSEE ROAD

PROJECT NO. 417-151 CONTRACT NO. 001750

CONTRACT DATE: June 10, 2021 CONTRACT AMOUNT: \$6,024,563.74

AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS OF COSTS AND FEES, PROJECT ORGANIZATIONAL CHART, PROJECT LOCATION MAP, AND NON-CONFLICT DISCLOSURE FORM

AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS OF COSTS AND FEES, PROJECT ORGANIZATIONAL CHART, PROJECT LOCATION MAP, SCHEDULE, AND NON-CONFLICT DISCLOSURE FORM

FOR

SR 417 WIDENING BOGGY CREEK ROAD TO NARCOOSSEE ROAD PROJECT NO. 417-151

CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

CONTRACT NO. 001750

JUNE 2021

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TABLE OF CONTENTS

Section	<u>Title</u>	<u>Page</u>
AG	Agreement	1 to 18
	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", Non-conflict Disclosure Form	

Table of Contents

1.0	SERVICES TO BE PROVIDED	1
2.0	TERM OF AGREEMENT	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	
8.0	WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE	6
9.0	TERMINATION	6
10.0	ADJUSTMENTS	7
11.0	HOLD HARMLESS AND INDEMNIFICATION, SOVEREIGN IMMUNITY	8
12.0	INFRINGEMENT OF PATENTS AND COPYRIGHTS	9
13.0	INSURANCE	9
14.0	COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS	11
15.0	CONFLICT OF INTEREST AND STANDARD OF CONDUCT	12
16.0	DOCUMENTED ALIENS	13
17.0	E-VERIFY CLAUSE	13
18.0	INSPECTOR GENERAL	13
19.0	PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT.	13
20.0	COMPANIES PURSUANT TO SECTION 287.135 AND 215.473	14
21.0	AVAILABILITY OF FUNDS	14
22.0	AUDIT AND EXAMINATION OF RECORDS	14
23.0	GOVERNING LAW AND VENUE	15
24.0	NOTICE	16
25.0	HEADINGS	16
26.0	CONTRACT LANGUAGE AND INTERPRETATION	16
27.0	ASSIGNMENT	17
28.0	SEVERABILITY	17
29.0	INTEGRATION	17
30.0	ATTACHMENTS	17

CENTRAL FLORIDA EXPRESSWAY AUTHORITY AGREEMENT FOR CONSTRUCTION ENGINEERING AND INSPECTION SERVICES CONTRACT NO. 001750

THIS AGREEMENT, made and entered into this 10th day of June 2021 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 A2 Group, Inc. hereinafter called "CONSULTANT", carrying on professional practice in engineering with offices located at 4303Vineland Road, Ste F3, Orlando, Florida 32811.

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 SERVICES TO BE PROVIDED

CFX does hereby retain the CONSULTANT to furnish Construction Engineering and Inspection (CEI) services required by CFX for Contract No. 01750, SR 417 Widening Boggy Creek Road to Narcoossee Road. 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 Contract No. 001750 including, but not necessarily limited to, *construction of roadways and bridges, signing, roadway lighting, drainage, and utilities.*

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

2.0 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 five-year term from the date of the Notice to Proceed from CFX which includes the construction period of 24 months and a period of one month before start of construction and one month after the scheduled completion of construction. An extension of the five year term may be approved by CFX at its sole discretion. For purposes of **Exhibit "B"**, Method of Compensation, the term shall be 26 months.

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:

Echezabal & Associates, Inc. Geotech Consultants International, Inc. d/b/a GCI Inc Madrid Engineering Group, Inc. d/b/a MADRID CPWG Elipsis Engineering & Consulting, LLC Pinnacle Consulting Enterprises, Inc. DRMP, Inc. Pi Consulting Services, 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 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 \$6,024,563.74. 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 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.

6.0 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 4303Vineland Road, Ste F3, Orlando, Florida 32811.

Notwithstanding Section 14, entitled "Communications, Public Relations, and Use of Logos," CONSULTANT acknowledges that CFX is a body politic and corporate, an agency of the State of Florida, and is subject to the Public Records Act codified in Chapter 119, Florida Statutes. To the extent that the CONSULTANT is in the possession of documents that fall within the definition of public records subject to the Public Records Act, which public records have not yet been delivered to CFX, Consultant agrees to comply with Section 119.0701, Florida Statutes.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT Phone: 407-690-5000, e-mail: publicrecords@cfxway.com, and address: Central Florida

Expressway Authority, 4974 ORL Tower Road, Orlando, FL. 32807.

An excerpt of Section 119.0701, Florida Statutes is below.

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

Per Section 119.0701(b). The contractor shall comply with public records laws, specifically to:

- 1. Keep and maintain public records required by the public agency to perform the service.
- 2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- 3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
- 4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

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

7.0 COMPLIANCE WITH LAWS

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

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

7.1 Limitation of Liability: Pursuant to SECTION 558.0035(1)(d), Florida Statutes, CONSULTANT maintains any professional liability insurance required under this contract. Therefore, pursuant to Section 558.0035(1)(c), Florida Statutes, an individual employee or agent of the CONSULTANT may not be held individually liable for damages resulting from negligence occurring within the course and scope of professional services rendered under this professional services contract

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

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 in writing the Agreement or (b) notifying the CONSULTANT in writing 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 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'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 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 11.0, Hold Harmless and Indemnification, 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 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.

13.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. The general aggregate limit shall apply separately to this Agreement (with the ISO CG 25 01 or insurer's equivalent endorsement provided to CFX) or the general aggregate limit shall be twice the required occurrence limit. CFX shall be

listed as an additional insured. ISO Form CG 20 10 11 85 or if not available, ISO Forms CG 20 10 10 01 and CG 20 37 10 01, or if not available, their equivalent acceptable to CFX, shall be used to meet these requirements and a photocopy of same shall be provided with the Certificate. The CONSULTANT further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Independent Consultants, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, or Severability of Interests. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be excess to any policy of insurance required herein. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

13.2 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.

- 13.3 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.
- 13.4 Professional Liability Coverage shall have limits of not less than One Million Dollars (\$1,000,000) per claim / annual aggregate, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

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

All insurance policies shall be issued by responsible companies who are acceptable to CFX and licensed to do business under the laws of the State of Florida. Each Insurance company shall

minimally have an A.M. Best rating of A-:VII. If requested by CFX, CFX shall have the right to examine copies and relevant provisions of the insurance policies required by this Agreement, subject to the appropriate confidentiality provisions to safeguard the proprietary nature of CONSULTANT manuscript policies.

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.

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.

14.0 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 8.0 hereof, such data or information is the property of CFX.

Regarding the use of logos, printed documents and presentations produced for CFX shall not contain the name 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 Marks is utilized, the Marks shall be properly screened to insure all layers of the Marks 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.

15.0 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.

16.0 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 16.0, Documented Aliens, shall survive the expiration or termination of this Agreement and continue in full force and effect.

17.0 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.

18.0 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 Section 18.0, Inspector General, shall survive the expiration or termination of this Agreement and continue in full force and effect.

19.0 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."

20.0 COMPANIES PURSUANT TO SECTION 287.135 AND 215.473

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

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

21.0 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.

22.0 AUDIT AND EXAMINATION OF RECORDS

22.1 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.
- 22.2 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.
- 22.3 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.
- 22.4 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.
- 22.5 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.
- 22.6 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.

23.0 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 23.0, Governing Law and Venue, shall survive the expiration or termination of this Agreement and continue in full force and effect.

24.0 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: A2 Group, Inc.

4303Vineland Road, Ste F3 Orlando, Florida 32811 Attn: Peter Nissen

A2 Group, Inc.

4303Vineland Road, Ste F3 Orlando, Florida 32811 Attn: Alberto G. Ribas

25.0 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.

26.0 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.

27.0 ASSIGNMENT

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

28.0 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.

29.0 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.

30.0 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", 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 Governing Board at its meeting on June 10, 2021.

A2 GROUP, INC.	CENTRAL FLORIDA EXPRESSWAY AUTHORITY
BY:Authorized Signature	BY:
Title:	Print Name:
Print Name:	
ATTEST:(Seal) Secretary or Notary	
Approved as to form and execution, only.	
General Counsel for CFX	
Print Name	<u></u>

EXHIBIT A SCOPE OF SERVICES

EXHIBIT "A" SCOPE OF SERVICES

CONSTRUCTION ENGINEERING AND INSPECTION CONSULTANT

I. PURPOSE

CFX requires the assistance of a CONSULTANT to provide construction engineering and inspection services; including but not limited to, contract administration, engineering, inspection, material sampling and testing, claim analysis and evaluation, constructability plan reviews and other services deemed necessary and authorized by CFX, for Contract No. 001750, S.R. 417 Widening from Boggy Creek Road to Narcoossee Road, Project No. 417-151.

The CONSULTANT shall provide qualified technical and professional personnel to perform the duties and responsibilities assigned under the terms of the Agreement.

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. GENERAL REQUIREMENTS

The CONSULTANT's work shall be performed and/or directed by the key personnel identified in the Agreement. Any changes in the key personnel by the CONSULTANT shall be subject to review and approval by CFX.

The CONSULTANT must 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 on the date established in the Notice to Proceed and for a period of five (5) years thereafter. For the purposes of Exhibit B, Method of Compensation, the term will be established upon determination of the construction contract schedule duration.

IV. SERVICES

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.

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 contractor and the corrective action taken. The work provided by the CONSULTANT shall in no way relieve the contractor of responsibility for the satisfactory performance of the construction contract.

B. Resident Inspection

The CONSULTANT shall provide services to monitor the contractor's on-site construction operations, and to inspect the materials entering into the work, as required, to determine that the quality of workmanship and materials is such that the projects 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 Contractor's daily operations, progress, and significant events that affect the work.

The standard procedures and practices for inspection of construction projects are set forth in the FDOT and the CFX Construction Administration Procedures Manuals. The CONSULTANT shall, in general, perform inspection services in accordance with these standard procedures and practices and approved variations as may be appropriate.

C. <u>Testing</u>

The CONSULTANT shall perform sampling and testing of component materials and completed work items to the extent that will verify that the materials and workmanship incorporated in each project are in conformity with the plans, specifications and contract provisions. The minimum sampling frequencies set forth in the FDOT's Materials Sampling, Testing and Reporting Guide

or approved variation shall be met. In complying with the guide, the CONSULTANT shall perform the on-site sampling of materials and such testing of materials and completed work items that are normally done in the vicinity of the project.

The CONSULTANT, through the services of its subconsultant, will provide off-site inspection and sampling of materials and components incorporated into the work. When applicable the CONSULTANT shall determine the acceptability of all materials and work performed at off-site facilities on the basis of certifications, certified mill analysis, FDOT labels, FDOT stamps, etc.

Sampling, testing and laboratory methods shall be as required by the aforementioned guide or as modified by the contract provisions.

Documentation reports on sampling and testing shall be submitted to responsible parties during the same week that the construction work is done or as otherwise directed by CFX's representative.

The CONSULTANT shall be responsible for storing and transporting samples to be tested. The CONSULTANT is responsible for the testing of all concrete production, if required. The CONSULTANT, as required by the project documents, will provide daily surveillance of the Contractor's Quality Control activities at the project site, and/or site of production in regard to concrete and perform verification sampling and testing at the specified frequency.

The CONSULTANT shall perform all necessary surveillance and inspection of the on-site hot-mix asphalt operations. The CONSULTANT shall provide surveillance and verification sampling and testing at any hot-mix asphalt plant providing mixes to the project.

D. Management Engineering Services

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 projects is achieved; to maintain complete, accurate records of all activities and events relating to the projects; to properly document the significant changes to the projects; to provide interpretations of the plans, specifications and contract provisions; to make recommendations to CFX to resolve disputes which arise in relation to the construction contracts; and to maintain an adequate level of surveillance of the contractor's activities. The CONSULTANT shall also perform any other management engineering services normally assigned to a Resident Engineer that are required to fulfill its responsibilities under the Agreement. All records and documentation will be in accordance with standard procedures, format and content, and the policies and procedures of CFX.

Services include, but are not limited to the following:

1. At the direction of CFX, schedule and conduct a preconstruction conference for each

- project. Record significant information and decisions made at this conference and distribute copies of these 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 Contractor's Project Construction Schedule, prepared and submitted in accordance with the Contract Documents.
- 4. Maintain, on a daily basis, a complete and accurate record of the activities and events relating to the project and a record of the work completed by the 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 roadway and bridge construction diary, including weather.
- 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 individual project.
- 8. Once each month, prepare a comprehensive tabulation of the quantity of each pay item 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 contractor and CONSULTANT. Progress estimates will 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 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 will perform incidental engineering surveys as may be necessary to carry out the services and to verify and confirm the accuracy of the contractor's survey layout work on an occasional and random basis.
- 9. Provide to the contractor interpretations of the plans, specifications, and contract

- provisions. The CONSULTANT shall consult 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 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 not within the scope of the original contract.
- 12. When it is determined that a modification to the original contract for a project is required, due to a necessary change in the character of the work, negotiate prices with the contractor and prepare and submit for approval by CFX a finding of facts and request for contract modification in accordance with applicable procedures.
- 13. In the event that the contractor gives notice, either written or verbal, that he deems certain work to be performed is beyond the scope of the construction contract, and that he 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 contractor submits a claim for additional compensation, analyze the submittal and prepare a written recommendation based on documented facts 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 Contractor for a project submits a request for extension of the allowable contract time, analyze the request in accordance with the contract and prepare a written 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 project close out documentation, 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 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 contractor and the CONSULTANT of the marked As-Built (Record) plans; and similar project close out requirements. This task must be completed within fifteen (15) calendar days after final acceptance of the project

- by CFX. The CONSULTANT is allowed an additional fifteen (15) calendar days to complete indexing and boxing project files, coordination of demobilization of CONSULTANT's property, CFX's property, and contractor's removal and cleanup of the Resident Engineer's office facilities.
- 17. Assist CFX's representatives in preparing for arbitration hearings or litigation that may occur during the CONSULTANT's contract time in connection with a project covered by the Agreement.
- 18. Monitor each construction project to the extent necessary to determine whether construction activities violate the requirements of any permits. Notify the contractor of any violations or potential violations and require his immediate resolution of the problem. Violations must be reported to CFX immediately.
- 19. Shop drawing/sample submittals and approvals shall be tracked. 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 will review samples, catalog data, shop drawings, laboratory, shop, and mill tests of materials and equipment, and other data which the contractor is required to submit, only for conformance and compliance with the design concept of the project as set forth by the Contract Documents.
- 20. Provide thorough and complete coordination between the contractor and utility companies to ensure that conflicting utilities are removed, adjusted, or protected in-place in a timely manner to minimize delays to construction operations. Documentation will be maintained in accordance with the project procedures.
- 21. The CONSULTANT's Resident Engineer will conduct a weekly meeting with the respective contractor, subcontractors, and/or utility companies to review plans, schedules, problems, or other areas of concern. The meeting minutes will be prepared, and a copy transmitted to CFX within two (2) business days following the meeting.
- 22. Conduct and document field review of the existing/proposed highway lighting, maintenance of traffic operation during and after normal working hours, weekends, holidays, and during inclement weather. If maintenance of traffic features represent a potential hazard to the public, notify the contractor's representative immediately and verify that corrective action is taken.
- 23. When needed to prevent delays in 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. The CONSULTANT shall review the contractor's baseline CPM Schedule, or other

alternative schedule accepted by CFX, as well as the contractor's monthly schedule updates consistent with the requirements of the construction contract. Prepare a detailed As-Built schedule of the contractor's work efforts. If applicable, use a minimum of the same activity codes and descriptions listed in the contractor's CPM schedule to prepare an As-Built schedule of the contractor's activities.

V. PERSONNEL

A. General Requirements

The CONSULTANT shall provide a sufficient number of qualified personnel as necessary to effectively carry out its responsibilities under the Agreement.

B. <u>Personnel Qualifications</u>

The CONSULTANT shall utilize only competent personnel who are qualified by education, experience, and certification where required. The CONSULTANT shall submit in writing to CFX the names of all personnel to be considered for assignment to the construction projects, together with a detailed resume with respect to salary, education, experience qualifications of each individual, and certifications. Minimum qualifications for the CONSULTANT's Resident Engineer and key staff members are defined in Paragraph "E" of this Article.

The CONSULTANT's personnel approval request shall be submitted at least two (2) weeks prior to the date an individual is to report to work.

C. Staffing

The CONSULTANT shall adequately staff the project and shall maintain an appropriate staff after completion of construction 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 respective contract has been closed out. The qualifications of each person proposed for assignment must be reviewed and approved in writing by CFX. An individual previously approved by CFX whose performance is later determined by CFX to be unsatisfactory shall be replaced by the CONSULTANT within one (1) week after notification.

Personnel identified in the CONSULTANT's fee proposal will be assigned to the construction projects as proposed by the CONSULTANT and are considered by CFX to be committed to performing services under the CONSULTANT's Agreement. Any changes will require written approval of CFX.

When the contractor's operations on a project diminish, the CONSULTANT shall reduce the number of its personnel assigned to that project, as appropriate. Any adjustment of the

CONSULTANT forces as recommended by CFX will be accomplished within one (1) week after notification.

In the event of a construction contract suspension which 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. Licensing for Equipment Operation

The CONSULTANT will 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. <u>Personnel Training and Experience Standards</u>

The following are the minimum training and experience standards for CONSULTANT personnel and are to be used in concert with the FDOT CEI Scope of Services minimum qualifications. In the event of a conflict between the qualifications herein and the FDOT CEI Scope of Services, the more stringent requirement shall be used. In the event a position and/or description is not provided below, use the current FDOT CEI Scope of Services for minimum training and experience standards for CONSULTANT personnel.

1. Resident Engineer/Sr. Project Engineer

Registration by the Florida State Board of Engineer Examiners as a Professional Engineer and ten (10) years of highway construction engineering experience. Experience shall include at least five (5) years of major bridge construction and at least five (5) years of roadway 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 Resident Engineer must be able to interpret and monitor scheduled construction progress; must be qualified to manage field changes, change orders, claims and public complaints.

2. Project Engineer/Project Administrator

A Civil Engineering Degree plus six (6) years of highway construction engineering experience; or ten (10) years of responsible highway construction engineering experience. Experience shall include at least two (2) years of major bridge construction. 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. A master's degree may be substituted for one (1) year of experience.

3. Office Engineer/Contract Support Specialist

High school graduate plus five (5) years construction project related experience. Should exercise independent judgment in planning work details and making technical decisions related to office aspects of the project. Receives general supervision and verbal instructions from Resident Engineer. 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.

4. <u>Senior Inspector (Roadway/Bridge)</u>

High School graduate plus eight (8) years of experience in construction inspection (four (4) years of which shall have been in roadway/bridge 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. Work is performed under general supervision of Project Engineer.

VI. 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 and/or supporting pay item quantity documentation
- G. CFX Construction Project Administration Procedures.
- H. CFX standardized forms to be used with documentation and reporting procedures.

It is the intent of CFX to provide sufficient office space to accommodate the CONSULTANT's staff during the duration of the assigned construction project. However, if CFX is unable to provide space at any time during the term of the Agreement, the CONSULTANT shall secure the necessary office space to effectively carry out the requirements of this Scope of Services. CFX will reimburse the CONSULTANT for such office expenses based on costs and fees as provided in the Method of Compensation.

VII. 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 unless specifically detailed in the costs and fees as provided in the Method of Compensation.

- A. FDOT Standard Specifications for Road and Bridge Construction, edition required by contract documents.
- B. FDOT Roadway and Traffic Design Standards, edition required by contract documents.
- 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. FDOT Guidelines for Determination of Compliance with Equal Employment Opportunity Policies, current edition.
- L. Testing and sampling supplies such as disposable molds for casting concrete cylinders, sample cartons, sample bags, sample cans and other expendable type testing supplies.
- M. Testing and sampling equipment, tools, hand levels, measuring wheels, tapes, rules,

- protective and warning equipment, and all other required devices to effectively perform the services of testing, sampling, inspection and measurement of the project.
- N. 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.
- O. Project vehicles for CFX related business. Documentation of mileage for CFX related business will be required.
- P. Project telephones and services, including long distance charges.
- Q. Surface moisture/density (nuclear) gauges, CEI personnel qualification and registration fees, licenses, personnel badges, safety restrictions, carrying lockers, and security systems.
- R. Progress photographs, videos, project claim documentation, and expenditures directed by CFX's representatives.
- S. 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 Agreement.
- T. Any additional equipment and furnishings considered by the CONSULTANT to perform the required services are optional to the CONSULTANT, at his expense.

VIII. LIAISON

The CONSULTANT shall be fully responsible for performing all tasks assigned under this Scope of Services and interrelated documents on the construction 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.

The CONSULTANT will be kept advised of project pre-bid and post-bid activities. Upon confirmation of award of the construction contract 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 CEI services. No personnel shall be assigned until written notification has been issued.

Construction Engineering and Inspection forces will generally be required of the CONSULTANT at all times while the contractor is working on the construction contract where traffic is being or could be impacted. The Resident Engineer will designate his responsible alternate at times he may be absent from the project. If the construction contract is suspended, or the work is slowed for any reason, the CONSULTANT's forces will be adjusted at the direction of CFX.

IX. COOPERATION AND PERFORMANCE OF THE CONSULTANT

During the life of the Agreement, CFX may conduct reviews of the various phases and stages of the CONSULTANT's operations, such as construction inspection, materials sampling and testing, and administrative activities.

Reviews will be conducted in accordance with established CFX policies on work phases to determine compliance with this agreement, 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 contract provisions. 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 <u>will not be allowed</u> 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 will 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.

X. SUBCONSULTANT SERVICES

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.

In the event services of a subconsultant are authorized, the CONSULTANT shall obtain a schedule of rates and CFX shall review and must approve any rates to be paid to the subconsultant. No subconsultant shall be added with out the prior written authorization of the Director of Construction. No subconsultant shall be added with projected fees over \$25,000.00 without documented prior authorization of CFX Board.

XI. 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.

- A. The CONSULTANT will, 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.
- B. The CONSULTANT will, 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).

XII. POST CONSTRUCTION CLAIMS REVIEW

In the event the contractor for the project submits a claim for additional compensation and/or time, and the CONSULTANT has completed the terms of its Agreement with CFX, 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 Agreement.

END OF SCOPE

CONSENT AGENDA ITEM #7

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams

Director of Procurement

DATE: May 26, 2021

SUBJECT: Approval of Supplemental Agreement No. 5 with Parsons Transportation Group,

Inc. for Design Consultant Services for SR 429 Widening from Florida's

Turnpike to West Road – Post Design Services Project No. 429-152, Contract No. 001395

Board approval of Supplemental Agreement No. 5 with Parsons Transportation Group, Inc. for \$1,377,030.10 is requested. The original contract was for five years with five one-year renewals.

The services to be provided include post design services during the construction phase.

Original Contract	\$ 6,750,000.00
Supplemental Agreement No. 1	\$ 0.00
Supplemental Agreement No. 2	\$ 2,061,383.23
Supplemental Agreement No .3	\$ 376,076.98
Supplemental Agreement No. 4	\$ 479,691.04
Supplemental Agreement No. 5	\$ 1,377,030.10
Total	\$11,044,181.35

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

Reviewed by:

Will Hawthorne, PE Director of Engineering Glenn Pressimone, PE

SUPPLEMENTAL AGREEMENT NO. 5

TO

AGREEMENT FOR PROFESSIONAL SERVICES

POST DESIGN SERVICES

SR 429 Widening from Florida's Turnpike to West Road

THIS SUPPLEMENTAL AGREEMENT NO. 5 TO AGREEMENT FOR PROFESSIONAL SERVICES POST DESIGN SERVICES ("Supplemental Agreement") is made and entered into this ______ day of _______, 2021, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, an agency of the State of Florida, hereinafter called "CFX" and the consulting firm of PARSONS TRANSPORTATION GROUP INC., an Illinois corporation, hereinafter called the "CONSULTANT."

WHEREAS, CFX and CONSULTANT entered into that certain Agreement for Professional Services dated November 8, 2018, as amended or supplemented by that certain Supplemental Agreement No. 1 between CFX and CONSULTANT dated March 17, 2020, as amended or supplemented by that certain Supplemental Agreement No. 2 between CFX and CONSULTANT dated June 15, 2020, as amended or supplemented by that certain Supplemental Agreement No. 3 between CFX and CONSULTANT dated September 21, 2020, as amended or supplemented by that certain Supplemental Agreement No. 4 between CFX and CONSULTANT dated February 11, 2021 (collectively, "Agreement"); and

WHEREAS, Section 4.24 of the Scope of Services, as defined in the Agreement, and

attached to the Agreement as Exhibit "A" provides that after completion of the services outlined therein for Project Number 429-152, CFX may negotiate with the CONSULTANT to enter into a supplemental agreement to provide post design services; and

WHEREAS, Articles 2.00 and 12.00 of the Agreement provide that in the event that CFX elects to add, delete or change the services outlined in the Scope of Services, the compensation to be paid to the CONSULTANT shall be subject to adjustment as shall be mutually agreed upon by CFX and CONSULTANT pursuant to 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 the post design services required as outlined in the correspondence to CFX dated May 19, 2021, which is attached hereto as Exhibit "A" and incorporated herein by reference ("Post Design Services"). Section 4.24 of Exhibit "A" of the Agreement and the Scope of Services shall be amended and supplemented to include the Post Design Services.
- 2. All invoices from the CONSULTANT for Post Design Services shall be submitted to CFX with complete documentation. Invoices for Post Design Services shall not be a continuation of the original CONSULTANT'S contract amount for final design services and shall only be for those Post Design Services as outlined in this Supplemental Agreement. Compensation for Post Design Services shall be invoiced to CFX at an hourly rate, inclusive of overhead, profit and expenses (exclusive of travel). The hourly rate shall be calculated using the employee's actual direct salary and the negotiated Post Design Services multiplier, as outlined in the correspondence attached hereto as Exhibit "A" and incorporated herein by reference. Direct expenses will be

reimbursed for local travel only (per mile). The maximum fee for Post Design Services shall be \$1,377,030,10.

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 amendments or 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 this Supplemental Agreement to be executed the day and year first above written.

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

By:
Aneth Williams, Director of Procurement
PARSONS TRANSPORTATION GROUP INC.
By:
Print Name:
Title:
Approved as to form and execution for Central Florida Expressway Authority's exclusive use and reliance. By:
Diego "Woody" Rodriguez
General Counsel for CFX



MEMORANDUM

Date: May 26, 2021

To: Will Hawthorne, PE CFX Director of Engineering

From: Scott Kamien M, PE

Subject: Design Consultant Services - Contract 001395

CFX Project No. 429-152

SR 429 Widening from FTE to West Road - Supplemental Agreement #5

Comments:

I have reviewed the Post Design fee sheet and scope of services submitted by Parson Transportation Group provided via email on May 19, 2021 for the SR 429 Widening from FTE to West Road. SA #5 is for Post Design Professional Services associated with the construction plans and bid documents for this widening project.

Supplemental Agreement #5 request is attached and costs are detailed below:

\$ 951,397.15 Parson as Prime\$ 425,632.95 Subconsultant Fees

\$ 1,377,030.10 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 \$1,377,030.10.

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 19, 2021

Mr. Will Hawthorne, P.E. Director of Engineering Central Florida Expressway Authority 4974 Orl Tower Rd. Orlando, FL 32807

Re: SR 429

From South of Florida's Turnpike to West Road Contract 001395; Project 429-152 Post Design Supplemental Agreement (SA #5)

Dear Will:

For your review and approval, please find attached one (1) copy of Supplemental Agreement (SA #5) for post design services for the subject project. This SA package includes the following:

- 1. Post Design Scope Exhibit A
- 2. Staff Hours
- 3. Fee Details

Should you have any questions or need any additional information, please feel free to contact me at 407-415-4648 or <u>Thomas.e.Davidson@Parsons.com</u>. I look forward to continuing our work together on this important CFX project.

Sincerely,

Ted Davidson, P.E. Project Manager

Cc: file 649388



Exhibit "A"

Project 429-152 S.R. 429 WIDENING FROM FLORIDA'S TURNPIKE TO WEST ROAD

Post-Design Scope of Services

4.24 Post-Design Services

- A. Services shall begin after authorization by CFX. The Consultant compensation for postdesign 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.

Parsons Transportation Group, Inc.

Prime Consultant SR 429 Widening from South of Florida's Turnpike to West Road 429-152 Post Design Fee Proposal

Total Fee: \$1,377,030.10

SUPPLEMENTAL AGREEMENT NO. 4

TO

AGREEMENT FOR PROFESSIONAL SERVICES

FINAL DESIGN

SR 429 Widening from Florida's Turnpike to West Road

THIS SUPPLEMENTAL AGREEMENT NO. 4 TO AGREEMENT FOR PROFESSIONAL SERVICES FINAL DESIGN ("Supplemental Agreement") is made and entered into this <a href="https://linear.com/linea

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, and as amended or supplemental by that certain Supplemental Agreement No. 3 between CFX and CONSULTANT dated September 21, 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 January 21, 2021 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 \$370,602.05 to \$4,627,452.66.
 - b. The Direct Expenses Lump Sum (Prime) remains unchanged at \$19,540.63.
 - c. The Subcontract Items are adjusted upward by \$109,088.99 to \$5,020,157.96 as follows:

• BASE	\$36,350.57
•Moffatt & Nichol	\$69,570.89
• Scalar	\$3,167.53

d. The Allowance remains unchanged at \$0.00.

e. The Total Maximum Limiting Amount is adjusted upward by \$479,691.04 to

\$9,667,151.25.

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: 2021.02.17 11:55:03 -05'00'

Aneth Williams, Director of Procurement

PARSONS TRANSPORTATION GROUP, INC.

Print Name: Rhet Schmidt, P.E.

Title: Vice President

Approved as to form and execution for CFX's

exclusive use and reliance.

By:

Laura N. Kelly, Associate Digitally signed by Laura N. Kelly, Associate General Counsel Date: 2021.02.17 11:03:50 -05'00'

Diego "Woody" Rodriguez

General Counsel

3



MEMORANDUM

Date: January 22, 2021

To: Will Hawthorne, PE CFX Director of Engineering

From: Scott Kamien, PE SMK

Subject: Design Consultant Services - Contract 001395

CFX Project No. 429-152

SR 429 Widening from FTE to West Road – Supplemental Agreement #4

Comments:

I have reviewed the fee sheet and scope of services submitted by Parson Transportation Group provided via email on January 21, 2021 for the SR 429 Widening from FTE to West Road. SA #4 is for additional professional services to prepare construction plans and bid documents including changes on the MOT due to modifying the Milling and Resurfacing and the addition of Noisewall 10.

Supplemental Agreement #4 request is attached and costs are detailed below:

\$ 370,602.05 Parsons as Prime

\$ 109,088.99 Subconsultant Fees

\$ 479,691.04 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 \$479,691.04.

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

CC:

Keith Jackson, PE Dewberry File

PARSONS

Exhibit "A"

201 E. Pine Street, Suite 900 • Orlando, Florida 32801-2722 • (407) 702-6800 • Fax: (407) 702-6950 • www.parsons.com

January 21, 2021

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 #4

Dear Scott:

For your review and approval for the Authority's execution, please find attached one (1) copy of Supplemental Agreement (SA) No. 4 for the revisions to the scope of work for the subject project. This SA No. 4 package includes the following:

- 1. Scope of Work Revisions
- 2. Additional Staff Hours
- 3. Revised Fee Details

The SA includes Traffic Control and Milling & Resurfacing modifications based on directives, adding Noise Barrier with an ultimate typical section, and additional widening related items. Should you have any questions or need any additional information, please feel free to contact me at 407-415-4648 or Thomas.e.Davidson@Parsons.com. 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 #4 OCTOBER 27, 2020 (REVISED JANUARY 21, 2021)

SCOPE OF WORK

This Supplemental Agreement (SA) is prepared due to changes in the Traffic Control and Milling and Resurfacing approach for the project. Other added scope includes additional typical sections, drainage structures, and retaining wall control drawings to address roadway widening changes as well as potential retrofitting of existing retaining walls due to possible sub-standard existing panel straps in the median.

Additionally, it includes added 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 permitting, infield retention pond protection, and signing & pavement marking directives.

The 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 scope of work will impact the design schedule. The current schedule is proposed to be amended with an additional 2 months to incorporate the changes.

1) Scope of Work Items

1. Project Control

- A. Additional time for public meeting support.
- B. Contract maintenance and progress meetings for an additional 2 months.

2. 4.5 Geotechnical Investigations

A. Antillian will acquire borings and prepare a report for additional noise barrier wall limits, including retaining wall (under previous remaining budget).

3. 4.10 Environmental Permits

A. Parsons and Scalar will provide additional permitting support for any potential impacts generated by the additional widening for noise barriers.

4. 4.12 Roadway Design

- A. Parsons will evaluate the proposed Traffic Control changes to accommodate the revised pavement milling approach and conform the roadway plans to match.
- B. Parsons will update the typical sections and milling details to reflect the revised milling and resurfacing approach. Parsons will also provide additional typical sections to fully represent the widening changes.
- C. Parsons will revise cross sections and cross slopes to incorporate revised milling approach.
- D. Parsons will update roadway geometry to incorporate retaining wall geometry for wall required to incorporate all widening changes.
- E. Parsons is providing plans that incorporate changes to the Plant Street typical section to use sidewalk rather than a trail on the Winter Garden side of SR 429.
- F. Parsons will design and update typical sections, roadway plans, cross sections, quantities, access, details and other pertinent items or documents for additional

- outside widening from approximately Sta. 241 to Sta. 276 on the NB side, plus transitions from the full widening back to the standard section, to accommodate the ultimate noise barrier placement.
- G. Parsons will update Utility Adjustment Plans for any potential impacts from revised roadway widening.
- H. Parsons will modify the roadway to design to provide 8' high CIP noise barriers at the approach and departure ends of the Northwest Ditch Bridge.
- Parsons will modify Ramp D to ensure access to Ponds B2 and C1 based on ultimate sections.
- J. Parsons will provide plans for protection of existing infield ponds within the Plant Street interchange based on direction and a pending change to the CFX Design Guidelines
- K. Parsons will provide permit services for FDOT driveway connection permits for Franklin Street.

5. 4.13 Structures Design

- A. Parsons will prepare retaining wall control drawings to capture widening changes for roadway retaining wall that prevents pond encroachment or prevents ROW encroachment.
- B. Parsons will prepare retrofit plans or mitigation methods for existing MSE wall panels that do not meet the redundancy criteria required by code for the number of straps.
- C. Parsons will update the bridge plans to re-label or re-phase bridge construction based on the revised Traffic Control scheme
- D. Parsons will design new roadway retaining wall within the modified roadway limits to accommodate the ultimate noise barrier placement and pond access to prevent ROW encroachment.
- E. Parsons will design 8' high CIP noise barrier along the Northwest Ditch NB bridge.
- F. Parsons will design critical temporary retaining wall, as necessary, to accommodate construction of the new retaining wall.
- G. BASE will prepare additional noise barrier control drawings and details within the roadway limits mentioned above.

6. 4.14 Drainage Design

- A. Parsons will prepare designs and plans for additional drainage structures necessary to accommodate collection and conveyance systems for widening changes.
- B. Parsons will design additional collection and conveyance systems and update analyses and plans for the widened roadway limits to accommodate ultimate placement of noise barriers.

7. 4.16 Traffic Engineering

- A. Maintenance of Traffic Plans: Moffatt and Nichol will prepare additional traffic control documentation and plans for additional effort for revising the traffic control phasing for full depth milling of the existing mainline pavement (utilizing newly added inside lanes to help phase milling & resurfacing). Also included is revision of the traffic control for the full reconstruction of Plant Street rather than milling and resurfacing.
- B. Moffatt and Nichol tasks also include:
 - Traffic Control Analysis: Revise the traffic control to show construction of the ultimate SR 429 typical section from Sta 241+00 to Sta 276+00, which will include phasing, plan, and cross section revisions.
 - Traffic Control Design Files Revise traffic control phasing for ultimate SR 429 typical section from Sta 241+00 to Sta 276+00.

8. 4.17 Signing & Pavement Marking Plans

- A. Parsons will adjust striping and overhead sign structures impacted by the roadway modifications for noise barrier ultimate placement.
- B. Parsons will modify guide sign worksheets as directed.

9. 4.22 Fiber optic Network (FON) & Intelligent Transportation Systems (ITS)

- A. Parsons will revise FON & ITS design plans to accommodate the roadway modifications for ultimate noise barrier placement.
- B. Parsons will update ITS and electrical design to accommodate October 2020 ITS standards/directives.

SUPPLEMENTAL AGREEMENT NO. 3

TO

AGREEMENT FOR PROFESSIONAL SERVICES

FINAL DESIGN

SR 429 Widening from Florida's Turnpike to West Road

	THIS	SUPPLEMEN	TAL A	GREEME	NT 1	NO.	3	TO	AGREEN	MENT	FOR
PROFI	ESSIONA	L SERVICES	FINAL	DESIGN	("Sup	pleme	ntal	Agre	ement")	is made	e and
entered	into thi	21st	day of_	Septemb	oer ——		,	2020,	by and	betwee	n the
CENTI	RAL FLO	RIDA EXPRE	SSWAY .	AUTHOR	ITY, a	corpo	rate	body	and agend	cy of the	State
of Flor	da, hereir	nafter called "C	FX", and	the consul	ting fii	rm of P	PAR	SONS	TRANS	PORTA'	TION
GROU	P, INC., a	ı Florida corpoi	ration, her	einafter ca	ılled th	ne "CO	NSU	ULTA	NT".		

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
• Moffatt & Nichol	\$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

Aneth Williams Digitally signed by Aneth Williams Date: 2020.09.21 11:57:35 -04'00'

Aneth Williams, Director of Procurement

PARSONS TRANSPORTATION GROUP, INC.

Print Name: Rhet L. Schmidt, PE

Title: Vice President

Approved as to form and execution for CFX's

exclusive use and reliance.

Laura N. Kelly Digitally signed by Laura N. Kelly Date: 2020.09.18 13:42:08-04'00'

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

3

SUPPLEMENTAL AGREEMENT NO. 2

TO

AGREEMENT FOR PROFESSIONAL SERVICES

FINAL DESIGN

SR 429 Widening from Florida's Turnpike to West Road

	THIS SUPP	PLEMENTAL AGREEMENT is made and entered into this	15th	_ day
of	June	, 2020, by and between the CENTRAL FLORIDA EX	PRESSW	AY
AUTH	ORITY, a cor	rporate body and agency of the State of Florida, hereinafter cal	lled "CFX	"
and the	consulting fir	rm of PARSONS TRANSPORTATION GROUP, INC. of Orl	lando, Flor	rida,
hereina	fter called the	e "CONSULTANT".		

WHEREAS, Articles 2.0 and 11.0 of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 8th 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:

- 1. 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.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

 $By: \begin{array}{c} \textbf{Aneth Williams} & \begin{array}{c} \textbf{Digitally signed by Aneth Williams} \\ \hline \textbf{Director of Procurement} \end{array}$

PARSONS TRANSPORTATION GROUP, INC.

Print Name: Rhet L. Schmidt, P.E.

Title: Vice President

Approved as to form and execution, only.

Diego "Woody"

Digitally signed by Diego
"Woody" Rodriguez

Rodriguez Date: 2020.06.15 13:51:29 -04'00'

General Counsel for CFX

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

SUPPLEMENTAL AGREEMENT NO. 1

TO

AGREEMENT FOR PROFESSIONAL SERVICES

FINAL DESIGN

SR 429 Widening from Florida's Turnpike to West Road

THIS 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. of Orlando, Florida, hereinafter called the "CONSULTANT".

WHEREAS, Articles 2.0 and 11.0 of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 8th 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:

AVE NOT 15 1271.1

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:

Pitle: VICE PRESIDENT

Approved as to form and execution, only.

General Counsel for CE

\\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

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	<u>Title</u>	
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	
2.0.	SERVICES TO BE PROVIDED	
3.0.	TERM OF AGREEMENT AND RENEWALS	1
4.0.	TROJECT SCHEDULE	_
5.0.	I NOTESSIONAL STAFF	
6.0.	CADVIETNAATII NA	
7.0.	DOCUMENT OWNERSHIP AND RECORDS	_
8.0.		
9.0.	WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE	-
10.0.	I ENVIRATION	-
11.0.	ADJUSTMENTS	_
12.0.	HOLD HARVILESS AND INDEMNIFICATION SOVERFIGN IMMEDITY	0
13.U.	INCKINGEMENT OF PATENTS AND CODVDICTITE	
14.0.	THIND PARTY BENEFICIARY	10
15.0.	INSURANCE	
10.0.	COMMUNICATIONS, PUBLIC RELATIONS, AND LIGE OF LOCOS	10
1 / .U.	STANDARD OF CONDUCT	1.0
10.0.	DOCUMENTED ALIENS	
17.0	L-VERIET LAUNE	
20.0.	CONTLICT OF INTERES!	1.4
-1.0.	HIGH ECTOR GENERAL	1 4
ZZ.U.	PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION OF A TEMPLE	1.4
<i>23.</i> 0.	COMPANIES PURSUANT TO SECTION 287 135 AND 215 473	10
44.U.	AVAILABILLLY OF FUNDS	
<i>43.</i> 0.	AUDIT AND EXAMINATION OF RECORDS	15
40.0.	OUVERNING LAW AND VENTE	11
47.0.	NOTICE	17
∠0.0.	TILADINUS	1 7
49.U.	CONTRACT LANGUAGE AND INTERPRETATION	17
30.0.	ASSIGNMEN I	10
31.U.	SEVERABILITY	10
32.0.	INTEGRATION	10
<i>33.</i> 0.	ATTACHMENTS	.18

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 27 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	GENE	ERAL	5	
	1.1	Location		
	1.2	Description		
	1.3	Purpose	5	
	1.4	Organization	6	
	1.5	Term of Agreement for Design Services	6	
2.0	STAN	DARDS		
3.0		GN CRITERIA		
	3.1	General		
	3.2	Geometry	8	
	3.3	Bridge and Other Structures		
4.0	WOR	K PERFORMED BY CONSULTANT		
	4.1	Design Features		
	4.2	Governmental Agencies		
	4.3	Preliminary Design Report - Review		
	4.4	Surveys and Mapping		
	4.5	Geotechnical Investigation		
	4.6	Contamination Impact Analysis	16	
	4.7	Pavement Design		
	4.8	Borrow Pits	17	
	4.9	Governmental Agency and Public Meetings	17	
	4.10	Environmental Permits		
	4.11	Utilities	19	
	4.12	Roadway Design	20	
	4.13	Structures Design		
	4.14	Drainage Design		
	4.15	Roadway Lighting		
	4.16	Traffic Engineering	25	
	4.17	Signing and Pavement Marking Plans		

	4.18	Signalization Plans	26
	4.19	Right-of-Way Surveys	
	4.20	Cost Estimates	
	4.21	Special Provisions and Specifications	
	4.22	Fiber Optic Network (FON)	
	4.23	Toll Plazas	
	4.24	Post-Design Services	30
5.0	MATE	ERIALS FURNISHED BY CFX OR ITS DESIGNEE	32
	5.1	Record Documents	32
	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	
	6.2	Utility Agreements	33
	6.3	Public Involvement	
	6.4	Contracts and Specifications Services	33
	6.5	Post-Design Services	33
	6.6	Environmental Permits	33
	6.7	Conceptual Specialty Design	
7.0	ADMI	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	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 15 min. single lane	12 inner lanes 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	
Constant			
Cross Slopes Traffic Lanes	2% (4-lane)	2%	2%
Hairic Lanes	3% or tbd (6-lane)	2/0	2/0
Bridge Lanes	2% typ. (no break)		()
Left Shoulder	Match Mainline	5%	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.
- 10. 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

Project 429-152 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 A-36

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

- 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

MEMORANDUM

TO: **CFX Board Members**

Aneth Williams FROM:

Director of Procurement

DATE: May 22, 2021

SUBJECT: Approval of Contract Award to Kenyon & Partners, Inc. for Air Conditioner Replacements

> for Toll Plazas on SR 408, SR 414 and SR 429 Project No. 599-419, Contract No. 001771

An Invitation to Bid for the above referenced project was advertised on March 28, 2021. Two (2) responses were received by the May 5, 2021 deadline. As required by the Procurement Procedures Manual, the Director of Procurement met with the Chief of Infrastructure and the Director of Engineering to review options when less than three bids are received. After discussion and consideration, it was agreed that the solicitation process should proceed.

Bid results were as follows:

	Bidder	Bid Amount
1.	Kenyon & Partners, Inc.	\$1,585,054.73
2.	Air Mechanical & Service Corporation	\$1,988,612.00

The engineer's estimate for this project is \$1,781,550.00. Included in the Five-Year Work Plan is \$1,700,000.00.

The work consists of providing all labor, materials, equipment and incidentals necessary to replace toll plaza air conditioners on SR 408, SR 414, and SR 429.

Board award of the contract to Kenyon & Partners, Inc. in the amount of \$1,585,054.73 is requested.

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

Reviewed by:

Director of Engineering



CONTRACT



KENYON & PARTNERS, INC.

AC REPLACEMENTS FOR TOLL PLAZAS ON SR 408, SR 414, AND SR 429

PROJECT NO. 599-419, CONTRACT NO. 001771

CONTRACT DATE: JUNE 10, 2021 CONTRACT AMOUNT: \$1,585,054.73

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

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	Page
C	CONTRACT	C-1 to C-2
	Memorandum of Agreement	1 to 6
GS	GENERAL SPECIFICATIONS	1 - 108
	Attachment A	ATT-1 to ATT-9
	(See General Specifications Table of Contents specifications sections.)	ts for listing of individual
TS	TECHNICAL SPECIFICATIONS	TS-1 to TS-9
	(See Technical Specifications Table of Ospecifications sections.)	Contents for listing of individual
SP	SPECIAL PROVISIONS	SP-1 to SP-23
	(See Special Provisions Table of Contents for	listing of each special provision.)
TSP	TECHNICAL SPECIAL PROVISIONS	TSP-1 to TSP-143
	(See Technical Special Provisions Table of specifications sections.)	f Contents for listing of individual
	Addendum No. 1 Addendum No. 3	Addendum No. 2
P	PROPOSAL	P-1 to P-12
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2
PCB	PUBLIC CONSTRUCTION BOND	PCB-1 to PCB-4

Plans

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

FOR

AC REPLACEMENTS FOR TOLL PLAZAS ON SR 408, SR 414, AND SR 429

PROJECT NO. 599-419 CONTRACT NO. 001771

JUNE 2021

CONTRACT

This Contract No. 001771 (the "Contract"), made this 10th day of June 2021, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and Kenyon & Partners, Inc., of 3203 Queen Palm Dr., Tampa, Fl. 33619, 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 Performance and Payment 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 No. 599-419, AC Replacements for Toll Plazas on SR 408, SR 414, and SR 429, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 180 calendar days. The Contract Amount is \$1,585,054.73. This Contract was awarded by the Governing Board of CFX at its meeting on June 10, 2021.

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, Technical Special Provisions, Plans or other Contract Documents,
- 4. The Plans,
- 5. The Special Provisions,
- 6. The Technical Special Provisions,
- 7. The Technical Specifications,
- 8. The General Specifications,
- 9. The Standard Specifications,
- 10. The Design Standards, and
- 11. 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	;
	Print Name	
DATE:		
KENYON & PARTNER	S, INC.	
Ву:	G	
	Signature	
	Print Name	
	Title	
ATTEST:		(Seal)
DATE:		
Approved as to form and	d execution, only.	
General Co	unsel for CFX	
	Signature	
	Print Name	

MEMORANDUM OF AGREEMENT

PRE-AWARD MEETING TO REVIEW PLANS, SPECIFICATIONS AND DOCUMENTS May 13, 2021

This Pre-Award Meeting Memorandum ("Memorandum") for AC Replacements for Toll Plazas on SR 408, SR 414, and SR 429, CFX Project No. 599-419, is made and entered this 13th day of May, 2021, 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, KENYON & PARTNERS, INC. ("Contractor"), a Florida corporation with offices at 3203 Queen Palm Drive, Tampa, FL 33619, (individually, "Party" and collectively, "Parties").

WITNESSETH THAT:

WHEREAS, the CFX will enter into an agreement with Contractor to construct Project No. 599-419 ("Project") 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. 599-419 and the Contractor has agreed to provide such Services in accordance with its bid of May 5, 2021;

WHEREAS, the Services generally consist of the construction of providing all labor, materials, equipment and incidentals necessary to replace AC's along S.R. 408, SR 414 and SR 429 in Orange County, Florida;

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 May 13, 2021, between 8:00 a.m. and 9:00 a.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 work shall reach substantial completion within 200 calendar days and be ready for final acceptance by CFX within 230 calendar days after the charging of contract time begins. CFX will issue the NTP within 30 calendar days after execution of the Contract. A period of 60 calendar days will be allowed after the NTP is issued for the Contractor to begin construction procurement activities on the project. To allow sufficient construction procurement time, CFX will issue the conditional NTP, and upon the confirm material delivery date, CFX will issue the construction NTP.
- B. This project includes the replacement of HVAC equipment at the existing operational buildings. Building shall remain operational at all times during construction. Provide temporary heating and colling equipment that shall maintain the existing building at a temperature of 68 to 78 degrees F and a relative humidity of 40% to 60%. Repair any damage caused by construction activities.
- C. Interruption of services shall be minimized as much as possible and shall be coordinated with the Owner in advance in order to schedule all interruptions during non-critical times. Any interruption of service shall be approved by the Owner prior to the start of any interruption. Contractor shall prepare a detailed schedule of planned interruptions and each interruption shall have a maximum time duration indicated. The proposed schedule must be approved by the Owner prior to the start of any interruption and the Contractor shall be held to the approved duration all times.
- D. Ductwork, piping and equipment location shown are schematic. Prior to excavation, layout and construction of the mechanical systems, the contractor shall submit layout and fabrication shop drawings for approval. The Contractor shall not commence work without approved shop drawings on the construction site.
- E. Lane & Ramp Closure Requirements: The Contractor shall adhere to the provisions of the FDOT Standard Plans Index 102-667 for mainline and ramp plaza lane closures. One (1) lane of the ramp plaza(s) shall remain open at all times. Submit a site-specific traffic control plan for approval prior to beginning any work activities requiring a lane closure. The

allowable times for lane closures are 10:00 pm to 6:00 am. Delay costs to the public will result if all lanes and ramps are not open to traffic during the times shown above. The Contractor shall plan its operations such that all equipment and materials, except those required for the safety of the traveling public, are removed from the clear zone and lanes/ramps are reopened for traffic by the times noted. For lane/ramp closures that occur outside the allowable time periods shown in the Plans, a lane rental fee will be assessed on the Contractor in the amount of \$1,000 per lane/ramp for each minute that any lane/ramp is not open to traffic.

- F. Building Security: Contractor shall coordinate and cooperate with CFX in maintaining the required level of security at this facility. Contractor shall provide all workers with photo identification badges. All workers shall be required to sign in and out of the job site each day. Contractor shall coordinate the hours of work with plaza manager/supervisor and obtain proper admittance and exit to the building and recording room.
- G. Coordination: Construction by others may be underway within the project limits during the term of the Contract. The Contractor shall coordinate construction operations with the operations of the other contractors, as necessary.
- H. Direct Materials Purchase Option: CFX will not utilize on this project.
- I. M/W/DBE Participation: The proposed M/W/DBE Utilization Summary is 7%, which is below CFX 15% objective. The exception requires that the Contractor provide CFX with documentation supporting that every reasonable effort has been made to achieve CFX's participation objective.
- J. Contractor will utilize subcontractor Conti, LLC to comply with CFX's prequalification requirement for "Electrical Work".
- K. Prior performing the proposed work the CEI and Contractor will review the work performed under previous contract and will make a necessary adjustments if needed to the current work scope.
- L. Correction to Addendum #02, Question 6's Answer: On the Bid Form, Item # 0999-005-000, Toll Booth Type 4, there are eight (8) Type 4 Toll Booths listed but none found in the drawings. Also, Drawing AM-307, HVAC Plan Toll Booths, does not show a detail for a Type 4 Toll Booth. Please confirm there are no Type 4 Toll Booths on this project. Revised Response: There are four (4) Type 4 toll booths with two HVAC units, 1 each at Independence Northbound, Independence Southbound, Coral Hills Westbound and Coral Hills Eastbound. These "booths" are not the traditional manned booths, these "booths" at these locations include an attendant space and an adjoining recorder room space. The rooftop unit installation will be similar to those rooftop units installed at the ramp plazas and not the typical manned booths that are detailed on sheet AM-307. Refer to sheets AM-305, AM-306, AM-308, AM-309, AM-310, and AM-215.

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 EXPRESSWAY AUTHORITY	
By:	
Bernard V. Dreiling, P.E.	
Name	
Director of Construction	
Linkoph Me	
Witness	
(CONTRACTOR)	
By: Dean Kenyon	
Name	
President	
Form Mile	

Witness

ATTACHMENT A

CENTRAL FLORIDA EXPRESSWAY AUTHORITY AC REPLACEMENTS FOR TOLL PLAZAS ON SR 408, SR 414, AND SR 429 PROJECT NO. <u>599-419</u> PRE-AWARD MEETING TO REVIEW PLANS, SPECIFICATIONS AND DOCUMENTS

LIST OF ATTENDEES

May 13, 2021

NAME & COMPANY	ADDRESS	PHONE/FAX
Ben Dreiling, CFX	4974 ORL Tower Road, Orlando, FL 32807	407-468-7581
Jack Burch, CFX	4974 ORL Tower Road, Orlando, FL 32807	407-690-5339
Will Hawthorne, CFX	4974 ORL Tower Road, Orlando, FL 32807	407-690-5337
Jamison Edwards, CFX	4974 ORL Tower Road, Orlando, FL 32807	407-690-5348
Iranetta Dennis, CFX	4974 ORL Tower Road, Orlando, FL 32807	407-690-5011
Kim Murphy, CFX	4974 ORL Tower Road, Orlando, FL 32807	407-690-5369
Jitu Prajapati, PICS	711 Ciara Creek Cove, Suite 1009 Longwood, FL 32750	407-709-0207
Craig Sonner, PICS	711 Ciara Creek Cove, Suite 1009 Longwood, FL 32750	407-310-9658
Wayne Evans, KPI	3203 Queen Palm Drive, Tampa, FL 33619	813-373-4879
Ira Cruz, PICS	711 Ciara Creek Cove, Suite 1009 Longwood, FL 32750	352-989-7982
Julie Andrews, Dewberry	800 North Magnolia Ave., Suite 1000 Orlando, FL 32803	321-354-9724
Daniel Sokol, Hill	4700 Millenia Boulevard, Suite #370 Orlando, FL 32839	904-479-0513
David Reed, Protean	100 east pine street, suite 600 Orlando, FL 32801	407-246-0044

ATTACHMENT B CENTRAL FLORIDA EXPRESSWAY AUTHORITY AC REPLACEMENTS FOR TOLL PLAZAS ON SR 408, SR 414, AND SR 429 PROJECT NO. 599-419

PRE-AWARD MEETING TO REVIEW PLANS, SPECIFICATIONS AND DOCUMENTS May 13, 2021

INTRODUCTIONS See attachment A

REVIEW TOPICS

- 1. Bid Blank Package
- 2. General Specifications, Technical Specifications and Special Provisions
- 3. Plans Dated February 2021
- 4. Addendum 1 (4/01/2021) Addendum 2 (4/28/2021) Addendum 3 (4/29/2021)
- 5. Coordination
- 6. Building Security
- 7. D/M/WBE Participation

OTHER BUSINESS

EXECUTION OF MEMORANDUM

CLOSING REMARKS

TABLE OF CONTENTS

Secti	on Name	Page No.
Section 1 - I	Definitions and Terms	1
1.1	General	1
1.2 1.3	Abbreviations Definitions	1 2
G .: 2 6		1.1
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 Differing Site Conditions	
	2.3.4 Changes Affecting Utilities	
2.4	Claims by Contractor	15
	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	23
2.6	Right To and Use of Materials Found at the Site of the Work	23
	2.6.1 Ownership and Disposal of Existing Materials	
	2.6.2 Ornamental Trees and Shrubs	
2.7	Restoration of Right of Way	23

TABLE OF CONTENTS (Continued)

Section 3 - Co	ontrol o	f the Work	25
3.1	Plans	and Working Drawings	25
		Plans and Contract Documents	
	3.1.2	Authority's Plans	
		Alterations in the Plans	
	3.1.4	Shop Drawings	
3.2		lination of Plans and Specifications	37
3.3		ormity of Work with Plans	38
	3.3.1	Record Drawings	
3.4	Pre-A	ward Meeting (if required)	39
3.5		s and Instructions	40
	3.5.1	Observation of the Work	
	3.5.2	Examination of the Work	
	3.5.3	Communications	
3.6	Engin	eering and Layout	42
	_	Control Points Furnished by the Authority	
	3.6.2	Furnishing of Stake Material	
	3.6.3	Layout of Work	
	3.6.4	Personnel, Equipment, and Record Requirements	
	3.6.5	Payment	
3.7	Contra	actor's Supervision	43
	3.7.1	Prosecution of Work	
	3.7.2	Contractor's Superintendent	
	3.7.3	Supervision for Emergencies	
	3.7.4	Worksite Traffic Supervisor	
3.8	Gener	al Inspection Requirements	45
	3.8.1	Cooperation by Contractor	
	3.8.2	Failure of the Authority to Reject Work During Construction	
	3.8.3	Failure to Remove and Renew Defective Materials and Work	
3.9	Final 1	Inspection and Acceptance	46
	3.9.1	Maintenance Until Final Acceptance	
	3.9.2	Inspection for Substantial Completion	
	3.9.3	Final Inspection	
	3.9.4	Final Acceptance	
	3.9.5	Recovery Rights Subsequent to Final Payment	

TABLE OF CONTENTS (Continued)

Section Name		Page No.
3.10 3.11	Audit and Examination of Contract Records and Bid Records Prevailing Party Attorney's Fees	47 49
Section 4 - Co	ontrol of Materials	51
4.1	Acceptance Criteria 4.1.1 General 4.1.2 Pretest By Manufacturers 4.1.3 Certification 4.1.4 Warranty and Guaranty	51
4.2 4.3	Designation of a Specific Product as a Criterion ("Or Equal" Clause) Source of Supply and Quality Requirements 4.3.1 Only Approved Materials to be Used 4.3.2 Notification of Placing Order 4.3.3 Approval of Source of Supply	52 52
4.4	Inspection and Tests at Source of Supply 4.4.1 General 4.4.2 Cooperation by Contractor 4.4.3 Retest of Materials	53
4.5	Storage of Materials and Samples 4.5.1 Method of Storage 4.5.2 Use of Right of Way for Storage 4.5.3 Responsibility for Stored Materials 4.5.4 Storage Facilities for Samples	53
4.6	Defective Materials	54

TABLE OF CONTENTS (Continued)

Section Name			Page No.
Section 5 - Le	gal Rec	quirements and Responsibility to the Public	55
5.1	Laws	to be Observed	55
	5.1.1	General	
	5.1.2	Occupational Safety and Health Requirements	
5.2	Permit	ts and Licenses	55
5.3	Patent	ed Devices, Materials and Processes	56
5.4	Right	of Way Furnished by the Authority	56
5.5		ry Provisions	57
5.6	Contro	ol of the Contractor's Equipment	57
	5.6.1	Traffic Interference	
	5.6.2	Overloaded Equipment	
	5.6.3	Crossings	
	5.6.4	Protection from Damage by Tractor-Type Equipment	
5.7	Preser	vation of Property	57
	5.7.1	General	
	5.7.2	Failure to Restore Damaged Property	
	5.7.3	Utilities	
5.8	Respo	nsibility for Damages, Claims, etc.	59
	5.8.1	Contractor to Provide Defense Against Claims and Suits	
	5.8.2	Guaranty of Payment for Claims	
5.9	Insura	nce	60
	5.9.1	Schedule of Required Limits for Workers' Compensation,	
		General Liability and Automobile Liability	
	5.9.2	Workers' Compensation and Employer's Liability Insurance	
	5.9.3	Comprehensive General Liability Insurance	
	5.9.4	Comprehensive Automobile Liability Insurance	
		Umbrella/Excess Liability Insurance	
		Builder's Risk	
		Railroad Insurance	
		Pollution Legal Liability	
	5.9.9	Professional Liability	

TABLE OF CONTENTS (Continued)

Section Name		Page No
5.10	Contract Bond (Public Construction Bond) Required 5.10.1 General Requirements of the Bond 5.10.2 Continued Acceptability of Surety	66
5.11	Contractor's Responsibility for Work	66
5.11	Contractor's Motor Vehicle Registration	67
5.12	Internal Revenue Service Form W-9	67
5.14	Tolls and Access	67
5.15	Requests for References or Performance Evaluations	67
5.16	Unauthorized Aliens	68
5.17	Public Records	68
5.18	Inspector General	69
5.19	Convicted Vendor List	69
5.20	Discriminatory Vendor List	70
5.21	Severability	70
5.22	Companies Pursuant to Florida Statute Sections 287.135 and 215.473	70
Section 6 - Pr	osecution and Progress of the Work	71
6.1	Subletting or Assigning of Contract	71
6.2	Work Performed by Equipment Rental Agreement	72
6.3	Prosecution of Work	72
	6.3.1 Sufficient Labor, Materials and Equipment	
	6.3.2 Impacts by Adjacent Projects	
	6.3.3 Submission of Working Schedule	
	6.3.4 Provisions for Convenience of the Public	
	6.3.5 Pre-Construction Conference	
6.4	Limitations of Operations	73
	6.4.1 Night Work	
	6.4.2 Sequence of Operations	
	6.4.3 Interference with Traffic	
	6.4.4 Coordination with Other Contractors	
	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	
6.5	Qualifications of Contractor's Personnel	77
6.6	Temporary Suspension of Contractor's Operations	77

TABLE OF CONTENTS (Continued)

Section Name			Page No.
	6.6.1	Authority 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		act Time	78
	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	80
	6.8.1	General	
6.9	Defaul	t and Termination of Contract	81
	6.9.1	Determination of Default	
	6.9.2	Public Interest Termination of Contract	
	6.9.3	Completion of Work by the Authority	
6.10	Liquid	ated Damages for Failure to Complete the Work	83
	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	
	6.10.6	Liability for Liquidated Damages	
6.11		e of Contractor's Responsibility	84
6.12	Recov	ery of Damages Suffered by Third Parties	84
6.13		ss Warranty	84
Section 7 - Mo	easurem	nent and Payment	85
7.1	Measu	rement of Quantities	85
	7.1.1	Measurement Standards	
	7.1.2	Method of Measurements	
7.2	Scope	of Payments	85
	7.2.1	Items Included in Payment	
	7.2.2	Non-Duplication of Payment	
7.3	Compe	ensation for Altered Quantities	85
	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	Delete	d Work	87

TABLE OF CONTENTS (Continued)

GENERAL SPECIFICATIONS

Section Name		Page No
7.5	Partial Payments	87
	7.5.1 General	
	7.5.2 Unsatisfactory Payment Record	
	7.5.3 Withholding Payment for Defective Work	
	7.5.4 Certification of Payment to Subcontractors	
7.6	7.5.5 Reduction of Payment for Unsatisfactory Services or Products	90
7.6	Disputed Amounts Due Contractor	89
7.7	Acceptance and Final Payment	89
7.8	Offsetting Payments	91
Section 8 - Mi	nority/Women Business Enterprise (M/WBE) Participation	92
8.1	General	92
8.2	Minority and Women Owned Businesses - Participation Objectives	93
	8.2.1 General	
	8.2.2 Definitions	
	8.2.3 Specific Requirements	
	8.2.4 Qualified Participation	
	8.2.5 Records and Reports	
8.3	Subletting of Contracts - Participation Objectives	98
Section 9 - Bir	nding Arbitration	99
Section 10 – I	Disputes Resolution	101
10.1	Disputes Resolution	101
	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	
	10.1.7 Compensation	
	10.1.8 Three Party Agreement	

Attachment A - Disputes Review Board Three Party Agreement

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.

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

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

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

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

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

2.3.2.3 Conditions Requiring Supplemental Agreement: A Supplemental Agreement will be used to clarify the Plans and Specifications of the Contract; to document quantities that deviate from the original Contract amount; to provide for unforeseen Work, grade changes or alterations in Plans which could not reasonably have been contemplated or foreseen in the original Plans and Specifications; to change the limits of construction to meet field conditions; to provide a safe and functional connection to an existing pavement; to make the project functionally operational in accordance with the intent of the original Contract and subsequent amendments thereto; to settle Contract claims.

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

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

- a) The Contractor agrees to perform the Work at an agreed upon cost but refuses to timely execute a Supplemental Agreement so as to allow timely payment for the Work by CFX or,
- b) CFX and the Contractor cannot agree on the cost of the Work and the Contractor refuses to execute a Supplemental Agreement or,
- c) CFX determines it is in the best interest to make a Unilateral Payment for Work CFX directed to be performed in lieu of pursuing a Supplemental Agreement.
- 2.3.2.5 Extra Work: Alterations, changes, additional or unforeseen Work of the type already provided by the Contract for which there is a Contract Price will be paid for at such Contract price.

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

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

2.3.3 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.

2.3.4 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.

2.4 Claims by Contractor

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

2.4.2 Notice of Claim:

2.4.2.1 Claims For Extra Work: Where the Contractor deems that additional compensation or a time extension is due for Work or Materials not expressly provided for in the Contract or which is by written directive expressly ordered by CFX pursuant to 2.3, the Contractor shall notify CFX in writing, including the words "NOTICE OF CLAIM" in the document heading of the intention to make a claim for additional compensation before beginning the Work on which the claim is based, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 6.7.3 within ten (10) calendar days after commencement of a delay. If such notification is not given and CFX is not afforded the opportunity for keeping strict account of actual labor, Materials, Equipment, and time, the Contractor waives the claim for additional compensation or a time extension. Such notice by the Contractor, and the fact that CFX has kept account of the labor, Materials, and Equipment, and time, shall not in any way be construed as establishing the validity of the claim or method for computing any compensation or time extension for such claim. Notice of the amount of the claim with supporting data shall be delivered within sixty days after the start of such occurrence or event (unless CFX allows additional time for the Contractor to submit additional or more accurate data in support of the claim) and shall be accompanied by the Contractor's written statement that the adjustment claimed covers all known amounts to which the Contractor is entitled as a result of said occurrence or event. For any claim or part of a claim that pertains solely to final estimate quantity disputes the Contractor shall submit full and complete claim documentation as described in 2.4.3, as to such final estimate claim dispute issues, within 30 calendar days of the Contractor's receipt of CFX's Offer of Final Payment. Submission of timely notice of intent to file a claim, preliminary time extension request, time extension request, and the claim, together with full and complete claim documentation, are each a condition precedent to the Contractor bringing any arbitration or other formal claims resolution proceeding against CFX for the items and for the sums or time set forth in the Contractor's written claim, and the failure to provide such notice of intent, preliminary time extension request, time extension request, claim and full and complete claim documentation within the time required shall constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to additional compensation or a time extension for such claim.

2.4.2.2 Claims For Delay: Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for Work or Materials not expressly provided for in the Contract (Extra Work) or which is by written directive of CFX expressly ordered by CFX pursuant to 2.3, the Contractor shall submit a written notice of intent to CFX within 48 hours after commencement of a delay to a Work item on the critical path expressly notifying CFX that the Contractor intends to seek additional compensation, and if seeking a time extension,

the Contractor shall also submit a preliminary request for time extension pursuant to 6.7.3 within 48 hours after commencement of a delay to a Work item on the critical path, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's Work by such delay. The timely providing of a written notice of intent or preliminary time extension request to CFX are each a condition precedent to any right on behalf of the Contractor to request additional compensation or an extension of Contract Time for that delay, and the failure of the Contractor to provide such written notice of intent or preliminary time extension request within the time required shall constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to additional compensation or a time extension for that delay. Notice of the amount of the claim with supporting data shall be delivered within sixty days after the start of such occurrence or event (unless CFX allows additional time for the Contractor to submit additional or more accurate data in support of the claim) and shall be accompanied by the Contractor's written statement that the adjustment claimed covers all known amounts to which the Contractor is entitled as a result of said occurrence or event. There shall be no Contractor entitlement to any monetary compensation or time extension for any delays or delay impacts, whatsoever, that are not related to a Work item on the critical path, and then as to any such delay to such item entitlement to any monetary compensation or time extension shall only be to the extent such is otherwise provided for expressly under 2.3 or 2.4, except that in the instance of delay to an item of Work not on the critical path the Contractor may be compensated for the direct costs of idle labor or Equipment only, at the rates set forth in 2.3, and then only to the extent the Contractor could not reasonably mitigate such idleness. The existence of an accepted schedule, including any required update(s), as stated in Article 6.3.3, is a condition precedent to the Contractor having any right to the granting of an extension of Contract Time arising out of any delay. Contractor failure to have an accepted schedule, including any required update(s), for the period of potential impact, or in the event the currently accepted schedule and applicable update(s) do not accurately reflect the actual status of the project or fail to accurately show the true controlling or non-controlling work activities for the period of potential impact, will result in any entitlement determination as to time or money for such period of potential impact being limited solely to CFX's analysis and identification of the actual controlling or non-controlling work activities. Further, in such instances. CFX's determination as to entitlement as to either time or compensability will be final, unless the Contractor can prove by clear and convincing evidence to a Disputes Review Board that the CFX's determination was without any reasonable factual basis.

- 2.4.3 Content of Written Claim: As a condition precedent to the Contractor being entitled to additional compensation or a time extension under the Contract for any claim, the Contractor shall submit a written claim to CFX which will include for each individual claim, at a minimum, the following information:
 - (a) A detailed factual statement of the claim providing all relevant dates, locations, and items of Work affected and included in each claim;
 - (b) The date or dates on which actions or events resulting in the claim occurred or conditions resulting in the claim became evident;
 - (c) Identification of all pertinent documents and the substance of any material oral communications relating to such claim and the name of the persons making such material oral communications;
 - (d) Identification of the provisions of the Contract which support the claim and a statement of the reasons why such provisions support the claim, or alternatively, the provisions of the Contract which allegedly have been breached and the actions constituting such breach;
 - (e) A detailed compilation of the amount of additional compensation sought and a breakdown of the amount sought as follows:
 - (1) documented additional job site labor expenses;
 - (2) documented additional cost of Materials and supplies;
 - (3) a list of additional Equipment costs claimed, including each piece of Equipment and the rental rate claimed for each;
 - (4) any other additional direct costs or damages and the documents in support thereof;
 - (5) any additional indirect costs or damages and all documentation in support thereof;
 - (f) A detailed compilation of the specific dates and the exact number of calendar days sought for a time extension, the basis for entitlement to time for each day, all documentation of the delay, and a breakout of the number of days claimed for each identified event, circumstance or occurrence.

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

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

2.4.5 Compensation for Extra Work or Delay:

- 2.4.5.1 Compensation for Extra Work: Notwithstanding anything to the contrary contained in the Contract Documents, the Contractor shall not be entitled to any compensation beyond that provided for in 2.3.2.
- 2.4.5.2 Compensation for Delay: Notwithstanding anything to the contrary contained in the Contract Documents, the additional compensation set forth in 2.4.5.3 shall be the Contractor's sole monetary remedy for any delay other than to perform extra work caused by CFX unless the delay shall have been caused by acts constituting willful or intentional interference by CFX with the Contractor's performance of the work and then only where such acts continue after Contractor's written notice to CFX of such interference. The parties anticipate that delays may be caused by or arise from any number of events during the term of the Contract, including, but not limited to, work performed, work deleted, change orders, supplemental agreements, disruptions, differing site conditions, utility conflicts, design changes or defects, time extensions, extra work, right-of-way issues, permitting issues, actions of suppliers, subcontractors or other contractors, actions by third parties, suspensions of work by the CEI pursuant to Article 6.6 of the General Specifications, shop drawing approval process delays, expansion of the physical limits of the project to make it functional, weather, weekends, holidays, special events, suspension of Contract time, or other events, forces or factors sometimes experienced in construction work. Such delays or events and their potential impacts on the performance by the Contractor are specifically contemplated and acknowledged by the parties in entering into this Contract, and shall not be deemed to constitute willful or intentional interference with the Contractor's performance of the work without clear and convincing proof that they were the result of a deliberate act, without reasonable and good-faith basis, and specifically intended to disrupt the Contractor's performance.
- 2.4.5.3 Compensation for Direct Costs, Indirect Costs, Expenses, and Profit thereon, of or from Delay: For any delay claim, the Contractor shall only be entitled to monetary compensation for the actual idle labor and equipment, and indirect costs, expenses, and profit thereon, as provided for in 2.3.2.1(d) and solely for costs incurred beyond what reasonable mitigation thereof the Contractor could have undertaken.

- 2.4.6 Mandatory Claim Records: After giving CFX notice of intent to file a claim for Extra Work or delay, the Contractor shall keep daily records of all labor, Materials and Equipment costs incurred for operations affected by the Extra Work or delay. These daily records shall identify each operation affected by the Extra Work or delay and the specific locations where Work is affected by the Extra Work or delay, as nearly as possible. CFX may also keep records of all labor, Materials, and Equipment used on the operations affected by the Extra Work or delay. The Contractor shall, once a notice of intent to claim has been timely filed, and not less than weekly thereafter as long as appropriate, provide CFX with a copy of the Contractor's daily records and be likewise entitled to receive a copy of CFX's daily records. The copies of daily records to be provided hereunder shall be provided at no cost to the recipient.
- 2.4.7 Claims for Acceleration: CFX shall have no liability for any constructive acceleration of the Work, nor shall the Contractor have any right to make any claim for constructive acceleration nor include the same as an element of any claim the Contractor may otherwise submit under this Contract. If CFX gives express written direction for the Contractor to accelerate its efforts, such written direction will set forth the prices and other pertinent information and will be reduced to a written Contract Document promptly. No payment will be made on a Supplemental Agreement for acceleration prior to CFX's approval of the documents.
- 2.4.8 Certificate of Claim: When submitting any claim, the Contractor shall certify under oath and in writing, in accordance with the formalities required by Florida law, that the claim is made in good faith, that the supportive data are accurate and complete to the Contractor's best knowledge and belief, and that the amount of the claim accurately reflects what the Contractor in good faith believes to be CFX's liability. Such certification must be made by an officer or director of the Contractor with the authority to bind the Contractor.
- 2.4.9 Non-Recoverable Items: The parties agree that for any claim CFX will not have liability for the following items of damages or expense:
 - a. Loss of profit, incentives, or bonuses;
 - b. Any claim for other than Extra Work or delay;
 - c. Consequential damages including, but not limited to, loss of bonding capacity, loss of bidding opportunities, loss of credit standing, cost of financing, interest paid, loss of other work or insolvency;
 - d. Acceleration costs and expenses, except where CFX has expressly and specifically directed the Contractor in writing "to accelerate at CFX's expense";
 - e. Attorney fees except in accordance with 3.12, claims preparation expenses and costs of litigation.

- 2.4.10 Exclusive Remedies: Notwithstanding any other provision of the Contract, the parties agree that CFX shall have no liability to the Contractor for expenses, costs, or items of damages other than those which are specifically identified as payable under 2.4. In the event of any formal claims resolution process for additional compensation, whether on account of delay, acceleration, breach of Contract, or otherwise, the Contractor agrees that CFX's liability will be limited to those items which are specifically identified as payable in 2.4.
- 2.4.11 Settlement Discussions: The content of any discussions or meetings held between CFX and the Contractor to settle or resolve any claims submitted by the Contractor against CFX shall be inadmissible in any legal, equitable, arbitration or administrative proceedings, including the Disputes Review Board, brought by the Contractor against CFX for payment of such claim. Dispute Review Board proceedings are not settlement discussions, for purposes of this provision.
- 2.4.12 Personal Liability of Public Officials: In carrying out any of the provisions of the Contract or in exercising any power or authority granted to the Central Florida Expressway Authority, its employees, members, officers, agents, consultants and successors, there shall be no liability of any employee, officer, official agent or consultant of CFX either personally or as officials or representatives of CFX. It is understood that in all such matters such individuals act solely as agents and representatives of CFX.
- 2.4.13 Auditing of Claims: All claims filed against CFX shall be subject to audit at any time following the filing of the claim, whether or not such claim is part of a suit pending in the Courts of the State of Florida. The audit may be performed at CFX's sole discretion by employees of CFX or by any independent auditor appointed by CFX, or both. The audit may begin after ten days written notice to the Contractor, subcontractor, or supplier. The Contractor, subcontractor, or supplier shall make a good faith effort to cooperate with the auditors. As a condition precedent to recovery on any claim, the Contractor, subcontractor, or supplier must retain sufficient records, and provide full and reasonable access to such records to allow the CFX auditors to verify the claim. Failure to retain sufficient records of the claim or failure to provide full and reasonable access to such records shall constitute a waiver of that portion of such claim that cannot be verified and shall bar recovery thereunder. Further, and in addition to such audit access, upon the Contractor submitting a written claim, CFX shall have the right to request and receive, and the Contractor shall have the affirmative obligation to provide to CFX, copies of any and all documents in the possession of the Contractor or its subcontractors, materialmen or suppliers as may be deemed relevant by CFX in its review of the basis, validity or value of the Contractor's claim.

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

- 1. Daily time sheets and superintendent's daily reports and diaries;
- 2. Insurance, welfare and benefits records;
- 3. Payroll registers;
- 4. Earnings records;
- 5. Payroll tax returns;
- 6. Materials invoices, purchase orders, and all Materials and supply acquisition contracts;
- 7. Materials cost distribution worksheets;
- 8. Equipment records (list of company owned, rented or other Equipment used)
- 9. Vendor rental agreements and subcontractor invoices;
- 10. Subcontractor payment certificates;
- 11. Canceled checks for the project, including payroll and vendors;
- 12. Job cost reports;
- 13. Job payroll ledgers;
- 14. General ledger, general journal, (if used) and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in these ledgers and journals;
- 15. Cash disbursements journal;
- 16. Financial statements for all years reflecting the operations on the Project;
- 17. Income tax returns for all years reflecting the operations on the Project;
- 18. All documents which reflect the Contractor's actual profit and overhead during the years the Contract was being performed and for each of the five years prior to the commencement of the Contract;
- 19. All documents related to the preparation of the Contractor's bid including the final calculations on which the bid was based;
- 20. All documents that relate to each and every claim together with all documents which support the amount of damages as to each claim;
- 21. Worksheets used to prepare the claim establishing the cost components for items of the claim including, but not limited to, labor, benefits and insurance, Materials, Equipment, subcontractors, and all documents that establish which time periods and individuals were involved, and the hours and rates for such individuals.
- 22. Electronic Payment Transfers and like records

2.5 Unforeseeable Work

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

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

- 2.6.1 Ownership and Disposal of Existing Materials: Except as might be stipulated or implied otherwise on the Plans or in the Specifications, all Materials which are not the property of other parties (in both roadway and structures) found on the right of way and all material in structures removed by the Contractor, shall become the property of the Contractor and shall be properly disposed of by the Contractor. Such Materials shall not include earth or other excavated material required for the construction of the Project. Materials from existing structures required to be removed and which are designated to remain the property of CFX may generally be used by the Contractor during construction. Such material shall not be cut or otherwise damaged during removal unless permission is given and shall subsequently be stored in an accessible location if so directed by CFX.
- 2.6.2 Ornamental Trees and Shrubs: Any ornamental trees or shrubs existing in the right-of-way (which are required to be removed for the construction operations and which are not specifically designated on the Plans to be reset or to be removed by others prior to the construction operations) shall remain the property of CFX, and shall be relocated by the Contractor as directed. The Contractor shall be fully responsible for maintaining in good condition all grass plots, trees and shrubs outside the limits of construction as shown on the Plans. Tree limbs that interfere with Equipment operation and are approved for pruning shall be neatly trimmed and the tree cut coated with tree paint.

2.7 Restoration of Right of Way

Areas outside the Project limits within CFX right of way used as a plant site 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, and
- 9. 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.

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.

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 onthe-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 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.

3.6.5 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: http://www.motadmin.com/find-a-training-provider.aspx

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 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 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 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 Identified in the Plans or Specifications: To facilitate quality assurance inspection of critical items, the Contractor shall submit a fabrication schedule for all items requiring commercial inspection.
 - 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.

- 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.

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 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.

5.2 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 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.

5.7 Preservation of Property

5.7.1 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.

5.7.2 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.

5.7.3 Utilities

5.7.3.1 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.

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.

5.7.3.2 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.

5.8 Responsibility for Damages, Claims, etc.

Contractor to Provide Defense Against Claims and Suits: To the fullest extent 5.8.1 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.

5.8.2 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.

5.9 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 5.9.1 through 5.9.9 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.

5.9.1 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

5.9.2 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 5.9.1.

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.

5.9.3 Comprehensive General Liability Insurance: Coverage shall be maintained by the Contractor providing Comprehensive General Liability Insurance as provided on Insurance Services Office form GC 00 01 or an equivalent thereof. Limits of Liability for Bodily Injury Liability and/or Property Damage Liability shall not be less than the limits of insurance as required in Section 5.9.1.

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.

5.9.4 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 5.9.1.

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.

5.9.5 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 5.9.1.

The Umbrella/Excess Liability Insurance policy or Excess policy shall afford coverage equivalent to the required coverage as set forth in this Article 5.9. 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.

5.9.6 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.

- 5.9.7 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.
- 5.9.8 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.

5.9.9 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	1 2	10% of project cost or \$25,000, whichever is smaller
\$1 million and Up \$1,000,000		\$100,000

5.10 Contract Bond (Public Construction Bond) Required

- 5.10.1 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.
- 5.10.2 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.

5.11 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.

5.12 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.

5.13 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.

5.14 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.

5.15 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.

5.16 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.

5.17 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.

5.18 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.

5.19 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.

5.20 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.

5.21 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.

5.22 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.

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.

6.2 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.
- Submission of Working Schedule: Within 21 calendar days after award of the 6.3.3 Contract, or at the preconstruction conference, whichever is earlier, the Contractor shall submit a work progress schedule to CFX. The schedule shall show the various activities of work in sufficient detail to demonstrate that the Contractor has a reasonable and workable plan to complete the project within the Contract time allowed. The schedule shall show the order and interdependence of activities and the sequence in which the work will be accomplished as planned by the Contractor. All activities shall be described so that the work is readily identifiable and the progress on each activity can be readily measured. Each activity shall show a beginning work date, a duration, and a monetary value. Activities shall include procurement time for materials, plant and equipment, and review time for shop drawings where they are appropriate and essential to the timely completion of the project. The list of activities shall include milestones when required by the plans or specifications. If the project has more than 1 phase, each phase and its completion date shall be adequately identified and no activity shall span more than one phase.

A working plan shall be submitted with the schedule. The working plan shall be a concise written description of the Contractor's construction plan.

If, in the opinion of CFX, the schedule submitted by the Contractor is inadequate, it will be returned to the Contractor for revision. The Contractor shall resubmit a revised schedule within 15 calendar days from the date of the transmittal returning the original schedule. The approved schedule will be used as the baseline against which Contractor's progress is measured.

The Contractor shall submit an updated work progress schedule when requested by CFX. If revisions are required to the working schedule, the Contractor shall submit revised charts and analyses within 21 calendar days after being notified by CFX.

Failure to finalize either the initial or a revised schedule in the time specified may result in CFX withholding payments to the Contractor until the schedule is approved.

6.3.4 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.

6.3.5 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.

- 5.4.2 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.
- 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.

6.5 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.
- 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.

6.7 Contract Time

6.7.1 General: The Contractor shall complete the Work in accordance with the Plans and Specifications and within the Contract Time specified in the Special Provisions including approved extensions.

For scheduling purposes, the Contractor shall take into consideration holidays and all weather conditions (except those listed in subarticle 6.7.3) that may be encountered during the performance of the Work.

The effect on job progress of utility relocations and adjustments and scheduling of construction operations to maintain traffic shall also be considered by the Contractor in the scheduling of Contract time.

- 6.7.2 Date of Beginning of Contract Time: The date on which Contract time will begin shall be the date of notice to begin Work or as specified in the Notice to Proceed.
- 6.7.3 Adjusting Contract Time:
 - 6.7.3.1 Contract Time Extension: CFX has established an allowable Contract duration, in terms of calendar days, sufficient to complete the Work covered by the Contract. By execution of the Contract, the Contractor agrees that the calendar days are sufficient to perform the Work and it has priced its bid considering the Contract duration. If the Contractor's Work (which Work is actually on the critical path) is impacted by one or more of the following events, CFX may (but is not obligated to) consider approving an extension of time:
 - 1. War or other act of public enemies.
 - 2. Riot that would endanger the well-being of Contractor's employees.
 - 3. Earthquake.
 - 4. Unpredictable acts of jurisdictional governmental authorities acting outside the scope of current laws and ordinances.
 - 5. Hurricane (or other weather event) but only if the weather event results in the declaration of an emergency by the Governor of the

State of Florida within the geographical area which includes the Work area.

- 6. Utility relocation and adjustment Work only if all the following criteria are met:
 - a. Utility work actually affected progress toward completion of Work on the critical path.
 - b. The Contractor took all reasonable measures to minimize the effect of utility work on critical path activities including cooperative scheduling of his operations with the scheduled utility work.
- 7. 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.
- 8. Impacts to the critical path caused by other contractors.

Time will not be granted for inclement weather other than as provided for in this section. In submitting a request for time extension, the Contractor shall comply with the following requirements:

- 1. Notify CFX in writing of the occurrence of a delay event within 48 hours of the beginning of the event.
- 2. Furnish a detailed written explanation of the impact of the delaying event on the scheduled Work with supporting documentation in the form of job records.
- 3. Provide proof that the Contractor has taken all necessary steps to protect the Work, the Contractor's employees, Materials and Equipment from the effects of the event.

CFX will consider the delays in delivery of materials or component equipment that affect progress on a controlling item of work as a basis for granting a time extension if such delays are beyond the control of the Contractor or supplier. Such delays may include an area-wide shortage, an industry-wide strike, or a natural disaster that affects all feasible sources of supply. In such cases, the Contractor shall furnish substantiating letters from a representative number of manufacturers of such materials or equipment clearly confirming that the delays in delivery were the result of an area-wide shortage, an industry-wide strike, etc. No additional compensation will be made for delays caused by delivery of materials or component equipment.

CFX will not consider requests for time extension due to delay in the delivery of custom manufactured equipment such as traffic signal equipment, highway lighting equipment, etc., unless the Contractor furnishes documentation that the Contractor placed the order for such equipment in a timely manner, the delay was caused by factors beyond the manufacturer's control, and the lack of such equipment caused a delay in progress on a controlling item of work. No additional compensation will be paid for delays caused by delivery of custom manufactured equipment.

6.7.3.2 An extension of time (rather than monetary compensation) will be the Contractor's sole and exclusive remedy in the event that an extension of time is justified under subarticle 6.7.3.1. The Contractor shall not be entitled to damages when an extension of time is permitted or granted under said subarticle.

- 6.8 Failure of Contractor to Maintain Satisfactory Progress
 - 6.8.1 General: Time is of the essence of the Contract. Unsatisfactory progress will be deemed to have occurred when:
 - 1. The allowed Contract time for performing the Work has expired and the Contract Work is not complete; or
 - 2. The specified time or date for performing a special milestone stage of the Work (as may be set forth in the Special Provisions) has expired and the Work for that milestone stage is not complete; or
 - 3. The allowed Contract time has not expired and the net dollar value of completed Work (gross earnings less payment for stockpiled Materials) is 15 percentage points or more below the dollar value of Work that should have been completed according to the accepted working schedule for the Project. The dollar value of Work, which should have been completed, is defined as the average between the early start and late start scheduled earnings according to the approved working schedule. After falling 15 percent behind, the delinquency continues until the dollar value of Work is within 5 percentage points of the dollar value of Work that should be completed according to the accepted working schedule for the Project.

In addition to the retainage specified in Article 7.6 of these General Specifications, retainage may also be withheld on partial payments at any time throughout the duration of the Contract due to unsatisfactory progress. The amount of retainage withheld will be one (1) percent of the gross amount earned for the month for every one (1) percent the project is below the dollar value of the Work that should have been completed according to the accepted working schedule for the Project. Retainage held due to unsatisfactory progress will be returned once the delinquency has been cured.

6.9 Default and Termination of Contract

- 6.9.1 Determination of Default: CFX will give notice in writing to the Contractor and Contractor's surety of such delay, neglect, or default for the following:
 - a. If the Contractor fails to begin the Work under the Contract within the time specified in the Notice to Proceed or;
 - b. fails to perform the Work with sufficient workmen and Equipment or with sufficient Materials to assure the prompt completion of the Contract as related to the schedule or;
 - c. performs the Work unsuitably or neglects or refuses to remove Materials or;
 - d. to perform anew such Work as may be rejected as unacceptable and unsuitable or;
 - e. discontinues the prosecution of the Work or;
 - f. fails to resume Work which has been discontinued within a reasonable time after notice to do so or;
 - g. fails to pay timely its subcontractors, suppliers or laborers or;
 - h. submits a false or fraudulent Certificate of Disbursement of Previous Payments form or;
 - i. becomes insolvent or is declared bankrupt or;
 - j. files for reorganization under the bankruptcy code or;
 - k. commits any act of bankruptcy or insolvency, either voluntarily or involuntarily or;
 - 1. 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.

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.

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.

7.3.3 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.

7.4 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.

7.5 Partial Payments

7.5.1 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:

Amount Retained

50% of Contract amount

% Contract Amount Completed

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.

- 7.5.2 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.
- 7.5.3 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.
- 7.5.4 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.

7.5.5 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.

7.6 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 7.7.

7.7 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 5.9 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 insurance certificates for extended coverage as required by Article 5.9 of these General Specifications.

- F) The Contractor has previously submitted As-built Drawings as required by Article 3.3.1 of these General Specifications.
- G) 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.

7.8 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 work Contractor substitute or self-perform 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 GS-93

- 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

THIS	STHREE PARTY AG	REEMENT ("Ag	reement") mad	de and entere	d into this	_
day of		between the C	ENTRAL FI	ORIDA E	XPRESSWA	Y
AUTHORIT	Y ("CFX"),		("Contra	actor") and t	the DISPUTE	S
REVIEW H	BOARD ("Board"), o	consisting of the	ree members:			_,
WHE	REAS, CFX is now eng	gaged in the const	ruction of the _		, and	
	REAS, thet and operation of the B					ıe
	7, THEREFORE, in contained herein (or attaerein.			,		
		-				

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. <u>Third Board Member Selection</u>. 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. <u>Procedures</u>. 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:

By:	
Print Name:	
Title:	-
BOARD:	
DISPUTES REVIEW BOARD	
By:	
Print Name:	
By:	
Print Name:	
By:	
Print Name:	
CONTRACTOR:	
By:	
Print Name:	

Title:_____

APPENDIX

PROCEDURE GUIDELINES

1. GENERAL MEETINGS

General Meetings are defined as those meetings required for the Board to develop a familiarity of the work in progress and keep abreast of construction activities such as progress, status and nature of items in the earlier stages of escalation, changes to personnel, etc. General Meetings shall occur 60days after Notice to Proceed for the Project and every 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 #9

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams Will

Director of Procurement

DATE: May 22, 2021

SUBJECT: Approval of Contract Award to Ranger Construction Industries, Inc.

for SR 408 Resurfacing from Woodbury Road to North of SR 50

Project No. 408-764, Contract No. 001783

An Invitation to Bid for the above referenced project was advertised on April 18, 2021. Five (5) responses were received by the May 19, 2021 deadline.

Bid results were as follows:

	<u>Bidder</u>	<u>Bid Amount</u>
1.	Ranger Construction Industries, Inc.	\$2,741,835.23
2.	Masci General Contractor, Inc.	\$3,044,436.00
3.	Middlesex Paving, LLC	\$3,170,933.44
4.	Hubbard Construction Company	\$3,425,538.88
5.	Preferred Materials, Inc.	\$3,700,000.00

The engineer's estimate for this project is \$3,490,267.16. Included in the Five-Year Work Plan is \$2,533,000.00.

The work consists of providing all labor, materials, equipment and incidentals necessary to mill and resurface SR 408 from Woodbury Road to North of SR 50.

Board award of the contract to Ranger Construction Industries, Inc. in the amount of \$ 2,741,835.23 is requested.

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

Reviewed by:

Will Hawthorne, PE Director of Engineering Glenn Pressimone, PE

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



CONTRACT



RANGER CONSTRUCTION INDUSTRIES, INC.

SR 408 RESURFACING FROM WOODBURY ROAD TO NORTH OF SR 50

PROJECT NO. 408-764, CONTRACT NO. 001783

CONTRACT DATE: JUNE 10, 2021 CONTRACT AMOUNT: \$2,741,835.23

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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

FOR

SR 408 RESURFACING FROM WOODBURY ROAD TO NORTH OF SR 50

PROJECT NO. 408-764 CONTRACT NO. 001783

JUNE 2021

TABLE OF CONTENTS

Section	<u>Title</u>	<u>Page</u>	
C	CONTRACT	C-1 to C-2	
	Memorandum of Agreement	1 to X	
GS	GENERAL SPECIFICATIONS	1 – 130	
	Attachment A	ATT-1 to ATT-9	
	(See General Specifications Table of Contents for listing of ir specifications sections.)	ndividual	
TS	TECHNICAL SPECIFICATIONS	TS-1 to TS-15	
	(See Technical Specifications Table of Contents for liss specifications sections.)	sting of individual	
SP	SPECIAL PROVISIONS	SP-1 to SP-32	
	(See Special Provisions Table of Contents for listing of each special provision.)		
	Addendum No. 1 Addendum No.	2	
P	PROPOSAL	P-1 to P-12	
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2	
PCB	PUBLIC CONSTRUCTION BOND	PCB-1 to PCB-4	

Plans

CONTRACT

This Contract No. 001783 (the "Contract"), made this 10th day of June 2021, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and Ranger Construction Industries, Inc., of 1200 Elboc Way, Winter Garden, FL. 34787, 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 Performance and Payment 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 No. 408-764, SR 408 Resurfacing from Woodbury Road to North of SR 50, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 120 calendar days. The Contract Amount is \$2,741,835.23. This Contract was awarded by the Governing Board of CFX at its meeting on June 10, 2021.

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:		
, <u> </u>	Director of Procurement	t
	Print Name	
DATE:		
RANGER CONSTRU	JCTION INDUSTRIES, INC.	
Ву:		
	Signature	
	Print Name	
	Title	
ATTEST:		(Seal)
DATE:		
Approved as to form	and execution, only.	
General	Counsel for CFX	
	Print Name	

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 Name	<u>e</u>		Page No
Section 3 - C	ontrol of	f Work	34
3.1	Dlong	and Working Drawings	34
5.1		and Working Drawings Plans and Contract Documents	34
	3.1.1	CFX Plans	
		Alterations in the Plans	
		Shop Drawings	
3.2		ination of Plans and Specifications	37
3.3		rmity of Work with Plans	38
3.3		Record Drawings	30
3.4		ward Meeting	39
3.5		s and Instructions	40
3.3		Observation of the Work	10
		Examination of the Work	
	3.5.3	Communications	
3.6		eering and Layout	42
2.0	_	Control Points Furnished by CFX	
		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	45
		Prosecution of Work	
	3.7.2	Contractor's Superintendent	
	3.7.3	<u>-</u>	
		Worksite Traffic Supervisor	
3.8		al Inspection Requirements	47
	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	Final I	Inspection and Acceptance	48
	3.9.1	Maintenance Until Final Acceptance	
	3.9.2	Inspection for Substantial Completion	
	3.9.3	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	49

Section Nam	<u>ne</u>	Page No.
3.11	Escrow of Bid Records	51
3.12	Prevailing Party Attorney's Fees	52
Section 4 - C	Control of Materials	54
4.1	Acceptance Criteria	54
	4.1.1 General	
	4.1.2 Sampling and Testing	
	4.1.3 Certification	
	4.1.4 Warranty and Guaranty	
4.2	Designation of a Specific Product as a Criterion	("Or Equal" Clause) 55
4.3	Source of Supply and Quality Requirements	55
	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	Inspection and Tests at Source of Supply	56
	4.4.1 General	
	4.4.2 Cooperation by Contractor	
	4.4.3 Retest of Materials	
4.5	Storage of Materials and Samples	57
	4.5.1 Method of Storage	
	4.5.2 Use of Right of Way for Storage	
	4.5.3 Responsibility for Stored Materials	
	4.5.4 Storage Facilities for Samples	
4.6	Defective Materials	57
Section 5 - L	egal Requirements and Responsibility to the Publi	c 59
5.1	Laws to be Observed	59
	5.1.1 General	
	5.1.2 Plant Quarantine Regulations	
	5.1.3 Introduction or Release of Prohibited Aq	uatic Plants, Plant Pests or
	Noxious Weeds	,
	5.1.4 Compliance with Federal Endangered Sp	pecies Act
	5.1.5 Occupational Safety and Health Requires	
	5.1.6 Discovery of Unmarked Human Burial S	
	5.1.7 Insecticides and Herbicides	
5.2	Permits and Licenses	61
5.3	Patented Devices, Materials and Processes	61

Section Name		Page No.
5.4	Right of Way Furnished by CFX	62
5.5	Sanitary Provisions	62
5.6	Control of the Contractor's Equipment	62
	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	64
	5.7.1 Compliance with Jurisdictional Regulations	
5.8	Use of Explosives	64
5.9	Preservation of Property	64
	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.	69
	5.10.1 Contractor to Provide Defense Against Claims and Suits	
	5.10.2 Guaranty of Payment for Claims	
5.11	Insurance	71
	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	77
	5.12.1 General Requirements of the Bond	
	5.12.2 Continued Acceptability of Surety	
5.13	Contractor's Responsibility for Work	77
5.14	Opening Section of Highway to Traffic	78
5.15	Scales for Weighing Materials	78

Section	Name			Page No.
		5.15.1	Applicable Regulations	
		5.15.2	Base for Scales	
		5.15.3	Protection and Maintenance	
4	5.16	Source	e of Forest Products	78
4	5.17	Regul	ations of Air Pollution	78
		5.17.1	General	
		5.17.2	Dust Control	
		5.17.3	Asphalt Material	
		5.17.4	Asphalt Plants	
4	5.18	Dredg	ing and Filling	79
4	5.19	Erosic	on Control	79
4	5.20	Contra	actor's Motor Vehicle Registration	79
4	5.21	Intern	al Revenue Service Form W-9	79
4	5.22	Tolls a	and Access	80
4	5.23	Reque	ests for References or Performance Evaluations	80
4	5.24	Unaut	horized Aliens	80
4	5.25	Public	Records	81
4	5.26	Inspec	etor General	82
4	5.27	_	cted Vendor List	82
4	5.28	Discriminatory Vendor List 8		82
4	5.29	Severa	ability	82
-	5.30	Companies Pursuant to Florida Statute Sections 287.135 and 215.473		83
Section	6 - Pro	secuti	on and Progress of the Work	84
(5.1	Sublet	tting or Assigning of Contract	84
(6.2	Work	Performed by Equipment Rental Agreement	86
(5.3	Prosec	cution of Work	86
		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 Tw Look-Ahead Schedules	o-Week
		6.3.4		
		6.3.5	Provisions for Convenience of the Public	
		6.3.6	Pre-Construction Conference	
(6.4		ations of Operations	87
		6.4.1	Night Work	
			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	91
6.6	Tempo	orary Suspension of Contractor's Operations	91
		CFX to Suspend Contractor's Operations	
	6.6.2	Prolonged Suspensions	
	6.6.3	Permission to Suspend Operations	
		Suspension of Contractor's Operations – Holidays	
6.7		ct Time	92
	6.7.1	General	
		Date of Beginning of Contract Time	
	6.7.3	Adjusting Contract Time	
6.8		e of Contractor to Maintain Satisfactory Progress	94
		General	
6.9		t and Termination of Contract	95
		Determination of Default	
		Public Interest Termination of Contract	
		Completion of Work by CFX	
6.10	_	ated Damages for Failure to Complete the Work	98
		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	98
6.12	Recov	ery of Damages Suffered by Third Parties	98
6.13	Expres	ss Warranty	99
Section 7 - Me	easurem	nent and Payment	100
7.1	Measu	rement of Quantities	100
	7.1.1	Measurement Standards	
	7.1.2	Method of Measurements	
	7.1.3	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	101
	7.2.1	Items Included in Payment	
	7.2.2	Non-Duplication of Payment	
7.3	Compe	ensation for Altered Quantities	101
	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 A	Account Work	104
	7.4.1	Method of Payment	
	7.4.2	Records	
	7.4.3	Preliminary Order-of-Magnitude Estimate	
7.5	Delete	d Work	107
7.6	Partial	Payments	107
	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	d of Construction Materials	110
	7.7.1	General	
	7.7.2	Non-Commercial Materials	
7.8	Disput	ed Amounts Due Contractor	111
7.9	Accept	tance and Final Payment	111
7.10	Offsett	ting Payments	113
Section 8 – Di	sadvant	taged/Minority/Women Business Enterprise (D/M/WBE)	114
	rticipat		
8.1	Genera	al	114
8.2	Disadv	vantaged/Minority and Women Owned Businesses – Participation	
	Object	•	115
	8.2.1		
	8.2.2	Definitions	
	8.2.3	Specific Requirements	
	8.2.4	Qualified Participation	
	8.2.5	Records and Reports	

GENERAL SPECIFICATIONS

Section Nam	<u>ne</u>	<u>Page No.</u>
8.3	Subletting of Contracts - Participation Objectives	120
Section 9 - E	Binding Arbitration	121
Section 10 –	Disputes Resolution	123
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 10.1.7 Compensation	122
	10.1.8 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.

Payment for burden shall be limited solely to the following:

Table 2.3.2.1

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

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

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

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

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

- (b) Materials and Supplies: For materials accepted by the CEI and used on the project, the Contractor will receive the actual cost of such materials incorporated into the work, including Contractor paid transportation charges (exclusive of equipment as hereinafter set forth). For supplies reasonably needed for performing the work, the Contractor will receive the actual cost of such supplies.
- (c) Equipment: For any machinery or special equipment (other than small tools), including fuel and lubricant, the Contractor will receive 100% of the "Rental Rate Blue Book" for the actual time that such equipment is in operation on the work, and 50% of the "Rental Rate Blue Book" for the time the equipment is directed to standby and remain on the project site, to be calculated as indicated below. The equipment rates will be based on the latest edition (as of the date the work to be performed begins) of the "Rental Rate Blue Book for Older 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.

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.

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: http://www.motadmin.com/find-a-training-provider.aspx

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.
- 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/ Employer's Liability	General Liability (per occurrence/ aggregate)	Automobile 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 Insurance Services Office form GC 00 01 or an equivalent thereof. Limits of Liability for Bodily Injury Liability and/or Property Damage Liability shall not be less than the limits of insurance as required in Section 5.11.1.

The policy shall contain an endorsement providing for Aggregate Limits of Liability to be on a per Project basis. This endorsement shall state that Aggregate Limits as specified herein apply separately and specifically to this Project.

Products and Completed Operations coverage, evidenced by a Certificate of

Insurance, shall be maintained for a period of not less than two (2) years following completion of the Work to which the Contract applies.

If watercrafts are to be used in the performance of any Work under the Contract, watercraft operations shall be covered under the Comprehensive General Liability policy providing limits in accordance with the General Liability requirements.

If the Project involves Work or operations by the Contractor within the limits of the railroad right-of-way, including any encroachments thereon from Work or operations in the vicinity of the railroad right-of-way, the railroad shall be named as an Additional Insured under this policy.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy. Insurance Services Office endorsement CG 20 10 (11 85 edition date) or both CG 20 10 and CG 20 37(10 01 edition dates) forms (if later edition dates are used), shall be used to meet these requirements and a photocopy of same shall be provided with the Certificate.

5.11.4 Comprehensive Automobile Liability Insurance: The Contractor shall maintain coverage applicable to the ownership, maintenance, use, loading and unloading of any owned, non-owned, leased or hired vehicle issued on Insurance Services Office form CA 00 01 or its equivalent. The amount of coverage shall not be less than the limits of insurance as required in subarticle 5.11.1.

This policy shall include coverage for liability assumed under contract (if not provided for under the Comprehensive General Liability policy). In the event the Contractor does not own automobiles, the Contractor shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or through a separate Business Auto Liability policy.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

5.11.5 Umbrella/Excess Liability Insurance: If an Umbrella or Excess Liability Insurance policy is used to attain the required limits of liability, the sum of the limits provided by the Primary insurance and the Umbrella or Excess Liability insurance must at least equal the Limits of Liability as required by subarticle 5.11.1.

The Umbrella/Excess Liability Insurance policy or Excess policy shall afford coverage equivalent to the required coverage as set forth in this Article 5.11. Policy inception date must also be concurrent with the inception dates of the underlying General Liability and Automobile Liability policies.

Umbrella or Excess policy Certificate of Insurance shall stipulate the underlying limits of liability applicable. A photocopy of the endorsement so evidencing shall be attached to the Certificate.

CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

5.11.6 Builder's Risk: If this Contract includes: (1) construction of a new above-ground structure or structures, (2) any addition, improvement, alteration, or repair to an existing structure or structures, or (3) the installation of machinery or equipment into an existing structure or structures, the Contractor shall maintain builders' risk insurance providing coverage to equally protect the interests of CFX, the Contractor and subcontractors of any tier.

Coverage shall be written on a completed value form in an amount at least equal to 100% of the estimated completed value of the project plus any subsequent modifications of that sum. The coverage shall be written on an "all-risk" basis and shall, at a minimum, cover the perils insured under the Insurance Services Office CP 10 30 Special Causes of Loss Form and shall include property in transit and property stored on or off premises that shall become part of the project.

The Contractor agrees not to maintain a wind or flood sub-limit less than 25% of the estimated completed value of the project. The Contractor agrees any flat deductible(s) shall not exceed \$25,000, and any windstorm percentage deductible (when applicable) shall not exceed five-percent (5%).

The coverage shall not be subject to automatic termination of coverage in the event the project/building is occupied in whole or in part, or put to its intended use, or partially accepted by CFX. If such restriction exists the Contractor shall request that the carrier endorse the policy to amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, CFX's interest in the project ceases, or the project is accepted and insured by CFX.

5.11.7 Railroad Insurance: When the Contractor performs Work on, adjacent to, over or under a railroad, railroad property or railroad right-of-way, the Contractor shall furnish CFX (for transmittal to the railroad company) an insurance certificate with the railroad named as the insured which (with respect to the operations the Contractor or any of its subcontractors perform) will provide for Railroad Protective Liability insurance providing coverage for bodily injury, death and property damage of a combined single limit of Five Million Dollars (\$5,000,000.00) per occurrence, with an aggregate limit of Ten Million Dollars (\$10,000,000.00) for the term of the policy. The policy shall be written on the ISO/RIMA (CG 00 3S 11 85) with

Pollution Exclusions Amendment (CG 28 31 11 85) endorsement deleting Common Policy Conditions (CG 99 01) if Common Policy Conditions are included in the policy and Broad Form Nuclear Exclusion (IC 00 21). CFX, its employees, members, officers, agents, consultants, and successors shall be named as Additional Insured under this policy.

5.11.8 Pollution Legal/Environmental Legal Liability Insurance (CPL) - The Contractor agrees to maintain Contractor's Pollution Legal/Environmental Legal Liability Insurance on a per-project basis. Coverage shall be for pollution losses arising from all services performed to comply with this contract. Coverage shall apply to sudden and gradual pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants, or pollutants into or upon land, the atmosphere or any watercourse or body of water, which results in Bodily Injury or Property Damage.

If policy is written on a Claims Made form, a retroactive date prior to or equal to the effective date of the Contract is required, and coverage must be maintained for 3 years after completion of contract or "tail coverage" must be purchased. In the event the policy is canceled, non-renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the Contractor agrees to purchase the SERP with a minimum reporting period of not less than three years. Purchase of the SERP shall not relieve the Contractor of the obligation to provide replacement coverage.

Coverage should include and be for the at least the minimum limits listed below:

- 1) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- 2) Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensation damages.

3) Cost of Cleanup/Remediation.

Limits

Each Occurrence - \$ 2,000,000 General Aggregate - \$ 4,000,000

For acceptance of Pollution Legal/Environmental Legal Liability coverage included within another policy coverage required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Pollution Legal/Environmental Legal Liability and other coverage combined.

If the CGL and CPL policy is issued by the same issuer, a total pollution exclusion shall be attached to the Contractor's CGL policy and an appropriate premium credit provided from the issuer to the Contractor.

CFX, its employees, members, officers, agents, consultants and successors shall be named as Additional Insured under this policy.

5.11.9 Professional Liability- If the construction method is "design-build" the Contractor agrees to maintain Professional Liability on a per-project basis. The Contractor agrees that the policy shall include a minimum three-year extended reporting period. The Contractor agrees that the Retroactive Date equals or precedes the execution date of this Contract or the performance of services specified hereunder. The Contractor agrees to provide coverage with limits and deductibles as prescribed below.

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.
- Submission of Working Schedule: Within 21 calendar days after award of the 6.3.3 Contract, or at the preconstruction conference, whichever is earlier, the Contractor shall submit a work progress schedule to CFX. The schedule shall show the various activities of work in sufficient detail to demonstrate that the Contractor has a reasonable and workable plan to complete the project within the Contract time allowed. The schedule shall show the order and interdependence of activities and the sequence in which the work will be accomplished as planned by the Contractor. All activities shall be described so that the work is readily identifiable and the progress on each activity can be readily measured. Each activity shall show a beginning work date, a duration, and a monetary value. Activities shall include procurement time for materials, plant and equipment, and review time for shop drawings where they are appropriate and essential to the timely completion of the project. The list of activities shall include milestones when required by the plans or specifications. If the project has more than 1 phase, each phase and its completion date shall be adequately identified and no activity shall span more than one phase.

A working plan shall be submitted with the schedule. The working plan shall be a concise written description of the Contractor's construction plan.

If, in the opinion of CFX, the schedule submitted by the Contractor is inadequate, it will be returned to the Contractor for revision. The Contractor shall resubmit a revised schedule within 15 calendar days from the date of the transmittal returning the original schedule. The approved schedule will be used as the baseline against which Contractor's progress is measured.

The Contractor shall submit an updated work progress schedule when requested by CFX. If revisions are required to the working schedule, the Contractor shall submit revised charts and analyses within 21 calendar days after being notified by CFX.

Failure to finalize either the initial or a revised schedule in the time specified may result in CFX withholding payments to the Contractor until the schedule is approved.

- 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-92

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;
 - 1. 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

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 50	None
50 to 100	5% of value of Work completed exceeding
	50% 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 GS-117

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

THIS THREE PARTY AGREEMENT ("Agreement") made and entered into this	
day of, 20, between	n the CENTRAL FLORIDA EXPRESSWAY
	("Contractor") and the DISPUTES
REVIEW BOARD ("Board"), consisting	ng of three members:,
and	("Members").
WHEREAS, CFX is now engaged in	the construction of the, and
WHEREAS, the and operation of the Board to assist in resolv.	contract ("Contract") provides for the establishment ing disputes and claims.
	n of the terms, conditions, covenants and performance and made a part hereof), the parties agree as set forth

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 AUTHORITY
By:
Print Name:
Title:
BOARD:
DISPUTES REVIEW BOARD
By:
Print Name:
Den
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 #10

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams

Director of Procurement

DATE: May 19, 2021

SUBJECT: Approval of Donald W. McIntosh Associates, Inc. and Breedlove, Dennis &

Associates, Inc. as Subconsultants to Nelson Mullins Riley & Scarborough LLP

for Right-of-Way Counsel Services

Contract No. 001477

Board approval of Donald W. McIntosh Associates, Inc. and Breedlove, Dennis & Associates, Inc. as subconsultants to Nelson Mullins Riley & Scarborough LLP, to provide land use consulting and wetland analysis services is requested. The cost is expected to exceed the \$25,000.00 threshold established by the Procurement Policy for subconsultants not disclosed by Nelson Mullins Riley & Scarborough LLP when its contract with CFX was originally awarded.

Reviewed by: Woody Rodrigus

Diego "Woody" Rodriguez

General Counsel



CENTRAL FLORIDA EXPRESSWAY AUTHORITY REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: Nelson Mullins Riley & Scarborough, LLP	Date: May 21, 2021
CFX Contract Name: Right of Way Counsel Service	CFX Contract No.: 001477
Authorization is requested to sublet the services identified below which approval to sublet services to:	are included in the above referenced Contract. Consultant requests
Subconsultant Name: Donald W. McIntosh Associates, Inc.	
Address: 2200 Park Avenue North, Winter Park, FL 32789-3255	
Phone No.: 407.664.4068	
Federal Employee ID No.: 59 - 1151358	
Description of Services to Be Sublet: Environmental – Land use consul Estimated Beginning Date of Sublet Services: 05/01/2021 Estimated Completion Date of Sublet Services: 05/31/2024 Estimated Value of Sublet Services*: \$ >\$25,000.00 *(Not to exceed \$25,000 without prior Board Approval) Consultant hereby certifies that the proposed subconsultant has been ad	
Requested By: (Signature of Consultant Representa	the services to be subject:

Attach Subconsultant's Certificate of Insurance to this Request.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: Nelson Mullins Riley & Scarborough, LLP	Date: May 20, 2021
CFX Contract Name: Right of Way Counsel Service	CFX Contract No.: 001477
Authorization is requested to sublet the services identified below which approval to sublet services to:	are included in the above referenced Contract. Consultant requests
Subconsultant Name: Breedlove, Dennis & Associates, Inc. ("BDA")	
Address: 330 W. Canton Avenue, Winter Park, FL 32879-3195	
Phone No.: 407,677.1882	
Federal Employee ID No.: 59-1694414	
Estimated Beginning Date of Sublet Services: 05/01/2021 Estimated Completion Date of Sublet Services: 05/31/2024 Estimated Value of Sublet Services: \$ \$\screen \frac{\$\screen \frac{5}{3}\frac{1}{2}\text{02}\frac{9}{2}\frac{1}{2}\fr	vised of, and agrees to, the terms and conditions in the Consultant's the services to be sublet:
Recommended by: (Signature of Appropriate CFX Director/Manager	Date:

Attach Subconsultant's Certificate of Insurance to this Request.

CONSENT AGENDA ITEM #11

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams /

Director of Procurement

DATE: May 22, 2021

SUBJECT: Approval of Second Contract Renewal with G4S Secure Solutions (USA) Inc.

for Security Guard Services Contract No. 001319 - EXEMPT

Board approval is requested for the second renewal of the referenced contract with G4S Secure Solutions (USA) Inc. in the amount of \$325,000.00 for one year, beginning August 1, 2021 and ending July 31, 2022. The original contract was for three years with two one-year renewals.

 Original Contract
 \$ 227,052.00

 Supplemental Agreement No. 1
 \$ 277,000.00

 Amendment No. 1
 \$ 0.00

 First Renewal
 \$ 225,000.00

 Second Renewal
 \$ 325,000.00

 Total
 \$1,054,052.00

This contract is included in the OM&A Budget.

Reviewed by:

Don Budnovich, PE

Director of Maintenance

Glenn Pressimone, PE

The information contained in this item is confidential and exempt in accordance with s. 119.071(3)(a), F.S. and as a result the materials have been removed from this packet.

CONSENT AGENDA ITEM #12

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

<u>MEMORANDUM</u>

Director of IT

TO:	CFX Board Members	30.70		
FROM:	Aneth Williams Director of Procureme	Will-		
DATE:	May 20, 2021			
SUBJECT:	Approval of Eighth Cofor System Software No. 000179		n TransCore, LP	
in the amoun	t of \$3,450,000.00 for	one year beginning	referenced contract with Transon August 1, 2021 and ending three two-year renewals.	
The work to binteroperabili	1 0 0	software support, ma	intenance and upgrades of legacy	ÿ
This contract	is included in the OM&	zA Budget.		
Reviewed by:	Rafael Willan		Janut a-	
•	Rafael Millan		Jim Greer	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY CONTRACT RENEWAL NO. 8 AGREEMENT CONTRACT NO. 000179

THIS CONTRACT RENEWAL NO. 8 AGREEMENT ("Renewal Agreement"), is made and entered into this 10th day of June 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called "CFX", and TransCore LP, registered to do business in Florida, 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 July 22, 2004, (collectively, the "Original Agreement"), whereby CFX retained the Contractor to perform system software maintenance and

WHEREAS, pursuant to 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. **Recitals**. The above recitals are true and correct and are hereby incorporated by reference as if fully set forth herein.
- 2. Renewal Term. CFX and Contractor agree to exercise the eighth renewal of said Initial CFX Contract, which renewal shall begin on August 1, 2021 and end on July 31, 2022 ("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 the attached <u>Exhibit "B"</u> in an amount up to \$3,450,000.00 ("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. **Effect on Original Agreement**. 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.

TRANSCORE, LP

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By:		
Print Name:		Bv:
By:		By:Aneth Williams, Director of Procurement
Print Name:		
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, 2021 for its exclusive use and reliance.
By:		
Print Name:		By:
By:		
Print Name:		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY CONTRACT RENEWAL AGREEMENT NO. 7 CONTRACT NO. 000179

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 13th day of June, 2019, by and between Central Florida Expressway Authority, hereinafter called "CFX" and TransCore LP, herein after called the "Contractor."

WITNESSETH

WHEREAS, CFX and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004, whereby CFX retained the Contractor to perform system software maintenance and;

WHEREAS, CFX and Contractor wish to enter into the seventh renewal the Original Agreement for a period of two (2) years;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, CFX and Contractor agree to a seventh renewal of said Original Agreement beginning the 1st day of August, 2019 and ending the 31st day of July, 2021 at the cost of \$6,264,263.93, which amount restates the amount of the Original Agreement.

Contractor states that, upon its receipt and acceptance of Final Payment for Services under the Sixth Renewal ending July 31, 2019, the Contractor shall execute a "Certificate of Completion of the Sixth Renewal and Acceptance of Final Payment" that waives all future right of claim for additional compensation for services rendered under the Sixth Renewal ending July 31, 2019.

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

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

TRANSCORE LP	CENTRAL FLORIDA EXPRESSWAY AUTHORITY
BY: Authorized Signature	BY: Director of Procurement
ATTEST: Yould (SEAL) Secretary or Notary If Individual, furnish two witness:	VALERIA NARVAEZ Notary Public - State of Florida Commission # GG 289295 My Comm. Expires Feb 26, 2023 Bonded through National Notary Assn.
Witness (1)	'19 JUN 17 AM 8:36
Witness (2)	Legal Approval as to Form

General Counsel for CFX

Central Florida Expressway Authority CONTRACT RENEWAL AGREEMENT CONTRACT NO. 000179 (SSM-01)

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

WITNESSETH

WHEREAS, CFX and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004 whereby CFX retained the Contractor to perform system hardware maintenance; and

WHEREAS, CFX and Contractor wish to renew the Original Agreement for a fifth period of two (2) years;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, CFX and Contractor agree to a fifth renewal of said Original Agreement beginning the 1st day of August, 2017, and ending the 31st day of July, 2019, at the cost of \$1,956,279.07, which amount restates the amount of the Original Agreement.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the Fourth Renewal Agreement ending July 31, 2017, the Contractor shall execute a 'Certificate of Completion of the Fourth Renewal Agreement and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the Fourth Renewal Agreement ending July 31, 2017.

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

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

TRANSCORE, L.P.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY:

Director of Procurement

Director of Procurement

ATTEST:

Secretary or Notary

If Individual, furnish two witnesses:

Witness (1)

LEGAL APPROVAL:

AS TO FORM

General Counsel for CFX



May 1, 2017

Rafael Millan Central Florida Expressway Authority 4974 ORL Tower Rd. Orlando, FL 32807

Subject: Proposal for Continuation of Services for Central Florida Expressway Authority (CFXA)

Toll System Software Maintenance Contract SSM-01.

Time period August 1, 2017 - July 31, 2019.

Dear Mr. Millan:

TransCore submits this proposal for the continuation of the software maintenance contract, SSM-01. The accompanying proposal provides pricing for a contract that will continue software support of your existing toll system now and in the future and especially while CFXA converts to the new Infinity toll system. The terms and conditions for this contract are based on the existing software support contract.

Scope of Services

The proposed software maintenance contract provides guaranteed positions based on percentage of a FTE (Full-Time Equivalent), as well as hourly positions and support for additional hours, if required by the Authority and available from TransCore. The guaranteed positions are based on a minimum 40-hour workweek, and provide 24/7 coverage including support for holidays and weekends. The non-guaranteed support positions will be provided if available and will be paid on an hourly basis when requested by the Authority. The hours charged against this position will be pre-approved by the Authority's IT Management, except in the case of emergency system support. Emergency system support includes system crashes or failures that could cause the Authority loss in revenue that is not resolvable by the Plaza/Host Hardware Support position. The following items detail the coverage for the software maintenance contract:

- Plaza/Host Hardware Technician Provides the first line of support for host and plaza hardware failures and lane software troubleshooting and correcting. This position provides daily checks of backups and system hardware. The following support items are covered under this position:
 - Daily monitoring of supported host and plaza machine backups and hardware failures.
 - o Dally verification that supported systems has ample disk space.
 - Replace failed disk drives on supported Host and Plaza computers.
 - Insure Oracle, VMS and ARCS application executables are running on supported plaza and host systems.

- Interact with the lane hardware support staff to provide software support and to troubleshoot lane problems that may be attributable to lane software.
- Escalate system hardware and software issues not resolvable to On-Call specialist,
 Database analyst or Sr. Software Developer position.
- The current master SSM-01 contract included 12 Plaza computers. The renewal proposal includes support for 15 Plaza Itaniums, Host Itanium, Backup Host Itanium and Development Itaniums and associated peripherals.
- All existing TransCore provided CFX lane controller software maintenance issues are covered in this contract. These problems include, but are not limited to, the following list:
 - Daily monitoring and correcting of critical lane files (transponder, fare, and employee).
 - Checking Day light savings conversions.
 - Verifying and correcting time synchronization issues.
 - Updating lane configuration to continue revenue collection in case of hardware issues (failed light curtains, loops, etc.)
 - Installing Operating Systems and ARCS lane software builds in case of lane hard drive issues, or software issues not resolvable through other means.
 - Resynchronizing lanes with plaza in case of system failures.
- Project Manager Provides overall project management of staff, keeps up to date on maintenance related activities, as well as provides supporting documentation for invoices. The project manager position will also attend project status meetings as requested by the Authority.
- Database Analyst Will perform database administration duties including monitoring and updating host database objects, performing database migrations and upgrades, daily System monitoring and support of host/plaza System operations, monitoring and tuning database performance, coordination database activities with Authority staff, performing database development activities such as creating and updating stored procedures, triggers, etc.
- On-Call Systems Specialist Will provide high-level systems support and will be a resource for
 help with the more complex systems problems involving hardware, the operating system,
 communication protocols ore performance issues. The On-Call Systems Specialist will also be
 involved in System planning, upgrades, performance assessments, equipment selection and in
 emergency support situation that require system restore and recovery. This position is provided
 as available and will be paid on an hourly basis. The hours charged against this position will be
 pre-approved by the Authority's IT Management, except in the case of emergency systems
 support.
- Lane Controller Specialist This position will provide support, including debugging and testing,
 for lane controller software. Will troubleshoot lane controller problems that cannot be resolved
 by the Hardware Specialists. Will design and develop enhancements to lane controller software
 and hardware. This position is provided as available and will be paid on an hourly basis. The
 hours charged against this position will be pre-approved by the Authority's IT Management,
 except in the case of emergency system support.

Sr. Software Developer - Will provide support for existing application software and will perform
design, development, documentation, testing, integration and upgrades. This position is
provided as available and will be paid on an hourly basis. The hours charged against this
position will be pre-approved by the Authority's IT Management, except in the case of
emergency support.

Pricing Schedule and Current Contract Resources

The pricing is based on a 3.0% first year increase over current pricing followed by 3.0% for the second year.

In closing, TransCore looks forward to continuing our partnership with CFX on your important S/W system maintenance program. Should you have any questions, please feel free to contact me at 407-382-1301.

Sincerely,

Bob Davis Project Manager TransCore

Central Florida Expressway Authority CONTRACT RENEWAL AGREEMENT CONTRACT NO. 000179 (SSM-01)

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 12th day of March, 2015, by and between the Central Florida Expressway Authority, hereinafter called "Authority" and TransCore, L.P., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, the Authority and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004, whereby the Authority retained the Contractor to perform system software maintenance and hardware maintenance for the host and plaza computers; and

WHEREAS, pursuant to Article 4 of the Original Agreement, Authority and Contractor wish to renew the Original Agreement for a fifth period of two (2) years as approved by the Authority's Board of Directors on March 12, 2015;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Contractor agree to a fifth renewal of said Original Agreement beginning the 1st day of August, 2015, and ending the 31st day of July, 2017, at the not-to-exceed cost of \$1,381,194.36 which amount restates the amount of the Original Agreement and the supplements.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the fourth Contract renewal ending July 31, 2015, the Contractor shall execute a 'Certificate of Completion of the Fourth Contract Renewal and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the fourth renewal of the Contract ending July 31, 2015.

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

1. The Scope of Services and hourly rates to be charged by the Contractor during the renewal period are as indicated on the attached Exhibit A.

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

TRANSCORE, L.P.	CENTRAL FLORIDA EXPRESSWAY AUTHORITY
BY:	BY: Director of Procurement
Print Name: Tracy Marks	
Title: President	
ATTEST: Secretary or Notary (SEAL)	

TO NOW SON NOW THE WATER AND T

Approved as to form and execution, only

General Counsel for the Authority



February 17, 2015

Joann Chizlett Central Florida Expressway Authority 4974 ORL Tower Rd. Orlando, FL 32807

Subject: Proposal for Continuation of Services for Central Florida Expressway Authority (CFXA)

Toll System Software Maintenance Contract SSM-01

Dear Ms. Chizlett:

TransCore submits this proposal for the continuation of the software maintenance contract, SSM-01. The accompanying proposal provides pricing for a contract that will continue software support of your existing toll system, especially while CFXA endeavors to convert to a new toll system in the near future. The terms and conditions for this contract are based on the existing software support contract.

Scope of Services

The proposed software maintenance contract provides guaranteed positions based on percentage of a FTE (Full-Time Equivalent), as well as hourly positions and support for additional hours, if required by the Authority and available from TransCore. The guaranteed positions are based on a minimum 40-hour workweek, and provide 24/7 coverage including support for holidays and weekends. The non-guaranteed support positions will be provided if available and will be paid on an hourly basis when requested by the Authority. The hours charged against this position must be pre-approved by the Authority's IT Management, except in the case of emergency system support. Emergency system support includes system crashes or failures that could cause the Authority loss in revenue that is no resolvable by the Plaza/Host Hardware Support position. The following items detail the coverage of the proposed software maintenance contract:

- Plaza/Host Hardware Technician (2.5 FTE) Provides the first line of support for host and plaza hardware failures and lane software troubleshooting and correcting. This position provides daily checks of backups and system hardware. The following support items are covered under this position:
 - o Daily monitoring of supported host and plaza machine backups and hardware failures.
 - o Daily verification that supported systems have ample disk space.
 - Replace failed disk drives on supported Host and Plaza computers.
 - Insure Oracle, VMS and ARCS application executables are running on supported plaza and host systems.

- Interact with the lane hardware support staff to provide software support and to troubleshoot lane problems that may be attributable to lane software.
- Escalate system hardware and software issues not resolvable to On-Call specialist,
 Database analyst or Sr. Software Developer position.
- The current SSM-01 contract only included 12 Plaza computers. The new contract proposal includes support for 15 Plaza Itaniums, Host Itanium, Backup Host Itanium and Development Itaniums and associated peripherals.
- All existing TransCore provided CFXA lane controller software maintenance issues are covered in this contract. These problems include, but are not limited to, the following list:
 - Daily monitoring and correcting of critical lane files (transponder, fare, and employee).
 - Checking Day light savings conversions.
 - Verifying and correcting time synchronization issues.
 - Updating lane configuration to continue revenue collection in case of hardware issues (failed light curtains, loops, etc.)
 - Installing Operating Systems and ARCS lane software builds in case of lane hard drive issues, or software issues not resolvable through other means.
 - Resynchronizing lanes with plaza in case of system failures.
- Project Manager (0.3 FTE) Provides overall project management of staff, keeps up to date on maintenance related activities, as well as provides supporting documentation for invoices. The project manager position will also attend project status meetings as requested by the Authority.
- Database Analyst (1.0 FTE) Will perform database administration duties including monitoring and updating host database objects, performing database migrations and upgrades, daily System monitoring and support of host/plaza System operations, monitoring and tuning database performance, coordination database activities with Authority staff, performing database development activities such as creating and updating stored procedures, triggers, etc.
- On-Call Systems Specialist Will provide high-level systems support and will be a resource for help with the more complex systems problems involving hardware, the operating system, communication protocols ore performance issues. The On-Call Systems Specialist will also be involved in System planning, upgrades, performance assessments, equipment selection and in emergency support situation that require system restore and recovery. This position is provided as available and will be paid on an hourly basis. The hours charged against this position must be pre-approved by the Authority's IT Management, except in the case of emergency systems support.
- Lane Controller Specialist This position will provide support, including debugging and testing, for lane controller software. Will troubleshoot lane controller problems that cannot be resolved by the Hardware Specialists. Will design and develop enhancements to lane controller software and hardware. This position is provided as available and will be paid on an hourly basis. The hours charged against this position must be pre-approved by the Authority's IT Management, except in the case of emergency system support.

• **Sr. Software Developer** - Will provide support for existing application software and will perform design, development, documentation, testing, integration and upgrades. This position is provided as available and will be paid on an hourly basis. The hours charged against this position must be pre-approved by the Authority's IT Management, except in the case of emergency support.

Pricing Schedule and Current Contract Resources

The pricing is based on a 2.75% first year increase over current pricing followed by 2.75% for the second year. The existing SSM-01 contract escalation of 2.75% will be in effect for any additional years of contract continuation.

In closing, TransCore looks forward to continuing our partnership with CFXA on your important S/W system maintenance program. Should you have any questions, please feel free to contact me at 407-382-1301.

Sincerely,

Bob Davis TransCore

Orlando-Orange County Expressway Authority CONTRACT RENEWAL AGREEMENT CONTRACT NO. 000179 (SSM-01)

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 24th day of April, 2013, by and between the Orlando-Orange County Expressway Authority, hereinafter called "Authority" and TransCore, L.P., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, the Authority and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004, whereby the Authority retained the Contractor to perform system software maintenance and hardware maintenance for the host and plaza computers; and

WHEREAS, pursuant to Article 4 of the Original Agreement, Authority and Contractor wish to renew the Original Agreement for a fourth period of two (2) years as approved by the Authority's Board of Directors on April 24, 2013;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Contractor agree to a fourth renewal of said Original Agreement beginning the 1st day of August, 2013, and ending the 31st day of July, 2015, at the not-to-exceed cost of \$2,000,000.00, which amount is in addition to the amount of the Original Agreement and the third renewal.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the third Contract renewal ending July 31, 2013, the Contractor shall execute a 'Certificate of Completion of the Third Contract Renewal and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the second renewal of the Contract ending July 31, 2013.

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

1. The Scope of Services and hourly rates to be charged by the Contractor during the renewal period are as indicated on the attached Exhibit A.

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

AUTHORITY

TRANSCORE, L.P.

Authorized Signature

Print Name: JIMWILS

ATTEST: VELLE

Secretary or Notary

Approved as to form and execution, only

Director of Procurement

General Counsel for the Authority

ORLANDO-ORANGE COUNTY EXPRESSWAY

A M

SUZETTE A SERRANO-DIAZ MY COMMISSION # EE 196247 EXPIRES May 07 2016

FloridaNotaryService com

RECEIVED

O CONTRACTS DEPT

SIGNATURE / DATE



March 27, 2013

Joann Chizlett
Orlando Orange County Expressway Authority
4974 ORL Tower Rd.
Orlando, FL 32807

Subject:

Proposal for Continuation of Services for Orlando-Orange County Expressway Authority (OOCEA) Toll System Software Maintenance Contract SSM-01

Dear Ms. Chizlett:

TransCore is proud to have served the OOCEA (Authority) toll system maintenance program since the early 1990's and appreciates the time that you and your team, as well as Dave Wynne, have taken over the past several weeks to meet and discuss options for the continuation of services as it relates to the current maintenance contracts. I believe we had good dialogue on how we can continue to contribute to OOCEA's toll system maintenance program as your partner and, in response to your request, TransCore submits this proposal for the continuation of the software maintenance contract, SSM-01. The accompanying proposal provides pricing for a contract that will continue software support of your existing toll system while OOCEA endeavors to convert to a new toll system in the near future. The terms and conditions for this contract are based on the existing software support contract.

Scope of Services

The proposed software maintenance contract provides guaranteed positions based on percentage of a FTE (Full-Time Equivalent), as well as hourly positions and support for additional hours, if required by the Authority and available from TransCore. The guaranteed positions are based on a minimum 40-hour workweek, and provide 24/7 coverage including support for holidays and weekends. The non-guaranteed support positions will be provided if available and will be paid on an hourly basis when requested by the Authority. The hours charged against this position must be pre-approved by the Authority's IT Management, except in the case of emergency system support. Emergency system support includes system crashes or failures that could cause the Authority loss in revenue that is not resolvable by the Plaza/Host Hardware Support position. The following items detail the coverage of the proposed software maintenance contract:

- Plaza/Host Hardware Technician (2.5 FTE) Provides the first line of support for host and plaza
 hardware failures and lane software troubleshooting and correcting. This position provides daily
 checks of backups and system hardware. The following support items are covered under this
 position:
 - Daily monitoring of supported host and plaza machine backups and hardware failures.
 - Daily verification that supported systems have ample disk space.
 - Replace failed disk drives on supported Host and Plaza computers.
 - Insure Oracle, VMS and ARCS application executables are running on supported plaza and host systems.

- Interact with the lane hardware support staff to provide software support and to troubleshoot lane problems that may be attributable to lane software.
- Escalate system hardware and software issues not resolvable to On-Call specialist,
 Database analyst or Sr. Software Developer position.
- The current SSM-01 contract only included 12 Plaza computers. The new contract proposal includes support for 15 Plaza Itaniums, Host Itanium, Backup Host Itanium and Development Itaniums and associated peripherals.
- All existing TransCore provided OOCEA lane controller software maintenance issues are covered in this contract. These problems include, but are not limited to, the following list:
 - Daily monitoring and correcting of critical lane files (transponder, fare, employee).
 - Checking Day light savings conversions.
 - Verifying and correcting time synchronization issues.
 - Updating lane configuration to continue revenue collection in case of hardware issues (failed light curtains, loops, etc.)
 - Installing Operating Systems and ARCS lane software builds in case of lane hard drive issues, or software issues not resolvable through other means.
 - Resynchronizing lanes with plaza in case of system fallures.
- Project Manager (0.3 FTE) Provides overall project management of staff, keeps up to date on
 maintenance related activities, as well as provides supporting documentation for invoices. The
 project manager position will also attend project status meetings as required by the Authority.
- Database Analyst (1.0 FTE) Will perform database administration duties including monitoring
 and updating host database objects, performing database migrations and upgrades, daily System
 monitoring and support of host/plaza System operations, monitoring and tuning database
 performance, coordinating database activities with Authority staff, performing database
 development activities such as creating and updating stored procedures, triggers, etc.
- On-Call Systems Specialist Will provide high-level systems support and will be a resource for help with the more complex systems problems involving hardware, the operating system, communication protocols or performance issues. The On-Call Systems Specialist will also be involved in System planning, upgrades, performance assessments, equipment selection and in emergency support situations that require system restore and recovery. This position is provided as available and will be paid on an hourly basis. The hours charged against this position must be pre-approved by the Authority's IT Management, except in the case of emergency system support.
- Lane Controller Specialist This position will provide support, including debugging and testing, for lane controller software. Will troubleshoot lane controller problems that cannot be resolved by the Hardware Specialists. Will design and develop enhancements to lane controller software and hardware. This position is provided as available and will be paid on an hourly basis. The hours charged against this position must be pre-approved by the Authority's IT Management, except in the case of emergency system support.
- Sr. Software Developer Will provide support for existing application software and will perform
 design, development, documentation, testing, integration and upgrades. This position is
 provided as available and will be paid on an hourly basis. The hours charged against this position
 must be pre-approved by the Authority's IT Management, except in the case of emergency
 system support.

Pricing Schedule and Current Contract Resources

Based on a request from OOCEA, TransCore has held to year 5 rates in the SSM-01 contract for the past 4 years and has supported new plaza additions without seeking additional compensation or increased rates. Due to cost of living increases and the addition of 3 new plazas since the conception of the SSM-01 contract in 2004, TransCore has reviewed the labor conditions closely and we are amenable to an <u>increase of 7.5%</u> for the first year of this contract continuation. The existing SSM-01 contract escalation of 2.75% will be in effect for any additional years of contract continuation.

In closing, TransCore looks forward to continuing our partnership with OOCEA on your important toll system maintenance program. Should you have any questions, please feel free to contact me at 407-382-1301.

Sincerely,

Bruce Anderson TransCore

cc: Dave Wynne, OOCEA

Laura Kelly, OOCEA

Patrick Shortal Jared Lapsley

Orlando-Orange County Expressway Authority CONTRACT RENEWAL AGREEMENT CONTRACT NO. 000179 (SSM-01)

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 1st day of April, 2011, by and between the Orlando-Orange County Expressway Authority, hereinafter called "Authority" and TransCore, L.P., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, the Authority and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004, whereby the Authority retained the Contractor to perform system software maintenance and hardware maintenance for the host and plaza computers; and

WHEREAS, pursuant to Article 4 of the Original Agreement, Authority and Contractor wish to renew the Original Agreement for a period of two (2) years;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Contractor agree to a third renewal of said Original Agreement beginning the 1st day of August, 2011, and ending the 31st day of July, 2013, at the not-to-exceed cost of \$2,000,000.00, which amount is in addition to the amount of the Original Agreement and the second renewal.

Contractor states that, upon its receipt and acceptance of Final Payment for Services rendered under the second Contract renewal ending July 31, 2011, the Contractor shall execute a 'Certificate of Completion of the Second Contract Renewal and Acceptance of Final Payment' that waives all future right of claim for additional compensation for services rendered under the second renewal of the Contract ending July 31, 2011.

All terms and conditions of said Original Agreement and any supplements and amendments thereto shall remain in full force and effect during the full term of his Renewal Agreement except as follows:

 The hourly rates to be charged by the Contractor during the renewal period are as indicated on the attached price sheet.

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

TRANSCORE, L.P.

Authorized Signature

Title Se Vice President

ATTEST: Draw y Johnson (SEAL)

DIANE Y JOHNSON
Notary Public, State of Texas
My Commission Expires
June 01, 2011

ORLANDO-ORANGE COUNTY EXPRESSWAY

BY: Executive Dire

ATTEST

Assistant Secretary

Approved as to form and execution, only

general Counsel for the Authority

Orlando-Orange County Expressway Authority CONTRACT RENEWAL AGREEMENT CONTRACT NO. 000179 (SSM-01)

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 15th day of June, 2009, by and between the Orlando-Orange County Expressway Authority, hereinafter called "Authority" and TransCore, L.P., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, the Authority and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004, whereby the Authority retained the Contractor to perform system software maintenance and hardware maintenance for the host and plaza computers; and

WHEREAS, pursuant to Article 4 of the Original Agreement, Authority and Contractor wish to renew the Original Agreement for a period of two (2) years;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Contractor agree to a second renewal of said Original Agreement beginning the 1st day of August, 2009 and ending the 31st day of July, 2011 at the not-to-exceed cost of \$2,000,000.00, which amount is in addition to the amount of the Original Agreement and the first renewal.

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

1. The hourly rates to be charged by the Contractor during the renewal period are as indicated on the attached price sheet.

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

TRANSCORE, L.P.

Author Zed Signature JOSEPH S. GRABIAS

He: VILE PRESIDENT FINANCE + ASSISTANT SECRETARY

Secretary or Notary

ATTEST

Assistant Secretary

ORLANDO-ORANGI

Execut

AUTHORIT

Approved as to form and execution, only

General Counsel for the Authority

EXPRESSWAY

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
See E. Perez, Notary Public
Hummeistown Boro, Dauphin County
My Commission Expires July 26, 2010

Member, Pennsylvania Association of Notaries

Orlando-Orange County Expressway Authority CONTRACT RENEWAL AGREEMENT CONTRACT NO. 000178 (SHM-01)

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 1st day of July, 2009, by and between the Orlando-Orange County Expressway Authority, hereinafter called "Authority" and TransCore, L.P., hereinafter called the "Contractor"

WITNESSETH

WHEREAS, the Authority and the Contractor entered into a Contract Agreement (the "Original Agreement") dated July 22, 2004, whereby the Authority retained the Contractor to perform system hardware maintenance; and

WHEREAS, pursuant to Article 4 of the Original Agreement, Authority and Contractor wish to renew the Original Agreement for a period of two (2) years;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the Authority and Contractor agree to a first renewal of said Original Agreement beginning the 22nd day of July, 2009 and ending the 21st day of July, 2011 at the not-to-exceed cost of \$4,239,418.20, which amount is in addition to the amount of the Original Agreement and the supplements.

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

 The rates to be charged by the Contractor during the renewal period are as indicated on the attached price sheets.

IN WITNESS WHEREOF, the parties have executed this Renewal Agreement by their duly authorized officers on the

TRANSCORE, L.P.

ORLANDO-ORANGE COUNTY EXPRESSWAY
AUTHORITY

Authorized Signature Joseph S. GRABIS

Authorized Signature Joseph S. GRABIS

AUTHORITY

Authorized Signature Joseph S. GRABIS

Excurve Director

Title: Vice Resident Finance

(S.AL)

Assistant Secretary

Assistant Secretary

Approved as to form and execution, only

General Counsel for the Authority

SSM-01 CONTRACT

SYSTEMS SOFTWARE MAINTENANCE CONTRACT ("SSM-01")

This Systems Software Maintenance Contract (the "Contract"), made this 22 day of 2004, between the ORLANDO-ORANGE COUNTY

EXPRESSWAY AUTHORITY, a body politic and corporate and agency of the State of Florida, with a principal address of 525 S. Magnolia Avenue, Orlando, Florida, 32801 (hereinafter "AUTHORITY") and TransCore LP, a Delaware limited partnership, with a local address of 5858 South Semoran Boulevard, Orlando, Florida 32822 (hereinafter "CONTRACTOR"):

WITNESSETH:

WHEREAS, AUTHORITY is in the business of operating a tolled expressway system (the "Expressway System"); and,

WHEREAS, AUTHORITY and CONTRACTOR's predecessor in interest, Scientific Applications International Corporation entered into a contract on or about October 11, 1991, (hereinafter referred to as the "Project 256 Contract") pursuant to which CONTRACTOR designed and provided a Computerized Toll Collection and Traffic Management System for the Expressway System as it then existed and which contract has been amended and supplemented from time to time as the Expressway System has expanded and as new technology has become available and economically viable; and,

WHEREAS, pursuant to the earlier Project 256 Contract between the parties, the CONTRACTOR has provided the AUTHORITY proprietary and non-proprietary software, including upgrades, various computer hardware, as well as support and maintenance services with respect to both the software and the hardware; and,

WHEREAS, the AUTHORITY has determined that it is in the AUTHORITY's best interest to separate the services provided under the Project 256 Contract into two separate contracts, one primarily for software maintenance and upgrades but including plaza and host hardware, and the other primarily for hardware maintenance and support, excluding plaza and host hardware, while retaining application of the Project 256 Contract to all open or active supplements, supplemental contracts, amendments, and change orders to the Project 256 Contract; and,

WHEREAS, the AUTHORITY issued a Request for Proposals for the hardware portion of the contract but has determined that, given CONTRACTOR's unique qualifications and proprietary interest in portions of the AUTHORITY's existing software systems it is in the AUTHORITY's best interest to "sole-source" the software maintenance and upgrade function to CONTRACTOR;

NOW THEREFORE, in consideration of the premises, the mutual promises herein set forth, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by the parties, AUTHORITY and CONTRACTOR hereby agree as follows:

1. PROVISION OF SERVICES

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 (as hereafter defined) all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized representatives of the AUTHORITY, who shall have at all times full opportunity to evaluate the services provided under this Contract. CONTRACTOR shall provide adequate, skilled, and qualified labor and resources for full performance of the Contract to industry standards and the standards set forth in the Contract Documents. The AUTHORITY may, at any time and in the AUTHORITY's sole discretion, reasonably require CONTRACTOR to increase or decrease CONTRACTOR's labor force on this Contract.

The services to be provided under this Contract include System Software Maintenance and upgrades, and hardware maintenance and upgrades for the system host and plazas, as detailed in the Contract Documents and any addenda or modifications thereto.

The Contract Documents in order of precedence, consist of and may be referred to individually herein as:

- 1. The Contract, as agreed to;
- The Scope of Services, attached hereto as Exhibit "A;"
- The Escrow Agreement, attached hereto as <u>Exhibit "F-1"</u> and List of Deposit Materials attached hereto as <u>Exhibit "G."</u>
- The ARCS Software License, attached hereto as Exhibit "F-2:"
- The Confidentiality and Non-Disclosure Agreement ("ARCS CNDA"), attached hereto as Exhibit "F-3;"
- 6. The Staffing Plan, attached hereto as Exhibit "B;"
- 7. The Method of Compensation, attached hereto as Exhibit "C:"
- 8. The Pricing Schedule, attached hereto as Exhibit "D;" and
- 9. The Hardware List, attached hereto as Exhibit "E."

10241830-5

In consideration of the foregoing premises, AUTHORITY agrees to pay CONTRACTOR for work performed and materials furnished at the unit prices negotiated for each task authorized by AUTHORITY, as herein set forth.

Notwithstanding their incorporation into this Contract, the ARCS Software License, and ARCS CNDA may also be separately enforced on their own as stand-alone contracts and shall take precedence over all other contract documents with regard to AUTHORITY'S right to use the ARCS Software and the confidentiality and non-disclosure of the ARCS Software, respectively.

2. PERSONNEL

- 2.1 A significant factor in the decision of the AUTHORITY to award this Contract to the CONTRACTOR is the level of expertise, knowledge and experience possessed by employees of CONTRACTOR and CONTRACTOR's covenant to have employees possessing such expertise, knowledge and experience available at all times to assist in the provision of the services. Throughout the Term of this Contract, CONTRACTOR shall employ individuals having significant training, expertise, and experience in the areas or disciplines more particularly set forth in Scope of Services, together with such other areas of expertise or experience, as may be designated from time to time during the term of this Contract by the AUTHORITY. When the AUTHORITY designates an additional area for which expertise or experience shall be required, CONTRACTOR shall use reasonable efforts to promptly hire and retain one or more individuals possessing such experience or expertise. All CONTRACTOR employees and the positions required under this Contract shall be designated or approved by the AUTHORITY, and replacement of same, if necessary, shall be approved by the AUTHORITY, all as more particularly detailed below.
- 2.2 <u>Guaranteed Personnel.</u> Guaranteed Personnel shall be all of those individuals or positions that CONTRACTOR shall make available exclusively to the AUTHORITY and the AUTHORITY's work for their respective guaranteed percentages of working time ("Levels of Commitment"). The initial Guaranteed Personnel and their guaranteed Levels of Commitment (determined on a weekly basis) for maintenance and development items are designated on the Staffing Plan and Pricing Schedule. All positions identified on the Pricing Schedule are for Guaranteed Personnel, except for those identified as "To Be Determined" under ARCS Development.
- 2.3 CONTRACTOR shall hire and maintain employees required for the provision of services under the Contract, throughout the Term of the Contract. The identity of the individuals, initially assigned to each position, shall be submitted to AUTHORITY in advance, for approval or disapproval by AUTHORITY, and any changes in the individuals shall be subject to written approval by AUTHORITY. AUTHORITY's approval of same may be granted or denied in AUTHORITY's sole and absolute discretion. Individuals who are not Guaranteed Personnel may be assigned to work on other projects without AUTHORITY approval, to the extent that such assignment does not in any way interfere with the Key Personnel's work under this Contract.

10241830-5

- Guaranteed Personnel shall be available exclusively to perform services for the AUTHORITY commensurate with their respective guaranteed Levels of Commitment. Levels of Commitment are based on the percentage of the respective Guaranteed Personnel's total work in a given week, based on a minimum 40-hour work week from which the Level of Commitment is calculated. CONTACTOR'S compensation for work performed by Guaranteed Personnel shall be based on their individual guaranteed Level of Commitment. There shall be no additional charge for guaranteeing Levels of Commitment associated with Guaranteed Personnel.
- 2.5 AUTHORITY may provide time sheets on which Guaranteed Personnel shall keep detailed time entries of their work, separated into maintenance and development, and further separated by date and project. CONTRACTOR shall give AUTHORITY at least forty-eight (48) hours advance notice when a Key Personnel takes a leave from AUTHORITY work for longer than two (2) days to work on non-AUTHORITY projects (which work in any event still shall not conflict with Levels of Commitment for Guaranteed Personnel, calculated on a weekly basis).
- 2.6 CONTRACTOR may designate the individuals comprising the Guaranteed Personnel as part of proposal or marketing teams for other projects only to the extent of their uncommitted time under this Contract (i.e. outside of and not conflicting with Level of Commitment), without AUTHORITY's prior written consent. CONTRACTOR may not designate Guaranteed Personnel as part of proposal or marketing teams for other projects for time or work that overlaps, interferes with, or causes delay, with respect to the respective Levels of Commitment, without AUTHORITY's prior written consent, which may be granted or denied in the sole and absolute discretion of the AUTHORITY.
- 2.7 Once any personnel is assigned to a task order with AUTHORITY approval, whether Guaranteed Personnel or not, that individual may not be placed on any non-AUTHORITY projects without AUTHORITY approval until completion of the assigned task order.
- 2.8 Notwithstanding anything herein to the contrary, AUTHORITY will not unreasonably withhold its consent to the transfer or dismissal of an individual from time to time, provided that the individual has remained in the position in question for a reasonable length of time (generally measured as one (1) year); provided AUTHORITY approves the replacement for such person; and provided that a sufficient period is allowed for the transition to the approved replacement. Additionally, a person may be dismissed for unsatisfactory performance.
- 2.9 If prior to the first anniversary of the Effective Date of this Contract, as hereafter defined, CONTRACTOR transfers, reassigns, or without good cause removes, suspends, dismisses, fires, lays off, discharges, or otherwise terminates any person who constitutes Guaranteed Personnel without the prior written approval of AUTHORITY, such action shall constitute a default by CONTRACTOR hereunder. CONTRACTOR may cure such default only by timely replacing the Guaranteed Personnel with another employee having comparable experience and qualifications, which replacement employee has been approved by AUTHORITY in its sole and absolute discretion.

- 2.10 Promptly upon written request of AUTHORITY, CONTRACTOR shall remove from activities associated with or related to the performance of this Contract any employee whom AUTHORITY considers (for any reason whatsoever, in AUTHORITY's sole discretion) unsuitable for such work. Such employee shall not be reassigned to perform any work relating to AUTHORITY services except with the express written consent of the AUTHORITY. No additional compensation in any form shall be paid to CONTRACTOR by the AUTHORITY for the right of removal described in this paragraph or the exercise thereof.
- 2.11 CONTRACTOR and AUTHORITY agree not to hire or recruit for hiring each other's employees during the period of their employment and for a period of one (1) year thereafter, except that this restriction shall not apply in the event of: (i) lay-off, firing, other involuntary termination of such employee, or (ii) a Release Condition under the Escrow Agreement, or (iii) a written agreement between CONTRACTOR and AUTHORITY providing otherwise.

3. NONDISCRIMINATION

CONTRACTOR shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work or selection of personnel under this Contract.

4. TERM AND NOTICE

The initial term of the Contract will be three (3) years from the date of execution. There shall be three (3) renewal options, each being two (2) years in duration, and each of which may be exercised, or not, in the sole discretion of the AUTHORITY. The option shall go into effect only upon the mailing of written execution of the option, by the AUTHORITY, at any time prior to expiration of the applicable Contract term. The Authority shall review and monitor the Contractor's performance, and continuation of the Contract shall be subject to an annual review by the Authority. Part of the annual review will include an evaluation of System documentation. The AUTHORITY shall have the right to terminate the contract at its discretion upon one hundred eighty (180) days notice for convenience, or thirty (30) days notice after cure period for CONTRACTOR's default. (See Article 17 for default notice and cure period). In the case of a termination for convenience under this Article 4 or Article 17, the CONTRACTOR shall be entitled to compensation as provided in the first paragraph of Article 17 herein.

Any software license provided for herein shall survive termination of this Contract for the duration of the term of the license, as governed by the terms of the license.

5. PAYMENT OF CONTRACTOR INVOICES

Processing and payment of CONTRACTOR invoices shall be in accordance with the Method of Compensation.

6. ANNUAL AUDITED FINANCIAL STATEMENTS

The CONTRACTOR shall submit on an annual basis its current audited financial report, statements, and any associated notes for the term of the Contract, which submission, to the extent permitted by law, shall be considered confidential proprietary information exempt from inspection and copying under Chapter 119, Florida Statutes.

7. AUDIT AND EXAMINATION OF CONTRACT RECORDS

"Contract Records" shall include, but not be limited to: (i) listing and documentation of all software updates, modifications, upgrades, revisions, replacements, additions, enhancements, etc., installed by CONTRACTOR and operating on AUTHORITY'S system, and (ii) all other information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data related to the Contract or the CONTRACTOR's performance of the Contract determined necessary by the AUTHORITY for any purpose.

"Contractor Documents" shall include, but not be limited to: (i) interface files and specifications, (ii) system documentation, and (iii) build delivery procedures. Requested copies of Contract Documents shall be provided to the AUTHORITY by CONTRACTOR's Project Manager as provided below and also deposited as Deposit Materials under the Escrow Agreement.

AUTHORITY reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records or Contract Documents of the CONTRACTOR or any subcontractor. If the AUTHORITY requests access to or review of any Contract Records or Contract Documents and CONTRACTOR refuses such access or review, CONTRACTOR shall be in default under its Contract with AUTHORITY, and such refusal shall, without any other or additional actions, constitute grounds for suspension or termination of the Contract. These provisions shall not be limited in any manner by the existence of any CONTRACTOR claims or pending litigation relating to the Contract. Suspension or termination of the Contract for failure to comply with this section may, in the AUTHORITY's sole discretion, preclude the CONTRACTOR from acting in the future as a subcontractor of another consultant doing work for the AUTHORITY.

CONTRACTOR shall preserve all 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 the AUTHORITY, or (ii) until all claims (if any) regarding the Contract are resolved. For purposes of this Contract, final acceptance for monthly system software maintenance work is defined as the final day of the third (3rd) year of the Contract, or if the Contract extension options are exercised, then the last day of the Contract. The criteria for final acceptance on tasks for Time and Material maintenance support for additional work and/or change orders under the Contract shall be established on a per task basis.

8. CONTRACTOR INSURANCE

CONTRACTOR shall carry and keep in force during the period of this Contract, with a company or companies authorized to do business in Florida the following insurance coverage:

- a. Comprehensive General Liability Insurance having a minimum coverage of One Million Dollars (\$1,000,000.00) for any one occurrence of bodily injury or property damage;
- b. Comprehensive Automobile Liability (for bodily injury, death and property damage) having a minimum coverage of One Million Dollars (\$1,000,000.00) for each accident;
- c. Workers' Compensation Insurance Coverage, including all coverage required under Florida law (as amended from time to time hereafter).
- d. Irrevocable Letter of Credit equivalent to 6 months service valued at minimum of \$1,000,000.00, renewable on an annual yearly basis, to be delivered upon execution of this Contract. The Irrevocable Letter of Credit may cover both this Contract and that certain Systems Hardware Maintenance Contract ("SHM-01") entered into or anticipated to be entered into simultaneously herewith, if such arrangement is acceptable to the financial institution holding the Letter of Credit. In the event that either this Contract or SHM-01 is terminated, and the other remains active, then the Letter of Credit shall remain intact and in its entirety shall cover the remaining active Contract. In lieu of a Performance Bond, the AUTHORITY has allowed CONTRACTOR to maintain an Irrevocable Letter of Credit, and the conditions for drawing on the Irrevocable Letter of Credit shall be the same as if it were a Performance Bond.
- e. Certificate of Insurance inclusive of Fidelity coverage in the amount of \$2,000,000.00 covering each employee for a minimum of \$100,000.00 each.
- f. Contents Insurance Covering the AUTHORITY's property in the possession and/or control of the CONTRACTOR, with minimum coverage of \$1,500,000.00.

Such policy or policies shall:

- include the AUTHORITY, and such other parties the AUTHORITY shall designate, as additional insureds;
- (ii) be primary insurance;
- (iii) include within the terms of the policy, or by contractual liability endorsement, coverage insuring the CONTRACTOR's indemnity obligations; and,

(iv) provide that the policy may not be canceled or changed without at least thirty (30) days prior written notice to the AUTHORITY from the company providing such insurance.

At least fifteen (15) days prior to the expiration of any such policy of insurance required to be carried by CONTRACTOR hercunder, CONTRACTOR shall deliver certificates to AUTHORITY as will evidence a renewal or new policy to take the place of the one expiring. Certificates of such insurance shall be filed with the AUTHORITY at the time of Contract execution. CONTRACTOR shall pay for respective deductibles and co-insurance, if any, under its insurance portfolio.

9. INDEMNITY

The CONTRACTOR shall indemnify, defend and hold harmless AUTHORITY and all of its respective officers, agents or employees from all suits, actions, claims, demands, costs, expenses (including reasonable attorney's fees), judgments, liabilities of any nature whatsoever arising out of, because of, or due to breach of the Contract by the CONTRACTOR (its subcontractors, agents or employees) or due to any negligent or intentional wrongful act or occurrence of omission or commission of the CONTRACTOR (its subcontractors, agents or employees). CONTRACTOR will not be liable for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the AUTHORITY or any of its officers, agents or employees. The parties agree that 1% of the total compensation to the CONTRACTOR for performance of each task authorized under the Contract is the specific consideration from AUTHORITY to CONTRACTOR for CONTRACTOR's indemnity, and the parties further agree that the 1% is included in the amount negotiated for each authorized task.

10. PUBLIC RECORDS; OTHER LEGAL REQUIREMENTS; AND SECURITY OF INFORMATION

Upon receipt of any public records request, CONTRACTOR shall within one (1) business day notify the AUTHORITY, and with the AUTHORITY's advance approval, CONTRACTOR shall allow public access to all documents, papers, letters, or other materials that are subject to public inspection and copying under the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with the Contract, and not exempted by statute from public inspection or copying. Failure by CONTRACTOR to grant such public access will be grounds for immediate, unilateral cancellation of the Contract by AUTHORITY, provided that CONTRACTOR may timely seek a judicial or other determination of a statutory exemption prior to providing any such access.

Notwithstanding anything else in this Contract, under no circumstance will either party's compliance with Chapter 119, Florida Statutes, or with any other statutory requirement, or lawful judicial or administrative, order be or be deemed a breach, default, or violation of this Contract, provided, further, that each party shall nevertheless recognize all statutory exemptions from public inspection or copying and raise such exemptions in good faith where applicable.

CONTRACTOR agrees that it will make no statements, press releases or publicity releases concerning the Contract or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with the Contract, or any particulars thereof, during the period of the Contract without first notifying AUTIIORITY and securing its consent in writing.

Notwithstanding the foregoing requirements with respect to public records, each party acknowledges that the other party maintains and relies on confidential proprietary information in the form of computer software, data, information systems, communications networks and similar systems and information that is highly confidential, the release of which is not required by Chapter 119, Florida Statutes, and in some instances, may be a violation of law. The parties acknowledge that such confidential proprietary information is integral to and a critical aspect of each party's business and operations; and that each party has invested substantially in human and financial resources to develop such software, data, information systems, communications networks and similar and similar systems and information; and that the release of confidential information will damage the party owning or relying thereon. Each party shall protect the other party's confidential information from disclosure, release, and unauthorized alteration, according to the standard set forth in Article 11 below. If and when either party receives a request for information or data owned by or shared with the other party and is in doubt as to whether such information or data is confidential, as opposed to a public record, such party shall notify the other party and afford that party an opportunity, within an acceptable time frame for response to a public records request (which time frame is not set by statute but has been interpreted to be only a few days in most cases), to obtain a declaratory judgment or injunction relief consistent with Chapter 119, Florida Statutes.

CONTRACTOR shall provide AUTHORITY with detailed local and national background check reports conducted on each of CONTRACTOR's employees or consultants who work under this Contract, conducted by agencies or entities selected or approved by the AUTHORITY, and those employees or consultants of CONTRACTOR who will have access to sensitive or confidential information shall be included under the fidelity coverage under Section 8.e.; or alternatively, CONTRACTOR shall provide AUTHORITY with a detailed summary of CONTRACTOR's inhouse background checking procedures, which with the approval of the AUTHORITY will suffice in lieu of the foregoing requirements of this paragraph.

At AUTHORITY's sole option, AUTHORITY may provide CONTRACTOR's employees and consultants with a copy of the AUTHORITY's security policy, as updated from time to time, which such employees and consultants shall sign in acknowledgment of receipt and compliance.

11. EQUIPMENT

Upon termination of this Contract, CONTRACTOR shall promptly return to AUTHORITY all of AUTHORITY's hardware, equipment, spare parts inventory, and other materials in CONTRACTOR's custody or actual or constructive possession, in good working condition except for normal wear and tear.

12. OWNERSHIP OF DOCUMENTS, INVENTIONS AND COPYRIGHTS

This section 12 shall survive Contract termination or expiration. Pursuant to the ARCS Software License, AUTHORITY has a limited, non-exclusive, royalty-free, non-transferable, perpetual right-to-use license for the ARCS software, as defined in the ARCS Software License.

AUTHORITY is and shall be and remain the sole owner of all rights, all plans, documents, software, data and items developed with respect to and in connection with the performance of this Contract (the "SSM-01 Software"). CONTRACTOR shall have a license to use, market, and sub-license the SSM-01 software under the following conditions:

- or its consultants, as AUTHORITY chooses and designates, with access to and copies of all source, object, and executable codes, along with all other documentation and records associated with the SSM-01 software, and along with training on the operation of the SSM-01 software on the AUTHORITY's system. A complete copy of the SSM-01 software, in all forms, shall be a portion of the Deposit Materials required by this Contract to be deposited into a third party escrow account, for safekeeping, in accordance with the terms of this Contract calling for an escrow agreement and in accordance with the terms of the Escrow Agreement. Placement of the SSM-01 Software into escrow with CONTRACTOR's ARCS software is for convenience and safekeeping of the SSM-01 Software and does not diminish, remove, alter, or modify the AUTHORITY's right and title in and to the SSM-01 Software, nor does it impute any right or title in and to the SSM-01 Software in favor of CONTRACTOR beyond that provided for in this Contract.
- 2. The term of CONTRACTOR'S license in the SSM-01 Software shall coincide with the term of the AUTHORITY'S license in the ARCS Software, including perpetual survival of this Contract. In the event of termination of the AUTHORITY'S license in the ARCS Software for any reason, then CONTRACTOR shall pay AUTHORITY a one-time license fee for continuance of the SSM-01 license, in the amount of the greater of (i) \$50,000.00 or (ii) seven percent (7 %) of the value of the task order development under the Contract accumulated at the time of license termination (or of total task order development value in the event of any ARCS license termination after Contract termination).
- 3. In using, marketing, and sub-licensing the SSM-01 Software, CONTRACTOR shall not engage in any contract, agreement, activity, or conduct that adversely affects the AUTHORITY'S rights and interests in the SSM-01 Software, and CONTRACTOR shall not offer its interest in the SSM-01 Software as a security interest of any kind. CONTRACTOR shall not allow any of its sub-licensees to further sub-license the SSM-01 Software without AUTHORITY's approval, which may be granted or denied in AUTHORITY's sole discretion; and CONTRACTOR shall require all sub-licensees to enter into a confidentiality and non-disclosure agreement in the same form as that of the ARCS CNDA (hereinafter, a "SSM-01 CNDA"). Except for CONTRACTOR's right to use, market, and sub-license the SSM-01 Software according to the terms hereof, CONTRACTOR shall otherwise maintain strict

confidentiality with respect to the source, object, and executable codes of SSM-01 and all other aspects of SSM-01, in accordance with the standards set forth for protecting ARCS in the ARCS CNDA (incorporated herein for this purpose).

Upon termination of this Contract, CONTRACTOR shall promptly return to AUTHORITY all of AUTHORITY's hardware, equipment, spare parts inventory, and other materials in CONTRACTOR's custody or actual or constructive possession, in good working condition except for normal wear and tear. CONTRACTOR may not use such materials in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of AUTHORITY, which may be granted or denied in the AUTHORITY's sole discretion.

For a term equal to the term of this Contract, commencing on the date of Contract completion and final payment to the CONTRACTOR, and provided that the funding level of this Contract is not reduced during its term, the AUTHORITY shall, at its election and at no charge, cost, or fee, be entitled to receive from the CONTRACTOR any ARCS software upgrades, updates, modifications, additions, replacements, or revisions developed by the CONTRACTOR. CONTRACTOR has no responsibility to assure that such future upgrades, etc., are compatible with AUTHORITY hardware. In the event that work is required to establish compatibility, CONTRACTOR may perform such services at a cost based on the Pricing Schedule herein, plus three percent (3%) for each year beyond termination of the Contract, or if CONTRACTOR will not perform such services, AUTHORITY may retain another contractor, consultant, or employee who executes the CNDA and does not fall within the definition of "Competitor" to accomplish compatibility. The CONTRACTOR shall periodically advise the AUTHORITY respecting the existence and nature of such upgrades, updates, modifications, additions, replacements, and revisions, if any.

In all of the AUTHORITY'S and CONTRACTOR's use of each other's proprietary software and data, AUTHORITY and CONTRACTOR shall each exercise the same degree of care in protecting the security and confidentiality of the other's rights and interests as each respective party exercises in protecting its own information, but not less than reasonable care plus the standards set forth herein and in the ARCS CNDA attached hereto. For purposes of AUTHORITY data, the term "data" shall have the same meaning as set forth in the ARCS License Agreement.

CONTRACTOR shall not use any software, hardware, or materials other than CONTRACTOR-provided, AUTHORITY-provided, or AUTHORITY-approved software, hardware, and materials. CONTRACTOR shall not intentionally violate software use licenses or intellectual property rights of third parties when using third party issued software.

13. ESCROW AND RELEASE OF SOFTWARE

CONTRACTOR will place into escrow the Deposit Materials as defined in the Escrow Agreement and identified on the List of Deposit Materials attached hereto as Exhibit "G," and which Deposit Materials shall be subject to release to AUTHORITY under the terms and conditions of the Escrow Agreement. The holding of Deposit Materials in escrow shall not adversely affect or limit the services to be provided or rights and responsibilities identified under this Contract. Upon release of the ARCS Software from escrow, if any, CONTRACTOR shall execute and provide any and all documentation necessary to facilitate transfer of the escrowed ARCS Software to the AUTHORITY for the uses, intents, and purposes provided in this Contract and the ARCS Software License.

The Escrow Agreement, ARCS Software License, ARCS CNDA, SSM-01 Software license and SSM-01 Software confidentiality provisions incorporated herein, are enforceable by any party thereto in and of themselves but are also incorporated herein by this reference and shall continue in full force and effect pursuant to their respective terms and the terms of this Contract. All provisions in this Contract relating to escrow (or release from escrow) of Deposit Materials, software licenses, confidentiality agreements, and other provisions which by their context survive this Contract shall survive the termination or expiration of this Contract.

14. DISPUTES

All services shall be performed by the CONTRACTOR to the reasonable satisfaction of the AUTHORITY's Executive Director (or his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. The Executive Director's decision upon all claims, questions and disputes shall be final agency action, and shall not limit CONTRACTOR'S remedies at law. Adjustments of compensation and Contract time, because of any major changes in the work that may become necessary or desirable as the work progresses shall be left to the absolute discretion of the Director (and the Authority Board if amendments are required) and supplemental agreement(s) of such nature as required may be entered into by the parties in accordance herewith.

Notwithstanding the foregoing, any and all disputes relating to Proprietary Software, the Escrow Agreement, ARCS Software License, ARCS CNDA, or other proprietary information owned by either party shall not be subject to this provision, but rather may be resolved in accordance with any remedies CONTRACTOR or the AUTHORITY may have under the Escrow Agreement, the ARCS Software License, the ARCS CNDA, SSM-01 Software license incorporated herein, and any SSM-01 CNDA, as applicable, or otherwise at law.

15. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT

CONTRACTOR warrants that it has not employed or retained any company, firm, agent, other entity, or person, other than a bona fide employee working solely for the

CONTRACTOR, to solicit or secure this Contract, and that CONTRACTOR has not paid or agreed to pay any company, firm, agent, other entity, or person 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 any brokerage fee, however denoted.

CONTRACTOR acknowledges that AUTHORITY officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with the AUTHORITY in accordance with the AUTHORITY's Ethics Policy. To the extent applicable, CONTRACTOR will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

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

CONTRACTOR covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards are by this reference made a part of this Contract as though set forth in full. CONTRACTOR agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

16. SUBLETTING OF CONTRACT

CONTRACTOR shall not sublet, sell, transfer, assign or otherwise dispose of this Contract or any portion thereof, or any of the CONTRACTOR's right, title or interest therein without written approval of AUTHORITY, which may be withheld in the AUTHORITY'S sole discretion. Any subletting, sale, transfer, assignment, or other disposition of the Contract, or any portion thereof, in violation of this section shall be voidable solely at the AUTHORITY's option. Consent to assignment shall not be required in the event CONTRACTOR changes its corporate name or merges with another limited partnership, corporation or legal entity, provided the assignee of such assignment assumes all of CONTRACTOR'S obligations under this Contract, as may be supplemented or amended from time to time.

17. TERMINATION AND DEFAULT

AUTHORITY reserves the right to terminate or suspend the Contract for convenience (in whole or in part) at any time the interest of the AUTHORITY requires such without cause for termination or suspension. In such circumstances, AUTHORITY shall notify CONTRACTOR (in writing) of such action with instructions as to the effective date of termination or suspension. CONTRACTOR will be paid for all work performed prior to termination and any reasonable, documented termination expenses. Payment for work performed will be based on negotiated prices, which prices are deemed to include profit and overhead. No profit or overhead will be allowed for work not performed, regardless of whether the termination is for convenience or Notwithstanding anything contained herein to the contrary, in no instance shall the

AUTHORITY's exercise of its right to terminate for convenience be deemed a default by the AUTHORITY.

If CONTRACTOR: (i) fails to perform the Contract terms and conditions; (ii) fails to begin the work under the Contract within the time specified in the "Notice to Proceed"; (iii) fails to perform the work with sufficient personnel or with sufficient materials to assure the prompt performance of the work items covered by the Contract; (iv) performs the work unsuitably; (v) fails to comply with Contract; or, (vi) performs unsatisfactorily in the reasonable opinion of AUTHORITY, AUTHORITY may give notice of default in writing to the CONTRACTOR stating the nature of the default and providing the CONTRACTOR ten (10) calendar days in which to correct the default.

If CONTRACTOR (within the ten (10) calendar day curative period, described in the notice of default) does not correct the default, AUTHORITY will have the right to remove the work from CONTRACTOR and to declare the CONTRACTOR in default, and the Contract terminated upon sixty (60) days written notice after the end of the cure period. If a default is not reasonably susceptible to cure within the cure period, CONTRACTOR may request an extension of the cure period, which extension AUTHORITY shall not unreasonably withhold.

Upon declaration of default and termination of the Contract, AUTHORITY will have the right to appropriate or use any or all materials and equipment on the sites where work is or was occurring which are suitable and acceptable, and may enter into agreements with others for the completion of the work under the Contract, or may use other methods which in the opinion of AUTHORITY are required for Contract completion. All costs and charges incurred by AUTHORITY because of, or related to, the CONTRACTOR's default (including the costs of completing Contract performance) shall be charged against the CONTRACTOR. If the expense of Contract completion exceeds the remaining sum which would have been payable under the balance of the Contract, CONTRACTOR shall be liable and shall pay the AUTHORITY the amount of the excess. In no event under this Article 17 will the CONTRACTOR's liability exceed the value of the Letter of Credit in Article 8.

If, after the default notice curative period has expired, but prior to any action by AUTHORITY to complete the work under the Contract, CONTRACTOR demonstrates an intent and reasonable ability to cure the default in accordance with AUTHORITY's requirements, AUTHORITY may, but is not obligated to, permit CONTRACTOR to resume work under the Contract. In such circumstances, any costs of AUTHORITY incurred by the delay (or from any reason attributable to the delay) will be deducted from any monies due or which may become due CONTRACTOR under the Contract.

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

AUTHORITY reserves the right to cancel and terminate this Contract in the event the CONTRACTOR or any employee, servant, or agent of the CONTRACTOR is indicted or has a direct information issued against him for any crime arising out of or in conjunction with any

work being performed by the CONTRACTOR for or on behalf of the AUTHORITY, without penalty.

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

18. PREVAILING PARTY

If any contested claim causes either party to engage legal counsel hereunder or relating to the Contract (and CONTRACTOR's work hereunder), and incurs attorneys' fees and/or costs (as defined hereinbelow), the prevailing party in such dispute, as hereinafter defined, shall be entitled to recover reasonable attorneys' fees and costs, including costs and expenses of expert witnesses, from the non-prevailing party.

In order to be deemed the prevailing party, the claimant (whether CONTRACTOR or AUTHORITY) must receive an adjusted judgment or adjusted award equal to at least cighty percent (80%) of its contested claims, failing which the other party will be deemed the prevailing party in such litigation. In the event of counterclaims, if neither party receives an adjusted judgment or adjusted award equal to at least eighty percent (80%) of its contested claims, neither party shall be deemed the prevailing party, and each party shall be responsible for its own costs and attorneys' fees. The requirements of this paragraph shall be called the "80% Requirement." The 80% Requirement shall not apply to claims arising out of the Escrow Agreement, ARCS Software License, ARCS CNDA, SSM-01 Software License, or any SSM-01 CNDA.

For purposes of determining whether a judgment or award is eighty percent (80%) or more of the contested claims, "adjusted award" or "adjusted judgment" shall mean the amount designated in an award or final judgment as compensation or damages (exclusive of interest, cost or expenses), less: (i) any amount awarded to the other party (exclusive of interest, cost or expenses) on claims asserted by the other party, and (ii) any amount offered by the other party in settlement prior to initiation of litigation (exclusive of interest, cost or expense).

The term "contested claim" or "claims" shall mean the initial written claim(s) submitted by the contesting party to the other party (and disputed by the other party), and which have not otherwise been resolved through ordinary close-out procedures of the Contract prior to the initiation of litigation. Claims or portions thereof, which other party agrees to pay or offers to pay prior to initiation of litigation, shall not be deemed contested claims for purposes of this provision. If a modified, amended or substituted claim is submitted after an original claim, the highest amount of all claims shall be the basis for determining whether the award is at least eighty percent (80%) of the claim(s).

Attorneys' fees and costs awarded to the prevailing party shall include reasonable fees and costs incurred in connection with and measured from the date a claim is initially submitted to AUTHORITY through and including all levels of pre-trial, trial, appeal, and collection. Where an original claim is subsequently modified, amended or a substituted claim is filed therefore, fees

and costs shall accrue from the date of the first written claim submitted, regardless of whether such original claim amount is ultimately used in determining if the judgment or award is at least eighty percent (80%) of the cumulative claims.

"Attorneys' fees" shall include but not be limited to fees and charges of attorneys, paralegals, legal assistants, attorneys' consultants, expert witnesses, court reporters, photocopying, telephone charges, travel expenses, or any other charges, fees, or expenses incurred through the use of legal counsel, whether or not such fees are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial fees (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation, or administrative proceeding arising out of this agreement.

"Costs" shall include but not be limited to any filing fees, application fees, expert witnesses' fees, court reporters' fees, photocopying costs, telephone charges, travel expenses, or any other charges, fees, or expenses incurred whether or not legal counsel is retained, whether or not such costs are provided by statute or contained in State-Wide guidelines, and shall apply to any pretrial costs (whether or not an action is filed), trial, appeal, collection, bankruptcy, arbitration, mediation or administrative proceeding arising out of this agreement.

As a condition precedent to litigation, a party shall have first submitted its claim(s) (together with supporting documentation) to the other party, and the other party shall have had sixty (60) days thereafter within which to respond thereto. Subsequent to the other party's response, the parties shall arrange and attend non-binding mediation. Only if the parties reach impasse at mediation, may the claim(s) proceed to litigation in a court of competent jurisdiction.

The AUTHORITY and CONTRACTOR agree that neither party shall avail itself of Section 768.79, Florida Statutes, or any other like statute or rule involving offers of settlement or offers of judgment, it being understood and agreed that the purpose of such statute or rule are being served by this provision.

Should this provision be judged unenforceable or illegal, in whole or in substantial part, by a court of competent jurisdiction, this provision shall be void in its entircty and each party shall bear its own attorneys' fees and costs.

19. MISCELLANEOUS PROVISIONS

- A. <u>Prevailing Wage.</u> Prevailing Wage provisions are not applicable under this Contract.
- B. Force Majeure. The CONTRACTOR shall not be liable for delays during the performance of its obligations under the Contract arising out of causes beyond the reasonable control of the CONTRACTOR. Such causes include and are not limited to:

- Acts of God; acts of public enemies; acts of war; terrorist acts; and riots (only to the extent they occur and <u>directly</u> affect CONTRACTOR's ability to perform under the Contract).
- Jurisdictional governmental authorities acting outside the scope of current laws and ordinances;
- Hurricanes, earthquakes or other natural disasters that result in a declaration of emergency by the Governor of the State of Florida within the geographical area that includes the work area;
- Explosion that directly affects access to the work or work area;
- Vehicular accidents not caused by CONTRACTOR or CONTRACTOR's work that block access to the work or work area.

In the event of a Force Majeure event that affects the CONTRACTOR's ability to perform, inclusive of response and/or repair time, the CONTRACTOR shall comply with the following requirements:

- Notify the AUTHORITY in writing of the occurrence of a Force Majeure event within 72 hours of when the event directly affects CONTRACTOR's ability to perform under the Contract; and
- Furnish a detailed written explanation of the impact of the delaying event on the scheduled work with supporting documentation, including the steps reasonably necessary and within the CONTRACTOR'S power required to protect the work, employees, materials and equipment from the effects of the event.
- C. Limitation of Liability.
- 1. Except for claims arising out of bodily injury, death, damage to real or tangible property, the ARCS Software License, ARCS CNDA, SSM-01 Software license provisions incorporated herein, or any SSM-01 CNDA (if any, as applicable), the CONTRACTOR's total liability to the AUTHORITY arising out of or related to this Contract, from any cause or causes, and regardless of the legal theory, including warranty and negligence, shall not, in the aggregate, exceed the total value of the Letter of Credit in Article 8.
- 2. The Statute of Limitations for any claim by either party relating to this contract, other than in warranty, shall be governed by section 95.11, Florida Statutes. Notwithstanding the foregoing, any claim under warranty must be made within the time specified in the applicable warranty clause.

D. Novation.

This Contract extinguishes and replaces the software maintenance and upgrade, and host and plaza hardware maintenance and upgrade, provisions of, and obligations set forth in, the Project 256 Contract and the software maintenance and upgrade, and host and plaza hardware maintenance and upgrade, provisions of, and obligations set forth in, all supplements, supplemental contracts, amendments, and change orders pertaining thereto. All elements and provisions of the Project 256 Contract that are not covered, extinguished, and replaced by this Contract, shall remain in full force and effect under the Project 256 Contract and be unaffected by this Contract. Notwithstanding any of the foregoing, all open or active supplements, supplemental contracts, amendments, and change orders to the Project 256 Contract (i.e., those under which CONTRACTOR is working on the date of the execution of this Contract, which are Supplemental Agreements 03-07, 03-08, 04-01 and 04-02) are exempt from this Novation and shall continue to be subject to their own terms and the terms of the Project 256 Contract. However, the parties may, by mutual agreement, individually novate such supplements, supplemental contracts, amendments, and change orders.

E. Venue.

This Contract shall be interpreted under the laws of the State of Florida, and venue for any action or proceeding arising hereunder shall be exclusively in Orange County, Florida.

F. Severability.

If any portion of this contract is deemed or held to be invalid or unenforceable, the remainder hereof shall continue to be of full force and effect and shall be interpreted as closely as possible to the original intent and purpose.

[SIGNATURE PAGE FOLLOWS]

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

"AUTHORITY"

	ORLANDO-ORANGE COUNTY EXPRESSWAY AUX HORATY, a state agency and bod politic of the State of Alexandra
Ву:	Mighael Snyder Executive Director
ATT	of on on one one

Approved as to form and execution only:

Shutts & Bowen, LLP,

General Counsel to the Authority

7-22-04

"CONTRACTOR"

TRANSCORE, L.D. a Delaware limited partnership

By:

eneral Partner

Rv.

THE

ATTEST: Duna

(Seal)

V.P. Dapity Raysonal Mark Trus Corn LP.

EXHIBIT A SCOPE OF SERVICES

(SSM-01)

EXHIBIT A

SCOPE OF SERVICES

ELECTRONIC TOLL COLLECTION SYSTEM

SOFTWARE MAINTENANCE

HOST & PLAZA HARDWARE MAINTENANCE

Table of Contents

1.	SCOPE	3
a	A IN I CO I Desired	3
2.	SERVICE LEVEL REQUIREMENTS	
- a		3
b		4
c	6 / 4 3 1 3 2	4
d		4
e	- " ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' ' '	5
ſ.		
3.	SOFTWARE MAINTENANCE REQUIREMENTS	5
a	a a distance della di	5
b		6
c		7
d		8
4	STAFFING	9
2		9
b	에는 그는 사람들이 되었다면 하다 하다는 것이다. 이번 사람들은 그리고 사용하다 아내는 사람들이 되었다. 사람들이 그리고 있다고 있다고 있다면 하는데 하는데 하는데 그렇게 되었다. 그리고 있다고 있다.	
c		
d		. 11
5.	SOFTWARE TESTING AND IMPLEMENTATION	
6.	MAINTENANCE RECORDS	
7.	UNINTERRUPTIBLE POWER SUPPLY (UPS) SYSTEM MAINTENANCE	. 12
8.	EQUIPMENT & SOFTWARE PURCHASES	. 12
9.	SUPPORT FROM CONTRACTOR'S NON-LOCAL OFFICES	. 12
10	COORDINATION WITH OTHER CONTRACTORS	

ELECTRONIC TOLL COLLECTION SYSTEM SOFTWARE AND HOST/PLAZA MAINTENANCE

1. SCOPE

a. General Description of Services Required

The Contractor shall be responsible for providing System Software Maintenance and the Hardware Maintenance for the Host and Plaza computers for the Orlando Orange County Expressway Authority's (Authority) Electronic Toll Collection System for the term of this Contract. The Electronic Toll Collection System is mission critical for the Authority and it is vital that it has the highest availability possible. For the purpose of this Contract, the term "System" refers to all software running on the lanes, plazas and hosts, all data stored on the lanes, plazas, and hosts, all hardware at the hosts, plazas, development platform, testing and training Systems and the TransCore-provided VES hardware and software. The software includes, but is not limited to, operating Systems, databases, application software, communication protocols, and third party supporting software. The Contractor shall perform System administrative activities, corrective action, and maintenance. The Contractor shall also design, develop and install new application modules and enhancements to the System as needed by the Authority, and coordinate those efforts with the Hardware Maintenance Contractor, the Operations Contractor, Authority Staff, and others as directed by the Authority. Software and Computer Hardware Maintenance shall be provided through qualified personnel and Contractors acceptable to the Authority. Contractor shall provide coverage by personnel either on duty or on call 24 hours a day, seven (7) days a week.

2. SERVICE LEVEL REQUIREMENTS

a. Response Time

System Software and Host/Plaza Computer Hardware components shall have a Response Time of two (2) hours including weekends and holidays. The Contractor is required to respond, either through remote access or on-site, and begin working on problems within two (2) hours of notification. The person responding must have the skills which are required to fix the problem within the specified repair time. The two (2) hour response time is required twenty-four (24) hours per day, seven (7) days a week. If the response time requirement is not met, the Contractor must notify the Authority as soon as possible.

In order to track response time, all problem reports will be made via a dedicated 24-hour per day telephone number which will be maintained by the Contractor for the purpose of

fielding calls. Activity reports from the Contractor's telephone service must be provided to the Authority on a weekly basis.

b. Repair Time

Hardware failures at the Host/Plaza levels shall be repaired within two (2) hours of arrival on-site, but in no case shall the repair time exceed four (4) hours of the first notification. The total response and repair time shall be measured from the exact time that the problem is first reported to the Contractor until the equipment is brought back on-line and the hardware is fully functional. If the repair time requirement is not met, the Contractor must notify the Authority as soon as possible. Response and repair times for the backup host are the same as for the primary host.

Software problems will be divided into two categories: Those which impact revenue collection and those which do not. Every attempt should be made to fix all software problems within three (3) hours of being reported. The status of problems which impact revenue collection that take longer than three (3) hours to repair must be reported as soon as the situation becomes evident, and status reports must be submitted thereafter at least every four (4) hours, until the problem is corrected.

In the event of multiple software problems occurring simultaneously or overlapping, the Authority may, in its sole discretion, direct Contractor as to the order in which to proceed.

c. System Availability

The Contractor shall be required to maintain a System wide availability level equal to nincty-nine percent (99%) at the mainline plazas and ninety-nine percent (99%) at the Host. These levels of availability are set for twenty-four (24) hours per day, seven (7) days a week, and failure to meet the stated levels shall constitute a default under the Contract. Preventive maintenance and equipment repair shall not affect or be included in the baseline availability calculations so long as equipment is repaired within the specified guaranteed repair time. Contractor will submit monthly, quarterly, and annual reports showing availability percentages and calculations by lanes, ramps, plazas, host and System. Contractor's failure to timely provide reports will be cause for the Authority to withhold payment until such reports are provided.

d. Actual Damages

When revenue is lost due to equipment failure or software issues, and the toll revenue the Authority losses cannot be recovered from its customers, the Contractor will be held responsible for these lost revenues when (1) the Contractor has been informed of the

problem and does not respond and/or repair within the specified time periods, or (2) when it is determined that the equipment or software failure is a result of Contractor negligence or intentional wrongful act. The Authority reserves the right to estimate the amount of lost revenue and invoice the Contractor for that amount, based on historical data or other reasonable supporting documentation. The exception to this provision would be force majeure events that would limit the ability of the Contractor to perform the duties required, as determined by the Authority, as such events are stated and defined in the Contract.

e. Coordination with Other Contractors

There are several other contractors working with the Authority on the System. Some of these are directly related to the work being done by the hardware Contractor and some are not, but it is imperative that the hardware Contractor cooperate and coordinate activities where appropriate to ensure a smooth operating system. Examples of other contractors are: Toll System Operator, Customer Service Center Operator, VES maintenance, FON maintenance, security maintenance, hardware maintenance, roadway maintenance, landscape maintenance, construction, installations, etc. This requirement is especially true when work involves the hardware Contractor and/or the installation Contractor. The software Contractor must take whatever steps are deemed necessary by the Authority to accommodate this requirement.

f. Maintenance of Traffic

The Authority is very sensitive to the maintenance of traffic during peak periods. Contractor must protect the maintenance of traffic during peak hours. Contractor must address lane-closing procedures, and scheduling closures during off peak times, including nights and weekends. For Express Lanes, the Authority will establish a fixed cost for set up in the express lanes. This set-up fee will be separate from the regular maintenance fee. This will accommodate the requirements for closing the Express Lanes, which include providing police coverage, barricades, and variable message signs.

3. SOFTWARE MAINTENANCE REQUIREMENTS

The Contractor will provide software personnel in Orlando to perform corrective action, maintenance, and enhancements to the System. These tasks include, but are not necessarily limited to:

Configuration Management and Documentation

 Contractor must provide a Configuration Management Plan that will show how the Contractor will provide strict control over Configuration Management. This plan must include provisions for tracking changes, not only to the source code, but also to all other components that comprise the

- ARCS System. This includes, but is not limited to: configuration files, DCL scripts, source code, database scripts and parameter files, etc.
- The Contractor must document, and submit documentation of, Configuration
 Management activities and processes and must report such activities to the
 Authority on a quarterly basis. As part of that report, the Contractor must
 provide an overall summary of code changes and other System modifications.
- Contractor must provide Change Reports describing modifications to the System as changes occur.
- Contractor must provide Software Build Reports that will include a comprehensive list of all components included in each software delivery, along with a description of what changes were made to each component.
- Contractor must provide the Authority with a comprehensive set of System documentation on a quarterly basis. The quarterly documentation delivery will include updates to the System documentation to reflect all changes that were implemented during the quarter.

b. Software Development

- Contractor is required to provide advance notification when a build is ready for delivery and the Authority reserves the right to review and approve the contents of the build prior to its installation.
- Contractor must provide a description of the testing conducted and a summary of test results along with the written test plan executed for each build prior to its deployment into the production environment.
- Contractor will perform testing, installation and verification of new software builds at Lane, Plaza, and Host levels.
- The Contractor will perform development and testing activities primarily on machines located in Contractor's office. These machines are owned by the Authority and shall be returned to the Authority upon termination of the Contract.

The Contractor agrees to provide a secure, suitable environment for these machines. Since they may contain copies of confidential data from the Authority's production environment, the Contractor agrees to provide safeguards, according to the requirements set forth in the Contract for protection of confidential or proprietary information, to prohibit access of these Systems and the backup media through which they are updated by anyone other than approved personnel specified within this Contract. This includes, but is not necessarily limited to, restrictions on physical access as

well as access via the Contractor's network. A description of the safeguards the Contractor has in place must be provided to and reasonably approved by the Authority.

Any purchase of licenses or support renewals for these development/test machines must be pre-approved by the Authority. The Contractor is responsible for seeing that licenses and support renewals are kept up-to-date on these machines and is required to maintain a schedule of all licenses and support renewal dates. Any late fees, damages, or penalties incurred due to the Contractor's acts or omissions relating to the license and support process will be the sole responsibility of the Contractor.

c. System Support

- 1. Contractor will perform System support as required.
- Contractor will coordinate the problem resolution process to modify System functionality as needed.
- Contractor will perform installation of new software, including but not limited to, application software, databases, operating Systems and other supporting software.
- 4. Contractor will perform System monitoring and report findings to the Authority in a timely manner. Historically, one of the most visible support tasks has been the monitoring of the application and database at the host and plazas. While the Oracle database engine has performed extremely well over the years and the ARCS application is fairly mature, the System's overall size has increased by several orders of magnitude as the traffic has increased on the System and operational requirements have grown. As a result, close monitoring of the System is essential to sustain the level of availability required by the Authority.
- The Contractor will perform database monitoring, maintenance, and tuning as needed.
- The Contractor will be responsible for performing restore and recovery of any component of the System as required after failure.
- Contractor will perform migration and upgrade of the System, including software and hardware if required.
- Contractor will be responsible for assisting Authority staff in answering user questions and identification of data errors.

- Contractor must track hardware warranties for all hardware associated with this Contract to avoid unnecessary equipment repair costs.
- 10. Contractor will provide resource estimates, as requested by the Authority, for all System-related projects that are submitted to the Authority's IT Steering Committee. At the end of each project, the Contractor will provide a report listing the actual hours spent on each project and any related equipment costs.
- 11. CONTRACTOR must provide training of Authority staff or designees on any aspect of the System requested by the Authority.
- 12. Contractor will troubleshoot and resolve plaza and host hardware problems and will take corrective action as needed. Prior to addition, replacement or maintenance of equipment, the Contractor will work with and advise the Authority as to the requirements, impact, and related timing for the work.
- 13. The Contractor will work with the Authority to establish schedules for implementing host and plaza hardware changes and will provide all logistical support and installation related labor for plaza and host hardware upgrades.

d. Escrow Account

- A Software Escrow account must be set up and maintained by the Contractor
 with an independent escrow agent reasonably acceptable to the Authority.
 Cost of Contractor's set up and maintenance of the escrow account, including
 but not limited to testing and training, shall be based on the Pricing Schedule.
- 2. The escrow account shall be subject to the terms set forth in the Contract and Escrow Agreement. The Deposit Materials must include all components needed to generate an up-to-date set of executable code for lane, plaza and host software as well as all supporting files including, but not limited to, configuration files, command procedures, parameter files, all database related files, written procedure for creating a software build, as well as a list of required software and software versions i.e. compilers, librarics, etc., all as further detailed in the Escrow Agreement.
- 3. The Contractor must completely update the Software Escrow account on an annual basis. The Deposit Materials must be tested and shown to be working in proper order at least annually. In order to test the escrowed software, the Contractor must demonstrate that the escrowed code is capable of generating an up-to-date set of executable application code by following the written procedure for creating a software build included in the escrow. A regression test that will sufficiently exercise all the modules in the System must be executed using a written test plan that has been reviewed and approved by the Authority.

- 4. Once the software builds have been approved and accepted by the Authority, the Contractor must add to the escrow account all components included in the software builds on the terms provided in the Escrow Agreement.
- The Contractor's Project Manager is responsible for seeing that escrow is updated as directed above.
- Contractor's failure to keep the escrow current shall be a material breach of the Contract.

4. STAFFING

a. General

The Contractor shall maintain a full-time local System maintenance staff, to effectively support and maintain the System on a twenty-four (24) hour, seven (7) days per week schedule. The Authority maintains the right to review resumes for and to interview and approve members of the Contractor's staff who will be working on the Contract. Contractor shall comply with Article 8 of the Contract regarding insurance or bonding of all personnel.

In addition, the Contractor must engage the services of a third party which specializes in performing and assessing criminal background checks to perform nation-wide background checks for all members of the Contractor's staff who will be working on the Contract. The Authority reserves the right to review the results of the background checks and to make decisions based on the same. The Contractor must submit a report annually that shows a list of employees and a certification that they are all bonded. This report must be updated and submitted during the year any time an employee is added to the work force. Alternatively to the foregoing background check and bonding requirements, Contractor may provide Authority with a copy of Contractor's fidelity insurance policy, along with a detailed statement of Contractor's in-house background check and security screening procedures, and certification that such background checks have been conducted and detailed results thereof, which if approved by Authority will serve in lieu of the background screening and bonding requirements first set forth in this paragraph.

The Contractor agrees to abide by the conditions set forth in the Authority's Security Policy. All Contractor personnel (local and remote) who have access to Authority data must read and sign an acknowledgement of the terms of the Authority's Security Policy.

Each member of the Contractor's staff accessing the Authority's System, whether operating out of the Contractor's local office or from one of the Contractor's out-of-town offices, must have unique user account, username and password issued by the Authority.

The Project Manager must notify the Authority of all planned staff absences such as outof-office training and vacations affecting personnel working on the Contract.
Notification of upcoming absences should be given to the Authority as far in advance as
possible. The Contractor must make provisions to provide a qualified, approved backup
for all staff members when the designated person is unavailable such as during vacations,
etc. This can be accomplished through cross-training existing personnel or through other
resources available to the Contractor such as utilizing staff members from the
Contractor's other offices, however any person accessing the Authority's Systems or
data, even on a temporary basis, is subject to the same requirements as set forth
elsewhere in this Contract for designated personnel.

b. Contractor Positions

Guaranteed Personnel: When an individual is designated as Guaranteed Personnel, Contractor shall ensure that individual is dedicated for the guaranteed Level of Commitment to work under this Contract and no other project. In addition, the Authority can require that the individual perform whatever tasks need to be done, within reason, without an extra charge, except for time over the Level of Commitment, if applicable. This includes, but is not limited to, support, code development, design, documentation, testing, etc.

If Contractor desires that an individual filling a position which is designated as Guaranteed Personnel in this Contract must temporarily work on something other than the Contract, the redirection of efforts must be pre-approved by the Authority and the charge to the Authority for that person's time must be reduced to reflect the amount of time the person spent on non-Authority activities.

Part-time and Hourly Positions: The Contractor's Project Manager will coordinate with the Authority on the availability of those individuals filling part-time or hourly positions to assure the time which is allocated to the Contract will provide the resource level needed to meet project objectives.

Individuals who are not Guaranteed Personnel may be assigned to work on other projects without Authority approval, only to the extent that such assignment does not in any way interfere with the work under this Contract.

c. Staffing Plan

The Staffing Plan is contained in Exhibit "B." The Authority reserves the right to add or subtract positions pursuant to the terms of the Contract. The Authority reserves the right to interview and approve members of the Contractor's staff who will be working on the Contract. If the Authority requests that an individual be removed from the project in accordance with Contract terms, the Contractor will comply within 24 hours of such a request. If the Authority requests and approves a substitute, Contractor shall provide a substitute within a reasonable time frame as set by the Authority. In the event that the

Authority requests removal of a member of the Contractor's staff, all necessary security measures must be taken by the Contractor to ensure that the Authority's data is protected. This includes, without limitation, deleting user names, changing passwords, retrieving access cards, etc.

Time Sheets

Authority may provide a template for detailed time sheets pursuant to Section 2.5 of the Contract that all Contractor personnel shall complete and submit to the Authority on a weekly basis, along with a summary sheet on a monthly basis, in electronic or printed format as determined by the Authority. Contractor shall ensure completion of time sheets and summaries in accordance with Contract requirements. Timesheets will show an hourly breakdown of each personnel member's activities classified by project and indicating whether the time was applied to maintenance or development activities.

Extra Work & Installation Support

The Authority from time to time may be installing new equipment, testing vendor equipment and Systems in the lanes, adding toll lanes and collection points, and constructing or expanding roads. The Contractor may be required to provide additional support to the Authority to perform some of these tasks. When these tasks require labor in addition to that provided for in the Contract, the Authority will either request a quote from the Contractor for performing the new/changed services with an appropriate credit for any deleted services, or request that the Contractor provide an estimate of hours by classification to complete the tasks. Exhibit "D" contains the Pricing Schedule according to classification that will apply to additional labor. Prior to the Notice to Proceed on this Contract, the Contractor must provide a list of those individuals who come under each classification. This list will be updated periodically as personnel change.

d. Quality Assurance

The Contractor shall maintain a Quality Control and Assurance Plan and submit updates that reflect work accomplished under the Software Maintenance Contract. The Contractor must show how the work of the personnel will be evaluated and how training will be provided both initially and as an on-going component.

5. SOFTWARE TESTING AND IMPLEMENTATION

When a new software build is required, the Contractor must cooperate closely with the Hardware Maintenance Contractor, the Operations Contractor, Authority Staff, and all other affected parties, to ensure that the testing is properly performed and that implementation is coordinated to the extent that the Systems perform normally when the software installation is completed and to assure that users are aware of any modifications that impact the user interface before the build is installed.

6. MAINTENANCE RECORDS

The Contractor shall maintain current and accurate records for all System software and Host/Plaza hardware maintenance work. The records shall be organized and managed by a computerized data and information management System. The Contractor must maintain records in an electronic form easily retrievable and transferable to the Authority. All records are the property of the Authority, and as such the Authority has the right to review and retrieve data and records at any time via electronic or hard copy. The Contractor must provide a full explanation of how and what System is going to be used to fulfill this requirement. In addition, the Authority must have direct access to the Contractor's maintenance database.

7. UNINTERRUPTIBLE POWER SUPPLY (UPS) SYSTEM MAINTENANCE

Contractor will provide a plan and pricing for performing maintenance on the UPS equipment for the Hosts computers.

Support for the Host's Power Ware UPS (36 kva) is currently provided by a third party. This support was arranged through the Contractor, however the Authority reserves the right to arrange for support for UPSs directly rather than through the Contractor.

8. EQUIPMENT & SOFTWARE PURCHASES

The Contractor will submit pricing quotes and obtain Authority approval for all purchases made on behalf of the Authority. This includes, but is not limited to, third party vendor services and equipment, software, support agreements, licenses and equipment repair.

9. SUPPORT FROM CONTRACTOR'S NON-LOCAL OFFICES

Contractor will provide a plan for using personnel from offices other than its local office for support and for software maintenance and enhancements, including a description of remote software support personnel and facilities. This plan must include a description of the means through which non-local staff will access the Authority's Systems. Any access from non-local offices must be pre-approved by the Authority. Staff from the Contractor's out-of-town offices are subject to the staff requirements set forth in the Contract.

10. COORDINATION WITH OTHER CONTRACTORS

There are several other contractors working with the Authority on the System. Some of these are directly related to the work being done by the software Contractor and some are not, but it is imperative that the software Contractor cooperate and coordinate activities where appropriate to ensure a smooth operating system. Examples of other contractors are: Toll System Operator, Customer Service Center Operator, VES maintenance, FON

maintenance, security maintenance, hardware maintenance, roadway maintenance, landscape maintenance, construction, installations, etc. This requirement is especially true when work involves the hardware Contractor and/or the Installation Contractor. The software Contractor must take whatever steps are deemed necessary by the Authority to accommodate this requirement.

End of Exhibit "A"

CONSENT AGENDA ITEM #13

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams Will

Director of Procurement

DATE: May 20, 2021

SUBJECT: Approval of Cooperative Purchase Agreement with Ciber Global, LLC

for Information Technology Staff Augmentation Services

Contract No. 001787

Board award of cooperative purchase agreement with Ciber Global, LLC in the not-to-exceed amount of \$4,400,000.00 is requested. This is a cooperative purchase (piggyback) agreement based on a contract between the State of Florida and Ciber Global, LLC which will allow CFX to take advantage of the favorable rates already negotiated.

The service consists of providing IT staffing.

This contract is included in the OM&A Budget as well as the Five-Year Work Plan.

Reviewed by: Rafasl Millan

Rafael Millan

Director of IT

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



CENTRAL FLORIDA EXPRESSWAY AUTHORITY COOPERATIVE PURCHASE AGREEMENT CONTRACT NO. 001787

THIS COOPERATIVE PURCHASE AGREEMENT CONTRACT NO. 001787 ("Agreement") is made this 10th day of June 2021, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 ("CFX") and CIBER GLOBAL, LLC., a Michigan Limited Liability Company, who is registered to do business in the State of Florida, whose address is 3270 West Big Beaver Road, Troy, MI 48084 ("Contractor"). CFX and Contractor shall be referred to herein individually as "Party" or collectively as "Parties."

WITNESSETH:

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, as defined in the CFX Act, and was granted all powers necessary and convenient to conduct its business; and

WHEREAS, CFX has been granted the power under Section 348.754(2)(m), Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of CFX, 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 Contractor to provide Information Technology Staff Augmentation Services; and

WHEREAS, on or about September 1, 2020, the Contractor entered into that certain Contract No. 80101507-SA19-1 with the State of Florida, Department of management services (Department), a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference, for Information Technology Staff Augmentation Services; and

WHEREAS, the Department Contract between the Contractor and Department was procured through a competitive bidding process, which process is substantially similar to those required by CFX, and included a Request for Proposals 15-80101507-SA-D and sealed proposals from other contractors; and

WHEREAS, competitive bids seeking qualified contractors to perform Information Technology Staff Augmentation Services on behalf of CFX was not required because the Contractor has the existing Department Contract, which was awarded through a competitive bidding process, for the same Information Technology Staff Augmentation Services to be provided hereunder, and CFX has decided to contract with Contractor for the performance of Information Technology Staff Augmentation Services described herein under the same conditions previously negotiated by the Department; and

WHEREAS, the Contractor agrees to provide Information Technology Staff Augmentation Services under substantially the same terms and conditions as included in the Department Contract subject to the additional terms and conditions 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. <u>Recitals and Definitions.</u> The foregoing recitals are true and correct and are incorporated herein by this reference. All capitalized terms not specifically defined herein shall have the meaning ascribed to them in the Department Contract.
- 2. <u>Adoption of the Department Contract</u>. The Parties adopt all of the Department Contract by reference as though specifically set forth herein, subject to the following substitutions or revisions:
- a. All references to "Department" shall be replaced with the "Central Florida Expressway Authority" or "CFX".

CFX's representative/liaison during the performance of this Agreement shall be Rafael Millan, Director of IT.

b. Section 1 – Contract Term of the Department contract, shall be amended and replaced with the following:

The Agreement shall become effective on June 10, 2021, unless earlier terminated as provided for herein, shall run for a term of three (3) years ("Initial Term"), with two (2) one (1) year renewals ("Renewal Term") by mutual agreement of the Parties, at the same prices, terms, and conditions. If a renewal option is exercised, CFX will provide Contractor with written notice of its intent at least ninety (90) days prior to the expiration of the Initial Term ("CFX Renewal Deadline"), which written notice shall be signed by the Contractor. The Initial Term and any Renewal Term shall be collectively referred to herein as the "Term".

c. The certificate holder for insurance purposes shall be listed as follows:

Central Florida Expressway Authority 4974 ORL Tower Road Orlando, Florida 32807

d. All notices required of the Department Contract shall be sent to CFX at the following address:

Central Florida Expressway Authority c/o General Counsel 4974 ORL Tower Road Orlando, Florida 32807

e. All invoices shall be sent to CFX at the following email address: Billing@CFXWay.com.

- 3. <u>Services</u>. 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 Agreement in the manner and to the full extent as required by CFX ("Services"). The Services to be included under this Agreement shall include the services more specifically set forth in Exhibit "A" to the Department Contract.
- 4. <u>Contract Amount and Compensation for Services</u>. Compensation shall be in accordance with the pricing sheet attached to the Department Contract and shall be paid in accordance with the terms of this Agreement and CFX's Procurement Policy. The following rates set forth in the pricing sheet attached to the Department Contract Exhibit F. The contract amount is \$4,400,000.00 for the initial term.
- 5. <u>Conflict of Interest.</u> As required by Section 348.753, Florida Statutes, and CFX's Code of Ethics, Contractor agrees to complete CFX's Potential Conflict Disclosure Form prior to the execution of this Agreement, upon the occurrence of an event that requires disclosure, and annually, not later than July 1, or such date as determined by CFX. The Potential Conflict Disclosure Form is attached as <u>Exhibit "B"</u>.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the authorized signatures named below have executed this Agreement on behalf of the Parties effective as of the date written above.

"CONTRACTOR"

CIBER GLOBAL, LLC

By:
Print Name:
Title:
Date:
"CFX"
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
By:Aneth Williams, Director of Procurement
Date:
Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this day of, 2021 for its exclusive use and reliance.
By: Diego "Woody" Rodriguez
General Counsel

Exhibits
Exhibit "A" - Department Contract

Exhibit "B" - CFX Conflict Disclosure Form



State Term Contract No. 80101507-SA-19-1 Information Technology Staff Augmentation Services

Between Florida Department of Management Services and CIBER GLOBAL, LLC

This Contract is between the State of Florida, Department of Management Services (Department), Division of State Purchasing (Division), with offices at 4050 Esplanade Way, Tallahassee, FL 32399-0950, and CIBER GLOBAL, LLC (Contractor).

The Contractor submitted a responsive Proposal to the Department's Request for Proposal (RFP) 15-80101507-SA-D for Information Technology Staff Augmentation Services. After evaluation of Proposals, the Department determined that the Contractor's Proposal is among those that are the most advantageous to the State of Florida and has decided to enter into this Contract.

Accordingly, the Department and Contractor agree as follows:

1. Contract Term

The Contract Term of this Contract for Information Technology Staff Augmentation Services will be for two (2) years with no renewals. Section 2.2 of the Contract Exhibit C, Special Contract Conditions, is superseded in its entirety by this section of the Contract. The Contract Term will begin on September 1, 2020, or the date of the last signature on this Contract, whichever occurs later.

2. Contract

As used in this document, the term "Contract" (whether or not capitalized) shall, unless the context requires otherwise, be considered to be references to this Contract.

This Contract, together with the following attached exhibits and 3rd Bid RFP 15-80101507-SA-D, all incorporated by reference, sets forth the entire understanding of the parties and supersedes all prior agreements, whether written or oral, with respect to such subject matter.

All exhibits to this Contract are incorporated in their entirety into, and form part of, this Contract. The Contract has the following exhibits:

- a) Contract Exhibit A: Statement of Work
- b) Contract Exhibit C: Special Contract Conditions
- c) Contract Exhibit D: Additional Special Contract Conditions
- d) Contract Exhibit E: Contractor's submitted Staffing Resource Management Plan
- e) Contract Exhibit F: The awarded category pricing from the Contractor's submitted Price Sheet from 3rd Bid RFP 15-80101507-SA-D
- f) Contract Exhibit G: Resume Acknowledgement Form
- g) Contract Exhibit H: Contractor Selection Justification Form
- h) Contract Exhibit I: Contractor Performance Survey
- i) Contract Exhibit J: Quarterly Sales Report

If a conflict exists among any of the Contract documents, the documents shall have priority in the order listed below:

- a) The Contract
- b) Statement of Work, Contract Exhibit A
- c) Additional Special Contract Conditions, Contract Exhibit D
- d) Special Contract Conditions, Contract Exhibit C
- e) Resume Acknowledgement Form, Contract Exhibit G
- f) Contractor Selection Justification Form, Contract Exhibit H
- g) Contractor Performance Survey, Contract Exhibit I
- h) Quarterly Sales Report, Contract Exhibit J
- i) 3rd Bid RFP 15-80101507-SA-D
- j) The awarded category pricing from the Contractor's submitted Price Sheet from 3rd Bid RFP 15-80101507-SA-D, Contract Exhibit F
- k) Contractor's submitted Staffing Resource Management Plan, Contract Exhibit E

3. Purchase Order Requirements

Information Technology Staff Augmentation Services, identified by the Customer in a Request for Quote, are diverse and routine services that may require any information technology functions and tasks.

Customers shall use a Request for Quote per section 287.056(2), Florida Statutes as a result of this state term contract. Customer shall order services from the Request for Quote via a Purchase Order with the Customer selected Contractor. The terms of the Purchase Order shall not conflict with the terms and conditions established by this Contract.

In accepting a Purchase Order, the Contractor recognizes its responsibility for all tasks and deliverables contained therein, warrants that it has fully informed itself of all relevant factors affecting accomplishment of the tasks and deliverables and agrees to be fully accountable for the performance thereof.

4. Amendments

No oral modifications to this Contract are permitted. All modifications to this Contract must be in writing and signed by both parties.

Notwithstanding the order listed in section 2, amendments executed after the Contract is executed may expressly change the provisions of the Contract. If they do so expressly, then the most recent amendment will take precedence over anything else that is part of the Contract.

This Contract is executed upon signature of authorized officers as of the dates signed below:

State of Florida:
Department of Management Services

Contractor: CIBER GLOBAL, LLC

By:

Name: Jonathan R. Satter

DocuSigned by:

Title: Secretary

Date: 8/4/2020 | 1:50 PM EDT

By: Suthir Randhawa

Name: SUTBIR RANDHAWA
Title: VICE PRESIDENT

Date: 7/31/2020 | 7:03 AM PDT



State Term Contract No. 80101507-SA-19-1 Information Technology Staff Augmentation Services

Contract Exhibit F The awarded category pricing from the Contractor's submitted Price Sheet from 3rd Bid RFP 15-80101507-SA-D

CIBER GLOBAL, LLC

Job Family	Job No.	Job Title	Scope Variant	Contractor's Submitted Price
Applications	1200	Director Systems and Programming	1. Team Leader	\$132.00
Development			2. Manager	\$145.00
			3. Sr. Manager	\$175.00
	1210	Mgmt. Applications Development	1. Team Leader	\$125.00
			2. Manager	\$135.00
			3. Sr. Manager	\$145.00
	1220	Applications Architect	A. Entry	\$103.50
			B. Intermediate	\$112.00
			C. Advanced	\$119.00
	1230	Enterprise Application Integration (EA) Engineer	No Variance	\$125.00
	1240	Systems Analyst	A. Entry	\$65.00
			B. Intermediate	\$98.50
			C. Advanced	\$108.00
	1250	Applications Development Analyst	A. Entry	\$73.00
			B. Intermediate	\$95.00
			C. Advanced	\$105.00
Data Strategy and	1400	Database Manager	1. Team Leader	\$125.00
Management			2. Manager	\$140.00
			3. Sr. Manager	\$152.00
	1410	Data Architect	A. Entry	\$85.00
			B. Intermediate	\$120.00
			C. Advanced	\$150.00
	1420	Data Modeler	A. Entry	\$70.00
			B. Intermediate	\$95.00
			C. Advanced	\$115.00
	1430	Database Analyst	A. Entry	\$90.00
			B. Intermediate	\$105.00
			C. Advanced	\$115.00
	1440	Database Administrator	A. Entry	\$80.00
			B. Intermediate	\$110.00
			C. Advanced	\$125.00
Quality Assurance	1600	Mgmt. Quality Assurance	1. Team Leader	\$105.00
			2. Manager	\$125.00

Job Family	Job No.	Job Title	Scope Variant	Contractor's Submitted Price
			3. Sr. Manager	\$145.00
	1610	Quality Engineering Consultant	No Variance	\$110.00
	1620	Quality Assurance Analyst	A. Entry	\$65.00
			B. Intermediate	\$79.00
			C. Advanced	\$95.00
Technology	1801	Manager, Technology Research	No Variance	\$141.00
Research	1810	Technology Research Analyst	A. Entry	\$80.00
			B. Intermediate	\$98.00
			C. Advanced	\$115.00
Client Technologies	2000	Manager, Client Technologies	1. Team Leader	\$82.00
			2. Manager	\$110.00
			3. Sr. Manager	\$150.00
	2010	Client Technologies Analyst	A. Entry	\$55.00
			B. Intermediate	\$72.00
			C. Advanced	\$85.00
	2020	Client Technologies Technician	A. Entry	\$53.00
			B. Intermediate	\$58.00
			C. Advanced	\$85.00
Customer Support	2200	Mgmt. Customer Support	1. Team Leader	\$75.00
			2. Manager	\$100.00
			3. Sr. Manager	\$135.00
	2210	Customer Support Analyst	A. Entry	\$35.00
			B. Intermediate	\$45.00
			C. Advanced	\$65.00
	2220	Customer Support Technician	A. Entry	\$45.00
			B. Intermediate	\$52.00
			C. Advanced	\$65.00
Network	2400	Director, Network Operations	1. Team Leader	\$140.50
Management			2. Manager	\$150.00
			3. Sr. Manager	\$225.00
	2410	Manager, Network Operations	1. Team Leader	\$85.00
			2. Manager	\$125.00
			3. Sr. Manager	\$160.00
	2420	Network Architect	A. Entry	\$97.75
			B. Intermediate	\$110.00
			C. Advanced	\$122.00
	2430	Network Engineer	A. Entry	\$97.50
			B. Intermediate	\$106.00
			C. Advanced	\$118.00
	2440	Network Analyst	A. Entry	\$68.00
			B. Intermediate	\$84.00
	2.450		C. Advanced	\$115.00
	2450	Network Administrator	A. Entry	\$60.00
			B. Intermediate	\$73.50
	0.100	N. C. T. T. C.	C. Advanced	\$90.00
	2460	Network Technician	A. Entry	\$50.00
			B. Intermediate	\$63.50
	0000	11 11 12 13	C. Advanced	\$68.00
Internet Planning,	2600	Mgmt. Internet Operations	1. Team Leader	\$130.00
Eng. & Operations			2. Manager	\$150.00
			3. Sr. Manager	\$175.00

Job Family	Job No.	Job Title	Scope Variant	Contractor's Submitted Price
	2610	Internet/Web Architect	A. Entry	\$55.00
			B. Intermediate	\$85.00
			C. Advanced	\$115.00
	2620	Internet/Web Engineer	A. Entry	\$65.00
			B. Intermediate	\$90.00
			C. Advanced	\$115.00
	2630	Web Applications Programmer	A. Entry	\$62.00
			B. Intermediate	\$96.00
			C. Advanced	\$108.50
	2640	Web Designer	A. Entry	\$50.00
			B. Intermediate	\$64.00
			C. Advanced	\$104.50
	2650	Webmaster	A. Entry	\$55.00
			B. Intermediate	\$70.25
			C. Advanced	\$94.50
	2660	Internet/Web Systems Administrator	A. Entry	\$55.00
			B. Intermediate	\$78.50
			C. Advanced	\$97.75
	2670	Web Customer Support Specialist	A. Entry	\$52.00
			B. Intermediate	\$61.00
			C. Advanced	\$75.00
Operations	2800	Director, Data Center Operations	No Variance	\$165.00
- 1	2810	Manager, Computer Operations	1. Team Leader	\$60.00
			2. Manager	\$110.00
			3. Sr. Manager	\$150.00
	2820	Supervisor, Computer Operations	1. Team Leader	\$80.00
			2. Manager	\$94.00
	2830	2830 Computer Operator	A. Entry	\$42.00
			B. Intermediate	\$46.00
			C. Advanced	\$55.00
	2840	Manager, Capacity Planning	No Variance	\$125.00
	2850		1. Team Leader	\$102.00
			2. Manager	\$125.00
	2860	Production Support Analyst	A. Entry	\$55.00
			B. Intermediate	\$65.00
			C. Advanced	\$90.00
Telecommunications	3000	000 Manager, Telecommunication	1. Team Leader	\$102.00
		Operations	2. Manager	\$130.00
			3. Sr. Manager	\$155.00
	3010	Telecommunication Engineer	A. Entry	\$55.00
		releasimilational Engineer	B. Intermediate	\$85.00
3			C. Advanced	\$102.00
	3020	Telecommunication Technician	A. Entry	\$50.00
			B. Intermediate	\$65.00
			C. Advanced	\$80.00
Electronic	3200	Director, Electronic Commerce	No Variance	\$175.00
Commerce	3210	Manager, Electronic Commerce	No Variance	\$125.00
	3220	Electronic Commerce Analyst	A. Entry	\$59.50
			B. Intermediate	\$85.00
			C. Advanced	\$112.00

Job Family	Job No.	Job Title	Scope Variant	Contractor's Submitted Price
	3230	EDI Specialist	A. Entry	\$73.50
			B. Intermediate	\$85.50
			C. Advanced	\$89.00
Business Intelligence	3400	Director, Data Warehouse	1. Team Leader	\$141.50
Systems			2. Manager	\$172.00
Management			3. Sr. Manager	\$215.00
	3410	Manager, Data Warehouse	No Variance	\$158.50
	3420	Business Intelligence Analyst	No Variance	\$145.00
	3430	Data Warehouse Analyst	A. Entry	\$78.00
			B. Intermediate	\$95.00
			C. Advanced	\$115.00
	3440	Data Warehouse Administrator	No Variance	\$115.00
	3600	Manager, Decision Support	No Variance	\$135.00
	3610	Decision Support Specialist	A. Entry	\$65.00
			B. Intermediate	\$75.00
			C. Advanced	\$90.00
	3620	Decision Support Administrator	A. Entry	\$75.00
			B. Intermediate	\$98.00
			C. Advanced	\$115.00
	3800	Manager, CRM Technology	No Variance	\$185.00
	4000	Knowledge Engineer	No Variance	\$140.50
Enterprise Resource	4200	ERP Team Lead	No Variance	\$152.00
Planning (ERP)	4210	ERP Team Member	No Variance	\$125.00
	4220	ERP Configurer	No Variance	\$78.00
	4230	ERP Programmer/Analyst	A. Entry	\$71.00
			B. Intermediate	\$86.50
			C. Advanced	\$105.00
	4240	ERP Systems Support Specialist	No Variance	\$88.00
	4250	ERP Systems Administrator	No Variance	\$105.00
	4600	Basis/Ale Technical Consultant	No Variance	\$145.00
Sourcing and Vendor	4800	Chief Sourcing Officer	No Variance	\$200.00
Relationship	4810	Manager IT Procurement	No Variance	\$140.00
Management	4820	IT Procurement Specialist	No Variance	\$75.00
	5000	Manager, Vendor Relationships	1. Team Leader	\$80.00
			2. Manager	\$118.50
			3. Sr. Manager	\$150.00
	5010	Manager, Outsourcing Contracts	No Variance	\$132.00
	5020	Contracts Manager	No Variance	\$102.00
	5040	Finance/Administration Specialist	A. Entry	\$73.50
			B. Intermediate	\$96.00
			C. Advanced	\$118.50
	5200	Technical Advisor	No Variance	\$130.00
Business	5400	Asset Manager	No Variance	\$115.00
Management /	5410	Asset Management Administrator	A. Entry	\$60.00
Administration			B. Intermediate	\$68.00
			C. Advanced	\$74.00
	5500	Director, HR/IT	No Variance	\$170.00
	5600	Manager, HR/IT Staffing	No Variance	\$105.00
	5610	Technical Recruiter	A. Entry	\$58.75
			B. Intermediate	\$77.50
			C. Advanced	\$110.00

Job Family	Job No.	Job Title	Scope Variant	Contractor's Submitted Price
	5620	HR/IT Generalist	A. Entry	\$62.50
			B. Intermediate	\$73.00
			C. Advanced	\$102.00
	5800	Documentation Specialist/Technical	A. Entry	\$57.00
		Writer	B. Intermediate	\$70.00
			C. Advanced	\$85.00
	6000	Manager, IT Finance	No Variance	\$145.00
	6100	Director, IT Risk and Compliance	No Variance	\$215.00
	6200	Manager, IT Audit	No Variance	\$146.50
	6210	IT Auditor	No Variance	\$105.00
	6400	Business Management Specialist	No Variance	\$115.00
Training	6600	Manager, Technical Training	1. Team Leader	\$85.00
			2. Manager	\$100.00
			3. Sr. Manager	\$135.50
	6610	Technical Trainer	A. Entry	\$60.00
			B. Intermediate	\$65.00
			C. Advanced	\$81.00
Security	6800	Security Manager	1. Team Leader	\$95.00
Management			2. Manager	\$125.00
			3. Sr. Manager	\$155.00
	6810	Security Analyst	A. Entry	\$65.00
			B. Intermediate	\$85.00
			C. Advanced	\$110.00
	6820	Data Security Specialist	No Variance	\$100.00
	6830	Network Security Specialist	No Variance	\$128.00
	6840	System Security Specialist	No Variance	\$95.00
	6850	Web Security Specialist	No Variance	\$105.00
Business	7000	Manager, Business Continuance	No Variance	\$148.50
Continuance Management	7010	Business Continuance Specialist	No Variance	\$108.00
Product	7200	Manager, Product Development	1. Team Leader	\$90.00
Development			2. Manager	\$120.00
			3. Sr. Manager	\$158.50
	7210	Product Architect	No Variance	\$158.50
	7220	Product Engineer	A. Entry	\$65.00
			B. Intermediate	\$85.75
			C. Advanced	\$115.00
	7230	Product Developer	A. Entry	\$75.00
			B. Intermediate	\$100.00
			C. Advanced	\$123.00
Systems	7400	Manager, Systems Software	1. Team Leader	\$124.50
Programming &			2. Manager	\$135.50
Admin.			3. Sr. Manager	\$185.00
	7410	Systems Architect	A. Entry	\$63.50
			B. Intermediate	\$97.75
			C. Advanced	\$162.00
	7420	Systems Software Programmer	A. Entry	\$76.00
			B. Intermediate	\$95.00
			C. Advanced	\$115.00

Job Family	Job No.	Job Title	Scope Variant	Contractor's Submitted Price
	7430	Groupware Specialist	A. Entry	\$73.50
			B. Intermediate	\$92.50
			C. Advanced	\$102.00
	7440	Systems Administrator	A. Entry	\$65.00
			B. Intermediate	\$78.75
			C. Advanced	\$102.00
	7450	UNIX System Administrator	No Variance	\$110.00
	7460	Storage Management Specialist	No Variance	\$110.00
Business Analysis	7500	Director, Enterprise Architecture	No Variance	\$200.00
and Planning	7600	Manager, IT Business Planning	1. Team Leader	\$125.00
			2. Manager	\$155.00
			3. Sr. Manager	\$165.00
	7610	Enterprise Architect	No Variance	\$150.00
	7620	Business Process Consultant	A. Entry	\$55.00
			B. Intermediate	\$85.00
			C. Advanced	\$112.50
	7630	IT Business Consultant	A. Entry	\$69.00
			B. Intermediate	\$95.00
			C. Advanced	\$100.00
	7640	Business Analyst	A. Entry	\$54.50
		-	B. Intermediate	\$84.00
			C. Advanced	\$96.50
	7700	Director, Business Relationships	No Variance	\$195.00
	7800	Manager, Customer Relations	No Variance	\$135.00
Release	8000	Configuration Management Analyst	A. Entry	\$60.00
Management			B. Intermediate	\$90.00
			C. Advanced	\$93.00
	8010	Release/Build Engineer	No Variance	\$96.00
Program	8200	Director, Program Management	No Variance	\$198.00
Management	8210	Program Manager	1. Team Leader	\$108.00
			2. Manager	\$122.00
			3. Sr. Manager	\$145.00
	8220	Project Manager	1. Team Leader	\$108.00
			2. Manager	\$122.00
			3. Sr. Manager	\$127.00
	8230	Project Leader	A. Entry	\$68.00
		•	B. Intermediate	\$110.00
			C. Advanced	\$120.00
	8235	Project Management Specialist	No Variance	\$88.00
	8240	Resource Manager	No Variance	\$122.00
Customer Service	8400	Manager, Customer Service Hotline	No Variance	\$80.00
Hotline	8410	Customer Service Hotline	A. Entry	\$38.00
		Representative	B. Intermediate	\$42.00
			C. Advanced	\$53.00
Technical Product	8600	Manager, Technical Product Support	1. Team Leader	\$80.00
Support			2. Manager	\$90.00
			3. Sr. Manager	\$105.00
	8610	Technical Product Support Analyst	No Variance	\$73.50
	8620	Technical Product Support Specialist	A. Entry	\$37.50
			B. Intermediate	\$53.00
			C. Advanced	\$68.50

Information Technology Staff Augmentation Services 3rd Bid

Florida Department of Management Services

Information Technology Staff Augmentation Services
Contract No. 80101507-SA-19-1
Contract Exhibit E
Staffing Resource Management Plan

CIBER GLOBAL'S STAFFING RESOURCE MANAGEMENT PLAN

A. RESPONDENT'S PROPOSED EMPLOYMENT PROCEDURES

1. Describe Respondent's plan to provide staff for IT Staff Augmentation Services.

Ciber Global LLC (Ciber) has been providing temporary staffing services to its clients for over 40 years, including the State of Florida. Our first client is still a client today. Ciber's extensive experience in outsourcing translates to higher productivity, lower costs and accelerated return on investment. We staff your support team with people who have best practice experience, and who are well trained and understand how to deliver effective, problem solving support to meet our clients' needs. Ciber will support the State of Florida by offering:

- a single-source support for the State's entire solution life cycle—from enterprise architecture through application development and integration to application management and infrastructure services;
- flexible engagement models that balance local accountability with global delivery based on the State's specific needs, risk profile, time-to-value, and total cost of ownership; and
- application services in a distributed delivery model with onsite, offsite, and offshore capabilities, with Global Solution Centers in locations around the world, including a location in Florida.

Ciber has proven processes and procedures in place for recruiting, training and retaining its personnel. This process seeks to identify internal Ciber personnel who have the needed experience and technical skills. If no one from within Ciber meets the requirements, the process supports recruiting new Ciber personnel.

QUALITY BASED - TECHNICAL RESOURCE MANAGEMENT - the recruiting process is an important part of a much larger quality focus that Ciber has defined as Technical Resource Management. This process provides a comprehensive view of the entire fulfillment process from identifying, locating and qualifying candidates through multiple interviews and verification / background checks, presenting candidates to the client and long-term consultant care.

THE CIBER RECRUITING ENGINE- Ciber's recruiting organization leverages a wide array of recruiting tools, techniques, and processes to ensure that we identify and deliver the best qualified resources.



Information Technology Staff Augmentation Services 3rd Bid

To support the recruiting process, Ciber uses a customized recruiting tool called "CATS" (Ciber Applicant Tracking System) that was built internally by Ciber consultants with our clients in mind. The core strength of this product is its ability to allow Ciber's recruiters to efficiently post and source requisitions, and to manage the associated candidates as they move through Ciber's Candidate Qualification Process.

Ciber's implementation of CATS is configured to support our recruiting policies through built-in workflows. Ciber's implementation incorporates the policies and procedures required as part of our ISO 9001 registration. Each record in CATS includes the applicant's resume, validated education, qualification data, and subsequent correspondence.

Effective Sourcing Methods

Ciber utilizes a variety of sourcing methods to locate potential candidates including:

- Employee
 Referrals
- Social Networks
- Linked-In
- Monster.com

- Dice
- Computerjobs.com
- Others
- User Groups & Localized
 Communities

OVERVIEW

PEOPLE



CRUITI

Ш

- Decisive Leadership
- Public agency experience Effective service tailored to your needs
- Global Solution Centers

PROCESS

- Collaboration approach
- Rigorous candidate
 - screening
 ISO compliant
 - Global scalability

TOOLS

- Referral program
- HireVue
- LinkedIn recruiter
- Resume Database
- Social Media

Ciber's primary focus includes: selecting, recruiting and retaining the right resources for Ciber, and making them available to our clients for all upcoming and existing requirements. Through robust and well-tested recruitment processes, Ciber has achieved a retention rate which has been consistently above the industry standard.

PROJECT MANAGEMENT - Ciber manages all engagement no matter what the size is by using Ciber's Project Management Methodology (CPMM). This methodology combines best practices from the fields of Project Management and Quality Assurance with practical insights gained from Ciber's extensive delivery experience. CPMM techniques will be tuned to the State's process environment and optimized to align with the State's delivery objectives. Ciber will coordinate with the State's Agencies to tailor these tools to their requirements while maintaining inherent quality principles to drive the successful outcome of the engagement.



Information Technology Staff Augmentation Services 3rd Bid

2. Describe Respondent's employment screening processes that contain the following elements:

a. Respondent's employment standards (The minimum performance standards and that the Respondent requires its employees and subcontractors).

Ciber is committed to maintaining the highest level of consultant qualification and certification in the markets we serve. This process begins with hiring individuals with a college education in the IT field as well as a high degree of qualifications with strong industry expertise.

Our highly trained consultants and technical engineers, with skills honed through years of indepth experience, stay current with breaking technology through continuous education. We enable our people to take steps for personal growth by giving them access to Ciber University and SkillSoft's 100+ certification courses.

We offer our employees the ability to expand their skills through Ciber University, our virtual learning environment. It is available as a resource for all employees so that they can develop themselves within their chosen fields and consists of over 400 computer-based training courses, mentoring, seminars, chat rooms, expert-led forums, and white papers.

Ciber uses SkillSoft's NETgLearning as our web-based learning portal built to support the global deployment of Ciber's Learning Solution. NETgLearning.com allows us to manage training and development programs, and launch e-Learning courseware, e-Reference books, 24x7 virtual advising and more. NETgLearning.com includes a powerful search tool for accessing information to answer immediate needs (Search & Select), a complete catalog of learning materials, the latest research (Innovations Lab), and news (NETg News Briefs).

b. How the Respondent validates staff's resume stated education.

Employment Application

The recruiter must receive a completed and signed Employment Application from the candidate. The employee application must include education and previous employment, both of which will be verified by Ciber through requesting of copy of the official diploma as well as copies of any IT certifications and through reference checks. The completed and signed application will be kept as hard copy in the candidate's file and as an attachment in our candidate database (CATS).

Background Screening

All consultants complete a background screening, which includes education, a seven-year criminal history from all addresses of residence and employment during the previous seven-year period, etc. Background investigations may be tailored to meet a client's requirements. Ciber will process a five or ten panel drug screen at the request of the client.



Information Technology Staff Augmentation Services 3rd Bid

c. How the Respondent determines which staff fit of resume to the State's Job Title Description and/or Request for Quote criteria.

All Recruiters, Consulting Services Managers and Technical Evaluators have access to use Virtual Screening powered through HireVue. HireVue is a system Ciber uses to provide the client with the ability to view candidates (via video) while being asked specific questions about their competencies, work history and education. This allows the Ciber organization to preview the candidate, who has videotaped their response to key questions as it relates to a particular position there are being presented to, by entering a Virtual Interview Room. Key interview questions will be taken out of the Title Description and/or the Request for Quote criteria and there are times that we can even input agreed upon questions between Ciber and the Departments at the State of Florida. Ciber not only uses HireVue for screening, we also have senior consultants within Ciber conduct technical interviews of each candidate in order to determine a true fit to the criteria asked for in the Reuqest for Quote. Review of these virtual screens and technical screens can be provided to the client.

d. How Respondent will implement required Resume Self-Certification Form (Contract Exhibit G).

Before submitting a candidate to a particular RFQ, the recruiter and Ciber's Consulting Services Manager (CSM) will validate that the candidate has completed the entire prescreening process, work with the candidate in person or through email in order to receive the signed documents with the proper identification as requested by the Self Certification Form from the State of Florida and go over those documents for verification as well as the results from the interviews one last time to make sure nothing was missed. Recruiters and/or CSM will then compile submittal package with all required documents to the Ciber Client Partner who will then submit to the Client's Request for Quote. The Self-Certification Form will be kept as hard copy in the employee's file and attached to their record in our candidate database.

e. How the Respondent will conduct interviews and include interview criteria.

Pre-Screen Interview

Once a recruiter reviews a resume and there is a match with an existing requirement, then a pre-screen, or phone screen, is conducted. General information about the candidate, his or her previous position, goals and objectives, and salary are discussed to determine the candidate's suitability to the criteria listed in the Request for Quote.

Management Style Interview

After the pre-screen is conducted, a Management Style Interview (MSI) is scheduled. This interview determines the candidate's interpersonal skills, technical abilities, professionalism, and cultural fit. If the recruiter still feels the candidate is a match, then a technical interview, based on the skillset, is scheduled.



Information Technology Staff Augmentation Services 3rd Bid

Technical Interview

To assess an individual's depth of knowledge in a particular technology, Ciber utilizes BrainBench (www.brainbench.com), an online, Internet-based technology knowledge testing tool. Additionally, the recruiter schedules the candidate for a technical evaluation with a Ciber Senior Consultant or Practice Leader from the specific area of expertise that will conduct a deeper dive into the candidate's technical skill knowledge againist the criteria being requested in the Request for Quote.

Client Submittal

Once a candidate passes the Management Style Interview and the Technical Interview, the candidate is then presented to the client.

f. How the Respondent will conduct reference checks on staff.

Each candidate must supply a minimum of three to five verifiable references to Ciber which are thoroughly checked by our HR Team as a required step in our Candidate Qualification and Recruiting Process. If Ciber's HR Team cannot reach the references provided either via telephone or email then they will go back to the candidate to request additional references. If they still cannot reach the references provided then Ciber will move on to other candidates. The resulting information will then be recorded and kept as hard copy in the employee's file. Ciber uses discretion in determining the extent of verification of these references but reserves the right to do so. New laws limit the amount of information that may be obtained via reference. However, Ciber does verify employment and dates.

Ciber also participates in the E-Verify Program www.uscis.gov/e-verify. E-Verify is an Internet-based system that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from U.S Department of Homeland Security and Social Security Administration records to confirm employment eligibility.

Background Screening

All consultants complete a background screening, which includes education and a seven-year criminal history from all addresses of residence and employment during the previous seven-year period. Background investigations may be tailored to meet a client's requirements. Ciber will process a five or ten panel drug screen at the request of the client.

g. How will Respondent have staff demonstrate their experience prior to submission to State as candidate for a Request for Quote.

Ciber will customize the recruiting processes tailoring to Agencies in the State of Florida resource needs. The customized recruiting process is designed to produce qualified resources able to work within a client's culture, required technologies, and business domains—requiring minimal overhead from a client staff. By establishing this demand management process, Ciber's Talent Acquisition team can provide viable resources with



Information Technology Staff Augmentation Services 3rd Bid

prompt turnaround from the request date. This process includes the definition, documentation, and rollout of the following:

- Standardized Skill Positions (core footprint)
- Standardized Qualifications (i.e. business, technical, educational, and cultural qualifications)
- Streamlined Resource Request Process for both pipeline (core) resources and targeted or specialized resource requests
- Recruiting Process tailored to your requirements

Ciber will also assess an individual's depth of knowledge in a particular technology by utilizing BrainBench (www.brainbench.com), an online, Internet-based technology knowledge testing tool. Additionally, the recruiter schedules the candidate for a technical evaluation with a Ciber Senior Consultant or Practice Leader from the specific area of expertise that will conduct a deeper dive into the candidate's technical skill knowledge againist the criteria being requested in the Request for Quote.

3. Describe Respondent's Operational Formula to ensure staffing availability for IT Staff Augmentation services.

Recruitment Best Practices

Ciber follows well-established guidelines for the recruitment and staffing of our engagements. Ciber will work closely with the State to forecast future needs in order to fulfill those needs at the right time. Working together will minimize any potential for disruption or delay of the State's milestones and timelines. Ciber uses the following sourcing methods to recruit talent, both for existing requests and future needs:

Ciber has an established resourcing process that we can tailor to address the State's requirements to ramp up quickly and effectively. This process will allow you to play as small or large a role as necessary. For example, you may choose in some cases to participate in consultant interviews but in other cases rely completely on Ciber's screening process.

Ciber's resourcing process has matured from our 40+ years of consulting services experience. We have worked very closely with clients in these kinds of engagements to organize and execute a resourcing process that meets clients' needs for quality development personnel. Our resourcing process consists of the following:

• Forecasting and Planning. Monthly, Ciber and the State will evaluate current and future resourcing needs, identifying skills and expertise of particular emphasis for recruiting. This planning session will result in the number of positions per area of expertise and will form the basis for Ciber's resourcing team's activities.



Information Technology Staff Augmentation Services 3rd Bid

- On past engagements, Ciber has also organized these kinds of planning exercises involving other consulting services firms, and Ciber can work in this capacity for the State as well.
- <u>Position Requirements and Qualifications</u>. Ciber will work with the State to draft specific skill and responsibility descriptions that will be used in the resourcing process to find and screen qualified candidates. These descriptions will also be used to draft standard interview questions in order to evaluate candidates on an equal scale.
- <u>Ciber Recruiting Network.</u> Ciber is equipped with a global network of full-time recruiters for sourcing candidates. Regional and Corporate dedicated recruiting resources are available to our local office any time it is deemed necessary to meet critical deadlines required by the State. We can deploy this world-class recruiting organization to meet the ramp up requirements as well as the just-in-time or strategic needs of Departments within the State of Florida.
- <u>Effective Sourcing Methods</u>. Ciber utilizes a variety of sourcing methods to locate potential candidates.
 - Existing Employee Base. The consultant staff in the local Ciber office possesses a broad range of technology and project management expertise. This employee base is the first source for filling requirements for staffing and project engagements. In the event that no employees are available to fill an immediate need, Ciber can call on our consultant base to provide short-term support until a permanent resource can be found for the position. Many of our consultants have worked in multiple hardware and software environments, and this experience provides them with the background required to adjust to new projects and work sites quickly.
 - o <u>Intra-Corporate Transfers</u>. Ciber is comprised of 6 Regional Hubs in the United States with over 6,500 employees. Personnel with critical skills can be located rapidly and reassignment can be made within a few weeks, depending on the status and location of the individual's current work. Procedures for such transfers are well established and effective.
 - New Hires. Our full-time recruiting staff fills open positions on all projects. Our local and regional recruiters can network with other Ciber recruiters and staffing resources nationwide or even internationally, depending on client's personnel requirements.
 - Employee Referrals. Ciber has a referral bonus program in place to encourage our employees to refer candidates to us. Referrals make excellent hires since our employees understand the quality Ciber looks for in hiring employees.
 - Employee Registry. The Candidate Qualification Process is maintained in Taleo, Ciber's nationwide human resource database that contains information on every candidate contacted. Recruiters maintain and update these records on a regular basis. Each



Information Technology Staff Augmentation Services 3rd Bid

candidate record contains the candidate's resume, salary requirements, technical skills, and availability. This up-to-date, comprehensive tool identifies specific skills, experience, training, and availability.

- Write and Post Vacancies. We subscribe to several Internet job sites, as well as attend frequent Career Fairs, advertise in newspapers, and network at Project S.A.V.E. meetings.
- Subcontractors. Ciber has used subcontractors to augment our staff, when needed. The use of subcontractors helps staff projects of varying workload demands, provides specialized skills for short or long-term duration, and provides a source of training for existing staff in new products, techniques, and skills.
- <u>Decision to Engage</u>. Ciber will involve the State in the hiring decision to the extent you wish to be involved. If the State chooses to interview candidates, then the input from these interviews will play a large role in the final decision on which consultants to bring on board. Otherwise, Ciber will begin to on-board consultants to fill the agreed position requirements.

Ciber understands that the success of our professional services engagement with clients depend on our ability to manage, assign, and recruit qualified personnel in a timely and cost effective manner. Ciber's process is governed by our ISO 9001 quality assurance standards. Stringent evaluations are performed to determine the accuracy and depth of skills and the availability of identified candidates. Selected candidates are further screened and interviewed in accordance with Ciber ISO 9001 recruiting plans and policies to ensure that they are high quality candidates who fully meet requirements and fit within the client's culture.

Furthermore, Ciber's recruiters have the depth of knowledge and experience needed to provide personnel quickly, this is the culmination of several critical components:

- A local-based business model that allows us to know our client's needs intimately
- A skilled management team who understands how to organize and deliver for our clients
- A highly-experienced local recruiting team who understand and focus on timely candidate submissions
- A national recruiting team with recruiters and support personnel who are managed and "load-balanced" to focus on time-sensitive recruiting needs
- A robust candidate database and knowledge repository. Ciber maintains a database of 40,000+ local candidates and 1,000,000+ candidates nationwide.
- A culture and company that is focused on customer satisfaction

Ciber's goal will be to respond to new requests within four hours and identify potential candidates within two business days of receiving requests from Florida State agencies.



Information Technology Staff Augmentation Services 3rd Bid

4. Describe Respondent's ability to remedy staff performance issues.

Performance Issues

When issues in the workplace occur involving either behavior and/or performance, Ciber appropriately addresses the issue. Depending upon the circumstances, appropriate actions may include incident investigation, behavior/performance counseling, coaching/training, removal from the assignment, and termination of employment. If any relevant issues involve both a Ciber and client employee, Ciber works professionally in cooperation with the HR representatives of the client company to appropriately address the issue.

Ciber will follow the same Issue Escalation Process for any project issue that cannot be resolved. Particularly in regards to staff performance issues on client projects, our process is as follows:

- **Site Project Manager (if applicable)** Ciber's Project Manager (PM) will attempt to resolve the issue if it is within his/her domain of control and responsibility. The first step in resolution may be to establish a performance improvement plan for the consultant. The PM will inform Ciber's Engagement Manager of the performance issue and the plan of action for resolution.
- Ciber's Consultant Service Manager Ciber's PM or Client will escalate the issue to the Ciber Consultant Services Manager (CSM). The CSM will work with all parties involved in the issue (e.g., Ciber and State of Florida) to resolve the issue. The CSM will communicate to Ciber's Account Manager and Regional Director that an issue exists and the plan to resolve the issue. The CSM will work closely with all parties to determine whether the employee's performance can be resolved and, if not work with all respected parties to put together a plan to transition to a new consultant.
- Ciber's Account Manager/Delivery Manager If needed, Ciber's CSM will escalate the
 issue to Ciber's Account Manager, Mitch Rhinehart, to decide whether the issue can be
 resolved or whether it requires escalation to the Regional Director for final resolution.
 - Mitch will also play an important facilitation role in resolving performance issues. Although he is not a formal point in the escalation process above, he will play a major role in the facilitation and resolution of performance issues. He will be notified early in the process when the PM encounters a problem.
 - Mitch will provide input and advise the PM on the appropriate action items to be taken and, if necessary, will help to develop a Performance Improvement Plan. Mitch will follow-up to help the PM resolve the issue or to escalate the issue to the CSM.
 - Mitch will continue to assist in resolving the issue as it moves up the escalation chain, facilitating discussion between all parties as needed, and offering counsel for the best course of action.



Information Technology Staff Augmentation Services 3rd Bid

5. Describe Respondent's ability to ensure its employees protect confidential information.

Ciber employees are required to sign and agree to a confidentiality agreement with Ciber, as a condition of employment. The agreement includes a commitment of confidentiality with regard to data of both Ciber and the client for whom they perform services.

6. Describe Respondent's procedures to timely accommodate a Customer's designation of a job as one of special trust that requires a background screening.

Our background check process is tailored based upon a client's requirements. Once we have identified the specific requirements of the special designation, then we will utilize and adapt, if necessary, our background screening procedures or use the clients background screening procedures to enable compliance with those requirements.

Ciber begins providing background check updates as early as the next business day after the notification of acceptance and background check gets started. The average onboarding cycle for Ciber resource starting on a new project is 1 week to complete the background process. If education and employee verification is requested it could take a 1 week longer, however Ciber strives to get all background requirements completed in that first week in order to meet the agreed upon start date of the designation of a job.



Information Technology Staff Augmentation Services 3rd Bid

B. RESPONDENT'S PRINCIPAL PERSONNEL

It is preferred that the Respondent's principal personnel have IT experience.

- List Respondent's principal personnel who will make management decisions concerning staff
 placement for services under contract(s) that results from solicitation and include the
 following:
- a. Each Principal Personnel's name, education, credentials and certifications, job title, years of IT experience, and number of years employed with the Respondent.

Mr. Mark Hollingsead, Ciber's Director of Public Sector has been with the Ciber Team for 24 years and has a Bachelor of Science Degree from Arkansas State University. Mark has been in the government IT field of consulting primarily the last 20 years working with State and Agency CIO's. Mark also has an in-depth understanding of Staffing IT engagements (hourly or fixed priced) along with managing to IT budgets and contracts and a broad range of IT knowledge which includes Application/Program Development, ERP systems and Networking Support in the private and public sector space.

Mr. Mitch Rhinehart, National Account Manager/Delivery has been with Ciber for 6 years and he has a Bachelor of Science in Computer Science from Northern Illinois University. Mitch has been in Information Technology for 34 years, with a heavy emphasis in IT Services Leadership. He has significant experience and knowledge of organizational and operational management, service delivery management, and budget and contract management in both public and private sector organizations.

Mrs. Jill Guske, Public Sector Consulting Services Manager has been with the Ciber Team for 6 years and graduated from Douglas County High School, Douglas County, GA. Jill has four years' experience as IT technical screener for Program Managers, Project Managers, Business Analyst, Financial Controllers and Tech Writer candidates for the Ciber PM/BA practice, as well as for several of Ciber's large corporate clients.

Mrs. Carolyn Russell, SE Recruiting Director North America has been with Ciber for 9 years. She has a Bachelor of Arts from Eastern Illinois University and a Master of Arts from University of Illinois Urbana-Champaign. Carolyn has been in the field of IT consulting for over 20 years, and serves as a Recruiting SME for Ciber Global. She has expertise with advanced sourcing techniques, immigration practices, and driving recruiting efficiencies.

b. Describe the role each Principal Personnel will have in a contract(s) that may result from this solicitation

Ciber Director of Public Sector –Mr. Mark Hollingsead will be the main point-of-contact for the State of Florida and will manage the account on a day-to-day basis in order to better understand the needs and directions of each individual agency as it related to staffing and/or and where



Information Technology Staff Augmentation Services 3rd Bid

they would need IT Staff Augmentation. Mark will provide all needed approvals, support and direction to the Ciber Florida Account Team and Recruiting Director as it relates to cost of stafffing resources submitted to a Request for Quote. He will be engaged for problem/issue resolution if they cannot be resolved at the Ciber Account / Delivery Manager level. He will also work with Ciber's recruiting personnel to ensure the appropriate staff is made available at the right time for the right duration at the right cost to the agency. Finally, Mark will work with Ciber Account Team and Client Managers on-site to ensure:

- Ciber follows all processes and procedures that are outlined by State Procurement or in the Request for Quote;
- Ciber provides requested staff to the State in response to needs identified in the Request for Quote;
- Engagements are staffed with appropriately skilled and experienced staff members;
- Appropriate Task/Work Orders and Schedules are in place;

Ciber Account Manager – Mr. Mitch Rhinehart will be engaged once Ciber has a Purchase Order in place with a particular agency to begin work. Mitch will work with Ciber executive Support team and Client managers on-site also to ensure:

- Deliverables (if Applicable) are being met;
- Performance Issues on an engagement are being handled appropriately and timley;
- Both the State of Florida and Ciber Management staff are kept informed of the status and outstanding issues through regularly scheduled calls and/or meetings; and
- Maintaining a tracking system to track contracts, action items, and notes from non-local contract plans.

Ciber Public Sector Consultant Service Manager – Mrs. Jill Guske is responsible for consistently providing the care for IT Staff Augmentation team members to ensure all are treated with dignity & respect and are made part of the Ciber family. She will work with the consultant on performance career planning, conducting annual reviews, managing exceptions/escalations, remarketing, performance coaching, managing terminations, managing system data (Peoplesoft today)and assisting with equipment issues. Jill will facilitate the execution of corporate policies and procedures, provide day-to-day management of employees to reduce legal risks and ensure regulatory compliance, while maintaining a positive and professional working relationship with all members of the Ciber team, customers, clients and all service partners though timely, accurate and professional communication.

Jill will be deeply involved with the Ciber Employee and Client Manager before and after an engagement has started by:

 Providing support to and facilitate engagement of local employees and subcontractor resources;



Information Technology Staff Augmentation Services 3rd Bid

- Contacting or meeting in person (dependent on location) all new employees working at local accounts within first week – follow up on Onboarding, review any client specific orientation materials;
- Regularly visiting employees and Client Managers, to develop intelligence on the account, identify issues, and promote employee engagement; and
- Developing client/project specific retention programs / Coordinate events.

Ciber Recruiting Director – Mrs. Carolyn Russell is aligned with Southeast Regional Office in which she will direct recruiting efforts, demand prioritization, recruiter management, communication, and Recruitment subject matter expertise. Carolyn is responsible for internal partner relationships with the Client Partner, Account Manager and CSM for the delivery of qualified consultants within the State of Florida. She will be responsible for the following:

- Establishing consistent communication to internal and external clients to build working relationships with them.
- Understand explicit hiring criteria and unique client nuances. Effectively communicate
 to recruiting teams to support the current and proactive building of consultant pipelines
 for a particular account.
- Provide ongoing management of recruiters in order to handle any backfills that may arise during an engagement;
- Develop and document a standardized and repeatable program with the goal of continued excellence and enhancing recruiting performance at the State of Florida
- Overall responsibility for qualified consultant delivery. Create a working environment for recruiters and recruiting administrators that will encourage repeatable, predictable performance.

c. Describe each Principal Personnel's staffing resource management role in past IT Staff Augmentation contracts.

Mark Hollingsead, Ciber Director of Public Sector, has been the main point-of-contact for previous contracts with the State of Florida and several other Public Sector clients. He has managed all the accounts on a day-to-day basis in order to better understand the needs and directions of each individual agency as it related to staffing and/or and where they would need IT Staff Augmentation. Mark works with Ciber recruiting on all RFQ's/SOW's in order to make sure we are submitting the right qualified individuals that meet the requested job classifications and skills asked for by a client.

Mitch Rhinehart, Ciber Account Manager/Delivery, has managed state and local government accounts as well as private sector accounts on a day-to-day basis in order to better understand the needs and directions of our engaged clients to make sure Ciber staff is performing/delivery to the required services that were described within the RFQ/SOW. Mitch is also involved in assuring that proper reporting and invoicing are delivered to the client in a timely manner.



Information Technology Staff Augmentation Services 3rd Bid

Jill Guske, Ciber Public Sector Consultant Service Manager, has worked with multiple state staffing contracts in which she has had to facilitate the execution of corporate policies and procedures, provide day-to-day management of employees to reduce legal risks and ensure regulatory compliance, while maintaining a positive and professional working relationship with all members of the Ciber team, customers, clients and all service partners though timely, accurate and professional communication.

Carolyn Russell, Ciber Sr. Recruiting Director, is aligned with Southeast Regional Office for all past and current staff augmentation contracts in which she directs the recruiting efforts, demand prioritization, recruiter management, communication, and recruitment subject matter expertise. Carolyn is responsible for internal partner relationships with the Client Partner, Account Manager and CSM for the delivery of qualified consultants for the clients staffing needs in the Southeast.

d. Detail any unique expertise and capabilities each Principal Personnel possess that could bring additional value to the State.

Mark Hollingsead brings an in-depth knowledge of the public sector industry through working with multiple state and local governments in which he can sit down, plan and strategize with Florida DMS and other agencies with what processes and direction he is seeing in like agencies across other states that might be a benefit to the State of Florida. Mark also brings that knowledge of understanding the true business and funding sources of a state agency and the need to fit the right staff in an account with the proper skills and program knowledge to help meet an agencies deadline. He also has the capability of connecting state agency heads from outside of Florida to those in Flordia so that they can share thoughts and ideas of what they are looking to do and how they best can help each other in their projects. He has been that trusted advisor to many state agencies for several years.

Jill Guske has the capabilities to understand the requirements that an agency is asking for in order to assist in the technical screening for the right fit of consultant as she is currently performing in this role in looking for Program Manager, Project Manager, Business Analyst, Financial Controller and Tech Writer candidates for Ciber's PM/BA practice.

Mitch Rhinehart has significant experience and knowledge of organizational and operational management, service delivery management, and budget and contract management in working with both state and local government organizations, especially in Florida.

Carolyn Russell has worked with government entities in the past and posses the skills to understand the uniqueness that sometimes agencies ask for in identifying those consultants that best can do the job.



Information Technology Staff Augmentation Services Contract No. 80101507-SA-19-1

CONTRACT EXHIBIT A

STATEMENT OF WORK

Section 1. Contract Deliverables

The Contractor shall provide information technology staff augmentation services, including comprehensive management of staff, as set forth in this Contract. The term "staff" refers to the temporary staff provided by the Contractor to render information technology services identified by Customers, but that staff shall not be deemed an employee of the State or deemed to be entitled to any benefits associated with such employment.

Contracts resulting from this solicitation should not be structured as fixed-price agreements or used for any services requiring authorization for payment of milestone tasks. Contractor shall only provide information technology staff augmentation services for those Job Titles awarded to the Contractor and shall be paid on an hourly basis.

The Department's intent is for Contractor's information technology staff to provide services closely related to those described in the <u>Job Family Descriptions document</u>. Detailed scopes of work, specific requirements of the work to be performed, and any requirements of staff shall be provided by the Customer in a Request for Quote. The Contractor shall possess the professional and technical staff necessary to allocate, outsource, and manage qualified information technology staff to perform the services requested by the Customer. The Contractor shall provide Customers with staff who must have sufficient skill and experience to perform the services assigned to them.

All of the information technology staff augmentation services to be furnished by the Contractor under the Contract shall meet the professional standards and quality that prevails among information technology professionals in the same discipline and of similar knowledge and skill engaged in related work throughout Florida under the same or similar circumstances. The Contractor shall provide, at its own expense, training necessary for keeping Contractor's staff abreast of industry advances and for maintaining proficiency in equipment and systems that are available on the commercial market.

The Contractor shall be responsible for the administration and maintenance of all employment and payroll records, payroll processing, remittance of payroll and taxes, and all administrative tasks required by state and federal law associated with payment of staff. The Contractor shall, at its own expense, be responsible for adhering to the Contract background screening requirements, testing, evaluations, advertising, recruitment, and disciplinary actions of Contractor's information technology staff. The Contractor shall maintain during the term of the Contract all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the information technology staff augmentation services.

Section 2. Ongoing Performance Measures

The Department intends to use performance-reporting tools in order to measure the performance of Contractor(s). These tools will include the Contractor Performance Survey (Exhibit I), to be completed by Customers on a quarterly basis. Such measures will allow the Department to better track Contractor(s) performance through the term of the Contract(s) and ensure that Contractor(s) consistently provide quality services to the State and its Customers. The Department reserves the right to modify the Contractor Performance Survey document and introduce additional performance-reporting tools as they are developed, including online tools (e.g., tools within MFMP or on the Department's website).

Information Technology Staff Augmentation Services Contract No. 80101507-SA-19-1

CONTRACT EXHIBIT C

SPECIAL CONTRACT CONDITIONS

Table of Contents

SECTION 1. DEFINITIONS2
SECTION 2. CONTRACT TERM AND TERMINATION2
SECTION 3. PAYMENT AND FEES
SECTION 4. CONTRACT MANAGEMENT4
SECTION 5. COMPLIANCE WITH LAWS6
SECTION 6. MISCELLANEOUS7
SECTION 7. WORKERS' COMPENSATION AND GENERAL LIABILITY INSURANCE, AND INDEMNIFICATION9
SECTION 8. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT AND INTELLECTUAL PROPERTY10
SECTION 9. DATA SECURITY AND SERVICES11
SECTION 10. GRATUITIES, LOBBYING, AND COMMUNICATIONS13
SECTION 11. CONTRACT MONITORING13
SECTION 12. CONTRACT AUDITS15
SECTION 13. BACKGROUND SCREENING AND SECURITY15
SECTION 14. INFORMATION TECHNOLOGY17

In accordance with Rule 60A-1.002(5), F.A.C., Form PUR 1000 is included herein by reference, but is superseded in its entirety by these Special Contract Conditions.

SECTION 1. DEFINITION.

The following definition applies in addition to the definitions in Chapter 287, Florida Statutes, (F.S.) and rule Chapter 60A-1, Florida Administrative Code (F.A.C.):

1.1 Customer.

The agency or eligible user that purchases commodities or contractual services pursuant to the Contract.

SECTION 2. CONTRACT TERM AND TERMINATION.

2.1 Term.

The initial term will begin on the date set forth in the Contract documents or on the date the Contract is signed by all Parties, whichever is later.

2.2 Renewal.

Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part only as set forth in the Contract documents, and in accordance with section 287.057(13), F.S.

2.3 Suspension of Work and Termination.

2.3.1 Suspension of Work.

The Department may, at its sole discretion, suspend any or all activities under the Contract, at any time, when it is in the best interest of the State of Florida to do so. The Customer may suspend a resulting contract or purchase order, at any time, when in the best interest of the Customer to do so. The Department or Customer will provide the Contractor written notice outlining the particulars of suspension. Examples of a reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor must comply with the notice and will cease the activities associated with any active or new purchase orders. Within ninety (90) calendar days, or any longer period agreed to by the Contractor, the Department or Customer will either (1) issue a notice authorizing resumption of work, at which time activity will resume, or (2) terminate the Contract or purchase order. Suspension of work will not entitle the Contractor to any additional compensation.

2.3.2 Termination for Convenience.

The Contract may be terminated by the Department in whole or in part at any time, in the best interest of the State of Florida. If the Contract is terminated before performance is completed, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the Contract price as the amount of work satisfactorily performed. All work in progress will become the property of the Customer and will be turned over promptly by the Contractor.

2.3.3 Termination for Cause.

If the performance of the Contractor is not in compliance with the Contract requirements or the Contractor has defaulted, the Department may: (a) immediately terminate the Contract; (b) notify the Contractor of the noncompliance or default and require correction within a specified time, otherwise the Contract will terminate at the end of such time; or (c) take other action deemed appropriate by the Department.

SECTION 3. PAYMENT AND FEES.

3.1 Pricing.

The Contractor will not exceed the pricing set forth in the Contract documents.

3.2 Price Decreases.

The following price decrease terms will apply to the Contract:

- (a) Preferred Pricing. Consistent with the goals of section 216.0113, F.S., Contractor acknowledges and recognizes that the Department wants to take advantage of any improvements in pricing over the course of the Contract period. To that end, the pricing indicated in this Contract is a maximum guarantee under the terms of this clause. Contractor's pricing will not exceed the pricing offered under comparable contracts. Comparable contracts are those which are similar in size, scope, and terms. Contractor must annually submit an affidavit from an authorized representative attesting that the Contract is in compliance with this clause.
- (b) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, the Contractor may conduct sales promotions involving price reductions for a specified lesser period. The Contractor must submit documentation identifying the proposed (1) starting and ending dates of the promotion, (2) commodities or contractual services involved, and (3) promotional prices compared to then-authorized prices.

3.3 Payment Invoicing.

The Contractor will be paid upon submission of invoices to the Customer after delivery and acceptance of commodities or contractual services is confirmed by the Customer. Invoices must contain detail sufficient for an audit and contain the Contract Number and the Contractor's Federal Employer Identification Number.

3.4 Purchase Order.

A Customer may use purchase orders to buy commodities or contractual services pursuant to the Contract. If applicable, the Contractor must provide commodities or contractual services pursuant to purchase orders. The purchase order period of performance survives the expiration of the Contract. The duration of purchase orders must not exceed the expiration of the Contract by more than twelve (12) months.

3.5 Travel.

Travel expenses are not reimbursable unless specifically authorized by the Customer in writing, and may be reimbursed only in accordance with section 112.061, F.S.

3.6 Annual Appropriation.

Pursuant to section 287.0582, F.S., if the Contract binds the State of Florida or an agency for the purchase of services or tangible personal property for a period in excess of one fiscal year, the State of Florida's performance and obligation to pay under the Contract is contingent upon an annual appropriation by the Legislature.

3.7 Transaction Fees.

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(22), F.S. All

Florida Department of Management Services Information Technology Staff Augmentation Services – 3rd Bid

RFP No. 15-80101507-SA-D

payments issued by Customers to registered Vendors for purchases of commodities or contractual services will be assessed Transaction Fees as prescribed by rule 60A-1.031, F.A.C., or as may otherwise be established by law. Vendors must pay the Transaction Fees and agree to automatic deduction of the Transaction Fees when automatic deduction becomes available. Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction Fees or reporting of transactions will constitute grounds for declaring the Vendor in default and subject the Vendor to exclusion from business with the State of Florida.

3.8 Taxes.

Taxes, customs, and tariffs on commodities or contractual services purchased under the Contract will not be assessed against the Customer unless authorized by Florida law.

3.9 Return of Funds.

Contractor will return any overpayments due to unearned funds or funds disallowed pursuant to the terms of the Contract that were disbursed to the Contractor. The Contractor must return any overpayment within forty (40) calendar days after either discovery by the Contractor, its independent auditor, or notification by the Department or Customer of the overpayment.

SECTION 4. CONTRACT MANAGEMENT.

4.1 Composition and Priority.

The Contractor agrees to provide commodities or contractual services to the Customer as specified in the Contract. Additionally, the terms of the Contract supersede the terms of any and all prior agreements between the Parties.

4.2 Notices.

All notices required under the Contract must be delivered to the designated Contract Manager by certified mail, return receipt requested; reputable air courier service; email; personal delivery; or as otherwise identified by the Department.

4.3 Department's Contract Manager.

The Department's Contract Manager, who is primarily responsible for the Department's oversight of the Contract, will be provided in a separate writing to the Contractor upon Contract signing in the following format:

Jane Doe Address Telephone # Email

In the event that the Department changes the Contract Manager, the Department will notify the Contractor. Such a change does not require an amendment to the Contract.

4.4 Contractor's Contract Manager.

The Contractor's Contract Manager, who is primarily responsible for the Contractor's oversight of the Contract performance, will be provided in a separate writing to the Department upon Contract signing in the following format:

Jane Doe

<Insert Contractor name>
<Insert Contractor's physical address>
Telephone: (XXX) 555-XXXX

Email: jane.doe@business.gmail.com

In the event that the Contractor changes its Contract Manager, the Contractor will notify the Department. Such a change does not require an amendment to the Contract.

4.5 Diversity Reporting.

The State of Florida supports its diverse business community by creating opportunities for woman-, veteran-, and minority-owned small business enterprises to participate in procurements and contracts. The Department encourages supplier diversity through certification of woman-, veteran-, and minority-owned small business enterprises, and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Diversity (OSD) at osdinfo@dms.myflorida.com.

Upon request, the Contractor will report to the Department its spend with business enterprises certified by the OSD. These reports must include the time period covered, the name and Federal Employer Identification Number of each business enterprise utilized during the period, commodities and contractual services provided by the business enterprise, and the amount paid to the business enterprise on behalf of each Department purchasing under the Contract.

4.6 RESPECT.

Subject to the agency determination provided for in section 413.036, F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), FLORIDA STATUTES; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY INSOFAR AS DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE CONCERNED.

Additional information about RESPECT and the commodities or contractual services it offers is available at http://www.respectofflorida.org.

4.7 PRIDE.

Subject to the agency determination provided for in sections 287.042(1) and 946.515, F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2) AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE

SUBSTITUTED FOR THIS AGENCY INSOFAR AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

Additional information about PRIDE and the commodities or contractual services it offers is available at http://www.pride-enterprises.org.

SECTION 5. COMPLIANCE WITH LAWS.

5.1 Conduct of Business.

The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, if applicable, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status.

Pursuant to subsection 287.058(1), F.S., the provisions of subparagraphs 287.058(1)(a)-(c), and (g), F.S., are hereby incorporated by reference, to the extent applicable.

5.2 Dispute Resolution, Governing Law, and Venue.

Any dispute concerning performance of the Contract shall be decided by the Department's designated Contract Manager, who will reduce the decision to writing and serve a copy on the Contractor. The decision of the Contract Manager shall be final and conclusive. Exhaustion of this administrative remedy is an absolute condition precedent to the Contractor's ability to pursue legal action related to the Contract or any other form of dispute resolution. The laws of the State of Florida govern the Contract. The Parties submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to the Contract. Further, the Contractor hereby waives any and all privileges and rights relating to venue it may have under Chapter 47, F.S., and any and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to those based on convenience. The Contractor hereby submits to venue in the county chosen by the Department.

5.3 Department of State Registration.

Consistent with Chapters 605 through 623, F.S., the Contractor and any subcontractors that assert status, other than a sole proprietor, must provide the Department with conclusive evidence of a certificate of status, not subject to qualification, if a Florida business entity, or of a certificate of authorization if a foreign business entity.

5.4 Suspended, Convicted and Discriminatory Vendor Lists.

In accordance with sections 287.042, 287.133, and 287.134, F.S., an entity or affiliate who is on the Suspended Vendor List, Convicted Vendor List or the Discriminatory Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify the Department if it or any of its suppliers, subcontractors or consultants have been placed on the Suspended Vendor List, Convicted Vendor List or the Discriminatory Vendor List during the term of the Contract.

5.5 Contractor Certification.

The Department may, at its option, terminate the Contract if the Contractor is found to have submitted a false certification as provided under section 287.135(5), F.S., or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran

Florida Department of Management Services

Information Technology Staff Augmentation Services – 3rd Bid

RFP No. 15-80101507-SA-D

Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

5.6 Cooperation with Inspector General and Records Retention.

Pursuant to subsection 20.055(5), F.S., Contractor, and any subcontractor to the Contractor, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for five years after the expiration of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State, at the Department of State's Records Management website, whichever is longer. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include, but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees.

5.7 Inspection.

Section 215.422, F.S., provides that agencies have five (5) working days, unless the Contract specifies otherwise, to inspect and approve commodities or contractual services. Items may be tested for compliance with specifications. Items delivered not conforming to specifications may be rejected and returned at the Contractor's expense. Interest penalties for late payment are also limited according to section 215.422, F.S.

SECTION 6. MISCELLANEOUS.

6.1 Subcontractors.

The Contractor will not subcontract any work under the Contract without prior written consent of the Department. The Contractor is fully responsible for satisfactory completion of all its subcontracted work. The Department supports diversity in its procurements and contracts, and requests that Contractor offer subcontracting opportunities to certified woman-, veteran-, and minority-owned small businesses. The Contractor may contact the OSD at osdhelp@dms.myflorida.com for information on certified small business enterprises available for subcontracting opportunities.

6.2 Assignment.

The Contractor will not sell, assign, or transfer any of its rights, duties, or obligations under the Contract without the prior written consent of the Department. However, the Contractor may waive its right to receive payment and assign same upon notice to the Department. In the event of any assignment, the Contractor remains responsible for performance of the Contract, unless such responsibility is expressly waived by the Department. The Department may assign the Contract with prior written notice to the Contractor.

6.3 Independent Contractor.

The Contractor and its employees, agents, representatives, and subcontractors are independent contractors and not employees or agents of the Department and are not entitled to State of Florida benefits. The Department will not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all of its subcontracts under the Contract.

6.4 Risk of Loss.

Matters of inspection and acceptance are addressed in section 215.422, F.S. Until acceptance, risk of loss or damage will remain with the Contractor. The Contractor will be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer will: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a commodity, Contractor will remove the commodity from the premises within ten (10) calendar days after notification of rejection, and the risk of loss will remain with the Contractor.

Commodities not removed by the Contractor within ten (10) calendar days will be deemed abandoned by the Contractor and the Customer will have the right to dispose of such commodities. Contractor will reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected commodities.

6.5 Safety Standards.

Performance of the Contract for all commodities or contractual services must comply with requirements of the Occupational Safety and Health Act and other applicable State of Florida and federal requirements.

6.6 Ombudsman.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422, F.S., which include disseminating information relative to prompt payment and assisting contractors in receiving their payments in a timely manner from a Customer. The Vendor Ombudsman may be contacted at (850) 413-5516.

6.7 Time is of the Essence.

Time is of the essence regarding each and every obligation of the Contractor under the Contract. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

6.8 Waiver.

The delay or failure by the Department or the Customer to exercise or enforce any rights under the Contract will not constitute waiver of such rights.

6.9 Modification and Severability.

The Contract may only be modified by written agreement between the Department and the Contractor. Should a court determine any provision of the Contract is invalid, the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Contract did not contain the provision held invalid.

6.10 Cooperative Purchasing.

Agencies wishing to make purchases under this Contract are required to follow the requirements of section 287.042(16) or 287.057(3) (b), F.S., and rule 60A-1.045, F.A.C. These provisions require

Florida Department of Management Services

Information Technology Staff Augmentation Services – 3rd Bid

RFP No. 15-80101507-SA-D

the Department to determine that the requesting agency's use of the Contract is cost-effective and in the best interest of the State.

Pursuant to their own governing laws, and subject to the agreement of the Contractor, government entities may make purchases under the terms and conditions contained herein, if agreed to by Contractor. Non-Customer purchases are independent of the Contract between the Department and the Contractor. The Department is not a party to any transaction between the Contractor and any purchaser.

SECTION 7. WORKERS' COMPENSATION AND GENERAL LIABILITY INSURANCE, AND INDEMNIFICATION

7.1 Workers' Compensation Insurance.

To the extent required by law, the Contractor must be self-insured against, or must secure and maintain during the life of the contract, Worker's Compensation Insurance for all its employees connected with the work of this project, and in case any work is subcontracted, the Contractor must require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees engaged in work under the resulting contract are covered by the Contractor's insurance program. Self-insurance or insurance coverage must comply with the Florida Worker's Compensation law. In the event hazardous work is being performed by the Contractor under the resulting contract and any class of employees performing the hazardous work is not protected under Worker's Compensation statutes, the Contractor must provide, and cause each subcontractor to provide adequate insurance satisfactory to the Department for the protection of employees not otherwise protected.

7.2 General Liability Insurance.

The Contractor must secure and maintain Commercial General Liability Insurance, including bodily injury, property damage, products, personal & advertising injury, and completed operations. This insurance must provide coverage for all claims that may arise from the services and/or operations completed under the Contract, whether such services or operations are by the Contractor or anyone directly or indirectly employed by them. Such insurance must include the State of Florida as an additional named insured for the entire length of the resulting contract. The Contractor is responsible for determining the minimum limits of liability necessary to provide reasonable financial protections to the Contractor and the State of Florida under the resulting contract.

All insurance policies must be with insurers licensed or eligible to transact business in the State of Florida. The Contractor must submit via email, to the Department's contract manager, insurance certificates evidencing such insurance coverage prior to execution of a contract with the Department and provide Department notice of any cancellation or nonrenewal at least ten (10) calendar days prior to cancellation or nonrenewal.

7.3 Indemnification.

To the extent permitted by Florida law, the Contractor agrees to indemnify, defend, and hold the Department, the Customer and the State of Florida, its officers, employees, and agents harmless from all fines, claims, assessments, suits, judgments, or damages, including consequential, special, indirect, and punitive damages, including court costs and attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret, or intellectual property right or out of any acts, actions, breaches, neglect, or omissions of the Contractor, its employees, agents, subcontractors, assignees, or delegates related to the Contract, as well as for any determination arising out of or related to the Contract that the Contractor or Contractor's

employees, agents, subcontractors, assignees, or delegates are not independent contractors in relation to the Department. The Contract does not constitute a waiver of sovereign immunity or consent by the Department or the State of Florida or its subdivisions to suit by third parties. Without limiting this indemnification, the Department or Customer may provide the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense.

SECTION 8. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT AND INTELLECTUAL PROPERTY.

8.1 Public Records.

The Department may unilaterally cancel this Contract for refusal by the Contractor to comply with this section by not allowing access to all public records, as defined in Chapter 119, Florida Statutes, made or received by the Contractor in conjunction with the Contract.

Pursuant to section 119.0701(2) (a), F.S., for contracts for services with a contractor acting on behalf of a public agency, as defined in section 119.011(2), F.S., the following applies:

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 THE TELEPHONE NUMBER, EMAIL ADDRESS AND MAILING ADDRESS PROVIDED IN THE RESULTING CONTRACT OR PURCHASE ORDER.

Pursuant to section 119.0701(2)(b), F.S., for contracts for services with a contractor acting on behalf of a public agency as defined in section 119.011(2), F.S., the Contractor shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) 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 Chapter 119, F.S., or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the contract term and following the completion of the Contract if the contractor does not transfer the records to the public agency.
- (d) 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.

8.2 Protection of Trade Secrets or Confidential Information.

If the Contractor considers any portion of materials made or received in the course of performing the Contract ("contract-related materials") to be trade secret under section 688.002 or 812.081, F.S., or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as trade secret or otherwise confidential when submitted to the Department. The Contractor will be responsible for responding to and resolving all claims for access to contract-related materials it has designated trade secret or otherwise confidential.

If the Department is served with a request for discovery of contract-related materials designated by the Contractor as trade secret or otherwise confidential, the Contractor will be responsible for filing the appropriate motion or objection in response to the request for discovery. The Department will provide materials designated trade secret or otherwise confidential if the Contractor fails to take appropriate and timely action to protect the materials designated as trade secret or otherwise confidential.

The Contractor will protect, defend, indemnify, and hold harmless the Department for claims, costs, fines, and attorney's fees arising from or relating to its designation of contract-related materials as trade secret or otherwise confidential.

8.3 Document Management.

The Contractor must retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers and documents that were made in relation to this Contract. Contractor must retain all documents related to the Contract for five (5) years after expiration of the Contract, or, if longer, the period required by the General Records Schedules maintained by the Florida Department of State available at the Department of State's Records Management website.

8.4 Intellectual Property.

Unless specifically addressed in the Contract, intellectual property rights to all property created or otherwise developed by the Contractor for the Department or the Customer will be owned by the State of Florida at the completion of the Contract.

Any inventions or discoveries developed in the course of or as a result of services performed under the Contract which are patentable pursuant to 35 U.S.C. § 101 are the sole property of the State of Florida. Contractor must inform the Customer of any inventions or discoveries developed or made in connection with the Contract and will be referred to the Florida Department of State for a determination on whether patent protection will be sought for the invention or discovery. The State of Florida will be the sole owner of any and all patents resulting from any invention or discovery made in connection with this contract.

Contractor must notify the Department or State of Florida of any publications, artwork, or other copyrightable works developed in connection with the Contract. All copyrights created or developed in connection with the Contract are the sole property of the State of Florida.

SECTION 9. DATA SECURITY AND SERVICES.

9.1 Duty to Provide Secure Data.

The Contractor will maintain the security of State of Florida data including, but not limited to, a secure area around any displayed visible data. The Contractor will also comply with all HIPAA requirements and any other state and federal rules and regulations regarding security of information.

9.2 Warranty of Security.

Unless otherwise agreed in writing, the Contractor and its subcontractors will not perform any of the services from outside of the United States, and the Contractor will not allow any State of Florida data to be sent by any medium, transmitted, or accessed outside of the United States.

The Contractor agrees that a violation of items listed above will result in immediate and irreparable harm to the Customer and will entitle the Customer to a credit as provided in the Contract documents. This credit is intended only to cover the Customer's internal staffing and administrative costs as well as the diminished value of services provided under the Contract and will not preclude the Customer from recovering other damages it may suffer as a result of such violation. For purposes of determining the damages due hereunder, a group of violations relating to a common set of operative facts (e.g., same location, same time period, same off-shore entity) will be treated as a single event. A violation of this provision will also entitle the Customer to recover any damages arising from a breach of this section and constitutes an event of default.

The Contractor must notify the Department and the Customer as soon as possible, in accordance with the requirements of section 501.171, F.S., if applicable, and in all events within one (1) business day in the event Contractor discovers any data is breached, any unauthorized access of data occurs (even by persons or companies with authorized access for other purposes), any unauthorized transmission of data occurs, or of any credible allegation or suspicion of a material violation of the above. This notification is required regardless of the number of persons or type of data affected. The notification must be clear and conspicuous and include a description of the following:

- (a) The incident in general terms.
- (b) The type of information that was subject to the unauthorized access and acquisition.
- (c) The type and number of entities who were, or potentially have been affected by the breach.
- (d) The actions taken by the Contractor to protect the data from further unauthorized access. However, the description of those actions in the written notice may be general so as not to further increase the risk or severity of the breach.

9.3 Remedial Measures.

Upon becoming aware of an alleged security breach, Contractor's Contract Manager must set up a conference call with the Department's and the Customer's Contract Manager. The conference call invitation must contain a brief description of the nature of the event. When possible, a thirty (30)-minute notice will be given to allow Department personnel to be available for the call. If the designated time is not practical for the Customer, an alternate time for the call will be scheduled. Contractor must share all available information on the call. The Contractor must answer all questions based on the information known at that time and answer additional questions as additional information becomes known. The Contractor must provide the Department and Customer with final documentation of the incident including all actions that took place. If the Contractor becomes aware of a security breach or security incident outside of normal business

hours, the Contractor must notify the Department's and the Customer's Contract Manager and in all events, within one business day.

9.4 Indemnification (Breach of Warranty of Security).

The Contractor agrees to defend, indemnify, and hold harmless the Department, the Customer and the State of Florida, its officers, directors, and employees for any claims, suits, or proceedings related to a breach of the Warranty of Security. The Contractor will include credit monitoring services at its own cost for those individuals affected or potentially affected by a breach of this warranty for a two-year period of time following the breach.

9.5 Annual Certification.

The Contractor is required to submit an annual certification demonstrating compliance with the Warranty of Security to the Department by December 31 of each Contract year.

SECTION 10. GRATUITIES, LOBBYING, AND COMMUNICATIONS.

10.1 Gratuities.

The Contractor will not, in connection with this Contract, directly or indirectly (1) offer, give, or agree to give anything of value to anyone as consideration for any State of Florida officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone anything of value for the benefit of, or at the direction or request of, any State of Florida officer or employee.

10.2 Lobbying.

In accordance with sections 11.062 and 216.347, F.S., Contract funds are not for the purpose of lobbying the Legislature, the judicial branch, or the Department. Pursuant to subsection 287.058(6), F.S., the Contract does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract, after the Contract execution and during the Contract's term.

10.3 Communications.

Contractor shall not, without first notifying the Department's Contract Manager and securing the Department's prior written consent, make public statements which concern the Contract or its subject matter, disclose or permit disclosure of any data or information obtained or furnished in accordance with the Contract, or use any statement attributable to the Department or its employees. Public statements include press releases, publicity releases, promotions, marketing materials, corporate communications, or other similar communications. The Department's written consent shall not be construed to supersede or waive the Contract requirements imposed on the Contractor to maintain confidential information.

SECTION 11. CONTRACT MONITORING.

11.1 Performance Standards.

The Contractor agrees to perform all tasks and provide deliverables as set forth in the Contract. The Department and the Customer will be entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and of the details thereof.

11.2 Performance Deficiencies and Financial Consequences of Non-Performance.

In addition to the processes set forth in the Contract (e.g., service level agreements), if the Department determines that there is a performance deficiency that requires correction by the Contractor, then the Department will notify the Contractor. The correction must be made within a time-frame specified by the Department. The Contractor must provide the Department with a corrective action plan describing how the Contractor will address all performance deficiencies identified by the Department.

If the corrective action plan is unacceptable to the Department, or implementation of the plan fails to remedy the performance deficiencies, the Department will retain ten percent (10%) of the total invoice amount. The retainage will be withheld until the Contractor resolves the performance deficiencies. If the performance deficiencies are resolved, the Contractor may invoice the Department for the retained amount. If the Contractor fails to resolve the performance deficiencies, the retained amount will be forfeited in order to compensate the Department for the performance deficiencies.

11.3 Liquidated Damages.

The Contractor will promptly notify the Department or the Customer upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion (or delivery) of any commodity or contractual service. The Contractor will use commercially reasonable efforts to avoid or minimize any delays in performance and will inform the Department or the Customer of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by the Department or the Customer has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor will promptly so notify the Department and use commercially reasonable efforts to perform its obligations on time notwithstanding the Department's delay.

The Contractor acknowledges that untimely performance or other material noncompliance will damage the Department, but by their nature such damages are difficult to ascertain. Accordingly, the liquidated damages provisions stated in the Contract documents will apply. Liquidated damages are not intended to be a penalty and are solely intended to compensate for damages.

11.4 Force Majeure, Notice of Delay, and No Damages for Delay.

The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to fire, explosion, earthquake, windstorm, flood, radioactive or toxic chemical hazard, war, military hostilities, terrorism, civil emergency, embargo, riot, strike, violent civil unrest, or other similar cause wholly beyond the Contractor's reasonable control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. The foregoing does not excuse delay which could have been avoided if the Contractor implemented any risk mitigation required by the Contract. In case of any delay the Contractor believes is excusable, the Contractor will notify the Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) calendar days after the date the Contractor first had reason to believe that a delay could result. The foregoing will constitute the Contractor's sole remedy or excuse with respect to delay. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages will be asserted by the Contractor. The Contractor will not be entitled to an increase in the Contract price or payment of any kind from the Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of

Florida Department of Management Services Information Technology Staff Augmentation Services – 3rd Bid RFP No. 15-80101507-SA-D acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor will perform at no increased cost, unless the Department determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State of Florida or to Customers, in which case the Department may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to commodities or contractual services subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the commodity or contractual services that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

SECTION 12. CONTRACT AUDITS.

12.1 Performance or Compliance Audits.

The Department may conduct or have conducted performance and/or compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's fees and claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners or agents of the Contractor, pertaining to this Contract, may be inspected by the Department upon fifteen (15) calendar days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The State of Florida's Chief Financial Officer and the Office of the Auditor General also have authority to perform audits and inspections.

12.2 Payment Audit.

Records of costs incurred under terms of the Contract will be maintained in accordance with section 8.3 of these Special Contract Conditions. Records of costs incurred will include the Contractor's general accounting records, together with supporting documents and records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by the Department, State of Florida's Chief Financial Officer or the Office of the Auditor General.

SECTION 13. BACKGROUND SCREENING AND SECURITY.

13.1 Background Check.

The Department or Customer may require the Contractor and its employees, agents, representatives, and subcontractors to provide fingerprints and be subject to such to conduct background checks as directed by the Department or Customer. The cost of the background checks will be borne by the Contractor. The Department or Customer may require the Contractor to exclude the Contractor's employees, agents, representatives or subcontractors based on the background check results. In addition, the Contractor must ensure that all persons have a responsibility to self-report to the Contractor within three (3) calendar days any arrest for any disqualifying offense. The Contractor must notify the Contract Manager within twenty-four (24) hours of all details concerning any reported arrest. The Contractor will ensure that all background screening will be refreshed upon the request of the Department or Customer for each person during the term of the Contract.

Florida Department of Management Services Information Technology Staff Augmentation Services – 3rd Bid RFP No. 15-80101507-SA-D

13.2 E-Verify.

In accordance with Executive Order 11-116, the Contractor agrees to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired during the term of the Contract for the services specified in the Contract. The Contractor must also include a requirement in subcontracts that the subcontractor must utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. In order to implement this provision, the Contractor must provide a copy of its DHS Memorandum of Understanding (MOU) to the Contract Manager within five (5) calendar days of Contract execution. If the Contractor is not enrolled in DHS E-Verify System, it will do so within five (5) calendar days of notice of Contract award, and provide the Contract Manager a copy of its MOU within five (5) calendar days of Contract execution. The link to E-Verify is https://www.uscis.gov/e-verify. Upon each Contractor or subcontractor new hire, the Contractor must provide a statement within five (5) calendar days to the Contract Manager identifying the new hire with its E-Verify case number.

13.3 Disqualifying Offenses.

If at any time it is determined that a person has been found guilty of a misdemeanor or felony offense as a result of a trial or has entered a plea of guilty or nolo contendere, regardless of whether adjudication was withheld, within the last six (6) years from the date of the court's determination for the crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that person from any position with access to State of Florida data or directly performing services under the Contract. The disgualifying offenses are as follows:

(a) Computer related crimes
(b) Information technology crimes;
(c) Fraudulent practices;
(d) False pretenses;
(e) Frauds;
(f) Credit card crimes;
(g) Forgery;
(h) Counterfeiting;
(i) Violations involving checks or drafts;
(j) Misuse of medical or personnel records; and
(k) Felony theft.
13.4 Confidentiality.

The Contractor must maintain confidentiality of all confidential data, files, and records related to the services and/or commodities provided pursuant to the Contract and must comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, F.S. The Contractor's confidentiality procedures must be consistent with the most recent version of the Department security policies, protocols, and procedures. The Contractor must also comply with any applicable professional standards with respect to confidentiality of information.

SECTION 14. INFORMATION TECHNOLOGY.

The following applies to all contracts for information technology commodities and contractual services. "Information technology" is defined in section 287.012(15), F.S., to have the same meaning as provided in section 282.0041, F.S.

14.1 Limitation of Liability.

For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$250,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contained in this agreement.

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to backup data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Department may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due to the Contractor as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due to the Contractor under any contract with the State.

14.2 Information Technology Standards.

Pursuant to sections 282.0051 and 282.318, F.S., the Agency for State Technology (AST) is to establish standards for the implementation and management of information technology resources. Vendors agree to cooperate with the agency in furtherance of its efforts to comply with AST standards, established in Title 74, F.A.C., as applicable.

Information Technology Staff Augmentation Services Contract No. 80101507-SA-19-1

CONTRACT EXHIBIT D

ADDITIONAL SPECIAL CONTRACT CONDITIONS

Table of Contents

SECTION 1. ELECTRONIC INVOICING (eINVOICING)2
SECTION 2. PURCHASING CARD (P-CARD) PROGRAM
SECTION 3. SUBCONTRACTS2
SECTION 4. BUSINESS REVIEW MEETINGS
SECTION 5. ETHICAL BUSINESS PRACTICES
SECTION 6. DELAYS AND COMPLAINTS
SECTION 7. INSURANCE, LOSS DEDUCTIBLE
SECTION 8. INSURANCE, SUBCONTRACTOR'S PUBLIC LIABILITY AND PROPERTY
<u>DAMAGE</u> 3
SECTION 9. PERFORMANCE AND PAYMENT BONDS
SECTION 10. CONTRACT REVISIONS
SECTION 11. CONTRACTOR EMPLOYEE CONDUCT
SECTION 12. CONTRACTOR SECURITY CLEARANCE
SECTION 13. REQUEST FOR QUOTES
SECTION 14. RESUME ACKNOWLEDGEMENT FORM
SECTION 15. QUARTERLY CONTRACTOR PERFORMANCE REPORTING5
SECTION 16. QUARTERLY SALES REPORTS5
SECTION 17. QUARTERLY REPORTING TIMEFRAMES
SECTION 18. PURCHASE ORDER DURATION
SECTION 18. BACKGROUND CHECK
SECTION 18. E-VERIFY6

1. Electronic Invoicing (elnvoicing)

The Contractor may supply electronic invoices in lieu of paper-based invoices for those transactions processed through MFMP. Contractor may establish electronic invoicing within ninety (90) days of written request to the Department. Electronic invoices shall be submitted to the Customer through the Ariba Network (AN) in one of three mechanisms as listed below. The Contractor will work with the MFMP management team to obtain specific requirements for the elnvoicing.

1.1 Commerce eXtensible Markup Language (cXML)

This standard establishes the data contents required for invoicing via cXML within the context of an electronic environment. This transaction set can be used for invoicing via the AN for catalog and non-catalog goods and services. The cXML format is the Ariba preferred method for electronic invoicing.

1.2 Electronic Data Interchange (EDI)

This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an EDI environment. This transaction set can be used for invoicing via the AN for catalog and non-catalog goods and services.

1.3 Purchase Order Flip via Ariba Network (AN)

The online process allows suppliers to submit invoices via the AN for catalog and non-catalog goods and services. Contractors have the ability to create an invoice directly from their Inbox in their AN account by simply "flipping" the purchase order into an invoice. This option does not require any special software or technical capabilities.

For the purposes of this section, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third-party provider of MFMP the right and license to use, reproduce, transmit, distribute, and publicly display within the system the information outlined above. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third-party provider the right and license to reproduce and display within the system the Contractor's trademarks, system marks, logos, trade dress, or other branding designation that identifies the products made available by the Contractor under the Contract.

2. Purchasing Card (P-card) Program

Contractor must accept the Universal card format Purchasing Cards (e.g., American Express, MasterCard, and Visa). However, the Purchasing Card is not the exclusive method of payment (e.g., Purchase Order). The method of ordering and payment (e.g., Purchase Order, Purchasing Card) shall be selected by the Customer.

3. Subcontracts

Section 6.1 of the Special Contract Conditions is superseded in its entirety by this Subcontracts section. The Contractor is fully responsible for satisfactory completion of all work on this contract. The Contractor shall ensure, and provide assurances to the Department or Customer upon request, that any subcontractor selected for work under this Contract has the necessary qualifications and abilities to perform in accordance with the terms and conditions of this Contract. The Contractor must provide the Customer with the names of any subcontractor considered for work on a purchase order issued under this Contract. The Customer shall retain the right to reject any of Contractor's or subcontractor's staff whose qualifications or performance, in the Customer's judgment, are insufficient. The Contractor agrees to be responsible for all work performed and all expenses incurred by the subcontractor while performing work under this contract. Any

subcontract arrangements must be evidenced by a written document available to the Department or Customer upon request.

The Contractor agrees to make payments to the subcontractor within seven (7) working days after receipt of full or partial payments from the Customer in accordance with Section 287.0585, F.S., unless otherwise stated in the contract between Contractor and subcontractor. The Contractor agrees that neither the Department nor the Customer shall be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and Contractor shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract. The Contractor, at its expense, will defend the Customer and the Department against such claims.

The Department supports diversity in its procurements and contracts, and requests that Contractors offer subcontracting opportunities to certified woman-, veteran-, and minority-owned small businesses. The Contractor may contact the OSD at osdinfo@dms.myflorida.com for information on certified business enterprises available for subcontracting opportunities.

4. Business Review Meetings

The Department reserves the right to schedule business review meetings as frequently as necessary. The Department will provide the format for the Contractor's agenda. Prior to the meeting, the Contractor shall submit the completed agenda to the Department for review and acceptance. The Contractor shall address the agenda items and any of the Department's additional concerns at the meeting. Failure to comply with this section may result in the Contractor being found in default and contract termination.

5. Ethical Business Practices

The Contractor shall work in partnership with the State to ensure a successful and valuable contract, and ethical practices are required of State employees, Contractors, and all parties representing the Contractor. All work performed under this Contract will be subject to review by the Inspector General of the State of Florida, and any findings suggesting unethical business practices may be cause for termination or cancellation.

6. Delays and Complaints

Delivery delays and service complaints will be monitored on a continual basis. Documented inability to perform under the conditions of the contract, via the Complaint to Vendor process (PUR 7017 form) contemplated for this Contract, may result in default proceedings and cancellation.

7. Insurance, Loss Deductible

The Customer shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor providing such insurance. Upon request, the Contractor shall furnish the Customer an insurance certificate proving appropriate coverage is in full force and effect.

8. Insurance, Subcontractor's Public Liability and Property Damage

The Contractor shall require each of its subcontractors to secure and maintain during the life of the subcontract, insurance of the type specified in this Contract, or, the Contractor may insure the activities of its subcontractors in the Contractor's policy, as specified in this Contract.

9. Performance and Payment Bonds

The authority and responsibility for requesting performance and payment bonds shall rest with the Customer. Under this Contract, the Customer issuing the purchase order may request a performance and payment bond, as deemed necessary by the size of the job. Inability to provide a bond may result in the Contractor being found in default of the purchase order.

10. Contract Revisions

Notwithstanding Contract Exhibit C, Special Contract Conditions section 6.9, the following types of revisions can be made to the Contract without a formal Contract amendment, upon written notice:

Revisions by the Contractor:

- 1) Contractor's Information and Contacts
- 2) Contractor's Contract Manager

Revisions by the Department:

- 1) Department's Contract Manager
- 2) Department's Quarterly Sales Report (Contract Exhibit J)
- 3) Contractor Performance Survey (Contract Exhibit I)

Contract Exhibit C, Special Contract Conditions section 6.9, applies to all other modifications to the Contract.

11. Contractor Employee Conduct

The Contractor's employees shall adhere to the standards of conduct prescribed in the Customer's personnel policy and procedure guidelines, particularly rules of conduct, security procedures, and any other applicable rules, regulations, policies and procedures of the Customer.

The Contractor shall ensure that the Contractor's employees wear attire suitable for the position, either a standard uniform or business casual dress.

12. Contractor Security Clearance

Customers may designate certain duties and/or positions as positions of "special trust" because they involve special trust responsibilities, are located in sensitive locations, or have key capabilities with access to sensitive or confidential information. The designation of a special trust position or duties is at the sole discretion of the Customer. Contractor or Contractor's employees who, in the performance of this Contract, will be assigned to work in positions determined by the Customer to be positions of special trust, may be required to submit to background screening and be approved by the Customer to work on this Contract.

13. Request for Quotes

- **13.1** Customers needing information technology staff augmentation services will create a Request for Quote (RFQ) eQuote event in MFMP Sourcing, each time they desire to solicit information technology staff augmentation services. The Customer shall issue a detailed RFQ that includes a term, service levels, educational qualifications and experience needed.
- 13.2 The Customer shall select at least three (3) awarded Contractors for the RFQ event. MFMP Sourcing will automatically add an additional five (5) randomly selected awarded Contractors to the RFQ event. All eight (8) awarded Contractors sent the RFQ will receive a notification of the RFQ and may respond. Customers may view the RFQ Contractor List on the event's "Overview" tab.
- **13.3** The specific format of the RFQ is left to the discretion of the Customer's Contracting Officer. Pursuant to section 287.056(2), F.S., RFQs performed within the scope of this Contract are not independent competitive solicitations and are not subject to the notice or challenge provisions of section 120.57(3), F.S.
- **13.4** All Customers who utilize MFMP must use the MFMP Sourcing application for creating RFQ's on this contract. Customers who do not utilize MFMP will create a RFQ document each time they desire to solicit information technology staff augmentation

services and shall send the RFQ document electronically via email to at least (8) awarded Contractors.

14. Resume Acknowledgement Form

When submitting a response to an RFQ the Contractor shall submit with its response a completed and signed Resume Acknowledgment Form (Contract Exhibit G) to the Customer for each staff augmentation person included in the RFQ response.

15. Quarterly Contractor Performance Reporting

Customers shall complete a Contractor Performance Survey (Exhibit I) for each Contractor on a Quarterly basis. Customers will electronically submit the completed Contractor Performance Survey(s) to the Department Contract Manager no later than the due date indicated in Contract Exhibit D, Section 17, Additional Special Contract Conditions.

The completed Contractor Performance Survey(s) will be used by the Department as a performance-reporting tool to measure the performance of Contractors. The Department reserves the right to modify the Contractor Performance Survey document and introduce additional performance-reporting tools as they are developed, including online tools (e.g. tools within MyFloridaMarketPlace or on the Department's website).

16. Quarterly Sales Reports

The Contractor agrees to submit a completed Contract Quarterly Sales Report, Contract Exhibit J, to the DMS Contract Manager as set forth below. A MS Excel version of the Contract Quarterly Sales Report will be provided by the Contract Manager prior to the first reporting period and upon any revisions to the form.

The Contractor will submit the completed Sales Report forms by email in a MS Excel Format to the Department Contract Manager no later than the due date indicated in Contract Exhibit D, Section 17, Additional Special Contract Conditions. Submission of these reports is considered a material requirement of this Contract and the Contractor.

The Contract Quarterly Sales Report will include all sales (orders) from Customers received (associated with this Contract) during the reporting period. Initiation and submission of the Sales Report is the responsibility of the Contractor without prompting or notification from the DMS Contract Manager. If no orders are received during the reporting period, the Contractor must submit a Contract Quarterly Sales Report indicating that there was no activity.

Failure to provide quarterly sales reports, including those indicating no sales, within ten (10) calendar days following the end of each quarter is considered as Non-Performance by the Contractor.

Exceptions may be made if a delay in submitting reports is attributable to circumstances that are clearly beyond the control of the Contractor. The burden of proof of unavoidable delay shall rest with the Contractor and shall be supplied in a written form and submitted to the Department.

The Department reserves the right to request additional sales information as needed.

17. Quarterly Reporting Timeframes

Quarterly reporting timeframes coincide with the State Fiscal Year as follows:

Quarter 1 - (July-September) – Due by October 10

Quarter 2 - (October-December) - Due by January 10

Quarter 3 - (January-March) - Due by April 10

Quarter 4 - (April-June) - Due by July 10

18. Purchase Order Duration

Purchase orders issued pursuant to this State Term Contract must be received by the Contractor no later than close of business on the last day of the Contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the Contract's terms and conditions. Purchase orders received by the Contractor after close of business on the last day of the State Term Contract's term shall be considered void.

Purchase orders for a one-time performance of contractual services shall be valid through the performance by the Contractor, and all terms and conditions of the State Term Contract shall apply to the single delivery/performance, and shall survive the termination of the Contract.

Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the State Term Contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.

The duration of purchase orders for recurring deliveries of commodities or performance of services shall not exceed the expiration of the State Term Contract by more than twelve months. However, if an extended pricing plan offered in the State Term Contract is selected by the Customer, the Contract terms on pricing plans shall govern the maximum duration of purchase orders reflecting such pricing plans.

Timely purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the State Term Contract shall apply to the recurring delivery/performance as provided herein, and shall survive the termination of the Contract.

Ordering offices shall not renew a purchase order issued pursuant to a State Term Contract if the underlying contract expires prior to the effective date of the renewal.

19. Background Check

Section 13.1 of the Special Contract Conditions is superseded in its entirety by this Background Check section. The Department or Customer may require the Contractor to conduct background checks as directed by the Department or Customer. The cost of the background checks will be borne by the Contractor. The Department or Customer may require the Contractor to exclude the Contractor's employees, agents, representatives or subcontractors based on the background check results. In addition, the Contractor must ensure that all persons have a responsibility to self-report to the Contractor within three (3) calendar days any arrest for any disqualifying offense. The Contractor must notify the Contract Manager within twenty-four (24) hours of all details concerning any reported arrest. The Contractor will ensure that all background screening will be refreshed upon the request of the Department or Customer for each person during the term of the Contract.

20. E-Verify

Section 13.2 of the Special Contract Conditions is superseded in its entirety by this E-Verify section. The Contractor (and its subcontractors) have an obligation to utilize the U.S. Department of Homeland Security's (DHS) E-Verify system for all newly hired employees. By executing this Contract, the Contractor certifies that it is registered with, and uses, the E-Verify system for all newly hired employees. The Contractor must obtain an affidavit from its subcontractors in accordance with paragraph (2)(b) of section 448.095, F.S., and maintain a copy of such affidavit for the duration of

the Contract. In order to implement this provision, the Vendor shall provide a copy of its DHS Memorandum of Understanding (MOU) to the Contract Manager within five days of Contract execution. Upon each Contractor or subcontractor new hire, the Contractor must provide a statement within five (5) calendar days to the Contract Manager identifying the new hire with its E-Verify case number.

This section serves as notice to the Contractor regarding the requirements of section 448.095, F.S., specifically sub-paragraph (2)(c)1, and the Department's obligation to terminate the Contract if it has a good faith belief that the Contractor has knowingly violated section 448.09(1), F.S. If terminated for such reason, the Contractor will not be eligible for award of a public contract for at least one year after the date of such termination. The Department reserves the right to order the immediate termination of any contract between the Contractor and a subcontractor performing work on its behalf should the Department develop a good faith belief that the subcontractor has knowingly violated section 448.095(1), F.S.

CONSENT AGENDA ITEM #14

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams Will

Director of Procurement

DATE: May 22, 2021

SUBJECT: Approval of Purchase Orders to TransCore, LP

for Purchase of Transponders

Board approval is requested to issue purchase orders to TransCore, LP in a not-to-exceed amount of \$6,996,720.00 through June 30, 2022.

These purchase orders will provide a continued supply of E-PASS transponders.

The cost of transponders distributed is budgeted in the OM&A Budget.

Reviewed by: ____

David Wynne

Director of Toll Operations

Iim Greer

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

May 25, 2021 DATE:

RE: April 2021 Financial Reports

Attached please find the April 2021 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 APRIL 30, 2021 AND YEAR-TO-DATE

		FY 21 MONTH ACTUAL	FY 21 MONTH BUDGET	Y	FY 21 EAR-TO-DATE ACTUAL	Y	FY 21 EAR-TO-DATE BUDGET		FY 21 AR-TO-DATE VARIANCE	FY 21 YEAR-TO-DATE % VARIANCE	FY 20 - 21 YEAR-TO-DATE COMPARISON
REVENUES											
TOLLS	\$	45,976,965	\$ 43,200,000	\$	396,457,831	\$	342,700,000	\$	53,757,831	15.7%	1.9%
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	3	771,652	614,300		5,796,953		6,324,800		(527,847)	-8.3%	-43.6%
TRANSPONDER SALES		209,132	80,100		1,013,282		758,250		255,032	33.6%	43.8%
OTHER OPERATING		142,181	199,114		992,171		1,419,935		(427,764)	-30.1%	-41.5%
INTEREST		363,499	506,132		8,311,395		5,055,188		3,256,207	64.4%	-4.1%
MISCELLANEOUS		63,240	61,929		631,257		619,293	_	11,964	1.9%	2.1%
TOTAL REVENUES	\$	47,526,668	\$ 44,661,575	\$	413,202,890	\$	356,877,466	\$	56,325,423	15.8%	0.6%
O M & A EXPENSES											
OPERATIONS	\$	6,749,250	\$ 5,741,271	\$	47,345,157	\$	49,093,915	\$	1,748,758	3.6%	-7.1%
MAINTENANCE	•	1,752,435	1,390,762	•	12,939,739	•	13,360,345	•	420,606	3.1%	15.2%
ADMINISTRATION		599,064	838,868		6,600,753		7,090,152		489,399	6.9%	4.7%
OTHER OPERATING		275,503	228,483		2,164,249		2,056,350	_	(107,899)	-5.2%	44.3%
TOTAL O M & A EXPENSES	\$	9,376,252	\$ 8,199,384	\$	69,049,899	\$	71,600,762	\$	2,550,863	3.6%	-1.3%
NET REVENUES BEFORE DEBT SERVICE	\$	38,150,416	\$ 36,462,191	\$	344,152,991	\$	285,276,704	\$	58,876,287	20.6%	1.0%
COMBINED NET DEBT SERVICE	\$	17,744,590	\$ 18,233,491	\$	181,991,091	\$	182,580,512	\$	589,421	0.3%	10.2%
NET REVENUES AFTER DEBT SERVICE	\$	20,405,826	\$ 18,228,700	\$	162,161,900	\$	102,696,192	\$	59,465,708	57.9%	-7.7%

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 APRIL 30, 2021 AND YEAR-TO-DATE

		_		FY 2021 BUDGET VARIANCE		2021			VARIANCE		FY 21 YEAR-TO-DATE % VARIANCE
Operations	\$	47,345,157	\$		49,093,915		\$	1,748,758		3.6%	
Maintenance		12,939,739			13,360,345			420,606		3.1%	
Administration		6,600,753			7,090,152			489,399		6.9%	
Other Operating		2,164,249			2,056,350			(107,899)	_	-5.2%	
Total O M & A	\$	69,049,899	\$		71,600,762		\$	2,550,863		3.6%	
Capital Expenditures											
Operations	\$	9	\$		50,000		\$	49,991		100.0%	
Maintenance		13,028			64,000			50,972		79.6%	
Administration					16,250			16,250	_	100.0%	
Total Capital Expenditures	\$	13,037	\$		130,250		\$	117,213		90.0%	



Central Florida Expressway Authority Operations - Comparison of Actual to Budget For the Ten Months Ending April 30, 2021

	YTD Actual	YTD Budget	Budget Variance	Variance Percentage
Toll Operations Image Review	484,462 7,207,858	508,025 6,972,776	23,563 (235,082)	4.64% -3.37%
Special Projects	74,041	154,044	80,003	51.94%
Information Technology	5,356,816	5,077,770	(279,046)	-5.50%
E-PASS Service Center	15,762,182	16,593,781	`831,599 [°]	5.01%
Business Relations	118,095	131,652	13,557	10.30%
Public Outreach/Education	1,698,496	1,743,827	45,331	2.60%
Subtotal CFX	\$30,701,949	\$31,181,875	\$479,926	1.54%
Plazas	16,643,217	17,962,040	1,318,824	7.34%
Subtotal Toll Facilities	\$16,643,217	\$17,962,040	\$1,318,824	7.34%
Total Operations Expenses	\$47,345,166	\$49,143,915	\$1,798,750	<u>3.66%</u>



Central Florida Expressway Authority Maintenance - Comparison of Actual to Budget For the Ten Months Ending April 30, 2021

	YTD Actual	YTD Budget	Budget Variance	Variance Percentage
Maintenance Administration	2,207,269	2,500,785	293,516	11.74%
Traffic Operations	3,517,280	3,519,927	2,647	0.08%
Routine Maintenance	7,228,218	7,403,633	175,415	2.37%
Total Maintenance Expenses	\$12,952,768	\$13,424,345	\$471,577	3.51%



Central Florida Expressway Authority Administration - Actual to Budget by Cost Center For the Ten Months Ending April 30, 2021

	YTD Actual	YTD Budget	Budget Variance	Variance Percentage
General	690,111	789,806	99,696	12.62%
Administrative Services	1,725,499	1,780,206	54,707	3.07%
Communications	550,308	617,263	66,955	10.85%
Human Resources	222,438	248,838	26,400	10.61%
Supplier Diversity	183,643	263,005	79,362	30.18%
Accounting	1,316,561	1,383,340	66,779	4.83%
Construction Administration	49,790	52,186	2,396	4.59%
Risk Management	111,913	134,785	22,872	16.97%
Procurement	493,260	514,498	21,239	4.13%
Legal	633,738	601,097	(32,641)	-5.43%
Internal Audit	255,451	305,762	50,311	16.45%
525 Magnolia	33,281	38,054	4,773	12.54%
Engineering	59,292	65,859	6,567	9.97%
Records Management	275,469	311,702	36,232	11.62%
Grand Total Expenses	\$6,600,753	\$7,106,402	\$505,648	7.12%
<u></u>		Ψ.,100, 1 02		

CENTRAL FLORIDA EXPRESSWAY AUTHORITY CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS PREVIOUS YEAR BUDGET TO ACTUAL COMPARISON FOR THE MONTH ENDING APRIL 30, 2021 AND YEAR-TO-DATE

	FY 21 YEAR-TO-DATE ACTUAL	FY 21 YEAR-TO-DATE BUDGET	FY 21 YEAR-TO-DATE VARIANCE	FY 20 YEAR-TO-DATE ACTUAL	FY 20 YEAR-TO-DATE BUDGET	FY 20 YEAR-TO-DATE VARIANCE	YEAR-TO-DATE VARIANCE COMPARISON
REVENUES							
TOLLS	\$ 396,457,831	\$ 342,700,000	\$ 53,757,831	\$ 388,903,268	\$ 400,540,728	\$ (11,637,460)	\$ 65,395,291
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	5,796,953	6,324,800	(527,847)	10,273,309	8,508,325	1,764,984	(2,292,831)
TRANSPONDER SALES	1,013,282	758,250	255,032	704,469	623,010	81,459	173,573
OTHER OPERATING	992,171	1,419,935	(427,764)	1,696,470	744,329	952,141	(1,379,905)
INTEREST	8,311,395	5,055,188	3,256,207	8,670,904	5,334,463	3,336,441	(80,234)
MISCELLANEOUS	631,257	619,293	11,964	618,373	608,450	9,923	2,041
TOTAL REVENUES	\$ 413,202,890	\$ 356,877,466	\$ 56,325,423	\$ 410,866,793	\$ 416,359,305	\$ (5,492,512)	\$ 61,817,935
O M & A EXPENSES							
OPERATIONS	\$ 47,345,157	\$ 49,093,915	\$ 1,748,758	\$ 50,947,964	\$ 52,576,063	\$ 1,628,099	\$ 120,659
MAINTENANCE	12,939,739	13,360,345	420,606	11,232,997	13,313,674	2,080,677	(1,660,071)
ADMINISTRATION	6,600,753	7,090,152	489,399	6,306,157	7,047,483	741,326	(251,927)
OTHER OPERATING	2,164,249	2,056,350	(107,899)	1,499,841	1,999,229	499,388	(607,287)
TOTAL O M & A EXPENSES	\$ 69,049,899	\$ 71,600,762	\$ 2,550,863	\$ 69,986,959	\$ 74,936,449	\$ 4,949,490	\$ (2,398,627)
NET REVENUES BEFORE DEBT SERVICE	\$ 344,152,991	\$ 285,276,704	\$ 58,876,287	\$ 340,879,834	\$ 341,422,856	\$ (543,022)	\$ 59,419,309
COMBINED NET DEBT SERVICE	\$ 181,991,091	\$ 182,580,512	\$ 589,421	\$ 165,184,324	\$ 166,417,686	\$ (1,233,362)	\$ 1,822,783
NET REVENUES AFTER DEBT SERVICE	\$ 162,161,900	\$ 102,696,192	\$ 59,465,708	\$ 175,695,510	\$ 175,005,170	\$ 690,340	\$ 58,775,368

CENTRAL FLORIDA EXPRESSWAY AUTHORITY CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS PREVIOUS YEAR COMPARISON FOR THE MONTH ENDING APRIL 30, 2021 AND YEAR-TO-DATE

	 FY 21 MONTH ACTUAL	FY 20 MONTH ACTUAL	S	FY 20 - 21 AME MONTH OMPARISON	YE	FY 21 EAR-TO-DATE ACTUAL	YE	FY 20 AR-TO-DATE ACTUAL	ΥE	FY 20 - 21 AR-TO-DATE DMPARISON
REVENUES										
TOLLS	\$ 45,976,965	\$ 19,613,851	\$	26,363,114	\$	396,457,831	\$	388,903,268	\$	7,554,563
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	771,652	1,286,188		(514,536)		5,796,953		10,273,309		(4,476,356)
TRANSPONDER SALES	209,132	42,422		166,710		1,013,282		704,469		308,813
OTHER OPERATING	142,181	180,187		(38,006)		992,171		1,696,470		(704,299)
INTEREST	363,499	1,060,356		(696,857)		8,311,395		8,670,904		(359,509)
MISCELLANEOUS	 63,240	 62,094		1,146	_	631,257		618,373		12,884
TOTAL REVENUES	\$ 47,526,668	\$ 22,245,098	\$	25,281,570	\$	413,202,890	\$	410,866,793	\$	2,336,097
O M & A EXPENSES										
OPERATIONS	\$ 6,749,250	\$ 5,928,917	\$	820,333	\$	47,345,157	\$	50,947,964	\$	(3,602,807)
MAINTENANCE	1,752,435	293,159		1,459,276		12,939,739		11,232,997		1,706,742
ADMINISTRATION	599,064	747,697		(148,633)		6,600,753		6,306,157		294,596
OTHER OPERATING	 275,503	 86,432		189,071		2,164,249	_	1,499,841		664,408
TOTAL O M & A EXPENSES	\$ 9,376,252	\$ 7,056,205	\$	2,320,047	\$	69,049,899	\$	69,986,959	\$	(937,060)
NET REVENUES BEFORE DEBT SERVICE	\$ 38,150,416	\$ 15,188,893	\$	22,961,523	\$	344,152,991	\$	340,879,834	\$	3,273,157
COMBINED NET DEBT SERVICE	\$ 17,744,590	\$ 18,744,089	\$	(999,499)	\$	181,991,091	\$	165,184,324	\$	16,806,767
NET REVENUES AFTER DEBT SERVICE	\$ 20,405,826	\$ (3,555,196)	\$	23,961,022	\$	162,161,900	\$	175,695,510	\$	(13,533,610)

E.3.

Executive Director's Report

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Executive Director Report June 2021

SAFETY

Florida Highway Patrol

CFX staff met with Colonel Gene Spaulding, Chief Tim Roufa and Lieutenant Colonel Troy Thompson on May 26 to discuss a strategy to obtain more law enforcement support on the CFX System. Most troopers resign after 2-5 years of service with the Florida Highway Patrol (FHP). The common factor for resignation is seeking higher salary and benefits. FHP cannot keep up with attrition. The agency is consistently losing experienced troopers faster than it can hire and train replacements. FHP is among the bottom in salaries compared to other law enforcement agencies across the nation.

CFX and the Florida Department of Highway Safety is seeking potential dedicated funding from around the state that is outside of FHP's budget to begin to address the pay issue.

In the meantime, FHP has agreed to provide additional troopers from around the state to CFX during peak travel periods to assist our current dedicated FHP team. CFX budgeted for this additional assistance for the new fiscal year beginning July 1.

ACCOUNTABILITY

Florida Transportation Commission

CFX is participating in a series of meetings with the Florida Transportation Commission to review and update toll agency key performance indicators that are reported annually to the Florida Legislature and Governor. The group is focused on removing outdated indicators and updating metrics that align with current agency practices.

TRANSPORTATION INNOVATION

ASPIRE

CFX is working with ASPIRE, "Advancing Sustainability Through Power Infrastructure for Roadway Electrification" to launch a wireless charging project on the Lake/Orange Expressway. The Lake/Orange Expressway is being designed to connect US 27 near Lake Louisa Park to SR 429 at Schofield Road. The project will advance research to charge electric vehicles while traveling at highway speeds. The ASPIRE Executive Advisory Board met on June 1 to discuss projects across the nation, including the CFX project.

CFX serves as Co-chair of the ASPIRE Policy Committee. This committee met on May 25 to develop the following three policy priorities for the next year: 1) Bolster support for USDOT federal code revisions to eliminate restrictions for electric charging along the interstate system; 2) Encourage state support of EV charging along the most travelled roadways; 3) Develop a campaign to educate local, state

and national leaders of the important work being done by ASPIRE to advance roadway charging.

VISITOR TOLL PASS

Visitor Toll Pass was relaunched at the Orlando International Airport on June 8. The program has been automated and streamlined to make borrowing a Visitor Toll Pass even easier and cost effective for Central Florida travelers. The program can now be easily replicated in other airports across Florida.

TRANSPORTATION PARTNERS

TEAMFL



The Transportation and Expressway Authority
Membership of Florida (TEAMFL) held their quarterly
meeting on June 3 and 4 in Tampa, Florida. The
meeting was led by Lake County Commissioner Sean
Parks, Chairman of TEAMFL. Osceola County
Commissioner Brandon Arrington also attended as the
CFX representative on the TEAMFL board. The meeting
focused on statewide transportation strategies.

Congratulations to Tampa Hillsborough Expressway Authority's Sue Chrzan for being awarded the TEAMFL 2021 Leadership award!

CAFÉ IBTTA

The work of the Central Florida Expressway Authority will be showcased on the webcast Café IBTTA on June 9 at 11:00 am. Members of the International Bridge Tunnel and Turnpike Association will tune in to hear about CFX innovation, mobility and sustainability partnerships and expressway projects being planned for the next five years.

DASHBOARD

Wrong Way Driving Program

In April, there were 17 detections system-wide with 16 of the 17 detections resulting in documented turn arounds. Details of the remaining event is listed below:

SR 528 EB Exit 13 at Narcoossee Road; Wednesday 4/14/2021 3:22 AM A white sedan was observed traveling up the ramp in the wrong direction. The Regional Traffic Management Center (RTMC) activated the dynamic message signs to notify right way drivers of the wrong way driving event. The Florida Highway Patrol was notified. There were no citations or crashes associated with this event.

Customer Service Call Center

Our customer call center service is improving as we ramp up hiring. Our customer service numbers were greatly improved for May. Our average speed of answer was 91 seconds. These statistics are just short of our target of 1 minute or less. CFX expects continued improvement through the month of June.

MEETINGS and PRESENTATIONS

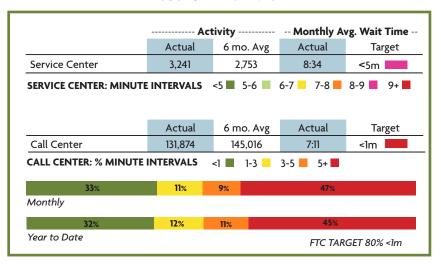
May 18	Masterplan - Brevard County Board of Commissioners
May 19	ASPIRE: Overcoming Challenges of Using Physics-based models in
•	Battery Management
May 19	Brightline Maintenance Facility Opening
May 19	2045 Masterplan - City of Apopka
May 20	Solivita HOA - Southport Connector PD&E
May 21	2045 Masterplan – MetroPlan Technical Advisory Committee
May 24	Transportation Commission Performance Measure Review
May 25	CR 532 Osceola-Polk County Widening Study Alternatives
May 25	2045 Masterplan - Lake County Board of Commissioners
May 26	Poinciana Civic Group - Poinciana-area Projects
May 27	2045 Masterplan - City of Winter Garden
June 3	2045 Masterplan - MetroPlan Community Advisory and Municipal
	Advisory Committees
June 3, 4	TEAMFL 2021 Quarterly Meeting
June 9	2045 Masterplan - MetroPlan board
June 9	Café' IBTTA – Conversation with Laura Kelley, CFX



PERFORMANCE DASHBOARD APRIL 2021

Fiscal year runs from July 1-June 30

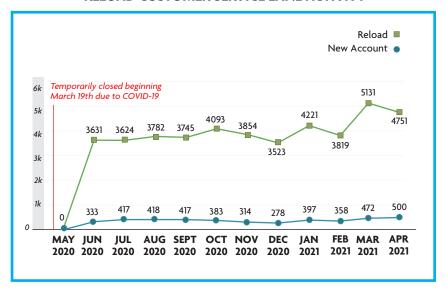
CUSTOMER SERVICE



WRONG WAY DRIVING (WWD)

Month	SEPT	ост	NOV	DEC	JAN	FEB	MAR	APR
Total Vehicles Detected	14	5	13	12	10	16	15	17
Documented Turn Arounds	13	4	12	11	8	14	13	16

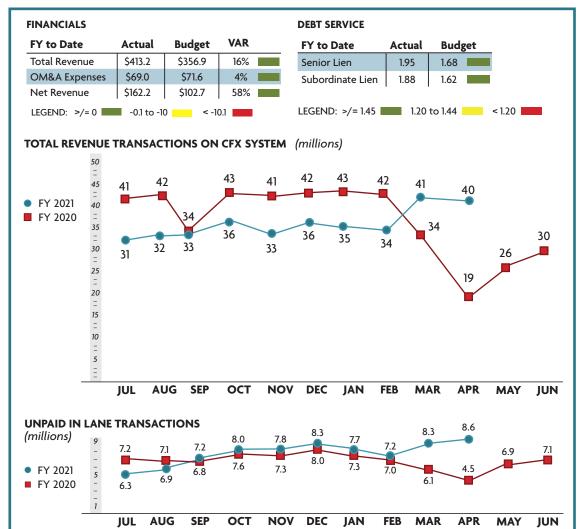
RELOAD CUSTOMER SERVICE LANE ACTIVITY



PROGRESS OF MAJOR CONSTRUCTION PROJECTS

	Contract (millions)	Spent (millions)	% Time	% Spent	VAR	Contract Completion Date
SR 528 / SR 436 Interchange Improvements	\$106.5	\$66.3	27%	62%		Feb. 2023
SR 538 Widening, Ronald Reagan Pkwy to Cypress Pkwy	\$92.6	\$13.7	16%	15%		Nov. 2023
SR 417 Widening, International Dr. to John Young Pwky	\$81.6	\$5.7	10%	7%		July 2023
SR 417 Widening, John Young Pkwy to Landstar Blvd.	\$116.8	\$539K	5%	0.46%		Oct. 2023
LEGEND: % Time - % Spent ≤ 10 11-20 ≥	21					

FINANCIALS



F.

Regular Agenda Items

F. 1.

brightline

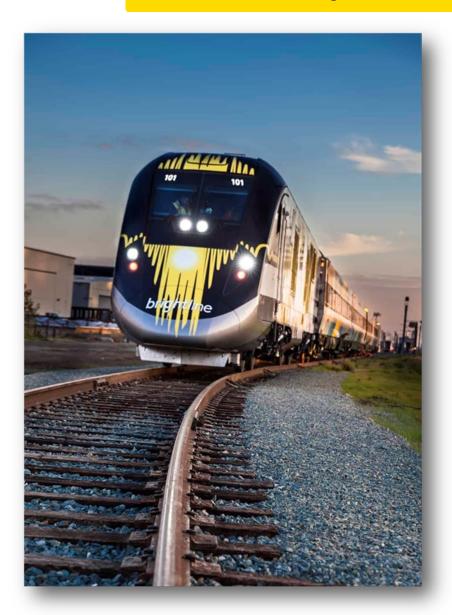
Christine Kefauver
Mike Cegelis
CFX Update

June 2021



Overview

- Community Outreach
- Hunter's Creek Community Association
- Alignment



Outreach - Spring 2021

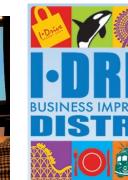
- Leadership Orlando
- I Drive Master Transit Improvement District
- International Drive Chamber of Commerce
- Hunter's Creek Community Association
- City of Orlando
- League of Women Voters
- Audubon Florida
- Valencia College
- Rotary Club of Orlando
- Orange County D4 Town Hall next week













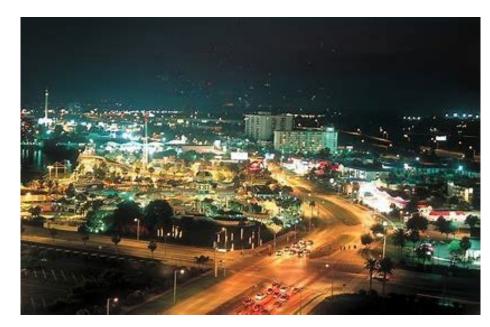






Importance of connecting OIA to the International Drive Activity Center

- Brightline recognizes the need for greater connectivity to the International Drive community
- We will be advocates for any solution that will create useful connectivity to destinations and attractions
- We believe a separate and unique system, possibly utilizing the new infrastructure being built in the north exit out of the airport, should be carefully considered
- Brightline has been in regular discussions with community stakeholders and will continue to engage in partnership to encourage the development of the right solution(s) for the greater Orlando metropolitan area



Issues presented by the Hunter's Creek Community Association

- The overwhelming majority of this alignment will be in an existing limited access transportation corridor with no grade crossings once the project enters CFX rights of way.
- Brightline will be adjacent to Hunter's Creek for less than four miles.
- There are no additional properties needed within the Hunter's Creek community as part of this project.
- A letter of concern was submitted to the CFX Governing Board dated May 10, 2021, from the Hunter's Creek Community Association.

The Brightline team is committed to develop a project that will be designed to mitigate these concerns.

Issues presented by the Hunter's Creek Community Association - Noise

The National Environmental Policy Act process will require a noise and vibration study to be conducted. This Study will determine existence of potential impacts and identify the specific needs for mitigation measures.

- Brightline uses state of the art American-built electric trains with on-board Biodiesel generators that produce half the noise of traditional heavy rail locomotives.
- Due to the robust traffic already on the SR 417 (80,000 vehicles daily) and Brightline's proposed construction methods, initial data suggests that someone standing within 150 feet of the Brightline track will experience noise at a decibel level of 62 dB(A)*. That is the equivalent of background conversation speech.
- A passing train is only audible for about seven seconds.
- Within this area, Brightline will operate 70 80 mph which is the same speed as an average car/truck on the expressway.
- Brightline is expected to operate every hour in each direction (two trains per hour for a total of 36 trains per day).
- There are no at grade gates, bells or flashing lights along SR 417 because Brightline will operate exclusively within the CFX corridor, which is secured from any cross traffic.

^{*} Based on a preliminary noise analysis using FRA methodology. Anticipated noise level of a passing Brightline train at a noise receptor that is 150-ft from the tracks without an edge barrier or other noise mitigation in place.

Issues presented by the Hunter's Creek Community Association – Safety and Dirt

Safety

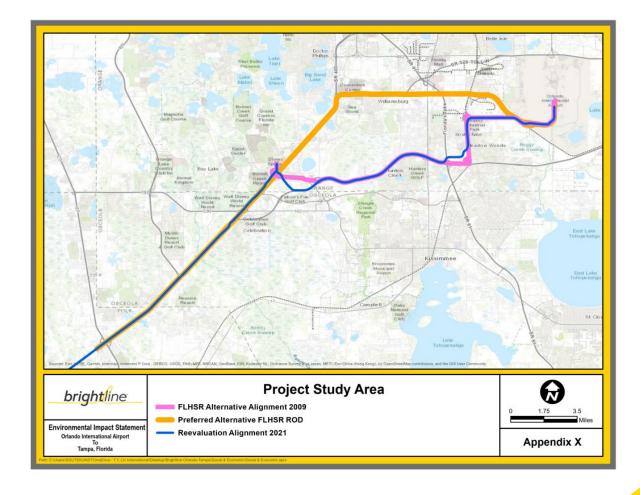
- The rail corridor is within the SR 417 right of way and will be completely fenced with no public access.
- There will be no at grade crossings within the CFX corridor therefore creating a secured corridor for Brightline.

Dirt

- Brightline will use the same protocol that CFX will use during the widening of SR 417.
- We are required by the Florida Department of Environmental Protection to contain dirt and debris during construction to minimize disturbance.
- Dust is controlled by watering trucks during dry weather.
- Brightline will develop a robust Stormwater Pollution Prevention Plan which follows the Best Management Practices found in the Florida Stormwater Erosion and Sedimentation Control Inspectors Manual.
- Certified Inspectors will be on site during the full construction phase which will take approximately 3 years.

Alignment Evaluation OIA to I-4

- SR 417 Corridor is Brightline's Preferred Alignment
 - Preferred in the 2003 Alternatives Evaluation
 - Fewer Environmental Impacts
 - Fewer Noise impacts
 - Fewer Vibration impacts
- SR 528 will add over \$1 B to the project cost.
 - This \$1B cost differential does <u>not</u> include impacts to the "Beyond the Ultimate I-4" expansion project



Alignment Differences....

- Both routes are similar in length 16.7 miles
- Cost present value
 - SR 528/Taft Vineland Road \$2.12 B
 - SR 417 1.02B
- 90% of the \$1B cost differential consists of two categories:
 - There are over 9 miles of elevated structures/bridges on the Taft Vineland route vs. 1.6 miles on the southern alignments within the SR 417 corridor
 - SR 528 = 1.9 million SF of Bridge = \$937 M
 - SR 417 = 0.3 million SF of Bridge = \$158 M
 - The SR 528/TVR alignment will require 76 private parcels
 - The SR 417 alignment will require 3 private parcels

brightline TYPICAL SECTION COST COMPARISON

	Relative Cost	2010 FLHSR	2021 Brightline
AT-GRADE SECTION	1x	13,900'	33,970'
*			
WALL SECTION	~3 x	19,100'	44,730'
TRENCH SECTION	~5 x	3,500'	-
BRIDGE SECTION ***********************************	~20 x	51,400'	8,680'
Route Length (LF)		87,900'	87,380'

		2010 FLHSR		2021			
			FLHS			Brightl	
Element	Unit	Quantity		Cost	Quantity		Cost
Rail Infrastructure			\$	1,475,095,133		\$	704,380,781
Track & Ballast	TF	177,325	\$	74,881,464	156,463	\$	81,216,566
MSE Walls	SF	491,835	\$	25,731,298	1,896,808	\$	96,360,873
Bridges	SF	1,914,093	\$	937,246,018	341,226	\$	158,256,461
Civil/Site	RM	16.7	\$	113,701,609	16.7	\$	166,191,548
Train Control & Signals	RM	16.7	\$	77,039,226	16.7	\$	80,624,500
Contractor Indirect & General Costs	LS	1	\$	246,495,417	1	\$	121,730,832
Land/Building/Other	RM	16.7	\$	247,198,781	16.7	\$	119,179,536
Professional Fees		6.1%	\$	104,387,509	7.7%	\$	63,613,249
Permitting	%	1.3%	\$	21,923,780	1.3%	\$	10,734,736
Design	%	4.8%	\$	82,463,729	6.4%	\$	52,878,513
Project Management	\dashv	3.3%	\$	56,157,992	3.3%	\$	27,539,813
BL Project Management	LS	2.3%	\$	38,946,000	2.3%	\$	19,190,575
Insurance	LS	1.0%	\$	16,400,000	1.0%	\$	7,951,656
Financial Advisory	LS	1	\$	811,992	1	\$	397,582
Construction Allowance/Contingency	%	12.4%	\$	232,600,802	12.4%	\$	113,403,557
GRAND TOTAL	RM	16.7	\$	2,115,440,217	16.7	\$	1,028,116,936

brightline

Christine Kefauver
Mike Cegelis
CFX Update

June 2021



F. 2.

THERE ARE NO BACKUP MATERIALS FOR THIS ITEM AT THIS TIME

F. 3.

The presentation for this item will be sent at a later date.

F. 4.



2021Refund
Opportunity

Series	Outstanding Principal	Final Maturity	Type
2012	\$109,740,000	7/1/2025	Natural Fixed
2013A	242,320,000	7/1/2035	Natural Fixed
2013B	95,095,000	7/1/2025	Natural Fixed

The Tax Cuts and Jobs Act, signed December 22, 2017, eliminated tax-exempt advance refunding of tax-exempt bonds after December 31, 2017.



2012 and 2013B Bonds



Refunding approved by Finance Committee on March 31, 2021



Request for Proposal sent out on April 30, 2021



Responses were due on May 21, 2021



Nine responses received



2021B Bonds

Key Government Finance, Inc.

Not-to-Exceed \$90,500,000

Senior Lien Taxable Convertible Refunding Revenue Bond

Taxable Interest Rate of 0.8695%

Convert to Tax-Exempt on 7/1/2022

Tax-Exempt Rate of 0.6869%

Net Present Value Savings of 6.63%



2021C Bonds

Citizens First Bank

Not-to-Exceed \$55,000,000

Senior Lien Taxable Refunding Revenue Bond

Taxable Interest Rate of 0.80%

Net Present Value Savings of 4.46%



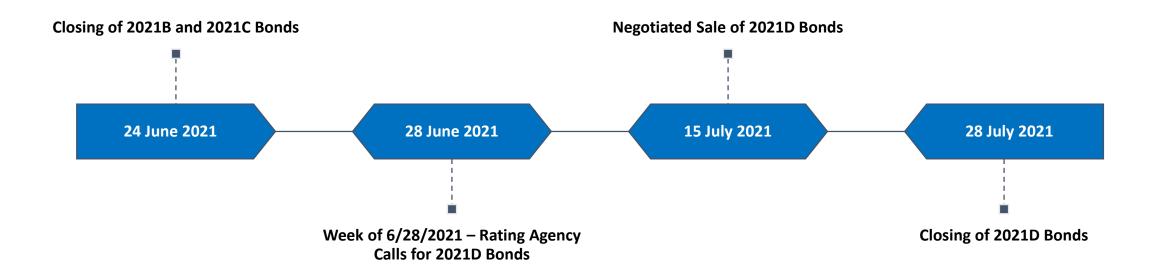
2021D Bonds

- Approved by Finance Committee on March 31, 2021
- Cash Optimization
 - Use cash on hand to defease 2013A Bonds
 - Issue new tax-exempt bonds to replace the cash used
 - Same benefits as a tax-exempt refunding
- Not-to-Exceed \$290,000,000
- Net present value savings of 19.4%





Schedule





Recommended Motion

Approval of the Twenty-Eighth, Twenty-Ninth and Thirtieth Supplemental Revenue Bond Resolutions authorizing the issuance of Senior Lien Revenue Bonds (multiple series) and authorizing the forms of certain documents and agreements related to the bonds and approval of the Resolution for the Cash Defeasance of the 2013A Bonds.





	Resolution No
CENTRAL FLORIDA EXPRESSWAY AUTI	HORITY
T	1
Twenty-Eighth Supplemental Revenue Bo Resolution Authorizing the Issuance of:	
enior Lien Taxable Convertible Refunding Revenue Bo	ond. Series 2021B
_	110, 20110 20212
	
Adams Jan 10, 2021	
Adopted on June 10, 2021	

TWENTY-EIGHTH SUPPLEMENTAL REVENUE BOND RESOLUTION

THIS TWENTY-EIGHTH SUPPLEMENTAL REVENUE BOND RESOLUTION OF THE CENTRAL FLORIDA EXPRESSWAY **AUTHORITY SUPPLEMENTING** THE **MASTER BOND** RESOLUTION OF CFX ADOPTED ON FEBRUARY 3, 2003, AS SUPPLEMENTED; AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$90,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF LIEN **TAXABLE** CONVERTIBLE **REFUNDING** REVENUE BOND, SERIES 2021B FOR THE PURPOSES OF REFUNDING CFX'S OUTSTANDNG REFUNDING REVENUE BONDS, SERIES 2012 BONDS AND PAYING CERTAIN COSTS OF ISSUANCE IN CONNECTION WITH THE ISSUANCE OF SUCH BOND; DELEGATING AUTHORITY AND ESTABLISHING CRITERIA FOR DETERMINING THE DATE. INTEREST RATES. **INTEREST PAYMENT** DATES, **PRINCIPAL** AMOUNTS. PROVISIONS FOR REDEMPTION AND MATURITY SCHEDULES FOR SUCH BOND; AUTHORIZING THE SALE OF SAID BOND ON A NEGOTIATED, PRIVATE PLACEMENT BASIS TO CITIZENS FIRST BANK AND APPROVING THE CONDITIONS AND CRITERIA FOR SUCH SALE; APPROVING THE TERM SHEET WITH CITIZENS FIRST BANK AND DELEGATING AUTHORITY TO PREPARE, NEGOTIATE AND EXECUTE A PLACEMENT AGREEMENT WITH RESPECT TO THE SALE OF SAID BOND: APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUSTEE, PAYING AGENT AND REGISTRAR AGREEMENT; APPOINTING A TRUSTEE, PAYING AGENT, AND REGISTRAR; AUTHORIZING CERTAIN OFFICIALS AND EMPLOYEES OF THE AUTHORITY TO TAKE ALL ACTIONS REQUIRED IN CONNECTION WITH THE ISSUANCE OF SUCH BOND, INCLUDING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH BOND; PROVIDING CERTAIN OTHER DETAILS WITH RESPECT THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 3, 2003, the Central Florida Expressway Authority ("CFX") adopted that certain Master Bond Resolution Authorizing Central Florida Expressway Authority Revenue Bonds, as amended and supplemented from time to time (the "<u>Master Bond Resolution</u>"); and

WHEREAS, CFX desires to supplement the Master Bond Resolution to authorize the issuance of its Central Florida Expressway Authority Senior Lien Taxable Convertible Refunding Revenue Bond, Series 2021B (the "Series 2021B Bond") as a Series of Bonds under the Master Bond Resolution, the proceeds of which will be used to: (a) refund CFX's

Outstanding Refunding Revenue Bonds, Series 2012 (the "<u>Refunded Bonds</u>"), and (b) pay certain costs in connection with the issuance of the Series 2021B Bond; and

WHEREAS, CFX has competitively solicited offers from banks and financial institutions to purchase the Series 2021B Bond from CFX on a negotiated, private placement basis and has determined to select Key Government Finance, Inc. (as defined herein, the "Lender") as the best offer, based on the terms and conditions set forth in the Term Sheet attached hereto as **Exhibit "A"** (the "Term Sheet"); and

WHEREAS, CFX desires to delegate authority to certain Authorized Officers to prepare, negotiate and execute a Placement Agreement with the Lender in accordance with the Term Sheet and this Resolution which will govern the terms and provisions of the Series 2021B Bond during the period that it is held by the Lender; and

WHEREAS, CFX further desires to approve the form of and authorize the execution and delivery of a Trustee, Paying Agent and Registrar Agreement substantially in the form attached hereto as **Exhibit "B"** and an Escrow Deposit Agreement in the form attached hereto as **Exhibit "C"**; and

WHEREAS, CFX further desires to set forth certain terms and provisions for the Series 2021B Bond and to provide certain further matters related to the authorization, sale, issuance and delivery of the Series 2021B Bond and other matters related thereto;

NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AS FOLLOWS:

ARTICLE I AUTHORITY AND DEFINITIONS

SECTION 1.01. <u>Authority for this Resolution</u>. This Resolution is adopted and implemented pursuant to the Central Florida Expressway Authority enabling legislation, codified as Chapter 348, Part III, Florida Statutes, as amended, and other applicable provisions of law not inconsistent with the foregoing (collectively, the "Act") and the Master Bond Resolution.

SECTION 1.02. <u>Definitions</u>. All terms used herein in capitalized form, except as otherwise defined herein, shall have the meanings ascribed thereto in Section 1.2 of the Master Bond Resolution. As used herein, the following terms shall have the meanings set forth below:

- A. "2021B Cost of Issuance Account" means the subaccount described in Section 7.01 hereof.
- B. "**Bond Counsel's Opinion**" means a written opinion of an attorney or firm of attorneys selected by CFX which is of nationally recognized standing in the field of law relating to municipal bonds and the exclusion from gross income for federal income tax purposes of interest on municipal bonds.
- C. "Conversion Date" means the date on which the applicable requirements, if any, of Section 4.05 B. hereof and the Placement Agreement have been satisfied, and the interest rate

on the Series 2021B Bond is converted from the Series 2021B Taxable Rate to the Series 2021B Tax Exempt Rate.

- D. "Finance Committee" means the Finance Committee of CFX.
- E. "Financial Advisor" means PFM Financial Advisors LLC.
- F. "<u>Lender</u>" shall mean the bank or financial institution that is the Holder of the Series 2021B Bond. Initially, the Lender shall be Key Government Finance, Inc.
- G. "Maturity Date" means the final maturity date of the Series 2021B Bond which shall be on or before July 1, 2025.
- H. "<u>Placement Agreement</u>" shall mean that certain Placement Agreement between the Lender and CFX with respect to the Series 2021B Bond.
- I. "<u>Refunded Bonds</u>" means CFX's Outstanding Refunding Revenue Bonds, Series 2012 maturing in the years 2023, 2024 and 2025.
- J. "Secretary" means the Secretary, Board Services Coordinator, or any Assistant Secretary of CFX.
- K. "<u>Series 2021B Bond</u>" means the Central Florida Expressway Authority Senior Lien Taxable Convertible Refunding Revenue Bond, Series 2021B authorized pursuant to this Resolution.
- L. "<u>Series 2021B Taxable Rate</u>" shall have the meaning ascribed to such term in the Series 2021B Bond and will be the initial interest rate identified on the face of the Series 2021B Bond.
- M. "Series 2021B Tax Exempt Rate" shall have the meaning ascribed to such term in the Series 2021B Bond which shall apply to the Series 2021B Bond on and after the Conversion Date.
- N. "<u>Term Sheet</u>" means the Term Sheet attached hereto as <u>Exhibit "A"</u> which has been provided by the Lender to CFX in connection with the Lender's offer to purchase the Series 2021B Bond.

ARTICLE II FINDINGS

SECTION 2.01. Findings. CFX hereby finds, determines and declares as follows:

- A. This Resolution supplements the Master Bond Resolution.
- B. CFX owns, operates and derives revenues from the Expressway System.
- C. It is necessary, desirable, convenient and in the best interest of CFX that CFX issue the Series 2021B Bond for the valid public purposes set forth in this Resolution.

- D. Upon the issuance thereof, the Series 2021B Bond shall constitute a senior lien Bond under the Master Bond Resolution and shall be entitled to all the security and benefits thereof.
- E. Because of the characteristics of the Series 2021B Bond, and the current and potential volatility of the market for municipal obligations such as the Series 2021B Bond, it is in the best interest of CFX, upon the satisfaction of the terms and conditions set forth herein, to sell the Series 2021B Bond to the Lender by negotiated private placement.
- F. Prior to the sale of the Series 2021B Bond, the Lender will provide CFX with a disclosure statement containing the information required by Section 218.385(6), Florida Statutes, and a truth-in-bonding statement in accordance with Section 218.385, Florida Statutes. The Lender shall also provide an Investor's Letter.

ARTICLE III CONTRACTUAL OBLIGATION

In consideration of the acceptance of the Series 2021B Bond authorized to be issued hereunder by those who shall hold the same from time to time, the Master Bond Resolution, as supplemented by this Resolution, shall be deemed to be and shall constitute a contract between CFX and the registered Holder of the Series 2021B Bond. The covenants and agreements set forth herein and in the Master Bond Resolution to be performed by CFX shall be of equal rank with the Outstanding Bonds, or any Parity Bonds hereafter issued and Qualified Swap Payments related to any Bonds issued under the Master Bond Resolution, without preference, priority or distinction over any other thereof. All applicable covenants contained in the Master Bond Resolution shall be fully applicable to the Series 2021B Bond as if originally issued thereunder, except as otherwise specifically provided herein.

ARTICLE IV AUTHORIZATION AND ISSUANCE OF SERIES 2021B BOND

SECTION 4.01. <u>Authorization of Issuance and General Description of Series 2021B Bond.</u>

- A. Subject and pursuant to the provisions hereof and of the Master Bond Resolution, the Series 2021B Bond to be known as the "Central Florida Expressway Authority Senior Lien Taxable Convertible Refunding Revenue Bond, Series 2021B" is hereby authorized to be issued in one or more subseries in the aggregate principal amount of not to exceed \$90,500,000, or such lesser amount as may be approved by the Chairman or Vice Chairman of CFX for the purposes of: (a) refunding CFX's Outstanding Refunding Revenue Bonds, Series 2012, and (b) paying the costs of issuance of the Series 2021B Bond.
- B. The Series 2021B Bond shall be issued as fixed rate Bonds in accordance with the terms and provisions set forth in the Placement Agreement.
- C. The Debt Service Reserve Requirement with respect to the Series 2021B Bond shall be \$0.

SECTION 4.02. <u>Denominations, Numbers, Letters</u>. The Series 2021B Bond shall be issued solely in the form of a fully registered bond in the denomination of the par amount of the Series 2021B Bond. The Series 2021B Bond shall be numbered consecutively from 1 upward with the letter "R" and the series designation prefixed to the number.

SECTION 4.03. Place of Payment; Trustee, Paying Agent and Registrar.

- The principal of, premium, if any, and interest on the Series 2021B Bond shall be payable without presentment, provided however, that upon final maturity or repayment in full of the Series 2021B Bond, it shall be promptly marked cancelled and returned to the corporate trust operations office in Minneapolis, Minnesota of Wells Fargo Bank, National Association or its successors or assigns, and such banking institution is hereby appointed as Trustee, Paying Agent and Registrar for the Series 2021B Bond. The principal and prepayment price, if any, of the Series 2021B Bond shall also be payable at any other place which may be provided for such payment by the appointment of any other Paying Agent or Paying Agents as permitted by the Master Bond Resolution and, during any period that the Lender is the Holder of the Series 2021B Bond, as provided in the Placement Agreement. Unless otherwise provided in the Placement Agreement, interest on the Series 2021B Bond shall be paid by wire or other form of electronic payment or funds transfer reasonably acceptable to the Lender drawn upon the Paying Agent and transmitted to the registered Holder of the Series 2021B Bond at the addresses as they appear on the registration books maintained by the Trustee, as Registrar, at the close of business on the 15th day (whether or not a Business Day) of the month next preceding the interest payment date (the "Record Date"), irrespective of any transfer or exchange of such Series 2021B Bond subsequent to such Record Date and prior to such interest payment date, unless CFX shall be in default in payment of interest due on such interest payment date. In the event of any such default, such defaulted interest shall be payable to the Holder in whose name such Series 2021B Bond is registered at the close of business on a special record date for the payment of such defaulted interest as established by notice deposited in the U.S. mails, postage prepaid, by the Trustee to the registered Holder of such Series 2021B Bond not less than fifteen (15) days preceding such special record date. Such notice shall be mailed to the Holder in whose name the Series 2021B Bond is registered at the close of business on the fifth (5th) day (whether or not a Business Day) preceding the date of mailing.
- B. If the date for payment of the principal of, premium, if any, or interest on the Series 2021B Bond is not a Business Day, then the date for such payment shall be the next succeeding Business Day, and payment on such Business Day shall have the same force and effect as if made on the nominal date of payment, without accrual of additional interest.
- C. Notwithstanding the foregoing, or anything provided in the Master Bond Resolution to the contrary, so long as the Lender is the registered Holder of the Series 2021B Bond, CFX and the Lender may mutually agree on a payment method provided for in the Placement Agreement.

SECTION 4.04. Registration and Exchange.

A. The registration of any Series 2021B Bond may be transferred upon the registration books as provided in the Master Bond Resolution. In all cases of a transfer of a

Series 2021B Bond, the Registrar shall at the earliest practical time in accordance with the terms hereof enter the transfer of ownership in the registration books and shall deliver in the name of the new transferee or transferees a new fully registered Series 2021B Bond or Bonds of the same Series, maturity and of authorized denomination or denominations, for the same aggregate principal amount and payable from the same source of funds. CFX and the Registrar may charge the registered owner for the registration of every transfer or exchange of a Series 2021B Bond an amount sufficient to reimburse them for any tax, fee or any other governmental charge required (other than by CFX) to be paid with respect to or in connection with any such transfer or exchange, and may require that such amounts be paid before any such new Series 2021B Bond shall be delivered.

B. CFX and the Trustee, Paying Agent and Registrar may deem and treat the registered Holder of the Series 2021B Bond as the absolute Holder of such Series 2021B Bond for the purpose of receiving payment of the principal thereof and the interest and premiums, if any, thereon.

SECTION 4.05. Terms of the Series 2021B Bond; Conversion.

- A. The Series 2021B Bond shall be dated the date of delivery thereof, shall mature on the Maturity Date, shall bear interest payable from such date, payable semiannually on January 1 and July 1 of each year, commencing on the date provided for in the Placement Agreement, at the rates and shall be subject to prepayment or redemption in whole or in part, all as set forth and provided for in the Placement Agreement.
- B. The interest rate on the Series 2021B Bond shall convert from the Series 2021B Taxable Rate to the Series 2021B Tax-Exempt Rate on the Conversion Date upon satisfaction of the following conditions:
 - (i) All applicable provisions of the Placement Agreement with respect to the conversion of the interest rate on the Series 2021B Bonds to the Series 2021B Tax Exempt Rate shall have been satisfied;
 - (ii) Bond Counsel shall have delivered an opinion of Bond Counsel to the effect that, as of the Conversion Date, interest on the Series 2021B Bonds is excludable from gross income for federal income tax purposes under existing law;
 - (iii) Bond Counsel shall have received a Tax Certificate in a form or forms sufficient to support its opinion described in subsection (ii) above;
 - (iv) Bond Counsel shall have reviewed and received a copy of the executed Information Return for Tax-Exempt Bond Issues, Form 8038G; and
 - (v) Bond Counsel shall have received such other certifications from CFX and the Lender as may be necessary to support its opinion described in subsection (ii) above:

SECTION 4.06. Source of Payment.

- A. The scheduled payment of principal of, interest on and redemption premium, if any, with respect to the Series 2021B Bond and all other payments required pursuant to the terms of the Master Bond Resolution and the terms hereof will be payable solely from the System Pledged Revenues, on a parity with any Bonds issued under the Master Bond Resolution whether currently Outstanding or hereinafter issued and any Qualified Swap Payments related to such Bonds, if any.
- THE SERIES 2021B BOND WILL NOT CONSTITUTE A GENERAL B. INDEBTEDNESS OF BREVARD COUNTY, FLORIDA, LAKE COUNTY, FLORIDA, ORANGE COUNTY, FLORIDA, OSCEOLA COUNTY, FLORIDA, SEMINOLE COUNTY, FLORIDA (COLLECTIVELY, THE "COUNTIES"), THE CITY OF ORLANDO, FLORIDA (THE "CITY"), CFX OR ANY OTHER POLITICAL SUBDIVISION IN THE STATE OF FLORIDA, WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER PROVISION OR LIMITATION, AND IT IS EXPRESSLY AGREED THAT THE SERIES 2021B BOND AND THE OBLIGATION EVIDENCED THEREBY SHALL NOT CONSTITUTE NOR BE A LIEN UPON ANY PROPERTY OF THE COUNTIES, THE CITY, OR CFX, EXCEPT THE SYSTEM PLEDGED REVENUES DERIVED FROM THE EXPRESSWAY SYSTEM AND OTHER MONEYS PLEDGED THEREFOR TO THE EXTENT PROVIDED IN THE RESOLUTION. NEITHER THE GENERAL FAITH AND CREDIT OF CFX, THE COUNTIES, THE CITY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF OR THE TAXING POWER OF THE COUNTIES, THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF THE SERIES 2021B BOND OR ANY PREMIUM OR INTEREST THEREON. CFX HAS NO TAXING POWER. NO REGISTERED OWNER OF THE SERIES 2021B BOND SHALL EVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE COUNTIES, THE CITY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF FOR THE PAYMENT OF THE PRINCIPAL OF OR ANY INTEREST OR PREMIUM DUE THEREON, AND CFX IS NOT AND SHALL NEVER BE UNDER ANY OBLIGATION TO PAY THE PRINCIPAL OF, INTEREST ON OR ANY PREMIUM WITH RESPECT TO THE SERIES 2021B BOND EXCEPT FROM THE SYSTEM PLEDGED REVENUES DERIVED FROM THE EXPRESSWAY SYSTEM AND OTHER MONEYS PLEDGED THEREFOR, IN THE MANNER PROVIDED IN THE MASTER BOND RESOLUTION.
- C. No recourse shall be had for the payment of the principal of or premium or interest on the Series 2021B Bond or for any claim based thereon or on the Master Bond Resolution or this Resolution or otherwise with respect thereto or hereto against any board member, officer or employee of CFX or any person executing the Series 2021B Bond and nothing in the Series 2021B Bond, the Master Bond Resolution or herein shall create or give rise to any personal liability of any such board member, officer or employee of CFX, the Counties, the City or other person executing the Series 2021B Bond.

SECTION 4.07. Application of Proceeds of Series 2021B Bond. The proceeds of the Series 2021B Bond shall be applied simultaneously with the delivery of such Bonds for the purposes described in this Resolution and pursuant to a certificate of an Authorized Officer or a

closing memorandum executed in connection with the issuance and delivery of the Series 2021B Bond.

SECTION 4.08. Form of Series 2021B Bond. Subject to the provisions of the Master Bond Resolution, the Series 2021B Bond and the Registrar's certificate of authentication with respect thereto shall be in substantially the form set forth in the Master Bond Resolution, with such insertions or omissions, endorsements and variations as may be necessary and appropriate to reflect the terms of the Series 2021B Bond set forth in the Placement Agreement, and as may be permitted by the Master Bond Resolution and the Act, and approved by the Chairman or Vice Chairman of CFX, execution and delivery of the Series 2021B Bond to be conclusive evidence of such approval.

ARTICLE V SALE AND PURCHASE OF BONDS

SECTION 5.01 Approval of Term Sheet; Delegation of Authority to Negotiate, Complete and Execute the Placement Agreement. The Term Sheet attached hereto as Exhibit "A" is hereby approved. The Chairman, Vice Chairman or other Authorized Officers of CFX are hereby delegated authority to prepare, negotiate and execute a Placement Agreement with the Lender in compliance with the terms set forth in the Term Sheet and in a manner consistent with the provisions of this Resolution, such execution to be conclusive evidence of such approval. The Chairman, Vice Chairman or other Authorized Officer is hereby authorized to execute the Placement Agreement.

SECTION 5.02. **Trustee, Paying Agent and Registrar Agreement**. The form of the Trustee, Paying Agent and Registrar Agreement attached hereto as Exhibit "B" is hereby approved, subject to the changes, insertions and omissions and filling of blanks therein as may be approved and made in such form of Trustee, Paying Agent and Registrar Agreement by the officers of CFX executing the same, in a manner consistent with the terms of this Resolution, such execution to be conclusive evidence of such approval. The Chairman or Vice Chairman is hereby authorized to execute the Trustee, Paying Agent and Registrar Agreement on behalf of CFX in substantially the form attached hereto with such changes, insertions, omissions and filling of blanks therein as such officer shall approve in a manner consistent with the terms of this Resolution. Wells Fargo Bank, National Association is hereby designated as the initial Trustee, Paying Agent and Registrar under the Trustee, Paying Agent and Registrar Agreement and shall serve until it resigns or is removed and a successor Trustee, Paying Agent and Registrar is appointed for the Series 2021B Bond as provided in the Trustee, Paying Agent and Registrar Agreement. The Chairman, Vice Chairman or other Authorized Officer is authorized to approve the form of and to execute on behalf of CFX the Trustee, Paying Agent and Registrar Agreement required by this Section 5.02.

ARTICLE VI TAX COMPLIANCE AND REBATE PROVISIONS

SECTION 6.01. The 2021B Rebate Fund. On the date the Series 2021B Bond is converted to a tax-exempt Bond, there shall hereby be created and established a fund to be known as the "Central Florida Expressway Authority Senior Lien Revenue Bonds, Series 2021B

Rebate Fund" (hereinafter referred to as the "2021B Rebate Fund"). If established, the 2021B Rebate Fund shall be maintained with the Paying Agent and shall be kept separate and apart from all other funds of CFX, and used for the purpose and in the manner provided in this Section, and shall be and constitute a trust fund for such purposes. The Bonds, including any Additional Bonds or Refunding Bonds hereafter issued pursuant to and within the terms, limitations and conditions contained in the Master Bond Resolution, as supplemented by this Resolution, shall have no lien on or pledge of the moneys at any time or from time to time on deposit in the 2021B Rebate Fund and the moneys in the 2021B Rebate Fund shall be available for use only as herein provided. CFX shall use moneys deposited in the 2021B Rebate Fund only for the payment of the Rebate Amount with respect to the Series 2021B Bond to the United States. Funds on deposit in the 2021B Rebate Fund in excess of the Rebate Amount, however, may be withdrawn and paid over to CFX. In complying with the foregoing, CFX may rely upon Bond Counsel's Opinion with respect thereto.

If any amount shall remain in the 2021B Rebate Fund after payment in full of the Series 2021B Bond issued hereunder and after payment in full of the Rebate Amount to the United States in accordance with the terms hereof, such amount shall be available to CFX for any lawful purpose.

Notwithstanding any other provision of this Resolution or the Master Bond Resolution, including in particular Section 5.1 of the Master Bond Resolution, the obligation to pay over the Rebate Amount to the United States and to comply with all other requirements of Section 6.02 hereof and this Section 6.01 shall survive the defeasance or payment in full of the Series 2021B Bond.

SECTION 6.02. <u>Covenants Concerning Compliance with Tax Laws</u>. In addition to any other requirements contained in the Master Bond Resolution and to the extent applicable to the Series 2021B Bond during any period that such Series 2021B Bond bears interest at a tax-exempt rate, CFX hereby covenants and agrees, for the benefit of the Bondholders from time to time of the Series 2021B Bond, to comply with the requirements contained in the Code to the extent necessary, and any other requirements which, in Bond Counsel's Opinion, are necessary to preserve the exclusion of interest on the Series 2021B Bond from the gross income of the owners thereof for federal income tax purposes.

SECTION 6.03. <u>Amendments to Article VI</u>. Any provision of this Resolution or of the Master Bond Resolution to the contrary notwithstanding, the provisions of this Article VI may be amended from time to time without the consent of the Paying Agent or the Bondholders upon delivery to the Paying Agent of a Bond Counsel's Opinion to the effect that such amendment will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Series 2021B Bond.

ARTICLE VII ESTABLISHMENT OF CERTAIN ACCOUNTS

SECTION 7.01. 2021B Cost of Issuance Account. CFX hereby establishes with the Trustee for the Series 2021B Bond the "Central Florida Expressway Authority Senior Lien Taxable Convertible Refunding Revenue Bond, Series 2021B Cost of Issuance Account" (the

"2021B Cost of Issuance Account") as a separate account under the Master Bond Resolution. Proceeds of the Series 2021B Bond, and any other monies of CFX, if any, deposited in the 2021B Cost of Issuance Account shall be used only for the payment of cost of issuance associated with the issuance of the Series 2021B Bond, and until applied to the payment of such costs, shall be held by the Trustee and be subject to a lien or charge in favor of the Bondholders and for the further security of such Bondholders. Any funds remaining on deposit in the 2021B Cost of Issuance Account after the payment of all costs of issuance of the Series 2021B Bond shall be transferred to the Interest Account of the Sinking Fund to be used for purposes of paying interest on the Series 2021B Bond.

SECTION 7.02. <u>Additional Funds, Accounts and Subaccounts</u>. CFX may, by certificate of an Authorized Officer and based on the advice of the Financial Advisor, establish separate funds, accounts or subaccounts associated with the Series 2021B Bond, as CFX may reasonably determine are necessary or desirable.

ARTICLE VIII AUTHORIZATION FOR OPTIONAL REDEMPTION OF REFUNDED BONDS

SECTION 8.01. Authorization for Optional Redemption of Refunded Bonds.

- A. Subject and pursuant to the provisions hereof and of the Master Bond Resolution, as supplemented, the optional redemption of the Refunded Bonds as provided herein is hereby authorized, all pursuant to such terms and conditions as the Chairman or Vice Chairman and Chief Financial Officer shall determine to be in the best interest of CFX based on, among other things, the advice of the Financial Advisor.
- B. The Chairman and Chief Financial Officer of CFX are each hereby authorized and directed to execute such documents, certificates, instruments and contracts, whether or not expressly contemplated hereby, and to execute and do all acts and things required by the provisions of this Resolution and the Master Bond Resolution, as supplemented as may be necessary for the full, punctual and complete performance of all terms, conditions, provisions and covenants herein or therein contained, or otherwise may be necessary or desirable to effectuate the optional redemption of the Refunded Bonds. The Chairman or Vice Chairman and the Chief Financial Officer of CFX are hereby designated as the primary officers of CFX charged with the responsibility for such optional redemption and are hereby delegated the authority to determine the timing, amount and other terms of the optional redemption of the Refunded Bonds.

SECTION 8.02. <u>Declaration of Official Intent</u>. CFX hereby declares its official intent under Treasury Regulation §1.150-2 to reimburse itself from the proceeds of the Series 2021B Bond for all or a portion of any expenses related to the optional redemption of the Refunded Bonds in the event that CFX decides to directly pay the same from legally available funds of CFX.

ARTICLE IX TRUSTEE PROVISIONS

SECTION 9.01. **Duty to Act.** The Trustee shall not be under any obligation to institute any suit, take any remedial proceeding under this Resolution or the Master Bond Resolution or to enter any appearance or in any way defend in any suit in which it may be made defendant or to take any steps in the execution of the trust hereby created or in the enforcement of any rights and powers hereunder until it shall be indemnified to its satisfaction against any and all reasonable cost and expenses, outlays and counsel fees and other disbursements and against all liability not due to its willful misconduct or negligence. Notwithstanding anything to the contrary in the Master Bond Resolution, the Trustee shall not, on behalf of the Lender, exercise remedies upon an Event of Default or failure of CFX to comply with any covenant, condition or agreement on its part to be observed or performed under the Master Bond Resolution or this Resolution with respect to the Series 2021B Bond, and the Lender shall be solely responsible for pursuing such remedies on its own behalf that are available to it under the Master Bond Resolution in accordance therewith upon written notice to the Trustee of its intent to do so. In electing to act in lieu of the Trustee, the Lender shall not be deemed to have been granted any rights and remedies in addition to the rights and remedies granted to the Holders of all Outstanding Bonds.

SECTION 9.02. <u>Limitations on Liability</u>. The Trustee shall not be liable or responsible because of the failure of CFX to perform any act required by this Resolution or the Master Bond Resolution. The Trustee shall not be liable in connection with the performance of its duties under this Resolution or the Master Bond Resolution except for its own willful misconduct or negligence.

SECTION 9.03. <u>Compensation</u>. CFX shall, out of System Pledged Revenues, pay to the Trustee such reasonable compensation as shall be agreed upon between CFX and the Trustee.

SECTION 9.04. Reliance. The Trustee shall be protected and shall incur no liability for acts or omissions made in good faith, reasonably and in accordance with the terms of this Resolution, upon any resolution, order, notice, request, consent, waiver, or other paper or document which it shall, in good faith, reasonably believe to be genuine and to have been adopted and signed by the proper board or person or to have been prepared and furnished pursuant to the provisions of this Resolution. The Trustee shall not be responsible for determining what are Permitted Investments.

SECTION 9.05. Resignation. The Trustee may resign and thereby become discharged from the trust created under this Resolution or the Master Bond Resolution by notice, in writing, to be given to CFX not less than ninety (90) days before such resignation is to take effect, but such resignation shall take effect immediately upon the appointment and acceptance of a successor trustee pursuant to Section 9.07 hereof if said appointment and acceptance shall be before the time specified by such notice.

SECTION 9.06. Removal. The Trustee may be removed at any time by CFX.

SECTION 9.07. Successor Trustee.

- A. If at any time the Trustee shall resign, or shall be removed, be dissolved or otherwise become incapable of acting or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator thereof, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, CFX shall, within thirty (30) days, appoint a successor Trustee to fill such vacancy. The Trustee appointed under this section shall be a bank or trust company eligible under the laws of the State of Florida to accept trusts and operate in a fiduciary capacity. Any such successor Trustee shall have combined capital, surplus, and undivided profits of at least \$50,000,000 unless the bond insurer otherwise approves. Anything contained in this Resolution to the contrary notwithstanding, no resignation or removal shall become effective until a successor has been appointed and accepted the responsibilities hereunder.
- Every successor Trustee appointed under this Resolution shall execute, В. acknowledge and deliver to its predecessor, and also to CFX, an instrument in writing accepting such appointment, and thereupon such successor Trustee without further act, deed, or conveyance, shall become fully vested with all monies, estates, properties, rights, immunities, powers and trusts, and subject to all the duties and obligations of its predecessor, with like effect as if originally named as such Trustee; but such predecessor shall, nevertheless, on the written request of its successor or of CFX, and upon payment of the compensation, expenses, charges and other disbursements of such predecessor which are due and payable pursuant to Section 9.03, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor; and every predecessor Trustee shall deliver all property and moneys held by it under this Resolution to its successor. Should any instrument in writing from CFX be required by any successor Trustee for more fully and certainly vesting in such Trustee the rights, immunities, powers and trusts vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall, on request, be executed, acknowledged and delivered by CFX.

SECTION 9.08. Mergers and Consolidations. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee shall sell or transfer all or substantially all of the bond administration portion of its corporate trust business, provided such company shall be a bank, or trust company eligible under the laws of the State of Florida to accept trusts and operate in a fiduciary capacity, shall be successor to the Trustee without the execution or filing of any paper or performance of any further act.

ARTICLE X MISCELLANEOUS

SECTION 10.01. <u>Authorizations</u>. The Chairman or the Vice Chairman is hereby authorized to countersign the Series 2021B Bond by his or her manual or facsimile signature in the manner provided herein. The Chairman, Vice Chairman, Secretary, Executive Director, Chief Financial Officer or other Authorized Officer, are each hereby authorized and directed, individually or with others pursuant to their direction or authorization, to execute such other documents, certificates, instruments, contracts, and agreements, including, without limitation the

execution and delivery of an Escrow Deposit Agreement in the form attached hereto as **Exhibit** "C", with such changes and modifications as are deemed appropriate or necessary whether or not expressly contemplated hereby, and to execute and do all acts and things required by the provisions of this Resolution as may be necessary for the full, punctual and complete performance of all the terms, covenants, provisions and agreements herein and therein contained, or as otherwise may be necessary or desirable to effectuate the purpose and intent of this Resolution. The Chairman, the Secretary, the Executive Director and the Chief Financial Officer of CFX are hereby designated as the primary officers of CFX charged with the responsibility of issuing the Series 2021B Bond. In the absence or unavailability of the Chairman, the Vice Chairman is hereby authorized to act in his or her place. If any officer of CFX who has signed the Series 2021B Bond or any other documents, certificates, instruments, contracts, and agreements in furtherance of this Resolution shall cease to hold such office before the delivery date of such Series 2021B Bond, documents, certificates, instruments, contracts, and agreements, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery.

SECTION 10.02. Parties Interested Herein. Nothing in this Resolution, expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than CFX, the Trustee, the Paying Agent, and the registered Holders of the Series 2021B Bond, any right, remedy or claim under or by reason of this Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Resolution, by and on behalf of CFX shall be for the sole and exclusive benefit of CFX, the Trustee, the Paying Agent, if any, and the registered Holders of the Series 2021B Bond.

SECTION 10.03. Controlling Law; Members; Members of Authority not Liable. All covenants, stipulations, obligations and agreements of CFX contained in this Resolution shall be deemed to be covenants, stipulations, obligations and agreements of CFX to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, agent, officer or employee of CFX in his or her individual capacity, and neither the members of the Governing Body of CFX nor any official executing the Series 2021B Bond shall be liable personally on the Series 2021B Bond or under this Supplemental Resolution or shall be subject to any personal liability or accountability by reason of the issuance of the Series 2021B Bond or the execution thereof by CFX or such officers thereof.

SECTION 10.04. Consent to Amendments to Lease Purchase Agreement. By purchasing and accepting delivery of the Series 2021B Bond, the holders of the Series 2021B Bond shall be deemed to have consented to amend the terms and provisions of the Lease Purchase Agreement to discontinue the Department's payment obligations for operations and/or maintenance of certain portions of the Expressway System effective on July 1, 2028. CFX shall comply with the terms of the Lease Purchase Agreement in connection with any additional modifications, amendments or supplements to the Lease Purchase Agreement.

SECTION 10.05. <u>Effective Date</u>. This Resolution shall become effective upon its approval.

This Resolution was approved and adopted by the Central Florida Expressway Authority on June 10, 2021.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

	By:Buddy Dyer, Chairman
ATTEST:	
By: Mimi Lamaute Board Services Coordinator	
Signed:	
Based upon review by CFX Counsel acti the direction of General Counsel, this Reso	

approved as to form and legal sufficiency for the sole use and reliance of CFX and its Board.

EXHIBIT "A"

TERM SHEET



Central Florida Expressway Authority Refunding Revenue Bonds, Series 2021 B & C Summary of Terms and Conditions May 21, 2021

This Financing proposal is provided for discussion purposes only and does not represent a commitment from Key Government Finance, Inc. ("KGF"). This proposal and its terms are submitted on a confidential basis and shall not be disclosed to third parties (other than the Borrower's officers, directors, employees and advisors charged with reviewing and/or implementing the transactions contemplated hereby) without KGF's consent. This proposal is intended as an outline of certain material terms of the Facility and does not purport to summarize all of the conditions, covenants, representations, warranties and other provisions which would be contained in definitive documentation for the Facility contemplated hereby.

Key Government Finance, Inc., ("Lender") is pleased to provide the following term sheet for a direct purchase financing structure to the Central Florida Expressway Authority.

Lender: Key Government Finance, Inc. ("Lender").

Borrower: Central Florida Expressway Authority (the "Authority" or the "Borrower").

Issue: Refunding Revenue Bonds, Series 2021 B & C (the "2021 Bonds").

Facility: Direct Purchase of the 2021 Bonds by the Lender.

Tax Treatment: Series 2021B: Taxable with an option to convert to Tax-Exempt on or after July 1, 2022.

Series 2021C: Taxable with an option to convert to Tax-Exempt on or after July 1, 2023.

Amount: Series 2021B: Up to \$90,500,000

Series 2021C: Up to \$55,000,000

Use of Proceeds: Series 2021B: The proceeds of the 2021B Bond will be used to (1) refund its outstanding

Refunding Revenue Bonds, Series 2012 (the "2012 Bonds") maturing on or after July 1, 2023,

and (2) to pay costs of issuance.

Series 2021C: The proceeds of the 2021C Bond will be used to (1) refund its outstanding

Refunding Revenue Bonds, Series 2013B (the "2013B Bonds") maturing on or after July 1,

2024, and (2) to pay costs of issuance.

Drawdowu: All funds will be drawn down at closing.

Final Maturity Date: July 1, 2025.

Repayment: Principal due annually on July 1 commencing on July 1, 2022 until the Final Maturity Date.

Principal amortized as shown in the RFP. Interest due semi-annually on January 1 and July 1.

commencing on January 1, 2021.

Facility Term: The anticipated closing date for this Facility is June 17, 2021. KGF will purchase the 2021

Bonds through the Final Maturity Date.

Key Government Finance Page 1

Interest Rate Lock Option:

30 Day Rate Lock:

At the Borrower's request, the Lender can provide an interest rate lock option ("Interest Rate Lock") good through a June 26, 2021 closing date. The Interest Rate Lock will require a two party e-mail confirmation between Lender and Borrower to confirm the terms of the Interest Rate Lock as provided by Lender, provided however, the Borrower will not be subject to any breakage fees if the Facility does not close for any reason. If the Interest Rate Lock confirmation is not received by Lender within the specified time, or the Facility closes after the agreed upon lock period, the final interest rate will be subject to index between the proposal date and the closing date based on the change in the KeyCorp Cost of Funds index.

Based on market conditions as of May 20, 2021, the Interest Rate Lock option is quoted below. Any revision to the amortization that increases the average life of the financing may result in a re-pricing of the Interest Rate Lock provided.

This Interest Rate Lock needs to be accepted by the Borrower no later than May 27, 2021 and would be valid for closing on or before June 26, 2021.

		Interest Rate Lock	
	Final Maturity Date	Weighted Average Life (Months)	Taxable Interest Rate
2021B Bond	July 1, 2025	36	0.8695%
2021C Bond	July 1, 2025	41	1.0034%

45 Day Rate Lock:

At the Borrower's request, the Lender can provide an interest rate lock option ("Interest Rate Lock") good through a July 11, 2021 closing date. The Interest Rate Lock will require a two party e-mail confirmation between Lender and Borrower to confirm the terms of the Interest Rate Lock as provided by Lender, provided however, the Borrower will not be subject to any breakage fees if the Facility does not close for any reason. If the Interest Rate Lock confirmation is not received by Lender within the specified time, or the Facility closes after the agreed upon lock period, the final interest rate will be subject to index between the proposal date and the closing date based on the change in the KeyCorp Cost of Funds index.

Based on market conditions as of May 20, 2021, the Interest Rate Lock option is quoted below. Any revision to the amortization that increases the average life of the financing may result in a re-pricing of the Interest Rate Lock provided.

This Interest Rate Lock needs to be accepted by the Borrower no later than May 27, 2021 and would be valid for closing on or before July 11, 2021.

		Interest Rate Lock	
	Final Maturity Date	Weighted Average Life (Months)	Taxable Interest Rate
2021B Bond	July 1, 2025	36	0.9280%
2021C Bond	July 1, 2025	41	1.0522%

Interest Day Count:

30/360

Tax-Exempt Conversion: At the Borrower's request and upon receipt of all required documentation including a tax opinion from Bond Counsel and Form 8038-G, Lender may convert the 2021 Bonds to a Tax-Exempt Facility. The Tax-Exempt Interest Rate for the Tax-Exempt Facility will be calculated as 79% of the Taxable Interest Rate utilized at closing of the Taxable Facility. Please see the calculations below based upon the interest rate lock options:

		30 Day Interest Rate Lock	
	Final Maturity Date	Weighted Average Life (Months)	Tax-Exempt Interest Rate
2021B Bond	July 1, 2025	36	0.6869%
2021C Bond	July 1, 2025	41	0.7927%

-		45 Day Interest Rate Lock	
	Final Maturity Date	Weighted Average Life (Months)	Tax-Exempt Interest Rate
2021B Bond	July 1, 2025	36	0.7331%
2021C Bond	July 1, 2025	41	0.8312%

Up-Front Fee:

50

Costs of Issuance:

Lender plans to use Kutak Rock LLP as outside legal counsel. <u>Lender's Counsel fee to be paid by the Lender</u>. Attorney contact information is provided below;

 Andrew Romshek
 Bradley Nielsen

 Kutak Rock LLP
 Kutak Rock LLP

 1650 Farnam Street
 650 Farnam Street

 Omaha, NE 68102
 Omaha, NE 68102

 (402) 231-8797
 (402) 231-8780

Andrew.Romshek@KutakRock.com bradley.nielsen@KutakRock.com

Prepayment:

The Facility may be prepaid in whole or in part at any time at par.

Security:

The 2021 Bonds will be secured by a pledge of and senior lien on the System Pledged Revenues on a parity with the CFX's other senior lien outstanding debt issued under the Master Resolution. No debt with a lien senior to the 2021 Bonds may be issued.

Financial Reporting:

Borrower shall provide directly to the Lender:

 Annual audited financial statements including operating data within 270 days of Borrower's fiscal year end.

Financial Covenants:

1.20x DSC and ABT Covenants as currently defined in the Master Resolution. Lender will not require a debt service reserve fund.

Any amendment, modification and/or waiver will require the consent in writing by the Lender.

Default Rate:

3% above the current interest rate for any outstanding payments in default, upon the occurrence of a payment default longer than 90 days, the default interest rate shall apply to all outstanding principal, until the payment default has been cured.

Event of Taxability and Gross-Up Rate: An Event of Taxability will be based only on action or non-action of Authority. In the Event of Taxability (if converted to tax-exempt), the tax-exempt interest rate would convert back to the taxable interest rate as shown in the Interest Rate provisions above (depending upon option chosen).

Increased Cost:

No increased cost provisions will be required by the Lender.

Documents:

All documents shall be attorney prepared and in form and substance acceptable to the Lender and its legal counsel, including legal opinions customary for transactions of this nature. Bond counsel will provide a Validity Opinion regarding the legality, validity, and enforceability of the Facility and a Tax Opinion regarding the tax-exempt nature of the interest earnings on the financing, if converted.

No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this Agreement shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation.

Credit Approval:

Lender has received a positive credit pre-screen for this transaction. The estimated amount of time required to obtain final credit approval is 3-5 business days after receipt of formal award assuming timely receipt of requested financial information, if any.

Conditions Precedent to Closing: Borrower's obligation will be subject to such terms and conditions that Lender may require with respect to this transaction, or as are customarily required with respect to similar credits and as set forth in the facility documents. Without limitation, such terms and conditions shall include:

- 1. Absence of Default.
- 2. Accuracy of Representations and Warranties.
- 3. Negotiation and Execution of satisfactory closing documents.
- Absence of material adverse change in financial condition of Borrower during the period from the date hereof to the Closing Date.
- 5. Formal credit approval by the Lender.

Firm Experience:

The Lender is a subsidiary of KeyBank, N.A. KGF's portfolio consists of over \$4.5 billion of tax-exempt and taxable leases, loans, and bonds for municipalities, not-for-profits, and manufacturers across the United States.

Other:

The Lender will make a loan by purchasing the 2021 Bonds under the following additional conditions: (i) the 2021 Bonds are not being registered under the Securities Act of 1933 and is not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state; (ii) the Lender will hold the 2021 Bonds as one single debt instrument; (iii) no CUSIP numbers will be obtained for the 2021 Bonds; (iv) no final official Statement has been prepared in connection with the private placement of the 2021 Bonds; (v) the 2021 Bonds will not close through the DTC or any similar repository and will not be in book entry form; and (vi) the 2021 Bonds are not listed on any stock or other securities exchange.

Expiration Date:

May 27, 2021.

Proposal Acceptance/Expiration

This proposal is issued in reliance upon the accuracy of all information presented by you to us and is contingent upon the absence of any material adverse change in your condition, financial or otherwise, from the condition as it was represented to us at the time of this proposal. This proposal is subject to our formal approval and the execution of documentation acceptable to each of us. IT IS NOT A COMMITMENT BY US TO ENGAGE IN THIS TRANSACTION.

(a) Key Government Finance ("KGF") is not acting as an advisor to you and does not owe a fiduciary duty pursuant to Section 15B of the Exchange Act to you with respect to the information and material contained in this communication; (b) KGF is acting for its own interests; and (c) you should discuss any information and material contained in this communication with any and all internal or external advisors and experts that you deem appropriate before acting on this information or material.

KGF (i) is an entity directly or indirectly controlled by a bank or under common control with a bank, other than a broker, dealer or municipal securities dealer registered under the Securities Exchange Act of 1934, and (ii) the present intent of the KGF, is to hold the municipal securities to maturity or earlier redemption or mandatory tender. Any placement agent, broker or financial advisor may rely upon the representations and warranties contained in this paragraph.

Lender notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56, as amended and supplemented) (the "Patriot Act"), that Lender is required to obtain, verify and record all information that identifies Borrower, which information includes the name and address of Borrower and other information that will assist Lender to identify Borrower in accordance with the Patriot Act."

Lender acknowledges that, in connection with Borrower's compliance with any continuing disclosure undertakings (each, a "Continuing Disclosure Agreement") entered into by Borrower pursuant to SEC Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "Rule"), Borrower may be required to file with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system, or its successor ("EMMA"), notice of its incurrence of its obligations under this Facility and notice of any accommodation, waiver, amendment, modification of terms or other similar events reflecting financial difficulties in connection with this Facility, in each case including a description of the material terms thereof (each such notice, an "EMMA Notice"). Borrower shall not file or submit or permit the filing or submission of any EMMA Notice that includes any of the following unredacted information regarding Lender or any Escrow Agent: physical or mailing addresses, account information, e-mail addresses, telephone numbers, fax numbers, tax identification numbers, or titles or signatures of officers, employees or other signatories. Borrower acknowledges and agrees that Lender is not responsible in connection with any EMMA Notice relating to this Facility for Borrower's compliance or noncompliance (or any claims, losses or liabilities arising therefrom) with the Rule, any Continuing Disclosure Agreement or any applicable securities laws, including but not limited to those relating to the Rule.

If the outlined foregoing proposal is satisfactory, reflects an arrangement that suits the need of your organization and you would like Key to commence its due diligence process, please sign and return this proposal. The terms described in this proposal will expire on May 27, 2021 if we have not received an authorized signed copy on or before such date.

Thank you for allowing us the opportunity to present this Proposal. If you have any questions, please call me at 315-470-5180.

Sincerely,

Key Government Finance, Inc.

By:

David Zapata VP & East Region Manager 201 South Warren Street, 4th Floor Syracuse, NY 13202

David Zapata@keybank.com

APPROVED THIS DAY OF	, 2021	
Central Florida Expressway Authority		
Ву:		
Print Name:		
Title:		

Page 6

EXHIBIT "B"

FORM OF TRUSTEE, PAYING AGENT AND REGISTRAR AGREEMENT

THIS TRUSTEE, PAYING AGENT AND REGISTRAR AGREEMENT (this "Agreement"), dated as of June [*], 2021, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, having its designated office in Philadelphia, Pennsylvania (the "Trustee").

WITNESSETH:

WHEREAS, CFX, by the Bond Resolution (as hereinafter defined), has designated the Trustee as Trustee, Paying Agent and Registrar for its \$[*] Senior Lien Taxable Convertible Refunding Revenue Bond, Series 2021B (the "Series 2021B Bond"); and

WHEREAS, CFX and the Trustee desire to set forth the Trustee's duties as Trustee, Paying Agent and Registrar and the compensation to be paid to the Trustee for its services;

NOW, THEREFORE, it is agreed by the parties hereto as follows:

SECTION 1. DUTIES. The Trustee agrees to serve as Trustee, Paying Agent and Registrar for the Series 2021B Bond and to perform the duties of Trustee, Paying Agent and Registrar as specified in or contemplated by that certain Amended and Restated Master Bond Resolution adopted by CFX on February 3, 2003, as supplemented from time to time, as particularly supplemented by that certain Twenty-Eighth Supplemental Revenue Bond Resolution Authorizing the Issuance of Senior Lien Refunding Revenue Bonds, adopted by CFX on June 10, 2021 (collectively, the "Bond Resolution") in connection with the issuance of the Series 2021B Bond. The Trustee is authorized to do business in Florida and carry out the duties and obligations contemplated herein. Unless otherwise defined herein, capitalized terms used herein shall have the respective meanings set forth in the Bond Resolution.

SECTION 2. DEPOSIT OF FUNDS. CFX shall deposit or cause to be deposited with the Trustee into the appropriate funds and accounts created under or pursuant to the Bond Resolution and established and maintained for the purposes hereof by the Trustee, on or before the Business Day prior to the date payment is due on the Series 2021B Bond, sufficient funds from System Pledged Revenues pledged for the payment of the Series 2021B Bond under the Bond Resolution to pay when due and payable the principal of, premium, if any, and interest on the Series 2021B Bond.

SECTION 3. USE OF FUNDS; CANCELED SERIES 2021B Bond. The Trustee shall use the funds received from CFX pursuant to Section 2 of this Agreement to pay the principal of and interest on the Series 2021B Bond in accordance with the Bond Resolution. To the extent that the Series 2021B Bond is in its possession, the Trustee shall destroy the canceled Series 2021B Bond in accordance with its retention policy then in effect.

SECTION 4. STATEMENTS. Each month during the term of this Agreement, or as often as the Trustee normally distributes statements for similar accounts, the Trustee shall prepare and shall send to CFX written statements of account relating to all transactions effected by the Trustee pursuant to this Agreement.

SECTION 5. OBLIGATION TO ACT. The Trustee shall be obligated to act only in accordance with the Bond Resolution and any written instructions received in accordance therewith; provided, however, that the Trustee is authorized hereby to comply with any orders, judgments or decrees of any court with or without jurisdiction and shall not be liable as a result of its compliance with the same.

SECTION 6. RELIANCE BY TRUSTEE. The Trustee may rely absolutely upon the genuineness and authorization of the signature and purported signature of any party upon any instruction, notice, release, request, affidavit or other document delivered to it pursuant to the Bond Resolution.

SECTION 7. COUNSEL; INDEMNITY. The Trustee may consult with counsel (licensed to practice in Florida) of its own choice and shall have sole and complete authorization and protection for any action taken or suffered by it under the Bond Resolution in good faith and in accordance with the opinion of such counsel. The Trustee shall have no liability or responsibility for any statement made by CFX or any other person in connection with the issuance of the Series 2021B Bond, or for the use or application of any money received by CFX in connection with the Series 2021B Bond. The Trustee may rely upon any instructions provided to it by CFX in connection with its duties and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with such instructions. No provision of this Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it. The Trustee may act through agents and shall not be responsible for the negligence or willful misconduct of any agent appointed by the Trustee with due care. To the fullest extent permitted by applicable law, CFX will indemnify the Trustee (including its directors, officers and employees) for, and hold it harmless against, any loss, liability or expense incurred without negligence or willful misconduct on its part arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense (including its counsel fees) of defending itself against any claim or liability in connection with its acceptance or administration of its duties hereunder. The foregoing indemnities in this paragraph shall survive the resignation or removal of the Trustee hereunder and the termination of this Agreement.

SECTION 8. FEES AND EXPENSES. In consideration of the services rendered by the Trustee under this Agreement, CFX agrees to and shall pay to the Trustee its proper fees and all expenses, charges, attorneys' fees and other disbursements incurred by it or its attorneys, agents and employees in and about the performance of its powers and duties under this Agreement as set forth in the attached **EXHIBIT A**. The Trustee shall not be obligated to allow and credit interest upon any moneys in respect of principal, interest or premium, if any, due in respect of the Series 2021B Bond, which it shall at any time receive under any of the provisions of the Bond Resolution or this Agreement.

- **SECTION 9. FURNISHING INFORMATION; AUTHORIZATION**. The Trustee shall, at all times, when requested to do so by CFX, furnish full and complete information pertaining to its functions under this Agreement and shall without further authorization, execute all necessary and proper deposit slips, checks, certificates and other documents with reference thereto.
- **SECTION 10. TERMINATION; EXPIRATION.** Subject to the terms of the Bond Resolution, either of the parties hereto, at its option, may terminate this Agreement after giving ninety (90) days written notice to the other party of its intention to terminate this Agreement, and this Agreement may be terminated at any time by mutual consent of the parties hereto. This Agreement shall expire without further action upon final payment of the Series 2021B Bond and the interest appertaining thereto.
- SECTION 11. SURRENDER OF FUNDS, REGISTRATION RECORDS; NOTIFICATION OF BONDHOLDERS. In the event of a termination of this Agreement, CFX shall deliver any reasonable, proper and necessary releases to the Trustee (in a form reasonably acceptable to the Trustee and CFX) upon demand by the Trustee and the Trustee shall upon demand by an Authorized Officer of CFX pay over the funds on deposit with the Trustee under this Agreement in connection with the Series 2021B Bond and surrender all registration books and related records to or upon the order of CFX, and CFX may appoint and name a successor to act as Trustee, Paying Agent and Registrar for the Series 2021B Bond. CFX shall, in such event, at its expense, notify all holder of the Series 2021B Bond of the appointment and name of the successor, by providing notice in the manner required for the redemption of the Series 2021B Bond.
- **SECTION 12. NONASSIGNABILITY**. This Agreement shall not be assigned by either party without written consent of the other party.
- **SECTION 13. MODIFICATION**. No modification of this Agreement shall be valid unless made by a written agreement, duly executed and approved by the parties hereto.
- **SECTION 14. SEVERABILITY**. Should any section or part of any section of this Agreement be declared void, invalid or unenforceable by any court of law for any reason, such determination shall not render void, invalid or unenforceable any other section or other part of any section of this Agreement.
- **SECTION 15. GOVERNING LAW**. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida.
- SECTION 16. MERGER OR CONSOLIDATION OF THE TRUSTEE. Any corporation or association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Trustee shall be a party or to which the Trustee sells or transfers all or substantially all of the bond administration portion of its corporate trust business, shall be the successor Trustee, Paying Agent and Registrar under this Agreement, without the execution or filing of any paper or any further act on the part of the parties hereto, provided, however, that such corporation or association must be eligible under the laws of the State of Florida to accept trusts and operate in a fiduciary capacity.

SECTION 17. COUNTERPARTS. This Agreement may be executed in one or more counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized officers or agents and their official seals to be affixed and attested as of the date first set forth above.

CENTRAL FLORIDA EXPRESSWAY

	AUTHORITY	
(SEAL)		
	Buddy Dyer, Chairman	
ATTEST:		
By:		
Mimi Lamaute		
Board Services Coordinator		

[Signature Page | Trustee, Paying Agent and Registrar Agreement]

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee, Paying Agent and Registrar

	1108101111
(SEAL)	
	By:
	Its: Authorized Officer

[Signature Page | Trustee, Paying Agent and Registrar Agreement]

EXHIBIT A

FEES AND EXPENSES

[See Attached]

EXHIBIT "C"

FORM OF ESCROW DEPOSIT AGREEMENT

THIS ESCROW DEPOSIT AGREEMENT (this "Agreement"), dated as of June [*], 2021, is entered into by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX") and WELLS FARGO BANK, N.A., a national banking association organized and existing under the laws of the United States of America (the "Escrow Agent").

WITNESSETH:

WHEREAS, CFX adopted a Master Bond Resolution on February 3, 2003, as amended and supplemented from time to time (the "<u>Master Bond Resolution</u>"), pursuant to which it has authorized and issued and will have outstanding as of the date hereof various series of bonds; and

WHEREAS, CFX has adopted the Fifteenth Supplemental Revenue Bond Resolution on October 24, 2012, particularly supplementing the Master Bond Resolution and authorizing the issuance and sale of Central Florida Expressway Authority's Refunding Revenue Bonds, Series 2012 in the original aggregate principal amount of \$201,925,000 (the "Series 2012 Bonds"); and

WHEREAS, CFX has further adopted the Twenty-Eighth Supplemental Revenue Bond Resolution on June 10, 2021 particularly supplementing the Master Bond Resolution and authorizing the issuance and sale of Central Florida Expressway Authority's Senior Lien Taxable Convertible Refunding Revenue Bond, Series 2021B in the original aggregate principal amount of \$[*] (the "Series 2021B Bond" and together with the Series 2012 Bonds, collectively, the "Refunded Bonds"); and

WHEREAS, CFX has determined to advance refund the Refunded Bonds as further described in <u>Schedule "A"</u> attached hereto and the Master Bond Resolution provides that the Refunded Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the Master Bond Resolution upon compliance by CFX with the provisions of Section 7.2 of the Master Bond Resolution, which provisions of the Master Bond Resolution CFX hereby represents have not been amended or supplemented; and

WHEREAS, the proceeds from the sale of the Series 2021B Bond are being used by CFX for the purpose of (i) currently refunding all of the Outstanding Refunded Bonds; and (ii) paying certain costs of issuance in relation to the Series 2021B Bond; and

WHEREAS, the Lender has agreed to purchase the Series 2021B Bond and as a condition to such purchase, the Lender has required CFX to enter into this Agreement; and

WHEREAS, in order to set forth the terms and conditions upon which the Lender will hold the Series 2021B Bond, CFX now desires to enter into this Agreement to set forth certain representations, warranties, covenants and agreements of CFX;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

- 1. **Recitals**. The recitals stated above are true and correct and incorporated herein.
- 2. **Acknowledgement of Resolution**. Receipt of a true and correct copy of the above-mentioned Bond Resolution is hereby acknowledged by the Escrow Agent. The applicable and necessary provisions of the Bond Resolution, and in particular Section 7.2 of the Master Bond Resolution, are incorporated herein by reference. Reference herein to or citation herein of any provisions of the Bond Resolution shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if the same were fully set forth herein. Capitalized terms used in this Agreement that are not defined shall have the respective meanings set forth in the Bond Resolution.
- 3. **Establishment of Escrow Deposit Fund; Escrow Proceeds**. There is hereby created and established with the Escrow Agent a special, segregated and irrevocable Escrow Deposit Fund designated as the "Central Florida Expressway Authority Series 2012 Escrow Deposit Fund" (the "Escrow Deposit Fund"). The Escrow Deposit Fund shall be held in the custody of the Escrow Agent as a trust fund for the benefit of the Holders of the Refunded Bonds separate and apart from other funds of CFX and the Escrow Agent. The Escrow Agent hereby accepts its appointment as Escrow Agent, has established the Escrow Deposit Fund in accordance with this Agreement, and acknowledges the receipt of and deposit to the credit of the Escrow Deposit Fund, which deposit CFX hereby approves, of the sum \$[*], consisting of: (i) \$[*] (the "Escrow Proceeds"), and (ii) \$[*] from the Refunded Bonds Debt Service Funds (the "Other Moneys"), in immediately available funds.
- 4. **Sufficiency of Escrow Proceeds and Other Moneys**. CFX, based on the Verification Report of [*], (the "Verification Agent"), represents that the Escrow Proceeds and the Other Moneys held as uninvested cash in the Escrow Deposit Fund, available to the Escrow Agent to pay the amounts of principal and accrued interest due and to become due on the Refunded Bonds upon the optional redemption thereof, as described in **Schedule "B"** attached hereto. No redemption premium is owed in connection with the redemption of the Refunded Bonds. If the Escrow Proceeds and the Other Moneys shall be insufficient to make such redemption payments, CFX shall timely deposit in the Escrow Deposit Fund, solely from legally available funds of CFX, such additional amounts as may be required to pay the Refunded Bonds as described in **Schedule "B"** hereto. Notice of any insufficiency shall be given by the Escrow Agent to CFX as promptly as possible, but not less than five (5) days prior to a scheduled and required payment date, but the Escrow Agent shall in no manner be responsible for CFX's failure to make such deposits.
- 5. **Irrevocable Escrow**. The deposit of the Escrow Proceeds, the Other Moneys and Defeasance Obligations (as defined herein), if any, in the Escrow Deposit Fund shall constitute an irrevocable deposit of Escrow Proceeds, Other Moneys and Defeasance Obligations, if any, in trust with the Escrow Agent solely for the payment of the principal of, plus accrued interest on the Refunded Bonds at such times and amounts as set forth in **Schedule "B"** hereto (or to reimburse the Credit Facility provider for any draw made on the Credit Facility for the Refunded Bonds for the purpose of such redemption), and subject to the provisions of Section 8 hereof, the principal of and interest earnings, if any, on such Defeasance Obligations shall be used solely for such purposes.

- 6. **Redemption of Refunded Bonds**. CFX hereby directs, and the Escrow Agent hereby agrees, that it will undertake the timely transfer of money to Wells Fargo Bank, N.A., the Paying Agent for the Refunded Bonds or any successors or assigns thereto (the "Refunded Bonds Paying Agent") in accordance with **Schedule "B"** attached hereto, in order to effectuate this Agreement and to redeem the Refunded Bonds in the amounts and at the times provided in said **Schedule "B,"**. The liability of the Escrow Agent to make such transfer for the payment of the principal of, plus accrued interest on the Refunded Bonds pursuant to this Agreement shall be limited to the application of the Escrow Proceeds, the Other Moneys and Defeasance Obligations, if any, available for such purposes in the Escrow Deposit Fund.
- 7. **Investments**. Money deposited in the Escrow Deposit Fund shall be invested in State and Local Government Securities and other Defeasance Obligations (as defined in the Bond Resolution) (the "Defeasance Obligations") as described in the attached **Schedule "C"**. In addition, the Escrow Agent may subsequently sell and purchase, on behalf of and for the account of CFX, Defeasance Obligations upon written direction of CFX (which direction may be in the form of a resolution of CFX or written instructions from an Authorized Officer of CFX, as such term is defined in the Bond Resolution) and where, prior to any such reinvestment or substitution, the Escrow Agent and Assured Guaranty Municipal Corp., as insurer of a portion of the Refunded Bonds (the "Insurer"), has received from CFX the following:
 - (1) a written opinion by an independent certified public accountant or firm of independent certified public accountants, of recognized standing, appointed by CFX, to the effect that after such investment, reinvestment or substitution the principal amount of the Defeasance Obligations, together with the interest thereon together with any cash, will be sufficient to pay the Refunded Bonds as described in **Schedule "B"** hereto; and
 - (2) a written opinion of nationally recognized bond counsel to the effect that (i) such investment will not cause the Refunded Bonds or the Refunding Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, its statutory predecessor, as applicable, and the regulations promulgated thereunder or otherwise cause the interest on the Refunded Bonds or the Refunding Bonds to be subject to federal income tax, and (ii) such investment does not violate any resolution of CFX relating to the Refunded Bonds or the Refunding Bonds.

In the event the above-referenced verification concludes that there are surplus moneys in the Escrow Deposit Fund, such surplus moneys shall be immediately released to CFX. The Escrow Deposit Fund shall continue in effect until the date upon which the Escrow Agent makes the final payment to the Refunded Bonds Paying Agent in an amount sufficient to pay the Refunded Bonds as described in **Schedule "B"** hereto, whereupon the Escrow Agent shall sell or redeem any Defeasance Obligations remaining in the Escrow Deposit Fund, and shall remit to CFX the proceeds thereof, together with all other money, if any, then remaining in the Escrow Deposit Fund.

8. **Redemption Notice**. CFX hereby informs the Escrow Agent that it has elected to call the Refunded Bonds for early redemption on the dates and at the prices described on **Schedule "A"**, plus accrued interest to the redemption date and this Escrow Agreement is being entered into subject to CFX's right to optionally redeem the Refunded Bonds. CFX hereby

directs the Escrow Agent, in its capacity as the Refunded Bonds Paying Agent, to notify the Refunded Bonds Holders of such redemption and provide notice of such redemption of the Refunded Bonds as provided in the Bond Resolution. The form of the Redemption Notice shall be in the respective forms attached hereto as **Schedule "D"**.

- 9. **Defeasance of Refunded Bonds**. Concurrently with the deposit of the Escrow Proceeds and the Other Moneys set forth in Section 3 hereof, the Refunded Bonds shall cease to be entitled to any lien, benefit or security under the Bond Resolution, and all covenants, agreements and obligations of CFX to the holders of the Refunded Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.
- 10. **Lien on Escrow Proceeds, Other Moneys and Escrow Securities**. The Escrow Deposit Fund hereby created shall be irrevocable and the holders of the Refunded Bonds shall have an express lien on all Escrow Proceeds, Other Moneys and Defeasance Obligations, if any, deposited in the Escrow Deposit Fund pursuant to the terms hereof and the interest earnings thereon, if any, until paid out, used and applied in accordance with this Agreement. Neither CFX nor the Escrow Agent shall cause or permit any other lien or interest to be imposed upon the Escrow Deposit Fund.
- 11. **Amendments**. This Agreement is made for the benefit of CFX and the holders from time to time of the Refunded Bonds and it shall not be repealed, revoked, altered or amended without the written consent of all such holders, the Insurer, and the written consent of the Escrow Agent, provided, however, that CFX and the Escrow Agent may, without the consent of, or notice to, such holders (but with the consent of the Insurer), enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holders and as shall not be inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes:
 - (1) to cure any ambiguity or formal defect or omission in this Agreement;
 - (2) to grant, or confer upon, the Escrow Agent for the benefit of the holders of the Refunded Bonds, any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Agent; and
 - (3) to subject to this Agreement additional funds, securities or properties.

The Escrow Agent shall be entitled to rely exclusively upon an unqualified opinion of nationally recognized bond counsel with respect to compliance with this Section 11, including the extent, if any, to which any change, modification or addition affects the rights of the holders of the Refunded Bonds, or that any instrument executed hereunder complies with the conditions and provisions of this Section 11. Notice of and copies of any revocation, alteration or amendment to this Agreement shall be provided to the rating agencies rating the Refunding Bonds.

12. **Compensation of Escrow Agent; Liability**. In consideration of the services rendered by the Escrow Agent under this Agreement, CFX is simultaneously paying to the Escrow Agent \$2,500; provided, that such fee shall not include any actual and reasonable expenses associated with the performance by the Escrow Agent at the request of CFX of any

extraordinary services hereunder, which are payable by CFX upon presentation of an invoice therefor from the Escrow Agent. The Escrow Agent shall have no lien whatsoever upon any of the Escrow Proceeds, Other Moneys or Defeasance Obligations, if any, in the Escrow Deposit Fund for the payment of such proper fees and expenses. CFX further agrees to indemnify and save the Escrow Agent harmless, to the extent allowed by law, against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder, and which are not due to its negligence or willful misconduct. Anything in this Agreement to the contrary notwithstanding, in no event shall the Escrow Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action; provided however, that the Escrow Agent shall be responsible for such loss or damage caused by its gross negligence.

Whenever the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action under this Agreement, such matter may be deemed to be conclusively established by a certificate signed by an authorized officer of CFX. The Escrow Agent may conclusively rely, as to the correctness of statements, conclusions and opinions therein, upon any certificate, report, opinion or other document furnished to the Escrow Agent pursuant to any provision of this Agreement; the Escrow Agent shall be protected and shall not be liable for acting or proceeding, in good faith, upon such reliance, except for Escrow Agent's gross negligence; and the Escrow Agent shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument. The Escrow Agent may execute any of its powers and perform its duties hereunder directly or through agents or attorneys and may, consult with counsel, accountants and other skilled persons to be selected and retained by it. The Escrow Agent shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons, except for Escrow Agent's gross negligence. In no event shall the Escrow Agent be liable for any failure or delay in the performance of its obligations hereunder because of circumstances beyond the Escrow Agent's control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services contemplated by this Escrow Agreement, inability to obtain material, equipment, or communications or computer facilities, or the failure of equipment or interruption of communications or computer facilities, and other causes beyond the Escrow Agent's control whether or not of the same class or kind as specifically named above.

13. **Resignation or Removal of Escrow Agent**. The Escrow Agent, at the time acting hereunder, may at any time resign and be discharged from the duties and obligations hereby created by giving not less than thirty (30) days' written notice to CFX and mailing notice thereof, specifying the date when such resignation will take effect to the holders of all Refunded Bonds then outstanding, but no such resignation shall take effect unless a successor Escrow Agent shall have been appointed by the holders of a majority in aggregate principal amount of the Refunded Bonds then outstanding or by CFX as hereinafter provided and such successor Escrow Agent shall have accepted such appointment, in which event such resignation shall take effect immediately upon the appointment and acceptance of a successor Escrow Agent.

The Escrow Agent may be removed at any time by an instrument or concurrent instruments in writing, delivered to the Escrow Agent and to CFX and signed by the holders of a majority in aggregate principal amount of the Refunded Bonds then outstanding.

In the event the Escrow Agent hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case the Escrow Agent shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the holders of a majority in aggregate principal amount of the Refunded Bonds then outstanding by an instrument or concurrent instruments in writing, signed by such holders, or by their attorneys in fact, duly authorized in writing; provided, nevertheless, that in any such event, CFX shall appoint a temporary Escrow Agent to fill such vacancy until a successor Escrow Agent shall be appointed by the holders of a majority in aggregate principal amount of the Refunded Bonds then outstanding in the manner above provided, and any such temporary Escrow Agent so appointed by CFX shall immediately and without further act be superseded by the Escrow Agent so appointed by such holders.

In the event that no appointment of a successor Escrow Agent or a temporary successor Escrow Agent shall have been made by such holders or CFX pursuant to the foregoing provisions of this Section 13 within thirty (30) days after written notice of resignation of the Escrow Agent has been given to CFX, the holder of any of the Refunded Bonds or any retiring Escrow Agent may apply to any court of competent jurisdiction for the appointment of a successor Escrow Agent, and such court may thereupon, after such notice, if any, as it shall deem proper, appoint a successor Escrow Agent.

No successor Escrow Agent shall be appointed unless such successor Escrow Agent shall be a corporation with trust powers organized under the banking laws of the United States or any state, and shall have at the time of appointment capital and surplus of not less than \$50,000,000.

Every successor Escrow Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and to CFX an instrument in writing accepting such appointment hereunder and thereupon such successor Escrow Agent, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, and trusts, of its predecessor; but such predecessor shall nevertheless, on the written request of such successor Escrow Agent or CFX execute and deliver an instrument transferring to such successor Escrow Agent all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Escrow Agent shall deliver all securities and moneys held by it to its successor; provided, however, that before any such delivery is required to be made, all fees, advances and expenses of the retiring or removed Escrow Agent shall be paid in full. Should any transfer, assignment or instrument in writing from CFX be required by any successor Escrow Agent for more fully and certainly vesting in such successor Escrow Agent the estates, properties, rights, powers and trusts hereby vested or intended to be vested in the predecessor Escrow Agent, any such transfer, assignment and instruments in writing shall, on request, be executed, acknowledged and delivered by CFX.

Any corporation into which the Escrow Agent, or any successor to it in the trusts created by this Agreement, may be merged or converted or with which it or any successor to it may be

consolidated, or transfers all or substantially all of its corporate trust business to, or any corporation resulting from any merger, conversion, consolidation or tax-free reorganization to which the Escrow Agent or any successor to it shall be a party shall be the successor Escrow Agent under this Agreement without the execution or filing of any paper or any other act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

In the event the Escrow Agent resigns or is removed pursuant to the provisions hereof, the total fee paid to the Escrow Agent as provided in Section 12 hereof shall be prorated on a straight line basis from the date hereof until the final payment is scheduled to be made for the Refunded Bonds, and the unearned portion of such fee shall be rebated and returned to CFX.

- Termination. This Agreement, except for Section 12 hereof, shall terminate when all transfers and payments required to be made by the Escrow Agent under the provisions hereof shall have been made. Upon such termination, all moneys remaining in the Escrow Deposit Fund shall be released to CFX.
- Governing Law. This Agreement shall be governed by the applicable laws of the 15. State of Florida.
- **Severability**. If any one or more of the covenants or agreements provided in this 16. Agreement on the part of CFX or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.
- **Counterparts**. This Agreement may be executed in several counterparts, all or 17. any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.
- Insurer/Third-Party Beneficiary. The Insurer shall be a third-party beneficiary 18. hereof.
- Notices. Any notice, authorization, request or demand required or permitted to be 19. given in accordance with the terms of this Agreement shall be in writing and sent by registered or certified mail addressed to:

Central Florida Expressway Authority 4974 ORL Tower Road Orlando, Florida, 32807 Attention: Lisa Lumbard, Chief Financial Officer

Wells Fargo Bank, N.A. as Escrow Agent 123 S. Broad Street Suite 1500; 15th Floor MAC: Y1379-157

Philadelphia, PA 19109

Attention: Corporate Municipal and Escrow Services

Notice to the Insurer shall be sent to:

Assured Guaranty Municipal Corp. 1633 Broadway New York, New York 10019 Attention: Managing Director, Municipal Surveillance

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have each caused this Escrow Deposit Agreement to be executed by their duly authorized officers and appointed officials and their seals to be hereunder affixed and attested as of the date first above written.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By:		
•	Buddy Dyer, Chairman	

[CFX Signature Page | Escrow Agreement]

IN WITNESS WHEREOF, the parties hereto have each caused this Escrow Deposit Agreement to be executed by their duly authorized officers and appointed officials and their seals to be hereunder affixed and attested as of the date first above written.

WELLS F	'ARGO	BANK,	N.A.
---------	-------	-------	------

By:	
	[*], Authorized Signatory

[CFX Signature Page | Escrow Agreement]

SCHEDULE A

Description of Refunded Bonds Central Florida Expressway Authority

SCHEDULE B

Redemption Schedule Central Florida Expressway Authority Refunded Bonds

SCHEDULE C

Description of State and Local Government Securities and Defeasance Obligations Central Florida Expressway Authority Refunded Bonds

SCHEDULE D

Form of Notice of Redemption Central Florida Expressway Authority Revenue Bonds, Series 2012

[See Attached]

NOTICE OF OPTIONAL REDEMPTION

CENTRAL FLORIDA EXPRESSWAY AUTHORITY REVENUE BONDS, SERIES 2012 DATED DATE: November 29, 2012

Redemption Date: July [*], 2021

Redemption Reason/Source of Funds: Optional Redemption

Total Redemption Amount: \$[*]

CUSIP	MATURITY	RATE	AMOUNT	PRICE
[*]	July 1, 2035	[*]%	\$[*]	100%

NOTICE IS HEREBY GIVEN that, pursuant to Section 4.10 of that certain Fifteenth Supplemental Revenue Bond Resolution, adopted on October 24, 2012, which supplements that certain Amended and Restated Master Bond Resolution of CFX adopted on February 3, 2003, that the Central Florida Expressway Authority (the "Issuer") has exercised its right to optionally redeem its outstanding Central Florida Expressway Authority Revenue Bonds, Series 2012, with maturity dates described above (the "2012 Bonds") on July [*], 2021, at a redemption price of 100% of par plus accrued interest to July [*], 2021. On and after July [*], 2021, interest on the 2012 Bonds described above will cease to accrue.

Payment of the redemption proceeds will be made on or after the redemption date upon presentation and surrender of the securities to Wells Fargo Bank, N.A. (the "Paying Agent"). Payment of the Redemption Price on the Bonds called for redemption will be paid only upon the presentation and surrender thereof in the following manner:

Registered/Certified Mail: Air Courier:

Wells Fargo Bank, N.A.
Corporate Trust Operations
MAC N9300-070
P.O. Box 1517
Minneapolis, MN 55480-1517

Wells Fargo Bank, N.A.
Corporate Trust Operations
MAC N9300-070
600 Fourth Street South, 7th Floor
Minneapolis, MN 55479

Interest on the principal amount designated to be redeemed shall cease to accrue on and after the Redemption Date.

REQUIREMENT INFORMATION

Wells Fargo Bank, N.A. policy does not allow the safekeeping of securities within Corporate Trust Operations for a period of longer than 30 days. Please DO NOT submit your securities for payment more than 30 days in advance of the Redemption Date. A \$25.00 wire transfer fee will be deducted from each payment requested to be made by wire. When inquiring

about this redemption, please have the Bond number available. Please inform the customer service representative of the CUSIP number(s) of the affected Bond. Customer Service can be reached at 612-667-9764 or Toll Free at 1-800-344-5128.

IMPORTANT NOTICE

Under section 3406(a)(1) of the Internal Revenue Code, the Paying Agent making payment of interest or principal on securities may be obligated to withhold a percentage of the payment to a holder who has failed to furnish the Registrar with a valid taxpayer identification number, certification that the number supplied is correct, and that the holder is not subject to backup withholding. Holders of the Refunded Bonds who wish to avoid the application of these provisions should submit either a complete IRS (Internal Revenue Service) Form W-9 (use only if the holder is a U.S. person, including a resident alien), or the appropriate form W-8 (use only if you are neither a U.S. person or a resident alien), when presenting the Bonds for payment. See IRS publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities. Publication 515 and W-8 forms and instructions are available through the IRS via their web site at www.irs.gov.

* The Paying Agent shall not be held responsible for the selection or use of the CUSIP number, nor is any representation made as to its correctness indicated in the Redemption Notice. It is included solely for the convenience of the bondholders.

Dated: July [*], 2021

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: WELLS FARGO BANK, NATIONAL ASSOCIATION, Paying Agent

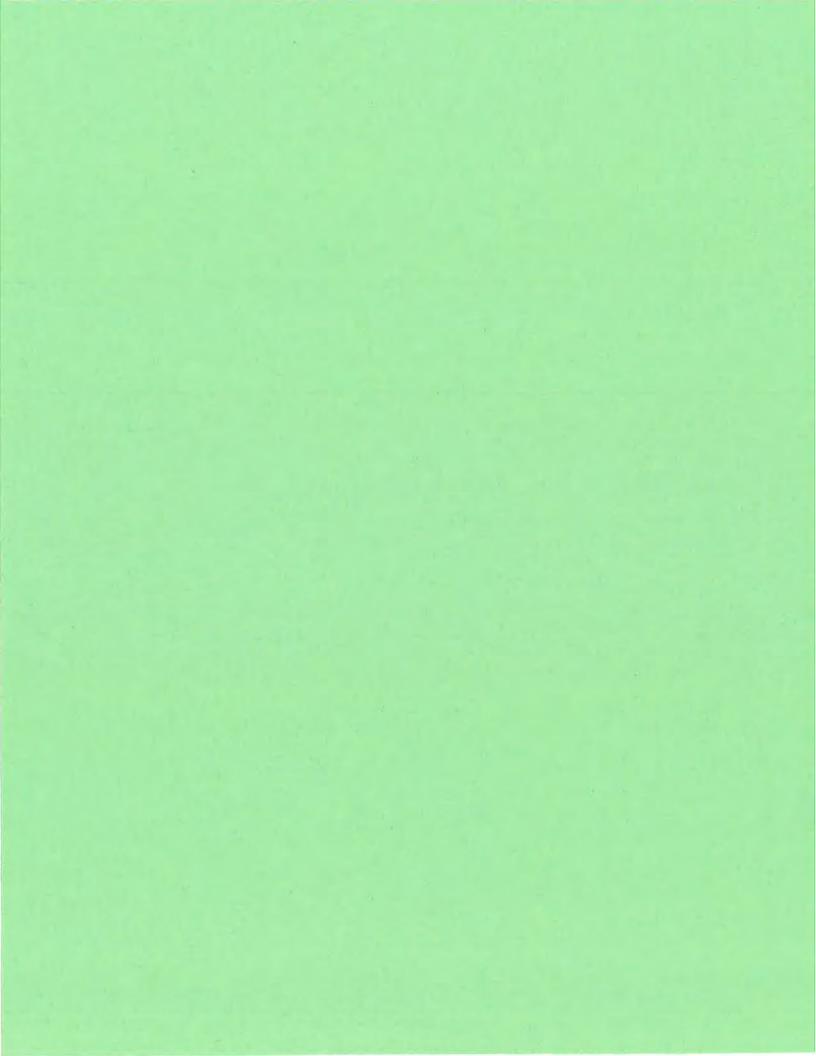
cc: Moody's Investors Service
Fitch Ratings
Standard and Poor's

Depository Trust Company

Financial Guaranty Insurance Company

Information Services:

Municipal Securities Rulemaking Board – EMMA



	Resolution No
CENTRAL FLORI	IDA EXPRESSWAY AUTHORITY
Twenty-Ninth	h Supplemental Revenue Bond
Resolution	Authorizing the Issuance of:
enior Lien Taxable R	Refunding Revenue Bond, Series 2021C
Adoj	pted on June 10, 2021

TWENTY-NINTH SUPPLEMENTAL REVENUE BOND RESOLUTION

TWENTY-NINTH SUPPLEMENTAL REVENUE BOND RESOLUTION OF THE CENTRAL FLORIDA EXPRESSWAY **AUTHORITY SUPPLEMENTING** THE **MASTER BOND** RESOLUTION OF THE AUTHORITY ADOPTED ON FEBRUARY 3, 2003, AS SUPPLEMENTED; AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$55,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SENIOR LIEN TAXABLE REFUNDING REVENUE BOND, SERIES 2021C FOR THE PURPOSES OF REFUNDING THE AUTHORITY'S OUTSTANDING REFUNDING REVENUE BONDS, SERIES 2013B BONDS AND PAYING CERTAIN COSTS OF ISSUANCE IN CONNECTION WITH THE ISSUANCE OF SUCH BOND; DELEGATING AUTHORITY AND ESTABLISHING CRITERIA FOR DETERMINING THE DATE. INTEREST RATES. **INTEREST PAYMENT** DATES, PRINCIPAL AMOUNTS. PROVISIONS FOR REDEMPTION AND MATURITY SCHEDULES FOR SUCH BOND; AUTHORIZING THE SALE OF SAID BOND ON A NEGOTIATED, PRIVATE PLACEMENT BASIS CITIZENS FIRST BANK AND APPROVING THE CONDITIONS AND CRITERIA FOR SUCH SALE: APPROVING THE TERM SHEET WITH CITIZENS FIRST BANK AND DELEGATING AUTHORITY TO PREPARE, NEGOTIATE AND EXECUTE A PLACEMENT AGREEMENT WITH RESPECT TO THE SALE OF SAID BOND: APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUSTEE, PAYING AGENT AND REGISTRAR AGREEMENT; APPOINTING A TRUSTEE, PAYING AGENT, AND REGISTRAR; AUTHORIZING CERTAIN OFFICIALS AND EMPLOYEES OF THE AUTHORITY TO TAKE ALL ACTIONS REQUIRED IN CONNECTION WITH THE ISSUANCE OF SUCH BOND, INCLUDING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH BOND: PROVIDING CERTAIN OTHER DETAILS WITH RESPECT THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 3, 2003, the Central Florida Expressway Authority ("<u>CFX</u>") adopted that certain Master Bond Resolution Authorizing Central Florida Expressway Authority Revenue Bonds, as amended and supplemented from time to time (the "<u>Master Bond Resolution</u>"); and

WHEREAS, CFX desires to supplement the Master Bond Resolution to authorize the issuance of its Central Florida Expressway Authority Senior Lien Taxable Refunding Revenue Bond, Series 2021C (the "Series 2021C Bond") as a Series of Bonds under the Master Bond Resolution, the proceeds of which will be used to: (a) refund the Authority's Outstanding

4835-2082-1740 v.2

Refunding Revenue Bonds, Series 2013B (the "<u>Refunded Bonds</u>"), and (b) pay certain costs in connection with the issuance of the Series 2021C Bond; and

WHEREAS, CFX has competitively solicited offers from banks and financial institutions to purchase the Series 2021C Bond from CFX on a negotiated, private placement basis and has determined to select Citizens First Bank (as defined herein, the "Lender") as the best offer, based on the terms and conditions set forth in the Term Sheet attached hereto as **Exhibit "A"** (the "Term Sheet"); and

WHEREAS, CFX desires to delegate authority to certain Authorized Officers to prepare, negotiate and execute a Placement Agreement with the Lender in accordance with the Term Sheet and this Resolution which will govern the terms and provisions of the Series 2021C Bond during the period that it is held by the Lender; and

WHEREAS, CFX further desires to approve the form of and authorize the execution and delivery of a Trustee, Paying Agent and Registrar Agreement substantially in the form attached hereto as **Exhibit "B"** and an Escrow Deposit Agreement in the form attached hereto as **Exhibit "C"**; and

WHEREAS, CFX further desires to set forth certain terms and provisions for the Series 2021C Bond and to provide certain further matters related to the authorization, sale, issuance and delivery of the Series 2021C Bond and other matters related thereto;

NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AS FOLLOWS:

ARTICLE I AUTHORITY AND DEFINITIONS

SECTION 1.01. <u>Authority for this Resolution</u>. This Resolution is adopted and implemented pursuant to the Central Florida Expressway Authority enabling legislation, codified as Chapter 348, Part III, Florida Statutes, as amended, and other applicable provisions of law not inconsistent with the foregoing (collectively, the "Act") and the Master Bond Resolution.

SECTION 1.02. <u>Definitions</u>. All terms used herein in capitalized form, except as otherwise defined herein, shall have the meanings ascribed thereto in Section 1.2 of the Master Bond Resolution. As used herein, the following terms shall have the meanings set forth below:

- A. "2021C Cost of Issuance Account" means the subaccount described in Section 7.01 hereof.
- B. "<u>Bond Counsel's Opinion</u>" means a written opinion of an attorney or firm of attorneys selected by CFX which is of nationally recognized standing in the field of law relating to municipal bonds and the exclusion from gross income for federal income tax purposes of interest on municipal bonds.
 - C. "Finance Committee" means the Finance Committee of the Authority.

- D. "Financial Advisor" means PFM Financial Advisors LLC.
- E. "<u>Lender</u>" shall mean the bank or financial institution that is the Holder of the Series 2021C Bond. Initially, the Lender shall be Citizens First Bank
- F. "<u>Maturity Date</u>" means the final maturity date of the Series 2021C Bond which shall be on or before July 1, 2025.
- G. "<u>Placement Agreement</u>" shall mean that certain Placement Agreement between the Lender and CFX with respect to the Series 2021C Bond.
- H. "**Refunded Bonds**" means the Authority's Outstanding Refunding Revenue Bonds, Series 2013B maturing in years 2024 and 2025.
- I. "Secretary" means the Secretary, Board Services Coordinator, or any Assistant Secretary of the Authority.
- J. "<u>Series 2021C Bond</u>" means the Central Florida Expressway Authority Senior Lien Taxable Refunding Revenue Bond, Series 2021C authorized pursuant to this Resolution.
- K. "<u>Term Sheet</u>" means the Term Sheet attached hereto as <u>Exhibit "A"</u> which has been provided by the Lender to CFX in connection with the Lender's offer to purchase the Series 2021C Bond.

ARTICLE II FINDINGS

SECTION 2.01. Findings. CFX hereby finds, determines and declares as follows:

- A. This Resolution supplements the Master Bond Resolution.
- B. CFX owns, operates and derives revenues from the Expressway System.
- C. It is necessary, desirable, convenient and in the best interest of CFX that CFX issue the Series 2021C Bond for the valid public purposes set forth in this Resolution.
- D. Upon the issuance thereof, the Series 2021C Bond shall constitute a senior lien Bond under the Master Bond Resolution and shall be entitled to all the security and benefits thereof.
- E. Because of the characteristics of the Series 2021C Bond, and the current and potential volatility of the market for municipal obligations such as the Series 2021C Bond, it is in the best interest of the Authority, upon the satisfaction of the terms and conditions set forth herein, to sell the Series 2021C Bond to the Lender by negotiated private placement.
- F. Prior to the sale of the Series 2021C Bond, the Lender will provide CFX with a disclosure statement containing the information required by Section 218.385(6), Florida Statutes,

4835-2082-1740 v.2

and a truth-in-bonding statement in accordance with Section 218.385, Florida Statutes. The Lender shall also provide an Investor's Letter.

ARTICLE III CONTRACTUAL OBLIGATION

In consideration of the acceptance of the Series 2021C Bond authorized to be issued hereunder by those who shall hold the same from time to time, the Master Bond Resolution, as supplemented by this Resolution, shall be deemed to be and shall constitute a contract between CFX and the registered Holder of the Series 2021C Bond. The covenants and agreements set forth herein and in the Master Bond Resolution to be performed by CFX shall be of equal rank with the Outstanding Bonds, or any Parity Bonds hereafter issued and Qualified Swap Payments related to any Bonds issued under the Master Bond Resolution, without preference, priority or distinction over any other thereof. All applicable covenants contained in the Master Bond Resolution shall be fully applicable to the Series 2021C Bond as if originally issued thereunder, except as otherwise specifically provided herein.

ARTICLE IV AUTHORIZATION AND ISSUANCE OF SERIES 2021C BOND

SECTION 4.01. <u>Authorization of Issuance and General Description of Series</u> 2021C Bond.

- A. Subject and pursuant to the provisions hereof and of the Master Bond Resolution, the Series 2021C Bond to be known as the "Central Florida Expressway Authority Senior Lien Taxable Refunding Revenue Bond, Series 2021C" is hereby authorized to be issued in one or more subseries in the aggregate principal amount of not to exceed \$55,000,000, or such lesser amount as may be approved by the Chairman or Vice Chairman of CFX for the purposes of: (a) refunding the Authority's Outstanding Refunding Revenue Bonds, Series 2013B, and (b) paying the costs of issuance of the Series 2021C Bond.
- B. The Series 2021C Bond shall be issued as fixed rate Bonds in accordance with the terms and provisions set forth in the Placement Agreement.
- C. The Debt Service Reserve Requirement with respect to the Series 2021C Bond shall be \$0.
- **SECTION 4.02.** <u>Denominations, Numbers, Letters</u>. The Series 2021C Bond shall be issued solely in the form of a fully registered bond in the denomination of the par amount of the Series 2021C Bond. The Series 2021C Bond shall be numbered consecutively from 1 upward with the letter "R" and the series designation prefixed to the number.

SECTION 4.03. Place of Payment; Trustee, Paying Agent and Registrar.

A. The principal of, premium, if any, and interest on the Series 2021C Bond shall be payable without presentment, provided however, that upon final maturity or repayment in full of the Series 2021C Bond, it shall be promptly marked cancelled and returned to the corporate trust

4835-2082-1740 v.2

operations office in Minneapolis, Minnesota of Wells Fargo Bank, National Association or its successors or assigns, and such banking institution is hereby appointed as Trustee, Paying Agent and Registrar for the Series 2021C Bond. The principal and prepayment price, if any, of the Series 2021C Bond shall also be payable at any other place which may be provided for such payment by the appointment of any other Paying Agent or Paying Agents as permitted by the Master Bond Resolution and, during any period that the Lender is the Holder of the Series 2021C Bond, as provided in the Placement Agreement. Unless otherwise provided in the Placement Agreement, interest on the Series 2021C Bond shall be paid by wire or other form of electronic payment or funds transfer reasonably acceptable to the Lender drawn upon the Paying Agent and transmitted to the registered Holder of the Series 2021C Bond at the addresses as they appear on the registration books maintained by the Trustee, as Registrar, at the close of business on the 15th day (whether or not a Business Day) of the month next preceding the interest payment date (the "Record Date"), irrespective of any transfer or exchange of such Series 2021C Bond subsequent to such Record Date and prior to such interest payment date, unless CFX shall be in default in payment of interest due on such interest payment date. In the event of any such default, such defaulted interest shall be payable to the Holder in whose name such Series 2021C Bond is registered at the close of business on a special record date for the payment of such defaulted interest as established by notice deposited in the U.S. mails, postage prepaid, by the Trustee to the registered Holder of such Series 2021C Bond not less than fifteen (15) days preceding such special record date. Such notice shall be mailed to the Holder in whose name the Series 2021C Bond is registered at the close of business on the fifth (5th) day (whether or not a Business Day) preceding the date of mailing.

- B. If the date for payment of the principal of, premium, if any, or interest on the Series 2021C Bond is not a Business Day, then the date for such payment shall be the next succeeding Business Day, and payment on such Business Day shall have the same force and effect as if made on the nominal date of payment, without accrual of additional interest.
- C. Notwithstanding the foregoing, or anything provided in the Master Bond Resolution to the contrary, so long as the Lender is the registered Holder of the Series 2021C Bond, CFX and the Lender may mutually agree on a payment method provided for in the Placement Agreement.

SECTION 4.04. Registration and Exchange.

A. The registration of any Series 2021C Bond may be transferred upon the registration books as provided in the Master Bond Resolution. In all cases of a transfer of a Series 2021C Bond, the Registrar shall at the earliest practical time in accordance with the terms hereof enter the transfer of ownership in the registration books and shall deliver in the name of the new transferee or transferees a new fully registered Series 2021C Bond or Bonds of the same Series, maturity and of authorized denomination or denominations, for the same aggregate principal amount and payable from the same source of funds. CFX and the Registrar may charge the registered owner for the registration of every transfer or exchange of a Series 2021C Bond an amount sufficient to reimburse them for any tax, fee or any other governmental charge required (other than by the Authority) to be paid with respect to or in connection with any such transfer or exchange, and may require that such amounts be paid before any such new Series 2021C Bond shall be delivered.

4835-2082-1740 v.2 5

- B. CFX and the Trustee, Paying Agent and Registrar may deem and treat the registered Holder of the Series 2021C Bond as the absolute Holder of such Series 2021C Bond for the purpose of receiving payment of the principal thereof and the interest and premiums, if any, thereon.
- **SECTION 4.05.** Terms of the Series 2021C Bond. The Series 2021C Bond shall be dated the date of delivery thereof, shall mature on the Maturity Date, shall bear interest payable from such date, payable semiannually on January 1 and July 1 of each year, commencing on the date provided for in the Placement Agreement, at the rates and shall be subject to prepayment or redemption in whole or in part, all as set forth and provided for in the Placement Agreement.

SECTION 4.06. Source of Payment.

- A. The scheduled payment of principal of, interest on and redemption premium, if any, with respect to the Series 2021C Bond and all other payments required pursuant to the terms of the Master Bond Resolution and the terms hereof will be payable solely from the System Pledged Revenues, on a parity with any Bonds issued under the Master Bond Resolution whether currently Outstanding or hereinafter issued and any Qualified Swap Payments related to such Bonds, if any.
- THE SERIES 2021C BOND WILL NOT CONSTITUTE A GENERAL В. INDEBTEDNESS OF BREVARD COUNTY, FLORIDA, LAKE COUNTY, FLORIDA, ORANGE COUNTY, FLORIDA, OSCEOLA COUNTY, FLORIDA, SEMINOLE COUNTY, FLORIDA (COLLECTIVELY, THE "COUNTIES"), THE CITY OF ORLANDO, FLORIDA (THE "CITY"), CFX OR ANY OTHER POLITICAL SUBDIVISION IN THE STATE OF FLORIDA, WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER PROVISION OR LIMITATION, AND IT IS EXPRESSLY AGREED THAT THE SERIES 2021C BOND AND THE OBLIGATION EVIDENCED THEREBY SHALL NOT CONSTITUTE NOR BE A LIEN UPON ANY PROPERTY OF THE COUNTIES, THE CITY, OR THE AUTHORITY, EXCEPT THE SYSTEM PLEDGED REVENUES DERIVED FROM THE EXPRESSWAY SYSTEM AND OTHER MONEYS PLEDGED THEREFOR TO THE EXTENT PROVIDED IN THE RESOLUTION. NEITHER THE GENERAL FAITH AND CREDIT OF THE AUTHORITY, THE COUNTIES, THE CITY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF OR THE TAXING POWER OF THE COUNTIES, THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF THE SERIES 2021C BOND OR ANY PREMIUM OR INTEREST THEREON. CFX HAS NO TAXING POWER. REGISTERED OWNER OF THE SERIES 2021C BOND SHALL EVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE COUNTIES, THE CITY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF FOR THE PAYMENT OF THE PRINCIPAL OF OR ANY INTEREST OR PREMIUM DUE THEREON, AND CFX IS NOT AND SHALL NEVER BE UNDER ANY OBLIGATION TO PAY THE PRINCIPAL OF, INTEREST ON OR ANY PREMIUM WITH RESPECT TO THE SERIES 2021C BOND EXCEPT FROM THE SYSTEM PLEDGED REVENUES DERIVED FROM THE EXPRESSWAY SYSTEM AND OTHER MONEYS PLEDGED THEREFOR, IN THE MANNER PROVIDED IN THE MASTER BOND RESOLUTION.

C. No recourse shall be had for the payment of the principal of or premium or interest on the Series 2021C Bond or for any claim based thereon or on the Master Bond Resolution or this Resolution or otherwise with respect thereto or hereto against any board member, officer or employee of CFX or any person executing the Series 2021C Bond and nothing in the Series 2021C Bond, the Master Bond Resolution or herein shall create or give rise to any personal liability of any such board member, officer or employee of the Authority, the Counties, the City or other person executing the Series 2021C Bond.

SECTION 4.07. <u>Application of Proceeds of Series 2021C Bond</u>. The proceeds of the Series 2021C Bond shall be applied simultaneously with the delivery of such Bonds for the purposes described in this Resolution and pursuant to a certificate of an Authorized Officer or a closing memorandum executed in connection with the issuance and delivery of the Series 2021C Bond.

SECTION 4.08. Form of Series 2021C Bond. Subject to the provisions of the Master Bond Resolution, the Series 2021C Bond and the Registrar's certificate of authentication with respect thereto shall be in substantially the form set forth in the Master Bond Resolution, with such insertions or omissions, endorsements and variations as may be necessary and appropriate to reflect the terms of the Series 2021C Bond set forth in the Placement Agreement, and as may be permitted by the Master Bond Resolution and the Act, and approved by the Chairman or Vice Chairman of the Authority, execution and delivery of the Series 2021C Bond to be conclusive evidence of such approval.

ARTICLE V SALE AND PURCHASE OF BONDS

SECTION 5.01 Approval of Term Sheet; Delegation of Authority to Negotiate, Complete and Execute the Placement Agreement. The Term Sheet attached hereto as Exhibit "A" is hereby approved. The Chairman, Vice Chairman or other Authorized Officers of CFX are hereby delegated authority to prepare, negotiate and execute a Placement Agreement with the Lender in compliance with the terms set forth in the Term Sheet and in a manner consistent with the provisions of this Resolution, such execution to be conclusive evidence of such approval. The Chairman, Vice Chairman or other Authorized Officer is hereby authorized to execute the Placement Agreement.

SECTION 5.02. Trustee, Paying Agent and Registrar Agreement. The form of the Trustee, Paying Agent and Registrar Agreement attached hereto as Exhibit "B" is hereby approved, subject to the changes, insertions and omissions and filling of blanks therein as may be approved and made in such form of Trustee, Paying Agent and Registrar Agreement by the officers of CFX executing the same, in a manner consistent with the terms of this Resolution, such execution to be conclusive evidence of such approval. The Chairman or Vice Chairman is hereby authorized to execute the Trustee, Paying Agent and Registrar Agreement on behalf of CFX in substantially the form attached hereto with such changes, insertions, omissions and filling of blanks therein as such officer shall approve in a manner consistent with the terms of this Resolution. Wells Fargo Bank, National Association is hereby designated as the initial Trustee, Paying Agent and Registrar Agreement and shall serve until it resigns or is removed and a successor Trustee, Paying Agent and Registrar

is appointed for the Series 2021C Bond as provided in the Trustee, Paying Agent and Registrar Agreement. The Chairman, Vice Chairman or other Authorized Officer is authorized to approve the form of and to execute on behalf of CFX the Trustee, Paying Agent and Registrar Agreement required by this Section 5.02.

ARTICLE VI TAX COMPLIANCE AND REBATE PROVISIONS

SECTION 6.01. The 2021C Rebate Fund. On the date the Series 2021C Bond is converted to a tax-exempt Bond, there shall hereby be created and established a fund to be known as the "Central Florida Expressway Authority Senior Lien Revenue Bond, Series 2021C Rebate Fund" (hereinafter referred to as the "2021C Rebate Fund"). If established, the 2021C Rebate Fund shall be maintained with the Paying Agent and shall be kept separate and apart from all other funds of the Authority, and used for the purpose and in the manner provided in this Section, and shall be and constitute a trust fund for such purposes. The Bonds, including any Additional Bonds or Refunding Bonds hereafter issued pursuant to and within the terms, limitations and conditions contained in the Master Bond Resolution, as supplemented by this Resolution, shall have no lien on or pledge of the moneys at any time or from time to time on deposit in the 2021C Rebate Fund and the moneys in the 2021C Rebate Fund shall be available for use only as herein provided. CFX shall use moneys deposited in the 2021C Rebate Fund only for the payment of the Rebate Amount with respect to the Series 2021C Bond to the United States. Funds on deposit in the 2021C Rebate Fund in excess of the Rebate Amount, however, may be withdrawn and paid over to the Authority. In complying with the foregoing, CFX may rely upon Bond Counsel's Opinion with respect thereto.

If any amount shall remain in the 2021C Rebate Fund after payment in full of the Series 2021C Bond issued hereunder and after payment in full of the Rebate Amount to the United States in accordance with the terms hereof, such amount shall be available to CFX for any lawful purpose.

Notwithstanding any other provision of this Resolution or the Master Bond Resolution, including in particular Section 5.1 of the Master Bond Resolution, the obligation to pay over the Rebate Amount to the United States and to comply with all other requirements of Section 6.02 hereof and this Section 6.01 shall survive the defeasance or payment in full of the Series 2021C Bond.

SECTION 6.02. Covenants Concerning Compliance with Tax Laws. In addition to any other requirements contained in the Master Bond Resolution and to the extent applicable to the Series 2021C Bond during any period that such Series 2021C Bond bears interest at a tax-exempt rate, CFX hereby covenants and agrees, for the benefit of the Bondholders from time to time of the Series 2021C Bond, to comply with the requirements contained in the Code to the extent necessary, and any other requirements which, in Bond Counsel's Opinion, are necessary to preserve the exclusion of interest on the Series 2021C Bond from the gross income of the owners thereof for federal income tax purposes.

SECTION 6.03. <u>Amendments to Article VI</u>. Any provision of this Resolution or of the Master Bond Resolution to the contrary notwithstanding, the provisions of this Article VI

may be amended from time to time without the consent of the Paying Agent or the Bondholders upon delivery to the Paying Agent of a Bond Counsel's Opinion to the effect that such amendment will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Series 2021C Bond.

ARTICLE VII ESTABLISHMENT OF CERTAIN ACCOUNTS

SECTION 7.01. 2021C Cost of Issuance Account. CFX hereby establishes with the Trustee for the Series 2021C Bond the "Central Florida Expressway Authority Senior Lien Taxable Refunding Revenue Bond, Series 2021C Cost of Issuance Account" (the "2021C Cost of Issuance Account") as a separate account under the Master Bond Resolution. Proceeds of the Series 2021C Bond, and any other monies of the Authority, if any, deposited in the 2021C Cost of Issuance Account shall be used only for the payment of cost of issuance associated with the issuance of the Series 2021C Bond, and until applied to the payment of such costs, shall be held by the Trustee and be subject to a lien or charge in favor of the Bondholders and for the further security of such Bondholders. Any funds remaining on deposit in the 2021C Cost of Issuance Account after the payment of all costs of issuance of the Series 2021C Bond shall be transferred to the Interest Account of the Sinking Fund to be used for purposes of paying interest on the Series 2021C Bond.

SECTION 7.02. <u>Additional Funds, Accounts and Subaccounts</u>. CFX may, by certificate of an Authorized Officer and based on the advice of the Financial Advisor, establish separate funds, accounts or subaccounts associated with the Series 2021C Bond, as CFX may reasonably determine are necessary or desirable.

ARTICLE VIII AUTHORIZATION FOR OPTIONAL REDEMPTION OF REFUNDED BONDS

SECTION 8.01. Authorization for Optional Redemption of Refunded Bonds.

- A. Subject and pursuant to the provisions hereof and of the Master Bond Resolution, as supplemented, the optional redemption of the Refunded Bonds as provided herein is hereby authorized, all pursuant to such terms and conditions as the Chairman or Vice Chairman and Chief Financial Officer shall determine to be in the best interest of CFX based on, among other things, the advice of the Financial Advisor.
- B. The Chairman and Chief Financial Officer of CFX are each hereby authorized and directed to execute such documents, certificates, instruments and contracts, whether or not expressly contemplated hereby, and to execute and do all acts and things required by the provisions of this Resolution and the Master Bond Resolution, as supplemented as may be necessary for the full, punctual and complete performance of all terms, conditions, provisions and covenants herein or therein contained, or otherwise may be necessary or desirable to effectuate the optional redemption of the Refunded Bonds. The Chairman or Vice Chairman and the Chief Financial Officer of CFX are hereby designated as the primary officers of CFX charged with the responsibility for such optional redemption and are hereby delegated with the

authority to determine the timing, amount and other terms of the optional redemption of the Refunded Bonds.

SECTION 8.02. <u>Declaration of Official Intent</u>. CFX hereby declares its official intent under Treasury Regulation §1.150-2 to reimburse itself from the proceeds of the Series 2021C Bond for all or a portion of any expenses related to the optional redemption of the Refunded Bonds in the event that CFX decides to directly pay the same from legally available funds of the Authority.

ARTICLE IX TRUSTEE PROVISIONS

SECTION 9.01. **Duty to Act.** The Trustee shall not be under any obligation to institute any suit, take any remedial proceeding under this Resolution or the Master Bond Resolution or to enter any appearance or in any way defend in any suit in which it may be made defendant or to take any steps in the execution of the trust hereby created or in the enforcement of any rights and powers hereunder until it shall be indemnified to its satisfaction against any and all reasonable cost and expenses, outlays and counsel fees and other disbursements and against all liability not due to its willful misconduct or negligence. Notwithstanding anything to the contrary in the Master Bond Resolution, the Trustee shall not, on behalf of the Lender, exercise remedies upon an Event of Default or failure of CFX to comply with any covenant, condition or agreement on its part to be observed or performed under the Master Bond Resolution or this Resolution with respect to the Series 2021C Bond, and the Lender shall be solely responsible for pursuing such remedies on its own behalf that are available to it under the Master Bond Resolution in accordance therewith upon written notice to the Trustee of its intent to do so. In electing to act in lieu of the Trustee, the Lender shall not be deemed to have been granted any rights and remedies in addition to the rights and remedies granted to the Holders of all Outstanding Bonds.

SECTION 9.02. <u>Limitations on Liability</u>. The Trustee shall not be liable or responsible because of the failure of CFX to perform any act required by this Resolution or the Master Bond Resolution. The Trustee shall not be liable in connection with the performance of its duties under this Resolution or the Master Bond Resolution except for its own willful misconduct or negligence.

SECTION 9.03. <u>Compensation</u>. CFX shall, out of System Pledged Revenues, pay to the Trustee such reasonable compensation as shall be agreed upon between CFX and the Trustee.

SECTION 9.04. Reliance. The Trustee shall be protected and shall incur no liability for acts or omissions made in good faith, reasonably and in accordance with the terms of this Resolution, upon any resolution, order, notice, request, consent, waiver, or other paper or document which it shall, in good faith, reasonably believe to be genuine and to have been adopted and signed by the proper board or person or to have been prepared and furnished pursuant to the provisions of this Resolution. The Trustee shall not be responsible for determining what are Permitted Investments.

SECTION 9.05. Resignation. The Trustee may resign and thereby become discharged from the trust created under this Resolution or the Master Bond Resolution by notice, in writing, to be given to CFX not less than ninety (90) days before such resignation is to take effect, but such resignation shall take effect immediately upon the appointment and acceptance of a successor trustee pursuant to Section 9.07 hereof if said appointment and acceptance shall be before the time specified by such notice.

SECTION 9.06. Removal. The Trustee may be removed at any time by the Authority.

SECTION 9.07. Successor Trustee.

- A. If at any time the Trustee shall resign, or shall be removed, be dissolved or otherwise become incapable of acting or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator thereof, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of Trustee shall become vacant. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, CFX shall, within thirty (30) days, appoint a successor Trustee to fill such vacancy. The Trustee appointed under this section shall be a bank or trust company eligible under the laws of the State of Florida to accept trusts and operate in a fiduciary capacity. Any such successor Trustee shall have combined capital, surplus, and undivided profits of at least \$50,000,000 unless the bond insurer otherwise approves. Anything contained in this Resolution to the contrary notwithstanding, no resignation or removal shall become effective until a successor has been appointed and accepted the responsibilities hereunder.
- B. Every successor Trustee appointed under this Resolution shall execute, acknowledge and deliver to its predecessor, and also to the Authority, an instrument in writing accepting such appointment, and thereupon such successor Trustee without further act, deed, or conveyance, shall become fully vested with all monies, estates, properties, rights, immunities, powers and trusts, and subject to all the duties and obligations of its predecessor, with like effect as if originally named as such Trustee; but such predecessor shall, nevertheless, on the written request of its successor or of the Authority, and upon payment of the compensation, expenses, charges and other disbursements of such predecessor which are due and payable pursuant to Section 9.03, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor; and every predecessor Trustee shall deliver all property and moneys held by it under this Resolution to its successor. Should any instrument in writing from CFX be required by any successor Trustee for more fully and certainly vesting in such Trustee the rights, immunities, powers and trusts vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall, on request, be executed, acknowledged and delivered by the Authority.

SECTION 9.08. Mergers and Consolidations. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee shall sell or transfer all or substantially all of the bond administration portion of its corporate trust business, provided such company shall be a bank, or trust company eligible under the laws of the State of Florida to accept trusts and operate in a fiduciary capacity, shall be

successor to the Trustee without the execution or filing of any paper or performance of any further act.

ARTICLE X MISCELLANEOUS

SECTION 10.01. Authorizations. The Chairman or the Vice Chairman is hereby authorized to countersign the Series 2021B Bond by his or her manual or facsimile signature in the manner provided herein. The Chairman, Vice Chairman, Secretary, Executive Director, Chief Financial Officer or other Authorized Officer, are each hereby authorized and directed, individually or with others pursuant to their direction or authorization, to execute such other documents, certificates, instruments, contracts, and agreements, including, without limitation the execution and delivery of an Escrow Deposit Agreement in the form attached hereto as Exhibit "C", with such changes and modifications as are deemed appropriate or necessary whether or not expressly contemplated hereby, and to execute and do all acts and things required by the provisions of this Resolution as may be necessary for the full, punctual and complete performance of all the terms, covenants, provisions and agreements herein and therein contained, or as otherwise may be necessary or desirable to effectuate the purpose and intent of this Resolution. The Chairman, the Secretary, the Executive Director and the Chief Financial Officer of CFX are hereby designated as the primary officers of CFX charged with the responsibility of issuing the Series 2021C Bond. In the absence or unavailability of the Chairman, the Vice Chairman is hereby authorized to act in his or her place. If any officer of CFX who has signed the Series 2021C Bond or any other documents, certificates, instruments, contracts, and agreements in furtherance of this Resolution shall cease to hold such office before the delivery date of such Series 2021C Bond, documents, certificates, instruments, contracts, and agreements, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery.

SECTION 10.02. Parties Interested Herein. Nothing in this Resolution, expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee, the Paying Agent, and the registered Holders of the Series 2021C Bond, any right, remedy or claim under or by reason of this Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Resolution, by and on behalf of CFX shall be for the sole and exclusive benefit of the Authority, the Trustee, the Paying Agent, if any, and the registered Holders of the Series 2021C Bond.

SECTION 10.03. Controlling Law; Members; Members of Authority not Liable. All covenants, stipulations, obligations and agreements of CFX contained in this Resolution shall be deemed to be covenants, stipulations, obligations and agreements of CFX to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, agent, officer or employee of CFX in his or her individual capacity, and neither the members of the Governing Body of CFX nor any official executing the Series 2021C Bond shall be liable personally on the Series 2021C Bond or under this Supplemental Resolution or shall be subject to any personal liability or accountability by reason of the issuance of the Series 2021C Bond or the execution thereof by CFX or such officers thereof.

SECTION 10.04. Consent to Amendments to Lease Purchase Agreement. By purchasing and accepting delivery of the Series 2021C Bond, the holders of the Series 2021C Bond shall be deemed to have consented to amend the terms and provisions of the Lease Purchase Agreement to discontinue the Department's payment obligations for operations and/or maintenance of certain portions of the Expressway System effective on July 1, 2028. CFX shall comply with the terms of the Lease Purchase Agreement in connection with any additional modifications, amendments or supplements to the Lease Purchase Agreement.

SECTION 10.05. <u>Effective Date</u>. This Resolution shall become effective upon its approval.

[Signature Page Follows]

This Resolution was approved and adopted by the Central Florida Expressway Authority on June 10, 2021.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

1	By:Buddy Dyer, Chairman
ATTEST:	
By: Mimi Lamaute Board Services Coordinator	_
Signed:	
Based upon review by CFX Counsel acting the direction of General Counsel, this Resolu	

approved as to form and legal sufficiency for the sole use and reliance of CFX and its Board.

EXHIBIT "A"

TERM SHEET



May 21, 2021

Honorable Mr. Buddy Dyer, Chairman Central Florida Expressway Authority 4974 ORL Tower Road Orlando, FL 32807

Re: Loan for an amount of \$55,000,000.00 (USD) from Citizens First Bank as Lender to Central Florida Expressway Authority, as Borrower.

Dear Mr. Dyer:

Citizens First Bank, (the "Lender" or "Bank") is pleased to extend to Central Florida Expressway Authority (the "Borrower" or "Authority") in response to your request for proposal issued April 30, 2021 a commitment to loan the principal sum of up to \$55,000,000.00 (the "Loan") under the terms and conditions of this letter. If you find these terms and conditions to be acceptable, please have the Borrower so indicate by signing and returning a copy of this letter.

The Loan is to be extended only on the following terms and conditions:

I. LOAN TERMS:

- a. AMOUNT: The Loan will be in an amount not to exceed \$55,000,000.00.
- b. INTEREST RATE: 0.80% Fixed and Taxable rate for the entire 48-month period. This shall be a Taxable rate for the full Term of the Loan. The quoted rate shall be held for at least 45 days from the date of this commitment and remain locked until closing.
- c. TERMS: The Loan will be repaid as follows: Interest due semi-annually on January 1st and July 1st of each year beginning on January 1, 2022. The principal will be repaid annually beginning on July 1, 2022 and ending July 1, 2025 (the "Maturity Date"), based on the proposed amortization schedule shown as Exhibit A attached hereto. Interest will be calculated on a 30/360 day-count basis.
- d. CLOSING COST: Borrower agrees to pay for Lender's legal counsel fees as well as documentary stamp and intangible taxes, if any, in connection with the closing of this transaction. The legal fees will be a total of \$10,000.00. The Bank will be represented by G. Edward Clement of Lowndes, Drosdick, Doster, Kantor & Reed, P.A. (the "Bank Counsel") which can be reached at Ed.Clement@Lowndes-Law.com. (352)

383-4186, or 308 E. Fifth Avenue, Mount Dora, FL 32757.

- e. PURPOSE: Refund the outstanding Refunding Revenue Bonds, Series 2013B (the "2021C Bond") in the par amount of \$48,360,000 and pay related costs of issuance.
- PREPAYMENT: This Loan shall be non-callable until July 1, 2023. After such date, the Loan may be paid in full or in part, without penalty, at any time prior to maturity.
- g. DEFAULT REMEDIES: The Loan will have a 30-day grace period for payments with a 5% late fee imposed if any payment is not paid within 30 days of its due date. Lender will be entitled to attorney's fees and costs in case of default with a default rate not to exceed the maximum rate allowable by law.

II. SECURITY

The Loan will be secured by a Pledge of and Senior Lien on the System Pledged Revenues which currently consist of, among other things, Net Revenues and until applied in accordance with the provisions of the Bond Resolution, amounts on deposit in certain funds and accounts established under the Bond Resolution (the "Security"). The Series 2021C Bonds shall be issued on a parity basis with all of Central Florida Expressway Authority's existing Senior Lien debt. This Loan and any future issuance of Senior Lien debt obligations are to conform to the existing Master Bond Resolution.

III. DOCUMENTATION

Documentation for the Loan will be prepared in a manner typical of similar transactions, including security instruments pledging a lien upon 2021C Bond Pledged Revenues (the "Loan Documents"). All documentation will be reviewed and approved by Bank Counsel prior to consummation.

IV. OTHER LOAN CONDITIONS

In addition to the foregoing, the following conditions shall apply to the Loan:

- Financial Statements: In making this Loan commitment, the Bank is relying on the financial condition of the Borrower. To help assure that neither the financial condition of the Borrower nor the income capability of the Security adversely changes throughout the life of the Loan, Borrower shall have the following obligations throughout the course of the Loan:
 - (1) Borrower must keep books and records reflecting their financial conditions, including but not limited to, the operation of the Security in accordance with generally accepted accounting principles consistently applied. Bank shall have the right, from time to time during normal business hours, to examine such books, records and accounts at the offices of the Borrower or other personal entity maintaining such books, records and accounts and to make such copies of extracts

thereof as the Bank shall desire.

- (2) During the term of the Loan, the Borrower must furnish or cause to be furnished to the Bank, 270 days after the end of the fiscal year to provide audited financial statements of the Borrower.
- Lender will receive legal opinions from Issuer's Counsel and Bond Counsel in a form typically rendered to the Lender in transactions of similar nature.
- 3. This commitment must be accepted in writing by Borrower by June 11, 2021 or shall therefore be void. This commitment may be executed in counterparts, each on which shall collectively and separately constitute a single agreement. Once executed, this commitment will supersede any and all previous discussions, understanding, or agreements between the parties and regarding the transaction contemplated herein.
- 4. Closing shall occur on or before June 30, 2021.
- The provisions and requirements of this commitment shall survive closing and shall be enforceable against Borrower after closing, whether or not all terms thereto are contained within the Loan Documents.
- 6. The Bank hereby confirms that it has a present intent to hold the Loan to maturity, earlier redemption, mandatory tender, or for its loan portfolio, and has no present intention of reselling or otherwise disposing of all or a part of such Term Loan. The Bank acknowledges that PFM Financial Advisors LLC (the "Municipal Advisor") is relying on the foregoing disclosure by the Bank for purposes of the Municipal Advisor's determination that (i) this transaction meets the requirements for being a qualifying exception for purposes of MSRB Rule G-34, and (ii) Municipal Advisor is excepted and released from the requirement to request a CUSIP assignment on behalf of the Authority pursuant to MSRB Rule G-34 for the Term Loan.
- A Debt Service Reserve Fund shall not be required by the Bank.

Once again, we are pleased to have the opportunity to extend this commitment to Central Florida Expressway Authority and we hope the Authority will accept our offer by signing and returning the enclosed copy of this letter by the stated expiration date. If you have any questions, please do not he sitate to call me.

Sincerety.

Brad Weber

Executive Vice President

Chief Lending Officer

Citizens First Bank

Brad.Weber@MyCitizensFirst.com

Office: (352) 259-3266 Facsimile: (352) 751-2167 1050 Lake Sumter Landing The Villages, FL 32162

cc: Hope Scarpinato

scarpinatoh@pfm.com

PFM Financial Advisors, LLC

ce: Evan Rapp

rappe@pfm.com

PFM Financial Advisors, LLC

ce: Lisa Lumbard

Lisa.Lumbard@cfxway.com

Central Florida Expressway Authority

ACCEPTED THIS ____ day of June, 2021

Accepted by:

Honorable Mr. Buddy Dyer Chairman of the Board

Central Florida Expressway Authority

EXHIBIT A

The principal amount of the Loan described above will be payable annually on July 1st of each year beginning July 1, 2022. Proposed Amortization Schedule for the Term Loan is provided below. Note this schedule is preliminary and subject to change based on the final sizing of the Term Loan upon closing.

Date	Series 2021C (Refunding of Series 2013B)		
7/1/2022	\$1,835,000		
7/1/2023	1,900,000		
7/1/2024	25,565,000		
7/1/2025	25,700,000		
Total	\$55,000,000		

EXHIBIT "B"

FORM OF TRUSTEE, PAYING AGENT AND REGISTRAR AGREEMENT

THIS TRUSTEE, PAYING AGENT AND REGISTRAR AGREEMENT (this "Agreement"), dated as of June [*], 2021, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, having its designated office in Philadelphia, Pennsylvania (the "Trustee").

WITNESSETH:

WHEREAS, CFX, by the Bond Resolution (as hereinafter defined), has designated the Trustee as Trustee, Paying Agent and Registrar for its \$[*] Senior Lien Taxable Refunding Revenue Bond, Series 2021C (the "Series 2021C Bond"); and

WHEREAS, CFX and the Trustee desire to set forth the Trustee's duties as Trustee, Paying Agent and Registrar and the compensation to be paid to the Trustee for its services;

NOW, THEREFORE, it is agreed by the parties hereto as follows:

SECTION 1. DUTIES. The Trustee agrees to serve as Trustee, Paying Agent and Registrar for the Series 2021C Bond and to perform the duties of Trustee, Paying Agent and Registrar as specified in or contemplated by that certain Amended and Restated Master Bond Resolution adopted by CFX on February 3, 2003, as supplemented from time to time, as particularly supplemented by that certain Twenty-Ninth Supplemental Revenue Bond Resolution Authorizing the Issuance of Senior Lien Refunding Revenue Bonds, adopted by CFX on June 10, 2021 (collectively, the "Bond Resolution") in connection with the issuance of the Series 2021C Bond. The Trustee is authorized to do business in Florida and carry out the duties and obligations contemplated herein. Unless otherwise defined herein, capitalized terms used herein shall have the respective meanings set forth in the Bond Resolution.

SECTION 2. DEPOSIT OF FUNDS. CFX shall deposit or cause to be deposited with the Trustee into the appropriate funds and accounts created under or pursuant to the Bond Resolution and established and maintained for the purposes hereof by the Trustee, on or before the Business Day prior to the date payment is due on the Series 2021C Bond, sufficient funds from System Pledged Revenues pledged for the payment of the Series 2021C Bond under the Bond Resolution to pay when due and payable the principal of, premium, if any, and interest on the Series 2021C Bond.

SECTION 3. USE OF FUNDS; CANCELED SERIES 2021C Bond. The Trustee shall use the funds received from CFX pursuant to Section 2 of this Agreement to pay the principal of and interest on the Series 2021C Bond in accordance with the Bond Resolution. To the extent that the Series 2021C Bond is in its possession, the Trustee shall destroy the canceled Series 2021C Bond in accordance with its retention policy then in effect.

SECTION 4. STATEMENTS. Each month during the term of this Agreement, or as often as the Trustee normally distributes statements for similar accounts, the Trustee shall

prepare and shall send to CFX written statements of account relating to all transactions effected by the Trustee pursuant to this Agreement.

SECTION 5. OBLIGATION TO ACT. The Trustee shall be obligated to act only in accordance with the Bond Resolution and any written instructions received in accordance therewith; provided, however, that the Trustee is authorized hereby to comply with any orders, judgments or decrees of any court with or without jurisdiction and shall not be liable as a result of its compliance with the same.

SECTION 6. RELIANCE BY TRUSTEE. The Trustee may rely absolutely upon the genuineness and authorization of the signature and purported signature of any party upon any instruction, notice, release, request, affidavit or other document delivered to it pursuant to the Bond Resolution.

SECTION 7. COUNSEL; INDEMNITY. The Trustee may consult with counsel (licensed to practice in Florida) of its own choice and shall have sole and complete authorization and protection for any action taken or suffered by it under the Bond Resolution in good faith and in accordance with the opinion of such counsel. The Trustee shall have no liability or responsibility for any statement made by CFX or any other person in connection with the issuance of the Series 2021C Bond, or for the use or application of any money received by CFX in connection with the Series 2021C Bond. The Trustee may rely upon any instructions provided to it by CFX in connection with its duties and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with such instructions. No provision of this Agreement shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it. The Trustee may act through agents and shall not be responsible for the negligence or willful misconduct of any agent appointed by the Trustee with due care. To the fullest extent permitted by applicable law, CFX will indemnify the Trustee (including its directors, officers and employees) for, and hold it harmless against, any loss, liability or expense incurred without negligence or willful misconduct on its part arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense (including its counsel fees) of defending itself against any claim or liability in connection with its acceptance or administration of its duties hereunder. The foregoing indemnities in this paragraph shall survive the resignation or removal of the Trustee hereunder and the termination of this Agreement.

SECTION 8. FEES AND EXPENSES. In consideration of the services rendered by the Trustee under this Agreement, CFX agrees to and shall pay to the Trustee its proper fees and all expenses, charges, attorneys' fees and other disbursements incurred by it or its attorneys, agents and employees in and about the performance of its powers and duties under this Agreement as set forth in the attached **EXHIBIT A**. The Trustee shall not be obligated to allow and credit interest upon any moneys in respect of principal, interest or premium, if any, due in respect of the Series 2021C Bond, which it shall at any time receive under any of the provisions of the Bond Resolution or this Agreement.

- **SECTION 9. FURNISHING INFORMATION; AUTHORIZATION**. The Trustee shall, at all times, when requested to do so by CFX, furnish full and complete information pertaining to its functions under this Agreement and shall without further authorization, execute all necessary and proper deposit slips, checks, certificates and other documents with reference thereto.
- **SECTION 10. TERMINATION; EXPIRATION.** Subject to the terms of the Bond Resolution, either of the parties hereto, at its option, may terminate this Agreement after giving ninety (90) days written notice to the other party of its intention to terminate this Agreement, and this Agreement may be terminated at any time by mutual consent of the parties hereto. This Agreement shall expire without further action upon final payment of the Series 2021C Bond and the interest appertaining thereto.
- SECTION 11. SURRENDER OF FUNDS, REGISTRATION RECORDS; NOTIFICATION OF BONDHOLDERS. In the event of a termination of this Agreement, CFX shall deliver any reasonable, proper and necessary releases to the Trustee (in a form reasonably acceptable to the Trustee and CFX) upon demand by the Trustee and the Trustee shall upon demand by an Authorized Officer of CFX pay over the funds on deposit with the Trustee under this Agreement in connection with the Series 2021C Bond and surrender all registration books and related records to or upon the order of CFX, and CFX may appoint and name a successor to act as Trustee, Paying Agent and Registrar for the Series 2021C Bond. CFX shall, in such event, at its expense, notify all holder of the Series 2021C Bond of the appointment and name of the successor, by providing notice in the manner required for the redemption of the Series 2021C Bond.
- **SECTION 12. NONASSIGNABILITY**. This Agreement shall not be assigned by either party without written consent of the other party.
- **SECTION 13. MODIFICATION**. No modification of this Agreement shall be valid unless made by a written agreement, duly executed and approved by the parties hereto.
- **SECTION 14. SEVERABILITY**. Should any section or part of any section of this Agreement be declared void, invalid or unenforceable by any court of law for any reason, such determination shall not render void, invalid or unenforceable any other section or other part of any section of this Agreement.
- **SECTION 15. GOVERNING LAW**. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida.
- **SECTION 16. MERGER OR CONSOLIDATION OF THE TRUSTEE**. Any corporation or association into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Trustee shall be a party or to which the Trustee sells or transfers all or substantially all of the bond administration portion of its corporate trust business, shall be the successor Trustee, Paying Agent and Registrar under this Agreement, without the execution or filing of any paper or any further act on the part of the parties hereto, provided, however, that such corporation or association must be eligible under the laws of the State of Florida to accept trusts and operate in a fiduciary capacity.

SECTION 17. COUNTERPARTS. This Agreement may be executed in one or more counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or agents and their official seals to be affixed and attested as of the date first set forth above.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY (SEAL) Buddy Dyer, Chairman ATTEST: By: Mimi Lamaute Board Services Coordinator

[Signature Page | Trustee, Paying Agent and Registrar Agreement]

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee, Paying Agent and Registrar

	8	
(SEAL)		
	By:	
	Its: Authorized Office	er

[Signature Page | Trustee, Paying Agent and Registrar Agreement]

EXHIBIT A

FEES AND EXPENSES

[See Attached]

EXHIBIT "C"

FORM OF ESCROW DEPOSIT AGREEMENT

THIS ESCROW DEPOSIT AGREEMENT (this "Agreement"), dated as of June [*], 2021, is entered into by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX") and WELLS FARGO BANK, N.A., a national banking association organized and existing under the laws of the United States of America (the "Escrow Agent").

WITNESSETH:

WHEREAS, CFX adopted a Master Bond Resolution on February 3, 2003, as amended and supplemented from time to time (the "<u>Master Bond Resolution</u>"), pursuant to which it has authorized and issued and will have outstanding as of the date hereof various series of bonds; and

WHEREAS, CFX has adopted the Eighteenth Supplemental Revenue Bond Resolution on August 8, 2013, particularly supplementing the Master Bond Resolution and authorizing the issuance and sale of the Central Florida Expressway Authority's Refunding Revenue Bonds, Series 2013C in the original aggregate principal amount of \$107,125,000 (the "Series 2013C Bonds"); and

WHEREAS, CFX has further adopted the Twenty-Ninth Supplemental Revenue Bond Resolution on June 10, 2021 particularly supplementing the Master Bond Resolution and authorizing the issuance and sale of Central Florida Expressway Authority's Senior Lien Taxable Refunding Revenue Bond, Series 2021C in the original aggregate principal amount of \$[*] (the "Series 2021C Bond" and together with the Series 2013C Bonds, collectively, the "Refunded Bonds"); and

WHEREAS, CFX has determined to advance refund the Refunded Bonds as further described in <u>Schedule "A"</u> attached hereto and the Master Bond Resolution provides that the Refunded Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the Master Bond Resolution upon compliance by CFX with the provisions of Section 7.2 of the Master Bond Resolution, which provisions of the Master Bond Resolution CFX hereby represents have not been amended or supplemented; and

WHEREAS, the proceeds from the sale of the Series 2021C Bond are being used by CFX for the purpose of (i) currently refunding all of the Outstanding Refunded Bonds; and (ii) paying certain costs of issuance in relation to the Series 2021C Bond; and

WHEREAS, the Lender has agreed to purchase the Series 2021C Bond and as a condition to such purchase, the Lender has required CFX to enter into this Agreement; and

WHEREAS, in order to set forth the terms and conditions upon which the Lender will hold the Series 2021C Bond, CFX now desires to enter into this Agreement to set forth certain representations, warranties, covenants and agreements of CFX;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

- 1. **Recitals**. The recitals stated above are true and correct and incorporated herein.
- 2. **Acknowledgement of Resolution**. Receipt of a true and correct copy of the above-mentioned Bond Resolution is hereby acknowledged by the Escrow Agent. The applicable and necessary provisions of the Bond Resolution, and in particular Section 7.2 of the Master Bond Resolution, are incorporated herein by reference. Reference herein to or citation herein of any provisions of the Bond Resolution shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if the same were fully set forth herein. Capitalized terms used in this Agreement that are not defined shall have the respective meanings set forth in the Bond Resolution.
- 3. **Establishment of Escrow Deposit Fund; Escrow Proceeds**. There is hereby created and established with the Escrow Agent a special, segregated and irrevocable Escrow Deposit Fund designated as the "Central Florida Expressway Authority Series 2021B Escrow Deposit Fund" (the "Escrow Deposit Fund"). The Escrow Deposit Fund shall be held in the custody of the Escrow Agent as a trust fund for the benefit of the Holders of the Refunded Bonds separate and apart from other funds of CFX and the Escrow Agent. The Escrow Agent hereby accepts its appointment as Escrow Agent, has established the Escrow Deposit Fund in accordance with this Agreement, and acknowledges the receipt of and deposit to the credit of the Escrow Deposit Fund, which deposit CFX hereby approves, of the sum \$[*], consisting of: (i) \$[*] (the "Escrow Proceeds"), and (ii) \$[*] from the Refunded Bonds Debt Service Funds (the "Other Moneys"), in immediately available funds.
- 4. **Sufficiency of Escrow Proceeds and Other Moneys**. The Authority, based on the Verification Report of [*], (the "Verification Agent"), represents that the Escrow Proceeds and the Other Moneys held as uninvested cash in the Escrow Deposit Fund, available to the Escrow Agent to pay the amounts of principal and accrued interest due and to become due on the Refunded Bonds upon the optional redemption thereof, as described in **Schedule "B"** attached hereto. No redemption premium is owed in connection with the redemption of the Refunded Bonds. If the Escrow Proceeds and the Other Moneys shall be insufficient to make such redemption payments, CFX shall timely deposit in the Escrow Deposit Fund, solely from legally available funds of the Authority, such additional amounts as may be required to pay the Refunded Bonds as described in **Schedule "B"** hereto. Notice of any insufficiency shall be given by the Escrow Agent to CFX as promptly as possible, but not less than five (5) days prior to a scheduled and required payment date, but the Escrow Agent shall in no manner be responsible for the Authority's failure to make such deposits.
- 5. **Irrevocable Escrow**. The deposit of the Escrow Proceeds, the Other Moneys and Defeasance Obligations (as defined herein), if any, in the Escrow Deposit Fund shall constitute an irrevocable deposit of Escrow Proceeds, Other Moneys and Defeasance Obligations, if any, in trust with the Escrow Agent solely for the payment of the principal of, plus accrued interest on the Refunded Bonds at such times and amounts as set forth in **Schedule "B"** hereto (or to reimburse the Credit Facility provider for any draw made on the Credit Facility for the Refunded Bonds for the purpose of such redemption), and subject to the provisions of Section 8 hereof, the principal of and interest earnings, if any, on such Defeasance Obligations shall be used solely for such purposes.

- 6. **Redemption of Refunded Bonds**. CFX hereby directs, and the Escrow Agent hereby agrees, that it will undertake the timely transfer of money to Wells Fargo Bank, N.A., the Paying Agent for the Refunded Bonds or any successors or assigns thereto (the "Refunded Bonds Paying Agent") in accordance with **Schedule "B"** attached hereto, in order to effectuate this Agreement and to redeem the Refunded Bonds in the amounts and at the times provided in said **Schedule "B,"**. The liability of the Escrow Agent to make such transfer for the payment of the principal of, plus accrued interest on the Refunded Bonds pursuant to this Agreement shall be limited to the application of the Escrow Proceeds, the Other Moneys and Defeasance Obligations, if any, available for such purposes in the Escrow Deposit Fund.
- 7. **Investments**. Money deposited in the Escrow Deposit Fund shall be invested in State and Local Government Securities and other Defeasance Obligations (as defined in the Bond Resolution) (the "Defeasance Obligations") as described in the attached **Schedule "C"**. In addition, the Escrow Agent may subsequently sell and purchase, on behalf of and for the account of the Authority, Defeasance Obligations upon written direction of CFX (which direction may be in the form of a resolution of CFX or written instructions from an Authorized Officer of the Authority, as such term is defined in the Bond Resolution) and where, prior to any such reinvestment or substitution, the Escrow Agent and Assured Guaranty Municipal Corp., as insurer of a portion of the Refunded Bonds (the "Insurer"), has received from CFX the following:
 - (1) a written opinion by an independent certified public accountant or firm of independent certified public accountants, of recognized standing, appointed by the Authority, to the effect that after such investment, reinvestment or substitution the principal amount of the Defeasance Obligations, together with the interest thereon together with any cash, will be sufficient to pay the Refunded Bonds as described in **Schedule "B"** hereto; and
 - (2) a written opinion of nationally recognized bond counsel to the effect that (i) such investment will not cause the Refunded Bonds or the Refunding Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, its statutory predecessor, as applicable, and the regulations promulgated thereunder or otherwise cause the interest on the Refunded Bonds or the Refunding Bonds to be subject to federal income tax, and (ii) such investment does not violate any resolution of CFX relating to the Refunded Bonds or the Refunding Bonds.

In the event the above-referenced verification concludes that there are surplus moneys in the Escrow Deposit Fund, such surplus moneys shall be immediately released to the Authority. The Escrow Deposit Fund shall continue in effect until the date upon which the Escrow Agent makes the final payment to the Refunded Bonds Paying Agent in an amount sufficient to pay the Refunded Bonds as described in **Schedule "B"** hereto, whereupon the Escrow Agent shall sell or redeem any Defeasance Obligations remaining in the Escrow Deposit Fund, and shall remit to CFX the proceeds thereof, together with all other money, if any, then remaining in the Escrow Deposit Fund.

- 8. **Redemption Notice**. CFX hereby informs the Escrow Agent that it has elected to call the Refunded Bonds for early redemption on the dates and at the prices described on **Schedule "A"**, plus accrued interest to the redemption date and this Escrow Agreement is being entered into subject to the Authority's right to optionally redeem the Refunded Bonds. CFX hereby directs the Escrow Agent, in its capacity as the Refunded Bonds Paying Agent, to notify the Refunded Bonds Holders of such redemption and provide notice of such redemption of the Refunded Bonds as provided in the Bond Resolution. The form of the Redemption Notice shall be in the respective forms attached hereto as **Schedule "D"**.
- 9. **Defeasance of Refunded Bonds**. Concurrently with the deposit of the Escrow Proceeds and the Other Moneys set forth in Section 3 hereof, the Refunded Bonds shall cease to be entitled to any lien, benefit or security under the Bond Resolution, and all covenants, agreements and obligations of CFX to the holders of the Refunded Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.
- 10. Lien on Escrow Proceeds, Other Moneys and Escrow Securities. The Escrow Deposit Fund hereby created shall be irrevocable and the holders of the Refunded Bonds shall have an express lien on all Escrow Proceeds, Other Moneys and Defeasance Obligations, if any, deposited in the Escrow Deposit Fund pursuant to the terms hereof and the interest earnings thereon, if any, until paid out, used and applied in accordance with this Agreement. Neither CFX nor the Escrow Agent shall cause or permit any other lien or interest to be imposed upon the Escrow Deposit Fund.
- 11. **Amendments**. This Agreement is made for the benefit of CFX and the holders from time to time of the Refunded Bonds and it shall not be repealed, revoked, altered or amended without the written consent of all such holders, the Insurer, and the written consent of the Escrow Agent, provided, however, that CFX and the Escrow Agent may, without the consent of, or notice to, such holders (but with the consent of the Insurer), enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holders and as shall not be inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes:
 - (1) to cure any ambiguity or formal defect or omission in this Agreement;
 - (2) to grant, or confer upon, the Escrow Agent for the benefit of the holders of the Refunded Bonds, any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Agent; and
 - (3) to subject to this Agreement additional funds, securities or properties.

The Escrow Agent shall be entitled to rely exclusively upon an unqualified opinion of nationally recognized bond counsel with respect to compliance with this Section 11, including the extent, if any, to which any change, modification or addition affects the rights of the holders of the Refunded Bonds, or that any instrument executed hereunder complies with the conditions and provisions of this Section 11. Notice of and copies of any revocation, alteration or amendment to this Agreement shall be provided to the rating agencies rating the Refunding Bonds.

Compensation of Escrow Agent; Liability. In consideration of the services rendered by the Escrow Agent under this Agreement, CFX is simultaneously paying to the Escrow Agent \$2,500; provided, that such fee shall not include any actual and reasonable expenses associated with the performance by the Escrow Agent at the request of CFX of any extraordinary services hereunder, which are payable by CFX upon presentation of an invoice therefor from the Escrow Agent. The Escrow Agent shall have no lien whatsoever upon any of the Escrow Proceeds, Other Moneys or Defeasance Obligations, if any, in the Escrow Deposit Fund for the payment of such proper fees and expenses. CFX further agrees to indemnify and save the Escrow Agent harmless, to the extent allowed by law, against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder, and which are not due to its negligence or willful misconduct. Anything in this Agreement to the contrary notwithstanding, in no event shall the Escrow Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action; provided however, that the Escrow Agent shall be responsible for such loss or damage caused by its gross negligence.

Whenever the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action under this Agreement, such matter may be deemed to be conclusively established by a certificate signed by an authorized officer of the Authority. The Escrow Agent may conclusively rely, as to the correctness of statements, conclusions and opinions therein, upon any certificate, report, opinion or other document furnished to the Escrow Agent pursuant to any provision of this Agreement; the Escrow Agent shall be protected and shall not be liable for acting or proceeding, in good faith, upon such reliance, except for Escrow Agent's gross negligence; and the Escrow Agent shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument. The Escrow Agent may execute any of its powers and perform its duties hereunder directly or through agents or attorneys and may, consult with counsel, accountants and other skilled persons to be selected and retained by it. The Escrow Agent shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons, except for Escrow Agent's gross negligence. In no event shall the Escrow Agent be liable for any failure or delay in the performance of its obligations hereunder because of circumstances beyond the Escrow Agent's control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services contemplated by this Escrow Agreement, inability to obtain material, equipment, or communications or computer facilities, or the failure of equipment or interruption of communications or computer facilities, and other causes beyond the Escrow Agent's control whether or not of the same class or kind as specifically named above.

13. **Resignation or Removal of Escrow Agent**. The Escrow Agent, at the time acting hereunder, may at any time resign and be discharged from the duties and obligations hereby created by giving not less than thirty (30) days' written notice to CFX and mailing notice thereof, specifying the date when such resignation will take effect to the holders of all Refunded Bonds then outstanding, but no such resignation shall take effect unless a successor Escrow Agent shall have been appointed by the holders of a majority in aggregate principal amount of the Refunded

Bonds then outstanding or by CFX as hereinafter provided and such successor Escrow Agent shall have accepted such appointment, in which event such resignation shall take effect immediately upon the appointment and acceptance of a successor Escrow Agent.

The Escrow Agent may be removed at any time by an instrument or concurrent instruments in writing, delivered to the Escrow Agent and to CFX and signed by the holders of a majority in aggregate principal amount of the Refunded Bonds then outstanding.

In the event the Escrow Agent hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case the Escrow Agent shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the holders of a majority in aggregate principal amount of the Refunded Bonds then outstanding by an instrument or concurrent instruments in writing, signed by such holders, or by their attorneys in fact, duly authorized in writing; provided, nevertheless, that in any such event, CFX shall appoint a temporary Escrow Agent to fill such vacancy until a successor Escrow Agent shall be appointed by the holders of a majority in aggregate principal amount of the Refunded Bonds then outstanding in the manner above provided, and any such temporary Escrow Agent so appointed by CFX shall immediately and without further act be superseded by the Escrow Agent so appointed by such holders.

In the event that no appointment of a successor Escrow Agent or a temporary successor Escrow Agent shall have been made by such holders or CFX pursuant to the foregoing provisions of this Section 13 within thirty (30) days after written notice of resignation of the Escrow Agent has been given to the Authority, the holder of any of the Refunded Bonds or any retiring Escrow Agent may apply to any court of competent jurisdiction for the appointment of a successor Escrow Agent, and such court may thereupon, after such notice, if any, as it shall deem proper, appoint a successor Escrow Agent.

No successor Escrow Agent shall be appointed unless such successor Escrow Agent shall be a corporation with trust powers organized under the banking laws of the United States or any state, and shall have at the time of appointment capital and surplus of not less than \$50,000,000.

Every successor Escrow Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and to CFX an instrument in writing accepting such appointment hereunder and thereupon such successor Escrow Agent, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, and trusts, of its predecessor; but such predecessor shall nevertheless, on the written request of such successor Escrow Agent or CFX execute and deliver an instrument transferring to such successor Escrow Agent all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Escrow Agent shall deliver all securities and moneys held by it to its successor; provided, however, that before any such delivery is required to be made, all fees, advances and expenses of the retiring or removed Escrow Agent shall be paid in full. Should any transfer, assignment or instrument in writing from CFX be required by any successor Escrow Agent for more fully and certainly vesting in such successor Escrow Agent the estates, properties, rights, powers and trusts hereby vested or intended to be vested in the predecessor

Escrow Agent, any such transfer, assignment and instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority.

Any corporation into which the Escrow Agent, or any successor to it in the trusts created by this Agreement, may be merged or converted or with which it or any successor to it may be consolidated, or transfers all or substantially all of its corporate trust business to, or any corporation resulting from any merger, conversion, consolidation or tax-free reorganization to which the Escrow Agent or any successor to it shall be a party shall be the successor Escrow Agent under this Agreement without the execution or filing of any paper or any other act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

In the event the Escrow Agent resigns or is removed pursuant to the provisions hereof, the total fee paid to the Escrow Agent as provided in Section 12 hereof shall be prorated on a straight line basis from the date hereof until the final payment is scheduled to be made for the Refunded Bonds, and the unearned portion of such fee shall be rebated and returned to the Authority.

- 14. **Termination**. This Agreement, except for Section 12 hereof, shall terminate when all transfers and payments required to be made by the Escrow Agent under the provisions hereof shall have been made. Upon such termination, all moneys remaining in the Escrow Deposit Fund shall be released to the Authority.
- 15. **Governing Law**. This Agreement shall be governed by the applicable laws of the State of Florida.
- 16. **Severability**. If any one or more of the covenants or agreements provided in this Agreement on the part of CFX or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.
- 17. **Counterparts**. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.
- 18. **Insurer/Third-Party Beneficiary.** The Insurer shall be a third-party beneficiary hereof.
- 19. **Notices**. Any notice, authorization, request or demand required or permitted to be given in accordance with the terms of this Agreement shall be in writing and sent by registered or certified mail addressed to:

Central Florida Expressway Authority 4974 ORL Tower Road Orlando, Florida, 32807

Attention: Lisa Lumbard, Chief Financial Officer

Wells Fargo Bank, N.A. as Escrow Agent 123 S. Broad Street Suite 1500; 15th Floor MAC: Y1379-157

Philadelphia, PA 19109

Attention: Corporate Municipal and Escrow Services

Notice to the Insurer shall be sent to:

Assured Guaranty Municipal Corp. 1633 Broadway New York, New York 10019 Attention: Managing Director, Municipal Surveillance

[Signature Pages Follows]

IN WITNESS WHEREOF, the parties hereto have each caused this Escrow Deposit Agreement to be executed by their duly authorized officers and appointed officials and their seals to be hereunder affixed and attested as of the date first above written.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By:	
•	Buddy Dyer, Chairman

[CFX Signature Page | Escrow Agreement]

IN WITNESS WHEREOF, the parties hereto have each caused this Escrow Deposit Agreement to be executed by their duly authorized officers and appointed officials and their seals to be hereunder affixed and attested as of the date first above written.

WEII	CFA	RCO	BANK.	NA
VV CALAL.	r <i>P</i>	l Kttt)	DAIN	. IN.A.

By:		
	[*], Authorized Signatory	

[Escrow Agent Signature Page | Escrow Agreement]

SCHEDULE A

Description of Refunded Bonds Central Florida Expressway Authority

SCHEDULE B

Redemption Schedule Central Florida Expressway Authority Refunded Bonds

SCHEDULE C

Description of State and Local Government Securities and Defeasance Obligations Central Florida Expressway Authority Refunded Bonds

SCHEDULE D

Form of Notice of Redemption Central Florida Expressway Authority Revenue Bonds, Series 2013C

[See Attached]

NOTICE OF OPTIONAL REDEMPTION

CENTRAL FLORIDA EXPRESSWAY AUTHORITY REVENUE BONDS, SERIES 2013C DATED DATE: September 10, 2013

Redemption Date: July [*], 2021

Redemption Reason/Source of Funds: Optional Redemption

Total Redemption Amount: \$[*]

CUSIP	MATURITY	RATE	AMOUNT	PRICE
[*]	July 1, 2035	[*]%	\$[*]	100%

NOTICE IS HEREBY GIVEN that, pursuant to Section 4.10 of that certain Eighth Supplemental Revenue Bond Resolution, adopted on August 8, 2013, which supplements that certain Amended and Restated Master Bond Resolution of CFX adopted on February 3, 2003, that the Central Florida Expressway Authority (the "Issuer") has exercised its right to optionally redeem its outstanding Central Florida Expressway Authority Revenue Bonds, Series 2013C, with maturity dates described above (the "2013C Bonds") on July [*], 2021, at a redemption price of 100% of par plus accrued interest to July [*], 2021. On and after July [*], 2021, interest on the 2013C Bonds described above will cease to accrue.

Payment of the redemption proceeds will be made on or after the redemption date upon presentation and surrender of the securities to Wells Fargo Bank, N.A. (the "Paying Agent"). Payment of the Redemption Price on the Bonds called for redemption will be paid only upon the presentation and surrender thereof in the following manner:

Registered/Certified Mail: Air Courier:

Wells Fargo Bank, N.A.
Corporate Trust Operations
MAC N9300-070
P.O. Box 1517
Minneapolis, MN 55480-1517

Wells Fargo Bank, N.A.
Corporate Trust Operations
MAC N9300-070
600 Fourth Street South, 7th Floor
Minneapolis, MN 55479

Interest on the principal amount designated to be redeemed shall cease to accrue on and after the Redemption Date.

REQUIREMENT INFORMATION

Wells Fargo Bank, N.A. policy does not allow the safekeeping of securities within Corporate Trust Operations for a period of longer than 30 days. Please DO NOT submit your securities for payment more than 30 days in advance of the Redemption Date. A \$25.00 wire transfer fee will be deducted from each payment requested to be made by wire. When inquiring

about this redemption, please have the Bond number available. Please inform the customer service representative of the CUSIP number(s) of the affected Bond. Customer Service can be reached at 612-667-9764 or Toll Free at 1-800-344-5128.

IMPORTANT NOTICE

Under section 3406(a)(1) of the Internal Revenue Code, the Paying Agent making payment of interest or principal on securities may be obligated to withhold a percentage of the payment to a holder who has failed to furnish the Registrar with a valid taxpayer identification number, certification that the number supplied is correct, and that the holder is not subject to backup withholding. Holders of the Refunded Bonds who wish to avoid the application of these provisions should submit either a complete IRS (Internal Revenue Service) Form W-9 (use only if the holder is a U.S. person, including a resident alien), or the appropriate form W-8 (use only if you are neither a U.S. person or a resident alien), when presenting the Bonds for payment. See IRS publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities. Publication 515 and W-8 forms and instructions are available through the IRS via their web site at www.irs.gov.

* The Paying Agent shall not be held responsible for the selection or use of the CUSIP number, nor is any representation made as to its correctness indicated in the Redemption Notice. It is included solely for the convenience of the bondholders.

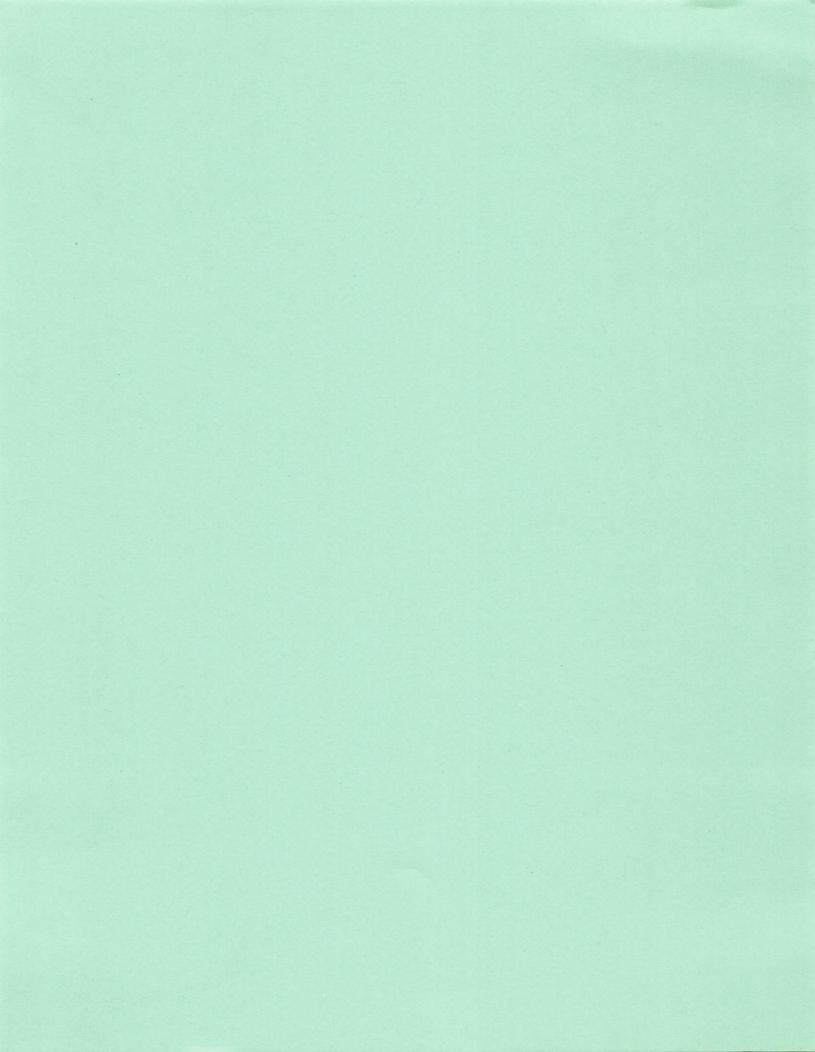
Dated: July [*], 2021

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: WELLS FARGO BANK, NATIONAL ASSOCIATION, Paying Agent

cc: Moody's Investors Service
Fitch Ratings
Standard and Poor's
Depository Trust Company
Financial Guaranty Insurance Company

Information Services: Municipal Securities Rulemaking Board – EMMA



A RESOLUTION OF THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AUTHORIZING THE DEFEASANCE OF CERTAIN PRINCIPAL AMOUNTS AND MATURITIES OF ITS OUTSTANDING REFUNDING REVENUE BONDS, SERIES 2013A; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT; AUTHORIZING STAFF TO TAKE SUCH ACTIONS AS ARE NECESSARY TO ACCOMPLISH SUCH DEFEASANCE; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX") AS FOLLOWS:

WHEREAS, on February 3, 2003, Orlando-Orange County Expressway Authority (the "Prior Authority") adopted that certain Master Bond Resolution Authorizing Orlando-Orange County Expressway Authority Revenue Bonds, as amended and supplemented from time to time (the "Master Bond Resolution"); and

WHEREAS, capitalized terms shall have the respective meanings set forth in the Master Bond Resolution; and

WHEREAS, pursuant to the terms of the Master Bond Resolution, as supplemented, the Prior Authority previously issued its Orlando-Orange County Expressway Authority Refunding Revenue Bonds, Series 2013A, including those certain maturities described in the attached **Exhibit "A"** (the "Defeased Bonds"); and

WHEREAS, on June 20, 2014, CFX assumed the governance and control of the Prior Authority, including the assets personnel, contracts, obligations (including the obligations evidenced by the Defeased Bonds), liabilities, facilities and tangible and intangible property of the Prior Authority; and

WHEREAS, after thorough analysis, CFX has determined that it is in its best interest to defease the Defeased Bonds from generally available cash of CFX; and

WHEREAS, in connection with the defeasance of the Defeased Bonds, CFX desires to approve the form of and authorize the execution and delivery of an Escrow Deposit Agreement, the form of which is attached hereto as **Exhibit "B"**; and

SECTION 1. Authority for this Resolution. This Resolution is adopted and implemented pursuant to the Central Florida Expressway Authority Act, Chapter 348, Part III, Florida Statutes, as amended, and other applicable provisions of law not inconsistent with the foregoing (collectively, the "Act") and the Master Bond Resolution.

<u>SECTION 2.</u> <u>Approval of Form of Escrow Deposit Agreement; Designation of Escrow Agent; Designation of Verification Agent.</u> The form of the Escrow Deposit Agreement for the Defeased Bonds attached hereto as <u>Exhibit "B"</u> is hereby approved, subject

to the changes, insertions and omissions and filling of blanks therein as may be approved and made in such form of Escrow Deposit Agreement by the officers of CFX executing the same, in a manner consistent with the terms of this Resolution, such execution to be conclusive evidence of such approval. The Chairman, Vice Chairman, or an Authorized Officer is hereby authorized to execute the Escrow Deposit Agreement on behalf of CFX with respect to the Defeased Bonds. Wells Fargo Bank, National Association is hereby designated as the Escrow Agent under the Escrow Deposit Agreement. An Authorized Officer is hereby authorized to designate a Verification Agent to provide verification services with respect to amounts deposited with the Escrow Agent pursuant to each Escrow Deposit Agreement.

SECTION 3. Additional Funds, Accounts and Subaccounts. CFX may, by certificate of an Authorized Officer, establish separate funds, accounts or subaccounts associated with Defeased Bonds, as CFX may reasonably determine to be necessary or desirable.

Authorizations. The Chairman, Vice Chairman, Secretary, Assistant Secretaries, Board Services Coordinator, Executive Director, Chief Financial Officer or other Authorized Officer, are each hereby authorized and directed, individually or with others pursuant to their direction or authorization, to execute such other documents, certificates, instruments, contracts, and agreements whether or not expressly contemplated hereby, and to execute and do all acts and things required by the provisions of this Resolution as may be necessary for the full, punctual and complete performance of all the terms, covenants, provisions and agreements herein and therein contained, or as otherwise may be necessary or desirable to effectuate the purpose and intent of this Resolution. The Chairman, Vice Chairman, Secretary, Assistant Secretaries, Board Services Coordinator, Executive Director, and Chief Financial Officer of CFX are hereby designated as the Authorized Officers of CFX charged with the responsibility of defeasing the Defeased Bonds. If any officer of CFX who has signed any documents, certificates, instruments, contracts, and agreements in furtherance of this Resolution shall cease to hold such office before the defeasance date of the Defeased Bonds, then such signature shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery.

SECTION 5. Controlling Law; Members; Members of Authority not Liable. All covenants, stipulations, obligations and agreements of CFX contained in this Resolution shall be deemed to be covenants, stipulations, obligations and agreements of CFX to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, agent, officer or employee of CFX in his or her individual capacity, and neither the members of the Governing Body of CFX nor any official executing the Bonds shall be liable personally on the Bonds or under this Resolution or shall be subject to any personal liability or accountability by reason of the issuance of the Bonds or the execution thereof by CFX or such officers thereof.

SECTION 6. Effective Date. This Resolution shall take effect immediately upon its passage.

This Resolution was approved and adopted by the Central Florida Expressway Authority on June 10, 2021.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

	By:Buddy Dyer, Chairman
ATTEST:	
By:	
Signed:	
Based upon review by CFX Counsel actir the direction of General Counsel, this Resol	

approved as to form and legal sufficiency for the

sole use and reliance of CFX and its Board.

S-1

APPENDIX "A"

Schedule of Bonds to be Defeased

Summary of Bo	onds Defeased		
Refunding Rev	enue Bonds, Se	ries 2013A	
Serial Bonds:			
Schai Donas.			
Maturity Date	Par Amount	Coupon	CUSIP
7/1/2026	7,455,000	5.00%	686543TU3
7/1/2027	7,265,000	5.00%	686543TV1
7/1/2028	7,065,000	5.00%	686543TW9
7/1/2029	19,590,000	5.00%	686543TX7
7/1/2030	21,265,000	5.00%	686543TY5
7/1/2031	23,030,000	5.00%	686543TZ2
7/1/2032	24,875,000	5.00%	686543UA5
Term Bond			
Maturity Date	Par Amount	Coupon	CUSIP
7/1/2033	41,800,000	5.00%	686543UB3
7/1/2034	43,890,000	5.00%	686543UB3
7/1/2035	46,085,000	5.00%	686543UB3

APPENDIX "B"

Form of Escrow Deposit Agreement

ESCROW DEPOSIT AGREEMENT

THIS ESCROW DEPOSIT AGREEMENT (this "Agreement"), dated as of [*]. 2021, is entered into by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX") and WELLS FARGO BANK, N.A., a national banking association organized and existing under the laws of the United States of America (the "Escrow Agent").

WITNESSETH:

WHEREAS, CFX has previously issued its Refunding Revenue Bonds, Series 2013A (the "Series 2013A Bonds") pursuant to that certain Amended and Restated Master Bond Resolution of CFX, adopted February 3, 2003 (the "Master Bond Resolution"), as supplemented and amended from time to time, as particularly supplemented by that certain Sixteenth Supplemental Revenue Bond Resolution Authorizing the Issuance of Refunding Revenue Bonds, Series 2013A, adopted October 24, 2012 (as amended and supplemented, the "Sixteenth Supplemental Resolution," and together with the Master Bond Resolution, collectively, the "Bond Resolution"), including without limitation those certain Series 2013A Bonds set forth in the attached Schedule "A" (the "Defeased Bonds"); and

WHEREAS, CFX has determined to defease the Defeased Bonds and the Master Bond Resolution provides that the Defeased Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the Master Bond Resolution upon compliance by CFX with the provisions of Section 7.2 of the Master Bond Resolution, which provisions of the Master Bond Resolution CFX hereby represents have not been amended or supplemented; and

WHEREAS, CFX has determined to use legally available moneys which will be invested in State and Local Government Securities and Defeasance Obligations or otherwise held as uninvested cash deposited into the Escrow Deposit Fund (defined below), together with legally available moneys, if any, in order to provide for the discharge and satisfaction of the pledge, lien and other obligations of CFX under the Bond Resolution in regard to such Defeased Bonds; and

WHEREAS, the deposit of a portion of the legally available moneys into the Escrow Deposit Fund to be held by the Escrow Agent and the discharge and satisfaction of the pledge, lien and other obligations of CFX under the Bond Resolution in regard to the Defeased Bonds shall occur as a simultaneous transaction; and

WHEREAS, this Agreement is intended to effectuate such simultaneous transaction;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. **Recitals**. The recitals stated above are true and correct and incorporated herein.

- 2. **Acknowledgement of Resolution**. Receipt of a true and correct copy of the above-mentioned Bond Resolution is hereby acknowledged by the Escrow Agent. The applicable and necessary provisions of the Bond Resolution, and in particular Section 7.2 of the Master Bond Resolution, are incorporated herein by reference. Reference herein to or citation herein of any provisions of the Bond Resolution shall be deemed to incorporate the same as a part hereof in the same manner and with the same effect as if the same were fully set forth herein. Capitalized terms used in this Agreement that are not defined shall have the respective meanings set forth in the Bond Resolution.
- 3. **Establishment of Escrow Deposit Fund; Escrow Proceeds**. There is hereby created and established with the Escrow Agent a special, segregated and irrevocable Escrow Deposit Fund designated as the "Central Florida Expressway Authority Series 2013A Escrow Deposit Fund" (the "Escrow Deposit Fund"). The Escrow Deposit Fund shall be held in the custody of the Escrow Agent as a trust fund for the benefit of the Holders of the Defeased Bonds separate and apart from other funds of CFX and the Escrow Agent. The Escrow Agent hereby accepts its appointment as Escrow Agent, has established the Escrow Deposit Fund in accordance with this Agreement, and acknowledges the receipt of and deposit to the credit of the Escrow Deposit Fund, which deposit CFX hereby approves, of the sum \$[*] in immediately available funds (the "Escrow Funds").
- 4. **Sufficiency of Escrow Proceeds and Other Moneys**. CFX, based on the Verification Report of [*] (the "Verification Agent"), represents that the Escrow Funds held as uninvested cash in the Escrow Deposit Fund, available to the Escrow Agent to pay the scheduled amounts of principal and accrued interest due and to become due on the Defeased Bonds between the effective date of this Agreement and the optional redemption thereof, as described in **Schedule "B"** attached hereto. No redemption premium is owed in connection with the redemption of the Defeased Bonds. If the Escrow Funds shall be insufficient to make such redemption payments, CFX shall timely deposit in the Escrow Deposit Fund, solely from legally available funds of CFX, such additional amounts as may be required to pay the Defeased Bonds as described in **Schedule "B"** hereto. Notice of any insufficiency shall be given by the Escrow Agent to CFX as promptly as possible, but not less than five (5) days prior to a scheduled and required payment date, but the Escrow Agent shall in no manner be responsible for CFX's failure to make such deposits.
- 5. **Irrevocable Escrow**. The deposit of the Escrow Funds and Defeasance Obligations (as defined herein), if any, in the Escrow Deposit Fund shall constitute an irrevocable deposit of Escrow Funds and Defeasance Obligations, if any, in trust with the Escrow Agent solely for the payment of the principal of, plus accrued interest on the Defeased Bonds at such times and amounts as set forth in **Schedule "B"** hereto, and subject to the provisions of Section 8 hereof, the principal of and interest earnings, if any, on such Defeasance Obligations shall be used solely for such purposes.
- 6. **Redemption of Defeased Bonds**. CFX hereby directs, and the Escrow Agent hereby agrees, that it will undertake the timely transfer of money to Wells Fargo Bank, N.A., the Paying Agent for the Defeased Bonds or any successors or assigns thereto (the "Defeased Bonds Paying Agent") in accordance with **Schedule "B"** attached hereto, in order to effectuate this Agreement and to redeem the Defeased Bonds in the amounts and at the times provided in said

Schedule "B,". The liability of the Escrow Agent to make such transfer for the payment of the principal of, plus accrued interest on the Defeased Bonds pursuant to this Agreement shall be limited to the application of the Escrow Funds and Defeasance Obligations, if any, available for such purposes in the Escrow Deposit Fund.

- 7. **Investments**. Money deposited in the Escrow Deposit Fund shall be invested in State and Local Government Securities and other Defeasance Obligations (as defined in the Bond Resolution) (the "Defeasance Obligations") as described in the attached **Schedule "C"**. In addition, the Escrow Agent may subsequently sell and purchase, on behalf of and for the account of CFX, Defeasance Obligations upon written direction of CFX (which direction may be in the form of a resolution of CFX or written instructions from an Authorized Officer of CFX, as such term is defined in the Bond Resolution) and where, prior to any such reinvestment or substitution, the Escrow Agent, has received from CFX the following:
 - (1) a written opinion by an independent certified public accountant or firm of independent certified public accountants, of recognized standing, appointed by CFX, to the effect that after such investment, reinvestment or substitution the principal amount of the Defeasance Obligations, together with the interest thereon together with any cash, will be sufficient to pay the Defeased Bonds as described in **Schedule "B"** hereto; and
 - (2) a written opinion of nationally recognized bond counsel to the effect that (i) such investment will not cause the Defeased Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, its statutory predecessor, as applicable, and the regulations promulgated thereunder or otherwise cause the interest on the Defeased Bonds or the Refunding Bonds to be subject to federal income tax, and (ii) such investment does not violate any resolution of CFX relating to the Defeased Bonds.

In the event the above-referenced verification concludes that there are surplus moneys in the Escrow Deposit Fund, such surplus moneys shall be immediately released to CFX. The Escrow Deposit Fund shall continue in effect until the date upon which the Escrow Agent makes the final payment to the Defeased Bonds Paying Agent in an amount sufficient to pay the Defeased Bonds as described in **Schedule "B"** hereto, whereupon the Escrow Agent shall sell or redeem any Defeasance Obligations remaining in the Escrow Deposit Fund, and shall remit to CFX the proceeds thereof, together with all other money, if any, then remaining in the Escrow Deposit Fund.

8. **Redemption Notice**. CFX hereby informs the Escrow Agent that it has elected to call the Defeased Bonds for early redemption on the dates and at the prices described on **Schedule "B"**, plus accrued interest to the redemption date and this Escrow Agreement is being entered into subject to CFX's right to optionally redeem the Defeased Bonds. CFX hereby directs the Escrow Agent, in its capacity as the Defeased Bonds Paying Agent, to notify the Defeased Bonds Holders of such redemption and provide notice of such redemption of the Defeased Bonds as provided in the Bond Resolution. The form of the Redemption Notice shall be in the respective forms attached hereto as **Schedule "D"**.

- 9. **Defeasance of Defeased Bonds**. Concurrently with the deposit of the Escrow Funds set forth in Section 3 hereof, the Defeased Bonds shall cease to be entitled to any lien, benefit or security under the Bond Resolution, and all covenants, agreements and obligations of CFX to the holders of the Defeased Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.
- 10. **Lien on Escrow Funds and Escrow Securities**. The Escrow Deposit Fund hereby created shall be irrevocable and the holders of the Defeased Bonds shall have an express lien on all Escrow Funds and Defeasance Obligations, if any, deposited in the Escrow Deposit Fund pursuant to the terms hereof and the interest earnings thereon, if any, until paid out, used and applied in accordance with this Agreement. Neither CFX nor the Escrow Agent shall cause or permit any other lien or interest to be imposed upon the Escrow Deposit Fund.
- 11. **Amendments**. This Agreement is made for the benefit of CFX and the holders from time to time of the Defeased Bonds and it shall not be repealed, revoked, altered or amended without the written consent of all such holders and the written consent of the Escrow Agent, provided, however, that CFX and the Escrow Agent may, without the consent of, or notice to, such holders, enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of such holders and as shall not be inconsistent with the terms and provisions of this Agreement, for any one or more of the following purposes:
 - (1) to cure any ambiguity or formal defect or omission in this Agreement;
 - (2) to grant, or confer upon, the Escrow Agent for the benefit of the holders of the Defeased Bonds, any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Agent; and
 - (3) to subject to this Agreement additional funds, securities or properties.

The Escrow Agent shall be entitled to rely exclusively upon an unqualified opinion of nationally recognized bond counsel with respect to compliance with this Section 11, including the extent, if any, to which any change, modification or addition affects the rights of the holders of the Defeased Bonds, or that any instrument executed hereunder complies with the conditions and provisions of this Section 11. Notice of and copies of any revocation, alteration or amendment to this Agreement shall be provided to the rating agencies rating the Refunding Bonds.

12. **Compensation of Escrow Agent; Liability**. In consideration of the services rendered by the Escrow Agent under this Agreement, CFX is simultaneously paying to the Escrow Agent \$[*]; provided, that such fee shall not include any actual and reasonable expenses associated with the performance by the Escrow Agent at the request of CFX of any extraordinary services hereunder, which are payable by CFX upon presentation of an invoice therefor from the Escrow Agent. The Escrow Agent shall have no lien whatsoever upon any of the Escrow Funds or Defeasance Obligations, if any, in the Escrow Deposit Fund for the payment of such proper fees and expenses. CFX further agrees to indemnify and save the Escrow Agent harmless, to the extent allowed by law, against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder, and which are not due to its negligence or willful misconduct.

Anything in this Agreement to the contrary notwithstanding, in no event shall the Escrow Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action; provided however, that the Escrow Agent shall be responsible for such loss or damage caused by its gross negligence.

Whenever the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action under this Agreement, such matter may be deemed to be conclusively established by a certificate signed by an authorized officer of CFX. The Escrow Agent may conclusively rely, as to the correctness of statements, conclusions and opinions therein, upon any certificate, report, opinion or other document furnished to the Escrow Agent pursuant to any provision of this Agreement; the Escrow Agent shall be protected and shall not be liable for acting or proceeding, in good faith, upon such reliance, except for Escrow Agent's gross negligence; and the Escrow Agent shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument. The Escrow Agent may execute any of its powers and perform its duties hereunder directly or through agents or attorneys and may, consult with counsel, accountants and other skilled persons to be selected and retained by it. The Escrow Agent shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled persons, except for Escrow Agent's gross negligence. In no event shall the Escrow Agent be liable for any failure or delay in the performance of its obligations hereunder because of circumstances beyond the Escrow Agent's control, including, but not limited to, acts of God, flood, war (whether declared or undeclared), terrorism, fire, riot, strikes or work stoppages for any reason, embargo, government action, including any laws, ordinances, regulations or the like which restrict or prohibit the providing of the services contemplated by this Escrow Agreement, inability to obtain material, equipment, or communications or computer facilities, or the failure of equipment or interruption of communications or computer facilities, and other causes beyond the Escrow Agent's control whether or not of the same class or kind as specifically named above.

13. **Resignation or Removal of Escrow Agent**. The Escrow Agent, at the time acting hereunder, may at any time resign and be discharged from the duties and obligations hereby created by giving not less than thirty (30) days' written notice to CFX and mailing notice thereof, specifying the date when such resignation will take effect to the holders of all Defeased Bonds then outstanding, but no such resignation shall take effect unless a successor Escrow Agent shall have been appointed by the holders of a majority in aggregate principal amount of the Defeased Bonds then outstanding or by CFX as hereinafter provided and such successor Escrow Agent shall have accepted such appointment, in which event such resignation shall take effect immediately upon the appointment and acceptance of a successor Escrow Agent.

The Escrow Agent may be removed at any time by an instrument or concurrent instruments in writing, delivered to the Escrow Agent and to CFX and signed by the holders of a majority in aggregate principal amount of the Defeased Bonds then outstanding.

In the event the Escrow Agent hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case the Escrow Agent shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the holders of a majority in aggregate principal amount of the Defeased Bonds then outstanding by an instrument or concurrent instruments in writing, signed by such holders, or by their attorneys in fact, duly authorized in writing; provided, nevertheless, that in any such event, CFX shall appoint a temporary Escrow Agent to fill such vacancy until a successor Escrow Agent shall be appointed by the holders of a majority in aggregate principal amount of the Defeased Bonds then outstanding in the manner above provided, and any such temporary Escrow Agent so appointed by CFX shall immediately and without further act be superseded by the Escrow Agent so appointed by such holders.

In the event that no appointment of a successor Escrow Agent or a temporary successor Escrow Agent shall have been made by such holders or CFX pursuant to the foregoing provisions of this Section 13 within thirty (30) days after written notice of resignation of the Escrow Agent has been given to CFX, the holder of any of the Defeased Bonds or any retiring Escrow Agent may apply to any court of competent jurisdiction for the appointment of a successor Escrow Agent, and such court may thereupon, after such notice, if any, as it shall deem proper, appoint a successor Escrow Agent.

No successor Escrow Agent shall be appointed unless such successor Escrow Agent shall be a corporation with trust powers organized under the banking laws of the United States or any state, and shall have at the time of appointment capital and surplus of not less than \$50,000,000.

Every successor Escrow Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and to CFX an instrument in writing accepting such appointment hereunder and thereupon such successor Escrow Agent, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, and trusts, of its predecessor; but such predecessor shall nevertheless, on the written request of such successor Escrow Agent or CFX execute and deliver an instrument transferring to such successor Escrow Agent all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Escrow Agent shall deliver all securities and moneys held by it to its successor; provided, however, that before any such delivery is required to be made, all fees, advances and expenses of the retiring or removed Escrow Agent shall be paid in full. Should any transfer, assignment or instrument in writing from CFX be required by any successor Escrow Agent for more fully and certainly vesting in such successor Escrow Agent the estates, properties, rights, powers and trusts hereby vested or intended to be vested in the predecessor Escrow Agent, any such transfer, assignment and instruments in writing shall, on request, be executed, acknowledged and delivered by CFX.

Any corporation into which the Escrow Agent, or any successor to it in the trusts created by this Agreement, may be merged or converted or with which it or any successor to it may be consolidated, or transfers all or substantially all of its corporate trust business to, or any corporation resulting from any merger, conversion, consolidation or tax-free reorganization to which the Escrow Agent or any successor to it shall be a party shall be the successor Escrow Agent under this Agreement without the execution or filing of any paper or any other act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

In the event the Escrow Agent resigns or is removed pursuant to the provisions hereof, the total fee paid to the Escrow Agent as provided in Section 12 hereof shall be prorated on a straight line basis from the date hereof until the final payment is scheduled to be made for the Defeased Bonds, and the unearned portion of such fee shall be rebated and returned to CFX.

- 14. **Termination**. This Agreement, except for Section 12 hereof, shall terminate when all transfers and payments required to be made by the Escrow Agent under the provisions hereof shall have been made. Upon such termination, all moneys remaining in the Escrow Deposit Fund shall be released to CFX.
- 15. **Governing Law**. This Agreement shall be governed by the applicable laws of the State of Florida.
- 16. **Severability**. If any one or more of the covenants or agreements provided in this Agreement on the part of CFX or the Escrow Agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.
- 17. **Counterparts**. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.
- 18. **Insurer/Third-Party Beneficiary.** The Insurer shall be a third-party beneficiary hereof.
- 19. **Notices**. Any notice, authorization, request or demand required or permitted to be given in accordance with the terms of this Agreement shall be in writing and sent by registered or certified mail addressed to:

Central Florida Expressway Authority 4974 ORL Tower Road Orlando, Florida, 32807 Attention: Lisa Lumbard, Chief Financial Officer

Wells Fargo Bank, N.A. as Escrow Agent [123 S. Broad Street Suite 1500; 15th Floor MAC: Y1379-157

Philadelphia, PA 19109

Attention: Corporate Municipal and Escrow Services]

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have each caused this Escrow Deposit Agreement to be executed by their duly authorized officers and appointed officials and their seals to be hereunder affixed and attested as of the date first above written.

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

By:	
	Buddy Dyer, Chairman

IN WITNESS WHEREOF, the parties hereto have each caused this Escrow Deposit Agreement to be executed by their duly authorized officers and appointed officials and their seals to be hereunder affixed and attested as of the date first above written.

WELLS FARGO BANK, N.A

By:		
	Authorized Signatory	

SCHEDULE A

Description of Defeased Bonds Central Florida Expressway Authority

Summary of Bo	onds Defeased		
Refunding Rev	enue Bonds, Se	ries 2013A	
Serial Bonds:			
Maturity Date	Par Amount	Coupon	CUSIP
7/1/2026	7,455,000	5.00%	686543TU3
7/1/2027	7,265,000	5.00%	686543TV1
7/1/2028	7,065,000	5.00%	686543TW9
7/1/2029	19,590,000	5.00%	686543TX7
7/1/2030	21,265,000	5.00%	686543TY5
7/1/2031	23,030,000	5.00%	686543TZ2
7/1/2032	24,875,000	5.00%	686543UA5
Term Bond			
Maturity Date	Par Amount	Coupon	CUSIP
7/1/2033	41,800,000	5.00%	686543UB3
7/1/2034	43,890,000	5.00%	686543UB3
7/1/2035	46,085,000	5.00%	686543UB3

SCHEDULE B

Redemption Schedule Central Florida Expressway Authority Defeased Bonds

SCHEDULE C

Description of State and Local Government Securities and Defeasance Obligations Central Florida Expressway Authority Defeased Bonds

SCHEDULE D

Form of Notice of Redemption Central Florida Expressway Authority Refunding Revenue Bonds, Series 2013A

NOTICE OF OPTIONAL REDEMPTION

CENTRAL FLORIDA EXPRESSWAY AUTHORITY REFUNDING REVENUE BONDS, SERIES 2013A DATED DATE: June 28, 2007

Redemption Date: July 1, 20[*]

Redemption Reason/Source of Funds: Optional Redemption

Total Redemption Amount: \$[*]

CUSIP	MATURITY	RATE	AMOUNT	PRICE
[*]	July 1, 20[*]	[*]%	\$[*]	100%

NOTICE IS HEREBY GIVEN that, pursuant to Section 4.10 of that certain Sixteenth Supplemental Revenue Bond Resolution, adopted on October 24, 2012, which supplements that certain Amended and Restated Master Bond Resolution of CFX adopted on February 3, 2003, that the Central Florida Expressway Authority (the "Issuer") has exercised its right to optionally redeem its outstanding Central Florida Expressway Authority Refunding Revenue Bonds, Series 2013A, with maturity dates described above (the "2013A Bonds") on July 1, 20[*], at a redemption price of 100% of par plus accrued interest to July 1, 20[*]. On and after July 1, 20[*], interest on the 2013A Bonds described above will cease to accrue.

Payment of the redemption proceeds will be made on or after the redemption date upon presentation and surrender of the securities to Wells Fargo Bank, N.A. (the "Paying Agent"). Payment of the Redemption Price on the Bonds called for redemption will be paid only upon the presentation and surrender thereof in the following manner:

Registered/Certified Mail: Air Courier:

Wells Fargo Bank, N.A.

Corporate Trust Operations
MAC N9300-070
P.O. Box 1517

Minneapolis, MN 55480-1517

Wells Fargo Bank, N.A.

Corporate Trust Operations
MAC N9300-070
600 Fourth Street South, 7th Floor
Minneapolis, MN 55479

Interest on the principal amount designated to be redeemed shall cease to accrue on and after the Redemption Date.

REQUIREMENT INFORMATION

Wells Fargo Bank, N.A. policy does not allow the safekeeping of securities within Corporate Trust Operations for a period of longer than 30 days. Please DO NOT submit your securities for payment more than 30 days in advance of the Redemption Date. A \$25.00 wire transfer fee will be deducted from each payment requested to be made by wire. When inquiring about this redemption, please have the Bond number available. Please inform the customer service representative of the CUSIP number(s) of the affected Bond. Customer Service can be reached at 612-667-9764 or Toll Free at 1-800-344-5128.

IMPORTANT NOTICE

Under section 3406(a)(1) of the Internal Revenue Code, the Paying Agent making payment of interest or principal on securities may be obligated to withhold a percentage of the payment to a holder who has failed to furnish the Registrar with a valid taxpayer identification number, certification that the number supplied is correct, and that the holder is not subject to backup withholding. Holders of the Defeased Bonds who wish to avoid the application of these provisions should submit either a complete IRS (Internal Revenue Service) Form W-9 (use only if the holder is a U.S. person, including a resident alien), or the appropriate form W-8 (use only if you are neither a U.S. person or a resident alien), when presenting the Bonds for payment. See IRS publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities. Publication 515 and W-8 forms and instructions are available through the IRS via their web site at www.irs.gov.

* The Paying Agent shall not be held responsible for the selection or use of the CUSIP number, nor is any representation made as to its correctness indicated in the Redemption Notice. It is included solely for the convenience of the bondholders.

Dated: June 1, 2021

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: WELLS FARGO BANK, NATIONAL ASSOCIATION, PAYING AGENT

cc: Moody's Investors Service
Fitch Ratings
Standard and Poor's
Depository Trust Company

Information Services:

Municipal Securities Rulemaking Board – EMMA

Dated: June 1, 2020

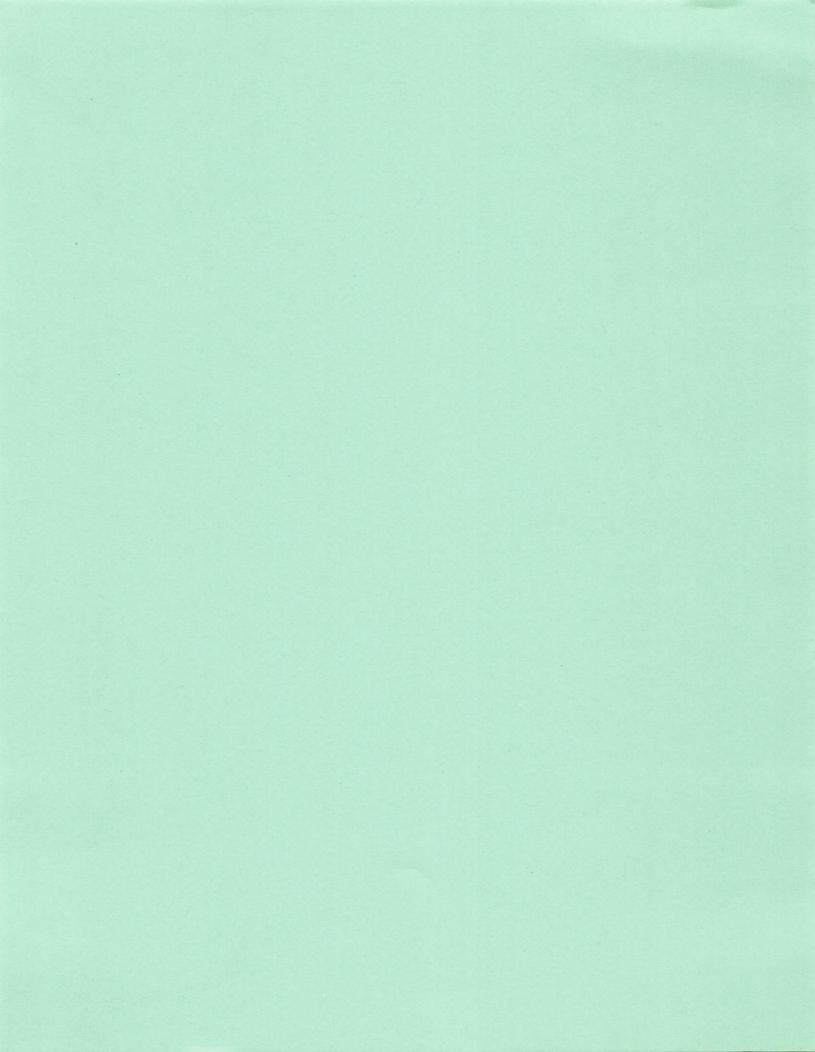
CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: WELLS FARGO BANK, NATIONAL ASSOCIATION, PAYING AGENT

._____

cc: Moody's Investors Service
Fitch Ratings
Standard and Poor's
Depository Trust Company
Financial Guaranty Insurance Company

Information Services: Municipal Securities Rulemaking Board – EMMA



	Resolution No
CENTRAL	FLORIDA EXPRESSWAY AUTHORITY
	solution Authorizing the Issuance of:
Seni	or Lien Revenue Bonds, Series 2021D
	Adopted on June 10, 2021
	Adopted on June 10, 2021
	Adopted on June 10, 2021

THIRTIETH SUPPLEMENTAL REVENUE BOND RESOLUTION

THIS THIRTIETH **SUPPLEMENTAL REVENUE** RESOLUTION OF THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY SUPPLEMENTING THE **MASTER** BOND RESOLUTION OF CFX ADOPTED ON FEBRUARY 3, 2003, AS SUPPLEMENTED; AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$290,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SENIOR LIEN REVENUE BONDS, SERIES 2021D FOR THE PURPOSES OF, AMONG OTHER THINGS, FINANCING OR REFINANCING ALL OR A PORTION OF THE COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING CERTAIN SYSTEM PROJECTS OF THE AUTHORITY: DELEGATING AND **ESTABLISHING CRITERIA** AUTHORITY DETERMINING THE DATE. INTEREST RATES. INTEREST PAYMENT DATES, PRINCIPAL AMOUNTS, PROVISIONS FOR REDEMPTION AND MATURITY SCHEDULES FOR SUCH BONDS; AUTHORIZING THE FINANCE COMMITTEE OR AN AUTHORIZED OFFICER OF CFX TO AWARD THE SALE OF SAID BONDS ON A NEGOTIATED BASIS AND APPROVING THE CONDITIONS AND CRITERIA OF SUCH SALE: APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT WITH RESPECT TO THE SALE OF SAID BONDS: APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND AUTHORIZING THE CHAIRMAN OR VICE-CHAIRMAN TO DEEM FINAL THE PRELIMINARY OFFICIAL STATEMENT **SECURITIES** FOR PURPOSES OF AND EXCHANGE COMMISSION RULE 15c2-12: AUTHORIZING THE CHAIRMAN OR VICE- CHAIRMAN TO APPROVE AND EXECUTE A FINAL OFFICIAL STATEMENT; APPROVING UNCERTIFICATED BOOK-ENTRY-ONLY REGISTRATION OF SUCH BONDS; APPROVING THE **FORM** AND **AUTHORIZING** AND EXECUTION DELIVERY OF Α CONTINUING DISCLOSURE AGREEMENT; APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A TRUSTEE, PAYING AGENT AND REGISTRAR AGREEMENT: APPOINTING A TRUSTEE, PAYING AGENT AND REGISTRAR: AUTHORIZING AND DELEGATING AUTHORITY TO SELECT THE PROVIDER OF A 2021D BOND INSURANCE POLICY AND A SERIES RESERVE ACCOUNT CREDIT FACILITY WITH RESPECT TO SUCH BONDS: AUTHORIZING CERTAIN OFFICIALS AND EMPLOYEES OF CFX TO TAKE ALL ACTIONS REQUIRED IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF

SUCH BONDS; PROVIDING CERTAIN OTHER DETAILS WITH RESPECT THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on February 3, 2003, the Central Florida Expressway Authority ("CFX") adopted that certain Master Bond Resolution Authorizing Central Florida Expressway Authority Revenue Bonds, as amended and supplemented from time to time (the "Master Bond Resolution"); and

WHEREAS, CFX desires to supplement the Master Bond Resolution to authorize the issuance of its Central Florida Expressway Authority Senior Lien Revenue Bonds, Series 2021D (the "Series 2021D Bonds") as a Series of Bonds under the Master Bond Resolution, the proceeds of which will be used to: (a) finance, refinance, or reimburse CFX for the costs of acquiring, constructing and equipping the 2021D System Projects (as hereinafter defined), (b) deposit funds or pay the premium on a 2021D Reserve Subaccount Credit Facility (as hereinafter defined) to be deposited into the 2021D Reserve Subaccount established pursuant to this Resolution, and (c) pay certain costs in connection with the issuance of the Series 2021D Bonds, including without limitation, the premium on a 2021D Bond Insurance Policy with respect to all or a portion of the Series 2021D Bonds, if any; and

WHEREAS, CFX anticipates receiving a favorable offer to purchase the Series 2021D Bonds from the Purchaser (as defined herein) to be designated by CFX and described in the Bond Purchase Agreement (as hereinafter defined), the form of which is attached hereto as **Exhibit A**; and

WHEREAS, CFX desires to approve the form of a draft Preliminary Official Statement regarding the Series 2021D Bonds, a copy of which is attached hereto as **Exhibit B** (the "Preliminary Official Statement"), and to authorize the use of the Preliminary Official Statement and a final Official Statement with respect to the offering and sale of the Series 2021D Bonds; and

WHEREAS, CFX desires to approve the form of and authorize the execution and delivery of a Continuing Disclosure Agreement with respect to the Series 2021D Bonds pursuant to Securities Exchange Commission Rule 15c2-12 ("Rule 15c2-12"), a copy of which is attached hereto as **Exhibit C** (the "Continuing Disclosure Agreement"); and

WHEREAS, CFX desires to approve the form of and the execution and delivery of a Trustee, Paying Agent and Registrar Agreement substantially in the form attached hereto as **Exhibit D**; and

WHEREAS, CFX further desires to set forth certain terms and provisions for the Series 2021D Bonds and to provide certain further matters related to the authorization, sale, issuance and delivery of the Series 2021D Bonds and other matters related thereto;

NOW, THEREFORE, BE IT RESOLVED BY THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY AS FOLLOWS:

ARTICLE I AUTHORITY AND DEFINITIONS

- **SECTION 1.01.** <u>Authority for this Resolution</u>. This Resolution is adopted and implemented pursuant to the Central Florida Expressway Authority Act, Chapter 348, Part III, Florida Statutes, as amended, and other applicable provisions of law not inconsistent with the foregoing (collectively, the "Act") and the Master Bond Resolution.
- **SECTION 1.02.** <u>Definitions</u>. All terms used herein in capitalized form, except as otherwise defined herein (in the recitals or below), shall have the meanings ascribed thereto in Section 1.2 of the Master Bond Resolution. As used herein, the following terms shall have the meanings set forth below:
- A. "2021D Bond Insurance Policy" means, if obtained with respect to all or a portion of the Series 2021D Bonds issued pursuant to the terms of this Resolution, the municipal bond insurance policy issued by the Series Bond Insurer insuring the payment when due of the principal of and interest on all or a portion of such Series 2021D Bonds, if any, subject to the terms and conditions set forth in the attached **Exhibit E**.
- B. **"2021D Construction Account"** means the subaccount described in Section 7.01 hereof.
- C. **"2021D Cost of Issuance Account"** means the subaccount described in Section 7.03 hereof.
 - D. "2021D Rebate Fund" means the subaccount described in Section 6.01 hereof.
- E. **"2021D Reserve Facility Provider"** means, if designated with respect to the Series 2021D Bonds or additional Bonds pursuant to the terms of this Resolution, the issuer of the 2021DReserve Subaccount Credit Facility.
- F. **"2021D Reserve Subaccount"** means the subaccount described in Section 7.02 hereof.
- G. "2021D Reserve Subaccount Credit Facility" means, if obtained with respect to all or a portion of the Series 2021D Bonds or additional Bonds pursuant to the terms of this Resolution, the reserve subaccount insurance policy to be issued by the 2021D Reserve Facility Provider.
- H. "2021D System Projects" means the improvements to the Expressway System to be financed in whole or in part with proceeds of the Series 2021D Bonds, which improvements are included in the Five-Year Work Plan adopted by CFX from time to time, as the same may be amended, and may include reimbursing CFX for the costs of such improvements that were paid by CFX on an interim basis from other available funds of the Authority.

- I. "Bond Counsel's Opinion" means a written opinion of an attorney or firm of attorneys selected by CFX which is of nationally recognized standing in the field of law relating to municipal bonds and the exclusion from gross income for federal income tax purposes of interest on municipal bonds.
- J. "Bond Purchase Agreement" means the Bond Purchase Agreement to be entered into between CFX and the Purchaser with respect to the purchase and sale of the Series 2021D Bonds, the proposed form of which is attached hereto as **Exhibit A**.
 - K. **"Finance Committee"** means the Finance Committee of the Authority
 - L. "Financial Advisor" means PFM Financial Advisors LLC.
- M. "Maturity Date" means the final maturity date of the Series 2021D Bonds, which date shall be the date specified in Section 4.01 hereof.
- N. "Purchaser" means, collectively, each managing underwriter designated pursuant to the terms of this Resolution for itself and as the representative of each underwriter described in the Bond Purchase Agreement. For the purposes of clarity, the term "Purchaser" as used herein shall refer to all underwriters described in the Bond Purchase Agreement.
- O. "Repository" shall have the meaning set forth in the Continuing Disclosure Agreement attached hereto as Exhibit "C".
- P. "Secretary" means the Secretary, any Assistant Secretary or the Executive Assistant of the Authority.
- Q. "Series Bond Insurer" means, if designated with respect to all or a portion of the Series 2021D Bonds issued pursuant to this Resolution, the issuer of the 2021D Bond Insurance Policy, or any successor thereto or assignee thereof, as identified in the final Official Statement for the Series 2021D Bonds issued hereunder.
- R. "Series 2021D Bonds" means the Central Florida Expressway Authority Senior Lien Revenue Bonds, Series 2021D authorized pursuant to this Resolution.

ARTICLE II FINDINGS

SECTION 2.01. Findings. CFX hereby finds, determines and declares as follows:

- A. This Resolution supplements the Master Bond Resolution.
- B. CFX owns, operates and derives revenues from the Expressway System and has determined to make certain improvements to the Expressway System.
- C. It is necessary, desirable, convenient and in the best interest of CFX that all or a portion of the Project Costs of the 2021D System Projects be financed as contemplated by this

Resolution. CFX is authorized to issue the Series 2021D Bonds for the valid public purposes set forth in this Resolution.

- D. The Series 2021D Bonds shall not be issued unless the requirements of the Master Bond Resolution for the issuance thereof as "Bonds" are satisfied on or prior to the issuance thereof. Upon the issuance thereof, the Series 2021D Bonds shall constitute Bonds under the Master Bond Resolution entitled to all the security and benefits thereof.
- E. Because of the characteristics of the Series 2021D Bonds and the current and potential volatility of the market for municipal obligations such as the Series 2021D Bonds, it is in the best interest of the Authority, upon the satisfaction of the terms and conditions set forth herein, to sell the Series 2021D Bonds by delegated, negotiated sale, allowing CFX flexibility as to when to enter the market (rather than at a specified advertised date), and greater flexibility to modify the terms of the sale in response to market conditions thereby permitting CFX to obtain optimal terms, conditions, price and interest rate for the Series 2021D Bonds.
- F. CFX anticipates receiving a favorable offer to purchase the Series 2021D Bonds from the Purchaser pursuant to the terms of the Bond Purchase Agreement, the form of which is attached hereto as **Exhibit "A"** and within the parameters set forth herein.
- G. Prior to the sale of the Series 2021D Bonds, the Purchaser will provide CFX with a disclosure statement containing the information required by Section 218.385(6), Florida Statutes, and the Bond Purchase Agreement will include a truth-in-bonding statement in accordance with Section 218.385, Florida Statutes.

ARTICLE III CONTRACTUAL OBLIGATION

In consideration of the acceptance of the Series 2021D Bonds authorized to be issued hereunder by those who shall hold the same from time to time, the Master Bond Resolution, as supplemented by this Resolution, shall be deemed to be and shall constitute a contract between CFX and the registered Bondholders of the Series 2021D Bonds. The covenants and agreements set forth herein and in the Master Bond Resolution to be performed by CFX shall be for the equal benefit, protection and security of the registered Bondholders of the Series 2021D Bonds, and the Series 2021D Bonds shall be of equal rank with the Outstanding Bonds, or any Parity Bonds hereafter issued and Qualified Swap Payments related to any Bonds issued under the Master Bond Resolution, without preference, priority or distinction over any other thereof. All applicable covenants contained in the Master Bond Resolution shall be fully applicable to the Series 2021D Bonds as if originally issued thereunder, except as otherwise specifically provided herein.

ARTICLE IV AUTHORIZATION AND ISSUANCE OF SERIES 2021D BONDS

SECTION 4.01. <u>Authorization of Issuance and General Description of Series 2021D Bonds.</u>

- A. Subject and pursuant to the provisions hereof and of the Master Bond Resolution, the Series 2021D Bonds to be known as the "Central Florida Expressway Authority Senior Lien Revenue Bonds, Series 2021D" are hereby authorized to be issued in the aggregate principal amount of not to exceed \$290,000,000, or such lesser amount as may be approved by the Chairman or Vice-Chairman of the Authority, the proceeds of which shall be used to: (a) finance, refinance, or reimburse CFX for the costs of acquiring, constructing and equipping the 2021D System Projects, (b) deposit funds or pay the premium on a 2021D Reserve Subaccount Credit Facility to be deposited into the 2021D Reserve Subaccount established pursuant to this Resolution, and (c) pay certain costs in connection with the issuance of the Series 2021D Bonds, including without limitation, the premium on the 2021D Bond Insurance Policy with respect to all or a portion of the Series 2021D Bonds. The final Maturity Date of the Series 2021D Bonds shall not be later than July 1, 2035.
- B. The Series 2021D Bonds shall be issued as Fixed Rate Bonds and may be issued as serial bonds and/or Term Bonds (or any combination thereof) and may be issued in one or more Series or subseries, as shall be determined by the Chairman, Vice-Chairman or Authorized Officer based upon the advice of the Financial Advisor, which advice shall be based upon a determination of what is reasonably anticipated to be the most cost effective to CFX given the then current market conditions for the issuance of the Series 2021D Bonds. The title and series designation of the Series 2021D Bonds may be modified by the Chairman, Vice-Chairman or Authorized Officer of CFX to accurately reflect the structure and specific terms of the Series 2021D Bonds to be issued, as provided in the Bond Purchase Agreement and the Official Statement related to the Series 2021D Bonds. Such changes in the designation, terms and provisions of the Series 2021D Bonds as authorized herein shall be evidenced by the Authority's execution and delivery of the Bond Purchase Agreement authorized pursuant to this Resolution.
- C. CFX hereby delegates to the Chairman, Vice-Chairman or an Authorized Officer the authority to make the foregoing determinations, provided that each of the parameters set forth in this Resolution are satisfied to the extent that such parameters apply to the Series 2021D Bonds to be issued. The Chairman, Vice-Chairman or an Authorized Officer may rely on the certification of the Financial Advisor regarding compliance with the above-referenced parameters.
- D. Notwithstanding anything contained herein to the contrary, each Series of Bonds hereunder shall not be issued until CFX has complied with the requirements for the issuance thereof as Bonds under the Master Bond Resolution, and any requirements or delegation parameters set forth herein. The Chairman, Vice Chairman or Authorized Officer of CFX may conclusively rely upon the opinion of its counsel as to any such legal requirements, and a certification of its Financial Advisor in determining whether any financial delegation parameters set forth herein are satisfied.
- E. In connection with the issuance of the Series 2021D Bonds, all or a portion of such Series 2021D Bonds issued hereunder may be secured by a 2021D Bond Insurance Policy issued by the Series Bond Insurer, and the Debt Service Reserve Requirement for the Series 2021D Bonds may be satisfied by deposit into the 2021D Reserve Subaccount or Debt Service Reserve Account referenced in Section 7.02 hereof of funds (including without limitation, proceeds of the Series 2021D Bonds) and/or the 2021D Reserve Subaccount Credit Facility

issued by the 2021D Reserve Facility Provider in an amount equal to the Debt Service Reserve Requirement for the Series 2021D Bonds. The decision whether to obtain a 2021D Bond Insurance Policy for all or a portion of the Series 2021D Bonds shall be made by the Chairman, Vice Chairman or Authorized Officer based upon the advice of the Financial Advisor, which advice shall be based upon a determination of what is reasonably anticipated to be the most cost effective to CFX given the then current market conditions for the sale and issuance of the Series 2021D Bonds.

F. The Series 2021D Bonds shall be dated the date of their original issuance and delivery, and shall mature on or before the Maturity Date, subject to prior redemption as provided in Sections 4.10 and 4.11 hereof.

SECTION 4.02. <u>Denominations, Numbers, Letters</u>. The Series 2021D Bonds shall be issued solely in the form of fully registered bonds in the denomination of \$5,000 and integral multiples thereof. The Series 2021D Bonds shall be numbered consecutively from 1 upward and the letter of the series designation prefixed to the number. The Series 2021D Bonds may be issued in one or more subseries bearing different CUSIP numbers and may bear such additional designations, if any, as may be set forth in the Bond Purchase Agreement and the Official Statement.

SECTION 4.03. Place of Payment; Trustee, Paying Agent and Registrar.

- The principal of, and premium, if any, or interest on the Series 2021D Bonds shall be payable upon presentation and surrender at the corporate trust operations office in Minneapolis, Minnesota of Wells Fargo Bank, N.A. or its successors or assigns, and such banking institution is hereby appointed as Trustee, Paying Agent and Registrar for the Series 2021D Bonds. The principal and redemption price of each Series 2021D Bond shall also be payable at any other place which may be provided for such payment by the appointment of any other Paying Agent or Paying Agents as permitted by the Master Bond Resolution. Interest on the Series 2021D Bonds shall be paid by check or draft drawn upon the Paying Agent and mailed to the registered Bondholders of the Series 2021D Bonds at the addresses as they appear on the registration books maintained by the Trustee, as Registrar, at the close of business on the 15th day (whether or not a Business Day) of the month next preceding the interest payment date (the "Record Date"), irrespective of any transfer or exchange of such Series 2021D Bonds subsequent to such Record Date and prior to such interest payment date, unless CFX shall be in default in payment of interest due on such interest payment date. In the event of any such default, such defaulted interest shall be payable to the Bondholders in whose names such Series 2021D Bonds are registered at the close of business on a special record date for the payment of such defaulted interest as established by notice deposited in the U.S. mails, postage prepaid, by the Trustee to the registered Bondholders of such Series 2021D Bonds not less than fifteen (15) days preceding such special record date. Such notice shall be mailed to the Bondholders in whose names the Series 2021D Bonds are registered at the close of business on the fifth (5th) day (whether or not a Business Day) preceding the date of mailing.
- B. If the date for payment of the principal of, premium, if any, or interest on the Series 2021D Bonds is not a Business Day, then the date for such payment shall be the next

succeeding Business Day, and payment on such Business Day shall have the same force and effect as if made on the nominal date of payment, without accrual of additional interest.

C. Notwithstanding the foregoing, or anything provided in the Master Bond Resolution to the contrary, a registered Bondholder of \$1,000,000 or more in principal amount of Series 2021D Bonds may provide for payment of principal, redemption price and interest with respect to such Series 2021D Bonds by wire transfer in immediately available funds on the applicable payment date by written request submitted (i) in the case of principal or redemption price, to the Trustee or Paying Agent with the presentation or surrender of the Series 2021D Bonds to be paid, and (ii) in the case of interest, to the Trustee, as Registrar, at least fifteen (15) Business Days prior to the applicable Record Date, specifying the account number, address and other relevant information as may be reasonably required by the Trustee or Paying Agent. In the case of interest, the notice may provide that it will remain in effect for later interest payments until changed or revoked by another written notice. Each payment of interest, principal and premium, whether by check or by wire transfer shall include or be accompanied with a statement of the CUSIP number and amount of the payment pertaining to each CUSIP number (if more than one CUSIP number).

SECTION 4.04. Registration and Exchange.

- The registration of any Series 2021D Bond may be transferred upon the registration books as provided in the Master Bond Resolution. So long as the Series 2021D Bonds are issued solely in fully registered form and notwithstanding anything contained in the Master Bond Resolution to the contrary, the provisions of the Master Bond Resolution with respect to the interchangeability of registered bonds for coupon bonds shall not be applicable to the Series 2021D Bonds. In all cases of a transfer of a Series 2021D Bond, the Registrar shall at the earliest practical time in accordance with the terms hereof enter the transfer of ownership in the registration books and shall deliver in the name of the new transferee or transferees a new fully registered Series 2021D Bond or Bonds of the same Series, maturity and of authorized denomination or denominations, for the same aggregate principal amount and payable from the same source of funds. CFX and the Registrar may charge the registered owner for the registration of every transfer or exchange of a Series 2021D Bond an amount sufficient to reimburse them for any tax, fee or any other governmental charge required (other than by the Authority) to be paid with respect to or in connection with any such transfer or exchange, and may require that such amounts be paid before any such new Series 2021D Bond shall be delivered.
- B. CFX and the Trustee, Paying Agent and Registrar may deem and treat the registered Bondholder of any Series 2021D Bond as the absolute Bondholder of such Series 2021D Bond for the purpose of receiving payment of the principal thereof and the interest and premiums, if any, thereon. Subject to the provisions of Section 4.04A. hereof, a Series 2021D Bond may be exchanged at the office of the Registrar for a like aggregate principal amount of Series 2021D Bonds, of other authorized denominations of the same maturity.

SECTION 4.05. Terms of Series 2021D Bonds. The Series 2021D Bonds shall be dated the date of delivery thereof, shall bear interest payable from such date, payable semiannually on January 1 and July 1 of each year, commencing on January 1, 2022 (or such

other date as the Finance Committee or an Authorized Officer shall approve), at the rates and shall mature and be subject to optional and mandatory redemption substantially in accordance with the maturity and redemption schedules and terms, all as set forth or incorporated by reference in the Bond Purchase Agreement, as such interest payment dates, rates, maturity schedules and redemption schedules and terms may be approved by the Chairman, Vice-Chairman, or an Authorized Officer based upon the advice of the Financial Advisor, provided that the requirements set forth in Section 4.01 hereof have been satisfied.

SECTION 4.06. <u>Source of Payment</u>. The Series 2021D Bonds shall be "Bonds" as such term is used in the Master Bond Resolution. The scheduled payment of principal of, interest on and redemption premium, if any, with respect to the Series 2021D Bonds and all other payments required pursuant to the terms of the Master Bond Resolution and the terms hereof will be payable solely from the System Pledged Revenues, on a parity with any Bonds issued under the Master Bond Resolution whether currently Outstanding or hereinafter issued and any Qualified Swap Payments related to such Bonds, if any.

THE **PAYMENT** THEREOF WILL NOT **CONSTITUTE** A **GENERAL** INDEBTEDNESS OF THE AUTHORITY, BREVARD COUNTY, FLORIDA, LAKE COUNTY, FLORIDA, ORANGE COUNTY, FLORIDA, OSCEOLA COUNTY, FLORIDA, SEMINOLE COUNTY, FLORIDA (COLLECTIVELY, THE "COUNTIES"), THE CITY OF ORLANDO, FLORIDA (THE "CITY") OR ANY OTHER POLITICAL SUBDIVISION IN THE STATE OF FLORIDA, WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER PROVISION OR LIMITATION, AND IT IS EXPRESSLY AGREED THAT THE SERIES 2021D BONDS AND THE OBLIGATION EVIDENCED THEREBY SHALL NOT CONSTITUTE NOR BE A LIEN UPON ANY PROPERTY OF THE COUNTIES, THE CITY, OR THE AUTHORITY, EXCEPT THE SYSTEM PLEDGED REVENUES DERIVED FROM THE EXPRESSWAY SYSTEM AND OTHER MONEYS PLEDGED THEREFOR TO THE EXTENT PROVIDED IN THE RESOLUTION. NEITHER THE GENERAL FAITH AND CREDIT OF THE AUTHORITY, THE COUNTIES, THE CITY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF OR THE TAXING POWER OF THE COUNTIES, THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF THE SERIES 2021D BONDS OR ANY PREMIUM OR INTEREST THEREON. CFX HAS NO TAXING POWER. NO REGISTERED OWNER OF THE SERIES 2021D BONDS SHALL EVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE COUNTIES, THE CITY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF FOR THE PAYMENT OF THE PRINCIPAL OF OR ANY INTEREST OR PREMIUM DUE THEREON, AND CFX IS NOT AND SHALL NEVER BE UNDER ANY OBLIGATION TO PAY THE PRINCIPAL OF, INTEREST ON OR ANY PREMIUM WITH RESPECT TO THE SERIES 2021D BONDS EXCEPT FROM THE SYSTEM PLEDGED REVENUES DERIVED FROM THE EXPRESSWAY SYSTEM AND OTHER MONEYS PLEDGED THEREFOR, IN THE MANNER PROVIDED IN THE RESOLUTION.

No recourse shall be had for the payment of the principal of or premium or interest on the Series 2021D Bonds or for any claim based thereon or on the Master Bond Resolution or this Resolution or otherwise with respect thereto or hereto against any board member, officer or

employee of CFX or any person executing the Series 2021D Bonds and nothing in the Series 2021D Bonds, the Master Bond Resolution or herein shall create or give rise to any personal liability of any such board member, officer or employee of the Authority, the Counties, the City or other person executing the Series 2021D Bonds.

SECTION 4.07. <u>Application of Proceeds of Series 2021D Bonds</u>. The proceeds of the Series 2021D Bonds shall be applied simultaneously with the delivery of such Bonds for the purposes described in this Resolution and pursuant to a certificate of an Authorized Officer or a closing memorandum executed in connection with the issuance and delivery of the Series 2021D Bonds.

SECTION 4.08. Form of Series 2021D Bonds. Subject to the provisions of the Master Bond Resolution, the Series 2021D Bonds and the Registrar's certificate of authentication with respect thereto shall be in substantially the following form, with such insertions or omissions, endorsements and variations as may be permitted by the Master Bond Resolution and the Act, including changes as shall be necessary to reflect differences between the Series 2021D Bonds, and approved by the Chairman or Vice-Chairman of the Authority, execution and delivery of the Series 2021D Bonds to be conclusive evidence of such approval.

[Remainder of this page intentionally left blank]

[Form of Bond]

No.	
INO.)

UNITED STATES OF AMERICA STATE OF FLORIDA CENTRAL FLORIDA EXPRESSWAY AUTHORITY SENIOR LIEN REVENUE BONDS, SERIES 2021D

Interest Rate	Maturity Date	Original Dated Date	CUSIP No.
%	July 1, 2035	, 2021	

REGISTERED OWNER: CEDE & CO.	
PRINCIPAL AMOUNT:	DOLLARS

The Central Florida Expressway Authority (the "Authority"), for value received, hereby promises to pay to the Registered Owner identified above, or to registered assigns or legal representatives, on the Maturity Date identified above (or earlier as hereinafter provided), but solely from the sources hereinafter described, the Principal Amount identified above, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts upon presentation and surrender hereof at the corporate trust operations office in Minneapolis, Minnesota of Wells Fargo Bank, N. A., or its successors or assigns, as Trustee, Paying Agent and Registrar (hereinafter referred to as the "Registrar" or the "Trustee"), and to pay, solely from such sources, interest on the Principal Amount from the Original Dated Date identified above, or from the most recent interest payment date to which interest has been paid, at the Interest Rate per annum identified above, until payment of the outstanding Principal Amount hereof, or until provision for the payment thereof has been duly provided for, such interest being payable semiannually on the first day of January and the first day of July of each year, commencing on January 1, 2022. Except as otherwise provided in the Resolution (as defined below), interest will be paid by check or draft mailed to the Registered Owner hereof at his address as it appears on the registration books of CFX maintained by the Registrar at the close of business on the fifteenth (15th) day (whether or not a Business Day) of the month next preceding the interest payment date (the "Record Date"), irrespective of any transfer or exchange of such Bond subsequent to such Record Date and prior to such interest payment date, unless CFX shall be in default in payment of interest due on such interest payment date. In the event of any such default, such defaulted interest shall be payable to the person in whose name such Bond is registered at the close of business on a special record date for the payment of such defaulted interest as established by notice deposited in the U.S. Mail, postage prepaid, by the Trustee to the Registered Owners of Bonds not less than fifteen (15) days preceding such special record date. Such notice shall be mailed to the persons in whose names the Bonds are registered at the close of business on the fifth (5th) day (whether or not a Business Day) preceding the date of mailing.

This Bond is one of a duly authorized issue of Bonds designated "Central Florida Expressway Authority Senior Lien Revenue Bonds, Series 2021D" (this "Bond" or the "Series 2021D Bonds") issued by CFX under authority of and pursuant to Chapter 348, Part III, Florida Statutes, as amended, and under and pursuant to an Amended and Restated Master Bond

Resolution of CFX adopted on February 3, 2003, as supplemented from time to time and in particular, as supplemented by that certain Thirtieth Supplemental Revenue Bond Resolution adopted by CFX on June 10, 2021 (collectively, the "Resolution"). Capitalized terms used and not defined herein shall have the meanings ascribed thereto in the Resolution. As provided in the Resolution, this Bond and the interest and premium, if any, hereon are payable solely from and secured by a pledge of the System Pledged Revenues of the Expressway System (each as defined in the Resolution) owned and operated by the Authority, upon deposit of such System Pledged Revenues into the System General Revenue Fund established by the Resolution, and other funds held or set aside under the Resolution (excluding the Rebate Fund). Such pledge is on parity with Bonds issued from time to time under the Resolution (whether currently Outstanding or hereinafter issued) and any Qualified Swap Payments related to such Bonds. No Supplemental Payments are pledged to secure the repayment of the Series 2021D Bonds. Reference is hereby made to the Resolution for the provisions, among others, relating to the terms of, lien on and security for the Series 2021D Bonds, the custody and application of the proceeds of the Series 2021D Bonds, the rights and remedies of the registered owners of the Series 2021D Bonds and the extent of and limitations on the Authority's rights, duties and obligations, the provisions permitting the issuance of additional Parity Bonds, and the provisions permitting amendments to the Resolution with and without consent of the Bondholders of the Series 2021D Bonds, to all of which provisions the Registered Owner hereof for himself and his successors in interest irrevocably assents by acceptance of this Bond. Copies of the Resolution are on file and available at the principal office of the Registrar.

THIS BOND SHALL NOT BE OR CONSTITUTE A GENERAL INDEBTEDNESS OF THE AUTHORITY, BREVARD COUNTY, FLORIDA, LAKE COUNTY, FLORIDA, ORANGE COUNTY, FLORIDA, OSCEOLA COUNTY, FLORIDA, SEMINOLE COUNTY, FLORIDA (COLLECTIVELY, THE "COUNTIES"), THE CITY OF ORLANDO, FLORIDA (THE "CITY") OR ANY OTHER POLITICAL SUBDIVISION IN THE STATE OF FLORIDA, WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER PROVISION OR LIMITATION, AND IT IS EXPRESSLY AGREED THAT THE SERIES 2021D BONDS AND THE OBLIGATION EVIDENCED THEREBY SHALL NOT CONSTITUTE NOR BE A LIEN UPON ANY PROPERTY OF THE COUNTIES, THE CITY, OR THE AUTHORITY, EXCEPT THE SYSTEM PLEDGED REVENUES DERIVED FROM THE EXPRESSWAY SYSTEM AND OTHER MONEYS PLEDGED THEREFOR TO THE EXTENT PROVIDED IN THE RESOLUTION. NEITHER THE GENERAL FAITH AND CREDIT OF THE AUTHORITY, THE COUNTIES, THE CITY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF OR THE TAXING POWER OF THE COUNTIES, THE CITY, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF THE SERIES 2021D BONDS OR CFX HAS NO TAXING POWER. ANY PREMIUM OR INTEREST THEREON. REGISTERED OWNER OF THE SERIES 2021D BONDS SHALL EVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE COUNTIES, THE CITY, THE STATE OF FLORIDA OR ANY POLITICAL SUBDIVISION THEREOF FOR THE PAYMENT OF THE PRINCIPAL OF OR ANY INTEREST OR PREMIUM DUE THEREON, AND CFX IS NOT AND SHALL NEVER BE UNDER ANY OBLIGATION TO PAY THE PRINCIPAL OF, INTEREST ON OR ANY PREMIUM WITH RESPECT TO THIS SERIES 2021D BOND EXCEPT FROM THE SYSTEM PLEDGED REVENUES DERIVED FROM THE EXPRESSWAY SYSTEM AND

OTHER MONEYS PLEDGED THEREFOR, IN THE MANNER PROVIDED IN THE RESOLUTION. No recourse shall be had for the payment of the principal of or premium or interest on the Series 2021D Bonds or for any claim based thereon or on the Master Bond Resolution or the Resolution or otherwise with respect thereto or hereto against any board member, officer or employee of CFX or any person executing the Series 2021D Bonds and nothing in the Series 2021D Bonds, the Master Bond Resolution or herein shall create or give rise to any personal liability of any such board member, officer or employee of the Authority, the Counties, the City or other person executing the Series 2021D Bonds.

The proceeds of the Series 2021D Bonds will be used to: (a) finance, refinance, or reimburse CFX for the costs of acquiring, constructing and equipping the 2021D System Projects, (b) deposit funds or pay the premium on a 2021D Reserve Subaccount Credit Facility to be deposited into the 2021D Reserve Subaccount established pursuant to the Resolution, and (c) pay certain costs in connection with the issuance of the Series 2021D Bonds including without limitation, the premium on the 2021D Bond Insurance Policy, if any, with respect to all or a portion of the Series 2021D Bonds. As provided in the Resolution, additional Bonds may be issued from time to time pursuant to supplemental resolutions in one or more series, in various principal amounts, may mature at different times, may bear interest at different rates and otherwise may vary as provided in the Resolution. The aggregate principal amount of Bonds which may be issued under the Resolution is not limited except as provided in the Resolution, and all Bonds issued and to be issued under the Resolution (including any Qualified Swap Payments related thereto) will be equally secured by the pledge and covenants made therein, except as otherwise expressly provided or permitted in the Resolution.

The Series 2021D Bonds maturing on ______, 20__ are subject to mandatory redemption in part prior to maturity in accordance with the amortization installments at redemption prices equal to one hundred percent (100%) of the principal amount thereof, plus accrued interest to the date of redemption, on _____ 1 in the following years and in the following principal amounts:

Year	Principal Amount
20	\$
20	
20	
20	
2035 (maturity)	

The Series 2021D Bonds maturing before July 1, 2035 are not subject to optional redemption prior to maturity. The Series 2021D Bonds maturing on and after July 1, 2035 are subject to redemption prior to their maturity at the option of CFX upon published notice as hereinafter provided, as a whole or in part at anytime, on and after July 1, 2035, at the respective redemption prices (expressed as percentages of the principal amount of the Series 2021D Bonds or portions thereof to be redeemed) set forth below, together with accrued interest to the redemption date:

Period During which Redeemed Redemption

(both dates inclusive) Price

Notwithstanding anything in the Resolution to the contrary, at any time the Series 2021D Bonds are subject to optional redemption pursuant to the Resolution, all or a portion of the Series 2021D Bonds to be redeemed as specified in the notice of redemption, maybe purchased by the Trustee at the direction of CFX on the date which would be the redemption date if such Series 2021D Bonds were redeemed rather than purchased in lieu thereof at a purchase price equal to the redemption price which would have been applicable to such Series 2021D Bonds on the redemption date for the account of and at the direction of CFX who shall give the Trustee notice at least ten (10) days prior to the scheduled redemption date accompanied by Bond Counsel's Opinion to the effect that such purchase will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Series 2021D Bonds. In the event the Trustee is so directed to purchase Series 2021D Bonds in lieu of redemption, no notice to the Registered Owners of Bonds to be so purchased (other than the notice of redemption otherwise required hereunder) shall be required, and the Trustee shall be authorized to apply to such purchase the funds which would have been used to pay the redemption price for such Series 2021D Bonds if such Series 2021D Bonds had been redeemed rather than purchased. Each Series 2021D Bond so purchased shall not be canceled or discharged and shall be registered in the name of the Authority. Series 2021D Bonds to be purchased hereunder which are not delivered to the Trustee on the purchase date shall be deemed to have been so purchased and not redeemed on the purchase date and shall cease to accrue interest as to the former Registered Owner on the purchase date.

If less than all of the Series 2021D Bonds are to be redeemed or purchased in lieu thereof, the maturities and principal amounts of each such maturity or a subseries thereof to be redeemed or purchased shall be selected by the Authority, and in the event less than all of the Series 2021D Bonds of an entire maturity are redeemed or purchased, the Series 2021D Bonds of such maturity shall be selected at random by the Trustee in such manner as the Trustee in its discretion may deem fair and appropriate; provided, however, that the portion of any Series 2021D Bond of a denomination of more than \$5,000 to be redeemed or purchased shall be in the principal amount of \$5,000 or any integral multiple thereof, and that in selecting portions of such Series 2021D Bonds for redemption or purchase, the Trustee shall treat each such Series 2021D Bond as representing that number of Series 2021D Bonds of \$5,000 denomination and integral multiples thereof which is obtained by dividing the principal amount of such Series 2021D Bond to be redeemed or purchased in part by \$5,000.

The Series 2021D Bonds are payable upon redemption at the above-mentioned offices of the Registrar. Notice of optional redemption shall be published not less than twenty (20) days prior to the redemption date, all in the manner and upon the terms and conditions set forth in the Resolution. The Series 2021D Bonds or portions thereof specified in said notice to be optionally redeemed shall become due and payable at the applicable redemption price on the redemption date therein designated, and if, on the redemption date, moneys for the payment of the redemption price of all the Series 2021D Bonds to be optionally redeemed, together with interest to the redemption date, shall be available for such payment on said date, then from and after the

redemption date interest on such Series 2021D Bonds shall cease to accrue and become payable to the registered owners entitled to payment thereof. No redemption notice shall be required with respect to the Series 2021D Bonds that are subject to mandatory redemption.

If the date for payment of the principal of, premium, if any, or interest on this Bond shall be a day which is not a Business Day pursuant to the Resolution, then the date for such payment shall be the next succeeding Business Day and payment on such succeeding Business Day shall have the same force and effect as if made on the nominal date of payment.

This Bond is transferable, as provided in the Resolution, only upon the books of CFX kept for that purpose at the above-mentioned office of the Registrar by the Registered Owner hereof in person, or by his duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or his duly authorized attorney, and thereupon a new registered Bond or Bonds, of the same series and maturity and in the same aggregate principal amount, shall be issued to the transferee in exchange therefor as provided in the Resolution, and upon payment of the charges therein prescribed, provided that neither CFX nor the Registrar is required to exchange or transfer this Bond for a period of twenty (20) days next preceding any selection of Series 2021D Bonds to be redeemed and thereafter until after the first publication or mailing of any notice of redemption, and, in addition, for a period of twenty (20) days preceding an interest payment date. The Authority, the Trustee, the Registrar and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and the interest due hereon and for all other purposes. The Series 2021D Bonds are issuable in the form of fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple of \$5,000.

By purchasing and accepting delivery of the Series 2021D Bonds, the Bondholders of the Series 2021D Bonds shall be deemed to have consented to amend the terms and provisions of the Lease Purchase Agreement to discontinue the Department's payment obligations for operations and/or maintenance of certain portions of the Expressway System effective on July 1, 2028. CFX shall comply with the terms of the Lease Purchase Agreement in connection with any additional modifications, amendments or supplements to the Lease Purchase Agreement.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, to happen, and to be performed precedent to and in connection with the issuance of this Bond, exist, have happened and have been performed in regular and due form and time as required by the laws and Constitution of the State of Florida applicable thereto, and that the issuance of this Bond is in full compliance with all constitutional and statutory limitations, provisions and restrictions.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication endorsed hereon shall have been duly executed by the Trustee.

IN WITNESS WHEREOF, the Central Florida Expressway Authority has caused this Series 2021D Bond to be executed in its name and on its behalf by the manual or facsimile signature of the Chairman (or Vice-Chairman) of the Central Florida Expressway Authority, and its corporate seal (or a facsimile thereof) to be affixed, imprinted, engraved or otherwise reproduced hereon and attested by the manual or facsimile signature of the Secretary, Assistant Secretary or Executive Assistant.

	CENTRAL FLORIDA EXPRESSWAY AUTHORITY
(SEAL)	
	By:

ATTEST:	
By:	
Its	
	R'S CERTIFICATION THENTICATION
This Bond is one of the Bonds of the	e issue described in the within-mentioned Resolution.
Wells Fargo Ba	ank, N.A., AS REGISTRAR
By Authorized Sig	nature
Date of Authentication:,	2021.

BOND INSURANCE

, has delivered its
insurance policy (the "Policy" with respect to the scheduled payments of
principal of and interest on this Bond to Wells Fargo Bank, National Association, as paying
agent on behalf of the holders of the Bonds (the "Paying Agent"). Such Policy is on file and
available for inspection at the principal office of the Paying Agent and a copy thereof may be
obtained from or the Paying Agent. All payments required to be
made under the Policy shall be made in accordance with the provisions thereof. The owner of
this Bond acknowledges and consents to the subrogation rights of as
more fully set forth in the Policy.]
more runy see form in the Foliey.
ASSIGNMENT
For value received, the undersigned sells, assigns and transfers unto
(PLEASE PRINT OR TYPEWRITE NAME, SOCIAL SECURITY NUMBER. OR
OTHER IDENTIFY NUMBER OF ASSIGNEE
AND ADDRESS INCLUDING ZIP CODE OF ASSIGNEE)
the
within Bond of the Central Florida Expressway Authority and hereby irrevocably constitutes and appoints
attorney to transfer the said Bond on
the Books kept for registration thereof, with full power of substitution in the premises.
Dated:, 20
Signature guaranteed:
NOTICE: Signature must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever and the Social Security Number or other identifying number of such assignee must be supplied.

The following abbreviations, when used in the inscription on the face of the within bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common
TEN ENT - as tenants in the entireties
JT TEN - as joint tenants with right of survivorship and not as tenants in common
UNIF TRANS MIN ACT(Cust.)
Custodian for
under Uniform Transfer to Minors Act of
(State)
Additional abbreviations may also be used though not in list above.
[End of Bond Form]

SECTION 4.09. Book-Entry Only System.

The Series 2021D Bonds when initially issued shall be registered in the name of Cede & Co., or such other name as may be requested by an authorized representative of the Depository Trust Company ("DTC"), as nominee of DTC, in the form of a single fully registered Bond for each maturity of the Series 2021D Bonds. DTC is hereby appointed initial securities depository for the Series 2021D Bonds, subject to the provisions of subsection (B) of this Section. So long as DTC or its nominee, as securities depository, is the Bondholder of Series 2021D Bonds, individual purchases of beneficial ownership interests in such Series 2021D Bonds may be made only in book form by or through DTC participants, and purchasers of such beneficial ownership interest in Series 2021D Bonds will not receive physical delivery of bond certificates representing the beneficial ownership interests purchased. So long as DTC or its nominee, as securities depository, is the Bondholder of Series 2021D Bonds, payments of principal and the redemption price of and premium (if any) and interest on such Series 2021D Bonds will be made by wire transfer to DTC or its nominee, or otherwise pursuant to DTC's rules and procedures as may be agreed upon by the Authority, the Paying Agent and DTC. Transfers of principal, redemption price and interest payments to DTC participants will be the responsibility of DTC. Transfers of such payments to beneficial owners of Series 2021D Bonds by DTC participants will be the responsibility of such participants, indirect participants and other nominees of such beneficial owners. So long as DTC or its nominee, as securities depository, is the Bondholder of Series 2021D Bonds, CFX shall send, or cause the Paying Agent to send, or take timely action to permit the Paying Agent to send to DTC notice of redemption of such Series 2021D Bonds and any other notice required to be given to Bondholders of Series 2021D Bonds pursuant to the Resolution, as supplemented herein, in the manner and at the times prescribed by the Resolution, as supplemented herein, or otherwise pursuant to DTC's rules and procedures or as may be agreed upon by the Authority, the Paying Agent (if applicable) and DTC.

Neither CFX nor any fiduciary shall have any responsibility or obligation to the DTC participants, beneficial owners or other nominees of such beneficial owners for (i) sending transaction statements; (ii) maintaining, supervising or reviewing, or the accuracy of, any records maintained by DTC or any DTC participant, indirect participant or other nominees of such beneficial owners; (iii) payment or the timeliness of payment by DTC to any DTC participant, indirect participant or other nominees of beneficial owners to any beneficial owner of any amount due in respect of the principal or the redemption price of or interest on Series 2021D Bonds; (iv) delivery or timely delivery by DTC to any DTC participant or indirect participant, or by any DTC participant, indirect participant or other nominees of beneficial owners to any beneficial owners of any notice (including notice of redemption) or other communication which is required or permitted under the terms of the Resolution, as supplemented herein to be given to Bondholders of Series 2021D Bonds; (v) the selection of the beneficial owners to receive payment in the event of any partial redemption of Series 2021D Bonds; or (vi) any action taken by DTC or its nominee as the Bondholder of the Series 2021D Bonds.

Notwithstanding any other provisions of the Master Bond Resolution to the contrary, the Authority, the Paying Agent and each other fiduciary shall be entitled to treat and consider the Bondholder in whose name each Series 2021D Bond is registered in the registration books of as

the absolute Bondholder of such Series 2021D Bond for the purpose of payment of the principal of or the redemption price of and premium (if any) and interest on such Series 2021D Bond, for the purpose of giving notices of redemption and other matters with respect to such Series 2021D Bond, for the purpose of registering transfers with respect to such Series 2021D Bond, and for all other purposes whatsoever. The Paying Agent shall pay all principal and the redemption price of and premium (if any) and interest on the Series 2021D Bonds only to or upon the order of the respective Bondholders, as shown on the registration books as provided in the Master Bond Resolution, as supplemented by this Resolution, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to payment of principal or the redemption price of and premium (if any) and interest on the Series 2021D Bonds to the extent of the sum or sums so paid.

Notwithstanding any other provisions of the Master Bond Resolution, as supplemented by this Resolution, so long as any Series 2021D Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal or the redemption price of and interest on such Series 2021D Bond and all notices with respect to such Series 2021D Bond shall be made and given, respectively, pursuant to DTC rules and procedures.

Payments by the DTC participants to beneficial owners will be governed by standing instructions and customary practices, as is now the case with municipal securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such DTC participant and not of DTC, the Paying Agent or the Authority, subject to any statutory and regulatory requirements as may be in effect from time to time.

Provisions similar to those contained in this subsection (A) may be made by CFX in connection with the appointment by CFX of a substitute securities depository, or in the event of a successor to any securities depository.

- B. CFX shall issue Series 2021D Bond certificates (the "Replacement Bonds") directly to the beneficial owners of the Series 2021D Bonds, or their nominees, in the event that DTC determines to discontinue providing its services as securities depository with respect to such Series 2021D Bonds, at any time by giving notice to the Authority, and CFX fails to appoint another qualified securities depository to replace DTC. In addition, CFX shall issue Replacement Bonds directly to the beneficial owners of the Series 2021D Bonds, or their nominees, in the event CFX discontinues use of DTC as securities depository at any time upon determination by the Authority, in its sole discretion and without the consent of any other person, that beneficial owners of the Series 2021D Bonds shall be able to obtain certificated Series 2021D Bonds.
- C. In connection with any notice of redemption provided in accordance with the Master Bond Resolution, as supplemented by this Resolution, notice of such redemption shall also be sent by the Paying Agent by first class mail, overnight delivery service or other secure overnight means, postage prepaid, to any Rating Agency then maintaining a rating with respect to the Series 2021D Bonds and to the Repository in accordance with applicable rules and regulations then in effect, in each case not later than the mailing of notice required herein.

SECTION 4.10. Redemption Prices and Terms: Purchase in Lieu of Redemption.

- A. Optional Redemption. The Series 2021D Bonds shall be subject to such optional redemption provisions as shall be subsequently provided in the final Official Statement approved by the Chairman or the Vice-Chairman pursuant to the authority provided herein.
- B. Mandatory Redemption. The Series 2021D Bonds shall also be subject to mandatory redemption to satisfy sinking fund installments as shall be provided in the final Official Statement approved by the Chairman or Vice-Chairman pursuant to the authority and guidelines described herein.
- Purchase in Lieu of Optional Redemption. Notwithstanding anything in this Resolution to the contrary, at any time the Series 2021D Bonds are subject to optional redemption pursuant to this Resolution, all or a portion of the Series 2021D Bonds to be redeemed as specified in the notice of redemption, may be purchased by the Trustee at the direction of CFX on the date which would be the redemption date if such Series 2021D Bonds were redeemed rather than purchased in lieu thereof at a purchase price equal to the redemption price which would have been applicable to such Series 2021D Bonds on the redemption date for the account of and at the direction of CFX who shall give the Trustee notice at least ten (10) days prior to the scheduled redemption date accompanied by Bond Counsel's Opinion to the effect that such purchase will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Series 2021D Bonds. In the event the Trustee is so directed to purchase Series 2021D Bonds in lieu of optional redemption, no notice to the Registered Owners of Series 2021D Bonds to be so purchased (other than the notice of redemption otherwise required hereunder) shall be required, and the Trustee shall be authorized to apply to such purchase the funds which would have been used to pay the redemption price for such Series 2021D Bonds if such Series 2021D Bonds had been redeemed rather than purchased. Each Series 2021D Bond so purchased shall not be canceled or discharged and shall be registered in the name of the Authority. Series 2021D Bonds to be purchased under this Section 4.10.C. which are not delivered to the Trustee on the purchase date shall be deemed to have been so purchased and not optionally redeemed on the purchase date and shall cease to accrue interest as to the former Registered Owner on the purchase date.
- D. Selection of Bonds to be Redeemed or Purchased. If less than all of the Series 2021D Bonds are to be redeemed or purchased in lieu thereof, the maturities and principal amounts of each such maturity to be redeemed or purchased shall be selected by the Authority, and in the event less than all of the Series 2021D Bonds of an entire maturity are redeemed or purchased, the Series 2021D Bonds of such maturity shall be selected by the Authority; provided, however, that the portion of any Series 2021D Bond of a denomination of more than \$5,000 to be redeemed or purchased shall be in the principal amount of \$5,000 or any integral multiple of \$5,000 in excess thereof, and in selecting portions of such Series 2021D Bonds for redemption or purchase, the Trustee shall treat each such Series 2021D Bond as representing that number of Series 2021D Bonds of \$5,000 denomination and integral multiples thereof which is obtained by dividing the principal amount of such Series 2021D Bond to be redeemed or purchased in part by \$5,000.

SECTION 4.11. Redemption Provisions. The redemption of the Series 2021D Bonds shall be subject to the requirements of the Master Bond Resolution, provided however, that: (a) the provisions of Section 3.2 of the Master Resolution regarding notice of redemption is required solely with respect to the exercise by CFX of its right to optionally redeem the Series 2021D Bonds, and (b) the thirty (30) day notice period set forth in Section 3.2 of the Master Bond Resolution for the notice of optional redemption of the Series 2021D Bonds is hereby changed to twenty (20) days with respect to the Series 2021D Bonds.

So long as DTC is effecting book-entry transfers of the Series 2021D Bonds, the Paying Agent shall provide the redemption notices referenced in this Section 4.11 only to DTC. It is expected that DTC shall, in turn, notify its participants and that the participants, in turn, will notify or cause to be notified the beneficial owners. Any failure on the part of DTC or a participant, or failure on the part of a nominee of a beneficial owner of a Series 2021D Bond to notify the beneficial owner of the Series 2021D Bond so affected, shall not affect the validity of the redemption of such Series 2021D Bond.

Any notice of optional redemption given pursuant to this Section 4.11 shall state that it is conditional upon receipt by the Paying Agent of moneys sufficient to pay the redemption price, plus interest accrued to the Redemption Date, or upon the satisfaction of any other condition, or that it may be rescinded upon the occurrence of any other event, and any conditional notice so given may be rescinded at any time before payment of such redemption price and accrued interest if any such condition so specified is not satisfied or if any such other event occurs. Notice of such rescission shall be given by the Paying Agent to affected Bondholders of Series 2021D Bonds as promptly as practicable upon the failure of such condition or the occurrence of such other event.

ARTICLE V SALE OF BONDS

SECTION 5.01 Approval of Bond Purchase Agreement. The offer in the form of the Bond Purchase Agreement presented by the Purchaser and attached hereto as Exhibit A is hereby approved, subject to such changes, insertions and omissions and filling of blanks therein as may be approved and made in such form by the Chairman, the Vice-Chairman or an Authorized Officer in a manner consistent with the terms of this Resolution, execution and delivery of the Bond Purchase Agreement to be conclusive evidence of such approval. Upon receipt of a disclosure statement from the Purchaser and a financial analysis from the Purchaser and the Financial Advisor evidencing that the requirements set forth in Section 4.01 hereof are met, an Authorized Officer is hereby authorized to accept the offer of the Purchaser to purchase the Series 2021D Bonds in an aggregate principal amount of not to exceed the amount specified in Section 4.01.A. hereof and at a purchase price reflecting an underwriter's discount of not greater than 0.50% of the par amount of the Series 2021D Bonds, reduced by any original issue discount and increased by any premium reflected in the original offering price to the public of such current interest paying bonds, if any, thereon, plus accrued interest thereon to the date of delivery, upon the terms and conditions set forth in the Bond Purchase Agreement. The final Maturity Date of the Series 2021D Bonds shall not be later than July 1, 2035. The Chairman or Vice-Chairman or Authorized Officer is hereby authorized to execute the Bond Purchase Agreement for and on behalf of CFX pursuant to the terms hereof. The Chairman or ViceChairman or Authorized Officer is hereby authorized to designate and negotiate with another member of the Authority's underwriting team to serve as Purchaser of the Series 2021D Bonds, subject to the terms and conditions of this Resolution and the Bond Purchase Agreement.

SECTION 5.02. Official Statement. CFX hereby approves the form and content of the draft Preliminary Official Statement with respect to the Series 2021D Bonds attached hereto as **Exhibit B.** The Chairman or Vice-Chairman of CFX is hereby authorized to approve the form of a Preliminary Official Statement, including for purposes of making findings required for purposes of Rule 15c2-12, together with such changes, insertions, omissions and filling of blanks therein as the Chairman, Vice-Chairman, or an Authorized Officer in his or her discretion, may approve, including such changes as may be necessary to make appropriate disclosure of the Authority's financial and operational results, and otherwise in substantially the form attached hereto, execution of a certificate deeming the Preliminary Official Statement final for purposes of Rule 15c2-12 to be conclusive evidence of such approval, and to authorize the distribution of such Preliminary Official Statement by the Purchaser in connection with the initial marketing of the Series 2021D Bonds. The Chairman, Vice-Chairman or an Authorized Officer is hereby authorized to approve and execute, on behalf of the Authority, a final Official Statement with respect to the Series 2021D Bonds, with such changes, supplements, modifications, insertions and deletions from the Preliminary Official Statement as the Chairman, Vice-Chairman, or an Authorized Officer in his or her sole discretion, shall approve, such execution to be conclusive evidence of such approval. CFX hereby consents to the use of the final Official Statement by the Purchaser.

SECTION 5.03. Continuing Disclosure Agreement. For purposes of enabling the Purchaser to comply with the requirements of Rule 15c2-12, the form of the Continuing Disclosure Agreement attached hereto as **Exhibit C** is hereby approved in a manner consistent with the terms of this Resolution, subject to such changes, insertions, omissions and filling of blanks therein as may be approved and made in such form by the officer of CFX executing the same, execution and delivery thereof to be conclusive evidence of such approval. The Chairman, Vice-Chairman or Authorized Officer of CFX is hereby authorized to execute and deliver the Continuing Disclosure Agreement on behalf of CFX in substantially the form attached hereto with such changes, insertions, omissions and filling of blanks therein as such officer shall approve in a manner consistent with the terms of this Resolution.

SECTION 5.04. Trustee, Paying Agent and Registrar Agreement. The form of the Trustee, Paying Agent and Registrar Agreement attached hereto as **Exhibit D** is hereby approved, subject to the changes, insertions and omissions and filling of blanks therein as may be approved and made in such form of Trustee, Paying Agent and Registrar Agreement by the officers of CFX executing the same, in a manner consistent with the provisions of this Resolution, such execution to be conclusive evidence of such approval. The Chairman, Vice-Chairman or Authorized Officer is hereby authorized to execute the Trustee, Paying Agent and Registrar Agreement on behalf of CFX in substantially the form attached hereto with such changes, insertions, omissions and filling of blanks therein as such officer shall approve in a manner consistent with the terms of this Resolution. Wells Fargo Bank, N.A. is hereby designated as the initial Trustee, Paying Agent and Registrar under the Trustee, Paying Agent and Registrar Agreement and shall serve until it resigns or is removed and a successor Trustee, Paying Agent and Registrar is appointed for the Series 2021D Bonds as provided in the Trustee,

Paying Agent and Registrar Agreement. To the extent that a 2021D Bond Insurance Policy is obtained with respect to all or a portion of the Series 2021D Bonds, the Paying Agent shall transfer the 2021D Bond Insurance Policy for such Series 2021D Bonds and the 2021D Reserve Subaccount Credit Facility, if any, to any successor Paying Agent. The Paying Agent shall not have a lien on any (i) proceeds received from the 2021D Bond Insurance Policy, if any, or (ii) proceeds received from the 2021D Reserve Subaccount Credit Facility, if any.

SECTION 5.05. 2021D Bond Insurance Policy; 2021D Reserve Subaccount Credit Facility. CFX hereby designates the 2021D Bond Insurance Policy, if any, as a "Bond Credit Facility" for the Series 2021D Bonds, approves the selection of the Series Bond Insurer as the provider of the 2021D Bond Insurance Policy, authorizes the delivery by the Series Bond Insurer of a 2021D Bond Insurance Policy with respect to the issuance of the Series 2021D Bonds, and the payment of the premium associated with such 2021D Bond Insurance Policy. determination of whether to obtain a 2021D Bond Insurance Policy for all or a portion of the Series 2021D Bonds shall be made by the Chairman, Vice Chairman or Authorized Officer, based upon the advice of the Financial Advisor. CFX hereby further authorizes the selection of the 2021D Reserve Facility Provider as the provider of the 2021D Reserve Subaccount Credit Facility, authorizes the delivery by the 2021D Reserve Facility Provider of the 2021D Reserve Subaccount Credit Facility, and the payment of the premium associated with the 2021D Reserve Subaccount Credit Facility. The determination of whether to obtain the 2021D Reserve Subaccount Credit Facility for all or a portion of the Series 2021D Bonds shall be made by the Chairman, the Vice-Chairman or an Authorized Officer of CFX based upon the advice of the Financial Advisor. The Chairman, Vice-Chairman or Authorized Officer of CFX is hereby authorized to execute on behalf of CFX any and all documents, instruments, certificates and agreements in connection with the purchase and delivery of the 2021D Bond Insurance Policy and the 2021D Reserve Subaccount Credit Facility, if any, with such changes, insertions and omissions and filling of blanks therein as may be approved and made to such documents, instruments, certificates and agreements by the Chairman, Vice-Chairman or Authorized Officer of CFX executing the same, in a manner consistent with the provisions of this Resolution, such execution to be conclusive evidence of such approval. The each instance above, the advice of the Financial Advisor shall be based upon the requirements of Section 4.01 E hereof.

ARTICLE VI TAX COMPLIANCE AND REBATE PROVISIONS

SECTION 6.01. The 2021D Rebate Fund. There is hereby created and established a fund to be known as the "Central Florida Expressway Authority Senior Lien Revenue Bonds, Series 2021D Rebate Fund" (hereinafter referred to as the "2021D Rebate Fund"). The 2021D Rebate Fund shall be maintained with the Paying Agent and shall be kept separate and apart from all other funds of the Authority, and used for the purpose and in the manner provided in this Section, and shall be and constitute a trust fund for such purposes. The Bonds, including any Additional Bonds or Refunding Bonds hereafter issued pursuant to and within the terms, limitations and conditions contained in the Master Bond Resolution, as supplemented by this Resolution, shall have no lien on or pledge of the moneys at any time or from time to time on deposit in the 2021D Rebate Fund and the moneys in the 2021D Rebate Fund shall be available for use only as herein provided. CFX shall use moneys deposited in the 2021D Rebate Fund only for the payment of the Rebate Amount with respect to the Series 2021D Bonds to the

United States. Funds on deposit in the 2021D Rebate Fund in excess of the Rebate Amount, however, may be withdrawn and paid over to the Authority. In complying with the foregoing, CFX may rely upon Bond Counsel's Opinion with respect thereto.

If any amount shall remain in the 2021D Rebate Fund after payment in full of all Series 2021D Bonds issued hereunder and after payment in full of the Rebate Amount to the United States in accordance with the terms hereof, such amount shall be available to CFX for any lawful purpose.

Notwithstanding any other provision of this Resolution or the Master Bond Resolution, including in particular Section 5.1 of the Master Bond Resolution, the obligation to pay over the Rebate Amount to the United States and to comply with all other requirements of Section 6.02 hereof and this Section 6.01 shall survive the defeasance or payment in full of the Series 2021D Bonds.

SECTION 6.02. Covenants Concerning Compliance with Tax Laws. In addition to any other requirements contained in the Master Bond Resolution, CFX hereby covenants and agrees, for the benefit of the Bondholders from time to time of the Series 2021D Bonds, to comply with the requirements contained in the Code to the extent necessary, and any other requirements which, in Bond Counsel's Opinion, are necessary to preserve the exclusion of interest on the Series 2021D Bonds from the gross income of the owners thereof for federal income tax purposes throughout the term of the issue.

SECTION 6.03. Amendments to Article VI. Any provision of this Resolution or of the Master Bond Resolution to the contrary notwithstanding, the provisions of this Article VI may be amended from time to time without the consent of the Paying Agent or the Bondholders upon delivery to the Paying Agent of a Bond Counsel's Opinion to the effect that such amendment will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Series 2021D Bonds.

ARTICLE VII ESTABLISHMENT OF CERTAIN ACCOUNTS

SECTION 7.01. 2021D Construction Account. CFX hereby establishes the "Central Florida Expressway Authority Senior Lien Revenue Bonds, Series 2021D Construction Account" (the "2021D Construction Account") as a separate account within the Construction Fund established pursuant to the Master Bond Resolution. The 2021D Construction Account shall be used only for payment of the Project Costs associated with the 2021D System Projects. Moneys in the 2021D Construction Account, until applied in payment of any item of such Project Costs in the manner hereinafter provided, shall be held in trust by CFX and shall be subject to a lien and charge in favor of the Bondholders and for the further security of such Bondholders.

There shall be paid into the 2021D Construction Account the amounts required to be so paid by the provisions of this Resolution, and there may be paid into the 2021D Construction Account, at the option of the Authority, any moneys received by CFX from any other source for or in connection with any 2021D System Project.

The proceeds of insurance maintained pursuant to this Resolution against physical loss of or damage to a 2021D System Project, or of contractors' performance bonds with respect thereto pertaining to the period of construction thereof, shall be deposited into the 2021D Construction Account.

CFX covenants that the acquisition and construction of each 2021D System Project will be completed with diligence and in accordance with sound engineering practices. CFX shall make disbursements or payments from the 2021D Construction Account to pay the Project Costs of the 2021D System Projects upon the filing with the Secretary of CFX of a written requisition from the Authority's Consulting Engineers, and documents and/or certificates signed by an Authorized Officer stating with respect to each disbursement or payment to be made: (1) the item number of the payment, (2) the name and address of the person or entity to whom payment is due, (3) the amount to be paid, (4) the purpose, by general classification, for which payment is to be made, and (5) that (A) each obligation, item of cost or expense mentioned therein has been properly incurred, is in payment of a part of the Project Costs of the 2021D System Projects and is a proper charge against the account of the 2021D Construction Account from which payment is to be made and has not been the basis of any previous disbursement or payment, or (B) each obligation, item of cost or expense mentioned therein has been paid by the Authority, is a reimbursement of a part of the Project Costs of the 2021D System Projects, is a proper charge against the account of the 2021D Construction Account from which payment is to be made, has not been theretofore reimbursed to CFX or otherwise been the basis of any previous disbursement or payment and CFX is entitled to reimbursement thereof. CFX shall retain all such documents and/or certificates of the Authorized Officers for six (6) years from the dates of such documents and/or certificates. CFX shall make available the documents and/or certificates at all reasonable times for inspection by any Bondholder or the agent or representative of any Bondholder.

Notwithstanding any of the other provisions of this Resolution, to the extent that other moneys are not available therefor, amounts in the 2021D Construction Account shall be applied to the payment of principal of or redemption price, if applicable, and interest on Series 2021D Bonds when due.

The date of completion of any 2021D System Project shall be determined by the Authorized Officer who, in reliance on its Independent Consultant, shall certify such fact in writing to the Board. Promptly after the date of the completion of all 2021D System Projects, and after paying or making provisions for the payment of all unpaid items of the Project Cost, CFX shall apply any balance of moneys remaining in the 2021D Construction Account: (i) for any capital improvement related to the 2021D System Projects which, in the opinion of Bond Counsel, is permitted by the Act and shall not adversely affect the tax-exempt status of interest on the Series 2021D Bonds, (ii) for payment to the federal government of any arbitrage rebate payment required by the Code, or (iii) as otherwise provided in accordance with the terms of the Master Bond Resolution.

SECTION 7.02. <u>2021D Reserve Subaccount</u>. In order to satisfy the Debt Service Reserve Requirement with respect to the Series 2021D Bonds, CFX is hereby authorized to: (a) establish with the Trustee the "Central Florida Expressway Authority Series 2021D Bonds Debt Service Reserve Subaccount" (the "2021D Reserve Subaccount") as a separate subaccount

within the Debt Service Reserve Account established pursuant to the Master Bond Resolution, or (b) utilize the Debt Service Reserve Account (or a separate subaccount established therein) as part of a common reserve account for the Series 2021D Bonds and one or more currently Outstanding or subsequently issued Series of Bonds. Such determination may be made by the Chairman, Vice-Chairman or Authorized Officer and may be made through written direction to the Trustee. To the extent it is determined to establish the 2021D Reserve Subaccount, amounts deposited in the 2021D Reserve Subaccount shall be pledged solely to secure the repayment of the Series 2021D Bonds, and Bondholders of the Series 2021D Bonds shall not be secured by any other money on deposit in the Debt Service Reserve Account. The Debt Service Reserve Requirement for the Series 2021D Bonds may be satisfied by deposit into the 2021D Reserve Subaccount or Debt Service Reserve Account (or subaccount therein) of available funds of CFX (including without limitation, proceeds of the Series 2021D Bonds) and/or the 2021D Reserve Subaccount Credit Facility issued by the 2021D Reserve Facility Provider. Deposits into and application of amounts in the 2021D Reserve Subaccount or Debt Service Reserve Account (or subaccount therein) shall be in accordance with the Master Bond Resolution unless otherwise provided herein.

SECTION 7.03. 2021D Cost of Issuance Account. CFX hereby establishes with the Trustee for the Series 2021D Bonds the "Central Florida Expressway Authority Senior Lien Revenue Bonds, Series 2021D Cost of Issuance Account" (the "2021D Cost of Issuance Account") as a separate account under the Master Bond Resolution. Proceeds of the Series 2021D Bonds, and any other monies of the Authority, if any, deposited in the 2021D Cost of Issuance Account shall be used only for the payment of cost of issuance associated with the issuance of the Series 2021D Bonds, and until applied to the payment of such costs, shall be held by the Trustee and be subject to a lien on charge in favor of the Bondholders and for the further security of such Bondholders. Any funds remaining on deposit in the 2021D Cost of Issuance Account after the payment of all costs of issuance of the Series 2021D Bonds shall be transferred to the Interest Account of the Sinking Fund to be used for purposes of paying interest on the Series 2021D Bonds.

SECTION 7.04. Additional Funds, Accounts and Subaccounts. CFX may, by certificate of an Authorized Officer and based on the advice of the Financial Advisor, establish separate funds, accounts or subaccounts associated with the Series 2021D Bonds, as CFX may reasonably determine are necessary or desirable, and may provide a pledge of such funds, accounts or subaccounts to the payment of the Series 2021D Bonds apart from the pledge provided herein and in the Master Bond Resolution.

ARTICLE VIII SERIES BOND INSURER PROVISIONS

To the extent that it is determined pursuant to Section 5.05 hereof to obtain a 2021D Bond Insurance Policy with respect to all or a portion of the Series 2021D Bonds, the provisions set forth in **Exhibit E** attached hereto shall apply to such Series 2021D Bonds for so long as such policy remains in effect with respect to such Series 2021D Bonds. The provisions set forth in **Exhibit E** that are required to be set forth in this Resolution as a condition to the issuance of such 2021D Bond Insurance Policy by the Series Bond Insurer are hereby incorporated into the body of this Resolution as if set forth herein. If it is determined by CFX not to obtain a 2021D

Bond Insurance Policy with respect to all or a portion of the Series 2021D Bonds, then the provisions set forth in **Exhibit E** attached hereto shall not apply to such Series 2021D Bonds or this Resolution, shall not be deemed to be incorporated into the body of this Resolution and shall have no further force or effect hereunder.

ARTICLE IX TRUSTEE PROVISIONS

SECTION 9.01. <u>Duty to Act</u>. The Trustee shall not be under any obligation to institute any suit, take any remedial proceeding under this Resolution or the Master Bond Resolution or to enter any appearance or in any way defend in any suit in which it may be made defendant or to take any steps in the execution of the trust hereby created or in the enforcement of any rights and powers hereunder until it shall be indemnified to its satisfaction against any and all reasonable cost and expenses, outlays and counsel fees and other disbursements and against all liability not due to its willful misconduct or negligence.

SECTION 9.02. <u>Limitations on Liability</u>. The Trustee shall not be liable or responsible because of the failure of CFX to perform any act required by this Resolution or the Master Bond Resolution. The Trustee shall not be liable in connection with the performance of its duties under this Resolution or the Master Bond Resolution except for its own willful misconduct or negligence.

SECTION 9.03. <u>Compensation</u>. CFX shall, out of System Pledged Revenues, pay to the Trustee such reasonable compensation as shall be agreed upon between CFX and the Trustee.

SECTION 9.04. Reliance. The Trustee shall be protected and shall incur no liability for acts or omissions made in good faith, reasonably and in accordance with the terms of this Resolution, upon any resolution, order, notice, request, consent, waiver, or other paper or document which it shall, in good faith, reasonably believe to be genuine and to have been adopted and signed by the proper board or person or to have been prepared and furnished pursuant to the provisions of this Resolution. The Trustee shall not be responsible for determining what are Permitted Investments.

SECTION 9.05. <u>Resignation</u>. The Trustee may resign and thereby become discharged from the trust created under this Resolution or the Master Bond Resolution by notice, in writing, to be given to CFX not less than ninety (90) days before such resignation is to take effect, but such resignation shall take effect immediately upon the appointment and acceptance of a successor trustee pursuant to Section 9.07 hereof if said appointment and acceptance shall be before the time specified by such notice.

SECTION 9.06. Removal. The Trustee may be removed at any time by the Authority.

SECTION 9.07. Successor Trustee.

A. If at any time the Trustee shall resign, or shall be removed, be dissolved or otherwise become incapable of acting or shall be adjudged bankrupt or insolvent, or if a receiver, liquidator or conservator thereof, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of Trustee

shall become vacant. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, CFX shall, within thirty (30) days, appoint a successor Trustee to fill such vacancy. The Trustee appointed under this section shall be a bank or trust company eligible under the laws of the State of Florida to accept trusts and operate in a fiduciary capacity. Any such successor Trustee shall have combined capital, surplus, and undivided profits of at least \$50,000,000 unless the bond insurer otherwise approves. Anything contained in this Resolution to the contrary notwithstanding, no resignation or removal shall become effective until a successor has been appointed and accepted the responsibilities hereunder.

B. Every successor Trustee appointed under this Resolution shall execute, acknowledge and deliver to its predecessor, and also to the Authority, an instrument in writing accepting such appointment, and thereupon such successor Trustee without further act, deed, or conveyance, shall become fully vested with all monies, estates, properties, rights, immunities, powers and trusts, and subject to all the duties and obligations of its predecessor, with like effect as if originally named as such Trustee; but such predecessor shall, nevertheless, on the written request of its successor or of the Authority, and upon payment of the compensation, expenses, charges and other disbursements of such predecessor which are due and payable pursuant to Section 9.03, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor; and every predecessor Trustee shall deliver all property and moneys held by it under this Resolution to its successor. Should any instrument in writing from CFX be required by any successor Trustee for more fully and certainly vesting in such Trustee the rights, immunities, powers and trusts vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall, on request, be executed, acknowledged and delivered by the Authority.

SECTION 9.08. Mergers and Consolidations. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee shall sell or transfer all or substantially all of the bond administration portion of its corporate trust business, provided such company shall be a bank, or trust company eligible under the laws of the State of Florida to accept trusts and operate in a fiduciary capacity, shall be successor to the Trustee without the execution or filing of any paper or performance of any further act.

ARTICLE X MISCELLANEOUS

SECTION 10.01. <u>Authorizations</u>. The Chairman of CFX is hereby authorized to countersign the Series 2021D Bonds by his manual or facsimile signature in the manner provided herein. The Chairman, Vice-Chairman, Secretary, Executive Director, Chief Financial Officer or other Authorized Officer, are each hereby authorized and directed, individually or with others pursuant to their direction or authorization, to execute such other documents, certificates, instruments, contracts, and agreements whether or not expressly contemplated hereby, and to execute and do all acts and things required by the provisions of this Resolution as may be necessary for the full, punctual and complete performance of all the terms, covenants, provisions and agreements herein and therein contained, or as otherwise may be necessary or desirable to effectuate the purpose and intent of this Resolution. The Chairman, the Secretary, the Executive

Director and the Chief Financial Officer of CFX are hereby designated as the primary officers of CFX charged with the responsibility of issuing the Series 2021D Bonds. In the absence or unavailability of the Chairman, the Vice-Chairman is hereby authorized to act in his place.

SECTION 10.02. <u>Parties Interested Herein</u>. Nothing in this Resolution, expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee, the Paying Agent, and the registered owners of the Series 2021D Bonds, any right, remedy or claim under or by reason of this Resolution or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Resolution, by and on behalf of CFX shall be for the sole and exclusive benefit of the Authority, the Trustee, the Paying Agent and the registered owners of the Series 2021D Bonds.

SECTION 10.03. Controlling Law; Members of Authority not Liable. All covenants, stipulations, obligations and agreements of CFX contained in this Resolution shall be deemed to be covenants, stipulations, obligations and agreements of CFX to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, agent, officer or employee of CFX in his or her individual capacity, and neither the members of the Governing Body of CFX nor any official executing the Series 2021D Bonds shall be liable personally on the Series 2021D Bonds or under this Supplemental Resolution or shall be subject to any personal liability or accountability by reason of the issuance of the Series 2021D Bonds or the execution thereof by CFX or such officers thereof.

SECTION 10.04. Consent to Amendments to Lease Purchase Agreement. By purchasing and accepting delivery of the Series 2021D Bonds, the Bondholders of the Series 2021D Bonds shall be deemed to have consented to amend the terms and provisions of the Lease Purchase Agreement to discontinue the Department's payment obligations for operations and/or maintenance of certain portions of the Expressway System effective on July 1, 2028. CFX shall comply with the terms of the Lease Purchase Agreement in connection with any additional modifications, amendments or supplements to the Lease Purchase Agreement.

SECTION 10.05. <u>Effective Date</u>. This Resolution shall become effective upon approval.

[Signature Page Follows]

This Resolution was approved and adopted by the Expressway Authority on June 10, 2021.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

	By:Buddy Dyer, Chairman
ATTEST:	
By: Mimi Lamaute Board Services Coordinator	
Signed:	
Based upon review by CFX Counsel act	ing upon

the direction of General Counsel, this Resolution is approved as to form and legal sufficiency for the

sole use and reliance of CFX and its Board.

31

EXHIBIT A

FORM OF BOND PURCHASE AGREEMENT

EXHIBIT B

FORM OF PRELIMINARY OFFICIAL STATEMENT

EXHIBIT C

FORM OF CONTINUING DISCLOSURE AGREEMENT

EXHIBIT D

FORM OF TRUSTEE, PAYING AGENT AND REGISTRAR AGREEMENT

EXHIBIT E

2021D BOND INSURANCE POLICY PROVISIONS

Unless otherwise defined herein, capitalized terms used herein shall have the respective meanings set forth in Master Bond Resolution of CFX adopted on February 3, 2003, as supplemented from time to time and in particular, as supplemented by that certain Thirtieth Supplemental Revenue Bond Resolution adopted by CFX on June 10, 2021 (collectively, the "Bond Resolution"). The following provisions shall apply to any one or more Series 2021D Bonds insured by a 2021D Bond Insurance Policy issued by the Series Bond Insurer (hereinafter, "Insured Bonds"). This Exhibit E may be amended and updated for specific information and requirements of the Series Bond Insurer, if any. Such revised Exhibit E may be substituted for this Exhibit E, subject to the review and approval of the Chairman, or Vice-Chairman or an Authorized Officer.

A. Notices and Other Information.

- 1. Any notice that is required to be given to holders of the Insured Bonds (the "Bondholders"), any entity required pursuant to Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission or to the Trustee pursuant to this Resolution shall also be provided to the Series Bond Insurer, simultaneously with the sending of such notices. In addition, to the extent that CFX has entered into a continuing disclosure agreement, covenant or undertaking with respect to the Insured Bonds, all information furnished pursuant to such agreement shall also be provided to the Series Bond Insurer, simultaneously with the furnishing of such information.
- 2. All demands, notices and other information required to be given to the Series Bond Insurer shall be in writing and shall be mailed by registered or certified mail or personally delivered or telecopied to the recipient as follows:

Assured Guaranty Municipal Corp.

1633 Broadway

New York, New York 10019

Attn: Risk Management Department

(Re: Policy No.

Telecopy No.: (212)581-3268

Confirmation: (212)974-0100

Email: riskmanagementdept@assuredguaranty.com

- 3. The Series Bond Insurer shall have the right to receive such additional information as it may reasonably request.
- 4. CFX will permit the Series Bond Insurer to discuss the affairs, finances and accounts of CFX or any information the Series Bond Insurer may reasonably request regarding the security for the Insured Bonds with appropriate officers of the Authority, and will use commercially reasonable efforts to enable the Series

- Bond Insurer to have access to the facilities, books and records of CFX on any business day upon reasonable prior notice.
- 5. The Trustee shall notify the Series Bond Insurer of any failure of CFX to provide notices, certificates and other information under the documentation entered into in connection with the Insured Bonds (the "Financing Documents").
- B. <u>Defeasance</u>. In the event that the principal and/or interest due on the Insured Bonds shall be paid by the Series Bond Insurer pursuant to the Policy, the Insured Bonds shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Authority, and the assignment and pledge of the System Pledged Revenues and all covenants, agreements and other Bonds of CFX to the Bondholders shall continue to exist and shall run to the benefit of the Series Bond Insurer, and the Series Bond Insurer shall be subrogated to the rights of such Bondholders including, without limitation, any rights that such Bondholders may have in respect of securities law violations arising from the offer and sale of the Insured Bonds.

In addition, the Series Bond Insurer will require the following items in connection with the defeasance of the Insured Bonds:

- 1. An opinion of Bond Counsel to the effect: (i) that the defeasance will not adversely impact the exclusion from gross income for federal income tax purposes of interest on the Insured Bonds or refunded bonds, and (ii) that the Insured Bonds are no longer Outstanding under the Bond Resolution.
- 2. If the Insured Bonds are being advance-refunded (through a net defeasance), a refunding trust or escrow agreement (an "Escrow Agreement") and an opinion of counsel regarding the validity and enforceability of the escrow agreement.
- 3. The Escrow Agreement shall provide that:
 - a. Any substitution of securities shall require verification by an independent certified public accountant and the prior written consent of the Series Bond Insurer.
 - b. CFX will not exercise any optional redemption of Insured Bonds secured by the escrow agreement or any other redemption other than mandatory sinking fund redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding bonds, and (ii) as a condition of any such redemption there shall be provided to the Series Bond Insurer a verification of an independent certified public accountant as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following such redemption.

c. CFX shall not amend the Escrow Agreement or enter into a forward purchase agreement with respect to rights in the escrow without the prior written consent of the Series Bond Insurer.

C. <u>Trustee (or Paying Agent).</u>

- 1. The Series Bond Insurer shall receive prior written notice of any name change of the Trustee (or Paying Agent) or the removal, resignation or termination of the Trustee (or Paying Agent).
- 2. No removal or resignation of the Trustee (or Paying Agent) shall take effect until a successor, acceptable to the Series Bond Insurer, shall be appointed.
- 3. The Trustee (or Paying Agent) may be removed at any time, at the request of the Series Bond Insurer, for any breach of its obligations under this Bond Resolution.
- 4. Notwithstanding any other provision of the Bond Resolution, in determining whether the rights of Bondholders will be adversely affected by any action taken pursuant to the terms and provisions thereof, the Trustee (or Paying Agent) shall consider the effect on the Bondholders as if there were no Policy.
- D. <u>Amendments and Supplements</u>. With respect to any amendments or supplements to the Bond Resolution which do not require the consent of the Bondholders, the Series Bond Insurer must be given prior written notice of any such amendments or supplements. With respect to amendments or supplements to this Bond Resolution which do require the consent of the Bondholders, the Series Bond Insurer's prior written consent is required. Copies of any amendments or supplements to such Financing Documents which are consented to by the Series Bond Insurer shall be sent to the rating agencies that have assigned a rating to the Insured Bonds.
- E. <u>The Series Bond Insurer as Third Party Beneficiary</u>. The Series Bond Insurer is explicitly recognized as being a third party beneficiary under the Bond Resolution and may enforce any such right, remedy or claim conferred, given or granted thereunder.
- F. Control Rights. The Series Bond Insurer shall be deemed to be the holder of all of the Insured Bonds for purposes of (a) exercising all remedies and directing the Trustee to take actions or for any other purposes following an Event of Default, and (b) granting any consent, direction or approval or taking any action permitted by or required under this Bond Resolution to be granted or taken by the Bondholders. In furtherance thereof and as a term of the Bond Resolution and each Bond, the Trustee and each Bondholder appoint the Series Bond Insurer as their agent and attorney-in-fact and agree that the Series Bond Insurer may at any time during the continuation of any proceeding by or against the Issuer under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding") direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a "Claim"), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond

pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Trustee and each Bondholder delegate and assign to the Series Bonds Insurer, to the fullest extent permitted by law, the rights of the Trustee and each insured Bondholder in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding. Remedies granted to the Bondholders shall expressly include mandamus.

Anything in the Resolution to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default the Series Bond Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Bondholders or the Trustee for the benefit of the Bondholders under the Bond Resolution.

G. Consent Rights of the Series Bond Insurer.

- 1. Consent of the Series Bond Insurer. Any provision of the Bond Resolution expressly recognizing or granting rights in or to the Series Bond Insurer may not be amended in any manner that affects the rights of the Series Bond Insurer hereunder without the prior written consent of the Series Bond Insurer.
- 2. Consent of the Series Bond Insurer in Addition to Bondholder Consent. Wherever this Bond Resolution requires the consent of Bondholders, the Series Bond Insurer's prior written consent shall also be required.
- 3. Consent of the Series Bond Insurer in the Event of Insolvency. Any reorganization or liquidation plan with respect to CFX must be acceptable to the Series Bond Insurer. In the event of any such reorganization or liquidation, the Series Bond Insurer shall have the right to vote on behalf of all Bondholders who hold Insured Bonds guaranteed by the Series Bond Insurer, absent a payment default by the Series Bond Insurer under the Policy.
- 4. Consent of the Series Bond Insurer Upon Default. Anything in the Bond Resolution to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default, the Series Bond Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Bondholders or the Trustee for the benefit of the Bondholders under the Bond Resolution.

H. <u>Authority Representations.</u>

1. Non-Reliance on the Series Bond Insurer.

a. CFX has made its own independent investigation and decision as to whether to insure the payment when due of the principal of and interest on the Insured Bonds and whether the Policy is appropriate or proper for it based upon its own judgment and upon advice from such legal and financial advisers as it has deemed necessary. CFX acknowledges that the Series Bond Insurer has not made, and therefore CFX is not relying on, any recommendation from the Series Bond Insurer that CFX insure the

Insured Bonds or obtain the Policy; it being understood and agreed that communications from the Series Bond Insurer (whether written or oral) referring to, containing information about or negotiating the terms and conditions of the Policy, any related insurance document or the documentation governing the Insured Bonds do not constitute a recommendation to insure the Insured Bonds or obtain the Policy.

CFX further acknowledges that the Series Bond Insurer has not made any b. representation, warranty or undertaking, and has not given any assurance or guarantee, in each case, expressed or implied, concerning its future financial strength or the rating of the Series Bond Insurer's financial strength by the rating agencies. CFX acknowledges that the ratings of the Series Bond Insurer reflect only the views of the rating agencies and an explanation of the significance of such ratings may be obtained only from the rating agencies. CFX understands that such ratings may not continue for any given time period and instead may change over time, including without limitation being placed under review for possible downgrade, revised downward, withdrawn entirely by the relevant rating agency if, in the judgment of such rating agency, circumstances so warrant, or withdrawn entirely by the Series Bond Insurer in its sole discretion. CFX acknowledges and agrees that the Series Bond Insurer undertakes no responsibility to bring to its attention, and shall have no liability for, the placement of a rating under review for possible downgrade or the downward revision or withdrawal of any rating obtained, and that any such review for possible downgrade, downward revision or withdrawal may have an adverse effect on the Insured Bonds. CFX acknowledges that the Series Bond Insurer pays rating agencies to rate the Series Bond Insurer's financial strength, but that such payment is not in exchange for any specific rating or for a rating within any particular range."

I. <u>Reimbursement Obligations.</u>

1. CFX hereby agrees to pay or reimburse the Series Bond Insurer, to the extent permitted by law, any and all charges, fees, costs and expenses which the Series Bond Insurer may reasonably pay or incur, including, but not limited to, fees and expenses of attorneys, accountants, consultants and auditors and reasonable costs of investigations, in connection with (i) any accounts established to facilitate payments under the Policy, (ii) the administration, enforcement, defense or preservation of any rights in respect of this Bond Resolution, including defending, monitoring or participating in any litigation or proceeding (including any bankruptcy proceeding in respect of CFX or any affiliate thereof) relating to this Bond Resolution, any party to this Bond Resolution or the transaction contemplated by this Bond Resolution, (iii) the foreclosure against, sale or other disposition of any collateral securing any Insured Bonds under this Bond Resolution, or the pursuit of any remedies under this Bond Resolution, to the extent such costs and expenses are not recovered from such foreclosure, sale or other disposition, or (iv) any amendment, waiver or other action with respect to,

or related to, this Bond Resolution whether or not executed or completed; costs and expenses shall include a reasonable allocation of compensation and overhead attributable to time of employees of the Series Bond Insurer spent in connection with the actions described in clauses (ii) – (iv) above. In addition, the Series Bond Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of this Bond Resolution. CFX will pay interest on the amounts owed in this paragraph from the date of any payment due or paid, at the per annum rate of interest publicly announced from time to time by JPMorgan Chase Bank, N.A. at its principal office in New York, New York as its prime lending rate (any change in such prime rate of interest to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus three percent (3%) per annum (the "Reimbursement Rate"). Reimbursement Rate shall be calculated on the basis of the actual number of days elapsed over a 360-day year. In the event JPMorgan Chase Bank, N.A. ceases to announce its prime rate publicly, the prime rate shall be the publicly announced prime rate or base lending rate of such national bank, as the Series Bond Insurer shall specify.

- 2. In addition to any and all rights of reimbursement, subrogation and any other rights pursuant hereto or under law or in equity, CFX agrees to pay or reimburse the Series Bond Insurer, to the extent permitted by law, any and all charges, fees, costs, claims, losses, liabilities (including penalties), judgments, demands, damages, and expenses which the Series Bond Insurer or its officers, directors, shareholders, employees, agents and each Person, if any, who controls the Series Bond Insurer within the meaning of either Section 15 of the Securities Act of 1933, as amended, or Section 20 of the Securities Exchange Act of 1934, as amended, may reasonably pay or incur, including, but not limited to, fees and expenses of attorneys, accountants, consultants and auditors and reasonable costs of investigations, of any nature in connection with, in respect of or relating to the transactions contemplated by the Bond Resolution or any other Financing Document by reason of:
 - a. any omission or action (other than of or by the Series Bond Insurer) in connection with the offering, issuance, sale, remarketing or delivery of the Insured Bonds;
 - b. the negligence, bad faith, willful misconduct, misfeasance, malfeasance or theft committed by any director, officer, employee or agent of CFX or CFX in connection with any transaction arising from or relating to the Bond Resolution or any other Financing Document;
 - c. the violation by CFX of any law, rule or regulation, or any judgment, order or decree applicable to it;
 - d. the breach by CFX of any representation, warranty or covenant under the Bond Resolution or any other Financing Document or the occurrence, in respect of the Authority, under the Bond Resolution or any other

Financing Document of any Event of Default or any event which, with the giving of notice or lapse of time or both, would constitute any Event of Default; or

e. any untrue statement or alleged untrue statement of a material fact contained in any official statement relating to the Insured Bonds, if any, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such claims arise out of or are based upon any untrue statement or omission in information included in an official statement, if any, and furnished by the Series Bond Insurer in writing expressly for use therein.

J. Payment Procedure Under the Series Bond Insurance Policy.

- 1. At least two (2) Business Days prior to each payment date on the Insured Bonds, the Trustee will determine whether there will be sufficient funds to pay all principal of and interest on the Insured Bonds due on the related payment date and shall immediately notify the Series Bond Insurer or its designee on the same Business Day by telephone or electronic mail, confirmed in writing by registered or certified mail, of the amount of any deficiency. Such notice shall specify the amount of the anticipated deficiency, the Insured Bonds to which such deficiency is applicable and whether such Insured Bonds will be deficient as to principal or interest or both. If the deficiency is made up in whole or in part prior to or on the payment date, the Trustee shall so notify the Series Bond Insurer or its designee.
- 2. The Trustee shall, after giving notice to the Series Bond Insurer as provided above, make available to the Series Bond Insurer and, at the Series Bond Insurer's direction, to any Fiscal Agent, the registration books of CFX maintained by the Trustee and all records relating to the funds maintained under the Financing Documents.
- 3. The Trustee shall provide the Series Bond Insurer and any Fiscal Agent with a list of registered owners of Insured Bonds entitled to receive principal or interest payments from the Series Bond Insurer under the terms of the Policy, and shall make arrangements with the Series Bond Insurer, the Fiscal Agent or another designee of the Series Bond Insurer to (i) mail checks or drafts to the registered owners of Insured Bonds entitled to receive full or partial interest payments from the Series Bond Insurer and (ii) pay principal upon Insured Bonds surrendered to the Series Bond Insurer, the Fiscal Agent or another designee of the Series Bond Insurer by the registered owners of Insured Bonds entitled to receive full or partial principal payments from the Series Bond Insurer.
- 4. The Trustee shall, at the time it provides notice to the Series Bond Insurer of any deficiency pursuant to clause 1. above, notify registered owners of Insured Bonds entitled to receive the payment of principal or interest thereon from the Series Bond Insurer (i) as to such deficiency and its entitlement to receive principal or

interest, as applicable, (ii) that the Series Bond Insurer will remit to them all or a part of the interest payments due on the related payment date upon proof of its entitlement thereto and delivery to the Series Bond Insurer or any Fiscal Agent, in form satisfactory to the Series Bond Insurer, of an appropriate assignment of the registered owner's right to payment, (iii) that, if they are entitled to receive partial payment of principal from the Series Bond Insurer, they must surrender the related Insured Bonds for payment first to the Trustee, which will note on such Insured Bonds the portion of the principal paid by the Trustee and second to the Series Bond Insurer or its designee, together with an appropriate assignment, in form satisfactory to the Series Bond Insurer, to permit ownership of such Insured Bonds to be registered in the name of the Series Bond Insurer, which will then pay the unpaid portion of principal, and (iv) that, if they are entitled to receive full payment of principal from the Series Bond Insurer, they must surrender the related Insured Bonds for payment to the Series Bond Insurer or its designee, rather than the Trustee, together with the an appropriate assignment, in form satisfactory to the Series Bond Insurer, to permit ownership of such Insured Bonds to be registered in the name of the Series Bond Insurer.

- 5. In addition, if the Trustee has notice that any holder of the Insured Bonds has been required to disgorge payments of principal or interest on the Insured Bonds previously Due for Payment pursuant to a final non-appealable order by a court of competent jurisdiction that such payment constitutes an avoidable preference to such holder within the meaning of any applicable bankruptcy laws, then the Trustee shall notify the Series Bond Insurer or its designee of such fact by telephone or electronic notice, confirmed in writing by registered or certified mail.
- 6. The Trustee will be hereby irrevocably designated, appointed, directed and authorized to act as attorney-in-fact for holders of the Insured Bonds as follows:
 - a. If and to the extent there is a deficiency in amounts required to pay interest on the Insured Bonds, the Trustee shall (a) execute and deliver to the Series Bond Insurer, in form satisfactory to the Series Bond Insurer, an instrument appointing the Series Bond Insurer as agent for such holders in any legal proceeding related to the payment of such interest and an assignment to the Series Bond Insurer of the claims for interest to which such deficiency relates and which are paid by the Series Bond Insurer, (b) receive as designee of the respective holders (and not as Trustee) in accordance with the tenor of the Policy payment from the Series Bond Insurer with respect to the claims for interest so assigned, and (c) disburse the same to such respective holders; and
 - b. If and to the extent of a deficiency in amounts required to pay principal of the Insured Bonds, the Trustee shall (a) execute and deliver to the Series Bond Insurer, in form satisfactory to the Series Bond Insurer, an instrument appointing the Series Bond Insurer as agent for such holder in any legal proceeding related to the payment of such principal and an

assignment to the Series Bond Insurer of the Obligation surrendered to the Series Bond Insurer in an amount equal to the principal amount thereof as has not previously been paid or for which moneys are not held by the Trustee and available for such payment (but such assignment shall be delivered only if payment from the Series Bond Insurer is received), (b) receive as designee of the respective holders (and not as Trustee) in accordance with the tenor of the Policy payment therefore from the Series Bond Insurer, and (c) disburse the same to such holders.

- 7. Payments with respect to claims for interest on and principal of Insured Bonds disbursed by the Trustee from proceeds of the Policy shall not be considered to discharge the obligation of CFX with respect to such Insured Bonds, and the Series Bond Insurer shall become the owner of such unpaid Obligation and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of this subsection or otherwise.
- 8. Irrespective of whether any such assignment is executed and delivered, CFX and the Trustee hereby agree for the benefit of the Series Bond Insurer that:
 - a. they recognize that to the extent the Series Bond Insurer makes payments directly or indirectly (e.g., by paying through the Trustee), on account of principal of or interest on the Insured Bonds, the Series Bond Insurer will be subrogated to the rights of such holders to receive the amount of such principal and interest from the Authority, with interest thereon as provided and solely from the sources stated in this Bond Resolution and the Insured Bonds; and
 - b. they will accordingly pay to the Series Bond Insurer the amount of such principal and interest, with interest thereon as provided in this Bond Resolution and the Insured Bonds, but only from the sources and in the manner provided herein for the payment of principal of and interest on the Insured Bonds to holders, and will otherwise treat the Series Bond Insurer as the owner of such rights to the amount of such principal and interest.
- 9. The Series Bond Insurer shall be entitled to pay principal or interest on the Insured Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by CFX (as such terms are defined in the Policy) and any amounts due on the Insured Bonds as a result of acceleration of the maturity thereof in accordance with this agreement, whether or not the Series Bond Insurer has received a Notice (as defined in the Policy) of Nonpayment or a claim upon the Policy.

In addition, the Series Bond Insurer shall, to the extent it makes any payment of principal or interest on the Insured Bonds become subrogated to the rights of the recipients of such payments in accordance with the terms of the Policy, and to evidence such subrogation (i) in the case of claims for interest, the Trustee shall note the Series Bond Insurer's rights as subrogee on the registration books of CFX maintained by the Trustee, upon receipt of proof of payment of

interest thereon to the registered holders of the Insured Bonds, and (ii) in the case of claims for principal, the Trustee, if any, shall note the Series Bond Insurer's rights as subrogee on the registration books of CFX maintained by the Trustee, upon surrender of the Insured Bonds together with receipt of proof of payment of principal thereof

Unless otherwise defined herein, capitalized terms used herein shall have the respective meanings set forth in Master Bond Resolution of the Authority adopted on February 3, 2003, as supplemented from time to time and in particular, as supplemented by that certain Twenty-Seventh Supplemental Revenue Bond Resolution adopted by the Authority on March 11, 2021 (collectively, the "Bond Resolution". The following provisions shall apply to any one or more Series of Bonds insured by a Bond Insurance Policy issued by the Series Bond Insurer (hereinafter, "Insured Bonds").

A. Notices and Other Information.

- 1. Any notice that is required to be given to holders of the Insured Bonds (the "Bondholders"), any entity required pursuant to Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission or to the Trustee pursuant to this Resolution shall also be provided to the Series Bond Insurer, simultaneously with the sending of such notices. In addition, to the extent that the Authority has entered into a continuing disclosure agreement, covenant or undertaking with respect to the Insured Bonds, all information furnished pursuant to such agreement shall also be provided to the Series Bond Insurer, simultaneously with the furnishing of such information.
- 2. All demands, notices and other information required to be given to the Series Bond Insurer shall be in writing and shall be mailed by registered or certified mail or personally delivered or telecopied to the recipient as follows:

Assured Guaranty Municipal Corp. 1633 Broadway

New York, New York 10019

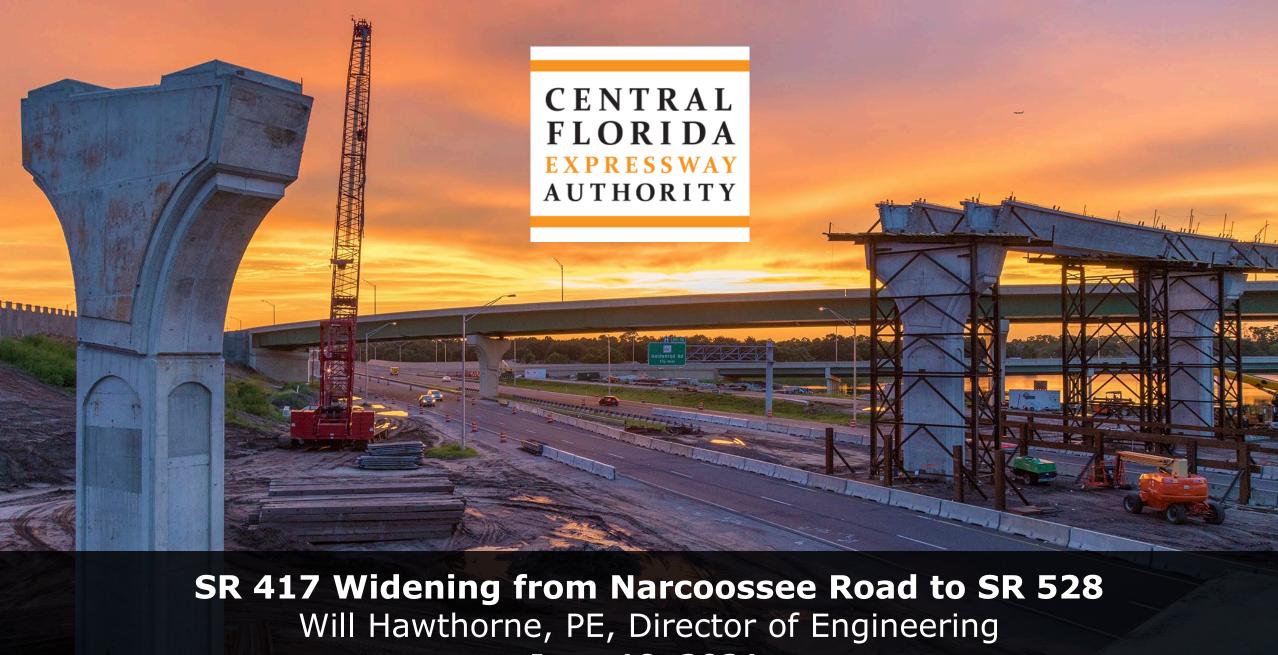
Attn: Risk Management Department

(Re: Policy No. _____)
Telecopy No.: (212)581-3268
Confirmation: (212)974-0100

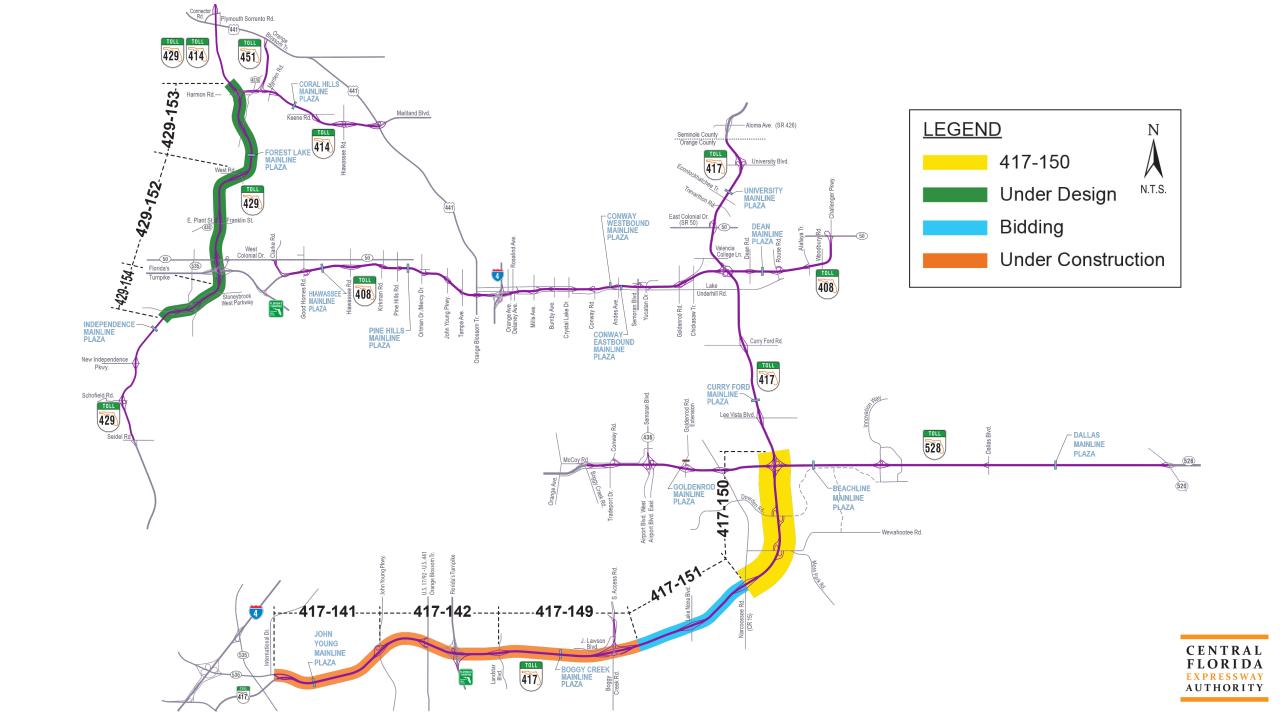
Email: riskmanagementdept@assuredguaranty.com

- 3. The Series Bond Insurer shall have the right to receive such additional information as it may reasonably request.
- 4. The Authority will permit the Series Bond Insurer to discuss the affairs, finances and accounts of the Authority or any information the Series Bond Insurer may reasonably request regarding the security for the Insured Bonds with appropriate officers of the Authority, and will use commercially reasonable efforts to enable the Series Bond Insurer to have access to the facilities, books and records of the Authority on any business day upon reasonable prior notice.
- 5. The Trustee shall notify the Series Bond Insurer of any failure of the Authority to provide notices, certificates and other information under the documentation entered into in connection with the Insured Bonds (the "Financing Documents").

F. 5.



- June 10, 2021-



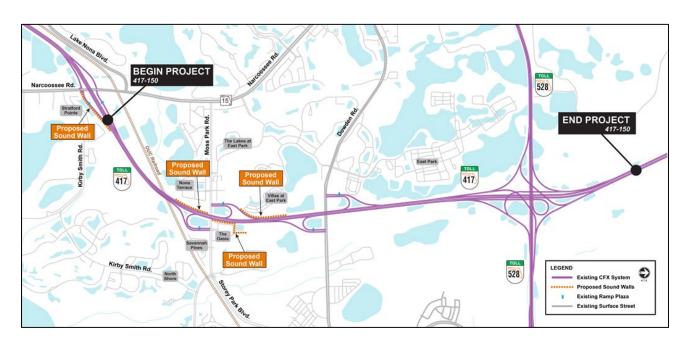
Project Highlights

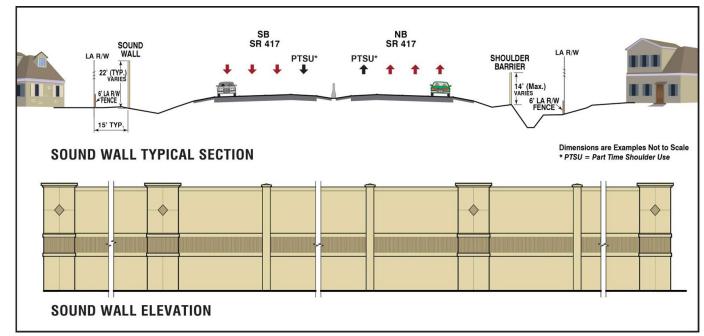
4.7 Miles

Widening 4 to 6 Lanes

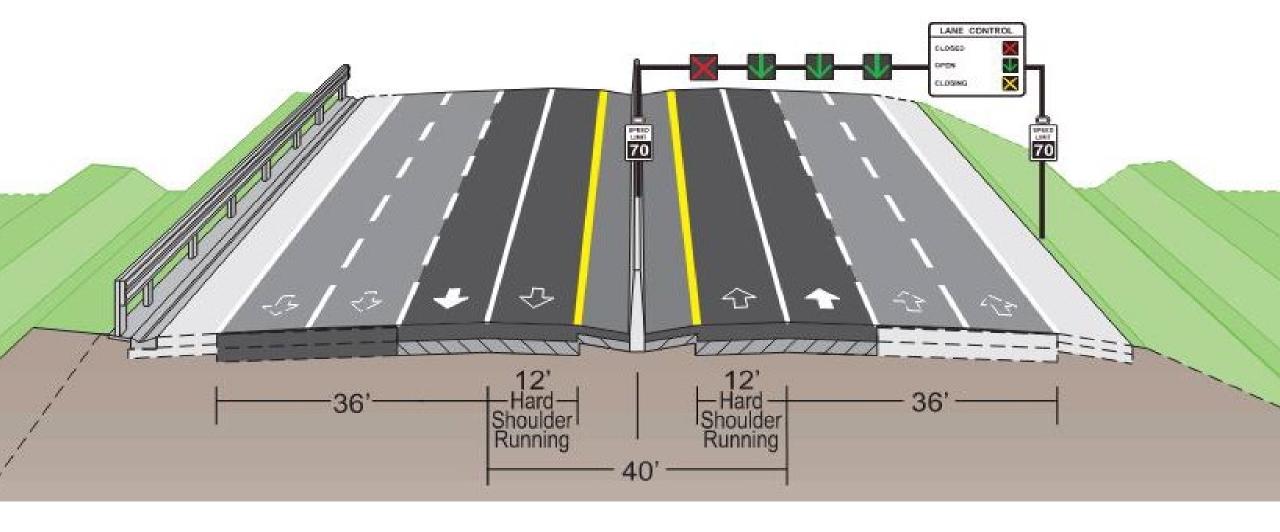
5 Sets of Bridge Widenings

4 Sound Walls









Project Timeline

- Anticipated Notice to Proceed August 2021
- Projected Completion 1st Quarter 2024







Bids Received

Sacyr Construccion SA, Inc. \$92,279,567.00

SEMA Construction

Southland Construction, Inc.

Hubbard Construction Company

Prince Contracting

Engineer's Estimate: \$98,860,463.20

Work Plan Estimate: \$95,270,000.00

\$95,180,000.00

\$99,039,999.99

\$101,831,074.73

\$103,427,417.00

Recommended Motion

Award of the contract to Sacyr Construccion SA, Inc. for the SR 417 Widening from Narcoossee Road to State Road 528 in the amount of \$92,279,567.00.



F. 6.







The **Visitor Toll Pass**™ is a *new* automated toll payment solution for visitors to Central Florida renting a car from the Orlando International Airport (OIA).



Enjoy your visit!

Please return this tag at the Orlando International Airport.

A \$10 fee will be charged to your credit card if this tag is not returned.

PROPERTY OF THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY

If found, please mail to:

Central Florida Expressway Authority 4974 ORL Tower Road Orlando, FL 32807



Customer Benefits



Offers visitors a chance to travel like a local while saving

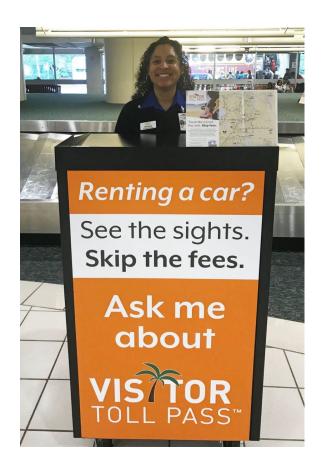




- No third-party provider fees
- Customers receive E-PASS rate
- Save as much as 80% compared to current rental car toll programs
- No registration fees

- No stopping to pay cash
- Use Visitor Toll Pass ™ in express lanes for nonstop travel
- Customers receive timely invoice
- Electronic sign up & communication







Pilot - Launched May 2019







Florida Finally Gives Tourists a Way to Avoid Rental Car Rip-Offs on Cashless Roads

After years of paying extortionate fees from rental car companies to use cashless toll booths, tourists finally have a solution—if they know about it.

By Jason Cochran



















Relaunched June 8, 2021

Goals:

- Fully Automate
- Allow Scalability
- Increase User Convenience

Method:

- Vending Machines
- Mobile App





How it Works





- **STEP 1:** Reserve Visitor Toll Pass™ via iPhone or Android phone application
- **STEP 2:** Pick-Up Visitor Toll Pass™ at Orlando International Airport by visiting the VTP vending machine and scanning a unique QR code
- **STEP 3:** Hang the Visitor Toll Pass™ from rearview mirror
- **STEP 4:** Explore & Enjoy!
- **STEP 5:** Return Visitor Toll Pass™ at an Orlando International Airport drop box or by mail
- STEP 6: Tolls will be charged to reserved credit card







Return Drop Box



Future

- Potential enhancements:
 - GPS
 - OIA B-Side
- Partners and licensed technology
- Vending Machine E-PASS Transponder Sales



