

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

**AGENDA
BOARD MEETING
August 12, 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 MEETING MINUTES (action item)

1. June 10, 2021 Board Meeting
2. July 20, 2021 Special Board Meeting

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. **RULES OF PROCEDURE FOR BOARD MEETINGS** – *Diego "Woody" Rodriguez, General Counsel* (action item)
2. **INVESTMENT POLICY** – *Lisa Lombard, Chief Financial Officer and Scott Sweeten, Senior Managing Consultant, PFM Asset Management, LLC* (action item)
3. **SR 417 WIDENING FROM BOGGY CREEK ROAD TO NARCOOSSEE ROAD** – *Will Hawthorne, Director of Engineering* (action item)

(CONTINUED ON PAGE 2)

4. **PART-TIME SHOULDER USE PROJECTS** – *Will Hawthorne, Director of Engineering and Bryan Homayouni, Manager of Traffic Operations* (info item)
5. **CONSTRUCTION UPDATE** – *Jack Burch, Resident Engineer* (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

1.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES BOARD MEETING June 10, 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 9:05 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

Board Members Not Present:

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 Present:

Nicola Liquori, Executive Director, Florida's Turnpike Enterprise

B. PUBLIC COMMENT

The following members of the public commented on the Brightline Project:

- Mr. Alexander Guifarro
- Ms. Michelle Ouimet

- Ms. Sue Gilman
- Ms. Maria Triscari
- Mr. Don Whyte
- Mr. Charles Lee
- Ms. Amy Sirmans
- Mr. Arte Roman
- Mr. Giancarlo Rodriguez
- Ms. Naqiy McMullen
- Mr. Richard Brown / Mr. Bert Barton

There were no written comments received by the deadline.

C. APPROVAL OF MAY 13, 2021 BOARD MEETING MINUTES

A motion was made by Mayor Demings and seconded by Commissioner Parks to approve the May 13, 2021 Board Meeting Minutes as presented. The motion carried unanimously with nine (9) board members in attendance voting AYE by voice vote. Commissioner Smith was not present.

D. APPROVAL OF CONSENT AGENDA

The Consent Agenda was presented for approval.

CONSTRUCTION

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

a. 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)
4. 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)
6. 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)

A motion was made by Commissioner Siplin and seconded by Commissioner Arrington to approve the Consent Agenda as presented. The motion carried unanimously with nine (9) board members in attendance voting AYE by voice vote. Commissioner Smith was not present.

E. REPORTS

1. CHAIRMAN'S REPORT

Chairman Dyer commented on the following:

- invited everyone to the 44th Annual Fireworks at the Fountain on Sunday, July 4th at Lake Eola Park with fireworks at 9:15 p.m.; and
- provided an overview of the upcoming agenda items for today's Board meeting.

2. TREASURER'S REPORT

Mayor Demings reported that as of the end of April, CFX's toll revenue year-to-date was \$396,457,831, which is 16.0% over budget and 2% under prior year.

Total Operations, Maintenance and Administration expenses were \$69,049,899 year-to-date, which is 4% under budget.

After debt service, the total net revenue available for projects year-to-date through April was \$162.2 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:

- Reported on the meeting with the Florida Highway Patrol leadership regarding additional law enforcement support on the CFX system.

F. REGULAR AGENDA ITEMS

1. BRIGHTLINE UPDATE

Chairman Dyer stated that agenda items F.1 Brightline Update and F.2 Brightline Memorandum of Understanding will be discussed simultaneously. Agenda item F.2. Brightline Memorandum of Understanding will be a discussion item. There will be a special board meeting in July to discuss this item further. Tuesday, July 20th is one of the dates being considered for a Special Board Meeting.

Ms. Kelley explained the details of the Brightline Memorandum of Understanding before the board today.

Mr. Michael Cegelis, Executive Vice President and Ms. Christine Kefauver, Senior Vice President of Development with Brightline provided an update of Brightline's community outreach, issues presented by the Hunter's Creek Community Association and alignment.

Discussion ensued regarding the Brightline Memorandum of Understanding. Board Members commented and asked questions regarding the Memorandum of Understanding, which were answered by Ms. Kelley and Mr. Rodriguez. They also commented and asked questions regarding the Brightline Update presentation, which were answered by Mr. Cegelis and Ms. Kefauver.

Discussion ensued regarding alignments, costs and a neutral review. The board will reconvene in July to review and discuss the information requested.

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

2. BRIGHTLINE MEMORANDUM OF UNDERSTANDING

This item was consolidated with above item F.1. Brightline Update.

3. MONTHLY COVID-19 FINANCIAL ASSESSMENT

Ms. Lisa Lumbar, 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 both budgeted and CDM Smith's revised projections, estimated budget versus actual budget.

This will be the last Monthly COVID-19 Financial Assessment that will be presented since traffic and revenue are back to a normal pattern. However, the monthly dashboard, monthly treasurer's report and annual mid-year review in February will still be provided.

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

4. APPROVAL OF 2021B, 2021C AND 2021D BOND ISSUANCES

Ms. Lisa Lumbar, Chief Financial Officer, explained the details, process and cost savings for the refunding of the 2021B, 2021C and 2021D Senior Lien Bonds.

A motion was made by Mayor Demings and seconded by Mr. Madara for 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. The motion carried unanimously with nine (9) board members in attendance voting AYE by voice vote. Commissioner Smith was not present.

5. SR 417 WIDENING FROM NARCOOSSEE ROAD TO SR 528

Mr. Will Hawthorne, Director of Engineering, explained the project highlights, project timeline and bids received for the widening on SR 417 from Narcoossee Road to SR 528.

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

A motion was made by Commissioner Arrington and seconded by Commissioner Constantine for 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. The motion carried unanimously with nine (9) board members in attendance voting AYE by voice vote. Commissioner Smith was not present.

6. VISITOR TOLL PASS STATUS

Mr. Jim Greer, Chief of Infrastructure/Operations, announced the resumption of the Visitor Toll Pass program at the Orlando International Airport (OIA). The automated toll payment solution for visitors to Central Florida renting a car from the OIA. He explained the benefits to the customer, how it works and the future of the project.

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

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

G. BOARD MEMBER COMMENT

There were no board member comments.

H. ADJOURNMENT

Mayor Dyer reminded everyone there will be a special July board meeting.

Chairman Dyer adjourned the meeting at approximately 11:21 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.

2.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MINUTES SPECIAL BOARD MEETING JULY 20, 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 8:30 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 Lee Constantine, Seminole County
Jay Madara, Gubernatorial Appointment
Christopher "CJ" Maier, Gubernatorial Appointment
Rafael "Ralph" Martinez, Gubernatorial Appointment
Commissioner Victoria Siplin, Orange County

Board Members Appearing By Phone:

Commissioner Brandon Arrington, Osceola County

Board Members Not Present:

Commissioner Curt Smith, Brevard County

Staff Present at Dais:

Laura Kelley, Executive Director
Mimi Lamaute, Recording Secretary

Non-Voting Advisor Not Present:

Nicola Liquori, Executive Director, Florida's Turnpike Enterprise

Chairman Dyer announced that today's meeting is outside of the regularly scheduled calendar. That is why the agenda is structured a little different. We are here to address questions that this Board has had regarding the inter-city passenger rail project.

The FDOT extension letter dated March 1, 2021 to Brightline references a deadline of July 31st for certain items to be addressed. The proposed resolution that Ms. Kelley will discuss will allow CFX staff to continue to work with Brightline and other stakeholders.

Also on the agenda is Dewberry's independent evaluation of SR 417 and SR 528 rail project cost estimates, as requested at the June Board meeting.

Chairman Dyer stated that Mayor Demings and Commissioner Siplin are expected but have not arrived. Commissioner Smith will not be present, and Commissioner Arrington is attending by phone.

B. PUBLIC COMMENT

Ms. Michelle Maikisch, Chief of Staff and Ms. Mimi Lamaute, Recording Secretary read into the record the following written comments (attached as **Exhibit "A"**) regarding the Brightline Project, that were received in accordance with CFX's public comments procedures:

- George and Brenda Abarah
- Wade Mumm
- James Tilley

Commissioner Siplin arrived at this 8:40 a.m.

- David Kolbensschlag
- Pete J. and Judith S. Zieg
- Skip Munoz
- Maryorie Mezquita
- Jeff Lambert
- Laura Luhtala
- Michael Smith
- Courtney McDonnell

Mayor Demings arrived at this time 8:48 a.m.

- Rick Homans
- Stephen Sayles
- Steven Crosmer
- Cecilia Maier
- John Manley
- Walter Veit
- Ben Lytle
- George Bollinger

- Holly Vanture
- Charles Lee
- Marc Kruza
- Paul Owens
- Eli Fried
- Valeria Chavez
- Tim Giuliani

The written comment from Mr. Pat Crocker was longer than 3 minutes when read. It is attached as **Exhibit “B.”**

The following members of the public associated with Hunter’s Creek commented on the Brightline Project and illustrated a PowerPoint Presentation (Attached as **Exhibit “C”**):

- Ruthanne Connor-King
- Rafael Sardina
- Brenda Abuabarah
- Matthew Thielmann
- Maryorie Romero
- John Dingivan
- Joseph Overberger
- Terri Bromley
- Jackie Nguyenphu
- Troy Kishbaugh
- Michelle Ouimet
- Mary Solik

Ms. Maikisch explained that the International Drive Chamber of Commerce delivered a 500-page document to be distributed to the Board, marked as **Exhibit “D.”** Due to its size this document can be accessed by visiting: <https://www.cfxway.com/wp-content/uploads/2021/08/I-Drive-Presentation-Exhibit-F.pdf>.

The following members of the public commented on the Brightline Project:

- Tom Callan - provided documents that were distributed to the Board and are attached as **Exhibit “E”**
- Barbara Lanning

Board Member Ralph Martinez left the meeting at this time 10:00 a.m.

- Phil Caronia

The following members of the public associated with the International Drive Chamber of Commerce commented on the Brightline Project and illustrated a PowerPoint Presentation (attached as **Exhibit "F"**):

- Maria Triscari
- John Sprouls
- Elizabeth Gulacy
- John Stine
- Amy Sirmans
- Steve McElligott
- Woodrow Hanson
- Mo Pearson
- John Florio
- David Thomas
- David Vallillo
- John McReynolds

The following members of the public commented on the Brightline Project:

- Clinton Lalla
- Raymond Warthen
- David Bottomley
- Georganna Gillette

A comment form submitted by Mr. Reggie Blanco is attached as **Exhibit "G."**

Chairman Dyer called a recess at 10:50 a.m. The meeting was called back to order at 10:59 a.m.

Mr. Martinez returned to the meeting at this time 11:02 a.m.

C. REGULAR AGENDA ITEMS

1. THIRD PARTY EVALUATION OF PASSENGER RAIL PROJECT COST ESTIMATES

Kevin Knudsen, Vice President and Kelly Pollard, Senior Project Manager, Dewberry Engineers Inc. presented the Third Party Evaluation of Passenger Rail Project Cost Estimates. Dewberry was tasked by CFX to prepare an independent evaluation of project costs for the portion of the Orlando to Tampa intercity rail between Orlando International Airport Intermodal Center and Walt Disney World. Costs for two alignments were evaluated one being along the SR 417 corridor and the other one generally falling along the SR 528 and I-4 corridor.

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

2. **BRIGHTLINE RESOLUTION**

Ms. Laura Kelley, Executive Director provided a timeline for Brightline's West Palm Beach to Orlando Project. She then gave a synopsis of the Resolution of Support for Brightline's Orlando to Tampa project.

A discussion ensued regarding the Resolution of Support.

A motion was made by Mayor Demings and seconded by Commissioner Constantine to approve the Resolution of Support. The motion carried unanimously with eight (8) board members in attendance voting AYE by voice vote. One (1) member, Commissioner Arrington, appearing telephonically, voting AYE by voice vote. One (1) member, Commissioner Smith was not present.

G. **BOARD MEMBER COMMENT**

There were no board member comments.

H. **ADJOURNMENT**

Chairman Dyer adjourned the meeting at approximately 11:50 a.m.

Mayor Buddy Dyer
Chairman
Central Florida Expressway Authority

Mimi Lamaute
Recording Secretary
Central Florida Expressway Authority

Minutes approved on _____, 2021.

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Mimi Lamaute

From: George Abarah <gabarah@cfl.rr.com>
Sent: Friday, July 9, 2021 1:12 PM
To: Public.comment@cfxway.com
Subject: July 20 Meeting Regarding Brightline Route

July 9, 2021

Dear Sir or Madam,

Hello. Thank you for taking the time to read my email. I am writing you to address a concern I have regarding an upcoming special board meeting of the Central Florida Express Way Authority.

As you know, on July 20, 2021, there will be a special meeting of the Board to consider the Brightline 417 route. I am writing to you as a genuinely concerned homeowner in Hunters Creek. If Brightline is granted the proposed 417 route, the train will literally be in my back yard. My address of 4700 Yamato Ct., Orlando, 32837 is directly in the path of the proposed route. I have lived in this home since August of 1999. My family and I are directly involved in the community. The thought of a train going right through a residential area concerns me greatly. I am concerned about noise, (construction and operational) the impact on my homes value, and the safety to the community.

As I understand there is another route that is being proposed that uses the 528 to connect to I4 and enables a stop at the convention center. In my opinion this route certainly makes more sense and even more importantly the business in that area would applaud and welcome a decision that utilizes that route.

By choosing the 417 route many more homes and business and even OCPS schools will be impacted. I implore you to please choose the 528 route for the Brightline train.

Thank you for reading and please feel free to contact me at 407-963-4655 or babarah@cfl.rr.com with any questions you may have.

Regards,

Brenda Abuabarah



Virus-free. www.avast.com

Mimi Lamaute

From: Wade Mumm <wbmumm@greenewaychurch.com>
Sent: Monday, July 12, 2021 8:20 PM
To: Public.comment@cfxway.com; Lori Joens; Denise Sedon
Subject: Mumm - CFX Public Comment Letter
Attachments: Mumm - CFX letter.pdf

To Whom It May Concern,

Please receive the attached letter regarding CFX plans.

Wade.

--

Wade Mumm, PhD
Pastor, Greeneway Church
Producer, Influence Living
wbmumm@greenewaychurch.com
407.240.5442 (o)
407.761.9298 (c)

Mimi Lamaute

From: James Tilley <jamesmtilley@comcast.net>
Sent: Thursday, July 15, 2021 10:04 AM
To: Public.comment@cfxway.com
Subject: Agenda item - C.2: Brightline Resolution

Good morning-

My name is James Tilley and I reside at 6000 San Jose Blvd; Jacksonville, FL 32217.

I am writing to express support for the Resolution in support of Brightline's expansion to Tampa, FL that will be deliberated this coming Tuesday.

Brightline represents a privately capitalized, private sector transportation alternative that promises to provide frequent, fast passenger transportation to and from the Tampa area connecting with Orlando and Miami. Not only will Brightline operate without public subsidy but it will pay for the use of publicly owned facilities. It promises to reduce passenger demand on the highway network which will reduce the need for public funds to expand the existing roadway network-scarce funds that can be redeployed to other pressing needs.

Brightline will not share trackage with freight traffic enhancing public safety. Coordination and connectivity with SunRail further advances mobility options for the traveling public in Central Florida.

As Floridians we should feel privileged to have the opportunity to leverage upon a private sector rail option that has not been made available to the balance of the nation.

James M. Tilley

Mimi Lamaute

From: Dave Kolbensschlag <davesami@msn.com>
Sent: Thursday, July 15, 2021 11:15 AM
To: Public.comment@cfxway.com
Subject: AGENDA ITEM - C.2: BRIGHTLINE RESOLUTION.

I travel to Orlando from the Tampa area several times a week. I-4 is a terrible mess. Pollution, waste of expensive fuel in traffic. Just a mess! I can assure you that if I can hop on a reliable train round trip Tampa /Orlando I certainly will as will my co-workers who must also make this trip. Work schedules differ for us so we cannot effectively form a car pool.

My message to the Board of the Authority emphasizes that Brightline offers a private sector solution to Central Florida's transportation needs. The railroad will pay for use of public facilities and that by reducing passenger demand on the highway network the demand for public funds to expand the roadway network will be mitigated allowing scarce tax payer funds to be redeployed to other investment needs. Rail service promises to be fast, frequent and safe as no freight traffic will share the trackage to Tampa.

Thank you,

David Kolbensschlag

Mimi Lamaute

From: Pete Zieg <pete@zieg.com>
Sent: Thursday, July 15, 2021 5:10 PM
To: Public.comment@cfxway.com
Cc: mayor@ocfl.net; district6@ocfl.net
Subject: Brightline Rail Route

Dear Members of the CFX Governing Board:

You are about to receive a barrage of comments and communications from residents and HOA Board members of the Hunters Creek Community Association in opposition the **proposed Brightline rail route along the Rt. 417/Greenway** right-of-way through our community. We expect ours to be a minority voice, but a valid voice nevertheless.

We are writing to **STRENUOUSLY NOT OPPOSE** this rail route from MCO to Disney Springs. We think “this is the way to go” for the Brightline.

Who are we? We are nineteen year residents of one of the impacted neighborhoods, Flora Vista, though our home is not in close proximity to “the 417.” We are retired professional people (JZ: middle school principal; PZ: pastor of a good-sized church) and pass through the Hunter’s Vista Boulevard exit beneath “the 417” overpass from The Vistas to Town Center Boulevard on a daily basis. PZ served 6 years on the HCCA Board of Directors and is currently President of the Flora Vista Neighborhood Committee, but is not assuming to represent them.

✓ We believe that “the 417” rail route will **ease the increase in traffic** and congestion along this highway as tourists travel to and from WDW, the world’s most popular tourist destination. Eliminating some of the bus and auto traffic along this route will **help control pollution**.

✓ The use of **bio-diesel train locomotives**, from what we have read, will not contribute greatly to air pollution, though some of our HOA leaders have spoken negatively of bio-diesel as if it were a bad thing.

✓ There being no stops, stations or intersections along this route there will be no local impact on traffic in Hunter's Creek, **no horns or whistle blowing**. It is our understanding that as the train would be enroute MCO-Disney-Tampa and vice-versa it would have attained a good speed (60 mph+?) by the time it passed through Hunter's Creek, making any **vibration or noise** a quickly passing event, probably not more disturbing than the big trucks and vehicles with annoyingly loud mufflers currently passing along the route, not to mention jet airliners continuously passing over our neighborhood from MCO.

✓ Some have suggested this route will endanger **our local wildlife**. Our abundant wildlife does not cross the 417 route, except perhaps at the Shingle Creek Conservation area overpass. We assure you, nothing runs, walks, crawls or slithers across the Greenway nor passes through the Hunter's Vista Blvd. overpass. For winged species, train tracks will make no difference.

We are fans of rail travel when abroad, having enjoyed the Eurorail, the Chunnel and other rail experiences numerous times, and hope to one day travel via Brightline from Orlando to Miami to begin and conclude a cruise. It has been our observation that European trains frequently travel close to residential areas and near homes alongside many of their great rivers with no problems.

Thank you for considering our views.

Peter J. Zieg

Judith S. Zieg

13335 Paloma Dr.

Orlando, FL 32837

407-873-6173

pete@zieg.com

judy@zieg.com

Mimi Lamaute

From: SKIP MUNOZ <sm24799@gmail.com>
Sent: Wednesday, June 30, 2021 11:43 AM
To: Public.comment@cfxway.com
Subject: 417 Brightline Route

As a Hunter Creek resident, the longest resident of Hunters Creek, I wish to express my agreement with the Brightline route through the 417 going through Hunters Creek. Not all residents are opposed to it as the HCCA would have the public believe.

Sent from [Mail](#) for Windows 10

Mimi Lamaute

From: Maryorie Mezquita <maryorie08@gmail.com>
Sent: Friday, July 9, 2021 3:46 PM
To: Public.comment@cfxway.com
Subject: Brightline Train 417

CFX Board:

As I write this message I am watching my children play at Vista Park, in Hunters Creek.

I can't help but wonder what adding a Brightline track would do to this landscape.

There is only one way in and one way out of this community. One would have to drive under a Brightline track to get in or out of here. This thought brings memories of passenger trains derailing in Pensilvania and other parts of the country.

An exploding train, at the very least, would trap this community or worst kill folks who live adjacent to where the track would run.

The good news, is that Brightline has an alternative route, the 528. Less human casualty, less damage to homes and to the environment.

Please, don't allow Brightline to put this community at risk, when they have the more industrial part of town as an option for building their track.

Humbly asking,

Maryorie Mezquita-Romero.

Mimi Lamaute

From: Jeff Lambert <jefflambert1@me.com>
Sent: Wednesday, July 14, 2021 2:30 PM
To: Public.comment@cfxway.com

I am in support of the 417 route/hunters creek route. Let's make this happen!

Jeff Lambert

Mimi Lamaute

From: slnwatch@yahoo.com
Sent: Wednesday, July 14, 2021 5:03 PM
To: Public.comment@cfxway.com; mayor@ocfl.net; district6@ocfl.net
Subject: Please NO Brightline through Hunter's Creek!

When I came to Central Florida nearly 24 years ago, I drove back, forth, and all around the greater Orlando metropolitan area looking for a spot to call home. After three days and 500 miles of searching, I told my husband there was only one community for me. That was Hunter's Creek.

Much has changed over the years with expanse of roadways, residential, and commercial areas. Thankfully, the Hunter's Creek Community Association has kept its promise to maintain community standards providing us with beauty, safety, peace and quiet. The thing I love most about my residential property is the natural beauty, greenspace, and abundant wildlife. It would be an egregious act to allow Brightline the right of way along the 417 through our community.

Please recognize and protect us from the many negative impacts of a heavy rail train: Noise pollution, air pollution, light pollution, destruction of greenspace, destruction of wildlife habitats, and the Trojan Horse of future expansions. **Please do not turn your back on the interests of 25,000 Hunter's Creek residents in favor of an outside commercial enterprise!** Please do not allow the use of the 417 route Brightline is proposing!

Thank you.

Respectfully,

Laura Luhtala

Mimi Lamaute

From: michael smith <mismit45@hotmail.com>
Sent: Friday, July 16, 2021 11:21 AM
To: Public.comment@cfxway.com; michael smith; Sayles Steve; Jackson McQuigg; James Tilley; Charlie Crist
Subject: AGENDA Item C-2: Extend rail tracks to Tampa Bay from (MCO) Airport for exclusive passenger trains

Brightline is a privately-owned passenger train service in the United States that is located in one of the most congested travel markets in the country.

When operational, Brightline oversees a fleet of (new in 2016-2018) rail passenger cars and the latest (2017-2019) diesel-electric locomotives to pull them, fabricated in the USA.

Of the 400 million annual trips taken among the cities of Miami, Orlando and Tampa, over 95% are taken by automobile.

In the short scheme, Brightline would add the option of travel beyond the stress made upon a motor vehicle driver who must anticipate a sudden halt of expressway traffic on a through lane, an event increasingly common on (I-4) Interstate Four in the Orlando area and (I-95) Interstate Ninety-five at and near Miami.

With an eye to a longer view, any arrangement between the State of Florida or other official entity which bestows a non-date, limited lease or other allowance for an exclusive franchise to a single for-profit corporation for a monopoly service should be viewed with caution by those interested in good government.

Should such rail tracks become in demand by others in the future who may offer faster, more convenient trains, a monopoly contract would become an obstacle to more frequent passenger train service.

Ideally, the State of Florida should re-prioritize its transportation dollars to fund new rail tracks along public rights-of-way for fast trains. The result: county or (RTA's) regional transportation authorities would control rail access rights for private entities to bid upon.

The above would be a departure from the present State of Florida policy: to fund tollways and toll lanes above existing right-of-way maintenance. For the long-term, a monopoly arrangement is not good transportation policy for Floridians.

M. Smith (July 16, 2021)

Mimi Lamaute

From: Courtney McDonnell <Cmcdonnell@tampabay.org>
Sent: Friday, July 16, 2021 12:05 PM
To: Public.comment@cfxway.com
Subject: Tampa Bay Partnership Letter of Support re: Brightline Resolution
Attachments: 07.16.21_TBP Letter of Support_Brightline Resolution.pdf

To Whom It May Concern:

Please find attached a letter of support from Tampa Bay Partnership President & CEO Rick Homans. Please let me know if you are unable to access the letter.

Best,
Courtney

T A M P A B A Y
PARTNERSHIP

COURTNEY
MCDONNELL

PROGRAM DIRECTOR

4300 W. CYPRESS STREET, SUITE 875, TAMPA, FL 33607

O: 813.872.2813 | C: 850.321.5483 | CMCDONNELL@TAMPABAY.ORG | TAMPABAY.ORG

Tampa Bay Partnership
4300 W. Cypress Street, Suite 875
Tampa, FL 33607

Central Florida Expressway Authority
ATTN: Board of Directors
4974 ORL Tower Road
Orlando, FL 32807

July 16, 2021

Dear Central Florida Expressway Board of Directors,

On behalf of the dozens of major businesses and organizations represented by the Tampa Bay Partnership, I am writing to voice our support of Brightline's efforts to link the Central Florida and Tampa Bay regions. We encourage you to support the proposed Brightline Resolution for a cost-feasible route and right-of-way between Orlando International Airport and Downtown Tampa.

By linking to Tampa Bay, Brightline will have completed a 337-mile high-speed passenger rail system connecting Miami, Orlando and Tampa, a MegaRegion that ranks in the Top 10 in the Western Hemisphere. By linking these three markets with efficient, reliable and comfortable rail service, Brightline will help to increase the economic potential and collaboration of this MegaRegion.

The Partnership has observed – and supported -- Brightline's efforts for many years. We've been impressed by the company's commitment to proceed without public subsidy and to work with the communities it serves to minimize noise and disruption and to maximize service and economic development. Our leadership has met with Brightline's leadership and we've toured their facilities and we rode their trains. We believe that Brightline is offering our three communities a rare opportunity to expand our economic potential by linking our markets.

We encourage you at your July 20 Special Meeting to adopt the Brightline Resolution, so that the Florida Department of Transportation can proceed to finalize a right-of-way agreement between Central Florida and Tampa Bay. Failure to approve this Resolution may jeopardize this right-of-way agreement, which could lead to a major missed opportunity for the State of Florida that would be felt for decades to come.

Sincerely yours,



Rick Homans
President and CEO
Tampa Bay Partnership

Mimi Lamaute

From: Stephen Sayles <ssayles28@hotmail.com>
Sent: Friday, July 16, 2021 5:32 PM
To: Public.comment@cfxway.com
Cc: jamesmtilley; Jim Mathews; Sean Jeans-Gail
Subject: C.2 Brightline

Good Afternoon,

My name is Stephen Sayles, President of ***Florida Coalition of Rail Passengers*** and I live at 13950 SE 68th Lane Morriston, Florida 32668.

Our organization would like to give full support to Brightline and the expansion to Tampa. Brightline represents the Catalyst that this state needs to help safely and effectively move tourist's as well as residence throughout Florida.

As you know we are the 3rd most populated state and Brightline could assist in the following:

- Assist all the retirees that no longer drive and baby boomers who soon well.
- Give our tourists that we so heavily rely for tax dollars, to move about our state more freely.
- Evacuation when it comes to getting persons out of harms way.

Thank you for your time and attention,

Stephen Sayles
President FCRP

Sent from [Mail](#) for Windows 10

Mimi Lamaute

From: Steven Crosmer <sdccrosmer@aol.com>
Sent: Friday, July 16, 2021 9:31 PM
To: Public.comment@cfxway.com
Subject: AGENDA ITEM - C.2: BRIGHTLINERESOLUTION

This is to inform you that I have the belief that the Brightline railroad proposal, is an excellent idea for Florida's future, which they desire to build in the middle of the existing I-4 right-of-way between Orlando and Tampa. Brightline is a private company, that would own the rail line and maintain it for passenger use only, and would allow SunRail to operate their trains as well.

The right-of-way in the middle of I-4 was rebuilt while Jeb Bush was governor, who designated that the rebuilt center median be for a high-speed train line between Tampa and Orlando. To build anything else in the center right-of-way, particularly toll lanes, will require a massive rebuild at several interchanges to refit the roadway with barriers for the toll lanes, and require borrowing huge sums of money, which the toll lanes will likely never pay off, putting FDOT deeper in debt. There is a wide opening in the center divider at Exit 32, with US-98, and is near shopping, hotels, and is both a short drive with public transit service to connect with Lakeland's downtown district, which would be the ideal location for the Lakeland station stop.

Building the rail line in the middle of the right-of-way can be done promptly, and with minimal disruption to traffic during the construction period. Building the rail line could also yield a safety benefit, as its barrier will help to reduce head-on collisions from errant drivers who stray across the median. Building Brightline will also offer commuters and tourists an alternative means of transportation to Tampa, as well as for those who do not drive or own cars due to their physical or financial limits. Building Brightline will also allow Tampa Bay connect with the rest of Florida on the east coast and to areas north of Orlando, with a future segment with its eye on Jacksonville.

Please support Brightline for Florida's future.

Steven Crosmer

Mimi Lamaute

From: Cecilia Maier <maierarq@gmail.com>
Sent: Wednesday, July 14, 2021 8:47 PM
To: Public.comment@cfxway.com
Subject: Brightline project

I totally support growth.

I support more economical 417 route and Brightline extension to Tampa, crossing Hunter's Creek.
I support the Brightline project.

Cecilia Maier
MS, Architect
+1 646 645 3038
www.ceciliamaier.com

Mimi Lamaute

From: John Manley <jpmanley3@gmail.com>
Sent: Thursday, July 15, 2021 10:50 AM
To: Public.comment@cfxway.com
Subject: "AGENDA ITEM - C.2: BRIGHTLINE RESOLUTION".

My message to the Board of the Authority emphasizes that Brightline offers a private sector solution to Central Florida's transportation needs. The railroad will pay for use of public facilities and that by reducing passenger demand on the highway network the demand for public funds to expand the roadway network will be mitigated allowing scarce taxpayer funds to be redeployed to other investment needs. Rail service promises to be fast, frequent and safe as no freight traffic will share the trackage to Tampa.

Respectfully,
John Manley

--

P.O. Box 1262
High Springs, FL 32655

Mimi Lamaute

From: Ben L <bflytle@gmail.com>
Sent: Saturday, July 17, 2021 4:46 PM
To: Public.comment@cfxway.com
Subject: July 20 Board Meeting - In Support of Brightline SR 417 Alignment

I am writing in support of the Brightline alignment along SR 417.

Any objections to this alignment are not sufficient to justify the increase in the cost of the line by 50-100% that the SR 528 alignment would entail. Arguments against train noise can be dismissed because the trains will be much quieter than all of the motorcycles which travel 417 every hour in the absence of Brightline.

The noise and vibration impacts to residences caused by the construction of Brightline are regrettable, but were insufficient to prevent the ongoing widening project on SR 417 in this same area. Also, if construction noise was a sufficient reason not to build, than nothing could be built anywhere.

In summation, I would like the board to vote in favor of the Brightline proposal to use right-of-way on SR417.

Thank you for your time.

Ben Lytle
8577 Saratoga Inlet Dr
Orlando, FL 32829

Mimi Lamaute

From: Holly Vanture <hollyvanture@gmail.com>
Sent: Friday, July 16, 2021 4:50 PM
To: Public.comment@cfxway.com
Subject: Support for Brightline's proposed route to roughly follow the GreeneWay/417 from ~S. Orange Ave., adjacent to Hunter's Creek

I am writing in support of Brightline's proposed route. It's time to offer more options for transportation.

My house is on Lake Jennie Jewel, we have lived here for 30 years. Since we are on the lake, the sound from the trains, directly across the lake at Orange Avenue, carries easily. With new double pane windows throughout our home, there is very little train sounds during the day or the night. Technology is helping us in all areas. We hear more noise from the Thursday evening car racing on Orange Avenue.

I understand the trains will be bridge-elevated which will remove any sound from warning horns at crossings. (Maybe we could do that at some point in the future throughout Central Florida.)

I understand the Central Florida Expressway Authority is considering the matter next week and wish to express my support as a property owner and voter in Orange County, Florida.

The preferred 417 route is a more economical route that involves fewer bridges that will need to be built and fewer private properties that will be impacted — resulting in lower ticket prices and theoretically higher ridership, which makes for a successful business model.

I hope you will vote in favor of the preferred 417 route and moving us further into the 21st century in transportation.

Holly

Holly Vanture
322 Jennie Jewel Drive
Orlando, FL 32806
HollyVanture@gmail.com
407-222-4761

Mimi Lamaute

From: GEORGE BOLLINGER <bollinger5@bellsouth.net>
Sent: Saturday, July 17, 2021 10:08 PM
To: Public.comment@cfxway.com
Subject: AGENDA ITEM C-2 BRIGHTLINE RESOLUTION.

WARNING:The sender of this email could not be validated and may not match the person in the "From" field.

I SUPPORT THE PRIVATELY FUNDED INFRASTRUCTURE FROM TAMPA TO ORLANDO . THIS IS AN EXAMPLE OF HOW PASSENGER RAIL CAN BE EXPANDED WITHOUT INCREASING THE FEDERAL DEBT.

LETS GET ON BOARD.

GEORGE BOLLINGER
8237 HIDDEN LAKE DRIVE
JACKSONVILLE, FL.
32216

Mimi Lamaute

From: Marc Kruza <mkruza@gmail.com>
Sent: Saturday, July 17, 2021 8:57 AM
To: Public.comment@cfxway.com
Subject: Brightline Route - Please approve the SR 417 route from Orlando airport to Disney

RE: Brightline Route - Please approve the SR 417 route from Orlando airport to Disney

Good morning, I encourage you to support the Brightline route from Orlando airport to Disney via SR 417, *not SR 528.

- The SR 417 route is less expensive, and will have far fewer complications with right-of-way. Sound walls can be erected to mitigate noise in residential areas.
- The Brightline is a mid-speed (up to 125 mph) intercity train. The SR 528 route is preferred by those who want stops near the Sunrail connection, Universal, International Drive, and the Orange County Convention Center. These stops would be far better served by other transportation modes designed for shorter distances (buses, light rail, people movers, etc.)
- As a life-long Floridian, who has seen this rail project delayed for decades, we have had plenty of debate regarding the Orlando-Tampa connection. It's time for debate to end and building to begin. I'd be relieved and proud to have a private, well-run, regional train come to my home state. Please don't let it be derailed.

v/r, Marc S. Kruza



July 19, 2021

Honorable Buddy Dyer
Chairman,
Members of the Governing Board,
Central Florida Expressway Authority

1101 Audubon Way
Maitland, Florida 32751
Tel: (407) 539-5700

Cell (407) 620-5178
www.audubonofflorida.org
email: Clee@audubon.org

RE: Brightline, Passenger Rail Project - July 20 Agenda Item.

Dear Chairman Dyer and Members of the Governing Board:

Audubon Florida supports completion of the Brightline Passenger Rail project. This project will establish Florida's first modern intercity rail connectivity between Miami, West Palm Beach, Orlando, and Tampa.

The current plan would provide for two Central Florida stations with access to this rail service, one at Orlando International Airport, and the other at Disney, in the attractions area.

A key feature of viable intercity rail is the speed of travel between urban destination points in the different cities. If the route is burdened by numerous local stations at locations intended as an attempt to serve local, rather than intercity transportation needs, the performance of the rail system will degrade. Increased travel time (for example) between Orlando and Tampa will reduce the attractiveness of the entire system and impair use by riders.

Establishing intercity rail in Florida is a benchmark accomplishment necessary to reduce dependence on automobile travel and thereby lower the emission of greenhouse gases. Audubon Florida believes that the infrastructure of a rail transit alternative between Florida's major cities is a key part of the architecture needed to address climate change.

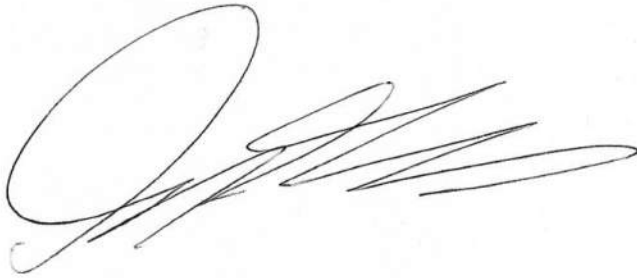
A number of International Drive businesses, including Universal, would like to utilize CFX as a forum to reconsider the Brightline intercity rail plan in order to promote an alternative route that they believe would benefit their interests.

The preferred route proposed by Brightline along the SR 417 Expressway is the most direct path to Tampa, with the least expensive bridging components, and the location of an intercity rail route along 417 will not impair any aspect of the CFX expressway system. The environmental impacts of this route are minimal, and co-location with an existing busy expressway will also minimize community impacts. These factors should be the primary drivers of a decision by CFX.

The recent editorial of the Orlando Sentinel on this matter reflects valid concerns about entertaining an alternative alignment for this intercity project to suit local interests. See: <https://www.orlandosentinel.com/opinion/editorials/os-op-brightline-orlando-universal-disney-route-20210716-3qm53insfvgbnditm7uexewa4e-story.html>

Audubon Florida is hopeful that the Governing Board of CFX will act promptly to approve the utilization of the 417 route for the Brightline project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charles Lee', with a large, stylized initial 'C'.

Charles Lee
Director of Advocacy

Mimi Lamaute

From: Paul Owens <powens@1000fof.org>
Sent: Saturday, July 17, 2021 6:12 AM
To: Public.comment@cfxway.com
Subject: Agenda Item – C.2: Brightline Resolution
Attachments: 1000 Friends to CFX.docx

Please see the attached comment regarding Agenda Item C.2 submitted by 1000 Friends of Florida.
Thank you.

Paul Owens
President, 1000 Friends of Florida
850-222-6277 ext 102
407-222-2301 (cell)
Follow us on Twitter @FloridaFriends
Like us on Facebook



building better communities • saving special places

July 17, 2021

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

Via electronic mail

Dear Governing Board Members:

Since our founding in 1986, 1000 Friends of Florida has been our state's leading nonprofit advocate of managing growth to protect our environment, economy and quality of life. We believe these essential goals can be more easily achieved if there are more widely available alternatives to car and truck transportation, including expanded passenger rail options. Along with thoughtful urban design, efficient transportation systems are critical to fostering growth patterns that promote environmental and economic sustainability.

We therefore urge you to preserve the opportunity to establish a fiscally and environmentally responsible fast-rail link between Orlando and Tampa, and enhance other alternative transportation systems. This could expand economic integration within the corridor, nurture the growth of more livable communities and reduce greenhouse gas emissions, among other significant benefits.

The choices you make as Governing Board Members for the Central Florida Expressway Authority will have a far-reaching impact on the competitiveness of the region's economy, the health of its environment, and its quality of life.

Sincerely,

A handwritten signature in cursive script that reads "Paul Owens".

Paul Owens
President

Officers: Susan Trevarthen, *Chair* • F. Gregory Barnhart, *Vice Chair* • Timothee Sallin, *Secretary* • Tim Jackson, *Treasurer*

Board of Directors: Bob Cambric, Courtney Cunningham, Lee Constantine, Andrew Dickman, Jim Swann, Victoria Tschinkel, Jake Varn, Mark Watts

Emeritus: Lester Abberger, Robert Davis, Jim Nicholas, Roy Rogers, Earl Starnes

President: Paul Owens

Post Office Box 5948 • Tallahassee, FL 32314-5948 • PHONE 850.222.6277 • FAX 850.222.1117

www.1000friendsofflorida.org • friends@1000fof.org

Mimi Lamaute

From: Eli Fried <elisfkc@gmail.com>
Sent: Saturday, July 17, 2021 10:30 PM
To: Public.comment@cfxway.com
Subject: Public Comment-Brightline Resolution

As a citizen, I find it ridiculous that the I-Drive Resort Area Chamber of Commerce gets a say in whether Brightline has to spend somewhere between \$300 million to \$1.3 billion extra just to appease the I-Drive group, without the I-Drive group contributing even a cent. That amount is roughly equal to the entire earnings of a couple of Universal's parks in 2019, based on their annual report. Universal is among the only ones who could potentially pay for this with ease. The I-Drive group keeps talking about how they want time, but this plan has been known for 3 years and even approval by the Board will not result in tracks being laid the next day.

The 528 plan would further divide more areas of our community at a time when there is a special focus on such issues. The **three story tall** walls for the tracks to run on that the I-Drive group proposes would easily separate any area of the community it runs through, creating yet another divide inside of the Orlando area.

Eli Fried

Mimi Lamaute

From: Valeria Chavez <chavezva123@gmail.com>
Sent: Sunday, July 18, 2021 7:15 AM
To: Public.comment@cfxway.com
Subject: Public Comment Submission - C.2: Brightline Resolution

Hello!

My name is Valeria Chavez, and I am writing to voice my opinion on the Brightline transit proposal (C.2: Brightline Resolution) as a Central Florida resident and young professional. Growing up in the Hunter's Creek and Dr. Phillips areas, one of the main problems I encountered was a lack of efficient and environmentally friendly public transportation to connect me to surrounding areas and regions such as Miami and Tampa. As a twenty-two year old who just graduated from Vanderbilt University and is about to attend Duke Law, I am beginning to consider different areas for my eventual legal practice. Having a system such as Brightline throughout Florida is a large selling point, and something that I believe will draw more young professionals such as myself to the area. Many of my peers emphasize environmental sustainability, and Brightline appeals to our career and living situation priorities. As a member of the community, I wanted to ensure that the opinion of my peers was shared in the public forum.

Thank you for your time and consideration of my comments!

- Valeria Chavez

--

Valeria Chavez

Vanderbilt University, Class of 2021

Women's & Gender Studies | Sociology

chavezva123@gmail.com | (407) 230-0834

July 19, 2021

The Honorable Buddy Dyer, City of Orlando Mayor
Chairman, Central Florida Expressway Authority
424 ORL Tower Road
Orlando, FL 32807

Dear Chairman Dyer:

I am writing on behalf of the Orlando Economic Partnership (the Partnership) to express our strong support of transportation expansion throughout our region.



Last year, the Partnership released its [Orlando 2030 Transportation Report](#) outlining seven regional priorities that will lead Orlando's transportation system forward for the next generation and improve connectivity on all scales, local and global. One of the key priorities we have been advocating for is to Strengthen Central Florida's Global Gateways. We strongly encourage ongoing investments to maintain the preeminent regional role of Orlando International Airport, including intermodal connection to SunRail and intercity rail. We are currently leading advocacy efforts encouraging "*development of interregional rail connections between Orlando and Miami and Tampa,*" and promotion of "*ongoing investments to maintain the preeminent regional role of Orlando International Airport, including air service development, capability expansion, and intermodal connection to SunRail and intercity rail.*"

While there is an opportunity to move forward on one such solution that will help to meet our region's transportation needs, I would like to strongly recommend that we consider thinking bigger than just one connection. Beyond the need to connect rail to the airport and Tampa, there is a clear need to find a creative solution to connect the airport and the Orange County Convention Center/International Drive Area as well. We encourage the Central Florida Expressway Authority to make this connection a priority and to work with our region's transportation partners to find solutions to ALL our transportation needs. In addition, we support moving ahead with projects that are available to us as a region that meet our transportation goals. To keep up with Orlando's phenomenal growth we need to support projects that are innovative in creating connectivity through multimodal transportation options for both our 4.4 million current residents and 35 million annual visitors to our region.

Thank you,



Tim Giuliani
President and CEO
Orlando Economic Partnership

C: Central Florida Expressway Authority Board of Directors

Mimi Lamaute

From: Pat Crocker <saltydawg@earthlink.net>
Sent: Friday, July 16, 2021 3:17 PM
To: Public.comment@cfxway.com
Cc: Denise Sedon
Subject: Opposition to high-speed rail following the 417 in Orlando

To Whom It May Concern:

I am a Hunter's Creek resident, a taxpayer, and a certified Advanced Florida Naturalist, so I have a lot of concerns about the proposed 417 route for a high-speed rail train.

First, as a naturalist — and I must emphasize that my views are my own, and do not reflect those of the master naturalist program — I am opposed to the route on the basis of the potential damage to the Shingle Creek watershed.

Building across fairly flat terrain, and relatively inexpensive land, might be somewhat economical, but building across Shingle Creek — the headwaters of the Everglades — will require the destruction of miles of wetlands and wildlands. At a time when the state of Florida is spending billions to restore the Everglades and watersheds across the region, the negative impact of plowing a railroad right-of-way right through the heart of Shingle Creek simply makes no sense. We've learned from the Tamiami Trail that cutting off the free flow of water is detrimental to the survival of wetlands and all the wildlife they support. Wildlife in Florida is already being squeezed into smaller and smaller patches of wildlands. And, again, when the state is committing millions to create wildlife corridors, the train would further fragment valuable habitat.

From an environmental perspective, too, high-speed, limited destination trains are a waste of resources. Dedicated infrastructure is wasted infrastructure. The main disadvantage of high-speed trains is that they require a huge amount of infrastructure that must be built and maintained to extremely precise standards. And all the infrastructure for a high-speed train has to be put in place before the first train can run. When you consider the fact that the United States is struggling to maintain the train infrastructure it already has (Amtrak and others have more than \$200 billion in maintenance backlogs), the economics make no sense to me either.

These projects are often plagued by cost overruns and construction delays, and passenger revenues may not even cover operating costs. Amtrak can't even pay for itself in the northeast — the most densely populated region in the country. Hindsight provides many examples of private companies doing irreparable harm to environmentally sensitive areas like Shingle Creek area, and then running out of funds.

Already the high-speed part is compromised by a stop at Disney. If you're going to do that, it seems to make more sense to route it down the 528 to accommodate stops at the Convention Center and International Drive for SeaWorld and Universal. Taxpayers have sunk millions of dollars into an enormous convention center, and the train would bypass that? What the area needs is a comprehensive transportation plan, rather than a piecemeal approach. High-speed rail that links transportation hubs like airports only, combined with limited-rail service to high demand areas, would be a better use of resources.

From an energy conservation perspective, trains are energy hogs. It takes more energy to move a train at high speed, than it does to move one at conventional speeds, and high speed trains will not carry freight. In Japan, energy costs are 50% more than conventional trains. Most are powered by electricity and that's an inherent inefficiency, since most electrical generation plants consume more energy to produce electricity than they deliver to consumers. You have to factor in the energy required to generate the electricity the train consumes — and the source of that generation cost in fossil fuels.

And then factor in the costs of producing roadbeds, ties, rails, power supplies, signals, and stations. All of these release a huge amount of greenhouse gases. Whatever savings might accrue would never make up for the cost of construction emissions.

If the argument is that air travel is being slowed by security, there are solutions for that. And I assume that there will need to be security on the trains as well.

I adore the beach in St. Pete, and that's my primary reason for heading to the west coast. If I drive from Orlando to St. Pete, I can take what I need for some beach time, get off at any exit, and go wherever I please on any other road, and benefit the local economies in those areas. If I took the proposed high-speed train, I would need to drive to the Orlando airport, pay to park, take the train to the Tampa airport (with all my beach stuff in hand), and then still have to find a way — most likely hired or rented ground transportation — to get to my final destination in St. Pete. Rinse and repeat for the return trip. The coronavirus pandemic has increased my willingness to drive longer distances. And the distance from Orlando to Tampa is much too short to fit into the high-speed rail 'sweet spot' of 300-600 miles anyway.

Finally, there is an enormous downside to the community I call home. There is absolutely no benefit economically to Hunter's Creek, since the trains will only be passing through, and I would argue that there will be financial harm to property values, especially to property owners abutting the railroad right of way. Having sound barriers is of limited value — and only serves to isolate wildlife in smaller fragments, while creating visual blight for the homeowners adjacent to the barriers.

In short, this is an ill-conceived plan. If high-speed rail must come through Orlando, then the 528 route is clearly a better choice. When the private investment doesn't generate enough revenue to cover operating expenses, much less maintenance, at least when the taxpayers have to take it over, there will be a benefit to the economic drivers in the region — the tourism industry.

Thank you.

Pat Crocker
14156 Snead Circle
Orlando, FL 32837

Mimi Lamaute

From: msolik@dotysoliklaw.com
Sent: Friday, July 16, 2021 10:20 AM
To: Mimi Lamaute; Michelle Maikisch
Cc: Woody Rodriguez
Subject: Hunter's Creek Organized Presentation
Attachments: Hunter's Creek Speaker Order.pdf

Mimi & Michelle:

Attached is the list of the Hunter's Creek speakers, in order, in our coordinated presentation. There are 13 speakers in all. Of course, we have no idea how many Hunter's Creek residents might attend and provide additional commentary outside of this coordinated presentation.

Thanks,
Mary



Mary Doty Solik
121 S. Orange Ave., Suite 1500
Orlando, FL 32801
407 367 7868
407 925 4738 Mobile
www.dotysoliklaw.com
msolik@dotysoliklaw.com
Licensed in FL and GA

Order	Name
	Speakers
1	Ruthanne Connor-King
2	Rafael Sardina
3	Brenda Abuabarah
4	Matt Thielmann
5	Maryorie Mezquita-Romero
6	John Dingivan
7	Joe Overberger
8	Cindy Brough
9	Terrie Bromley
10	Jackie Nguyenphu
11	Troy Kishbaugh
12	Michelle Ouimet
13	Mary Solik

Central Florida Expressway Authority

July 20, 2021

- **Hunter's Creek Board of Directors and Residents**
- **Michelle Ouimet**
- **Mary Solik**

HUNTER'S CREEK

WHERE MEMORIES ARE MADE & FRIENDSHIPS ARE FORMED

HCCA
BRIGHTLINE
417 ROUTE
TASK FORCE



From right to left

Ruthanne Connor-King
Board President
Matt Thielmann
Board Vice President
Joe Klein
Board Director



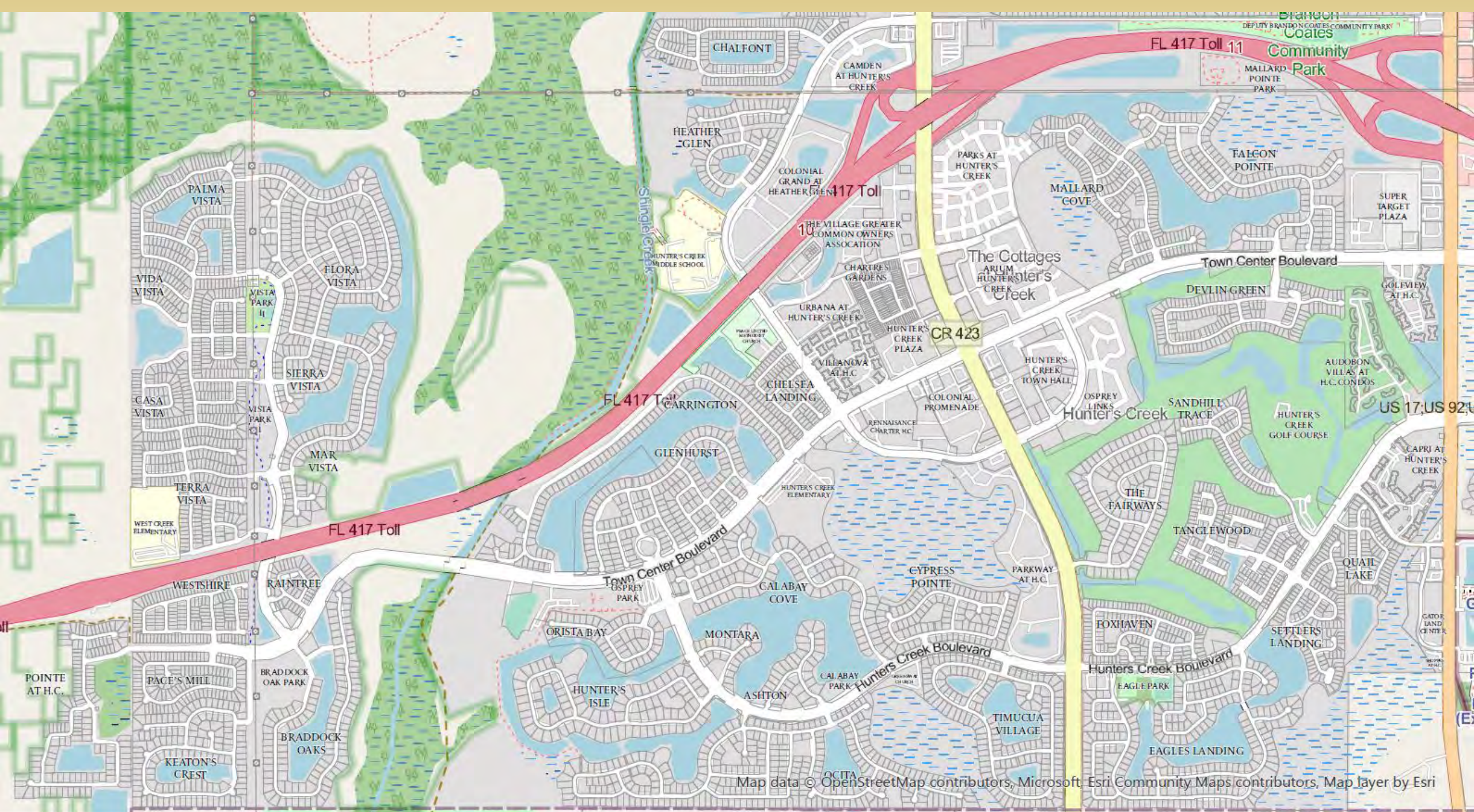
Michelle Ouimet
General Manager
Denise Sedon
Assist. General Manager
Lori Joens
Commercial Manager



Beth Lanham-Patrie
Association Attorney

Mary Doty Solik
Land Use Counsel





Branch Coates
DEPUTY BRANCH COATES COMMUNITY PARK

Community Park
MALLARD POINT PARK

FL 417 Toll 11

CHALFONT

CAMDEN AT HUNTER'S CREEK

HEATHER GLEN

COLONIAL GRAND AT HEATHER GLEN

PARKS AT HUNTER'S CREEK

MALLARD GOVE

FAIGON POINTE

SUPER TARGET PLAZA

PALMA VISTA

VIDA VISTA

FLORA VISTA

SIERRA VISTA

CASA VISTA

TERRA VISTA

MAR VISTA

WEST CREEK ELEMENTARY

HUNTER'S CREEK MIDDLE SCHOOL

THE VILLAGE GREATER COMMON OWNERS ASSOCIATION

CHARTRES GARDENS

The Cottages

ARLUM HUNTER'S CREEK

Town Center Boulevard

DEVLIN GREEN

GOLVIEW AT H.C.

URBANA AT HUNTER'S CREEK

HUNTER'S CREEK PLAZA

CR 423

HUNTER'S CREEK TOWN HALL

SANDHILL TRACE

AUDOBON VILLAS AT H.C. CONDOS

US 17; US 92

FL 417 Toll

CARRINGTON

GLENHURST

Town Center Boulevard

HUNTER'S CREEK ELEMENTARY

Hunter's Creek

OSPREY LINKS

HUNTER'S CREEK GOLF COURSE

CAPRI AT HUNTER'S CREEK

POINTE AT H.C.

PAGE'S MILL

BRADDOCK OAK PARK

BRADDOCK OAKS

KEATON'S CREST

ORISTA BAY

HUNTER'S ISLE

MONTARA

ASHTON

CALABAY COVE

CALABAY PARK

Hunters Creek Boulevard

CYPRESS POINTE

PARKWAY AT H.C.

FOXHAVEN

Hunters Creek Boulevard

EAGLE PARK

EAGLES LANDING

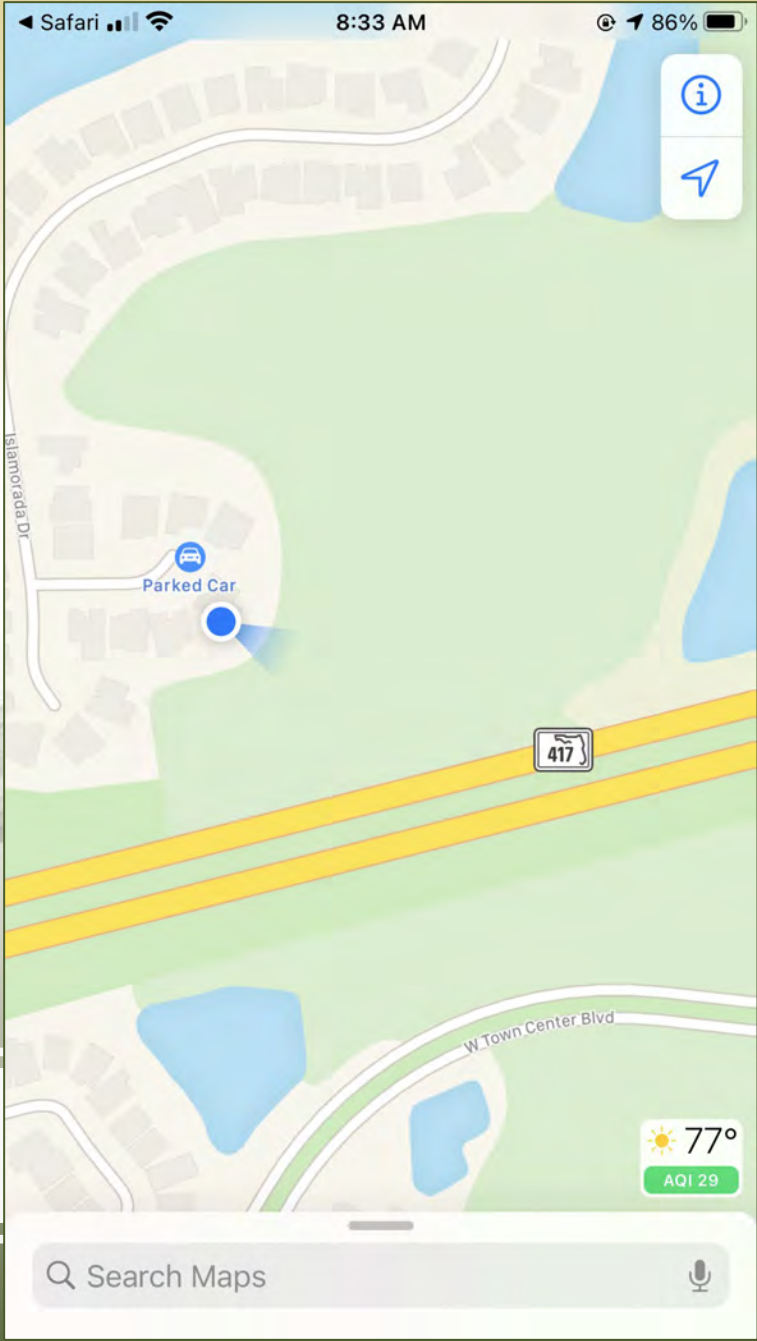
SETTLERS LANDING

QUAIL LAKE

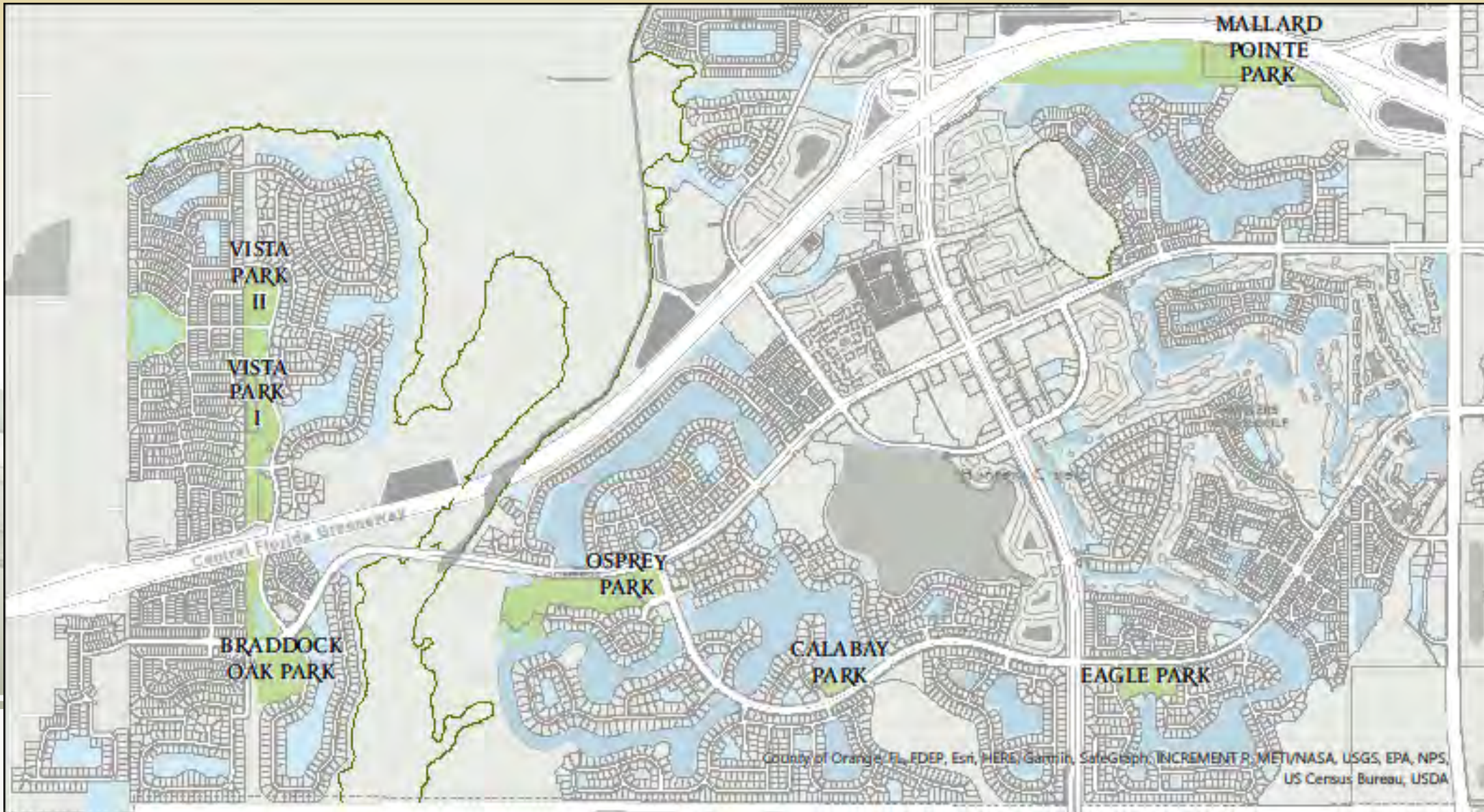
GATOR LAND CENTER















Mallard Pointe Park

MFRMLS















Charlie King







Hunter's Creek Middle School from 417



West Creek Elementary School from 417









Heather Glen



EST

1986

HUNTER'S
CREEK

Hunter's Isle



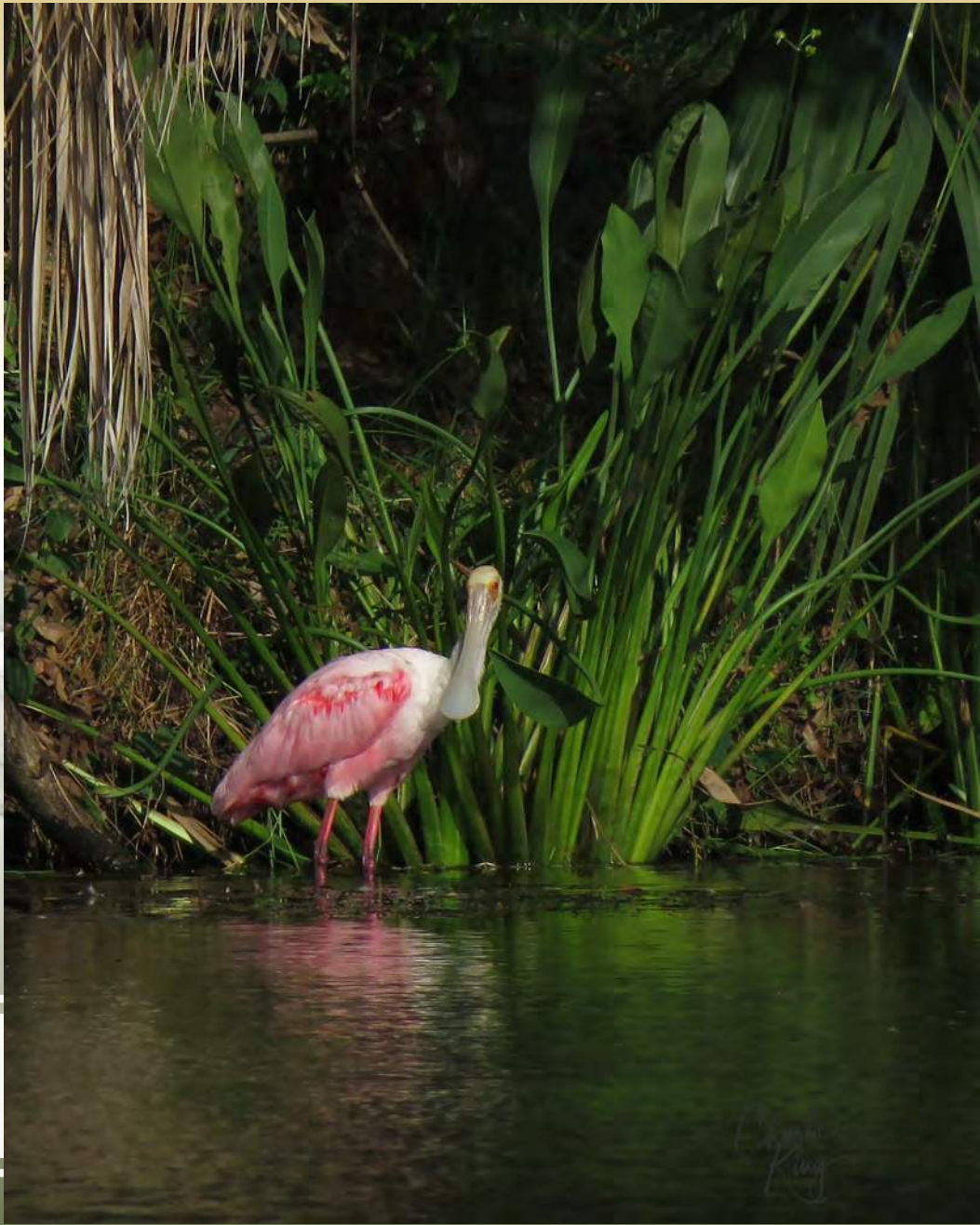
Pointe

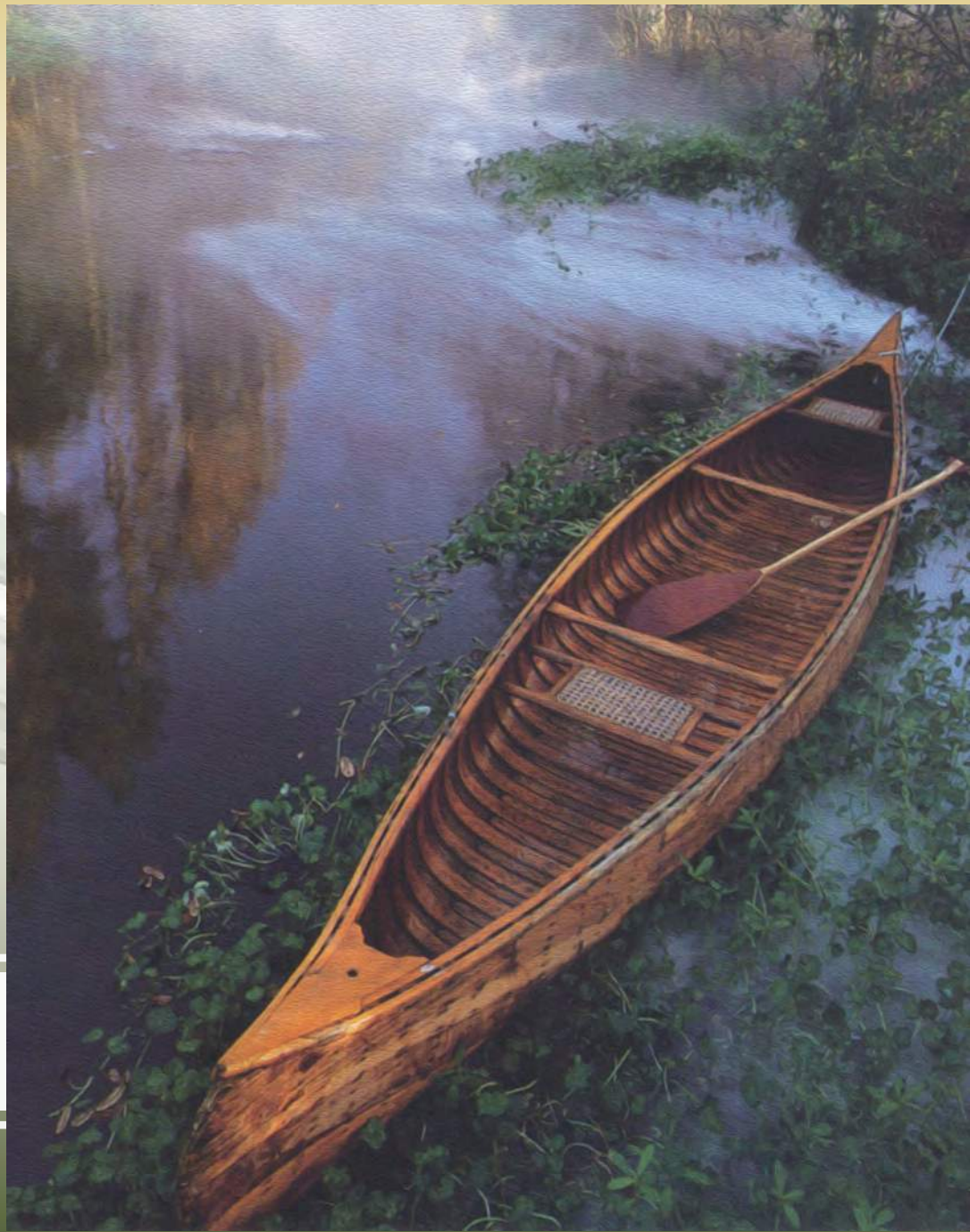




















HUNTER'S CREEK
1591

DATE: 12-16-2020

PAY TO THE ORDER OF: **Second Harvest Food Bank** \$ **5,000**
Five Thousand DOLLARS

MEMO: Holiday Donation HCCA Appreciation Committee





A Regional Approach to Transportation Planning

The Central Florida Expressway Authority (CFX) was established in 2014 with an expanded mandate to build and maintain a regional transportation network that connects Brevard, Lake, Orange, Osceola and Seminole counties.



HUNTER'S CREEK

WHERE MEMORIES ARE MADE & FRIENDSHIPS ARE FORMED

Binding Commitments

In eminent domain acquisitions/takings, "**Binding Commitments:**"

- Are an **affirmation** by a condemnor as to the (i) use of the part taken or (ii) what is constructed in the part taken.
- Are made by a condemnor in order to "**limit compensation**" that a landowner can claim/make;
- Are presented to **prevent the Jury** from being instructed to presume the worst possible effect of any use that could happen in the part taken.
- "**Frame**" the damages and limit the claims that a landowner can make to just those improvements therein.
- **Limit the rights of use of the condemnor in the Future.**

Binding Commitments can take the form of 1 or more of the following:

1. An **oral commitment** on the record by the person authorized to bind the department [ie., Testifying Engineer];
 2. **Construction plans** submitted into evidence, which shows the improvements to be constructed in the part taken [*Which both (i) limit the use of the part taken by the condemnor, and (ii) frames the damages that the witnesses can testify to as to compensation and impacts*];
 3. An oral or written **stipulation** of limitation as to the use of the part-taken reflected in the record or in a court order; **or**
 4. Terms of a **settlement agreement.**
- In **Hunters Creek**, Expressway Authority in 1991 through 1993 made Binding Commitments in the forms listed in **2 thru 4.**
 - Only 1 would have prohibited the **Brightline** train in SR 417.

Binding Commitments made by the Expressway Authority *in Hunters Creek* in 1991-1993 consisted of:

1. **Settlement Agreement**, much discussed by many.
2. **Construction Plans**; and,
3. **Stipulation** contained in the court file referenced as a “Binding Agreement” in 1-22-1993 Court Order in the Hunters Creek eminent domain action:

*“... a binding agreement from the Expressway Authority not to permit the operation of a high speed rail or other non-roadway use within its right of way. [SR 417 in Hunters Creek]” *****

**** This **Court Order** was (i) part of the court record, and (ii) later recorded by the Expressway Authority at *OR 4527 PG 3629* in the Official Records of Orange County where it has remained since 1993; this recording has attached to the *Hunters Creek* neighborhood ever since.

Conclusion

In 2021, contrary what others have asserted to CFX,

- CFX does not possess any legal right or authority to use any portion of the **Hunters Creek** SR 417 right of way to place or allow the **Brightline** train project in the SR 417 ROW.
- **Settlement Agreement** only referenced the Landowner reservation of right for additional compensation. It did not reference any CFX right to place a train.
- **Construction Plans** that frame the compensation and limited the use of CFX did not show or depict any train.
- Finally, the Binding Commitment from the January 1993 **Court Order** makes it unmistakably clear that the right to place the train in the SR 417 Corridor was prohibited (not acquired) in the 1991 eminent domain case.

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

ORLANDO/ORANGE COUNTY EXPRESSWAY
AUTHORITY, a body politic and
corporate, and an agency of the
state, under the laws of the
State of Florida,

CASE NO: CI 91-8295
Division 37

Petitioner,
vs.

PARCELS 45-101, 45-202, 45-706
and 45-806

AMERICAN NEWLAND ASSOCIATES,
et al.,

Defendants.

4377548 ORANGE CO. FL.
02/22/93 01:53:54pm

FRAN CARLTON
CLERK CIR. COURT
ORANGE CO., FL.

FILED IN OFFICE
CIVIL DIV.
1993 FEB 18 PM 3:57

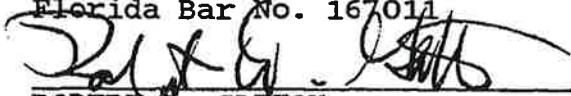
NOTICE OF APPEAL

NOTICE IS GIVEN that ORLANDO/ORANGE COUNTY EXPRESSWAY
AUTHORITY, Appellant, appeals to the District Court of Appeal of
the State of Florida, Fifth District, the Order of this Court
rendered on January 22, 1993, by Senior Circuit Court Judge Roger
A. Barker. The nature of the order is an Order Taxing Reasonable
Attorney's Fees and Costs. (A copy is attached.)

OR 4527 PG3629

I HEREBY CERTIFY that a true and correct copy of the foregoing
has been furnished via U.S. Mail to: J. Christy Wilson, III,
Brigham, Moore, Gaylord, Wilson, Ulmer, Schuster and Sachs, 111
North Orange Avenue, Suite 1575, Orlando, Florida 32801 this 18th
day of February, 1993.

BROAD AND CASSEL
390 North Orange Avenue
Suite 1100
Orlando, Florida 32801
(407) 839-4200
Post Office Box 4961
Orlando, Florida 32802
Florida Bar No. 167011


ROBERT D. GATTON

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

ORLANDO/ORANGE COUNTY EXPRESSWAY
AUTHORITY, a body politic and
corporate, and an agency of the
state, under the laws of the
State of Florida,

Case No. CI 91-8295
Division: 37

Petitioner,
vs.

PARCELS 45-101, 45-202, 45-706
and 45-806

AMERICAN NEWLAND ASSOCIATES, et al.,

Defendants.

ORDER TAXING REASONABLE ATTORNEY'S FEES AND COSTS

THIS CAUSE came before the Court on January 12, 1993, on the motion of Defendant, AMERICAN NEWLAND ASSOCIATES, (hereinafter "AMERICAN NEWLAND"), to tax their reasonable attorneys' fees and costs in this proceeding. With respect to the issue of attorneys fees, the Petitioner and Defendant each produced one expert witness. Mr. James Spalla testified for the Petitioner and Mr. David King testified for the Defendant. Additionally the Defendant presented testimony of its lead counsel, J. Christy Wilson, III, and filed a Memorandum of Services Performed and Results Obtained, a copy of which is attached hereto and incorporated herein by reference as Exhibit "A".

Based on the evidence and testimony presented the Court finds as follows:

1. The uncontroverted testimony in this case is that on September 11, 1991, the Petitioner, ORLANDO/ORANGE COUNTY EXPRESSWAY AUTHORITY, (hereinafter "EXPRESSWAY AUTHORITY"), delivered to Defendant's counsel an appraisal report which it had

reviewed and approved. This appraisal report contained a valuation of \$6,778,000.00, which was the amount advanced by the Petitioner as its initial position. Because this appraisal is the first written transmittal of an offer from Petitioner to Defendant, this Court adopts the same as the base amount from which the benefit is to be figured pursuant to F.S. 73.092(a)(a) (1990). This case is governed by the 1990 amendment to Chapter 73 of the Florida Statutes by virtue of its having been filed in October of 1991.

2. The parties agree that the final judgment was in the amount of \$20,047,000.00. Accordingly, this Court finds that the monetary benefit achieved by counsel for American Newland was in the amount of \$13,269,000.00.

3. The Court also finds that there were significant non-monetary benefits achieved by counsel for American Newland which include the following:

A. An agreement for the future construction of an interchange at American Newland's expense in the Far West Village of the Hunter's Creek project. This agreement was in settlement of American Newland's claim for damages arising from the filing of a map of reservation pursuant to F.S. Chapter 337;

B. The securing of a binding agreement from the Expressway Authority not to permit the operation of a high speed rail or other non-roadway use within its right-of-way;

C. The securing of an agreement from the Petitioner to cooperate with American Newland in the relocation of a power line which will traverse the Southern Connector; and

D. Assistance in the securing by American Newland of a non-substantial change determination after the intrusion of the Southern Connector roadway into its project.

4. This Court has also been made aware through testimony, and accepts, that counsel for American Newland was required to forego the representation of another owner in its defense against takings from the Southchase Development for the same project.

5. Although American Newland did not place a specific monetary value on the non-monetary benefits, they were considered by the expert for American Newland in concluding what results obtained adjustment was appropriate.

6. The evidence presented by the Expressway Authority's witness, James Spalla, placed a monetary value of \$3,000,000.00 on the securing of the right to build an interchange. Mr. Spalla testified that he has considerable experience in dealing with interchanges and their value to adjacent lands. This Court accepts his valuation on this particular non-monetary benefit.

7. There is no disagreement between the parties in this case as to the hours reasonably expended by counsel in this case which are 1,799.3 hours. In fact, the Expressway Authority's expert, Mr. Spalla, testified that as many as 2,500 hours could reasonably have been expended. For purposes of assessing attorneys' fees in this cause, however, this Court accepts hours expended (1,799.3) as reasonable.

8. There is also no disagreement between the parties as to the basic hourly rate for lode star purposes which this Court finds

to be in the amount of \$225.00 per hour. In so finding this Court notes that Brigham, Moore, Gaylord, Wilson, Ulmer, Schuster & Sachs (hereinafter "Brigham Moore") is an established law firm, which for many years has limited its practice sole to the representation of owners in eminent domain proceedings. The Court also notes that the bulk of the hours in this case were expended by partners in the Brigham Moore firm who are well known in their area of specialty.

9. With respect to the statutory considerations for the assessment of a reasonable fee, this Court is guided by the requirement that the greatest weight shall be given to the benefits resulting to the client from the services rendered by counsel.

10. As to the other factors, this Court finds as follows:

A. Novelty, Difficulty and Importance of the Questions Involved:

(1) This Court finds that this case, which is one of the largest eminent domain cases ever brought in the State of Florida, involved great complexity and novel issues due to the intrusion of an expressway project into an approved DRI including many different land uses and the subsequent impacts on those land uses, as well as the entitlements to the owners under the DRI.

(2) This Court also finds that the size of the parent tract from which this taking occurred and the lack of similar arms length transactions rendered the case much more complex and, in fact, required counsel for American Newland, in conjunction with one of its appraisals to develop and defend a modified comparable sales approach.

B. The Skill Employed by the Attorney Conducting the Cause:

(1) This Court finds that counsel for American Newland has specialized in representing owners in eminent domain proceedings for many years and that the skill employed in this cause was superior as evidenced by the results obtained.

C. The Amount of Money Involved:

(1) As referenced above, this cause involved one of the largest sums ever involved in an eminent domain proceeding in the State of Florida with a significant disparity between the positions of the parties. The end result was much closer to American Newland's position of \$25,200,000.00 than to the Expressway Authority's low position of \$5,900,000.00.

D. The Responsibility Incurred and Fulfilled by the Attorney:

(1) The acceptance and prosecution of a case of this size necessarily involves the acceptance of great responsibility. This factor, when combined with the significant issues in this cause, resulted in counsel for American Newland having to incur an even greater degree of responsibility.

(2) The Court further finds that the responsibilities incurred by counsel for American Newland were fulfilled in an exemplary fashion as indicated by the ultimate award and non-monetary benefits secured.

11. In reaching its conclusion in this case as to a reasonable fee with due consideration of the facts referenced above, this Court:

A. First multiplied the base hourly rate of counsel (\$225.00 per hour) by the number of hours referred to above (1,799.3) to reach a base lode star amount of \$404,842.52.

B. The Court next considered an appropriate lump sum adjustment for benefits achieved in accordance with the Tohari and Quanstrom cases. Lee County v. Tohari, 582 So.2d 104 (Fla. 2nd DCA 1991); Standard Guaranty Insurance Co. v. Quanstrom, 555 So.2d 828 (Fla. 1990).

C. With regard to this results obtained amount, this Court heard testimony from Mr. David King on behalf of American Newland and Mr. James Spalla on behalf of the Expressway Authority and finds both witnesses to be qualified by virtue of their experience to render attorney fee opinions in eminent domain matters.

D. Mr. King testified that a reasonable lump sum adjustment for benefits obtained was in the amount of 2,495,157.48 (\$2,900,000.00 less \$404,842.52 = \$2,495,147.48), which represents between 18% to 19% of the monetary benefits obtained. In doing so, as noted above, Mr. King gave due consideration to the non-monetary benefits, thus his resultant lump sum adjusted for total benefits obtained is actually less than 18%. This Court notes that the 18% results obtained factor is similar to that applied in DOT, Denmark v. ("III"), 389 So.2d 201 (Fla. 1980) abstracting the prevalent hourly rate at the time the Denmark case was decided.

E. Mr. Spalla, on behalf of the Expressway Authority, testified to a benefit obtained lump sum adjustment in the amount

of 12.5% and \$125,000.00 for non-monetary benefits. Based on the monetary benefits found by this Court, this lump sum adjustment would be \$1,695,157.48 (\$2,100,000.00 less \$404,842.52 = \$1,695,157.48).

F. The total reasonable fee testified to by Mr. Spalla, assuming a monetary benefit of \$13,269,000.00, was in the amount of \$2,100,000.00.

G. The total reasonable fee testified to by Mr. King was in the amount of \$2,900,000.00.

12. This Court has considered the evidence presented, giving due consideration to all factors enumerated above, and giving due consideration to the fees that would ordinarily be expected to be paid if the Petitioner were not responsible for the payment of fees and costs, which in other jurisdictions are commonly in the amount of 1/3 of the benefit obtained.

13. The Court finds the benefits in this case to be extraordinary, especially in view of the economic conditions prevalent at the time the settlement was achieved.

14. Further, due to the change brought about by the 1990 amendment to the F.S. 73, Chapter on Eminent Domain, the Court, utilizing the guidance of case decisions under the former statute, has given greater consideration to the benefits achieved.

15. This Court has been advised by counsel for Defendant that no additional fees will be sought from Defendant.

16. Based on the foregoing, this Court finds as follows:

A. A reasonable lump sum adjusted amount for benefits

achieved is in the amount of \$ 2,500,000⁰⁰, which, when added to the base amount of \$404,842.52 yields a reasonable fee in the amount of \$ 2,904,843⁰⁰.

17. This Court also considered three contested expert witness fees in this proceeding which were the fees charged by: (1) Pardue, Heid, Church, Smith & Waller, Inc., appraisers; (2) Calhoun and Associates, Inc., appraisers; and (3) Zook, Moore & Associates, Inc., civil and traffic engineers. This Court notes that the Expressway Authority presented no testimony contesting the amounts billed by these experts.

18. After consideration of the testimony of the experts with respect to their fees, this Court finds as follows:

A. A reasonable expert fee for Pardue, Heid, Church, Smith & Waller, Inc. is \$ 92,500⁰⁰.

B. A reasonable expert fee for Calhoun and Associates, Inc. is \$ 82,587⁰⁰.

C. A reasonable expert fee for Zook, Moore & Associates, Inc. is \$ 80,804.20.

19. In addition, the Court awards the following amounts to the witnesses and experts as set forth below for their preparation and appearance at the hearing on costs and fees:

A. David King	\$ <u>2,000⁰⁰</u>
B. William P. Pardue	\$ <u>Included above</u>
C. John Calhoun	\$ <u>1,000⁰⁰</u>
D. James Zook	\$ <u>1,000⁰⁰</u>

20. In addition to the costs set forth above, the parties are

in agreement as to the following costs:

A.	Akerman, Senterfitt. & Eidson	\$ 3,607.06
B.	Bowyer Singleton & Associates	\$157,409.33
C.	Canin & Associates	\$ 92,560.98
D.	Dunn & Associates	\$ 13,425.00
E.	Dr. Joe Edmisten	\$ 1,528.00
F.	Kimley-Horn & Associates	\$ 19,648.87
G.	The L. James Parham Company	\$ 5,000.00
H.	Professional Engineering Consultants	\$ 16,492.42
I.	Real Estate Research Consultants, Inc.	\$ 6,250.00
J.	Trial Consultants, Inc.	\$ 12,223.36
K.	T.S.A.A. (Dr. Richard Scheaffer)	\$ 2,457.00
L.	Williams Development, Inc.	\$ 5,875.00
M.	Orange Reporting	\$ 2,093.70
N.	Franklin's	\$ 57.62
O.	Rich Franco Labs	\$ 1,521.50
P.	Greiner Engineering	\$ 125.00
Q.	Kinko's	\$ 52.78
R.	Legal Copies	\$ 920.26
S.	MacGregor-Smith	\$ 253.46
T.	NightRider Overnight Copy	\$ 215.43
U.	Post, Buckley, Schuh & Jernigan	\$ 160.00
V.	Real Estate Data, Inc.	\$ 47.58
W.	Target Copy Centers, Inc.	\$ 769.98
X.	White's Blue Print	\$ 20.14

Y. Courier Expenses \$ 199.04
Z. Miscellaneous \$ 3,466.27

21. The amounts set forth in paragraphs 18, 19 and 20 represent the reasonable costs of American Newland in this cause, the total amount of reasonable costs being \$ 706,270.98.

Accordingly, it is hereby

ORDERED AND ADJUDGED as follows:

I. Petitioner, ORLANDO/ORANGE COUNTY EXPRESSWAY AUTHORITY shall forthwith pay to Brigham, Moore, Gaylord, Wilson, Ulmer, Schuster and Sachs, counsel for Defendant, AMERICAN NEWLAND ASSOCIATES, for their reasonable attorneys' fees in this cause the sum of \$ 2,904,843.00.

II. Petitioner, ORLANDO/ORANGE COUNTY EXPRESSWAY AUTHORITY shall forthwith pay to Brigham, Moore, Gaylord, Wilson, Ulmer, Schuster and Sachs, the reasonable costs incurred by AMERICAN NEWLAND ASSOCIATES, the sum of \$ 706,270.98 for proper disbursement of same.

III. This Court retains jurisdiction of this cause to enforce the terms of this order.

DONE AND ORDERED in chambers at Orlando, Orange County, Florida, this 22nd day of January, 1993.

Roger A. Barker
Senior Circuit Judge

Copy to: J. Christy Wilson, III, Esquire
William Whitacre, Esquire

RECORDED & RECORD VERIFIED
Martha D. Haynes
County Comptroller, Orange Co., FL

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

ORLANDO/ORANGE COUNTY EXPRESSWAY
AUTHORITY, a body politic and
corporate, and an agency of the
state, under the laws of the
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AMERICAN NEWLAND ASSOCIATES,
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CASE NO: CI 91-8295
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4377548 ORANGE CO. FL.
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and 45-806

FILED IN OFFICE
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1993 FEB 18 PM 3:57
FRAN CARLTON
CLERK CIR. COURT
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NOTICE IS GIVEN that ORLANDO/ORANGE COUNTY EXPRESSWAY
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Brigham, Moore, Gaylord, Wilson, Ulmer, Schuster and Sachs, 111
North Orange Avenue, Suite 1575, Orlando, Florida 32801 this 18th
day of February, 1993.

BROAD AND CASSEL
390 North Orange Avenue
Suite 1100
Orlando, Florida 32801
(407) 839-4200
Post Office Box 4961
Orlando, Florida 32802
Florida Bar No. 167011


ROBERT D. GATTON

Mimi Lamaute

From: Maria Triscari <maria@internationaldrivechamber.com>
Sent: Friday, July 16, 2021 5:29 PM
To: Public.comment@cfxway.com
Cc: Michelle Maikisch
Subject: I-Drive Chamber - Presentation #1
Attachments: ATP Scan In Progress



Attached is the power point presentation #1 for July 20, 2021 meeting.
(2 more will be sent due to size of file)

Also, Below are the list of speakers for the July 20, 2021 Meeting.

- Maria Triscari – President/CEO - I Drive Chamber of Commerce
- John Sprouls – Executive Vice President and Chief Administrative Officer – Universal Parks and Resorts
- Elizabeth Gulacy – CFO – Sea World Parks and Entertainment
- John Stine – President and CEO – CF Advisors
- Amy Sirmans – VHB
- Steve McElligott – VHB
- Woodrow Hanson – CRE, MAI, CCIM
- Mo Pearson – MSE Group
- John Florio – President, John M. Florio, PE, LLC
- Dave Thomas – J David Thomas, PE
- Greg Rice – General Manager – Embassy Suites
- John McReynolds – SVP External Affairs – Universal Orlando

Thanks,
Maria

Maria Triscari
President/CEO
I-Drive Chamber of Commerce

INTERNATIONAL DRIVE CHAMBER OF COMMERCE PRESENTATION

EXECUTIVE SUMMARY

1. We represent the International Drive Chamber of Commerce (hereinafter “the I-Drive Chamber”), an organization comprised of hundreds of local businesses serving the needs of millions of tourists that annually visit our community. These businesses are located in an area adjacent to or on International Drive, which includes six nationally renowned theme parks, 130 hotels, 350 restaurants and 900 retail establishments, and 35 attractions (“the Corridor”). This Corridor is also home to the Orange County Convention Center, (“Convention Center”), Orange County’s largest investment. Together, we employ 75,000 people. Our stakeholders have invested billions of dollars in the Corridor and have plans to spend billions more.

2. The members of the I Drive Chamber have been involved in supporting rail projects in the past, and have been a champion for mass transit for decades. We have been planning for a train station at the Convention Center for over 20 years. With that vision in mind, one of the Chamber’s members set aside land for that station and for the right of way westward along SR 528 in 2000. Our members have been planning for a train that would serve all of Central Florida, not just one location, for decades before Brightline came to this community with their proposal. Thus, we are supportive of a Brightline rail system that includes a station at the Convention Center.

3. In addition, the Chamber created a local distribution system decades ago, one that operates to this day. We tax ourselves, as part of our I Drive MSTU, in support of that transportation system. More importantly, over 20 years ago we had the vision and the plan of having that local trolley system ultimately connecting to the Convention Center multi-modal station. Make no mistake: When I use the word “we” it includes all the members of the I Drive Chamber of Commerce. To characterize this as a Disney vs. Universal dispute is to ignore the commitment of all of our members to do the right thing for this community—and to avoid addressing the problems with the SR 417 route.

4. Our plan has been supported for years by a variety of area business groups and elected officials, as well as the appropriate federal and state rail and environmental agencies. We have worked in the past for a rail system connecting all of Central Florida, and we want to be part of a collective and collaborative group—with Brightline—to create a comprehensive transportation solution for all, especially the amazing workforce employed in the I-Drive Corridor.

5. To that end, we have looked at the impact of Brightline’s proposed route, and compared it to the route previously supported and approved by so many people and agencies---the Taft Vineland Road to SR 528 to the Convention Center route (“the TVR to Convention Center route”). We have looked at the impacts both of these routes would have on existing Central Florida homeowners and businesses. At your request, we have reviewed the data regarding construction costs. Our Chamber members have many decades of experience analyzing the proper way to realistically evaluate even minimally designed proposed projects.

6. Having developed various large projects in Central Florida, we know the importance of environmental protection and compliance. A developer can't ignore those very real and very important environmental issues. To the contrary, those issues must be addressed early in the project.

7. Despite our continuing philosophical support for the Brightline rail service, our members know that all of us must look at this proposal objectively and thoroughly. Currently, there are unmistakable residential, environmental and business problems with the SR 417 route that do not exist with the TVR to Convention Center route. It would be a mistake to ignore the members of the public who do not want the Brightline route in their neighborhoods, or to ignore the positions taken by the regulatory bodies. It would be a mistake to ignore environmental issues, because we know the responsible state and federal agencies will not ignore those issues when a proposal is put before it. In other words, we respectfully suggest the prudent approach is to realistically address the questions and issues now—before valuable time and resources are spent, only to realize those problems undermine the successful completion of the project.

8. Thus, we steadfastly believe that a Brightline Trains Florida LLC ("Brightline") train station along a route from the Orlando International Airport ("Airport") traveling west along the commercial portions of Taft Vineland Road ("TVR") to the Convention Center is the best route for many reasons, including the following:

(a) The Florida High Speed Rail Authority, in conjunction with the Federal Rail Administration, the U.S. Department of Transportation—and in cooperation with the Federal Highway Administration and the U.S. Army Corps of Engineers--issued a Record of Decision in 2005, and reconfirmed that decision again in 2010, that there be a station at the Orange County Convention Center (the "Decisions"). The applicable federal and state authorities have already addressed this question twice before, and concluded that the TVR to Convention Center route is the best route for this community. Nothing has changed since those Decisions were made that would justify a reversal at this time. [Attached as Composite Exh 1 are the decisions.]

(b) This community has also supported this TVR to the Convention Center route and the development of a station at the Convention Center. This station has also been approved for development by past Orange County Board of County Commissioners. Dating back many years, both Orange County and adjacent landowners set aside land for this station, and its ingress and egress to SR 528.

(c) The reason for such widespread and longstanding support for a station at the Convention Center is easy to understand. As expressed by former Mayors of Orange County over the past 20 years, the Convention Center is "downtown Orange County", precisely because it is the largest financial investment made by the County of any structure that it owns. Prior Mayors have described the investment in terms of its "billion dollar investment". The Convention Center is the largest public economic engine within the County, as well as its most strategic asset. For the future of Orange County and its Convention Center, it is imperative that there be a Brightline station here, one that connects the Convention Center to the Airport.

(d) The Convention Center station would be a multi-modal facility, one that would serve the entire Central Florida region by connecting trains, busses, trolley cars and other modes of transportation in an expansive, comprehensive and efficient network. The Convention Center multi-modal station would represent not only the vision but the implementation of a potential multiple County-wide transportation solution benefiting generations of Central Floridians for years to come. See Section E of this report, below, entitled *Creating access to and from the Convention Center: A comprehensive transportation network for all Central Floridians*

(e) The Corridor served by the Convention Center station currently employs over 75,000 people, and is home to over 22,000 people--numbers that will increase with the completion of the affordable housing development, the Universal Epic theme park, (which will create 14,000 more jobs) and the previously approved expansion of the Convention Center (with its 18,000 seat multi-purpose venue).

(f) With the development of a station at the Convention Center, Brightline will be able to offer its customers access to two major tourism destinations in this area, as well as to visitors coming to the Convention Center. Having that additional rail station will increase ridership for people located in South Florida seeking to visit all our theme parks, attractions and hotels, as well as people traveling to the Convention Center during their visit to Central Florida. The size and diversity of the entertainment, convention, hotel, restaurant and retail operators located near the Convention Center also lends itself to joint marketing efforts, and other “win-win” opportunities between Brightline and the major attractions and businesses in the I Drive Corridor.

(g) A station at the Convention Center also has several environmental benefits. To the extent some suggest that rail is beneficial to the environment because people will not drive or rent a car, that benefit is heightened with the development of the station at the Convention Center site. As the home of 75,000 jobs and 22,000 residents, the Convention Center site will make it easier for employees and residents to commute to work by rail, through the multi-modal station. To the extent that convention visitors will be provided the compelling option of rail rather than being forced to rent a car, the station will effectively take even more cars off our roads.

(h) But the most significant environmental aspects are included in the findings of the federal and state environmental agencies with jurisdictional authority over this area, agencies which carefully studied both the TVR to Convention Center route and the SR 417 route in 2005 and again in 2010. In both Decisions, the government agencies found significantly more negative environmental impacts on the SR 417 route. **Thus, the route Brightline is recommending has been specifically reviewed and rejected on two separate occasions by the U.S. Army Corps of Engineers (“the Corps”) and the South Florida Water Management District (“SFWMD”), and nothing in Brightline’s submissions offer any reason why it should not be rejected a third time.**

9. The proposed Brightline route, which Brightline has admitted has not been finalized, and which has changed three times, is an inferior route that creates more harm than good. For example:

(a) It negatively impacts one of Orange County’s most important wetland areas—an area that supports three separate water basins. In contrast to the damage done along the 417 route, one of our Chamber members spent \$30 million for the restoration of 500 acres along Shingle Creek, one of the most critical water basins in the State. At the same time, that member preserved a

right of way immediately adjacent to SR 528 that protects Shingle Creek and provides a rail corridor for precisely this kind of transportation. No such planning, protection and restoration has taken place on the 417 route. See Section C, below, entitled *Environmental concerns*

(b) In addition, their proposed route would also take spacing precious Central Florida Expressway (“CFX”) right of way for the construction of walls to support its tracks. This land that is currently used by CFX for stormwater retention areas, buffers, maintenance and other uses. Consequently, the Brightline route would reduce the ability of CFX to expand road facilities within its right of way. One of the reasons why developers are normally required to submit 30% design drawings, so that regulators can more easily see the pitfalls and hidden costs—not only to a proposed project but also to their own operations.

(c) Not only is Brightline’s proposal premature , but its proposed alignment must be approved by several regulatory agencies responsible for environmental protection, including the SFWMD and the Corps. Those government agencies will first ask whether there is another, less intrusive alternative. We know there is: the TVR route to the Convention Center that was previously selected and approved by those same agencies.

(d) It negatively impacts the South Chase residential development and cuts through the heart of the 20,000+ residential Hunter’s Creek community, many of whose residents are opposed to a train towering over their homes and generating unwanted noise, vibration and air pollution. The anger and indignation felt by these residents is understandable, precisely because Hunter’s Creek engaged in a hotly contested transportation dispute years ago. Under the terms of the 1992 Joint Stipulation of Judgment, Hunter’s Creek protected its neighborhoods and quality of life by specifically retaining the right to seek additional damages against the predecessor to CFX as a result of any high speed rail system imposed on its land, effectively making this a second taking at Hunter’s Creek. See section A, below, entitled *There are many Residents adversely affected by the adoption of the Brightline route.*

(e) This route negatively impacts other important properties in Orange County. Brightline’s most recent route, provided last month, has several issues that will require approvals from various state regulatory bodies. Brightline’s recently proposed alternative alignment enters and exits the Central Florida Expressway Authority right of way jurisdiction through the Florida Turnpike Authority’s right of way, thus requiring approvals from the Florida Department of Transportation. Their route bisects a 34 acre wetland the Shingle Creek Wetlands Conservation Area (a wetlands mitigation area specifically created by Orange County to provide mitigation for the expansion of local roads), and thus requires approvals from the SFWMD; and some small private properties. Brightline has no approvals from any of these organizations at this time. Brightline would need to obtain all these approvals from all these agencies, which will be very time consuming, and may not occur for the reasons stated in this report.

(f) It will cut off the Convention Center and the I Drive Corridor from the rail system, resulting in significant harm to our tourism industry, our convention business, and the employers of over 75,000 current Central Florida residents—employers that have supported this community and its governments for many, many decades. See Section E below, entitled *Future Economic Impact Concerns*

10. We have retained the VHB engineering firm to look at their plans and projected costs. See Section B below, entitled *Construction Cost Comparisons*. Our engineers have found Brightline's construction estimates to be understated in the following respects:

(a) Despite submitting its unsolicited bid in 2018, Brightline has to date only completed the initial plans normally required for such a project, the 15% design drawings—and those plans have changed several times. As of this date, they have not yet submitted their complete final plans for the SR 417 corridor for anyone to review. In addition, they have redacted information given to our engineers to review, information related to their proposed connection from SR 417 to Disney World's ("Disney") property. If this were a developer making a submission to a county board, at a minimum the developer would be required to submit an environmental assessment. Brightline has failed to submit such an assessment to this board, perhaps because of the past decisions by the state and federal agencies that have compared the environmental impacts of both routes in the past. It is premature, to say the least, to approve their requested route at this time with such minimal and incomplete plans submitted to this Board.

(b) It is also premature because the Federal Rail Administration has indicated that it plans to soon publish a notice regarding preparation of an additional Environmental Impact Statement ("EIS") for the extension of the Brightline System from Orlando to Tampa. Under the Department of Transportation's NEPA regulations, given the changes now proposed by Brightline to the previously approved EIS and Record of Decision in 2010, including the change in alignment and the change in train technology from electric to diesel—with resulting environmental impacts—such an additional review is certain to be lengthy and require public participation and a request for public comment. Department of Transportation data from 2012 through 2019 demonstrates that, on average, it takes 41-47 months to complete the NEPA process. It should be emphasized that this time frame was not based on situations like the one before this board, where an applicant is seeking to reverse two prior Decisions by state and federal environmental protection agencies.

(c) Brightline's engineers have exaggerated the difference in the costs of the route to the Convention Center compared to their route through Hunter's Creek, South Chase and the wetlands. Inexplicably, they have not included in their construction cost estimates for their preferred route (1) the cost of damages to the many adversely impacted residents; (2) the cost for destroying the wetlands; (3) the costs of leasing the right of way from the local utilities; and (4) the cost for protecting or replacing the existing box culverts that will be impacted by the train system, among others. In addition, no analysis has apparently been performed to determine the negative impact of Brightline's bridge and wall construction on the CFX's current and future stormwater capabilities, which may result in a large payment to CFX, if it can even find a solution to its future needs after so much stormwater capacity has been taken by Brightline.

(d) By contrast, for the TVR to Convention Center route Brightline has (1) inflated the cost of bridges for our route by \$300 million by assuming the train will operate at much higher speeds on our proposed route than they plan to run the same train on their proposed route; (2) added \$61.5 million for land costs that have already been provided by the federal government; and (3) double counted the \$38 million Sun Rail platform costs for the Convention Center station.

11. VHB has calculated a more accurate difference in current construction costs between the two

routes, at around \$199 million. That difference between the costs of the two routes should decrease as Brightline is forced to add the costs to their proposed alignment mentioned above and is required to complete their 30% design drawings, to the point where the monetary differences between the two routes would be negligible.

12. But even if there is a modest difference in construction costs, we believe we can find a way to fund that difference, by creating a solution that works for so many people in this community. That is precisely what the companies that comprise the I-Drive Chamber have done over the last 40+ years. We already tax our members \$9 million annually in the I-Drive MSTU; an additional amount to cover the difference in cost could be achieved. **As an organization that has been taxing itself for several decades to provide one transportation service, we welcome the opportunity to work with Brightline and Orange County to create a financial solution to address this transportation service. We are willing to provide financial support for the TVR route to the Convention Center.**

13. Furthermore, we believe the additional ridership generated by the Convention Center station would generate the incremental income necessary to support the development and sustain the operation of this rail system. As a result of our members' collective efforts over many years, we have already set aside land for the station. Various private interests have and will continue to work with Orange County to support the ridership projections and financial requirements necessary to achieve success. Those efforts could completely eliminate any difference in the costs of the two routes.

14. Brightline tries to justify its current efforts to by-pass the Convention Center, and gain support for its divisive and destructive route, by claiming there will be an economic impact to the community. The business members of the I Drive Chamber have generated economic impact that dwarfs that of Brightline. Current on-going projects in the I Drive corridor alone are far greater than the economic impact projected by Brightline—and that doesn't take into account all the economic impact our members have generated over the past 40+ years. Our members' current projects will cost far more money, and generate far more activity, than the proposed Brightline project--yet Brightline intentionally steers away from such projects.

15. Unlike Brightline, we have been generating jobs, economic impact, and charitable solutions for this community's needs over the last 40+ years. We have proven—time and time again--that we work together well with government and other private businesses to solve problems affecting our area, including a number of transportation issues. We should be included to work together well again, with the creation of a station running from Taft Vineland Road to the Convention Center.

16. Brightline's desire to shift from the approved Convention Center route to a yet-to-be-defined SR 417 route through wetlands and residential neighborhoods should, as in the past, again be rejected. Instead, Brightline should be encouraged to work with regional business partners to complete this project on the previously approved alignment. There is no reason to ignore the careful and comprehensive work of so many state and federal agencies over so many decades.

There is no reason to turn away from the potential for a multi-modal station at the Convention Center, a station that is the key to a comprehensive transportation solution for all of Central Florida.

17. Finally, we have been studying rail projects for over 30 years. We know that if the Brightline train becomes a reality along SR 417 there will not be a second rail project in our lifetimes. To the extent that a Brightline representative suggested there could be a second line (one they would not fund) operating solely between the Airport and the Convention Center, as they did in the last CFX board meeting, is naïve at best and disingenuous at worst.

18. We recognize that this issue is of critical importance to the future of Central Florida. We need to make the right choice, as the consequences will impact future generations of residents. As a result, we have studied this proposal from several important perspectives. The rest of the document analyzes, compares and contrasts the two routes in this order:

- (a) Financial and Quality of life impact on the residents.
- (b) Comparison of construction costs.
- (c) Environmental impacts.
- (d) Economic and job impacts on the affected businesses.
- (e) Regional benefits resulting from the creation of a multi-modal station at the Convention Center.

CONCERNS ABOUT THE NEW BRIGHTLINE ALIGNMENT

A. There are many Residents adversely affected by the adoption of the Brightline route

19. Brightline made an unsolicited bid to operate a train from West Palm Beach to the Orlando International Airport, then to a station at Disney, and then on to Tampa on March 26, 2018. Brightline subsequently submitted its initial proposed alignment. These engineering drawings were only at the 15% completion stage, the initial and most minimal engineering drawings associated with any major rail project. Since then, Brightline has submitted three iterations of its proposed alignment.

20. Brightline's June 10, 2021 proposed alignment does not stop at the Convention Center. To the contrary, Brightline's alignment takes a tortured path that will require its noisy diesel operated trains to run high above the residential areas of South Chase, Hunter's Creek, and the large apartment developments of Camden Hunters Creek and Colonial Grand at Heather Glen.

21. By contrast, the local Chamber's proposed route is essentially the same one approved by all the appropriate government agencies in 2005 and reconfirmed in 2010. The only minor difference is that our proposed route would have less impact on residents near the Airport than the 2010 alignment. More important, our proposed alignment out of the Airport is now the same alignment as currently proposed by Brightline out of the Airport.

22. Exh 2 depicts in red the current alignment proposed by Brightline, and the I Drive Chamber's

proposed route is depicted in green. That portion of the route that is common to both routes, the OUC rail line exiting the Airport, is depicted in purple.

23. Brightline's proposed route, the one that has been twice rejected by state and federal transportation agencies, veers south and goes above and through the South Chase and Hunter's Creek developments. It also bisects a 34 acre Shingle Creek wetland that has previously been used by Orange County for mitigation purposes.

24. Attached as Exh 3 is that portion of the Brightline drawings that illustrate the infringement on the Hunter's Creek development.

25. Attached as Exh 4 is that portion of the Brightline drawings that illustrate the infringement on the South Chase development.

26. Attached as Exh 5 is that portion of the Brightline drawings that illustrate the infringement on the two apartment development.

27. Attached as Exh 6 is that portion of the Brightline drawings that illustrate the infringement on the wetlands area, now under the supervision of the SFWMD.

28. Based on the 15% design drawings provided to us only about a month ago, we have been diligently worked to determine the height and location of Brightline's proposed bridges along that new route. We have created some photographs that depict what portions of that route would look like for the people living in those residential areas. [Composite Exh 7].

29. Time did not permit us to add the appropriate sound to that video to capture the noise level of that train as it operates through and above those homesites. The sad irony is that for some of these people adversely affected along the Brightline route, CFX has already protected them from vehicular noise by constructing a sound wall adjacent to the highways. But Brightline is proposing their rail line will operate well above those sound walls, exposing all those Orange County residents in its path to loud and unnecessary noise. That irritating noise will be especially noticeable at night, when the vehicular traffic is less, and the train noise will carry across greater distances.

30. As for the adversely affected homes in Hunter's Creek, see Exh 3, which shows in the encircled area the affected homesites from Brightline's proposed route, one that unnecessarily runs through one of the largest residential developments in Orange County, with a total of approximately 3,000 homes. The tallest bridge within that development towers 35 feet above the ground.

31. As for the adversely affected homes in South Chase, see Exh 4, which shows in the encircled area homesites adjacent to the rail line, operating at heights of as much as 35 feet above the ground.

32. As for the number of adversely affected apartment residents near John Young Parkway, see composite Exh 5 , which provides an aerial view of the apartments, the height of the proposed bridge over the current tree buffer (which trees would be eliminated by the construction of the bridge support structure).

33. Based on our calculations, there are at least 635 single family home sites in Hunter’s Creek that will be adversely affected, at least 157 home sites in the Kempton Chase portions of South Chase that will be adversely affected, and approximately 1,000 apartment units that will be adversely affected. That is approximately 1800 homeowners and apartment residents adversely affected by Brightline’s tortured alignment.

34. It doesn’t have to be this way. There is a better solution for the residents of Orange County. There is no need to destroy the values of their homes, and the right of quiet enjoyment for those families that live in those communities. The I-Drive Chamber’s alignment, depicted in green, travels through commercial—as opposed to residential—properties, and has far less impacts on the environment.

35. Please note the location of a SunRail station adjacent to where the OUC rail line connects with the proposed route along TVR.

36. Our alignment does not go through South Chase or Hunter’s Creek—or any other residential areas. Instead, it improves upon the previously approved route out of the Airport by avoiding all those home sites north of the purple line. Instead, our route extends through the commercial portion of the Taft Vineland Road easement.

37. See Exh 8, a drone video that shows the entire length of the TVR to Convention Center route, and the absence of residential properties adjacent to it.

38. In contrast to the Brightline video, notice there are NO residences adversely affected. There are NO bridges towering as much as 35 feet over Orange County residents. We conclude that there are as many at least 1800 residents adversely affected by Brightline route, and no residents adversely affected by the route that was approved by the appropriate governmental agencies in 2005 and reconfirmed in 2010, as amended.

B. Construction Cost Comparisons

39. The I drive Chamber has retained the national engineering and planning firm of VHB to analyze the current transportation issues. Among their experts in over 30 offices across the country, we have been working with SVP Steve McElligott and the leader of VHB’s Central Florida’s PD&E practice team, Amy Sirmans. Their resumes are attached as Exh 9 and 10, respectively.

40. Thereafter, CFX asked to have our retained engineers work with Brightline's retained engineers to determine the difference in costs between the governmental agencies' previously approved route that we recommend and the Brightline alignment submitted last month (the "delta"). To make such an "apples to apples" comparison, it is important to put several facts into context.

41. When designing a rail system, engineers start with a preliminary plan, commonly a set of 15% design drawings. After considerable additional engineering study, a much more detailed and accurate set of plans is thereafter developed, with amended financial analysis, known as the 30% design drawings. Further work is thereafter performed, resulting in a set of 60% design drawings. Additional work is performed to produce 90% and 100% (or complete) drawings. Typically, with each more detailed set of design drawings, there is a more well defined understanding of costs. Those construction costs typically increase from those of the preceding, less well defined, level of drawings.

42. Brightline has only produced the initial set of engineering drawings (15%), despite having almost three years to do so. In fact, they have submitted three separate iterations of the SR 417 route during that period of time—all at the most minimal level of specificity.

43. As of July 6, our engineers were advised the route is still not finalized. And what they did provide to us included redacted areas, thus preventing our engineers from having a full understanding of Brightline's proposed route.

44. It is difficult to provide a fully accurate comparison of costs when (a) our calculation are based on the 30% design drawings arising from the prior federal and state approval process as compared to Brightline's 15% design drawings; (b) Brightline's route keeps changing, the most recent of which was last month; and (c) Brightline has failed to provide full disclosure of the underlying data for its planned route.

45. Full disclosure from Brightline, an organization that initiated this process by making an unsolicited bid for this route in 2018, is necessary for the public to fully understand the route and the costs to the community, as well as the costs of the two routes under consideration. What is the cost to the neighborhoods that will be damaged by the Brightline route? Brightline has nothing in its construction cost estimates for those residents.

46. What is cost to the three environmentally sensitive wetlands that will be eliminated or compromised by this route? Here again, Brightline has yet to set aside a single dollar in compensation for such damages as part of its construction costs estimates.

47. Along the same lines, Brightline's current construction costs do not include any cost to be paid to CFX to essentially take away most, if not all, of its stormwater retention capacity. To the extent one of our members has retained a 100 foot right of way along its property adjacent to SR 528, our recommended route has nowhere near this negative impact on CFX's stormwater capacities.

48. What is the cost for the leasing rights to operate on lines owned by public utilities? Our engineers, as well as our members, were stunned to learn that Brightline sought to shift these costs from construction to operation. We know of no project where such costs are characterized as operation costs. Instead, utilities prudently ask for all such access fees with an up-front full payment as part of the negotiation process. The only reason we can surmise Brightline would not include these costs is to artificially reduce its projected construction costs.

49. Despite the fact that there have been so many changes to the plans, despite the fact the Brightline plans are only at 15% design, despite the fact that it has not included all the known costs to its projected construction costs, and further despite the fact it refused to produce the relevant documentation in support of the numbers it wanted CFX to believe, it proposed that CFX execute a Memorandum of Understanding (“MOU”). [Exh 11.] Under the terms of that MOU, CFX would be required to enter into the sale and purchase of its easements in the CFX corridor, and hold those easements in escrow until Brightline had performed essentially all of the necessary engineering drawings for such a system, as well as conducting a ridership study to determine if such a system would generate sufficient riders to ever operate on a break even basis.

50. Brightline’s request was, at best, very premature--especially in light of Brightline’s six different requests for more time, and its failure to provide anything more than the most minimal 15% design drawings over the last several years.

51. Further proof that Brightline’s efforts to obtain a binding MOU were very premature became apparent three days later by yet another change to Brightline’s proposed alignment. As with the preceding two alignment changes, this change was offered at the most minimal, or 15%, design drawing level. Even parts of those minimal plans, at noted above, were redacted. At a meeting with Brightline’s engineers and the CFX staff on July 6, 2021 our engineers were advised by Brightline that they still had not decided on the route that would link SR 417 to Disney’s property.

52. Despite having inadequate data points from which to work, our engineers with VHB—one of the largest engineering firms in the country and certainly one of the most respected in Central Florida—have concluded that the Delta could be as small as \$199 million as explained in detail in VHE’s Adendum.[See Exh 12.] However, this is a rough estimate for the following reasons:

(a) This is not a comparison of “apples to apples” in that our recommended route has been calculated using 30% design drawings, while the Brightline drawings are still at the more minimal 15% stage. In almost all projects of this size, the construction costs for a project of this complexity increase from the 15% to the 30% drawings.

(b) We have only had the new alignment plans for the last few weeks. But when we traveled the proposed alignment, we saw several instances where Brightline has taken a less costly approach that is not justified, for example their “average” cost for bridge construction when they know the actual number will be higher than the average. According to Brightline’s engineers, the cost of the bridge spanning Orange Avenue and the Florida Turnpike will be twice the cost of the 130 foot span Brightline is using for its estimated bridge costs.

53. The reductions listed in VHE’s report are due to numerous factors. For example, the cost of bridge construction has been reduced by almost \$300 million. A bridge costs approximately \$98 million a mile, whereas track operating on constructed support walls costs approximately \$11 million a mile. Brightline did not engage in the CFX requested “apples to apples” comparison. For the Convention Center route, Brightline assumed the train will operate at speeds of 120 mph, yet assumed speeds of only 30 to 90mph on its route—thereby needlessly increasing the expense of the Convention Center route.

54. Although Brightline’s engineers agreed our route out of the Airport is an improvement on the 2005/2010 approved plans, they nonetheless continued to include the cost for acquiring 11 properties on the old alignment as part of their calculations for land costs associated with our proposed alignment. That approach incorrectly inflated our land costs, and thus inflated the Delta.

55. Brightline has identified the path it thinks will generate the greatest cost savings in the transportation corridor for its route, but has failed to incorporate our engineers’ recommended alignment for our route out of the Airport—the very same path they now propose to use. Had they done so, it would reduce the expense of the Convention Center route. For example, our engineers recommend that our route would run on the south side (rather than the north) of TVR from west of the Turnpike to the Central Florida Rail Corridor. We also advised them that we are shifting the rail to the south side of SR 528 prior to approaching 1-4, thereby keeping our route on the outside of the 1-4/ SR 528 interchange (rather than in the middle of the interchange as originally proposed). Both of these alignment amendments will result in reduced costs for the construction of the route traveling westward from the Convention Center, and thus reduce the Delta. Despite advising Brightline’s engineers of these changes, those savings have not been incorporated into their cost comparison at this time.

56. Brightline has assessed a 24% additional cost to the properties along the Convention Center route for project fees and contingencies. Such project management fees and costs are not appropriate for the distinct task of land acquisition—and should not be included as part of our costs. The removal of this inappropriate collection of costs and fees reduces the Delta. We cannot determine if Brightline has made any calculation for the acquisition of land in their calculations for their preferred route, and if their projections include the same fees and costs they have included for the Convention Center route.

57. VHB and the Chamber believe the Delta will actually be less than the current \$199 million figure, for several reasons, including but not limited to the following:

(a) Brightline has shifted certain costs generally included as construction costs into its future operating costs, which is not generally done, including the cost of leasing the OUC right of way.

(b) Brightline has failed to add costs everyone knows it will need to pay, including the damages it will pay the homeowners in Hunter’s Creek and South Chase and associated legal fees.

(c) Whenever Brightline determines how it will connect the western end of its route to

Disney property, and then on to Tampa (as they have represented to the public) there will be another cost incurred that is not in the present calculations.

(d) We believe their construction cost estimates, if legitimate, will increase when the 30% design drawings are submitted.

(e) We believe ~~it~~ Brightline will be required to pay CFX for its use of stormwater retention and the impact on its toll revenues in lump sum payments as part of its construction costs, but none of that has been included in the current estimate.

58. Going back to Brightline's unorthodox approach of excluding the right of way costs within its construction costs, but instead shifting those additional costs to its subsequent operation, that behavior raises another and potentially more serious question. What other construction costs are included in its operating costs? To what additional levels has the construction cost comparison been incorrectly shifted? In light of what we have learned about the right of way costs, and the inconsistent treatment of certain costs between the two proposed alignments, our engineers need access to Brightline's underlying data to accurately vet its construction costs. Despite our best efforts, we have been wrongfully denied that access, on the dubious grounds that this information is "proprietary".

59. Let's put that "proprietary" argument into context. Brightline wants CFX to believe its estimated construction costs, which are based on detailed data and assumptions, and then summarized in a summary line item. Their engineers have admitted that there are hundreds of detailed line items and backup data to support each of the summary line item entries they have provided to our engineers. We have found inconsistencies, incorrect assumptions and errors. We have rightfully requested the back up data. Their engineers have refused, despite the fact Brightline wants the public to believe their representations. In light of what has transpired to date, a more thorough review of the supporting data by our engineers is warranted.

60. Also please remember that it was Brightline that made this request to use public right of ways for a privately operated rail line. The public, including the I Drive Chamber, has a right to know all the facts. We don't want to review this data to develop a competing rail line, so these purported concerns about "proprietary information" are unfounded. Rather than competing with Brightline's operation, we want to have their train come to the Convention Center station. We respectfully request, in the spirit of trying to determine the true costs as part of this decision making process, that CFX directs Brightline to have its engineers share all the financial data and assumptions with VHB.

61. As stated above, Brightline's team has failed to add certain costs that they know will be incurred, including the costs for the eminent domain litigation involving so many Orange County residents. We believe these residents will have a damage claim that Brightline has taken some of the value of their property, in that the residents' right of quiet enjoyment, and the value of their homes, will be substantially adversely affected. Brightline will be required to compensate those residents. Currently, there is no effort by Brightline to add those costs to their preferred route, which would further reduce the Delta.

62. As a result, we have retained one of the country's finest and highest regarded property appraisers, to provide an estimated cost for the damages Brightline will be required to pay to the adversely affected residents. Mr. Woodrow Hanson is a former President of the National Association of Real Estate Appraisers as well as a University of Florida graduate. [See Exh 13, Mr. Hanson's report.] Mr. Hanson believes the damages to those Orange County residents will total at least approximately \$30 million, but that figure is not included in Brightline's construction costs.

63. As stated in Mr. Hanson's report, this cost is much lower than Brightline will have to pay adversely affected landowners, because time did not permit him to calculate the damages to the commercial establishments in those areas, nor the owners of the two large apartment building developments.

64. Finally, there is a damage claim for the adverse effects to those communities, such as the adverse impact to their parks and common areas. When those damage claims are added, the total damage claims could be in the \$50-65 million range.

65. In addition, Brightline will be required to pay for the lawyers representing all the parties to those damage claims. Once again, Brightline has zero dollars in its current construction projections to pay the attorney fees for the adversely affected residents and the governmental entities subject to the claims. We know of no reason why such an amount should not be included if the goal is to provide an accurate cost comparison of the two proposals.

66. Thus, Mr. Hanson has conducted a survey of some Central Florida lawyers, and concluded that it is appropriate to the residents project attorneys' fees equivalent to 30% of the property taken. Based upon his estimate of approximately \$30 million for damages to residential properties, Brightline's construction costs would increase by another \$9 million.

67. Extending that same ~~figure~~ attorney fee percentage to the owners of commercial, apartment and community losses could result in another \$6 to 10.5 million, thus raising the total fees paid to \$15-19.5 million.

68. When one combines the projected cost for the residential with the possible additional costs for the three additional types of affected landowners, and then add the reasonable fees for such cases in this area, the total cost could be anywhere from \$65 million to \$84.5 million. That represents a significant cost not currently in Brightline's construction estimates.

69. When one takes the engineers' cost comparison difference of \$199 million, and then subtracts \$65 to \$85 million for damages to the adversely affected property owners and legal fees the cost difference, or delta is reduced by more than a third, or approximately \$115-135 million. It is important to note that this revised delta still does not include (a) the payment to OUC for right of way access to its rail line; (b) the costs that will be associated with the completion of the route to Disney property; (c) the payments to CFX; (d) the costs associated with greater definition, and typically greater costs, contained within the 30% design drawings,

whenever they are finally delivered; and (e) the damages for destroying wetlands, another category of cost that has not been estimated.

70. Whatever the construction cost differential, if the route to the Convention Center and the Tourism Corridor is somewhat more expensive, the local Chamber and its members have already expressed a willingness to explore ways to pay for that modest additional cost. The members of the local Chamber are not only willing to work together to find an appropriate financial solution with others in this community, but we have reached out to local government officials to have such a dialogue. Working together again in a spirit of public-private partnership, we can find a solution that will work for everyone in this community.

71. But even if there is a modest difference in construction costs, we believe we can find a way to fund that difference--creating a solution that works for so many people in this community. That is precisely what the companies that comprise the I-Drive Chamber have done over the last 40+ years. We already tax our members \$9 million annually in the I-Drive MSTU; an additional amount to cover the difference in cost could be achieved.

72. Furthermore, we believe the additional ridership generated by the Convention Center station would generate the incremental income necessary to support the development and sustain the operation of this rail system. As a result of our members' collective efforts over many years, we have already set aside land for the station. Various private interests have and will continue to work with Orange County to support the ridership projections and financial requirements necessary to achieve success. Those efforts could completely eliminate any difference in the costs of the two routes.

C. Environmental concerns

73. There is a considerably larger adverse environmental impact to the Brightline route, than that of the Convention Center route. [See Exh 14], a map which depicts the Brightline route adjacent to a protected manatee area (in red) and several eagles' nests (in yellow), and through well-functioning wetlands—including a wetlands mitigation area created by Orange County.

74. The map depicting the environmental impacts, please note the lack of such environmental impacts for the Convention Center alignment (in green). This route, previously subject to the Federal Rail Administration's Decisions—in cooperation with the Corps, does not run adjacent to areas protected for manatees or adjacent to eagles' nests. The TVR to Convention Center alignment traverses a smaller amount of wetlands, and those wetlands do not function as well as those adversely affected in the Brightline proposal.

75. Although one could argue that any rail system may have a beneficial impact on the natural habitat and environment of Central Florida--in that the use of trains might lessen the vehicular use--clearly the route approved by the government's environmental protection agencies, and recommended by the local Chamber is far more protective of wildlife and wetlands than the Brightline proposal.

76. We have attached the report of a skilled environmental engineer, Mr. Morris Pearson, who has considerable years of experience in Central Florida evaluating the quality of our wetlands. [His bio is attached as Exh 15.]

77. Although we have had limited time to study the new Brightline alignment, Mr. Pearson was able to obtain photographs and video of the wetlands and wildlife that would be adversely affected. [See Exh 16.]

78. As reflected in the Executive Summary of Mr. Pearson's report, attached as Exh 17, he estimates that the necessary mitigation costs that Brightline has failed to account for to date, its proposed alignment will require several years of negotiation with regulatory agencies prior to obtaining the requisite approvals and permits, if they are ever obtained. As such, it is premature to make any commitments relative to the proposed Brightline alignment.

79. Mr. Pearson further notes that the ecological impacts associated with Brightline's proposed southern alignment along SR 417 have not been fully identified or subject to required regulatory review, which includes the opportunity for public notice and input. To date, there is no existing study or analysis, such as an EIS, Environmental Assessment (EA), Project Development & Environment (PD&E) Study, or Roadway Conceptual Analysis (RCA) that identifies, quantifies, or qualifies the adverse impacts that will result from construction and operation of Brightline's proposed alignment.

80. By contrast, the TVR to the Convention Center route was the subject of full review with identified impacts and established mitigation requirements in both the 2005 and 2010 Environmental Impact Statements. As such, the ecological impacts and required mitigation are known and have been conceptually approved by the regulatory agencies having jurisdiction. **Further, both the 2005 and 2010 Environmental Impact Statements concluded that the northern alignment was the preferred alignment and resulted in fewer ecological impacts.**

81. Precisely because the SR 417 alignment that is now being proposed by Brightline has not been subject to the same level of regulatory scrutiny, or opened to the public for review and input, there is significantly greater uncertainty relative to the full ecological impacts, mitigation requirements, associated costs, and project timeline. To put this in context, a NEPA review takes, on average, between 41 to 47 months to complete. This is not a normal review, as this route has already been rejected on two separate occasions in the past.

82. Brightline's currently proposed alignment will require permitting from the Corps (Section 404 retained wetlands at Shingle Creek), SFWMD, Florida Department of Environmental Protection (FDEP) (Section 404 Assumption wetlands), and Orange County Environmental Protection Division (OCEPD) for wetland impact authorization.

83. The Corps regulations require that project alternatives be identified and analyzed as part of

its review. Brightline does not appear to give any consideration to addressing this requirement. This is perplexing to us, as we know that the Corps is required to ask if there is a less damaging alternative. We also have read the 2005 Decision, reconfirmed in 2010, in which the Corps participated. We know that the Corps determined that the TVR to Convention Center route is precisely the answer to the question Brightline is required to answer. As a result, we do not know why Brightline thinks the Corps will change its position. Brightline certainly has not produced anything to date that they have shared with our engineers, or the public, to justify the Corps coming to a different conclusion than the one that reached twice in the past.

84. The Brightline alignment would also create a substantial negative impact on stormwater retention for the area, one that could directly affect the CFX itself. John Florio, one of Central Florida's most experienced and respected civil engineers over the last will 40+ years, will provide a brief summary of his selected projects in the Central Florida area.

85. It appears Brightline is proposing to displace a substantial amount, if not all, of CFX's existing stormwater capacity. There appears to be little, if any, capacity remaining in the existing ponds. CFX will potentially have to purchase land whenever it wants to expand its highway system.

86. Brightline is proposing to build MSE walls on fairly narrow shoulders. This construction will be complex and take place in a very tight area alongside the existing roadways. This construction could require the closure of the lane of traffic adjacent to the MSE walls while they are being constructed. If a lane is shut down for that purpose, that could adversely affect CFX's toll revenues, as drivers take equally time consuming alternative routes and avoid paying the tolls.

87. By contrast to the many questions surrounding Brightline's recent interest in developing a train to serve Central Florida, J. David Thomas will testify that one of the Chamber's members, Universal Studios, has been preparing for a train route from the Convention Center westward since it purchased the Lockheed Martin property in the 19990's. [See Exh 18 for his bio and Exh 19 for his report.] Universal has simultaneously restored and continues to protect almost 500 acres of wetlands in Shingle Creek, at a cost of \$30 million. It has also preserved a right of way adjacent to the south side of SR 528.

88. Importantly, Universal, along with the SFWMD, the Corps and other parties in the design and execution of these projects, consistently ensured that these environmental restoration projects provided for a corridor along the north side of S.R. 528 to accommodate a future rail line to serve the Orange County Convention Center without adversely impacting Shingle Creek or the habitat being created.

89. These efforts by our Chamber member were acknowledged and referenced in the positions taken by the SFWMD and the Corps in both the 2005 and 2010 Environmental Impact Statements that studied alternative alignments for the proposed rail extension from Orlando to Tampa, concluded that the northern alignment using the S.R 528 is environmentally preferable to the southern, S.R. 417 alignment now being proposed by Brightline. As a result, Universal has continued to hold title to the property for the future train's right of way.

90. Just as the Corps will be involved in reviewing any permit application for the SR 417 route, the SFWMD will also be included, as they were in 2005 and 2010. Pursuant to their regulatory process, that governmental agency will also ask if there is an available alternative route that does not require so much environmental mitigation. For the reasons stated above, we believe it would also reject this proposal because of the less destructive TVR to Convention Center route.

91. Finally, for those that support the Brightline route on the basis it takes cars off the road, why wouldn't those people want to see even more cars taken off the roads by having a stop at the Convention Center? A substantial number of business visitors would no longer rent cars to attend their conventions, and an even larger number vacationers could avoid renting a car while spending time in the Tourism District and on Disney properties.

92. For those thinking that an additional station would somehow diminish the speed, and therefore the attractiveness of such transportation, everyone must recognize a fact buried in Brightline's engineering data: the actual projected speeds currently in the plans for Brightline's train are at only 30-90mph.

D. Future Economic Impact Concerns

93. Brightline has touted the economic impact of its project to the Airport and Disney. To the extent that the CFX board considers Brightline's future economic impact claims to be an important element of its decision making process, it is important to know that their estimates pale in comparison to the actual economic impacts the I Drive stakeholders have generated over the years for this community. [Exh 19]

94. To provide this board with specific information about the historical and current economic impacts generated by individual members of our organization, including Universal Studios, Sea World and Rosen Hotels and Resorts. The economic impact, the generation of jobs, and the commitment to the community have been present for all on the CFX board to see—for the last several decades.

95. Since breaking ground in the 1980's for its first theme park, Universal Studios has worked diligently to be an important leader and contributor to this community. When Universal acquired the property from Lockheed Martin, it first responded favorably to Orange County's request that it sell some of that land for the expansion of the Convention Center. It thereafter foresaw a need for a rail station at the Convention Center. Accordingly, Universal set aside land adjacent to the Orange County's newly acquired property for ingress and egress to that future train station. That access to the station also included a 100 foot right of way on its property running adjacent to SR 528. Even when Universal sold some of the land it acquired from Lockheed Martin to a developer, it held on to its ownership of that right of way—that was, and is, its level of commitment to a multi-modal Convention Center station serving all of Central Florida. Underscoring that level of

commitment, Universal is willing to donate all that land to the project at no cost. [See Mr. Sprouls' bio as Exh 21.]

96. When Universal speaks of a commitment to all of Central Florida, it is important to note that it recently transferred land for an affordable housing development. It also is in the process of building a new theme park and resort property, Universal Epic, which will create 14,000 full time jobs. These people, as well as many of the 75,000 people now working in the I Drive Corridor, will use the new multi-modal station to more quickly and inexpensively commute to their work and home.

97. Universal will add thousands of construction jobs during construction, and generate 14,000 full time jobs going forward once it opens that theme park and resort. It has also generated tens of billions of dollars of economic impact over the last 30 years. But all of that is at substantial risk if the Brightline train system intentionally avoids the Convention Center.

98. This need not be a situation where one company is served by this new train, and the rest of the community is left out. We support a station at both the Convention Center and at Disney. There are currently three stops on the Brightline route in South Florida, and it wants to open three more. [Exh 22] We believe the number of people using the Convention Center station will far exceed that which Brightline is currently generating in its existing locations and will exceed its projections for the three new stations. Having a station with immediate access to the Convention Center and the six major theme parks in our I Drive Corridor should actually increase the number of Brightline customers using those South Florida locations.

99. The concept of two stations, one at the Convention Center and another at Disney, would drive even more ticket sales. Why wouldn't any rational, civic minded citizen in this area want to have a station at both the Convention Center and Disney? Isn't the goal for all of us to work together for the common good and betterment of our entire community? The TVR route to the Convention Center achieves that goal, unlike the other route.

100. Sea World has been a leader and job creator since it opened in December 1973. Over that almost 50 years, Sea World has employed hundreds of thousands of people in this area, and provided millions of dollars of support to this community. Over the last decade, Sea World has continued to invest substantial sums into this property, as part of its consistent commitment to this community. [Exh 25. Bio of Elizabeth Castro Gulascy, Sea World's Chief Financial Officer.]

101. Sea World, like the other members of the I Drive Chamber, recognizes the importance of transportation for our community. We tax ourselves, as part of our I Drive MSTU, in support of one transportation system. We welcome the opportunity to work with Brightline and Orange County to provide financial support for the Taft Vineland Road to Convention Center route.

102. We have questions about Brightline's ability, as a for-profit rail provider, to serve this community. Those questions include the following:

(a) Brightline has previously stated in public meetings that it has sufficient funds to construct this route to the Airport and then on to Tampa without any federal assistance.[Exh 24.] If that is indeed the case, why has it enlisted the support of several local Congressmen and women to specifically request that “privately funded higher-speed intercity passenger rail carriers” become eligible for federal grants? [Exh. 25.]

(b) We assume that Brightline has sufficient financial resources to operate this proposed train for our community. We also understand that COVID caused all of us to put on pause our businesses last year for a couple of months. But why is its current train system in South Florida apparently not fully operational at this time.? [See Exh.26]

(c) Why has Brightline intentionally ignored the Florida High Speed Rail Commission and the Federal Rail Administration’s ROD of 2005 and reconfirmed in 2010 that call for a station at the Convention Center?

103. Sea World also recognizes that the Convention Center is the largest economic engine within the County, as well as its most strategic asset. For the future of Orange County and its Convention Center, it is imperative that there be a Brightline station here, one that connects the Convention Center to the Airport.

104. The Convention Center station would be a multi-modal facility, one that would serve the entire Central Florida region by connecting trains, busses, trolley cars and other modes of transportation in an expansive, comprehensive and efficient network. The Convention Center multi-modal station would represent not only the vision but the implementation of a County-wide transportation solution benefiting generations of Central Floridians for years to come.

105. We have been part of a group of local entities, both private and public, that has been studying rail projects for over 30 years. We know that if the Brightline train becomes a reality along SR 417 there will not be a second rail project in our lifetimes. To the extent that a Brightline representative suggested there could be a second line (one they would not fund) operating solely between the Airport and the Convention Center, as they did in the last CFX board meeting, is naïve at best and disingenuous at worst.

107. Unlike Brightline, which has yet to do business in this community, our Chamber members have created hundreds of thousands of jobs over the years. But we have also engaged in many significant charitable and philanthropic activities. Harris Rosen, and the Rosen Hotels and Resorts is one such business and civic leader in the Corridor. But if Brightline intentionally avoids the Convention Center, the economic damage to some of this community’s longest standing and largest employers would be unnecessarily damaging. If Brightline claims to represent the kind of great solution to our community’s transportation needs for today and the future, there is no reason to intentionally exclude the businesses that have helped make this community great, and are committed to doing so well on into the future.

E. Creating access to and from the Convention Center: A comprehensive transportation network for all Central Floridians

108. At the last hearing, a few people spoke of the need for better transportation for the entire community. Having a multi-modal station at the Convention Center achieves that kind of community connectivity and solution. A station traveling non-stop from the Airport to Disney, on government owned right of ways, is not the kind of broad community based solution discussed at that hearing. This train shouldn't be about using public right of ways to get a train to one of the richest global corporations on the planet; it's about providing a better form of transportation for the regular people of this community for decades to come. Creating a multi-modal station at the Convention Center starts that process, but it cannot be a multi-modal station, and it certainly can't start construction, if Brightline intentionally avoids the most valuable and strategic asset in Orange County. [Exh 27.]

109. Looking over what has transpired since Maglev, it is pure folly to say we should have two systems. We don't have one yet, and we have been working on various ideas for 30 years. This is the one opportunity to get it right for the entire area, not just for Disney guests. This is the opportunity for the CFX board members to create a great vision—and then execute it—for the greater good for all in Central Florida.

110. The TVR to Convention Center route works for everyone. This proposal does not eliminate SunRail. To the contrary, there would be a connection to SunRail, to assist with commuter rail in our community, very geographically close to the Brightline proposed station.

111. The only reason Brightline has given to you not to follow the ROD of 2005 and 2010 is that they want to save themselves some money, at the expense of businesses that have served this community extremely well over the last 40 years. The VHB report clearly demonstrates that their numbers are suspect—both in the way they inexplicably avoid adding obvious costs to their construction estimates, and employ different rules for calculating our costs.

112. By contrast, the Chamber's members have proven ourselves to be very good corporate partners to improve the lives of so many people in our community. We have a way to address the difference between the costs of the two bids; we have taxed ourselves in the past. If given the opportunity to work with Orange County and Brightline, we believe there are also ways to eliminate all the delta, if one exists. We want to develop marketing programs and mutually beneficial business relationships between the I Drive Chamber members and Brightline, just as we have created "win-win" solutions and opportunities for many in the past.

113. There is no compelling public policy reason to cut out all these businesses and people that have created so many jobs and so much economic improvement, from the proposed high speed rail system. To the contrary, inclusion of the Convention Center station will serve an area that generates the most jobs in our community, while also providing the opportunity for the creation of a multi-modal station that can connect all of Central Florida through high speed rail, an expanded commuter rail system, and busses. This is our opportunity to bring everyone together to create a comprehensive transportation matrix for our community's present and future needs.

114. This is our community's time, here in the greater Central Florida area. This is our opportunity. This is the time to have everyone work together for a solution that works for everyone.

EXHIBIT 1

**U.S. Department of Transportation
Federal Railroad Administration**

Record of Decision/Section 4(f) Determination

FLORIDA HIGH SPEED RAIL

Tampa to Orlando

Hillsborough, Polk, Osceola and Orange Counties, Florida

**Financial Project ID No.: 411253 1 94 03
Federal Aid Project No.: N/A**

TABLE OF CONTENTS

1. SUMMARY.....	1-1
2. INTRODUCTION.....	2-1
3. BACKGROUND.....	3-1
3.1. FEIS REEVALUATION	3-2
4. PURPOSE AND NEED.....	4-1
4.1. Florida Passenger Rail Legislation of 2009	4-1
5. ALTERNATIVES.....	5-1
5.1. ALTERNATIVES CONSIDERED AND DISMISSED IN THE 2005 FEIS	5-1
5.2. ALTERNATIVES CONSIDERED IN THE 2005 FEIS	5-1
5.3. 2005 FEIS PREFERRED ALTERNATIVE	5-8
5.4. 2009 FEIS REEVALUATION PREFERRED ALTERNATIVE	5-8
6. AFFECTED ENVIRONMENT	6-1
6.1. Relocation and Right of Way	6-5
6.2. Section 106 Consultation and Memorandum of Agreement	6-5
6.3. Section 4(f) Determination	6-6
6.4. Air Quality	6-7
6.5. Noise	6-8
6.6. Vibration	6-8
6.7. Wetlands	6-9
6.8. Contamination	6-9
6.9. Floodplains	6-10
6.10. Wildlife and Habitat, Protected Species	6-10
6.11. Energy	6-11
6.12. Means to Avoid and Minimize Environmental Harm	6-11
6.13 Environmentally Preferable Alternative	6-11
7. DECISION.....	7-1
7.1. Basis for Decision	7-1
7.2. Section 106 of the National Historic Preservation Act	7-2
7.3. Floodplains and Floodways Finding	7-2
7.4. Wetlands Finding	7-3
7.5. Endangered Species Finding	7-3
7.6. Environmental Justice Finding	7-4
7.7. Section 4(f) Determination	7-4
8. CONCLUSION.....	8-1

LIST OF FIGURES

Figure 1 Project Location Map	2-1
Figure 2: Corridors / Stations Considered	5-2
Figure 3: Design Build Alternatives	5-5

LIST OF TABLES

Table 1: Summary of Major NEPA Milestones	3-1
Table 2: Summary of Operations by Technology	5-3
Table 3: Summary of Design/Build Alternatives by Alignment and Technology	5-6
Table 4: Design/Build Alternatives Evaluation Matrix (2005 FEIS Preferred Alternative Highlighted)	5-7
Table 5: Changes in 2010 Tampa-Orlando Ridership and Revenue for the Preferred Alternative	5-11
Table 6: Change in Potential Environmental Impacts	6-2

APPENDICES

APPENDIX A – FINAL ENVIRONMENTAL IMPACT STATEMENT REEVALUATION

APPENDIX B - MITIGATION AND COMMITMENTS

APPENDIX C - PUBLIC INVOLVEMENT/COMMENT SUMMARY

1. SUMMARY

This document records the decision of the Federal Railroad Administration (FRA) regarding the Florida High Speed Rail Project from Tampa to Orlando proposed by the Florida Department of Transportation (FDOT). In making this decision, the agency considered the information, analysis and public comments contained in the 2005 Final Environmental Impact Statement (FEIS) and the more recent 2009 FEIS Reevaluation (2009) to determine the alignment location and station sites for further project development into design and construction. Additional coordination between FDOT, FRA and the Federal Highway Administration (FHWA) will be carried out in the design phase with respect to emergency and maintenance access, safety and security in accordance with FRA standards through the development of a Safety Plan.

This Record of Decision (ROD) has been drafted in accordance with the regulations implementing the National Environmental Policy Act (NEPA) (40 CFR Part 1505.2) and FRA's Procedures for Considering Environmental Impacts (64 Fed Reg 28545 (May 26, 1999)). Specifically, this ROD:

- Provides a background of the NEPA process for the Final Environmental Impact Statement (FEIS) and the 2009 FEIS Reevaluation
- States and reaffirms the Purpose and Need
- Presents the alternatives considered in the 2005 FEIS
- Presents the alternatives considered and dismissed in the 2005 FEIS
- Identifies the selection of the preferred alternative for the 2005 FEIS
- Identifies the environmentally preferable alternative
- Presents the Affected Environment summarizing the findings of the 2009 FEIS Reevaluation
- Presents means to avoid and minimize environmental harm
- Presents the FRA Decision, determinations and findings
- Provides a summary of the public involvement and agency coordination for the 2005 FEIS and the 2009 FEIS Reevaluation

2. INTRODUCTION

The FDOT is proposing to develop a high speed rail passenger system in the Tampa-Orlando-Miami corridor, with future extensions to other major urban areas in the state. This Tampa-Orlando-Miami corridor is a federally designated high speed rail corridor. The first phase of Florida High Speed Rail is the Tampa to Orlando project and is the subject of this ROD.

The Florida High Speed Rail (FHSR) project from Tampa to Orlando would be developed on new track, with the majority of the system located within the existing right-of-way (ROW) of Interstate 4 (I-4) and the Beachline Expressway (S.R. 528), formerly the Bee Line Expressway, a distance of 88 miles. As shown on **Figure 1**, five (5) stations are proposed and would be located in Tampa, Polk County (Lakeland), Walt Disney World, Orange County Convention Center and Orlando International Airport (OIA). The 2005 FEIS and 2009 FEIS Reevaluation includes analyses for a proposed station at the western terminus of SR 570 (Polk Parkway) and a potential station at Kathleen Road in Lakeland. Only one station site will be identified for continued development and design in coordination with Polk County and the local cities.

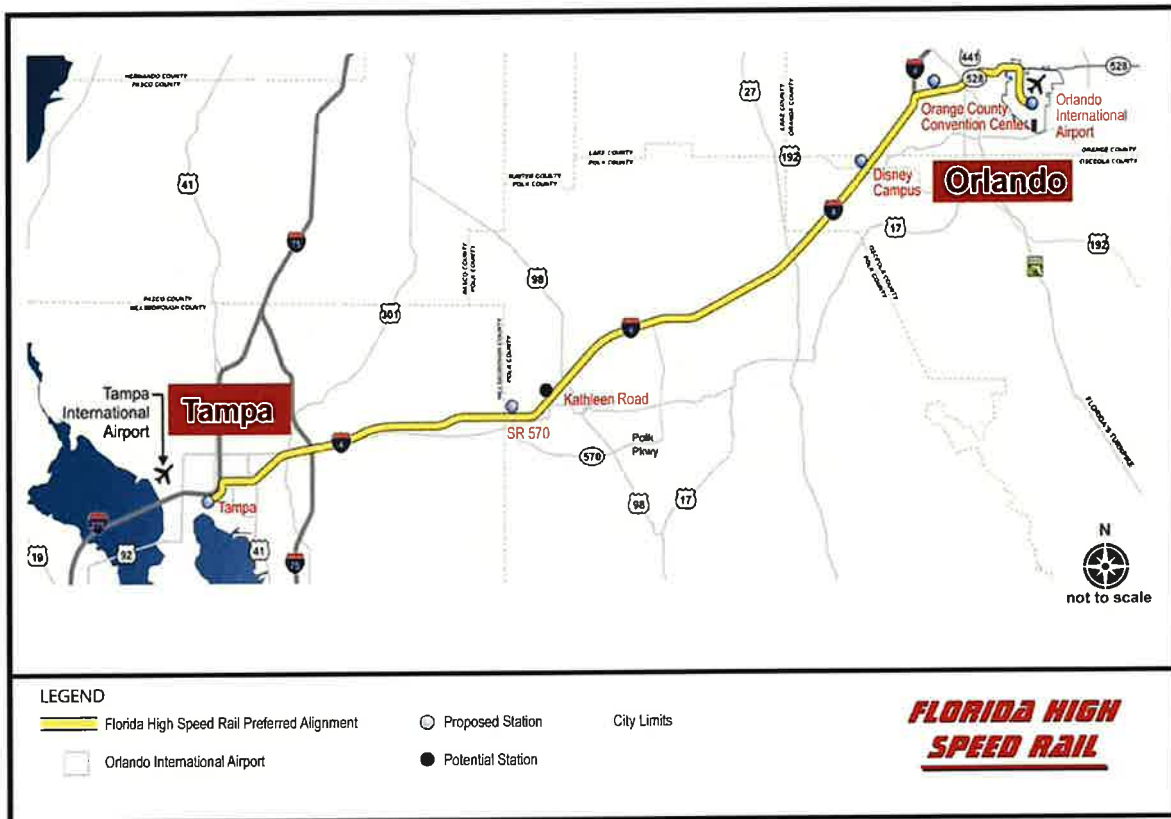


Figure 1 Project Location Map

Florida High Speed Rail Record of Decision

FDOT proposes the high speed passenger rail system would operate 16 intercity round trips per day with additional frequent shuttle service from OIA to the tourist destinations in the Orlando area. The maximum travel time will be 64 minutes with stops between Tampa and Orlando. The maximum operating speed will be 168 mph.

The initial environmental document was completed under the direction of the Florida High Speed Rail Authority (FHSRA), which was under a state constitutional mandated directive to expedite the implementation of the system. In order to complete the project in a timely manner, FHSRA selected a Design, Build, Operate, Maintain, and Finance (DBOM&F) process for implementing the project. Proposals were solicited and two were selected for evaluation in the FEIS published in 2005. The 2009 FEIS Reevaluation builds on the use of a DBOM&F process for advancing the project.

On October 2, 2009, FDOT submitted an application to the FRA under the High Speed Intercity Passenger Rail Program (HSIPR) for \$2.624B to fund the development of the Tampa-Orlando high speed rail corridor project. On January 28, 2010, FRA announced that FDOT had been selected for an award of up to \$1.25B for the Tampa-Orlando corridor. The funds will be used to complete any additional corridor level analysis respective to station sites, complete final design, and initiate construction of the FHSR project from Tampa to Orlando.

3. BACKGROUND

Following its creation in 2001, the FHSRA, with guidance from the FRA as the lead federal agency, took a number of steps to implement high speed rail within the state of Florida. The FHSRA began the planning, environmental studies, and engineering needed to prepare a Draft Environmental Impact Statement (DEIS) for the Tampa to Orlando corridor in 2002, focused on independent utility and logical termini. FRA approved the DEIS in August 2003, and signed and circulated the FEIS in 2005. However, due to the project being suspended, the FRA never issued a Record of Decision (ROD) for the project.

The major NEPA milestones are summarized in **Table 1**.

Table 1: Summary of Major NEPA Milestones

Milestone	Date
Notice of Intent	March 2002
Advance Notification and Scoping	April 2002
Draft EIS Signed and Circulated	August 2003
Draft EIS Notice of Availability	September 5, 2003
Public Hearings	October 7-9, 2003
FEIS Signed and Circulated	July 2005
FEIS Notice of Availability	August 5, 2005
<small>Source: Florida High Speed Rail Tampa to Orlando FEIS Reevaluation, October, 2009</small>	

Independent documentation in support of the findings of the 2005 FEIS includes:

- The *Tampa Interstate Study Environmental Impact Statement*, November 1996 - which includes ultimate improvements to I-4/I-275 that accommodate the high speed rail alignment
- The *Intermodal Station at Orlando International Airport Environmental Assessment*, September 2005 – planned an intermodal station at both the OIA North Terminal and the future OIA South Terminal, and updated the HSR and light rail alignments through OIA property
- The *Greater Orlando Aviation Authority Master Plan*, August 2004 – most current master plan incorporating multimodal station at the North Terminal, future South Terminal, and HSR rail alignments
- The *Tampa Bay Intermodal Center*, October 2005 – multimodal station site study consistent with the location of the Tampa HSR station area that provided for the FHSR alignment
- The *Canadian Court Intermodal Transportation Center Study*, April 2007 - multimodal station site consistent with the proposed Orange County Convention Center station that accommodates the FHSR alignment

3.1. FEIS REEVALUATION

In October 2008, a federal program to advance high speed rail corridor development was authorized under Section 501 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). The *America Recovery & Reinvestment Act of 2009* (ARRA) then made \$8 billion available for High Speed Rail (HSR). In April 2009, President Barack Obama's Administration unveiled its HSR Vision, initially highlighting federally-designated high speed rail corridors, including Tampa-Orlando-Miami in Florida. This began a national competition for federal funding.

Given this new prospect for federal funding, the Florida Department of Transportation (FDOT) began work to determine the extent of changes in potential environmental impacts and commitments since the FEIS was circulated in 2005.

FRA met with FDOT representatives on June 12, 2009 to discuss the project and the status of the NEPA documentation. FRA determined that a reevaluation of the 2005 FEIS was needed to satisfy NEPA requirements (the FEIS Reevaluation). This reevaluation was prepared in conformance with FDOT's Project Development and Environment (PD&E) Manual.

While there have been no major changes to the project location and design since the FEIS was published, several years have elapsed since publication of the FEIS, triggering the need for a reevaluation. According to FRA's Procedures for Considering Environmental Impacts (64 FR 28545 (May 26, 1999)) and FDOT's PD&E Manual, reevaluations are to be conducted under the following circumstances:

- Approval of document and authorization of the next phase is greater than one year
- A major change in the project's location or design has occurred
- If more than three (3) years have lapsed since the date of approval of the final EIS without a decision

In May 2009, FDOT initiated a qualitative review of the project to determine the level of assessment required to complete the NEPA/PD&E process and support the issuance of a ROD. The findings of this assessment were summarized in a technical memorandum, *Basis for FEIS Reevaluation Technical Memorandum* (June 29, 2009), presented and discussed with FRA. This document is located as an appendix to the FEIS Reevaluation Report. The FEIS Reevaluation is in **Appendix A** of this ROD.

The qualitative assessment indicated that minor changes in the project definition are required and small changes in the affected environment have occurred, and that a reevaluation was an appropriate course of action to determine the potential changes in environmental impacts, mitigation and commitments since the FEIS was published in 2005. Accordingly, the reevaluation focused on the following:

- Changes in the preferred technology from the gas turbine-powered technology as identified in the 2005 FEIS to the electric powered technology. Under the FEIS Reevaluation, the electric-powered technology has emerged as the preferred technology, on the same alignment, based on the current initiatives to reduce carbon emissions and dependency on foreign oil

Florida High Speed Rail Record of Decision

- Design changes needed based on surrounding infrastructure and right-of-way
- Changes in the affected environment that have occurred since the 2005 FEIS
- Changes in potential environmental impacts since the 2005 FEIS
- Changes in the mitigation and commitments compared to the 2005 FEIS
- Changes in permits needed since the 2005 FEIS
- Need for updated coordination with local jurisdictions, stakeholders, and environmental review agencies
- Need for updated public involvement
- Changes in laws, rules, and regulations since 2005

A draft FEIS Reevaluation was completed by FDOT and submitted to FRA on October 1, 2009.

4. PURPOSE AND NEED

The Purpose and Need for the FHSR project was established in the 2005 FEIS and was confirmed by the 2009 Reevaluation. The purpose of FHSR is to enhance intercity passenger mobility in Florida by expanding passenger transportation capacity and providing an alternative to highway and air travel. Increased mobility is viewed as essential for the sustained economic growth of the region, as well as the quality of life of the region's residents and visitors. Presently, passenger mobility in the Tampa-Orlando corridor is provided primarily by highways, particularly I-4. Projected transportation demand and travel growth, as prompted by social demand and economic development and compared to existing and future roadway capacity, show a serious deficit in available capacity. In addition, increasing population, employment, and tourism rates continue to elevate travel demand in the study corridor.

Although capacity improvements to the interstate system along the corridor have either recently been completed or are planned for the near future, they are not adequate to accommodate future travel demand. This need is further emphasized by high traffic volumes, congestion, and accident rates in the study corridor. Further, social and economic demands will continue to call for provision of alternative transportation choices for those individuals who cannot or choose not to drive, as well as those travelers looking for alternatives to congested highways.

4.1. Florida Passenger Rail Legislation of 2009

On December 16, 2009 Governor Charlie Crist signed legislation specifically to support the development of passenger rail systems in the state of Florida. This includes the creation of the Florida Rail Enterprise and other steps including potential funding support for a high speed rail system in the state. The passage of this legislation demonstrates Florida's commitment to work with Federal agencies and private sector partners to advance high speed rail and other passenger rail systems as an integral component of statewide transportation systems.

5. ALTERNATIVES

5.1. ALTERNATIVES CONSIDERED AND DISMISSED IN THE 2005 FEIS

The FHSRA considered several routes between Tampa and Orlando. In order to identify reasonable alternatives that could satisfy the identified project purpose and need, the FHSRA conducted a study to identify, quantify, and compare various HSR route locations. The results of the screening process are documented in the *Florida High Speed Rail Screening Report*, which was completed in October 2002. This evaluation was built on the studies undertaken for high speed rail in the Tampa – Orlando corridor since the mid 1980s. Forty-seven alignments were reduced to 20 as a result of this evaluation. **Figure 2** identifies the various segments that were eliminated from continued study and the retained alignments that were analyzed as the viable alternatives in the 2005 FEIS.

Tampa area: The FHSR study team developed 21 alignments to connect the downtown Tampa station eastward to I-75 with alignments in the I-4 and CSX rail corridors. Ten alignments were eliminated for reasons including engineering constraints, disruption of access to low-income housing and community facilities, disruption of the Ybor City National Historic Landmark District (NHL), and causing relatively greater environmental impacts than retained alignments.

Hillsborough County: Two alignments were evaluated in rural Hillsborough County: one along the I-4 corridor and the other parallel to the CSX rail line. The CSX rail alignment was eliminated from further consideration due to proximity impacts to a significant number of community facilities in Plant City along the railroad.

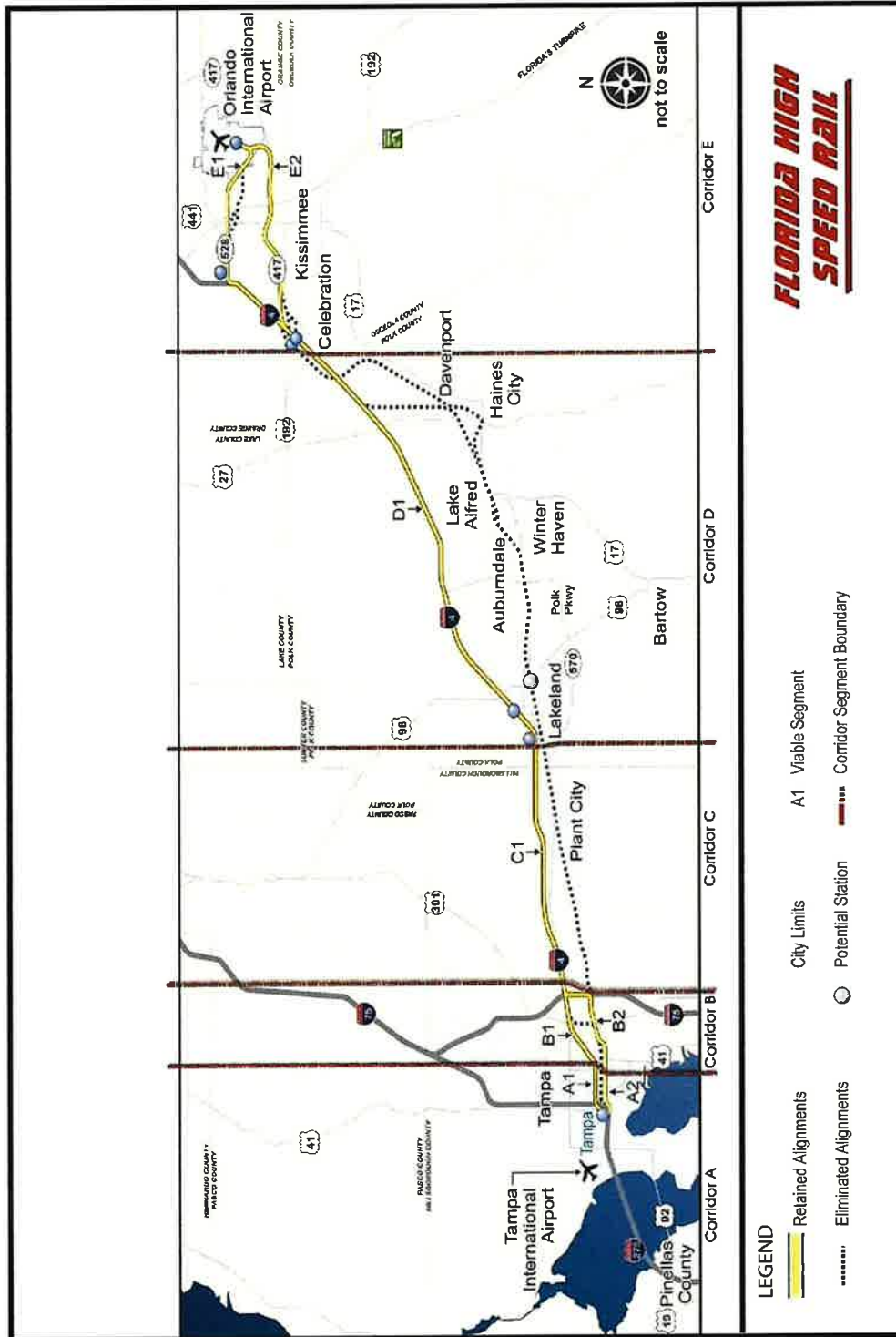
Polk County: Nine alignments were evaluated in Polk County. The alignments included the I-4 and CSX rail corridors, as well as connections between the two corridors. The CSX corridor was eliminated due to proximity impacts to community facilities in Lakeland, Auburndale, Haines City, and Davenport. With the elimination of the CSX alignment, connecting alignments to the I-4 corridor were no longer viable.

Orlando area: Fifteen alignments were evaluated in Osceola and Orange counties in the Orlando area. Seven alignments were eliminated. Some of the alignments connected to eliminated alignments in Polk County and would have disrupted existing commercial development along the alignment. A new terrain connection between I-4 and the Central Florida Greenway (S.R. 417) had the greatest amount of potential wetland and wildlife habitat impact and limited access to alternative station sites. Other alignments were eliminated due to engineering constraints.

5.2. ALTERNATIVES CONSIDERED IN THE 2005 FEIS

The alternatives selected for evaluation in the EIS include:

- No-Build Alternative, consisting of no FHSR service between Tampa and Orlando.
- Two technology alternatives, the gas-turbine powered locomotive-hauled and the electric-powered locomotive-hauled trains, reflecting the responsive proposals to the FHSRA DBOM&F solicitation. These technologies are further described below.



Source: Florida High Speed Rail Tampa to Orlando Final Environmental Impact Statement, May 2005.

Figure 2: Corridors / Stations Considered

- Four alignment alternatives per each technology, or a total of eight design/build alternatives. A detailed summary of each alignment is available in the 2005 FEIS.

Each Alternative carried forward for consideration in the 2005 FEIS is summarized below.

5.2.1. No-Build Alternative

The No-Build Alternative assumes that a FHSR system would not be built between Tampa and Orlando. Passenger service between the two cities would instead consist of various existing bus services between Tampa and Orlando and automobile use on I-4, I-75, the Bee Line Expressway (S.R. 528), and the Central Florida Greenway (S.R. 417). The No-Build Alternative assumes that certain planned and funded highway improvements would be undertaken between Tampa and Orlando.

The No-Build Alternative does not envision providing an alternative transportation mode between Tampa and Orlando for daily commuters, visitors, and residents of the area, and existing modes would have to satisfy all travel demand. The potential of the FHSR project to improve public transportation and increase the efficient use of the transportation system, both intercity and locally, would not be realized.

5.2.2. Technology Alternatives

The FHSRA determined that two proposals were responsive to its solicitation for DBOM&F proposals. These represented different technologies with different track systems, rail locations, maintenance facilities and station sites.

Fluor Bombardier proposed a gas turbine-powered locomotive-hauled train technology, developed by Bombardier and FRA with the trademark name of “Jet Train”. The gas turbine train has passenger equipment similar to Amtrak’s Acela Express trains presently operating between Washington, D.C. and Boston, Massachusetts.

The Global Rail Consortium (GRC) proposed using an electric-powered locomotive-hauled train technology, powered from an overhead catenary system similar to that in use on the Acela system and the electric train uses the French designed TGV Atlantique train sets.

Table 2 summarizes the operating features of the two proposed technologies.

Table 2: Summary of Operations by Technology

Feature (FHSRA minimums)	Gas Turbine Train	Electric Train
Speed (120 mph)	<i>125 mph</i>	<i>160 mph</i>
Round trips per day (12)	<i>14</i>	<i>16</i>
Shuttle trips between Orlando International Airport and Disney (not required)	<i>8</i>	<i>17</i>
Trip time (1 hour, 10 minutes)	<i>65-70 minutes</i>	<i>54-55 minutes</i>
Seating capacity (250)	<i>292</i>	<i>250</i>

Source: Florida High Speed Rail Tampa to Orlando Final Environmental Impact Statement, May, 2005.

5.2.3. Alignment Alternatives

The alignment alternatives used varying combinations of the I-275 and CSX corridors in downtown Tampa, the I-4 corridor between Tampa and Orlando, and either the Bee Line

Expressway (S.R. 528) or Central Florida Greenway (S.R. 417) corridor in Orlando. Design/Build Alternatives 1 through 4 consist of gas turbine technology, while Design/Build Alternatives 5 through 8 consists of the electric train technology.

The eight alternatives use varying combinations of the same alignment. The alignments associated with each alternative are illustrated in **Figure 3** and briefly summarized as follows:

Tampa area: I-275/I-4 corridor – This is a new, grade-separated alignment that runs south of and parallel to I-275 and I-4 to approximately 14th/15th Streets where the alignment crosses into the I-4 median.

Tampa area: CSX “S” line/CSX “A” line/I-75 – This is a new, grade-separated alignment that leaves the downtown station southeasterly through a commercial area to connect into the former CSX “S” line. The alignment runs eastward to connect to the existing CSX “A” line, running along the north side of the rail line to I-75. At I-75, the alignment runs in the interstate median northward to connect into the I-4 median.

Between I-75 to the Osceola/Orange county line: I-4 – This alignment between the Tampa and Orlando urban areas would use the I-4 median for the entire length.

Orlando area: Bee Line Expressway (S.R. 528)/Taft-Vineland Road – This grade-separated alignment would leave the I-4 median and follow along the north side of the Bee Line Expressway (S.R. 528), then along the median of Taft-Vineland Road, crossing new ROW to connect into a station at Orlando International Airport.

Orlando area: S.R. 536/Central Florida Greenway (S.R. 417) – This grade-separated alignment leaves the I-4 median to run along the south side of S.R. 536, connecting to either the north side or the median of the Central Florida Greenway (S.R. 417). From the Central Florida Greenway (S.R. 417), the alignment would run along the east side of the South Access Road to a station at Orlando International Airport.

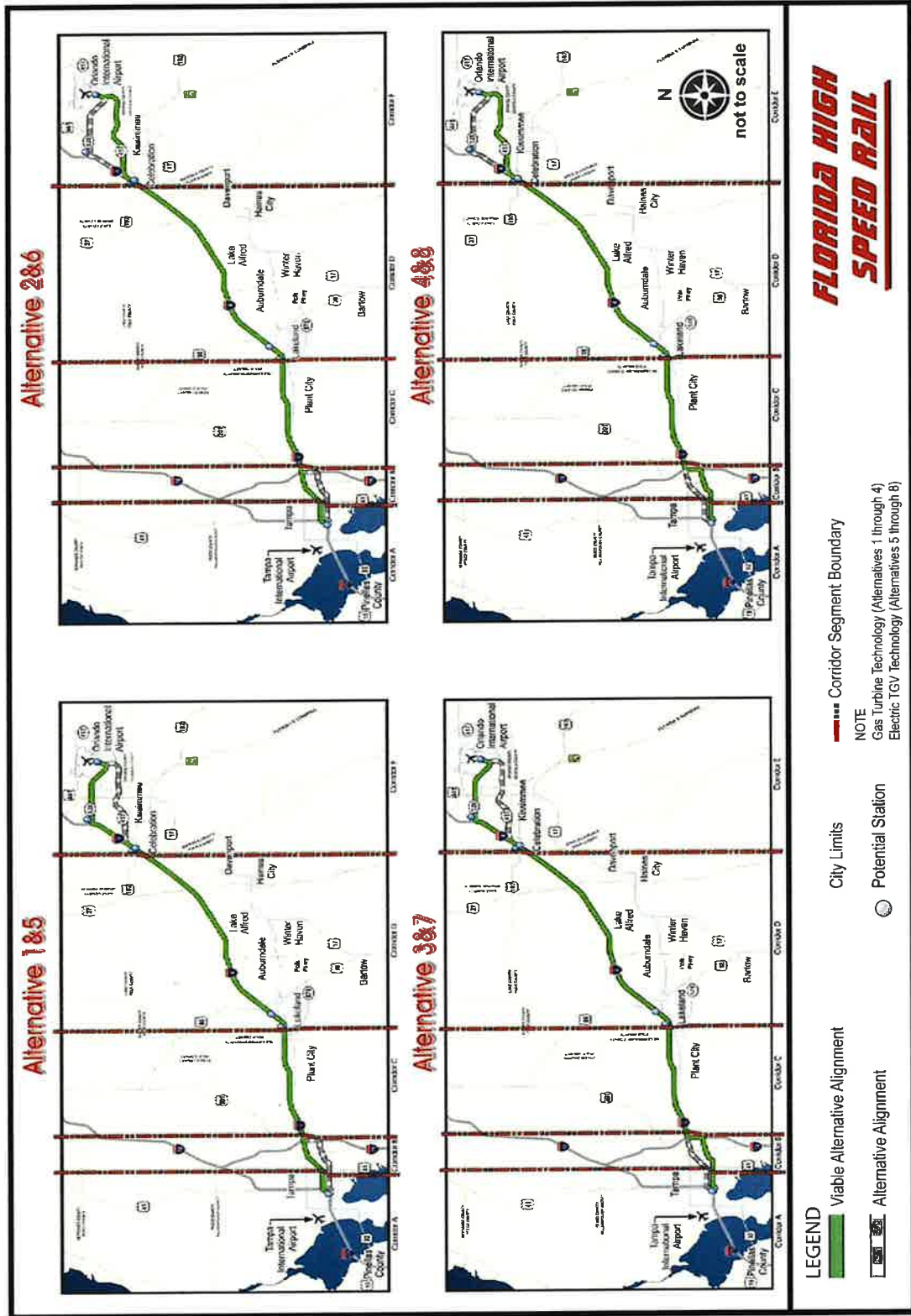
Station locations evaluated in the study included:

- Tampa Central Business District (CBD), south of Interstate 275 (I-275)
- I-4/Polk Parkway, west entry
- I-4/Kathleen Road (S.R. 539) in the City of Lakeland
- I-4 near Walt Disney World
- I-4 near Orange County Convention Center (OCCC)/Multi-Modal Station
- Orlando International Airport

An operation and maintenance (O&M) facility is proposed at one of two locations near the Orlando International Airport.

5.2.4. Summary of Alternatives Identified

The FEIS thus evaluated a total of eight design/build alternatives consisting of four different alignment options with two different technologies, as offered by the two proposers. **Figure 3** displays the eight design/build alternatives and the station locations considered. **Table 3** provides a summary of the design/build alternatives by alignment and technology.



Source: Florida High Speed Rail Tampa to Orlando Final Environmental Impact Statement, May 2005

Figure 3: Design Build Alternatives

Table 3: Summary of Design/Build Alternatives by Alignment and Technology

	Alternative							
	1	2	3	4	5	6	7	8
TECHNOLOGY								
Gas turbine	X	X	X	X				
Electric train					X	X	X	X
ALIGNMENT								
I-275/I-4 in Tampa	X	X			X	X		
CSX Line/I-75 in Tampa			X	X			X	X
I-4 between Tampa & Orlando	X	X	X	X	X	X	X	X
SR 528/Taft-Vineland Road in Orlando	X		X		X		X	
S.R. 536/SR 417 in Orlando		X		X		X		X

Source: Florida High Speed Rail Tampa to Orlando Final Environmental Impact Statement May 2005.

The evaluation matrix in **Table 4** summarizes the quantifiable impacts of the proposed FHSR Design/Build Alternatives 1 through 8. The matrix provides an assessment of potential impacts for each alternative, providing the opportunity to effectively evaluate the consequences of each alternative.

Design/Build Alternatives 1 through 4 represent the four alignment combinations with the gas turbine technology. Design/Build Alternatives 5 through 8 represent the four alignment combinations with the electric train technology. The potential impacts for the FEIS Preferred Alternative, Design/Build Alternative 1, are highlighted in **Table 4**.

Physical impacts, such as wetland, wildlife, and floodplain impacts are technology neutral. The differences in impacts are due to alignment location, station sites, and O&M facility sites. In general, there are slightly more natural impacts associated with the Central Florida Greenway (S.R. 417) alignment due to crossing relatively undisturbed land. Noise, vibration, air quality, and energy impacts are more associated with the technology. In some cases though, the technology and alignment combinations will have varying effect such as with noise and vibration.

Florida High Speed Rail Record of Decision

**Table 4: Design/Build Alternatives Evaluation Matrix
(2005 FEIS Preferred Alternative Highlighted)**

	Alternatives							
	1	2	3	4	5	6	7	8
NATURAL ENVIRONMENT IMPACTS (AC.)								
Total Wetland Impacts (AC.)	40	31.3	39.2	30.5	25.6	24.4	30.5	23.6
High Quality Wetlands (AC.)	11	2	11	2	11	2	11	2
Protected Species Sites	9	15	10	16	9	15	10	16
FLOODPLAIN AND FLOODWAY (AC.)								
Base Floodplain Encroachment	56.88	54.54	61.04	58.70	56.88	54.54	61.04	58.70
Base Floodway Encroachment	9.45	6.47	9.45	6.47	9.45	6.47	9.45	6.47
CONTAMINATION SITES (RANKED H)								
Potential Petroleum Sites	2	0	7	5	2	0	7	5
Potential Hazardous Materials Sites	5	5	12	12	5	5	12	12
SECTION 4(f) IMPACTS								
Recreation Facilities	1	1	0	0	1	1	0	0
Historic/Archaeological Sites	0	0	2	2	0	0	2	2
COMMUNITY SERVICES								
Schools	8	12	5	9	8	12	5	9
Community Facilities	10	9	6	5	10	9	6	5
Parks & Recreation	5	7	5	6	5	7	5	6
Cemeteries	4	6	6	6	4	6	6	6
Churches	15	16	12	13	15	16	12	13
NOISE IMPACTS (MODERATE & SEVERE)								
Category 1 (Buildings and/or parks)	0	0	0	0	0	0	0	0
Category 2 (Residences, hospitals, and hotels)	15	5	16	6	53	105	38	90
Category 3 (Institutional - schools, libraries, churches, active park)	0	0	0	0	1	2	0	1
VIBRATION IMPACTS								
Category 1 (Buildings and/or parks)	1	0	1	0	1	0	1	0
Category 2 (Residences, hospitals, and hotels)	44	20	40	16	13	5	9	1
Category 3 (Institutional - schools, libraries, churches, active park)	0	0	0	0	0	0	0	0
AIR QUALITY EMISSIONS (Net Change in Tons/Year)								
CO	-101.7	-64.7	-100.9	-63.8	-152.0	-114.3	-151.8	-114.1
NOX	+189.0	+188.2	+191.4	+190.6	+23.3	+24.1	+23.7	+24.5
VOC	+8.9	+10.6	+9.2	+10.9	-8.1	-6.1	-8.1	-6.1
ENERGY CONSUMPTION (Change from 2010 No-Build)								
Millions BTU	498,855	507,770	505,658	514,574	239,820	243,623	243,314	247,124
SECTION 106 IMPACTS								
Historic Sites	5	5	7	7	5	5	7	7
Archaeological Sites	0	0	0	0	0	0	0	0
RELOCATIONS								
Residential	3	3	0	0	3	3	0	0
Business	3	8	15	23	3	8	15	23
COST								
ROW (Non-public)	\$118M	\$149M	\$150M	\$181M	\$101M	\$128M	\$134M	\$161M
Infrastructure	\$1,900M	\$2,033M	\$1,881M	\$2,015M	\$2,177M	\$2,306M	\$2,154M	\$2,284M
Mitigation	\$30M	\$30M	\$30M	\$30M	\$30M	\$30M	\$30M	\$30M
TOTAL COST	\$2.048B	\$2.212B	\$2.061B	\$2.226B	\$2.308B	\$2.464B	\$2.318B	\$2.476B

Source: Florida High Speed Rail Tampa to Orlando Final Environmental Impact Statement, May, 2005.

5.3. 2005 FEIS PREFERRED ALTERNATIVE

The 2005 FHSR FEIS resulting from the Project Development and Environment (PD&E) Study investigated the eight design/build alternatives, evaluating not only the technological differences, but also engineering, environmental impacts, costs, and other factors impacting the selection of the alignment. Development of alignments provided an analysis of socio-economic, natural, and physical environmental impacts within the proposed corridors. The potential impacts of the design/build alternatives and the No-Build Alternative are documented in Section 4 of the FEIS.

The FHSRA considered the alternatives in Tampa and Orlando in identifying a Preferred Alternative. All alternative alignments are located along I-4 through Polk and Osceola counties. Two separate alignments were considered in Tampa (Hillsborough County): the CSX and I-4 alignments. Similarly, two alternatives were considered in Orlando (Orange County): the Florida Turnpike's Bee Line Expressway (S.R. 528) and the Central Florida Greenway (S.R. 417) alignments.

The FHSRA unanimously passed a motion identifying the I-4 alignment in Hillsborough County as the preferred alignment. Additionally, the FHSRA ranked the Fluor Bombardier Team (gas turbine technology) as the preferred proposer.

On October 27, 2003, the FHSRA originally identified the Central Florida Greenway (S.R. 417) alignment as the preferred alignment in Orange County. The vote was subject to the following two condition Memorandums of Agreement (MOA):

- Subject to an acceptable agreement between the FHSRA and Walt Disney Company related to donation of ROW and commitments to support ridership for the project.
- Subject to an acceptable agreement between the FHSRA and OOCEA related to use of the Central Florida Greenway (S.R. 417) ROW.

On November 10, 2004, the FHSRA revised the recommendation of the Preferred Alternative because the two conditional MOAs had not been executed. With this action, the FHSRA recommended Alternative 1 (gas turbine technology), which is the combination of the I-4 alignment in Hillsborough County and the Bee Line (now the Beachline) Expressway (S.R. 528) alignment in Orange County, as the Preferred Alternative. While the FEIS environmental analysis provided for either technology to be selected as the preferred technology to be used on the corridor, the FEIS identified Alternative 1 as the Preferred Alternative. The FEIS identified the No Build Alternative as the environmentally preferable alternative because it would result in less direct and indirect impact to the environment. However, the FEIS also noted that the No Build Alternative would fail to meet the Project purpose and need.

5.4. 2009 FEIS REEVALUATION PREFERRED ALTERNATIVE

In the 2005 FEIS gas turbine-powered technology was selected as the Preferred Alternative. FDOT now prefers the electric-powered technology on the same alignment, based on the current initiatives to reduce carbon emissions and dependency on foreign oil. The 2009 FEIS Reevaluation addresses environmental impacts resulting from the change in the preferred technology, any changes to existing conditions and the minor changes to the 2005 Preferred Alternative alignment to further reduce the potential for environmental impacts.

The FHSR Preferred Alternative resulting from both the 2005 FEIS and 2009 Reevaluation would begin at the downtown Tampa station to be located between Tampa Street and Marion Street, I-275, and Fortune Street. The FHSR alignment would follow I-275 along the south and east right-of-way (ROW). The alignment would cross into the I-4 median in the area of 15th Street. The majority of the FHSR alignment would be within the ultimate ROW identified in the *Tampa Interstate Study* (TIS) for future interstate improvements; however some additional ROW would be required and has been coordinated with the City of Tampa.

The alignment would continue east within the I-4 median through Hillsborough and Polk counties. One station would be located in Polk County, where two locations were under consideration.

Entering Osceola County, the high speed rail alignment remains within the I-4 median. The proposed Walt Disney World Station would be located north of U.S. 192. The station platform would be located in the median and station facility would be located west of I-4 between U.S. 192 and the Osceola Parkway.

The alignment would continue into Orange County in the I-4 median until the I-4/Beachline Expressway (S.R. 528) interchange, where it would elevate and leave the I-4 median and run along the north side of S.R. 528 within existing ROW. The Orange County Convention Center multi-modal center site is located in the northeast quadrant of the International Drive/S.R. 528 Interchange. The Orange County Convention Center station would be located within the ROW of the interchange area.

The alignment would continue on the north side of S.R. 528 until east of the John Young Parkway (S.R. 423) Interchange where it would leave S.R. 528 and run on new alignment east to Taft-Vineland Road. The alignment would continue along Taft-Vineland Road and enter the City of Orlando property near Tradeport Drive. It would then follow the Orlando Utilities Commission rail line as a new alignment turning north crossing the Orlando International Airport (OIA) South Access Road and traversing through the limits of OIA from south to north, east of the proposed South Terminal.

The 2009 FEIS Reevaluation has determined that overall the preferred alternative alignment documented in the 2005 FEIS remains substantially unchanged; however, the preferred technology has changed. Investigation of current conditions and planned projects has resulted in some minor adjustments to the horizontal and vertical alignment. Supporting engineering plans and profiles are provided in FEIS Reevaluation. Areas where changes have occurred are:

- Station Areas: Tampa – Downtown, Walt Disney World/Celebration; Orange County Convention Center; Orlando International Airport – additional right of way and some relocation required for various stations (see Station discussion)
- I-4/I-275 Interchange Ramp D adjacent to Perry Harvey Senior Park – improvement to I-275 widened the existing roadway for ramp auxiliary lanes
- I-4/I-275 Proposed Flyover Ramp widening adjacent to Ybor City National Historic Landmark District – FDOT identified that the existing single lane flyover ramp needs to be widened to two lanes

- Transition to I-4 Median and Crosstown Connector – minimize structure length based on the construction of the ultimate I-4 improvements
- Columbus Avenue Relocation – improvements to I-4 realigned Columbus Avenue
- Emergency Median Crossovers – FDOT has established emergency evacuation crossovers through the I-4 corridor that will need to be relocated
- Tradeport Drive Area – minimize impacts to continued commercial development
- Orlando International Airport – continue HSR alignment to the north terminal consistent with OIA Master Plan.

The above changes to the conceptual engineering plans for the Preferred Alternative as described in the 2005 FEIS are included in the FEIS Reevaluation.

5.4.1. 2009 Reevaluation Preferred Alternative Station / Maintenance Facility Areas

The 2005 FEIS initially evaluated 20-acre study areas for each of the proposed station locations. As each site was identified, the station area was finalized to take into account property lines and existing features. The following modifications to the FEIS station study areas were assessed and included in the conceptual plan revisions as part of the FEIS Reevaluation.

- **Tampa – Downtown Station** - The Tampa station area was expanded to include the 3.2-acre former jail site which was purchased by FDOT for use as an intermodal center. The building is currently being demolished.
- **Walt Disney World Station** - The Disney station area was shifted to the west to include a 5.6-acre area of open land in order to maintain a total 20-acre station area. The shift was necessary as a result of the construction of the Osceola Parkway Interchange and ramps within the 20-acre area identified in the 2005 FEIS.
- **Polk County (Lakeland) Station** – The 2005 FEIS and the 2009 FEIS Reevaluation includes two sites for environmental analysis, west of the Polk Parkway and at Kathleen Road – only one is to be selected for continued development. Included in the 2009 FEIS Reevaluation is a request by the City of Lakeland, Polk County and the University of South Florida Polytechnic for continued coordination into the design phase to verify the optimal location of a Polk County Station site to best serve Lakeland and the surrounding communities. FDOT is committed to continued coordination with the county, cities and local stakeholders in the continued project development phases. Should a station site other than the sites located at west SR 570 (Polk Parkway) or Kathleen Road be advanced, additional environmental analysis will be required.
- **Orange County Convention Center Station** – The Orange County Convention Center station area was expanded to the east to the existing parcel property line, an additional 2.0-acre area to provide maximum flexibility and proximity for the HSR station.
- **Orlando International Airport (OIA)** – In conformance with the OIA Master Plan, two station locations are considered under the Preferred Alternative: the future South Terminal Intermodal Center and the North Terminal Intermodal Center. The North and

South Terminal Intermodal Centers are included in the Airport Master Plan as approved through the Federal Aviation Administration (FAA). The North and South Terminal Intermodal Centers received FTA NEPA clearance under the *OIA Intermodal Station Environmental Assessment*, September 2005.

- Maintenance Facility** – The Preferred Alternative identified a preference for two alternative sites for the FHSR maintenance facility site: one site located directly south of OIA (Site 3) and a site southeast of OIA, north of Boggy Creek Road (Site 2). These two sites were included in the 2005 FEIS for the gas turbine train. The 2005 FEIS also included two sites for the electric powered train: Site 3 and a site located southeast of OIA and south of Boggy Creek Road (Site 1). With continued commercial development south of Boggy Creek Road and the increase of relocations, Site 1 is removed from consideration, with Sites 2 and 3 remaining as alternative sites as analyzed in the 2005 FEIS and included in the 2009 FEIS Reevaluation.

5.4.2. Preferred Alternative Ridership

The ridership estimates for the 2005 FEIS Preferred Alternative were updated for 2009 based on the two independent, investment-grade models developed in 2002 and documented in the 2005 FEIS. The ridership estimates were based on the alignments for the Project and were not sensitive to the technologies. The models were updated to reflect the changes in the transportation network, growth and local land uses that have occurred since the 2005 FEIS was completed. Captive ridership/riders currently taking shuttle services provided by Disney and I-Drive destinations were separated from choice ridership (trips that would be diverted from other modes, such as private or rented autos, and public transit).

The results of the updated ridership and revenue forecasts are shown in **Table 5**. Annual ridership is not anticipated to change significantly from the previous 2002 forecasts. Annual revenue for the system is expected to increase.

Table 5: Changes in 2010 Tampa-Orlando Ridership and Revenue for the Preferred Alternative

Market	2010 Annual Ridership (millions)			2010 Annual Revenue (\$ millions)		
	2002 Study/2005 FEIS	2009 Reevaluation	Change	2002 Study/2005 FEIS	2009 Reevaluation	Change
CHOICE MARKET	1.9 to 2.3	1.9 to 2.4	+0.0 to +0.1	32.9 to 35.4	40.5 to 46.4	+7.6 to +11.0
CAPTIVE						
OIA to International Drive	0.5	0.6	+0.1	6.3	8.0	+1.7
OIA to Disney	<u>2.1</u>	<u>1.9</u>	<u>-0.2</u>	<u>26.3</u>	<u>27.2</u>	<u>+0.9</u>
Subtotal: Captive	0.5*	0.6*	+0.1*	6.3*	8.0*	+2.6*
Total:	2.4 to 2.8	2.5 to 3.0	+0.1 to +0.2	39.3 to 41.8	48.5 to 54.5	+10.2 to +13.6

**The 2002 Study (included in the 2005 FEIS) assumed that captive ridership associated with the OIA-Disney market would not be included, as Disney's participation in the preferred alignment was still under negotiation.*

6. AFFECTED ENVIRONMENT

The changes to the 2005 Preferred Alternative were primarily to accommodate the current as-built conditions within the improved interstate corridor and changes to minimize potential impacts to continued development within the corridor. These changes, as stated in Chapter 2 of the FEIS Reevaluation and illustrated in the revised plans included in Appendix B of the FEIS Reevaluation and discussed in the 2009 FEIS Reevaluation Preferred Alternative (Section 6.4) section of this document, are minimal within the 88-mile alternative and concentrated within the immediate Tampa CBD and in the Tradeport Drive industrial park area in Orange County.

The changes in existing conditions identified in Chapter 3 of the FEIS Reevaluation resulting in changes to the potential environmental impacts are summarized below:

- Relocations: reduction of one business impact in Tampa CBD and 3 additional business impacts in Tradeport Drive industrial area.
- Section 106: reduction of one historic structure with relocation by FDOT complete.
- Recreation and Park/Section 4(f): Changes to the City of Tampa's Perry Harvey Sr. Park boundaries since the 2005 FEIS and changes to the alternative reduce overall area of use.
- Air Quality, Noise, Vibration, Visual/Aesthetic, and Energy Consumption: changes based on technology preference from gas turbine-powered to electric-powered locomotive-hauled train.
- Contamination: additional sites resulting in the same number of sites with high risk ranking and an additional one site each for medium and low risk ranking.
- Wildlife and Habitat: one additional species (Everglades snail kite) afforded protection since 2005.

The above changes to the environmental impacts do not change the mitigation and commitments identified in the 2005 FEIS with the exception of regulatory changes in the permitting of wetlands, water quality, and wildlife and habitat.

Table 6 identifies comparative analysis factors between the 2005 FEIS Preferred Alternative (gas turbine powered technology, Alternative 1) and the electric powered technology on the same alignment (Alternative 5) with the updated potential impacts assessed in the FEIS Reevaluation for the Revised Preferred Alternative (RPA).

Florida High Speed Rail Record of Decision

Table 6: Change in Potential Environmental Impacts

Resource	2005 FEIS Impacts Gas Turbine FEIS Preferred Alternative (Alternative 1)	2005 FEIS Impacts Electric Technology (Alternative 5)	Change in Impacts?	Revised Preferred Alternative (RPA) Impacts Electric Technology
COMMUNITY IMPACTS				
Community Cohesion	Minimal impacts to adjacent neighborhoods along I-4 in Tampa and to the south of the Tradeport Industrial Park	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Community and Land Use Impacts	Consistent with local land use plans Minimal impacts to existing land uses	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Economic Impacts	Benefits in excess of costs	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Safety and Public Health	No adverse impacts	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Relocation and Right-of-Way Impacts	3 residential relocations 3 business relocations See Section 4(f) below.	Same as 2005 FEIS Preferred Alternative	Yes	3 residential relocations 5 business relocations
Environmental Justice	No disproportionate impacts	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Section 106 - Archeological and Historical Resources	<u>Conditional Adverse Effect</u> North Franklin Street Historic District (visual) St. Paul AME Church Parsonage (visual) Oaklawn Cemetery (visual construction vibration) Ybor City NHLD (direct taking of two contributing buildings; visual, construction vibration) German American Club – Visual impacts, construction vibration	Same as 2005 FEIS Preferred Alternative	Yes*	Same impacts as listed for FEIS Preferred Alternative, less direct impact of one contributing building in Ybor City NHLD do to relocation per TIS project*
Recreation and Parkland	Use of 0.184 acres, Perry Harvey Sr. Park	Use of 0.184 acres, Perry Harvey Sr. Park	Yes	Use of 0.05 acres, Perry Harvey Sr. Park

Florida High Speed Rail Record of Decision

Table 6: Change in Potential Environmental Impacts

Resource	2005 FEIS Impacts Gas Turbine FEIS Preferred Alternative (Alternative 1)	2005 FEIS Impacts Electric Technology (Alternative 5)	Change in Impacts?	Revised Preferred Alternative (RPA) Impacts Electric Technology
Section 4(f) Impacts	Use of 0.184 acres, Perry Harvey Sr. Park	Use of 0.184 acres, Perry Harvey Sr. Park	Yes	Use of 0.05 acres, Perry Harvey Sr. Park
Secondary and Cumulative Impacts	No adverse impacts	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
NATURAL AND PHYSICAL IMPACTS				
Visual/Aesthetic	No adverse impacts	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Air Quality	Emissions (tons/year):	Emissions (tons/year):	Yes	Same as 2005 FEIS Alternative 5
	CO : -101.7 tons/year	CO: -152.0		
	NOx: +189.0	NOx: +23.3		
	VOC: +8.9	VOC: -8.1		
Noise ¹	Cat. 1: 0	Cat. 1: 0	Yes	Cat. 1: 0
	Cat. 2: 15 (7 moderate, 8 severe)	Cat. 2: 52 (24 moderate, 28 severe)		Cat. 2: 30 (13 moderate, 17 severe)
	Cat. 3: 0	Cat. 3: 1 (Perry Harvey Sr. Park)		Cat. 3: 1
Vibration ¹	Cat 1: 1	Cat 1: 1	Yes	Cat 1: 1
	Cat. 2: 44	Cat. 2: 13		Cat. 2: 8
	Cat. 3: 0	Cat. 3: 0		Cat. 3: 0
Wetlands	40 acres (total impacts) 11 high quality wetlands impacted	25.6 acres (total impacts) 11 high quality wetlands impacted	Yes	35.8 acres (total impacts) 11 high quality wetlands impacted.
Aquatic Preserves	No impacts	No impacts	No	No impacts
Water Quality	No adverse impacts	No adverse impacts	No	No adverse impacts
Outstanding Florida Waters	No impacts	No impacts	No	No impacts
Contamination	Risk Ranking	Risk Ranking	Yes	Risk Ranking
	High : 7	High : 7		High : 7
	Medium: 0	Medium: 0		Medium: 1
	Low: 0	Low: 0		Low: 1

Florida High Speed Rail Record of Decision

Table 6: Change in Potential Environmental Impacts

Resource	2005 FEIS Impacts Gas Turbine FEIS Preferred Alternative (Alternative 1)	2005 FEIS Impacts Electric Technology (Alternative 5)	Change in Impacts?	Revised Preferred Alternative (RPA) Impacts Electric Technology
Wild and Scenic Rivers	No impacts	No impacts	No	No impacts
Floodplain and Floodway Impact	Base Floodplain Encroachment: 56.88 acres Base Floodway Encroachment: 9.45 acres	Base Floodplain Encroachment: 56.88 acres Base Floodway Encroachment: 9.45 acres	No	Base Floodplain Encroachment: 56.88 acres Base Floodway Encroachment: 9.45 acres
Coastal Zone Consistency	No impacts	No impacts	No	No impacts
Coastal Barrier Resources	No impacts	No impacts	No	No impacts
Wildlife and Habitat, including Protected Species	9 Protected Species No adverse impacts	9 Protected Species No adverse impacts	Yes	10 Protected Species No adverse effects
Farmlands	No impacts	No impacts	No	No impacts
Energy Consumption	498,855 Million BTU	239,820 Million BTU	Yes	Same as 2005 FEIS Alternative 5
Utilities	No adverse impacts	No adverse impacts	No	No adverse impacts
TRANSPORTATION				
Freight Rail Operations Impacts	No impacts	No impacts	No	No impacts
Highway Operations Impacts	Net reduction in VMT: 21,080,963 miles No adverse impacts	Net reduction in VMT: 21,080,963 miles No adverse impacts	No	Net reduction in VMT: 21,080,963 miles No adverse impacts
Station Access and Traffic Impacts	No adverse impacts	No adverse impacts	No	No adverse impacts
Airport Operations	No impacts	No impacts	No	No impacts
CONSTRUCTION IMPACTS				
Construction impacts	No adverse impacts	No adverse impacts	No	No adverse impacts

Source: Parsons, PBS&J, HMMH September 2009

¹Notes: **Category 1** receptors are buildings and/or parks; **Category 2** receptors are residences, hospitals, hotels; **Category 3** receptors are schools, libraries, churches, and active parks.

6.1. Relocation and Right of Way

The 2005 FEIS indicated that the Preferred Alternative and the Revised Preferred Alternative (RPA) (Alternative 5 in the 2005 FEIS) would both require three (3) residential relocations located in two (2) structures near I-4 and 12th Avenue in the Ybor City area and three business relocations including the City of Tampa Recreation Department, the former Hillsborough County Sheriff's Office and Jail Complex, and a bail bondsman office.

Since publication of the 2005 FEIS, redevelopment of the former Hillsborough County Sheriff's Office and Jail Complex site has begun and the buildings are no longer present. Therefore, these relocations are no longer needed.

Further, since 2005 additional development has occurred in the Tradeport Industrial Park. The alignment was optimized to reduce additional right-of-way needs in this area to the extent practicable. However, three (3) additional business relocations would be needed for the project, as follows:

- At the northwest corner of Tradeport Drive and Ringhaver Drive, a large commercial distribution building (10260 Tradeport Drive) was constructed and does not appear on the project aerials. As of September 2, 2009, the building is vacant. The FHSR alignment clips the northeast corner of this building and the operation of the rear loading bays.
- Two commercial structures located in the Atlas Commercial Park (11128 and 11112 Bogy Creek Road) are also impacted. As of September 2, 2009, these building are vacant.

The ROW and relocation program will be carried out in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

6.2. Section 106 Consultation and Memorandum of Agreement

The FDOT coordinated the historic resources impact analysis with the Florida State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (Council).

The coordination with the SHPO and Council during analysis of the 2005 FEIS Preferred Alternative resulted in a "conditional no adverse effect" on the following five historic resources:

- North Franklin Street Historic District – Visual impacts
- St. Paul AME Church Parsonage – Visual impacts
- Oaklawn Cemetery – Visual impacts, construction vibration
- Ybor City NHLD - Direct taking of two contributing buildings: 8HI4174/916 E. 12th Avenue, and the rear building at 8HI4178/1006 E. 12th Avenue; Visual, Construction Vibration
- German American Club – Visual impacts, construction vibration

The 2009 FEIS Reevaluation Revised Preferred Alternative verified that there are no changes to the impacts identified in the 2005 FEIS. The commitments stated in the 2005 FEIS remain valid.

Since publication of the 2005 FEIS, FDOT began the right-of-way acquisition process for the *Tampa Interstate Study* (TIS). As a result many of the historic structures along 12th Avenue in the Ybor City NHLD have been relocated, including the property at 1006 E. 12th Avenue (8HI4178) which was listed as a direct taking in the 2005 FEIS.

It is important to note that these impacts to historic resources were evaluated as part of a *Cultural Resource Assessment Survey* (July 2003) prepared to identify and evaluate cultural resources (historic structures and archaeological sites) within the project's Area of Potential Effect (APE). Further, a *Section 106 Consultation Case Report* (December 2003) was then prepared to evaluate potential effects for the Preferred Alternative and extensive coordination occurred with SHPO. As a result of this coordination, it was determined that the Preferred Alternative, based on a set of stipulated conditions, would have a "conditional no adverse effect" on the resources listed above.

Even though the impacts within the Ybor City NHLD included a direct taking of contributing historic resources, the SHPO determined that there would be no adverse effect because these buildings were previously identified as being acquired by the *Tampa Interstate Study Final Environmental Impact Statement and Section 4(f) Evaluation* (1996) and are located within the TIS Ultimate ROW. A Memorandum of Agreement (MOA) was prepared at that time to mitigate adverse effects to the Ybor City NHLD.

During the consultations with the SHPO, it was determined that the FHSR project would follow the requirements of this MOA. The mitigation and commitments are consistent with this MOA.

6.3. Section 4(f) Determination

Section 4(f) of the US Department of Transportation (DOT) Act of 1966 stipulates that DOT agencies cannot approve the use of land from publicly owned parks, recreation areas, wildlife refuges, or public and private historical sites unless there is no feasible and prudent alternative to such use and the project includes all possible planning to minimize the harm to the property resulting from use.

The Section 4(f) evaluation for the potential HSR alignments and stations documented in Section 5 of the FEIS and Section 4.4 of the FEIS Reevaluation indicates that one Section 4(f) resource, Perry Harvey Sr. Park, will be used by the project. The supporting information in the 2005 FEIS and the 2009 FEIS Reevaluation, summarized below, demonstrates that there are unique problems or unusual factors involved with any alternative that would avoid this Section 4(f) property. Potential avoidance alternatives fail to meet the project purpose and need, fail to meet the objectives of those responsible for the resource used, or result in impacts of extraordinary magnitude to the environment or the community.

Based on the documentation presented in the FEIS and updated in the FEIS Reevaluation, the FRA has determined that:

- The Project is a feasible and prudent alternative with the least harm to Section 4(f) resources;
- There is no feasible or prudent alternative to the use of the above Section 4(f) resources; and

- The Project includes all possible planning to minimize harm to the resources resulting from such use. These measures are identified in the Project mitigation and commitments attached as Appendix B.

During the reevaluation process, the preferred alignment shifted slightly in the vicinity of the Ybor City NHLD and Perry Harvey Sr. Park, both of which are Section 4(f) resources. Right-of-way requirements were minimized in the vicinity of these resources.

In the case of the Ybor City NHLD, the right-of-way required by the FHSR project is still within the TIS Ultimate ROW which was cleared as a part of the *Tampa Interstate Study Final Environmental Impact Statement and Section 4(f) Evaluation* (1996). Further, a Memorandum of Agreement (MOA) was negotiated with the SHPO for that project to mitigate the adverse effects to the Ybor City NHLD from taking the right-of-way. Therefore there are no changes to the Section 4(f) evaluation for the Ybor City NHLD.

In the case of Perry Harvey Sr. Park, as stated in the original Section 4(f) Evaluation in the 2005 FEIS, the FHSR project will comply with the specific commitments and stipulations identified in the existing Tampa Interstate Study (TIS) FEIS for the Ultimate ROW requirements. The commitment is based on the assumption that the FHSR will be constructed prior to the construction of the Ultimate TIS.

Since the approval of the 2005 FHSR FEIS, the interim reconstruction of I-275/I-4 interchange has occurred. In addition, FDOT has proposed a safety improvement requiring an additional lane be constructed to the outside of the ramp running from SB I-275 to EB I-4. As a result of the safety improvement, the FHSR ROW has been minimized to a ROW width of 44 feet and relocated slightly to the south and west. The FHSR ROW remains within the TIS Ultimate ROW footprint. It is anticipated that FHSR will run 18 to 24 feet above the park on an elevated track as it enters the Tampa Central Business District (CBD) station. Initial calculations indicate the potential impact to the park will be reduced from the amount of land to be acquired from 0.184 acres (2005 FEIS) to .05 acres (FEIS Reevaluation).

During the 2005 FEIS it was determined that there would be a potential for moderate noise level increases (proximity effects). An evaluation of vibration, access, aesthetics, and ecological encroachment indicates that the project will not substantially impair or diminish the use of the park, and a determination was made that there will be no constructive use. These conclusions have not changed. Coordination with the City of Tampa includes memorandum in the FEIS Reevaluation identifying the City's continued support of the project with commitment of FDOT to meet the specific commitments and stipulations identified in the TIS FEIS.

6.4. Air Quality

The US Environmental Protection Agency (EPA) regulation implementing the Clean Air Act (40 CFR Parts 51 and 93) establishes criteria for demonstrating that a federally assisted project is in conformity with the State Implementation Plan or maintenance plans developed for Hillsborough, Polk, Osceola and Orange Counties. This Project is identified in the Long Range Transportation Plans for the three Metropolitan Planning Organizations that represent the various local governments through the Project area. The General Conformity Rule (40 C.F.R. Part 93, Subpart B) is applicable to areas that have been designated as non-attainment or maintenance with respect to the National Ambient Air Quality Standards (NAAQS). Polk, Osceola and

Orange Counties were designated as in attainment of the NAAQS in the 2005 FEIS. The FEIS Reevaluation identified that Hillsborough County was re-designated in attainment of the NAAQS in 2005 following completion of the 2005 FEIS. Thus, all counties in the Project are in attainment and determination of conformity with the State Implementation Plan or plan to maintain the NAAQS is not required.

The Revised Preferred Alternative would result in a net decrease in regional emissions of carbon monoxide (CO) and volatile organic compounds (VOC) and a small increase in regional emissions of nitrogen oxides (NOX). The net increase in emissions of NOX is a result of the emission rate of this pollutant from power plants that produce electricity through the combustion of fossil fuels. The emissions analysis is based on use of coal as the source for power generation; a worst case scenario.

6.5. Noise

The noise impact assessment was updated along the entire corridor to account for land use and alignment changes since the 2005 FEIS was published. In summary, there are substantially fewer predicted noise impacts than projected in the FEIS.

The 2005 FEIS predicted that the Preferred Alternative would have impacts at a total of 15 residential buildings (eight with severe impact and seven with moderate impact), one hotel (moderate impact) and one park (Perry Harvey Sr.). The FEIS also documented the impacts of Alternative 5 (the comparable alternative given the change in the preferred technology), which was predicted to have noise impacts at a total of 52 residential buildings (24 with severe impact and 28 with moderate impact), one hotel (moderate impact), and one park (Perry Harvey). The factors attributing less impact by the gas turbine-hauled train include track proximity and height as well as train speed.

The updated analysis of the Revised Preferred Alternative predicts fewer impacts when compared to the electric-hauled train (Alternative 5) in the 2005 FEIS, including 30 residential buildings (13 with moderate impacts and 17 with severe impacts); one hotel (moderate impact) and one park (Perry Harvey). Importantly, none of the newly identified sensitive receptors along the corridor were predicted to have impacts.

The lower number of predicted impacts is a result of alignment shifts away from sensitive receptors near Station 6010 (in the vicinity of the I-4/I-275 interchange in Tampa) and between Stations 7670 and 7700 in the Taft area near Orlando.

6.6. Vibration

The vibration impact assessment was updated along the entire corridor to account for land use and alignment changes since the 2005 FEIS was published. In summary, the Revised Preferred Alternative vibration impacts are expected at three residences, five hotels, and one commercial building that houses vibration sensitive equipment. In comparison, the 2005 FEIS Preferred Alternative was predicted to have 33 residences, 11 hotels, and the same commercial building and Alternative 5 was predicted to have impacts at one residence, 13 hotels and the commercial building.

The large reduction in the total number of vibration impacts is due to changes in existing conditions and the difference between the vibration characteristics of the electric and the gas turbine trains. Not only are some of the residences and hotels previously affected no longer present but new receptors were also identified, particularly in the middle section of the alignment. None of the new receptors were predicted to have vibration impacts.

Gas turbine trains have higher vibration levels at lower frequencies than electric trains. This is likely due to the difference in weight between the two vehicles; the gas turbine train consists almost twice as much as the electric train. Furthermore, when the ground exhibits more efficient vibration propagation characteristics at low frequencies, there is a greater difference in vibration impact between the two technologies.

6.7. Wetlands

The Preferred Alternative (Alternative 1) documented in the 2005 FEIS would result in a total of 40 acres of wetland impacts to 11 high quality wetlands, while Alternative 5 was predicted to result in 25.6 acres of impacts to 11 high quality wetlands. Even though these alternatives share the same alignment and station locations, they each assumed a different maintenance facility.

The Revised Preferred Alternative would result in 35.8 acres of impacts to 11 high quality wetlands. This accounts for changes in existing conditions with the revised location for the maintenance facility for Alternative 5 since the FEIS was published and the design changes documented in Chapter 2 of the FEIS Reevaluation. The Revised Preferred Alternative with the same maintenance facility location, as identified with the 2005 FEIS Preferred Alternative 1, reduces impacts by 4.2 acres.

The 2005 FEIS indicates that either FDEP (Florida Department of Environmental Protection) or the Water Management Districts (WMD) may be the reviewing agency for the Environmental Resource Permit. Because this project crosses multiple WMD districts, the FDEP will likely take the lead on permitting so that a comprehensive review of the entire corridor can occur. However, this decision will be made during the final design and permitting phase.

The 2005 FEIS also states that "Any project which results in the disturbance of five or more acres of land would require a National Pollutant Discharge Elimination System (NPDES) permit from FDEP, pursuant to 40 C.F.R. Parts 122 and 124." The regulations governing the NPDES have been modified since 2005 such that any project that results in the disturbance of one or more acre of land will require a NPDES permit. Also, because a General Permit exists for this type of work, a permit application for a NPDES will not be required. Instead, a Notice of Intent to utilize the General Permit is required to be submitted by the construction contractor 48 hours prior to construction commencement.

6.8. Contamination

The 2005 FEIS Preferred Alternative identified five potentially hazardous material contaminated sites and two potentially petroleum contaminated sites within the alignment. There are no potentially contaminated sites associated with the preferred station locations and maintenance yard.

Based on the design modifications of the Revised Preferred Alternative, a review of the potential for additional hazardous materials sites that could potentially be encountered during construction was assessed. Five additional sites were identified. Given the contamination concern at these sites and their location relative to the FHSR project, three of these sites were found to pose no risk to the project, one was found to pose a low risk and one was found to pose a medium risk.

The sites identified will be investigated further prior to any construction. Investigative work will include visual inspection, monitoring of ongoing cleanups, and possible subsurface investigations. At known contamination sites, estimated areas of contamination will be marked on design drawings. Prior to construction, any necessary cleanup plans will be developed. Actual cleanup will take place during construction, if feasible. Special provisions for handling unexpected contamination discovered during construction will be included in the construction plans package.

6.9. Floodplains

The Preferred Alternative from 2005 and the Revised Preferred Alternative would potentially impact approximately 56.88 ac. of floodplain and approximately 9.45 ac. of floodway. Subsequent to final design, during which impacts would be avoided or minimized, floodplain and floodway impacts would again be calculated and the amount of mitigation would be determined. Coordination with the water management districts will identify areas appropriate for mitigation of the volumetric impacts of the preferred alternative that will not increase or significantly change the flood elevations and/or limits.

6.10. Wildlife and Habitat, Protected Species

The expansion of the Tampa, Disney and Orange County Convention Center station areas do not result in additional protected species concern. The Tampa Jail Site is urban and developed and provides no protected species habitat. The area of expansion of the Disney Station Area does not result in a new habitat type or protected species concerns. The new additional area for the OCCC site is minimal and does not provide different habitat than what has already been considered.

Since the 2005 FEIS, the bald eagle was delisted (with the exception of the desert bald eagle in Arizona) and is no longer protected under the Endangered Species Act as of June 28, 2007. However, the bald eagle is still provided protection by two other federal laws, the Migratory Bird Treaty Act of 1918 and the Bald and Golden Eagle Protection Act, as amended. The state of Florida also delisted the bald eagle.

An additional species, the Everglades snail kite (*Rostrhamus sociabilis*) has been afforded additional protection since the 2005 FEIS. A consultation area for the snail kite is now in place over Polk County and much of Osceola County. Although it is unlikely that this species will be affected by the project as habitat in the area is suboptimal, consultation with and concurrence from the U.S. Fish and Wildlife Service (USFWS) will be required because the corridor is within the snail kite's designated consultation area.

The Revised Preferred Alternative will have no effect on the following federally protected species with potential habitat in the project vicinity: American alligator, Florida scrub-jay, Florida panther, and Florida manatee. It is also anticipated to have no effect on the following

state-only protected species: Florida pine snake, Florida burrowing owl, Southeastern American kestrel, Florida black bear, and protected plant species. The Revised Preferred Alternative may affect, but is not likely to adversely affect the following federally protected species: Eastern indigo snake, sand skink, Everglade's snail kite, and wood stork. The project may affect but is not likely to adversely affect the following state-only protected species: gopher tortoise, Florida mouse, gopher frog, Florida sandhill crane, Sherman's fox squirrel, and state protected wading bird species. As part of mitigation commitments, FDOT will continue to coordinate with the U.S. Fish and Wildlife Service (USFWS), the Water Management Districts (WMDs), and Florida Fish and Wildlife Conservation Commission (FFWCC) to develop design and construction methods to avoid and minimize impacts to these species.

6.11. Energy

The switch to the electric train technology results in an overall lower net energy consumption since the consumption is considerably lower than the gas turbine train technology. The 2005 FEIS shows the net energy consumption dropping from 498,855 million BTU (2005 FEIS Preferred Alternative) to 239,820 million BTU (2005 Alternative 5, Revised Preferred Alternative).

These predictions factor in the reduction of gasoline consumption by diverting automobile ridership, the power required to propel the train, operate and maintain the new system and thermal losses for electric power generation. As a part of the reevaluation effort, the ridership projections were updated and show a slight increase in riders. This increase would lower VMT only slightly resulting in a negligible decrease in the energy demands of the Revised Preferred Alternative. The slight shifts in alignment and station locations also would not affect the energy consumption predictions listed above.

The total change is a very small fraction (less than 1/20th of one percent) of Florida's total energy consumption for surface transportation (all non-military vehicle operation on highways, railroads, and fixed-guideway public transportation), which is estimated to reach one quadrillion BTUs (i.e., 1,000,000,000 MBTU) by 2010.

6.12. Means to Avoid and Minimize Environmental Harm

FRA and FDOT are committed to working with our partners and stakeholders in the development of this project, and will continue to coordinate the required mitigation and commitments for the FHSR project as a means to avoid and minimize environmental harm. **Appendix B** documents the commitments and mitigation from the 2005 FEIS and any changes or updates needed based on changes in potential impacts or regulations based on the FEIS Reevaluation.

6.13 Environmentally Preferable Alternative

The environmentally preferable alternative resulting from the FEIS Reevaluation remains the same as the environmentally preferable alignment identified in the 2005 FEIS (the No Build Alternative). The No Build Alternative still has less direct and indirect impact to the environment than the build alternatives. However, as noted in the FEIS, the No Build Alternative does not

Florida High Speed Rail Record of Decision

meet the project purpose and need. It fails to enhance intercity passenger mobility in Florida by expanding passenger transportation capacity or by providing an alternative to highway and air travel. Congestion on Interstate 4 can be expected to continue to grow under the No Build Alternative.

The Revised Preferred Alternative assessed in the FEIS Reevaluation, as described above, has been developed in a manner so as to minimize environmental impacts. It would use existing transportation corridors to minimize environmental impacts and provides environmental and transportation benefits in the form of increased efficiency in energy use for transportation, decreased energy consumption, increased mobility, safety, reliability, travel times and accessibility, and reduced vehicle miles travelled for intercity trips.

The changes in existing conditions identified in Chapter 3 of the attached 2009 FEIS Reevaluation (Appendix A) of this document resulted in changes to the environmental impacts as summarized in the following:

- Relocations: reduction of one business impact in Tampa CBD and 3 additional business impacts in Tradeport Drive industrial area.
- Section 106: reduction of one historic structure with relocation by FDOT complete.
- Recreation and Park/Section 4(f): Changes to the City of Tampa's Perry Harvey Sr. Park boundaries since the 2005 FEIS and changes to the alternative reduce overall area of use.
- Air Quality, Noise, Vibration, Visual/Aesthetic, and Energy Consumption: changes based on technology preference from gas turbine-powered to electric-powered locomotive-hauled train.
- Contamination: additional sites resulting in the same number of sites with high risk ranking and an additional one site each for medium and low risk ranking.
- Wildlife and Habitat: one additional species (Everglade's snail kite) afforded protection since 2005.

The above changes to the environmental impacts do not change the mitigation and commitments identified in the 2005 FEIS and included as Appendix B in this document with the exception of regulatory changes in the permitting of wetlands, water quality, and wildlife and habitat.

7. DECISION

7.1. Basis for Decision

FDOT, in coordination with FRA, proposes to implement HSR service in the initial segment of the Florida High Speed Rail Corridor between Tampa and Orlando. The purpose of FHSR is to enhance intercity passenger mobility in Florida by expanding passenger transportation capacity and providing an alternative to highway and air travel. Increased mobility is viewed as essential for the sustained economic growth of the region, as well as the quality of life of the region's residents and visitors. Presently, passenger mobility in the Tampa-Orlando corridor is provided primarily by highways, particularly I-4. Projected transportation demand and travel growth, as prompted by social demand and economic development and compared to existing and future roadway capacity, show a serious deficit in available capacity. In addition, increasing population, employment, and tourism rates continue to elevate travel demand in the study corridor. Implementation of the FHSR project will help address these needs. In addition, the Passenger Rail Investment and Improvement Act of 2008 established high-speed rail corridor development as an important component of the Nation's transportation policy. Implementation of the FHSR Project is consistent with the Department of Transportation and FRA's vision of the important role high-speed intercity passenger rail can play in certain travel markets (see *Vision for High-Speed Rail in America*, April 2009 <http://www.fra.dot.gov/downloads/rrdev/hsrstrategicplan.pdf>) In the 2005 FEIS, gas turbine-powered technology was identified as the Preferred Alternative. Since then, the electric-powered technology has emerged as the preferred technology, on the same alignment, based on the current initiatives to reduce carbon emissions and dependency on foreign oil. The 2005 FEIS and the 2009 Reevaluation have shown that environmental impacts have been minimized with the selection of the alignment along existing transportation corridors.

The FRA, in accordance with NEPA and the NEPA implementing regulations (40 CFR Parts 1500-1508; 64 FR 28545 and 23 CFR Part 771), finds that the requirements of NEPA have been satisfied for FHSR Rail Tampa – Orlando project.

The environmental record for FHSR Tampa-Orlando Corridor includes the Draft EIS (August 2003), the Final EIS (July 2005), the Reevaluation to the FEIS (October 2009), and the comments from the circulation of the 2005 Final EIS. These documents represent the detailed analysis and findings required by NEPA on:

- The environmental impacts of the proposed project
- Alternatives to the proposed project
- Irreversible and irretrievable impacts on the environment which may be involved in the proposed project should it be implemented.

On the basis of the evaluation of social, economic, and environmental impacts contained in the DEIS, FEIS, FEIS Reevaluation and the written and oral comments offered by the public and by other agencies, the FRA determines that:

- Adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest, and fair consideration was given

to the preservation and enhancement of the environment and to the interest of the communities in which the proposed project is located and

- All reasonable steps were taken to minimize adverse environmental effects of the proposed project, and where adverse environmental effects remain, they have been fully reported in the DEIS, FEIS and FEIS Reevaluation.

The extensive opportunities provided for public and other stakeholder involvement in Project planning and decision-making are described in Chapter 6 of the 2005 FEIS and summarized in **Appendix C** of this ROD. The reasonable steps to minimize adverse environmental effects are described in Chapter 4 of the 2005 FEIS, Chapter 4 of the FEIS Reevaluation and are summarized in Appendix B of this ROD.

This ROD also documents compliance with other applicable federal environmental laws, rules and regulations as follows:

7.2. Section 106 of the National Historic Preservation Act

Section 106 of the NHPA of 1966 requires that any federal agency having direct or indirect jurisdiction over a proposed federal or federally assisted undertaking take into account the effect of the undertaking on any district, site, building, structure, or other object that is listed or eligible for listing on the National Register of Historic Places. Under this provision, the NEPA lead agency, the State Historic Preservation Officer (SHPO), affected Native American tribes, and other “consulting” parties participate in a consultation process regarding the potential effects of the undertaking on historic resources. Coordination with the Florida SHPO includes:

- Concurrence with Cultural Resource Assessment Survey (CRAS) Methodology and Area of Potential Effect (APE), March, 2003
- SHPO Concurrence with Corridor Study CRAS Findings, April 15, 2003
- SHPO Concurrence for PD&E CRAS Findings, September 15, 2003
- SHPO Concurrence on Section 106 Findings, January 5, 2004

Through this coordination it was determined that the Revised Preferred Alternative, based on a set of stipulated conditions, would have a “conditional no adverse effect” on historic resources.

7.3. Floodplains and Floodways Finding

DOT Order 5620.2 implements Executive Order 11988, *Floodplain Management and Protection*. These orders state that FRA may not approve an alternative involving a significant encroachment unless FRA can make a finding that the proposed encroachment is the only practicable alternative. The major purposes of Executive Order 11988 are to avoid Federal support for floodplain development; to prevent uneconomic, hazardous, or incompatible use of floodplains; to restore and preserve the natural and beneficial floodplain values; and to be consistent with the standards and criteria of the National Floodplain Insurance Program.

FRA concludes that the Project will not result in any substantial adverse impact on natural and beneficial values of the floodplains, will not result in a substantial change in flood risks or

damage, and will not have a substantial potential for interruption or termination of emergency service and evacuation routes.

7.4. Wetlands Finding

Presidential Executive Order 11990, "Protection of wetlands," directs federal agencies to avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. The following sets forth the basis for this finding for the Project.

The Revised Preferred Alternative (Alternative 5) would result in 35.8 acres of potential wetland impacts resulting from the electric powered technology, of which 11 are considered high quality wetlands. Wetland impacts, which would result from the construction of FHSR, are proposed to be mitigated pursuant to S. 373.4138 F.S. to satisfy all mitigation requirements of Part IV, Chapter 373, F.S. and 33 U.S.C.1344. Impacts to wetlands by the Project cannot be practicably avoided or minimized beyond present efforts and identified mitigation measures are included in Appendix B.

Based upon the above considerations, FRA determines that, under the requirements of Executive Order 11990, there are no practicable alternatives to the proposed construction in wetlands, and that the proposed action includes all practicable measures to minimize harm to these resources.

7.5. Endangered Species Finding

There are 24 federal and/or state protected species that have the potential or are known to occur within the FHSR study area. Six of those species are reptiles and amphibians, eleven are birds, five are mammals, and the remaining two are plants. Because the design/build alternatives use existing transportation corridors that pass through potential habitat, any of the alternatives may affect some potential sites, but it is not likely to adversely affect any of the species. Furthermore, the FDOT has committed to providing wildlife crossings in Polk County along I-4 during construction of the ultimate interstate improvements, including the FHSR project.

The Revised Preferred Alternative will have "no effect" on the following species: American alligator, Everglades snail kite, Florida pine snake, Florida scrub jay, Florida burrowing owl, Southeastern American kestrel, Florida panther, manatee, Florida black bear, and protected plant species. The Revised Preferred Alternative "may affect, is not likely to adversely affect" the following species: Eastern indigo snake, gopher tortoise, Florida mouse, gopher frog, sand skink, Florida sandhill crane, bald eagle, wood stork, state protected wading bird species, and Sherman's fox squirrel. As part of mitigation commitments, FDOT will continue to coordinate with USFWS, the WMDs, and FFWCC to develop design and construction methods to avoid and minimize impacts to these species."

FRA has determined that no formal consultation in accordance with Section 7 of the Endangered Species Act is required based upon the findings summarized above.

7.6. Environmental Justice Finding

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, requires that each Federal Agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

The Project is within an existing transportation corridor and would not bisect any minority or low-income neighborhoods nor require the displacement of any residences in those neighborhoods. The anticipated human and environmental effects of the Project would not be disproportionately borne by the minority or low-income populations within the study area. Based upon these findings, FRA determines that the Project is in accordance with requirements of Executive Order 12898.

7.7. Section 4(f) Determination

Section 4(f) of the US Department of Transportation (DOT) Act of 1966 stipulates that DOT agencies cannot approve the use of land from publicly owned parks, recreation areas, wildlife refuges, or public and private historical sites unless there is no feasible and prudent alternative to such use and the project includes all possible planning to minimize the harm to the property resulting from use.

The Section 4(f) evaluation for the potential HSR alignments and stations documented in Section 5 of the FEIS and Section 4.4 of the FEIS Reevaluation indicates that one Section 4(f) resource, Perry Harvey Sr. Park, will be used by the project. The supporting information in the FEIS Reevaluation, summarized below, demonstrates that there are unique problems or unusual factors involved with any alternative that would avoid this Section 4(f) property. Potential avoidance alternatives fail to meet the project purpose and need, fail to meet the objectives of those responsible for the resource used, or result in impacts of extraordinary magnitude to the environment or the community.


Based on the documentation presented in the FEIS and updated in the FEIS Reevaluation, the FRA has determined that:

- The Project is a feasible and prudent alternative with the least harm to Section 4(f) resources;
- There is no feasible or prudent alternative to the use of the above Section 4(f) resources; and
- The Project includes all possible planning to minimize harm to the resources resulting from such use. These measures are identified included in Attachment A.

During preparation of the 2005 FEIS it was determined that there would be a potential for moderate noise level increases (proximity effects). An evaluation of vibration, access, aesthetics, and ecological encroachment indicates that the Project will not substantially impair or diminish the use of the park, and a determination was made that there will be no constructive use. These conclusions have not changed. Coordination with the City of Tampa includes a memorandum in the FEIS Reevaluation identifying the continued commitment of FDOT to meet the specific commitments and stipulations identified in the TIS FEIS.

8. CONCLUSION

The FRA has reached a decision based on the information and analysis contained in the 2005 FEIS and the 2009 FEIS Reevaluation. FRA selects the FEIS Reevaluation Revised Preferred Alternative, also described in this document as 2005 FEIS Alternative 5, with electric powered technology, because this alternative: 1) best satisfies the Purpose and Need, 2) minimizes impacts to the natural and human environment through the use of existing transportation corridors and other adopted mitigation measures, 3) has been selected based on processes in compliance with NEPA and other applicable requirements, and 4) may be advanced.



Joseph C. Szabo
Administrator
Federal Railroad Administration

Date: 5/7/10

Attachments:

- Appendix A - Final Environmental Impact Statement Reevaluation
- Appendix B - Mitigation and Commitments
- Appendix C - Public Involvement/Comment Summary

**U.S. Department of Transportation
Federal Railroad Administration**

Record of Decision/Section 4(f) Determination

FLORIDA HIGH SPEED RAIL

Tampa to Orlando

Hillsborough, Polk, Osceola and Orange Counties, Florida

Financial Project ID No.: 411253 1 94 03

Federal Aid Project No.: N/A

TABLE OF CONTENTS

1. SUMMARY.....	1-1
2. INTRODUCTION.....	2-1
3. BACKGROUND.....	3-1
3.1. FEIS REEVALUATION	3-2
4. PURPOSE AND NEED.....	4-1
4.1. Florida Passenger Rail Legislation of 2009	4-1
5. ALTERNATIVES.....	5-1
5.1. ALTERNATIVES CONSIDERED AND DISMISSED IN THE 2005 FEIS	5-1
5.2. ALTERNATIVES CONSIDERED IN THE 2005 FEIS	5-1
5.3. 2005 FEIS PREFERRED ALTERNATIVE	5-8
5.4. 2009 FEIS REEVALUATION PREFERRED ALTERNATIVE	5-8
6. AFFECTED ENVIRONMENT	6-1
6.1. Relocation and Right of Way	6-5
6.2. Section 106 Consultation and Memorandum of Agreement	6-5
6.3. Section 4(f) Determination	6-6
6.4. Air Quality	6-7
6.5. Noise	6-8
6.6. Vibration	6-8
6.7. Wetlands	6-9
6.8. Contamination	6-9
6.9. Floodplains	6-10
6.10. Wildlife and Habitat, Protected Species	6-10
6.11. Energy	6-11
6.12. Means to Avoid and Minimize Environmental Harm	6-11
6.13 Environmentally Preferable Alternative	6-11
7. DECISION.....	7-1
7.1. Basis for Decision	7-1
7.2. Section 106 of the National Historic Preservation Act	7-2
7.3. Floodplains and Floodways Finding	7-2
7.4. Wetlands Finding	7-3
7.5. Endangered Species Finding	7-3
7.6. Environmental Justice Finding	7-4
7.7. Section 4(f) Determination	7-4
8. CONCLUSION.....	8-1

LIST OF FIGURES

Figure 1 Project Location Map	2-1
Figure 2: Corridors / Stations Considered	5-2
Figure 3: Design Build Alternatives	5-5

LIST OF TABLES

Table 1: Summary of Major NEPA Milestones.....	3-1
Table 2: Summary of Operations by Technology.....	5-3
Table 3: Summary of Design/Build Alternatives by Alignment and Technology.....	5-6
Table 4: Design/Build Alternatives Evaluation Matrix (2005 FEIS Preferred Alternative Highlighted).....	5-7
Table 5: Changes in 2010 Tampa-Orlando Ridership and Revenue for the Preferred Alternative.....	5-11
Table 6: Change in Potential Environmental Impacts.....	6-2

APPENDICES

APPENDIX A – FINAL ENVIRONMENTAL IMPACT STATEMENT REEVALUATION

APPENDIX B - MITIGATION AND COMMITMENTS

APPENDIX C - PUBLIC INVOLVEMENT/COMMENT SUMMARY

1. SUMMARY

This document records the decision of the Federal Railroad Administration (FRA) regarding the Florida High Speed Rail Project from Tampa to Orlando proposed by the Florida Department of Transportation (FDOT). In making this decision, the agency considered the information, analysis and public comments contained in the 2005 Final Environmental Impact Statement (FEIS) and the more recent 2009 FEIS Reevaluation (2009) to determine the alignment location and station sites for further project development into design and construction. Additional coordination between FDOT, FRA and the Federal Highway Administration (FHWA) will be carried out in the design phase with respect to emergency and maintenance access, safety and security in accordance with FRA standards through the development of a Safety Plan.

This Record of Decision (ROD) has been drafted in accordance with the regulations implementing the National Environmental Policy Act (NEPA) (40 CFR Part 1505.2) and FRA's Procedures for Considering Environmental Impacts (64 Fed Reg 28545 (May 26, 1999)). Specifically, this ROD:

- Provides a background of the NEPA process for the Final Environmental Impact Statement (FEIS) and the 2009 FEIS Reevaluation
- States and reaffirms the Purpose and Need
- Presents the alternatives considered in the 2005 FEIS
- Presents the alternatives considered and dismissed in the 2005 FEIS
- Identifies the selection of the preferred alternative for the 2005 FEIS
- Identifies the environmentally preferable alternative
- Presents the Affected Environment summarizing the findings of the 2009 FEIS Reevaluation
- Presents means to avoid and minimize environmental harm
- Presents the FRA Decision, determinations and findings
- Provides a summary of the public involvement and agency coordination for the 2005 FEIS and the 2009 FEIS Reevaluation

2. INTRODUCTION

The FDOT is proposing to develop a high speed rail passenger system in the Tampa-Orlando-Miami corridor, with future extensions to other major urban areas in the state. This Tampa-Orlando-Miami corridor is a federally designated high speed rail corridor. The first phase of Florida High Speed Rail is the Tampa to Orlando project and is the subject of this ROD.

The Florida High Speed Rail (FHSR) project from Tampa to Orlando would be developed on new track, with the majority of the system located within the existing right-of-way (ROW) of Interstate 4 (I-4) and the Beachline Expressway (S.R. 528), formerly the Bee Line Expressway, a distance of 88 miles. As shown on **Figure 1**, five (5) stations are proposed and would be located in Tampa, Polk County (Lakeland), Walt Disney World, Orange County Convention Center and Orlando International Airport (OIA). The 2005 FEIS and 2009 FEIS Reevaluation includes analyses for a proposed station at the western terminus of SR 570 (Polk Parkway) and a potential station at Kathleen Road in Lakeland. Only one station site will be identified for continued development and design in coordination with Polk County and the local cities.

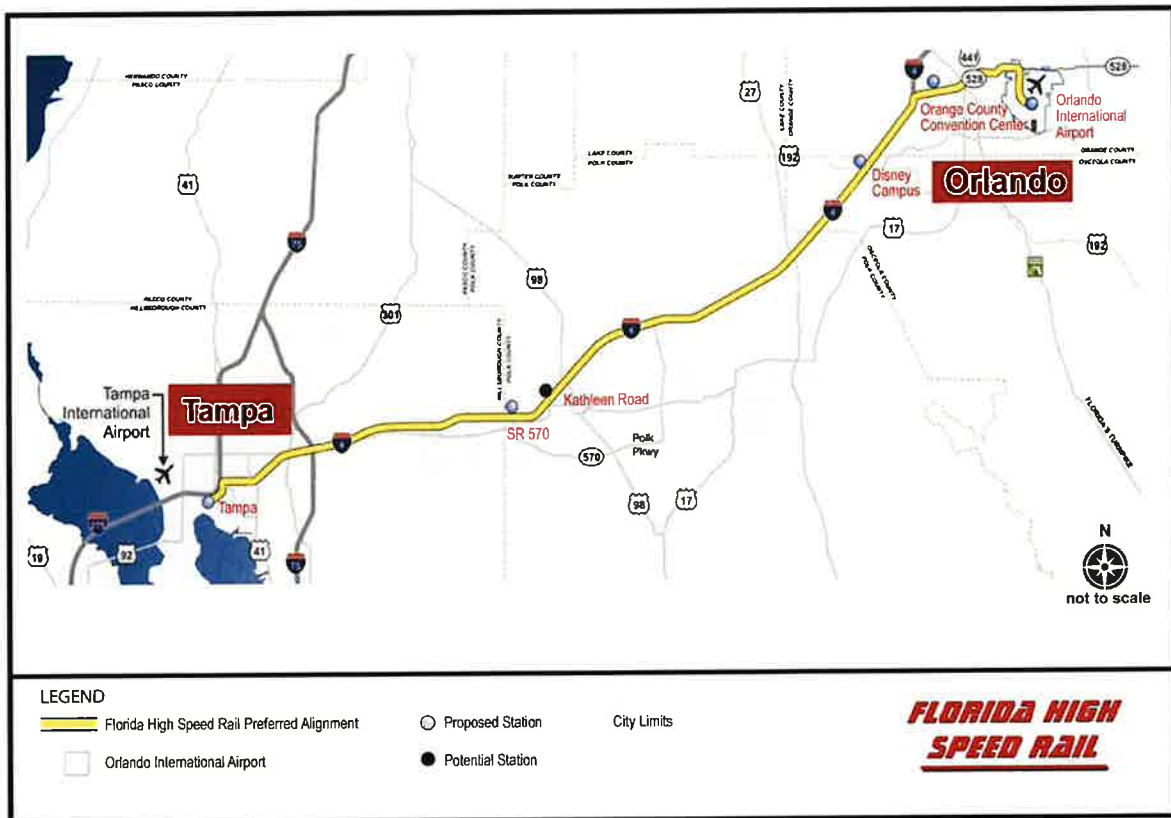


Figure 1 Project Location Map

Florida High Speed Rail Record of Decision

FDOT proposes the high speed passenger rail system would operate 16 intercity round trips per day with additional frequent shuttle service from OIA to the tourist destinations in the Orlando area. The maximum travel time will be 64 minutes with stops between Tampa and Orlando. The maximum operating speed will be 168 mph.

The initial environmental document was completed under the direction of the Florida High Speed Rail Authority (FHSRA), which was under a state constitutional mandated directive to expedite the implementation of the system. In order to complete the project in a timely manner, FHSRA selected a Design, Build, Operate, Maintain, and Finance (DBOM&F) process for implementing the project. Proposals were solicited and two were selected for evaluation in the FEIS published in 2005. The 2009 FEIS Reevaluation builds on the use of a DBOM&F process for advancing the project.

On October 2, 2009, FDOT submitted an application to the FRA under the High Speed Intercity Passenger Rail Program (HSIPR) for \$2.624B to fund the development of the Tampa-Orlando high speed rail corridor project. On January 28, 2010, FRA announced that FDOT had been selected for an award of up to \$1.25B for the Tampa-Orlando corridor. The funds will be used to complete any additional corridor level analysis respective to station sites, complete final design, and initiate construction of the FHSR project from Tampa to Orlando.

3. BACKGROUND

Following its creation in 2001, the FHSRA, with guidance from the FRA as the lead federal agency, took a number of steps to implement high speed rail within the state of Florida. The FHSRA began the planning, environmental studies, and engineering needed to prepare a Draft Environmental Impact Statement (DEIS) for the Tampa to Orlando corridor in 2002, focused on independent utility and logical termini. FRA approved the DEIS in August 2003, and signed and circulated the FEIS in 2005. However, due to the project being suspended, the FRA never issued a Record of Decision (ROD) for the project.

The major NEPA milestones are summarized in **Table 1**.

Table 1: Summary of Major NEPA Milestones

Milestone	Date
Notice of Intent	March 2002
Advance Notification and Scoping	April 2002
Draft EIS Signed and Circulated	August 2003
Draft EIS Notice of Availability	September 5, 2003
Public Hearings	October 7-9, 2003
FEIS Signed and Circulated	July 2005
FEIS Notice of Availability	August 5, 2005
<small>Source: Florida High Speed Rail Tampa to Orlando FEIS Reevaluation, October, 2009</small>	

Independent documentation in support of the findings of the 2005 FEIS includes:

- The *Tampa Interstate Study Environmental Impact Statement*, November 1996 - which includes ultimate improvements to I-4/I-275 that accommodate the high speed rail alignment
- The *Intermodal Station at Orlando International Airport Environmental Assessment*, September 2005 – planned an intermodal station at both the OIA North Terminal and the future OIA South Terminal, and updated the HSR and light rail alignments through OIA property
- The *Greater Orlando Aviation Authority Master Plan*, August 2004 – most current master plan incorporating multimodal station at the North Terminal, future South Terminal, and HSR rail alignments
- The *Tampa Bay Intermodal Center*, October 2005 – multimodal station site study consistent with the location of the Tampa HSR station area that provided for the FHSR alignment
- The *Canadian Court Intermodal Transportation Center Study*, April 2007 - multimodal station site consistent with the proposed Orange County Convention Center station that accommodates the FHSR alignment

3.1. FEIS REEVALUATION

In October 2008, a federal program to advance high speed rail corridor development was authorized under Section 501 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). The *America Recovery & Reinvestment Act of 2009* (ARRA) then made \$8 billion available for High Speed Rail (HSR). In April 2009, President Barack Obama's Administration unveiled its HSR Vision, initially highlighting federally-designated high speed rail corridors, including Tampa-Orlando-Miami in Florida. This began a national competition for federal funding.

Given this new prospect for federal funding, the Florida Department of Transportation (FDOT) began work to determine the extent of changes in potential environmental impacts and commitments since the FEIS was circulated in 2005.

FRA met with FDOT representatives on June 12, 2009 to discuss the project and the status of the NEPA documentation. FRA determined that a reevaluation of the 2005 FEIS was needed to satisfy NEPA requirements (the FEIS Reevaluation). This reevaluation was prepared in conformance with FDOT's Project Development and Environment (PD&E) Manual.

While there have been no major changes to the project location and design since the FEIS was published, several years have elapsed since publication of the FEIS, triggering the need for a reevaluation. According to FRA's Procedures for Considering Environmental Impacts (64 FR 28545 (May 26, 1999)) and FDOT's PD&E Manual, reevaluations are to be conducted under the following circumstances:

- Approval of document and authorization of the next phase is greater than one year
- A major change in the project's location or design has occurred
- If more than three (3) years have lapsed since the date of approval of the final EIS without a decision

In May 2009, FDOT initiated a qualitative review of the project to determine the level of assessment required to complete the NEPA/PD&E process and support the issuance of a ROD. The findings of this assessment were summarized in a technical memorandum, *Basis for FEIS Reevaluation Technical Memorandum* (June 29, 2009), presented and discussed with FRA. This document is located as an appendix to the FEIS Reevaluation Report. The FEIS Reevaluation is in **Appendix A** of this ROD.

The qualitative assessment indicated that minor changes in the project definition are required and small changes in the affected environment have occurred, and that a reevaluation was an appropriate course of action to determine the potential changes in environmental impacts, mitigation and commitments since the FEIS was published in 2005. Accordingly, the reevaluation focused on the following:

- Changes in the preferred technology from the gas turbine-powered technology as identified in the 2005 FEIS to the electric powered technology. Under the FEIS Reevaluation, the electric-powered technology has emerged as the preferred technology, on the same alignment, based on the current initiatives to reduce carbon emissions and dependency on foreign oil

Florida High Speed Rail Record of Decision

- Design changes needed based on surrounding infrastructure and right-of-way
- Changes in the affected environment that have occurred since the 2005 FEIS
- Changes in potential environmental impacts since the 2005 FEIS
- Changes in the mitigation and commitments compared to the 2005 FEIS
- Changes in permits needed since the 2005 FEIS
- Need for updated coordination with local jurisdictions, stakeholders, and environmental review agencies
- Need for updated public involvement
- Changes in laws, rules, and regulations since 2005

A draft FEIS Reevaluation was completed by FDOT and submitted to FRA on October 1, 2009.

4. PURPOSE AND NEED

The Purpose and Need for the FHSR project was established in the 2005 FEIS and was confirmed by the 2009 Reevaluation. The purpose of FHSR is to enhance intercity passenger mobility in Florida by expanding passenger transportation capacity and providing an alternative to highway and air travel. Increased mobility is viewed as essential for the sustained economic growth of the region, as well as the quality of life of the region's residents and visitors. Presently, passenger mobility in the Tampa-Orlando corridor is provided primarily by highways, particularly I-4. Projected transportation demand and travel growth, as prompted by social demand and economic development and compared to existing and future roadway capacity, show a serious deficit in available capacity. In addition, increasing population, employment, and tourism rates continue to elevate travel demand in the study corridor.

Although capacity improvements to the interstate system along the corridor have either recently been completed or are planned for the near future, they are not adequate to accommodate future travel demand. This need is further emphasized by high traffic volumes, congestion, and accident rates in the study corridor. Further, social and economic demands will continue to call for provision of alternative transportation choices for those individuals who cannot or choose not to drive, as well as those travelers looking for alternatives to congested highways.

4.1. Florida Passenger Rail Legislation of 2009

On December 16, 2009 Governor Charlie Crist signed legislation specifically to support the development of passenger rail systems in the state of Florida. This includes the creation of the Florida Rail Enterprise and other steps including potential funding support for a high speed rail system in the state. The passage of this legislation demonstrates Florida's commitment to work with Federal agencies and private sector partners to advance high speed rail and other passenger rail systems as an integral component of statewide transportation systems.

5. ALTERNATIVES

5.1. ALTERNATIVES CONSIDERED AND DISMISSED IN THE 2005 FEIS

The FHSRA considered several routes between Tampa and Orlando. In order to identify reasonable alternatives that could satisfy the identified project purpose and need, the FHSRA conducted a study to identify, quantify, and compare various HSR route locations. The results of the screening process are documented in the *Florida High Speed Rail Screening Report*, which was completed in October 2002. This evaluation was built on the studies undertaken for high speed rail in the Tampa – Orlando corridor since the mid 1980s. Forty-seven alignments were reduced to 20 as a result of this evaluation. **Figure 2** identifies the various segments that were eliminated from continued study and the retained alignments that were analyzed as the viable alternatives in the 2005 FEIS.

Tampa area: The FHSR study team developed 21 alignments to connect the downtown Tampa station eastward to I-75 with alignments in the I-4 and CSX rail corridors. Ten alignments were eliminated for reasons including engineering constraints, disruption of access to low-income housing and community facilities, disruption of the Ybor City National Historic Landmark District (NHL), and causing relatively greater environmental impacts than retained alignments.

Hillsborough County: Two alignments were evaluated in rural Hillsborough County: one along the I-4 corridor and the other parallel to the CSX rail line. The CSX rail alignment was eliminated from further consideration due to proximity impacts to a significant number of community facilities in Plant City along the railroad.

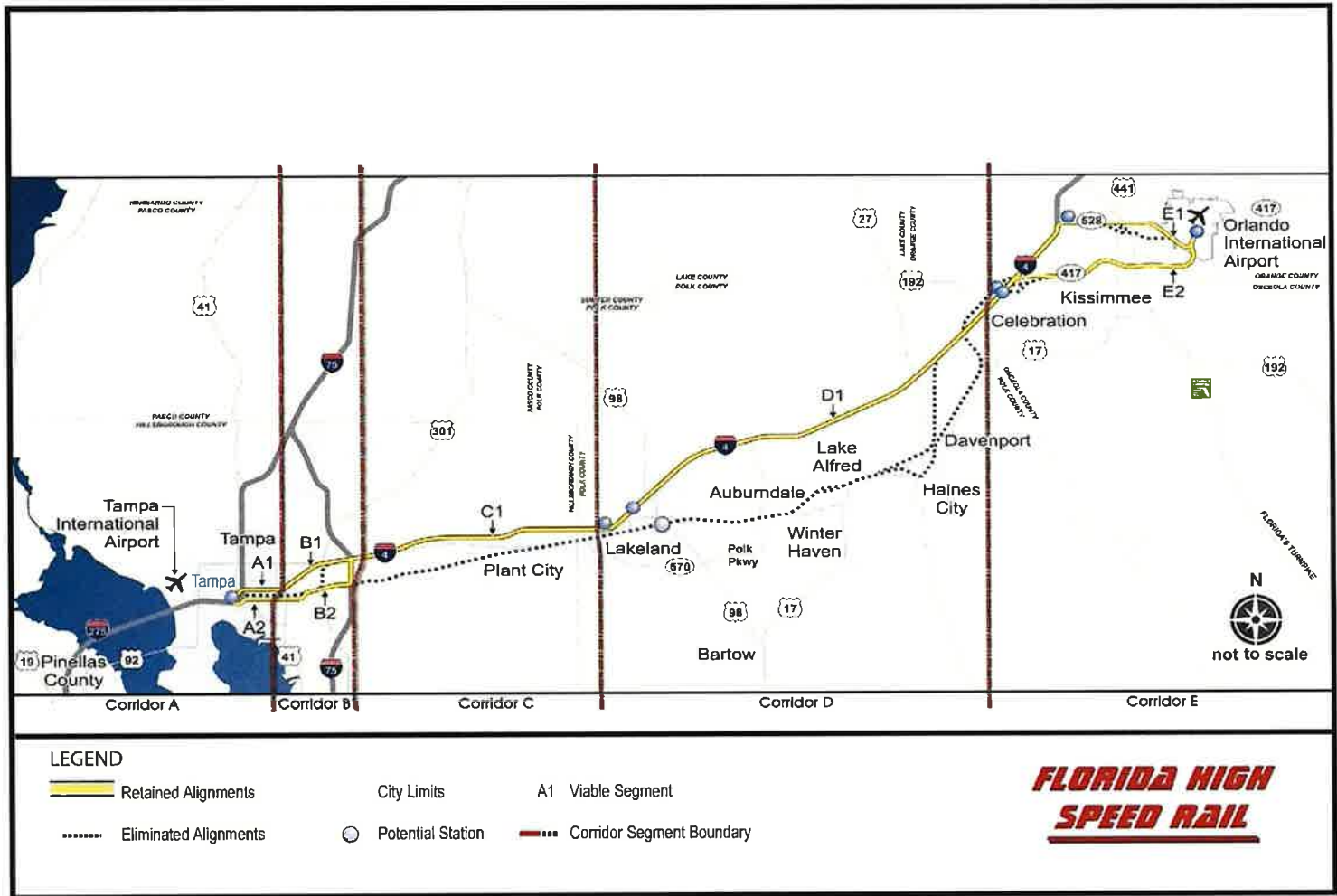
Polk County: Nine alignments were evaluated in Polk County. The alignments included the I-4 and CSX rail corridors, as well as connections between the two corridors. The CSX corridor was eliminated due to proximity impacts to community facilities in Lakeland, Auburndale, Haines City, and Davenport. With the elimination of the CSX alignment, connecting alignments to the I-4 corridor were no longer viable.

Orlando area: Fifteen alignments were evaluated in Osceola and Orange counties in the Orlando area. Seven alignments were eliminated. Some of the alignments connected to eliminated alignments in Polk County and would have disrupted existing commercial development along the alignment. A new terrain connection between I-4 and the Central Florida Greenway (S.R. 417) had the greatest amount of potential wetland and wildlife habitat impact and limited access to alternative station sites. Other alignments were eliminated due to engineering constraints.

5.2. ALTERNATIVES CONSIDERED IN THE 2005 FEIS

The alternatives selected for evaluation in the EIS include:

- No-Build Alternative, consisting of no FHSR service between Tampa and Orlando.
- Two technology alternatives, the gas-turbine powered locomotive-hauled and the electric-powered locomotive-hauled trains, reflecting the responsive proposals to the FHSRA DBOM&F solicitation. These technologies are further described below.



Source: Florida High Speed Rail Tampa to Orlando Final Environmental Impact Statement, May 2005.

Figure 2: Corridors / Stations Considered

Florida High Speed Rail Record of Decision

- Four alignment alternatives per each technology, or a total of eight design/build alternatives. A detailed summary of each alignment is available in the 2005 FEIS.

Each Alternative carried forward for consideration in the 2005 FEIS is summarized below.

5.2.1. No-Build Alternative

The No-Build Alternative assumes that a FHSR system would not be built between Tampa and Orlando. Passenger service between the two cities would instead consist of various existing bus services between Tampa and Orlando and automobile use on I-4, I-75, the Bee Line Expressway (S.R. 528), and the Central Florida Greenway (S.R. 417). The No-Build Alternative assumes that certain planned and funded highway improvements would be undertaken between Tampa and Orlando.

The No-Build Alternative does not envision providing an alternative transportation mode between Tampa and Orlando for daily commuters, visitors, and residents of the area, and existing modes would have to satisfy all travel demand. The potential of the FHSR project to improve public transportation and increase the efficient use of the transportation system, both intercity and locally, would not be realized.

5.2.2. Technology Alternatives

The FHSRA determined that two proposals were responsive to its solicitation for DBOM&F proposals. These represented different technologies with different track systems, rail locations, maintenance facilities and station sites.

Fluor Bombardier proposed a gas turbine-powered locomotive-hauled train technology, developed by Bombardier and FRA with the trademark name of "Jet Train". The gas turbine train has passenger equipment similar to Amtrak's Acela Express trains presently operating between Washington, D.C. and Boston, Massachusetts.

The Global Rail Consortium (GRC) proposed using an electric-powered locomotive-hauled train technology, powered from an overhead catenary system similar to that in use on the Acela system and the electric train uses the French designed TGV Atlantique train sets.

Table 2 summarizes the operating features of the two proposed technologies.

Table 2: Summary of Operations by Technology

Feature (FHSRA minimums)	Gas Turbine Train	Electric Train
Speed (120 mph)	<i>125 mph</i>	<i>160 mph</i>
Round trips per day (12)	<i>14</i>	<i>16</i>
Shuttle trips between Orlando International Airport and Disney (not required)	<i>8</i>	<i>17</i>
Trip time (1 hour, 10 minutes)	<i>65-70 minutes</i>	<i>54-55 minutes</i>
Seating capacity (250)	<i>292</i>	<i>250</i>

Source: Florida High Speed Rail Tampa to Orlando Final Environmental Impact Statement, May, 2005.

5.2.3. Alignment Alternatives

The alignment alternatives used varying combinations of the I-275 and CSX corridors in downtown Tampa, the I-4 corridor between Tampa and Orlando, and either the Bee Line

Expressway (S.R. 528) or Central Florida Greenway (S.R. 417) corridor in Orlando. Design/Build Alternatives 1 through 4 consist of gas turbine technology, while Design/Build Alternatives 5 through 8 consists of the electric train technology.

The eight alternatives use varying combinations of the same alignment. The alignments associated with each alternative are illustrated in **Figure 3** and briefly summarized as follows:

Tampa area: I-275/I-4 corridor – This is a new, grade-separated alignment that runs south of and parallel to I-275 and I-4 to approximately 14th/15th Streets where the alignment crosses into the I-4 median.

Tampa area: CSX “S” line/CSX “A” line/I-75 – This is a new, grade-separated alignment that leaves the downtown station southeasterly through a commercial area to connect into the former CSX “S” line. The alignment runs eastward to connect to the existing CSX “A” line, running along the north side of the rail line to I-75. At I-75, the alignment runs in the interstate median northward to connect into the I-4 median.

Between I-75 to the Osceola/Orange County line: I-4 – This alignment between the Tampa and Orlando urban areas would use the I-4 median for the entire length.

Orlando area: Bee Line Expressway (S.R. 528)/Taft-Vineland Road – This grade-separated alignment would leave the I-4 median and follow along the north side of the Bee Line Expressway (S.R. 528), then along the median of Taft-Vineland Road, crossing new ROW to connect into a station at Orlando International Airport.

Orlando area: S.R. 536/Central Florida Greenway (S.R. 417) – This grade-separated alignment leaves the I-4 median to run along the south side of S.R. 536, connecting to either the north side or the median of the Central Florida Greenway (S.R. 417). From the Central Florida Greenway (S.R. 417), the alignment would run along the east side of the South Access Road to a station at Orlando International Airport.

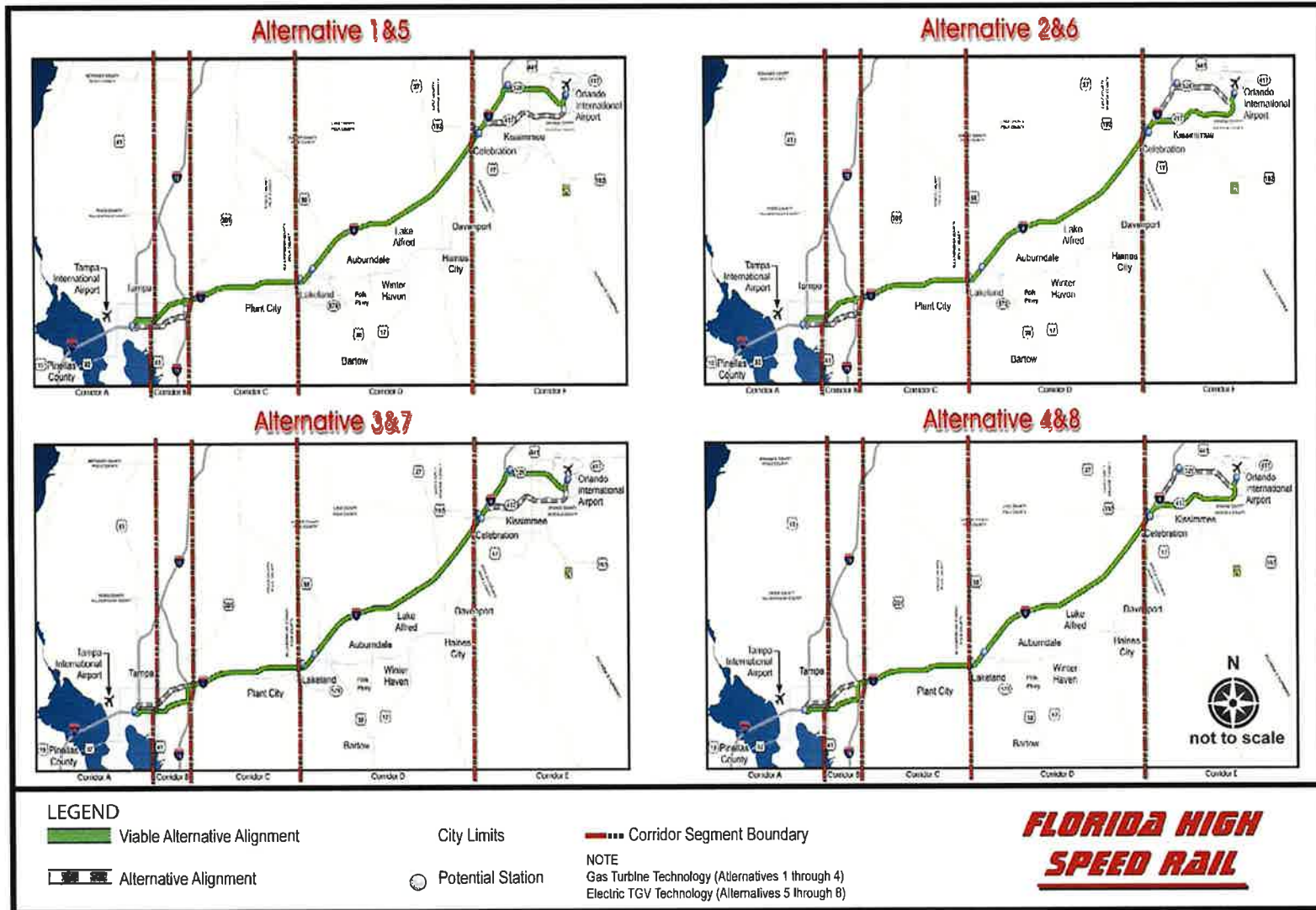
Station locations evaluated in the study included:

- Tampa Central Business District (CBD), south of Interstate 275 (I-275)
- I-4/Polk Parkway, west entry
- I-4/Kathleen Road (S.R. 539) in the City of Lakeland
- I-4 near Walt Disney World
- I-4 near Orange County Convention Center (OCCC)/Multi-Modal Station
- Orlando International Airport

An operation and maintenance (O&M) facility is proposed at one of two locations near the Orlando International Airport.

5.2.4. Summary of Alternatives Identified

The FEIS thus evaluated a total of eight design/build alternatives consisting of four different alignment options with two different technologies, as offered by the two proposers. **Figure 3** displays the eight design/build alternatives and the station locations considered. **Table 3** provides a summary of the design/build alternatives by alignment and technology.



Source: Florida High Speed Rail Tampa to Orlando Final Environmental Impact Statement, May 2005

Figure 3: Design Build Alternatives

Table 3: Summary of Design/Build Alternatives by Alignment and Technology

	Alternative							
	1	2	3	4	5	6	7	8
TECHNOLOGY								
Gas turbine	X	X	X	X				
Electric train					X	X	X	X
ALIGNMENT								
I-275/I-4 in Tampa	X	X			X	X		
CSX Line/I-75 in Tampa			X	X			X	X
I-4 between Tampa & Orlando	X	X	X	X	X	X	X	X
SR 528/Taft-Vineland Road in Orlando	X		X		X		X	
S.R. 536/SR 417 in Orlando		X		X		X		X

Source: Florida High Speed Rail Tampa to Orlando Final Environmental Impact Statement May 2005.

The evaluation matrix in **Table 4** summarizes the quantifiable impacts of the proposed FHSR Design/Build Alternatives 1 through 8. The matrix provides an assessment of potential impacts for each alternative, providing the opportunity to effectively evaluate the consequences of each alternative.

Design/Build Alternatives 1 through 4 represent the four alignment combinations with the gas turbine technology. Design/Build Alternatives 5 through 8 represent the four alignment combinations with the electric train technology. The potential impacts for the FEIS Preferred Alternative, Design/Build Alternative 1, are highlighted in **Table 4**.

Physical impacts, such as wetland, wildlife, and floodplain impacts are technology neutral. The differences in impacts are due to alignment location, station sites, and O&M facility sites. In general, there are slightly more natural impacts associated with the Central Florida Greenway (S.R. 417) alignment due to crossing relatively undisturbed land. Noise, vibration, air quality, and energy impacts are more associated with the technology. In some cases though, the technology and alignment combinations will have varying effect such as with noise and vibration.

Florida High Speed Rail Record of Decision

**Table 4: Design/Build Alternatives Evaluation Matrix
(2005 FEIS Preferred Alternative Highlighted)**

	Alternatives							
	1	2	3	4	5	6	7	8
NATURAL ENVIRONMENT IMPACTS (AC.)								
Total Wetland Impacts (AC.)	40	31.3	39.2	30.5	25.6	24.4	30.5	23.6
High Quality Wetlands (AC.)	11	2	11	2	11	2	11	2
Protected Species Sites	9	15	10	16	9	15	10	16
FLOODPLAIN AND FLOODWAY (AC.)								
Base Floodplain Encroachment	56.88	54.54	61.04	58.70	56.88	54.54	61.04	58.70
Base Floodway Encroachment	9.45	6.47	9.45	6.47	9.45	6.47	9.45	6.47
CONTAMINATION SITES (RANKED H)								
Potential Petroleum Sites	2	0	7	5	2	0	7	5
Potential Hazardous Materials Sites	5	5	12	12	5	5	12	12
SECTION 4(f) IMPACTS								
Recreation Facilities	1	1	0	0	1	1	0	0
Historic/Archaeological Sites	0	0	2	2	0	0	2	2
COMMUNITY SERVICES								
Schools	8	12	5	9	8	12	5	9
Community Facilities	10	9	6	5	10	9	6	5
Parks & Recreation	5	7	5	6	5	7	5	6
Cemeteries	4	6	6	6	4	6	6	6
Churches	15	16	12	13	15	16	12	13
NOISE IMPACTS (MODERATE & SEVERE)								
Category 1 (Buildings and/or parks)	0	0	0	0	0	0	0	0
Category 2 (Residences, hospitals, and hotels)	15	5	16	6	53	105	38	90
Category 3 (Institutional – schools, libraries, churches, active park)	0	0	0	0	1	2	0	1
VIBRATION IMPACTS								
Category 1 (Buildings and/or parks)	1	0	1	0	1	0	1	0
Category 2 (Residences, hospitals, and hotels)	44	20	40	16	13	5	9	1
Category 3 (Institutional – schools, libraries, churches, active park)	0	0	0	0	0	0	0	0
AIR QUALITY EMISSIONS (Net Change in Tons/Year)								
CO	-101.7	-64.7	-100.9	-63.8	-152.0	-114.3	-151.8	-114.1
NOX	+189.0	+188.2	+191.4	+190.6	+23.3	+24.1	+23.7	+24.5
VOC	+8.9	+10.6	+9.2	+10.9	-8.1	-6.1	-8.1	-6.1
ENERGY CONSUMPTION (Change from 2010 No-Build)								
Millions BTU	498,855	507,770	505,658	514,574	239,820	243,623	243,314	247,124
SECTION 106 IMPACTS								
Historic Sites	5	5	7	7	5	5	7	7
Archaeological Sites	0	0	0	0	0	0	0	0
RELOCATIONS								
Residential	3	3	0	0	3	3	0	0
Business	3	8	15	23	3	8	15	23
COST								
ROW (Non-public)	\$118M	\$149M	\$150M	\$181M	\$101M	\$128M	\$134M	\$161M
Infrastructure	\$1,900M	\$2,033M	\$1,881M	\$2,015M	\$2,177M	\$2,306M	\$2,154M	\$2,284M
Mitigation	\$30M	\$30M	\$30M	\$30M	\$30M	\$30M	\$30M	\$30M
TOTAL COST	\$2.048B	\$2.212B	\$2.061B	\$2.226B	\$2.308B	\$2.464B	\$2.318B	\$2.476B

Source: Florida High Speed Rail Tampa to Orlando Final Environmental Impact Statement, May, 2005.

5.3. 2005 FEIS PREFERRED ALTERNATIVE

The 2005 FHSR FEIS resulting from the Project Development and Environment (PD&E) Study investigated the eight design/build alternatives, evaluating not only the technological differences, but also engineering, environmental impacts, costs, and other factors impacting the selection of the alignment. Development of alignments provided an analysis of socio-economic, natural, and physical environmental impacts within the proposed corridors. The potential impacts of the design/build alternatives and the No-Build Alternative are documented in Section 4 of the FEIS.

The FHSRA considered the alternatives in Tampa and Orlando in identifying a Preferred Alternative. All alternative alignments are located along I-4 through Polk and Osceola counties. Two separate alignments were considered in Tampa (Hillsborough County): the CSX and I-4 alignments. Similarly, two alternatives were considered in Orlando (Orange County): the Florida Turnpike's Bee Line Expressway (S.R. 528) and the Central Florida Greenway (S.R. 417) alignments.

The FHSRA unanimously passed a motion identifying the I-4 alignment in Hillsborough County as the preferred alignment. Additionally, the FHSRA ranked the Fluor Bombardier Team (gas turbine technology) as the preferred proposer.

On October 27, 2003, the FHSRA originally identified the Central Florida Greenway (S.R. 417) alignment as the preferred alignment in Orange County. The vote was subject to the following two condition Memorandums of Agreement (MOA):

- Subject to an acceptable agreement between the FHSRA and Walt Disney Company related to donation of ROW and commitments to support ridership for the project.
- Subject to an acceptable agreement between the FHSRA and OOCEA related to use of the Central Florida Greenway (S.R. 417) ROW.

On November 10, 2004, the FHSRA revised the recommendation of the Preferred Alternative because the two conditional MOAs had not been executed. With this action, the FHSRA recommended Alternative 1 (gas turbine technology), which is the combination of the I-4 alignment in Hillsborough County and the Bee Line (now the Beachline) Expressway (S.R. 528) alignment in Orange County, as the Preferred Alternative. While the FEIS environmental analysis provided for either technology to be selected as the preferred technology to be used on the corridor, the FEIS identified Alternative 1 as the Preferred Alternative. The FEIS identified the No Build Alternative as the environmentally preferable alternative because it would result in less direct and indirect impact to the environment. However, the FEIS also noted that the No Build Alternative would fail to meet the Project purpose and need.

5.4. 2009 FEIS REEVALUATION PREFERRED ALTERNATIVE

In the 2005 FEIS gas turbine-powered technology was selected as the Preferred Alternative. FDOT now prefers the electric-powered technology on the same alignment, based on the current initiatives to reduce carbon emissions and dependency on foreign oil. The 2009 FEIS Reevaluation addresses environmental impacts resulting from the change in the preferred technology, any changes to existing conditions and the minor changes to the 2005 Preferred Alternative alignment to further reduce the potential for environmental impacts.

Florida High Speed Rail Record of Decision

The FHSR Preferred Alternative resulting from both the 2005 FEIS and 2009 Reevaluation would begin at the downtown Tampa station to be located between Tampa Street and Marion Street, I-275, and Fortune Street. The FHSR alignment would follow I-275 along the south and east right-of-way (ROW). The alignment would cross into the I-4 median in the area of 15th Street. The majority of the FHSR alignment would be within the ultimate ROW identified in the *Tampa Interstate Study* (TIS) for future interstate improvements; however some additional ROW would be required and has been coordinated with the City of Tampa.

The alignment would continue east within the I-4 median through Hillsborough and Polk counties. One station would be located in Polk County, where two locations were under consideration.

Entering Osceola County, the high speed rail alignment remains within the I-4 median. The proposed Walt Disney World Station would be located north of U.S. 192. The station platform would be located in the median and station facility would be located west of I-4 between U.S. 192 and the Osceola Parkway.

The alignment would continue into Orange County in the I-4 median until the I-4/Beachline Expressway (S.R. 528) interchange, where it would elevate and leave the I-4 median and run along the north side of S.R. 528 within existing ROW. The Orange County Convention Center multi-modal center site is located in the northeast quadrant of the International Drive/S.R. 528 Interchange. The Orange County Convention Center station would be located within the ROW of the interchange area.

The alignment would continue on the north side of S.R. 528 until east of the John Young Parkway (S.R. 423) Interchange where it would leave S.R. 528 and run on new alignment east to Taft-Vineland Road. The alignment would continue along Taft-Vineland Road and enter the City of Orlando property near Tradeport Drive. It would then follow the Orlando Utilities Commission rail line as a new alignment turning north crossing the Orlando International Airport (OIA) South Access Road and traversing through the limits of OIA from south to north, east of the proposed South Terminal.

The 2009 FEIS Reevaluation has determined that overall the preferred alternative alignment documented in the 2005 FEIS remains substantially unchanged; however, the preferred technology has changed. Investigation of current conditions and planned projects has resulted in some minor adjustments to the horizontal and vertical alignment. Supporting engineering plans and profiles are provided in FEIS Reevaluation. Areas where changes have occurred are:

- Station Areas: Tampa – Downtown, Walt Disney World/Celebration; Orange County Convention Center; Orlando International Airport – additional right of way and some relocation required for various stations (see Station discussion)
- I-4/I-275 Interchange Ramp D adjacent to Perry Harvey Senior Park – improvement to I-275 widened the existing roadway for ramp auxiliary lanes
- I-4/I-275 Proposed Flyover Ramp widening adjacent to Ybor City National Historic Landmark District – FDOT identified that the existing single lane flyover ramp needs to be widened to two lanes

- Transition to I-4 Median and Crosstown Connector – minimize structure length based on the construction of the ultimate I-4 improvements
- Columbus Avenue Relocation – improvements to I-4 realigned Columbus Avenue
- Emergency Median Crossovers – FDOT has established emergency evacuation crossovers through the I-4 corridor that will need to be relocated
- Tradeport Drive Area – minimize impacts to continued commercial development
- Orlando International Airport – continue HSR alignment to the north terminal consistent with OIA Master Plan.

The above changes to the conceptual engineering plans for the Preferred Alternative as described in the 2005 FEIS are included in the FEIS Reevaluation.

5.4.1. 2009 Reevaluation Preferred Alternative Station / Maintenance Facility Areas

The 2005 FEIS initially evaluated 20-acre study areas for each of the proposed station locations. As each site was identified, the station area was finalized to take into account property lines and existing features. The following modifications to the FEIS station study areas were assessed and included in the conceptual plan revisions as part of the FEIS Reevaluation.

- **Tampa – Downtown Station** - The Tampa station area was expanded to include the 3.2-acre former jail site which was purchased by FDOT for use as an intermodal center. The building is currently being demolished.
- **Walt Disney World Station** - The Disney station area was shifted to the west to include a 5.6-acre area of open land in order to maintain a total 20-acre station area. The shift was necessary as a result of the construction of the Osceola Parkway Interchange and ramps within the 20-acre area identified in the 2005 FEIS.
- **Polk County (Lakeland) Station** – The 2005 FEIS and the 2009 FEIS Reevaluation includes two sites for environmental analysis, west of the Polk Parkway and at Kathleen Road – only one is to be selected for continued development. Included in the 2009 FEIS Reevaluation is a request by the City of Lakeland, Polk County and the University of South Florida Polytechnic for continued coordination into the design phase to verify the optimal location of a Polk County Station site to best serve Lakeland and the surrounding communities. FDOT is committed to continued coordination with the county, cities and local stakeholders in the continued project development phases. Should a station site other than the sites located at west SR 570 (Polk Parkway) or Kathleen Road be advanced, additional environmental analysis will be required.
- **Orange County Convention Center Station** – The Orange County Convention Center station area was expanded to the east to the existing parcel property line, an additional 2.0-acre area to provide maximum flexibility and proximity for the HSR station.
- **Orlando International Airport (OIA)** – In conformance with the OIA Master Plan, two station locations are considered under the Preferred Alternative: the future South Terminal Intermodal Center and the North Terminal Intermodal Center. The North and

Florida High Speed Rail Record of Decision

South Terminal Intermodal Centers are included in the Airport Master Plan as approved through the Federal Aviation Administration (FAA). The North and South Terminal Intermodal Centers received FTA NEPA clearance under the *OIA Intermodal Station Environmental Assessment*, September 2005.

- Maintenance Facility** – The Preferred Alternative identified a preference for two alternative sites for the FHSR maintenance facility site: one site located directly south of OIA (Site 3) and a site southeast of OIA, north of Boggy Creek Road (Site 2). These two sites were included in the 2005 FEIS for the gas turbine train. The 2005 FEIS also included two sites for the electric powered train: Site 3 and a site located southeast of OIA and south of Boggy Creek Road (Site 1). With continued commercial development south of Boggy Creek Road and the increase of relocations, Site 1 is removed from consideration, with Sites 2 and 3 remaining as alternative sites as analyzed in the 2005 FEIS and included in the 2009 FEIS Reevaluation.

5.4.2. Preferred Alternative Ridership

The ridership estimates for the 2005 FEIS Preferred Alternative were updated for 2009 based on the two independent, investment-grade models developed in 2002 and documented in the 2005 FEIS. The ridership estimates were based on the alignments for the Project and were not sensitive to the technologies. The models were updated to reflect the changes in the transportation network, growth and local land uses that have occurred since the 2005 FEIS was completed. Captive ridership/riders currently taking shuttle services provided by Disney and I-Drive destinations were separated from choice ridership (trips that would be diverted from other modes, such as private or rented autos, and public transit).

The results of the updated ridership and revenue forecasts are shown in **Table 5**. Annual ridership is not anticipated to change significantly from the previous 2002 forecasts. Annual revenue for the system is expected to increase.

Table 5: Changes in 2010 Tampa-Orlando Ridership and Revenue for the Preferred Alternative

Market	2010 Annual Ridership (millions)			2010 Annual Revenue (\$ millions)		
	2002 Study/2005 FEIS	2009 Reevaluation	Change	2002 Study/2005 FEIS	2009 Reevaluation	Change
CHOICE MARKET	1.9 to 2.3	1.9 to 2.4	+0.0 to +0.1	32.9 to 35.4	40.5 to 46.4	+7.6 to +11.0
CAPTIVE						
OIA to International Drive	0.5	0.6	+0.1	6.3	8.0	+1.7
OIA to Disney	<u>2.1</u>	<u>1.9</u>	<u>-0.2</u>	<u>26.3</u>	<u>27.2</u>	<u>+0.9</u>
Subtotal: Captive	0.5*	0.6*	+0.1*	6.3*	8.0*	+2.6*
Total:	2.4 to 2.8	2.5 to 3.0	+0.1 to +0.2	39.3 to 41.8	48.5 to 54.5	+10.2 to +13.6

**The 2002 Study (included in the 2005 FEIS) assumed that captive ridership associated with the OIA-Disney market would not be included, as Disney's participation in the preferred alignment was still under negotiation.*

6. AFFECTED ENVIRONMENT

The changes to the 2005 Preferred Alternative were primarily to accommodate the current as-built conditions within the improved interstate corridor and changes to minimize potential impacts to continued development within the corridor. These changes, as stated in Chapter 2 of the FEIS Reevaluation and illustrated in the revised plans included in Appendix B of the FEIS Reevaluation and discussed in the 2009 FEIS Reevaluation Preferred Alternative (Section 6.4) section of this document, are minimal within the 88-mile alternative and concentrated within the immediate Tampa CBD and in the Tradeport Drive industrial park area in Orange County.

The changes in existing conditions identified in Chapter 3 of the FEIS Reevaluation resulting in changes to the potential environmental impacts are summarized below:

- Relocations: reduction of one business impact in Tampa CBD and 3 additional business impacts in Tradeport Drive industrial area.
- Section 106: reduction of one historic structure with relocation by FDOT complete.
- Recreation and Park/Section 4(f): Changes to the City of Tampa's Perry Harvey Sr. Park boundaries since the 2005 FEIS and changes to the alternative reduce overall area of use.
- Air Quality, Noise, Vibration, Visual/Aesthetic, and Energy Consumption: changes based on technology preference from gas turbine-powered to electric-powered locomotive-hauled train.
- Contamination: additional sites resulting in the same number of sites with high risk ranking and an additional one site each for medium and low risk ranking.
- Wildlife and Habitat: one additional species (Everglades snail kite) afforded protection since 2005.

The above changes to the environmental impacts do not change the mitigation and commitments identified in the 2005 FEIS with the exception of regulatory changes in the permitting of wetlands, water quality, and wildlife and habitat.

Table 6 identifies comparative analysis factors between the 2005 FEIS Preferred Alternative (gas turbine powered technology, Alternative 1) and the electric powered technology on the same alignment (Alternative 5) with the updated potential impacts assessed in the FEIS Reevaluation for the Revised Preferred Alternative (RPA).

Florida High Speed Rail Record of Decision

Table 6: Change in Potential Environmental Impacts

Resource	2005 FEIS Impacts Gas Turbine FEIS Preferred Alternative (Alternative 1)	2005 FEIS Impacts Electric Technology (Alternative 5)	Change in Impacts?	Revised Preferred Alternative (RPA) Impacts Electric Technology
COMMUNITY IMPACTS				
Community Cohesion	Minimal impacts to adjacent neighborhoods along I-4 in Tampa and to the south of the Tradeport Industrial Park	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Community and Land Use Impacts	Consistent with local land use plans Minimal impacts to existing land uses	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Economic Impacts	Benefits in excess of costs	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Safety and Public Health	No adverse impacts	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Relocation and Right-of-Way Impacts	3 residential relocations 3 business relocations See Section 4(f) below.	Same as 2005 FEIS Preferred Alternative	Yes	3 residential relocations 5 business relocations
Environmental Justice	No disproportionate impacts	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Section 106 - Archeological and Historical Resources	<u>Conditional Adverse Effect</u> North Franklin Street Historic District (visual) St. Paul AME Church Parsonage (visual) Oaklawn Cemetery (visual construction vibration) Ybor City NHLD (direct taking of two contributing buildings; visual, construction vibration) German American Club – Visual impacts, construction vibration	Same as 2005 FEIS Preferred Alternative	Yes*	Same impacts as listed for FEIS Preferred Alternative, less direct impact of one contributing building in Ybor City NHLD do to relocation per TIS project*
Recreation and Parkland	Use of 0.184 acres, Perry Harvey Sr. Park	Use of 0.184 acres, Perry Harvey Sr. Park	Yes	Use of 0.05 acres, Perry Harvey Sr. Park

Florida High Speed Rail Record of Decision

Table 6: Change in Potential Environmental Impacts

Resource	2005 FEIS Impacts Gas Turbine FEIS Preferred Alternative (Alternative 1)	2005 FEIS Impacts Electric Technology (Alternative 5)	Change in Impacts?	Revised Preferred Alternative (RPA) Impacts Electric Technology
Section 4(f) Impacts	Use of 0.184 acres, Perry Harvey Sr. Park	Use of 0.184 acres, Perry Harvey Sr. Park	Yes	Use of 0.05 acres, Perry Harvey Sr. Park
Secondary and Cumulative Impacts	No adverse impacts	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
NATURAL AND PHYSICAL IMPACTS				
Visual/Aesthetic	No adverse impacts	Same as 2005 FEIS Preferred Alternative	No	Same as 2005 FEIS Preferred Alternative
Air Quality	Emissions (tons/year):	Emissions (tons/year):	Yes	Same as 2005 FEIS Alternative 5
	CO : -101.7 tons/year	CO: -152.0		
	NOx: +189.0	NOx: +23.3		
	VOC: +8.9	VOC: -8.1		
Noise ¹	Cat. 1: 0	Cat. 1: 0	Yes	Cat. 1: 0
	Cat. 2: 15 (7 moderate, 8 severe)	Cat. 2: 52 (24 moderate, 28 severe)		Cat. 2: 30 (13 moderate, 17 severe)
	Cat. 3: 0	Cat. 3: 1 (Perry Harvey Sr. Park)		Cat. 3: 1
Vibration ¹	Cat 1: 1	Cat 1: 1	Yes	Cat. 1: 1
	Cat. 2: 44	Cat. 2: 13		Cat. 2: 8
	Cat. 3: 0	Cat. 3: 0		Cat. 3: 0
Wetlands	40 acres (total impacts) 11 high quality wetlands impacted	25.6 acres (total impacts) 11 high quality wetlands impacted	Yes	35.8 acres (total impacts) 11 high quality wetlands impacted.
Aquatic Preserves	No impacts	No impacts	No	No impacts
Water Quality	No adverse impacts	No adverse impacts	No	No adverse impacts
Outstanding Florida Waters	No impacts	No impacts	No	No impacts
Contamination	Risk Ranking	Risk Ranking	Yes	Risk Ranking
	High : 7	High : 7		High : 7
	Medium: 0	Medium: 0		Medium: 1
	Low: 0	Low: 0		Low: 1

Florida High Speed Rail Record of Decision

Table 6: Change in Potential Environmental Impacts

Resource	2005 FEIS Impacts Gas Turbine FEIS Preferred Alternative (Alternative 1)	2005 FEIS Impacts Electric Technology (Alternative 5)	Change in Impacts?	Revised Preferred Alternative (RPA) Impacts Electric Technology
Wild and Scenic Rivers	No impacts	No impacts	No	No impacts
Floodplain and Floodway Impact	Base Floodplain Encroachment: 56.88 acres Base Floodway Encroachment: 9.45 acres	Base Floodplain Encroachment: 56.88 acres Base Floodway Encroachment: 9.45 acres	No	Base Floodplain Encroachment: 56.88 acres Base Floodway Encroachment: 9.45 acres
Coastal Zone Consistency	No impacts	No impacts	No	No impacts
Coastal Barrier Resources	No impacts	No impacts	No	No impacts
Wildlife and Habitat, including Protected Species	9 Protected Species No adverse impacts	9 Protected Species No adverse impacts	Yes	10 Protected Species No adverse effects
Farmlands	No impacts	No impacts	No	No impacts
Energy Consumption	498,855 Million BTU	239,820 Million BTU	Yes	Same as 2005 FEIS Alternative 5
Utilities	No adverse impacts	No adverse impacts	No	No adverse impacts
TRANSPORTATION				
Freight Rail Operations Impacts	No impacts	No impacts	No	No impacts
Highway Operations Impacts	Net reduction in VMT: 21,080,963 miles No adverse impacts	Net reduction in VMT: 21,080,963 miles No adverse impacts	No	Net reduction in VMT: 21,080,963 miles No adverse impacts
Station Access and Traffic Impacts	No adverse impacts	No adverse impacts	No	No adverse impacts
Airport Operations	No impacts	No impacts	No	No impacts
CONSTRUCTION IMPACTS				
Construction impacts	No adverse impacts	No adverse impacts	No	No adverse impacts
<i>Source: Parsons, PBS&J, HMMH September 2009</i> ¹ Notes: Category 1 receptors are buildings and/or parks; Category 2 receptors are residences, hospitals, hotels; Category 3 receptors are schools, libraries, churches, and active parks.				

6.1. Relocation and Right of Way

The 2005 FEIS indicated that the Preferred Alternative and the Revised Preferred Alternative (RPA) (Alternative 5 in the 2005 FEIS) would both require three (3) residential relocations located in two (2) structures near I-4 and 12th Avenue in the Ybor City area and three business relocations including the City of Tampa Recreation Department, the former Hillsborough County Sheriff's Office and Jail Complex, and a bail bondsman office.

Since publication of the 2005 FEIS, redevelopment of the former Hillsborough County Sheriff's Office and Jail Complex site has begun and the buildings are no longer present. Therefore, these relocations are no longer needed.

Further, since 2005 additional development has occurred in the Tradeport Industrial Park. The alignment was optimized to reduce additional right-of-way needs in this area to the extent practicable. However, three (3) additional business relocations would be needed for the project, as follows:

- At the northwest corner of Tradeport Drive and Ringhaver Drive, a large commercial distribution building (10260 Tradeport Drive) was constructed and does not appear on the project aerials. As of September 2, 2009, the building is vacant. The FHSR alignment clips the northeast corner of this building and the operation of the rear loading bays.
- Two commercial structures located in the Atlas Commercial Park (11128 and 11112 Boggy Creek Road) are also impacted. As of September 2, 2009, these building are vacant.

The ROW and relocation program will be carried out in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

6.2. Section 106 Consultation and Memorandum of Agreement

The FDOT coordinated the historic resources impact analysis with the Florida State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (Council).

The coordination with the SHPO and Council during analysis of the 2005 FEIS Preferred Alternative resulted in a "conditional no adverse effect" on the following five historic resources:

- North Franklin Street Historic District – Visual impacts
- St. Paul AME Church Parsonage – Visual impacts
- Oaklawn Cemetery – Visual impacts, construction vibration
- Ybor City NHLD - Direct taking of two contributing buildings: 8HI4174/916 E. 12th Avenue, and the rear building at 8HI4178/1006 E. 12th Avenue; Visual, Construction Vibration
- German American Club – Visual impacts, construction vibration

The 2009 FEIS Reevaluation Revised Preferred Alternative verified that there are no changes to the impacts identified in the 2005 FEIS. The commitments stated in the 2005 FEIS remain valid.

Since publication of the 2005 FEIS, FDOT began the right-of-way acquisition process for the *Tampa Interstate Study (TIS)*. As a result many of the historic structures along 12th Avenue in the Ybor City NHLD have been relocated, including the property at 1006 E. 12th Avenue (8HI4178) which was listed as a direct taking in the 2005 FEIS.

It is important to note that these impacts to historic resources were evaluated as part of a *Cultural Resource Assessment Survey* (July 2003) prepared to identify and evaluate cultural resources (historic structures and archaeological sites) within the project's Area of Potential Effect (APE). Further, a *Section 106 Consultation Case Report* (December 2003) was then prepared to evaluate potential effects for the Preferred Alternative and extensive coordination occurred with SHPO. As a result of this coordination, it was determined that the Preferred Alternative, based on a set of stipulated conditions, would have a "conditional no adverse effect" on the resources listed above.

Even though the impacts within the Ybor City NHLD included a direct taking of contributing historic resources, the SHPO determined that there would be no adverse effect because these buildings were previously identified as being acquired by the *Tampa Interstate Study Final Environmental Impact Statement and Section 4(f) Evaluation* (1996) and are located within the TIS Ultimate ROW. A Memorandum of Agreement (MOA) was prepared at that time to mitigate adverse effects to the Ybor City NHLD.

During the consultations with the SHPO, it was determined that the FHSR project would follow the requirements of this MOA. The mitigation and commitments are consistent with this MOA.

6.3. Section 4(f) Determination

Section 4(f) of the US Department of Transportation (DOT) Act of 1966 stipulates that DOT agencies cannot approve the use of land from publicly owned parks, recreation areas, wildlife refuges, or public and private historical sites unless there is no feasible and prudent alternative to such use and the project includes all possible planning to minimize the harm to the property resulting from use.

The Section 4(f) evaluation for the potential HSR alignments and stations documented in Section 5 of the FEIS and Section 4.4 of the FEIS Reevaluation indicates that one Section 4(f) resource, Perry Harvey Sr. Park, will be used by the project. The supporting information in the 2005 FEIS and the 2009 FEIS Reevaluation, summarized below, demonstrates that there are unique problems or unusual factors involved with any alternative that would avoid this Section 4(f) property. Potential avoidance alternatives fail to meet the project purpose and need, fail to meet the objectives of those responsible for the resource used, or result in impacts of extraordinary magnitude to the environment or the community.

Based on the documentation presented in the FEIS and updated in the FEIS Reevaluation, the FRA has determined that:

- The Project is a feasible and prudent alternative with the least harm to Section 4(f) resources;
- There is no feasible or prudent alternative to the use of the above Section 4(f) resources; and

- The Project includes all possible planning to minimize harm to the resources resulting from such use. These measures are identified in the Project mitigation and commitments attached as Appendix B.

During the reevaluation process, the preferred alignment shifted slightly in the vicinity of the Ybor City NHLD and Perry Harvey Sr. Park, both of which are Section 4(f) resources. Right-of-way requirements were minimized in the vicinity of these resources.

In the case of the Ybor City NHLD, the right-of-way required by the FHSR project is still within the TIS Ultimate ROW which was cleared as a part of the *Tampa Interstate Study Final Environmental Impact Statement and Section 4(f) Evaluation* (1996). Further, a Memorandum of Agreement (MOA) was negotiated with the SHPO for that project to mitigate the adverse effects to the Ybor City NHLD from taking the right-of-way. Therefore there are no changes to the Section 4(f) evaluation for the Ybor City NHLD.

In the case of Perry Harvey Sr. Park, as stated in the original Section 4(f) Evaluation in the 2005 FEIS, the FHSR project will comply with the specific commitments and stipulations identified in the existing Tampa Interstate Study (TIS) FEIS for the Ultimate ROW requirements. The commitment is based on the assumption that the FHSR will be constructed prior to the construction of the Ultimate TIS.

Since the approval of the 2005 FHSR FEIS, the interim reconstruction of I-275/I-4 interchange has occurred. In addition, FDOT has proposed a safety improvement requiring an additional lane be constructed to the outside of the ramp running from SB I-275 to EB I-4. As a result of the safety improvement, the FHSR ROW has been minimized to a ROW width of 44 feet and relocated slightly to the south and west. The FHSR ROW remains within the TIS Ultimate ROW footprint. It is anticipated that FHSR will run 18 to 24 feet above the park on an elevated track as it enters the Tampa Central Business District (CBD) station. Initial calculations indicate the potential impact to the park will be reduced from the amount of land to be acquired from 0.184 acres (2005 FEIS) to .05 acres (FEIS Reevaluation).

During the 2005 FEIS it was determined that there would be a potential for moderate noise level increases (proximity effects). An evaluation of vibration, access, aesthetics, and ecological encroachment indicates that the project will not substantially impair or diminish the use of the park, and a determination was made that there will be no constructive use. These conclusions have not changed. Coordination with the City of Tampa includes memorandum in the FEIS Reevaluation identifying the City's continued support of the project with commitment of FDOT to meet the specific commitments and stipulations identified in the TIS FEIS.

6.4. Air Quality

The US Environmental Protection Agency (EPA) regulation implementing the Clean Air Act (40 CFR Parts 51 and 93) establishes criteria for demonstrating that a federally assisted project is in conformity with the State Implementation Plan or maintenance plans developed for Hillsborough, Polk, Osceola and Orange Counties. This Project is identified in the Long Range Transportation Plans for the three Metropolitan Planning Organizations that represent the various local governments through the Project area. The General Conformity Rule (40 C.F.R. Part 93, Subpart B) is applicable to areas that have been designated as non-attainment or maintenance with respect to the National Ambient Air Quality Standards (NAAQS). Polk, Osceola and

Orange Counties were designated as in attainment of the NAAQS in the 2005 FEIS. The FEIS Reevaluation identified that Hillsborough County was re-designated in attainment of the NAAQS in 2005 following completion of the 2005 FEIS. Thus, all counties in the Project are in attainment and determination of conformity with the State Implementation Plan or plan to maintain the NAAQS is not required.

The Revised Preferred Alternative would result in a net decrease in regional emissions of carbon monoxide (CO) and volatile organic compounds (VOC) and a small increase in regional emissions of nitrogen oxides (NOX). The net increase in emissions of NOX is a result of the emission rate of this pollutant from power plants that produce electricity through the combustion of fossil fuels. The emissions analysis is based on use of coal as the source for power generation; a worst case scenario.

6.5. Noise

The noise impact assessment was updated along the entire corridor to account for land use and alignment changes since the 2005 FEIS was published. In summary, there are substantially fewer predicted noise impacts than projected in the FEIS.

The 2005 FEIS predicted that the Preferred Alternative would have impacts at a total of 15 residential buildings (eight with severe impact and seven with moderate impact), one hotel (moderate impact) and one park (Perry Harvey Sr.). The FEIS also documented the impacts of Alternative 5 (the comparable alternative given the change in the preferred technology), which was predicted to have noise impacts at a total of 52 residential buildings (24 with severe impact and 28 with moderate impact), one hotel (moderate impact), and one park (Perry Harvey). The factors attributing less impact by the gas turbine-hauled train include track proximity and height as well as train speed.

The updated analysis of the Revised Preferred Alternative predicts fewer impacts when compared to the electric-hauled train (Alternative 5) in the 2005 FEIS, including 30 residential buildings (13 with moderate impacts and 17 with severe impacts); one hotel (moderate impact) and one park (Perry Harvey). Importantly, none of the newly identified sensitive receptors along the corridor were predicted to have impacts.

The lower number of predicted impacts is a result of alignment shifts away from sensitive receptors near Station 6010 (in the vicinity of the I-4/I-275 interchange in Tampa) and between Stations 7670 and 7700 in the Taft area near Orlando.

6.6. Vibration

The vibration impact assessment was updated along the entire corridor to account for land use and alignment changes since the 2005 FEIS was published. In summary, the Revised Preferred Alternative vibration impacts are expected at three residences, five hotels, and one commercial building that houses vibration sensitive equipment. In comparison, the 2005 FEIS Preferred Alternative was predicted to have 33 residences, 11 hotels, and the same commercial building and Alternative 5 was predicted to have impacts at one residence, 13 hotels and the commercial building.

The large reduction in the total number of vibration impacts is due to changes in existing conditions and the difference between the vibration characteristics of the electric and the gas turbine trains. Not only are some of the residences and hotels previously affected no longer present but new receptors were also identified, particularly in the middle section of the alignment. None of the new receptors were predicted to have vibration impacts.

Gas turbine trains have higher vibration levels at lower frequencies than electric trains. This is likely due to the difference in weight between the two vehicles; the gas turbine train consist weighs almost twice as much as the electric train consist. Furthermore, when the ground exhibits more efficient vibration propagation characteristics at low frequencies, there is a greater difference in vibration impact between the two technologies.

6.7. Wetlands

The Preferred Alternative (Alternative 1) documented in the 2005 FEIS would result in a total of 40 acres of wetland impacts to 11 high quality wetlands, while Alternative 5 was predicted to result in 25.6 acres of impacts to 11 high quality wetlands. Even though these alternatives share the same alignment and station locations, they each assumed a different maintenance facility.

The Revised Preferred Alternative would result in 35.8 acres of impacts to 11 high quality wetlands. This accounts for changes in existing conditions with the revised location for the maintenance facility for Alternative 5 since the FEIS was published and the design changes documented in Chapter 2 of the FEIS Reevaluation. The Revised Preferred Alternative with the same maintenance facility location, as identified with the 2005 FEIS Preferred Alternative 1, reduces impacts by 4.2 acres.

The 2005 FEIS indicates that either FDEP (Florida Department of Environmental Protection) or the Water Management Districts (WMD) may be the reviewing agency for the Environmental Resource Permit. Because this project crosses multiple WMD districts, the FDEP will likely take the lead on permitting so that a comprehensive review of the entire corridor can occur. However, this decision will be made during the final design and permitting phase.

The 2005 FEIS also states that “Any project which results in the disturbance of five or more acres of land would require a National Pollutant Discharge Elimination System (NPDES) permit from FDEP, pursuant to 40 C.F.R Parts 122 and 124.” The regulations governing the NPDES have been modified since 2005 such that any project that results in the disturbance of one or more acre of land will require a NPDES permit. Also, because a General Permit exists for this type of work, a permit application for a NPDES will not be required. Instead, a Notice of Intent to utilize the General Permit is required to be submitted by the construction contractor 48 hours prior to construction commencement.

6.8. Contamination

The 2005 FEIS Preferred Alternative identified five potentially hazardous material contaminated sites and two potentially petroleum contaminated sites within the alignment. There are no potentially contaminated sites associated with the preferred station locations and maintenance yard.

Based on the design modifications of the Revised Preferred Alternative, a review of the potential for additional hazardous materials sites that could potentially be encountered during construction was assessed. Five additional sites were identified. Given the contamination concern at these sites and their location relative to the FHSR project, three of these sites were found to pose no risk to the project, one was found to pose a low risk and one was found to pose a medium risk.

The sites identified will be investigated further prior to any construction. Investigative work will include visual inspection, monitoring of ongoing cleanups, and possible subsurface investigations. At known contamination sites, estimated areas of contamination will be marked on design drawings. Prior to construction, any necessary cleanup plans will be developed. Actual cleanup will take place during construction, if feasible. Special provisions for handling unexpected contamination discovered during construction will be included in the construction plans package.

6.9. Floodplains

The Preferred Alternative from 2005 and the Revised Preferred Alternative would potentially impact approximately 56.88 ac. of floodplain and approximately 9.45 ac. of floodway. Subsequent to final design, during which impacts would be avoided or minimized, floodplain and floodway impacts would again be calculated and the amount of mitigation would be determined. Coordination with the water management districts will identify areas appropriate for mitigation of the volumetric impacts of the preferred alternative that will not increase or significantly change the flood elevations and/or limits.

6.10. Wildlife and Habitat, Protected Species

The expansion of the Tampa, Disney and Orange County Convention Center station areas do not result in additional protected species concern. The Tampa Jail Site is urban and developed and provides no protected species habitat. The area of expansion of the Disney Station Area does not result in a new habitat type or protected species concerns. The new additional area for the OCCC site is minimal and does not provide different habitat than what has already been considered.

Since the 2005 FEIS, the bald eagle was delisted (with the exception of the desert bald eagle in Arizona) and is no longer protected under the Endangered Species Act as of June 28, 2007. However, the bald eagle is still provided protection by two other federal laws, the Migratory Bird Treaty Act of 1918 and the Bald and Golden Eagle Protection Act, as amended. The state of Florida also delisted the bald eagle.

An additional species, the Everglades snail kite (*Rostrhamus sociabilis*) has been afforded additional protection since the 2005 FEIS. A consultation area for the snail kite is now in place over Polk County and much of Osceola County. Although it is unlikely that this species will be affected by the project as habitat in the area is suboptimal, consultation with and concurrence from the U.S. Fish and Wildlife Service (USFWS) will be required because the corridor is within the snail kite's designated consultation area.

The Revised Preferred Alternative will have no effect on the following federally protected species with potential habitat in the project vicinity: American alligator, Florida scrub-jay, Florida panther, and Florida manatee. It is also anticipated to have no effect on the following

state-only protected species: Florida pine snake, Florida burrowing owl, Southeastern American kestrel, Florida black bear, and protected plant species. The Revised Preferred Alternative may affect, but is not likely to adversely affect the following federally protected species: Eastern indigo snake, sand skink, Everglade's snail kite, and wood stork. The project may affect but is not likely to adversely affect the following state-only protected species: gopher tortoise, Florida mouse, gopher frog, Florida sandhill crane, Sherman's fox squirrel, and state protected wading bird species. As part of mitigation commitments, FDOT will continue to coordinate with the U.S. Fish and Wildlife Service (USFWS), the Water Management Districts (WMDs), and Florida Fish and Wildlife Conservation Commission (FFWCC) to develop design and construction methods to avoid and minimize impacts to these species.

6.11. Energy

The switch to the electric train technology results in an overall lower net energy consumption since the consumption is considerably lower than the gas turbine train technology. The 2005 FEIS shows the net energy consumption dropping from 498,855 million BTU (2005 FEIS Preferred Alternative) to 239,820 million BTU (2005 Alternative 5, Revised Preferred Alternative).

These predictions factor in the reduction of gasoline consumption by diverting automobile ridership, the power required to propel the train, operate and maintain the new system and thermal losses for electric power generation. As a part of the reevaluation effort, the ridership projections were updated and show a slight increase in riders. This increase would lower VMT only slightly resulting in a negligible decrease in the energy demands of the Revised Preferred Alternative. The slight shifts in alignment and station locations also would not affect the energy consumption predictions listed above.

The total change is a very small fraction (less than 1/20th of one percent) of Florida's total energy consumption for surface transportation (all non-military vehicle operation on highways, railroads, and fixed-guideway public transportation), which is estimated to reach one quadrillion BTUs (i.e., 1,000,000,000 MBTU) by 2010.

6.12. Means to Avoid and Minimize Environmental Harm

FRA and FDOT are committed to working with our partners and stakeholders in the development of this project, and will continue to coordinate the required mitigation and commitments for the FHSR project as a means to avoid and minimize environmental harm. **Appendix B** documents the commitments and mitigation from the 2005 FEIS and any changes or updates needed based on changes in potential impacts or regulations based on the FEIS Reevaluation.

6.13 Environmentally Preferable Alternative

The environmentally preferable alternative resulting from the FEIS Reevaluation remains the same as the environmentally preferable alignment identified in the 2005 FEIS (the No Build Alternative). The No Build Alternative still has less direct and indirect impact to the environment than the build alternatives. However, as noted in the FEIS, the No Build Alternative does not

meet the project purpose and need. It fails to enhance intercity passenger mobility in Florida by expanding passenger transportation capacity or by providing an alternative to highway and air travel. Congestion on Interstate 4 can be expected to continue to grow under the No Build Alternative.

The Revised Preferred Alternative assessed in the FEIS Reevaluation, as described above, has been developed in a manner so as to minimize environmental impacts. It would use existing transportation corridors to minimize environmental impacts and provides environmental and transportation benefits in the form of increased efficiency in energy use for transportation, decreased energy consumption, increased mobility, safety, reliability, travel times and accessibility, and reduced vehicle miles travelled for intercity trips.

The changes in existing conditions identified in Chapter 3 of the attached 2009 FEIS Reevaluation (Appendix A) of this document resulted in changes to the environmental impacts as summarized in the following:

- Relocations: reduction of one business impact in Tampa CBD and 3 additional business impacts in Tradeport Drive industrial area.
- Section 106: reduction of one historic structure with relocation by FDOT complete.
- Recreation and Park/Section 4(f): Changes to the City of Tampa's Perry Harvey Sr. Park boundaries since the 2005 FEIS and changes to the alternative reduce overall area of use.
- Air Quality, Noise, Vibration, Visual/Aesthetic, and Energy Consumption: changes based on technology preference from gas turbine-powered to electric-powered locomotive-hauled train.
- Contamination: additional sites resulting in the same number of sites with high risk ranking and an additional one site each for medium and low risk ranking.
- Wildlife and Habitat: one additional species (Everglade's snail kite) afforded protection since 2005.

The above changes to the environmental impacts do not change the mitigation and commitments identified in the 2005 FEIS and included as Appendix B in this document with the exception of regulatory changes in the permitting of wetlands, water quality, and wildlife and habitat.

7. DECISION

7.1. Basis for Decision

FDOT, in coordination with FRA, proposes to implement HSR service in the initial segment of the Florida High Speed Rail Corridor between Tampa and Orlando. The purpose of FHSR is to enhance intercity passenger mobility in Florida by expanding passenger transportation capacity and providing an alternative to highway and air travel. Increased mobility is viewed as essential for the sustained economic growth of the region, as well as the quality of life of the region's residents and visitors. Presently, passenger mobility in the Tampa-Orlando corridor is provided primarily by highways, particularly I-4. Projected transportation demand and travel growth, as prompted by social demand and economic development and compared to existing and future roadway capacity, show a serious deficit in available capacity. In addition, increasing population, employment, and tourism rates continue to elevate travel demand in the study corridor. Implementation of the FHSR project will help address these needs. In addition, the Passenger Rail Investment and Improvement Act of 2008 established high-speed rail corridor development as an important component of the Nation's transportation policy. Implementation of the FHSR Project is consistent with the Department of Transportation and FRA's vision of the important role high-speed intercity passenger rail can play in certain travel markets (see *Vision for High-Speed Rail in America*, April 2009 <http://www.fra.dot.gov/downloads/rrdev/hsrstrategicplan.pdf>) In the 2005 FEIS, gas turbine-powered technology was identified as the Preferred Alternative. Since then, the electric-powered technology has emerged as the preferred technology, on the same alignment, based on the current initiatives to reduce carbon emissions and dependency on foreign oil. The 2005 FEIS and the 2009 Reevaluation have shown that environmental impacts have been minimized with the selection of the alignment along existing transportation corridors.

The FRA, in accordance with NEPA and the NEPA implementing regulations (40 CFR Parts 1500-1508; 64 FR 28545 and 23 CFR Part 771), finds that the requirements of NEPA have been satisfied for FHSR Rail Tampa – Orlando project.

The environmental record for FHSR Tampa-Orlando Corridor includes the Draft EIS (August 2003), the Final EIS (July 2005), the Reevaluation to the FEIS (October 2009), and the comments from the circulation of the 2005 Final EIS. These documents represent the detailed analysis and findings required by NEPA on:

- The environmental impacts of the proposed project
- Alternatives to the proposed project
- Irreversible and irretrievable impacts on the environment which may be involved in the proposed project should it be implemented.

On the basis of the evaluation of social, economic, and environmental impacts contained in the DEIS, FEIS, FEIS Reevaluation and the written and oral comments offered by the public and by other agencies, the FRA determines that:

- Adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest, and fair consideration was given

to the preservation and enhancement of the environment and to the interest of the communities in which the proposed project is located and

- All reasonable steps were taken to minimize adverse environmental effects of the proposed project, and where adverse environmental effects remain, they have been fully reported in the DEIS, FEIS and FEIS Reevaluation.

The extensive opportunities provided for public and other stakeholder involvement in Project planning and decision-making are described in Chapter 6 of the 2005 FEIS and summarized in **Appendix C** of this ROD. The reasonable steps to minimize adverse environmental effects are described in Chapter 4 of the 2005 FEIS, Chapter 4 of the FEIS Reevaluation and are summarized in Appendix B of this ROD.

This ROD also documents compliance with other applicable federal environmental laws, rules and regulations as follows:

7.2. Section 106 of the National Historic Preservation Act

Section 106 of the NHPA of 1966 requires that any federal agency having direct or indirect jurisdiction over a proposed federal or federally assisted undertaking take into account the effect of the undertaking on any district, site, building, structure, or other object that is listed or eligible for listing on the National Register of Historic Places. Under this provision, the NEPA lead agency, the State Historic Preservation Officer (SHPO), affected Native American tribes, and other “consulting” parties participate in a consultation process regarding the potential effects of the undertaking on historic resources. Coordination with the Florida SHPO includes:

- Concurrence with Cultural Resource Assessment Survey (CRAS) Methodology and Area of Potential Effect (APE), March, 2003
- SHPO Concurrence with Corridor Study CRAS Findings, April 15, 2003
- SHPO Concurrence for PD&E CRAS Findings, September 15, 2003
- SHPO Concurrence on Section 106 Findings, January 5, 2004

Through this coordination it was determined that the Revised Preferred Alternative, based on a set of stipulated conditions, would have a “conditional no adverse effect” on historic resources.

7.3. Floodplains and Floodways Finding

DOT Order 5620.2 implements Executive Order 11988, *Floodplain Management and Protection*. These orders state that FRA may not approve an alternative involving a significant encroachment unless FRA can make a finding that the proposed encroachment is the only practicable alternative. The major purposes of Executive Order 11988 are to avoid Federal support for floodplain development; to prevent uneconomic, hazardous, or incompatible use of floodplains; to restore and preserve the natural and beneficial floodplain values; and to be consistent with the standards and criteria of the National Floodplain Insurance Program.

FRA concludes that the Project will not result in any substantial adverse impact on natural and beneficial values of the floodplains, will not result in a substantial change in flood risks or

damage, and will not have a substantial potential for interruption or termination of emergency service and evacuation routes.

7.4. Wetlands Finding

Presidential Executive Order 11990, "Protection of wetlands," directs federal agencies to avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative. The following sets forth the basis for this finding for the Project.

The Revised Preferred Alternative (Alternative 5) would result in 35.8 acres of potential wetland impacts resulting from the electric powered technology, of which 11 are considered high quality wetlands. Wetland impacts, which would result from the construction of FHSR, are proposed to be mitigated pursuant to S. 373.4138 F.S. to satisfy all mitigation requirements of Part IV, Chapter 373, F.S. and 33 U.S.C.1344. Impacts to wetlands by the Project cannot be practicably avoided or minimized beyond present efforts and identified mitigation measures are included in Appendix B.

Based upon the above considerations, FRA determines that, under the requirements of Executive Order 11990, there are no practicable alternatives to the proposed construction in wetlands, and that the proposed action includes all practicable measures to minimize harm to these resources.

7.5. Endangered Species Finding

There are 24 federal and/or state protected species that have the potential or are known to occur within the FHSR study area. Six of those species are reptiles and amphibians, eleven are birds, five are mammals, and the remaining two are plants. Because the design/build alternatives use existing transportation corridors that pass through potential habitat, any of the alternatives may affect some potential sites, but it is not likely to adversely affect any of the species. Furthermore, the FDOT has committed to providing wildlife crossings in Polk County along I-4 during construction of the ultimate interstate improvements, including the FHSR project.

The Revised Preferred Alternative will have "no effect" on the following species: American alligator, Everglades snail kite, Florida pine snake, Florida scrub jay, Florida burrowing owl, Southeastern American kestrel, Florida panther, manatee, Florida black bear, and protected plant species. The Revised Preferred Alternative "may affect, is not likely to adversely affect" the following species: Eastern indigo snake, gopher tortoise, Florida mouse, gopher frog, sand skink, Florida sandhill crane, bald eagle, wood stork, state protected wading bird species, and Sherman's fox squirrel. As part of mitigation commitments, FDOT will continue to coordinate with USFWS, the WMDs, and FFWCC to develop design and construction methods to avoid and minimize impacts to these species."

FRA has determined that no formal consultation in accordance with Section 7 of the Endangered Species Act is required based upon the findings summarized above.

7.6. Environmental Justice Finding

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, requires that each Federal Agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

The Project is within an existing transportation corridor and would not bisect any minority or low-income neighborhoods nor require the displacement of any residences in those neighborhoods. The anticipated human and environmental effects of the Project would not be disproportionately borne by the minority or low-income populations within the study area. Based upon these findings, FRA determines that the Project is in accordance with requirements of Executive Order 12898.

7.7. Section 4(f) Determination

Section 4(f) of the US Department of Transportation (DOT) Act of 1966 stipulates that DOT agencies cannot approve the use of land from publicly owned parks, recreation areas, wildlife refuges, or public and private historical sites unless there is no feasible and prudent alternative to such use and the project includes all possible planning to minimize the harm to the property resulting from use.

The Section 4(f) evaluation for the potential HSR alignments and stations documented in Section 5 of the FEIS and Section 4.4 of the FEIS Reevaluation indicates that one Section 4(f) resource, Perry Harvey Sr. Park, will be used by the project. The supporting information in the FEIS Reevaluation, summarized below, demonstrates that there are unique problems or unusual factors involved with any alternative that would avoid this Section 4(f) property. Potential avoidance alternatives fail to meet the project purpose and need, fail to meet the objectives of those responsible for the resource used, or result in impacts of extraordinary magnitude to the environment or the community.


Based on the documentation presented in the FEIS and updated in the FEIS Reevaluation, the FRA has determined that:

- The Project is a feasible and prudent alternative with the least harm to Section 4(f) resources;
- There is no feasible or prudent alternative to the use of the above Section 4(f) resources; and
- The Project includes all possible planning to minimize harm to the resources resulting from such use. These measures are identified included in Attachment A.

During preparation of the 2005 FEIS it was determined that there would be a potential for moderate noise level increases (proximity effects). An evaluation of vibration, access, aesthetics, and ecological encroachment indicates that the Project will not substantially impair or diminish the use of the park, and a determination was made that there will be no constructive use. These conclusions have not changed. Coordination with the City of Tampa includes a memorandum in the FEIS Reevaluation identifying the continued commitment of FDOT to meet the specific commitments and stipulations identified in the TIS FEIS.

8. CONCLUSION

The FRA has reached a decision based on the information and analysis contained in the 2005 FEIS and the 2009 FEIS Reevaluation. FRA selects the FEIS Reevaluation Revised Preferred Alternative, also described in this document as 2005 FEIS Alternative 5, with electric powered technology, because this alternative: 1) best satisfies the Purpose and Need, 2) minimizes impacts to the natural and human environment through the use of existing transportation corridors and other adopted mitigation measures, 3) has been selected based on processes in compliance with NEPA and other applicable requirements, and 4) may be advanced.



Joseph C. Szabo
Administrator
Federal Railroad Administration

Date: 5/7/10

Attachments:

- Appendix A - Final Environmental Impact Statement Reevaluation
- Appendix B - Mitigation and Commitments
- Appendix C - Public Involvement/Comment Summary

EXHIBIT 2

OIA to I-4 at World Center Dr.

- SR 417 = 16.7 miles (alternative alignment = 17.2 miles)
- Taft-Vineland Rd = 17.8 miles

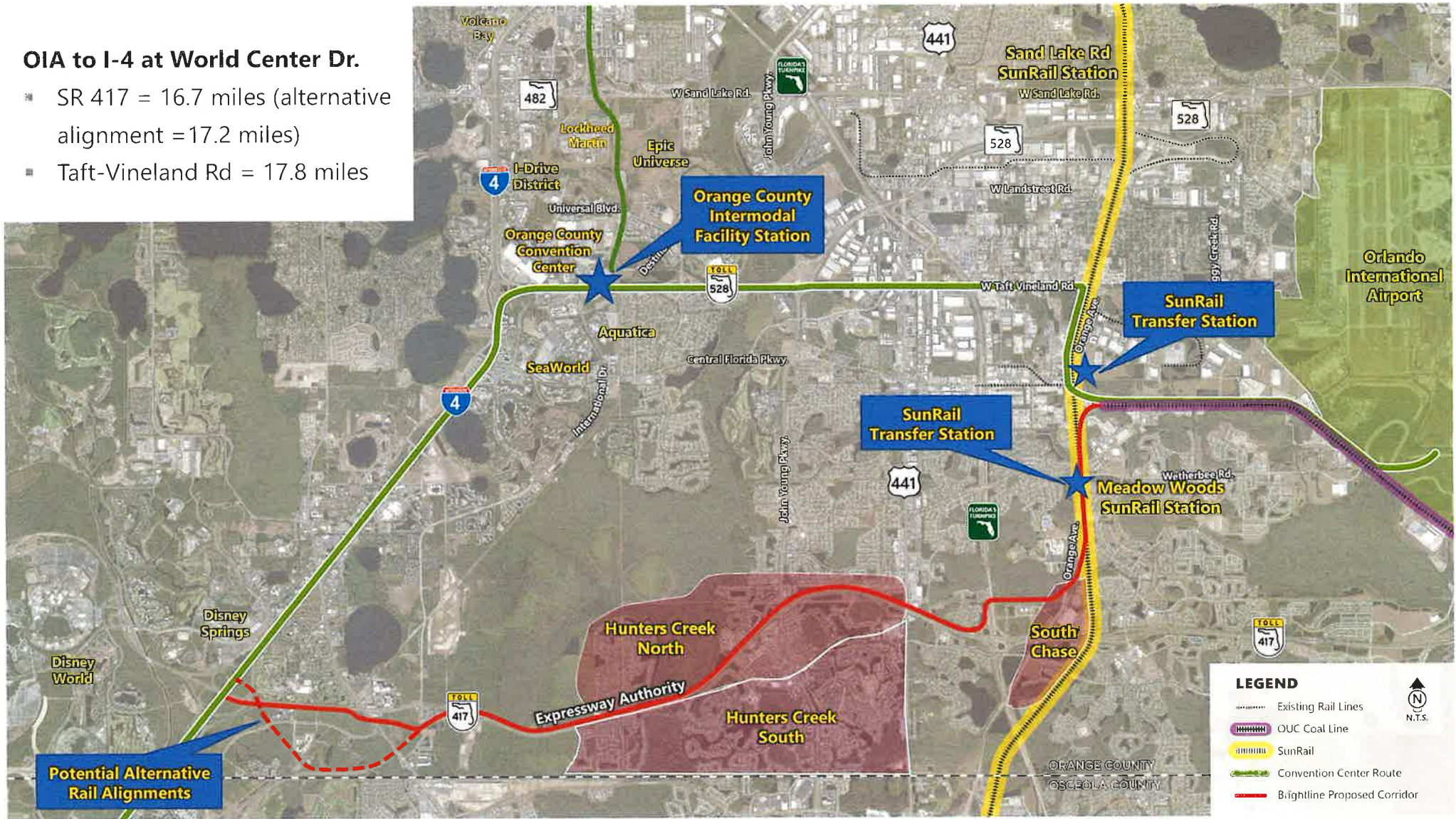
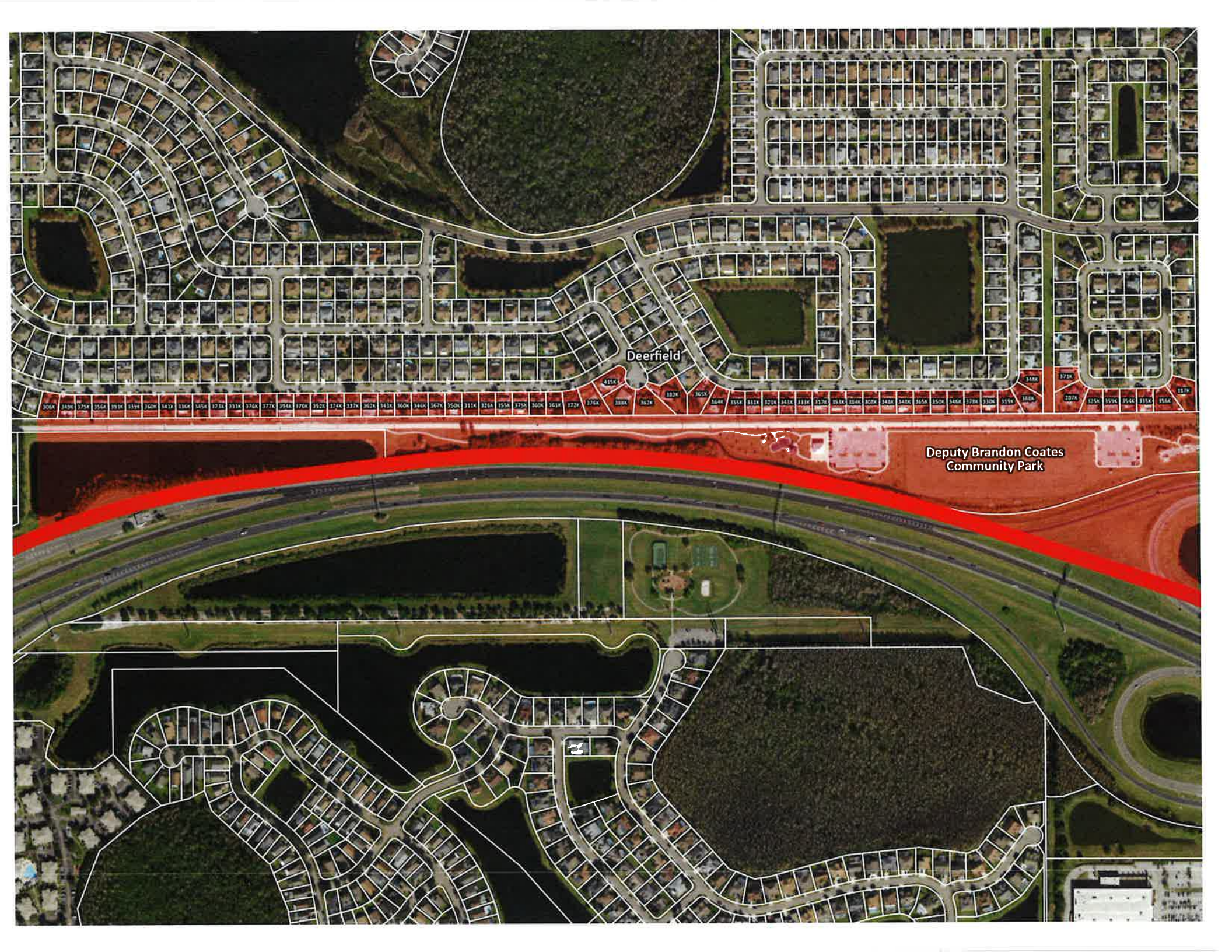


EXHIBIT 3



Deerfield

Deputy Brandon Coates
Community Park



EXHIBIT 4



EXHIBIT 5

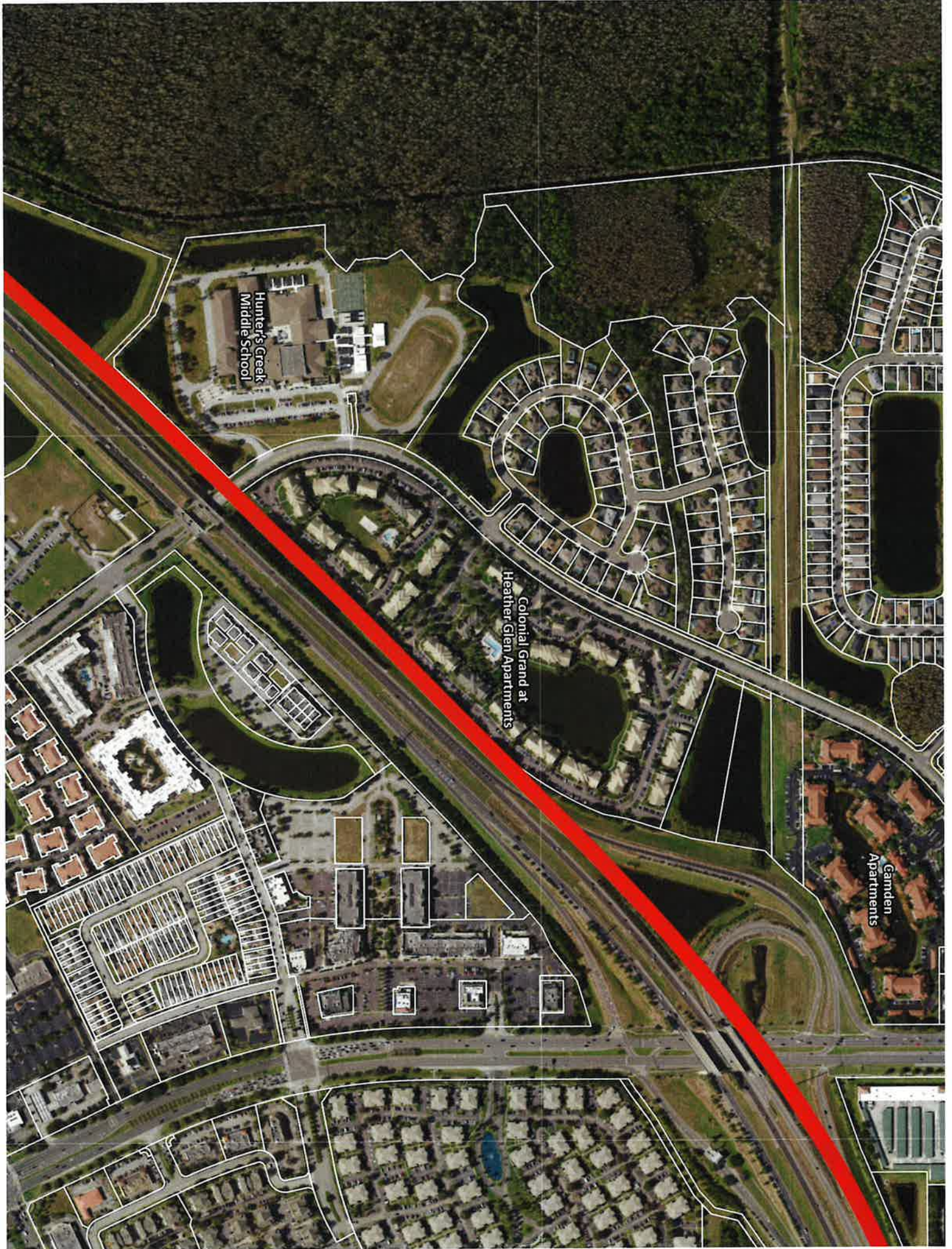


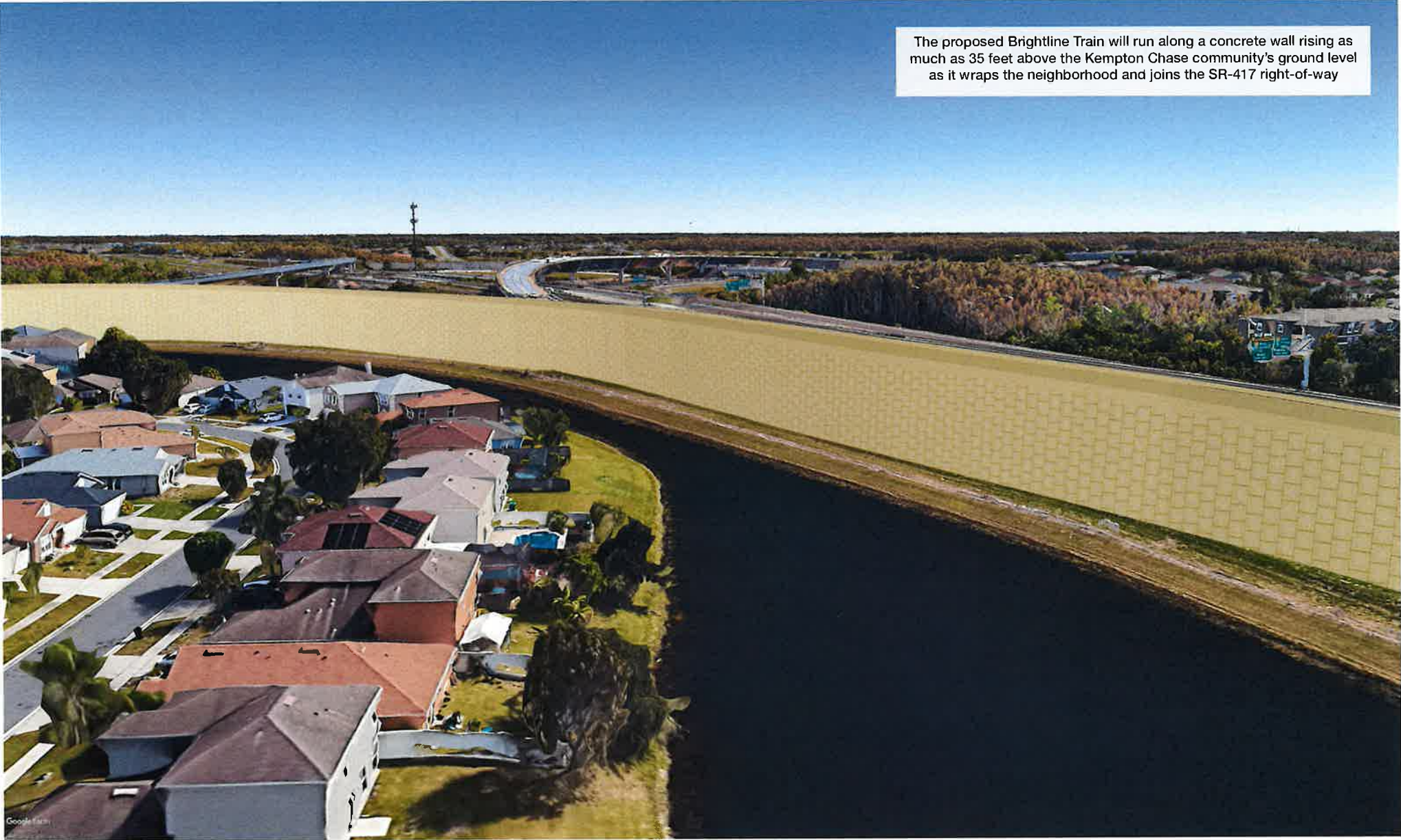
EXHIBIT 6

Environmental



EXHIBIT 7

The proposed Brightline Train will run along a concrete wall rising as much as 35 feet above the Kempton Chase community's ground level as it wraps the neighborhood and joins the SR-417 right-of-way





A view of the proposed Brightline Train's concrete wall as it wraps the Kempton Chase community and joins the SR-417 right-of-way



A view of the proposed Brightline Train's concrete wall as it wraps the Kempton Chase community and joins the SR-417 right-of-way



The proposed Brightline Train will run along a wall approximately 30 feet above this Heather Glen apartment complex located off of Town Loop Boulevard

A view of the proposed Brightline Train's elevated wall as it runs adjacent to Hunter's Creek Middle School and crosses 30 feet above Town Loop Boulevard



A view of the proposed Brightline Train's elevated wall as it crosses 32 feet above Hunter's Vista Boulevard. The 15% completed plans show the proposed Hunter's Creek Station on top of the wall immediately adjacent to homes on Islamorada Drive



A view of the Brightline Train's elevated wall as it crosses 30 feet above Hunter's Vista Boulevard. It runs adjacent to Tacon Drive and descends to just above ground level at West Creek Elementary School





Town Loop Boulevard

Hunter's Creek Middle School



Hunter's Vista Boulevard

Tacon Drive

Jetton Drive







Hunter's Vista Boulevard



Islamorada Drive







Islamorada Drive

EXHIBIT 8

Drone Videos – You Tube

International Drive Resort Area Chamber of Commerce

https://www.youtube.com/channel/UCvvlg_Wo2HyLtDCu1a3jplA

EXHIBIT 9

Amy Sirmans, PE
PD&E, ACE



Education

MS, Civil Engineering, Florida
Atlantic University, 2015

BS, Environmental
Engineering, University of
Florida, 1998

Registrations/Certifications

Professional Engineer, FL,
02/2021 (reg# 59502)

Certified Public Manager, FL

Amy is a highly experienced professional with over 22 years of experience in Transportation Planning and Project Development. She has served as the Project Manager for multiple Project Development and Environment (PD&E) studies on both FDOT and private sides. Amy managed the Poinciana Parkway and Southport Connector Alternative Corridor Evaluation (ACE) projects for FDOT and assisted in the development of the ACE scoping language. She previously served as a LAP design project manager, PD&E project manager, PD&E Engineer and Project Development Manager for FDOT District 5. Amy was also formerly the District 4 Contamination Impact Coordinator. Amy was a member of the SHRP2 grant project to conduct a Value Engineering study of the FDOT NEPA process and is a TRB panel member for Evaluating Resiliency in Transportation.

22 years of professional experience

FDOT District 5, Planning & Environmental Management Office, DeLand, FL

Prior to VHB, Amy served as Manager of the FDOT District Five Project Development Unit responsible for conducting Feasibility Studies, Planning and Concept Development Studies, Complete Street projects and PD&E Studies associated with multimodal transportation projects. She handled all aspects of public involvement activities including meeting with elected officials, agency staff, private citizens and responded to public comments. Amy served as the FDOT District Five Statewide Acceleration and Transformation (SWAT) Team representative responsible for developing process to streamline projects through the PD&E and final design phases. Amy was also a member of the team to obtain NEPA assignment from Federal Highway Administration (FHWA) for the State of Florida, giving FDOT review and approval authority for highway projects under NEPA and other federal laws. This effort entailed an extensive update to FDOT policies, manuals, and guidance; training of NEPA practitioners in the state; updates to document repositories and individual District and staff audits from FHWA.

FDOT District 5, I-4 Poinciana Parkway Connector ACE Study, Osceola County, FL

Prior to VHB, as Project Manager, Amy prepared an alternative corridor evaluation study to meet PEL regulations for a new roadway connection between the Poinciana Parkway and I-4. This evaluation involved the development of potential corridors and comparative analysis based on preliminary engineering, environmental impacts, and public involvement. Coordination was conducted throughout the study between Osceola County Expressway Authority, FDOT, FHWA, local agencies, and other stakeholders, along with extensive public outreach.

FDOT District 5, Southport Connector ACE Study, Osceola County, FL

Prior to VHB, as Project Manager, Amy prepared an alternative corridor evaluation to meet PEL regulations for a new roadway connection between the Poinciana Parkway and Florida's Turnpike. This evaluation involved the development of potential corridors and comparative analysis based on preliminary engineering, environmental impacts, and public involvement.

FDOT District 3, I-10 at CR 4 (Antioch Road) PD&E Study, Okaloosa County, FL

Amy served as the Project Manager for the PD&E study of the realignment of PJ Adams Parkway over I-10 with addition of an interchange. The study is a portion of the future Crestview Bypass and analyzed multiple interchange locations and types along with the associated roadway connections. VHB performed all engineering services required by FDOT and FHWA and analyzed all social, economic, and environmental effects and mitigation. VHB prepared environmental documents, engineering reports, preliminary plans, and public hearing documentation.

FDOT District 3, SR 85 Feasibility Study, Okaloosa County, FL

VHB was selected to conduct a feasibility study for SR 85 from SR 123 to I-10 (SR 8). The study provided the documented information necessary to determine fatal flaws, logical termini, purpose and need, and corridors or alternatives that met performance metrics identified in the purpose and need. As part of the project, VHB analyzed and assessed the existing and future traffic and the project's impact on the social, economic, cultural, natural, and physical environment. Amy served as a Technical Advisor for this project.

Orange County, SR 436 / Little Econ Trail Phase 3 Bridge Feasibility Study, Orange County, FL

Amy served as the Project Manager for the SR 436 Pedestrian Bridge Feasibility study to analyze multiple alternative bridge and at-grade crossings of SR 436 at Baldwin Park Street in Orlando, FL. The study includes an existing conditions analysis, concept development, public outreach, stakeholder coordination, cost estimating and further refinement of the preferred alternative.

FDOT District 1, SR 684 (Cortez Road) Access Management Public Hearing, Manatee County, FL

VHB was selected to conduct an Access Management Public Hearing for FDOT District 1. Amy served as the Project Manager for this task and was responsible for all activities required to conduct an official Hearing. This was an expedited schedule and included the creation of mailing lists, meeting notices, website information, recorded video presentation, boards, handouts and all other meeting materials.

FDOT District 5, Public Involvement for Design CSC, FL

VHB currently holds a Continuing Service Contract for design projects with FDOT District Five. Under this contract Amy has served as the Task Lead for all public involvement activities, including public meetings, public hearings, and stakeholder coordination. Amy and her team have conducted or are currently preparing for public involvement meetings for six different design projects throughout the District. Public involvement activities include face-to-face public meetings held prior to COVID-19, virtual public meetings held under COVID-19 protocols, and hybrid virtual/face-to-face meetings under the most recent FDOT public involvement guidelines.

FDOT District 5, SR 50 Realignment PD&E Study, Lake County, FL

Prior to VHB, Amy served as Project Manager of the PD&E Study for the State Road 50 bypass / realignment in the Town of Groveland, FL. This study involved preliminary engineering, preparation of environmental documents, and public involvement to meet the requirements of NEPA. Coordination was conducted throughout the study between local agencies, FDOT and FHWA, in addition to all stakeholders.

EXHIBIT 10



Steve McElligott, PE

Principal-in-Charge

Firm VHB

Education

BS, Civil Engineering,
University of
Massachusetts Lowell,
1992

MS, Civil Engineering,
University of
Massachusetts Lowell,
1992

Registrations/ Certifications

Professional Engineer
(Structural), MA

Relevant Years of
Experience
28

Steve is recognized as a proven leader in the industry, bringing 25 years of experience providing management, oversight, technical excellence and/or strategic guidance on transit and transportation programs across the country. His extensive experience includes technical delivery of comprehensive multidisciplinary infrastructure engineering solutions with proficiency in rail transit systems engineering. He has provided leadership and strategic guidance in support of some of the region’s most critical mobility projects, including Amtrak’s New Jersey High-speed Rail Improvement Program, Miami Dade Transit’s East-West Corridor, and the St. Louis Metro Cross County Extension. Steve applies his extensive experience and best practices to help integrate and align VHB’s Transit & Rail resources to develop responsive solutions to mobility issues affecting our clients nationwide.

PANYNJ, PATH Extension to the NEC Rail Link Station Planning and NEPA Support, Newark, NJ

Steve is the Principal-in-Charge of planning, engineering, and environmental analyses as part of a consultant team retained by PANYNJ to advance the potential extension of PATH from Newark Penn Station to the Newark Liberty International Airport Rail Link Station, including a connection to the AirTrain monorail system at the airport. This project includes the potential 2.4-mile extension and an associated station connection, modifications to the Rail Link Station, PATH supporting infrastructure including a new storage yard and substations, a potential park-and-ride and intermodal facility, and support for transit-oriented development. An Environmental Impact Statement is being prepared in accordance with NEPA and FTA Capital Investment Grant guidelines.

MBTA, South Coast Rail Expansion, Fall River and New Bedford, MA

For the Massachusetts Bay Transportation Authority (MBTA), Steve was Principal-in-Charge and Joint Venture Board Member for the preliminary engineering and PM/CM of the MBTA’s South Coast Rail Expansion to Fall River and New Bedford. He was responsible for ensuring that the project was adequately staffed and contracted in a reasonable manner, client expectations were met on a regular basis, the company was performing in accordance with contractual requirements earning according to our contractual potential. Steve provided high level oversight with respect to satisfactory delivery of our services.

NJ TRANSIT, 1st and 2nd Street bridges over the Morris and Essex Line, Newark, NJ

Steve was Project Manager for all electric traction, track and signal design associated with the reconstruction of the 1st and 2nd Street bridges over New Jersey Transit’s Morris and Essex Line in Newark. He was responsible for coordinating the bridge

demolition and reconstruction with railroad operations in order to provide uninterrupted revenue service. Key elements included temporary support and relocation of overhead catenaries, development of ballast fouling prevention measures and temporary support of high voltage and signal conductor conduits during abutment reconstruction.

NJ TRANSIT, East Hanover Avenue Bridge Replacement, New Jersey

Steve was OCS Engineer for the replacement of the East Hanover Avenue Bridge over New Jersey Transit's M&E Line in New Jersey. He provided construction phase services during the bridge replacement with key responsibilities that included the review of all structural steel and OCS hardware shop drawings. In addition, he modified the design of new catenary structure foundations from spread footings to concrete piers in order to facilitate construction and minimize disruptions to revenue service.

NJ TRANSIT, Montclair Connection Value Engineering

Steve was part of a team assembled to perform a value engineering study of New Jersey Transit Corporation's Montclair Connection Project. His duties included review of the proposed 11-mile compound catenary system and its associated portal structure and single pole bracket arm supports and foundations. Steve's experience in OCS and support structure design and construction contributed to recommendations by the team for potential cost savings of millions of dollars.

NJ TRANSIT, Roseville Interlocking Design

Steve was Lead OCS Engineer for New Jersey Transit Corporation's Roseville Interlocking Design. He designed the OCS modifications required to create a two-track connection of the Montclair Branch to the Morris and Essex Lines. He analyzed the impacts of various proposed track alignments on the ET facilities, and relocating and adding OCS elements as required. Steve also prepared contract drawings for all elements of the OCS including assemblies, structural supports and foundations and wiring plan and profiles.

MassDOT, South Station Expansion, Boston, MA

Steve was a member of the executive oversight team for MassDOT's South Station Expansion project in Boston, which is part of the vision for the New England High-Speed and Intercity Rail Network. He was responsible for project direction, staffing and contract compliance. The project includes the completion of all necessary environmental reviews, as well as preliminary engineering (30-percent design) required for the expansion of Boston's South Station and the development of a new rail vehicle layover facility. Work includes constructing seven new tracks, which will expand South Station capacity from 13 to 20 tracks, and reconfiguring three critical track interlockings.

EXHIBIT 11

MEMORANDUM OF UNDERSTANDING
BETWEEN
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AND
BRIGHTLINE TRAINS FLORIDA LLC

This **MEMORANDUM OF UNDERSTANDING** ("**MOU**") is made and entered into by and between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, ("**CFX**") and **BRIGHTLINE TRAINS FLORIDA LLC**, a Delaware limited liability company and any of their respective successors and assigns ("**BRIGHTLINE**"); collectively referred to as the "**Parties**".

In 2018, the Florida Department of Transportation ("**FDOT**") advertised a Request for Proposals (RFP) for a high-speed intercity passenger rail system ("**High-Speed Rail Project**") from Orlando to Tampa, Florida. **BRIGHTLINE** was the sole responder and was given the opportunity to negotiate with **FDOT** and **CFX** for the use of rights of way for the High-Speed Rail Project. **BRIGHTLINE**'s preferred alignment includes a portion of SR 417 owned and operated by **CFX** from the SR 417/Florida's Turnpike interchange to the SR 417/ International Drive interchange (the "**CFX Corridor**").

The Parties desire to negotiate and enter into a Contract for Sale and Purchase of a Rail Line Easement and Rail Line Easement and Maintenance Agreement to grant **BRIGHTLINE** an easement of the **CFX Corridor** (the "**Definitive Agreements**"), on terms and conditions mutually satisfactory to the Parties and including, without limitation, the following:

- (1) **BRIGHTLINE**'s 15%, 30%, 60%, 90% and final design plans contemplating use of **CFX** right of way for the High-Speed Rail Project must be reviewed and approved by **CFX** before construction of the High-Speed Rail Project can begin.
- (2) **BRIGHTLINE** shall obtain and deliver to **CFX** a ridership and toll diversion study using the mutually acceptable methodology set forth on Exhibit A. **CFX** shall independently review and analyze the ridership and toll diversion study. **CFX** shall agree to place the Rail Line Easement and Maintenance Agreement, granting the easement interests over the **CFX Corridor**, into escrow after the execution of the Definitive Documents. **CFX** and **BRIGHTLINE** shall mutually agree upon the amount of the payment due to **CFX** for any toll diversion prior to closing on the easement interest over the **CFX Corridor** as contemplated in the Contract for Sale and Purchase of a Rail Line Easement. Any payment due to **CFX** by **BRIGHTLINE** for the toll diversion shall be paid to **CFX** at the closing. The Definitive Agreements shall provide that any changes or revisions to the High-Speed Rail Project, or any expansion of the High-Speed Rail Project, shall require **CFX** approval and may require an additional ridership and toll diversion study and negotiation. Toll diversion payments from **BRIGHTLINE** must be paid to **CFX** in advance of the commencement of construction of any changes or revisions.

- (3) The Definitive Agreements shall provide that BRIGHTLINE shall compensate CFX for the use of the CFX Corridor and any reconfiguration of SR 417 within the CFX Corridor that may be required as a result of the High-Speed Rail Project.
- (4) BRIGHTLINE shall agree to indemnify and hold harmless CFX, for all potential claims or actions resulting from that certain Stipulated Final Judgment between CFX's predecessor in interest and American Newland Associates, et al. ("Plaintiff") entered by the Circuit Court of the Ninth Judicial Circuit, Orange County, Florida on October 20, 1992 and recorded in Official Records Book 4477, Page 3855, Public Records of Orange County, Florida, and that certain Joint Stipulation for Entry of Final Judgement as to Parcels 45-101, 45-202, 45-706 and 45-806 and Settlement Agreement for the Inverse Claim by the Defendant Arising from the Right-of-Way Reservation Map executed on October 19, 1992, whereby the Plaintiff reserved the right to seek additional compensation for additional damages imposed on its remaining lands as a consequence of CFX's predecessor, or CFX, as its successor in interest, permitting in the future the use of all or part of the right-of-way taken pursuant to the terms thereof for non-roadway forms of transportation, such as magnetic levitation trains, high speed rail systems, or any other use not contemplated in the plans provided as evidence for the condemnation of the Plaintiff's real property (collectively, the "Settlement Agreement"). Nothing in the foregoing is intended or should be construed to be an acknowledgement of liability with respect to any claims arising under the Settlement Agreement. BRIGHTLINE and CFX shall agree upon a method of providing reasonable assurances of BRIGHTLINE's financial ability to perform the foregoing indemnity obligation, which may be in the form of a bond, letter of credit or cash escrow, in the Definitive Agreements.
- (5) BRIGHTLINE agrees that freight movement will be prohibited along CFX right of way and that CFX's approval for use of High-Speed Rail Project in the CFX Corridor is limited to BRIGHTLINE's and SunRail's use only.
- (6) BRIGHTLINE shall use reasonable efforts to obtain approval from the Central Florida Commuter Rail Commission (CFCRC) Governing Board for Sunrail's use of the BRIGHTLINE rail improvements constructed from the Orlando International Airport to a mutually agreed upon train stop on mutually acceptable terms as part of the High-Speed Rail Project prior to the closing on any easement interests on CFX sections on the CFX Corridor.

If BRIGHTLINE reaches agreements with the City of Orlando and the Orlando Utilities Commission (OUC) for use of the OUC railroad corridor and with the City of Orlando and the Greater Orlando Aviation Authority for use of Orlando International Airport (OIA) property), to access the SunRail/FDOT corridor, BRIGHTLINE will ensure that the design, construction, and operation of Brightline's improvements within the OUC railroad corridor and on OIA property do not interfere with the expansion and

provision of SunRail service to OIA to accommodate 15 minute headways. Brightline agrees that any such improvements may be jointly used by Brightline and SunRail on mutually acceptable terms and will be designed and constructed accordingly.

BRIGHTLINE and the CFCRC will cooperate to ensure that their respective stations are designed/constructed in a manner that will allow them to potentially serve customers transitioning from SunRail to BRIGHTLINE and vice versa.

This MOU shall be effective unless terminated (a) by BRIGHTLINE, by written notice to CFX, (b) by CFX, if BRIGHTLINE fails to continue to advance the High Speed Rail Project and such failure is not cured after CFX provides thirty (30) days' written notice of such failure to BRIGHTLINE, or (c) automatically if FDOT has notified BRIGHTLINE of its termination of the RFP process for the High-Speed Rail Project. Any obligations or expenses incurred that are due and owing as of the date of termination and that are reimbursable by BRIGHTLINE to CFX, including the costs incurred by CFX for any studies or appraisals, shall survive the termination of this MOU unless superseded by terms in the Definitive Documents.

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding to become effective as of the last date as executed by the duly authorized representatives of the Parties below ("Effective Date").

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____
Its: _____
Date: _____

BRIGHTLINE TRAINS FLORIDA LLC

By: _____
Its: _____
Date: _____

Exhibit "A"

Facility Impacts	FTE													
Example Market Pair	SR-821 (HEFT)	SR-91 Mainline	SR-869 Sawgrass Expressway	SR-417 Southern Connector Extension	SR-417 Seminole Expressway	SR-528 Beachline East	SR-528 Beachline West	SR-429 Daniel Webster Western Beltway	SR-570 Polk Parkway	I-4 Connector	SR-589 Veterans Expressway	SR-589 Suncoast Parkway	Alligator Alley	FTE TOTAL
Transactions														
Trips shifted from roadway to Brightline														
Change in trips for station access/egress due to shift to Brightline														
Station access/egress trips for newly induced Brightline trips														
Transactions total														
Revenues														
Trips shifted from roadway to Brightline														
Change in trips for station access/egress due to shift to Brightline														
Station access/egress trips for newly induced Brightline trips														
Revenue total														

Facility Impacts	CFX							
Example Market Pair	SR-528 Beachline Expressway	SR-408 East-West Expressway	SR-417 CF GreeneWay	SR-429 Western Beltway	SR-414 Apopka Expressway	SR-451	SR-453	CFX Total
Transactions								
Trips shifted from roadway to Brightline								
Change in trips for station access/egress due to shift to Brightline								
Station access/egress trips for newly induced Brightline trips								
Transactions total								
Revenues								
Trips shifted from roadway to Brightline								
Change in trips for station access/egress due to shift to Brightline								
Station access/egress trips for newly induced Brightline trips								
Revenue total								

Scope for a Refresh of Brightline Ridership and Toll Road Routing Studies
May 25th, 2021

Introduction

Brightline will hire demand and revenue consultants to conduct refreshes of WSP's past ridership and toll road routing studies. The consultants will communicate with and seek feedback from CFX, FTE, and their consultants at various points during the undertaking of the studies. The scopes for these refreshes are outlined in this memo below.

Refresh of Ridership Study

The consultant will conduct a refresh of the ridership and revenue forecasts contained within The Brightline Ridership and Revenue Study, prepared by WSP in 2018.

The refresh will include the following additions and updates:

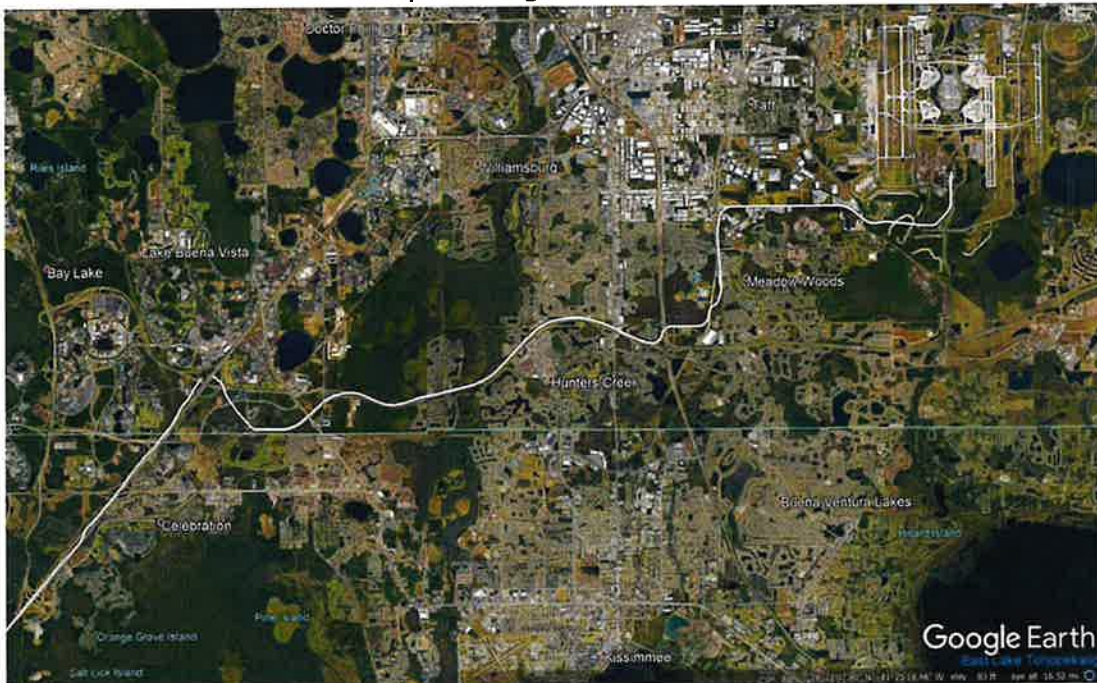
- Consideration in the model of only all committed stations – Miami, Aventura, Fort Lauderdale, Boca Raton, West Palm Beach, Orlando Airport, Walt Disney World, and Tampa.
- Commentary on expectations of post-pandemic travel and economic recovery and its impacts on travel by various modes.
- Commentary on the ramping up of ridership on the existing short-distance Brightline service in South Florida, and the expectations of stabilized demand. The actual operating conditions of initial Brightline service in South Florida (including by-station boarding and alighting figures), alongside ramp-up and early-year operational considerations, will be taken into account in the calibration of the short-distance mode choice model.
- Updated and more granular zonal structure and additional road network in the Orlando and Disney regions to allow for more reliable estimation of the potential impacts of diversion on CFX and FTE facilities.
- Update of actual and expected Brightline service parameters with regard to station locations, travel times, frequency, service alignment as it pertains to service parameters, capacity limitations on certain station pairs (especially short-distance pairs), and fares. Actual Brightline service parameters in South Florida prior to the COVID-19 pandemic will be incorporated in this update as applicable.
- Updated access and egress travel times and travel costs, as well as auto travel times between all origin and destination pairs, for all model years, using the most relevant regional and statewide travel demand models. Revisit in-station wait times for non-auto modes based on station size, location and design. The vehicle occupancy assumptions for auto trips will also be revisited as part of this study update.
- An upgraded model architecture that allows for the simultaneous consideration of short- and long-distance travel in the same model run, as well as be nimbler with the greater number of zones being requested in the refresh.
- An updated sensitivity test for assessing the impact of lower fares.
- Travel pattern data from a Big Data origin-destination dataset, as well as from entry-exit toll payment counts on the Florida's Turnpike mainline will be provided to the consultant by Florida's Turnpike Enterprise, and this data will be evaluated in the context of establishing the adjustment factors (for local trips and captive trips) for long-distance trips between South Florida and Central Florida. This data will be compared with the origin-destination data purchased from third-party data provider AirSage for previous studies by WSP. The origin-destination dataset used for the study will utilize the

best plausible blend of data sources available, a determination which will take into account the sources, methodologies, and date of the various datasets available.

- With the announced transfer of DME to a paid bus service (run by the same contractor), a revised approach to the short distance Orlando-Disney market will be developed – the consultant will re-evaluate the trip count estimates and mode shares for this station pair, including Brightline’s potential capture of previously captive trips. This analysis will take into account rail capacity limitations, including Brightline’s stated business focus on serving long-distance trips as the priority. As such, the ridership for this pair will be assessed in light of Brightline’s latest business plans and capacity information as of the date of the study.
- The base year to which the mode choice model is calibrated will be 2019.
- The report will document post-calibration alternative specific constants from the ridership model.

The refreshed study will continue to rely on the 2018 study for all other key points, including the following items:

- The Brightline route between the Orlando International Airport and Disney stations will utilize the SR 417 corridor. Please see below a map indicating the corridor that will be assumed for the study.



- The study will contain one build scenario that will initially assume 18 trains in each direction per day – with a further assessment and discussion should the study show demand results that are materially above or below the capacity implied by this number of trains. The schedule will include 1-hour headways and each train will stop at each station along the route.
- The broad structure of the mode choice ridership model used to calculate ridership figures and mode choice figures from the various key inputs (trip tables, existing mode choice, value of time, etc.). To provide the level of detail typical for outputs of a detailed ridership study, the mode choice model has the following attributes:

- Structure to estimate mode choice by time of day, income segment, trip-purpose segment, and station pair.
- Level of service parameters for the existing modes of travel that have been benchmarked against multiple data sources.
- Ability to conduct sensitivity tests for alteration in fare prices, value of time, socioeconomic inputs, travel market growth, and other key parameters.
- Zone structure to allow for reasonable estimation of station/access egress costs.
- Value of time inputs based on stated preference surveys previously conducted by WSP.
- Prior assumptions concerning captive markets, with regard to:
 - What share of travelers in general aren't candidate to shift to Brightline service due to their need for a car.

Following the ridership model development described above, the consultant will develop annual ridership and revenue forecast estimates. The forecast will include the following metrics:

- Annual level of ridership and revenue by station pair.
- Estimated boardings and alightings for all stations listed above.
- Indication of capture from existing modes of travel and overall addressable travel market, by station pair.
- Statistics for utilization by time of day and class of service.
- The spatial pattern of trip endpoints in the various broad markets (Tampa, Orlando, and South Florida), for trips of all modes, and Brightline trips.
- A comparison of Brightline system ridership, revenue and fare amounts between the historical actual pre-COVID-19 performance and the updated forecast.

Deliverable: a draft and final Study Report, similar in structure and detail to the previous Brightline Ridership and Revenue Reports documenting the historical Brightline ridership and revenue performance, data gathering effort, key assumptions, modeling methods, and findings of the Ridership Study effort for the service extension to Tampa. The appendix for the report will include a table outlining key inputs as well as a table showing the total addressable market by station pair and model years.

Required data presentation formats

See Appendix A.

Refresh of Toll Road Routing Study

This study is to assess the impacts of the extension of Brightline service from Orlando International Airport to Tampa on various toll facilities in the Central Florida Expressway Authority (CFX) and the Florida's Turnpike Enterprise (FTE) systems, due to auto trips foregone due to travelers using the train, as well as increased auto trips being used to access railway stations.

The scope of work will include the following:

- A refreshed data collection effort to understand the toll rates charged at and the locations of all toll gantries in the CFX and FTE systems, such that the routing network accurately represents the per mile tolls charged in the system.
- An update of the trip tables and other inputs that feed into this analysis, which will be pulled from the refreshed ridership study. The trip tables used for the evaluation will be the differential between those estimated for Miami-Orlando and Miami-Tampa service, such that the evaluation concerns additional marginal trips generated by the expansion of the system to Tampa. Two sets of trip tables will be used to complete this analysis, comprising the first future-year model year trip tables, and the final horizon future-year model year trip tables, which will be a minimum of 10 years after opening.
- A refreshed quality control effort with regard to checking that the network is reasonably routing trips to/from key zones in the zonal structure, if it is updated in the ridership study refresh. Furthermore, this quality control effort will ensure that no zones are being directly loaded onto a toll facility in the network, that all zones have a free alternative for travel to/from that zone in the network, and that all links in the network are correctly labeled as belonging to the appropriate CFX or FTE toll facility.
- The study will evaluate routing concerning the seven toll facilities operated by CFX: SR 408 (East-West Expressway), SR 414 (Apopka Expressway), SR 417 (Central Florida GreeneWay), SR 429 (Western Beltway), SR 528 (Beachline Expressway), SR 451, and SR 453.
- The study will evaluate routing concerning the thirteen toll facilities operated by FTE: Turnpike Extension, Sawgrass Expressway, Florida's Turnpike Mainline, Southern Connector Extension, Beachline East Expressway, Beachline West Expressway, Seminole Expressway, Polk Parkway, I-4 Connector, Veterans Expressway, Daniel Webster Western Beltway, Suncoast Parkway, and Alligator Alley.
- The study will update the auto routes assumed to be impacted by the Brightline connection between each station pair. The study will evaluate the three best routes (i.e. the most favorable combination of travel time and tolls paid) for trips traveling between South Florida and Central Florida, allocating the trips proportionally between the three routes based on how favorable each route is for the origin-destination pair.
- The following estimates will be provided:
 - An estimate of transactions and revenues gained or lost by CFX and FTE, by toll facility, using WSP's ridership estimates for Brightline and taking into consideration the origins and destination for long distance travel. The estimate of transactions and revenues gained or lost by CFX and FTE toll facility will be provided for both the opening year and a future year at least 10 years after opening.
 - For each CFX and FTE facility, the estimates will be broken down into three categories: auto trips foregone because they have shifted to Brightline service, additional auto trips accessing Brightline stations from travelers shifting to Brightline service, and additional auto trips accessing Brightline stations from travelers whose trips are newly induced.
 - The estimates will be broken down by station travel pair – i.e. origin station and destination station.
 - A sensitivity test assessing the impact of lower fares on the results of the routing study, as well as two further sensitivity tests assessing the impact of two different model inputs, which will be chosen based on input from CFX, FTE, and/or their consultants.

- As with the previous Toll Road Routing Study, the final deliverable will be a draft and final report describing the data collection, study technical approach, and final results that will include, but are not limited to, the estimated transactions and revenues gained or lost on each CFX and FTE toll facility including all estimates outlined above due to the Brightline expansion to Tampa. The appendix for the report will include:
 - A table outlining key inputs.
 - A table outlining the per mile toll rates used by toll facility.
 - Maps showing the routing for key example origin-destination pairs.
 - A map showing the roadway network used in the study.
 - Maps showing the spatial pattern of trip ends that are potential Brightline trips, as well as the spatial pattern of trip ends that are trips that shift from existing modes to Brightline.
 - The routing results by link in a QGIS environment, showing the number of diverted, attracted, and induced trips on each link.

Required data presentation formats

See Appendix A.

EXHIBIT 12



To: Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority

Date: 7/12/21

Project #: 62375.34

From: Amy Sirmans, P.E.

Re: Brightline Route Cost Comparison Addendum

Thank you for meeting with VHB representatives on July 6, 2021, to review our report and findings on the comparison of Brightline's cost estimates for two different rail alignments from Orlando International Airport to a proposed Brightline station at Disney Springs. At your request, we are providing this addendum to our July 6 report which provides additional information and summarizes responses to questions received since the July 6 meeting.

VHB has undertaken the difficult task of comparing two significantly different levels of cost estimate Brightline provided for each route, as described below:

- Brightline's estimate for the **Convention Center Route** along Taft-Vineland Road/SR 528 is based on a 30% design developed for Florida High Speed Rail (FLHSR), a fully identified route that was studied in detail and initially approved in 2005, and again in 2010 based on a re-evaluation.
- Brightline's estimate for the **417 Route** is based on a 15% design for a proposed alignment that Brightline has advised is no longer valid. In fact, during our July 6 meeting, Brightline's representatives further advised that they have not determined the final alignment for the section from the 417 right-of-way to the I-4 crossing, and they redacted all information for this more than 3 mile section from the information they provided. Therefore, Brightline has neither provided a final 417 Route alignment nor a cost estimate that can be directly compared to the detailed estimate for the Convention Center Route.

Most importantly, we believe that a thorough "apples-to-apples" comparison of the estimated costs of the approved Convention Center route and Brightline's yet to be finalized 417 route would require that Brightline complete an extensive supplemental Environmental Impact Statement (EIS) so the details of both routes could be fully analyzed and objectively compared.

Notwithstanding the above, as Brightline has continued their alignment iterations and value engineering in an attempt to finalize a route and complete their estimated cost of the 417 Route, VHB has in a similar vein identified a number of refinements to Brightline's estimate of the approved Convention Center route. Based on these Convention Center route refinements coupled with significant questions and unaddressed issues in Brightline's evolving 417 Route estimate, it appears that the difference between the actual costs of these two routes is most likely lower than originally believed. This is based on the following significant items we found that were not included in the estimate submitted on July 6.

- Unit costs of bridges applied to Convention Center route estimate (approximately \$107M)
- Increased length to the 417 route (approximately 0.5 mile) (approximately \$40M increase to 417 route)
- Revised property costs for Convention Center route (\$45M savings)

Based on FDOT's current plan for the rail alignment to be centered in the I-4 corridor, Brightline has estimated the difference in cost between the Taft-Vineland/Convention Center Route and the yet to be finalized 417 Route is approximately \$780 million. The Brightline estimate received by our team did account for an alignment adjustment, however, it does not address the modifications regarding the use of bridge structure and MSE walls as suggested in the July 6th memo. We believe that various adjustments in that difference are warranted, especially while Brightline attempts to finalize a 417 Route alignment and complete the supplemental EIS. The table at the end of this document summarizes the adjustments we have described herein, which taken together indicates a potential difference of \$199M between the Taft-Vineland/Convention Center Route and the yet to be finalized 417 Route.

In support of this conclusion we offer the following summary analysis and corresponding backup provided in the cited appendices.

1. **Convention Center Route Refinements**

a. REDUCTION IN BRIDGE COSTS AND CONVERSION TO MSE WALLS – SEE EXHIBIT A

The length of bridges along the Convention Center route has been reduced by approximately 3 miles from what was proposed in the FLHSR study and replaced with MSE wall for elevated sections. See the attached Exhibit A which depicts the locations of bridge structures and wall. This reduces Brightline's estimate for the TVR / SR 528 route by approximately \$310 million. This reduction in bridge length is based on using a train speed similar to what Brightline is proposing on the SR 417 route, rather than the higher speed train as proposed in the FLHSR study. Additional civil/site cost savings may be gained if the alignment is shifted to the Universal property north of SR 528, west of Shingle Creek.

In addition, the initial estimate prepared by VHB for the Convention Center route utilized an average unit cost (\$464/sf) for the bridge structures along the entire 417 route that included specialized and standard bridges. Based on review of the 417 bridge quantities provided by Brightline, 68% of the bridges along 417 are the specialized more costly bridges at \$523/sf. The cost for Brightline's standard bridges is \$336/sf. Approximately 75% of the bridges along the Convention Center route would be considered standard bridges. Using \$336/sf for 75% of the bridge quantities and \$523/sf for the remainder of the route would result in a savings of at least \$107M to the Convention Center route estimate.

Note that the \$107M savings was calculated after increasing the bridge length on the Convention Center route to accommodate the I-4 / SR 528 connection.

b. REDUCED ESTIMATED PROPERTY COST– SEE EXHIBIT B

As with the bridge costs savings, we anticipate that the savings in land acquisition will also increase when Brightline's estimate recognizes the significant property donation Universal has set aside to support this project. A graphic depicting the parcels owned by Universal is included as Exhibit B.

Brightline's land cost estimate for the I-4 Beyond-the-Ultimate right-of way needs related to the option of an elevated rail corridor located on the outside edge of the I-4 right of way should be reduced by \$50 million based on the currently approved FDOT District 5 plans which will eliminate the need to purchase additional property. In addition, we eliminated Brightline's 23.4% markup of land acquisition for professional fees, project management, and construction allowance (all of which is inapplicable to the purchase of land) resulting in an initial land acquisition savings of \$61.7 million. The inclusion of such cost is not appropriate at this point, as FDOT has not changed the currently approved plan.

In addition, Brightline's land cost estimate for the Convention Center route right-of way needs was based on the 2010 FLHSR Study estimate. Brightline requested an updated estimate from FDOT to remove the parcels east of the CFRC corridor pertaining to the old alignment. The cost in 2010 dollars that Brightline received was \$75M. VHB also requested an updated estimate to include the parcels potentially impacted along the optimized route and to remove parcels that have already been purchased by Orange County and parcels owned by Universal. This resulted in a 2010 cost of \$30M. The difference between these two values, \$45M, represents the additional savings identified between the two alignment estimates.

c. REDUCTION IN SOUND WALL COSTS CONTAINED IN CIVIL "PER MILE" COST

VHB estimates reduced civil costs by \$7.5 million for noise walls on the grounds that the TVR / SR 528 route does not run immediately adjacent to and will not have a negative impact on residential communities and due to the fact that there is an existing noise wall on the south side of SR 528 for the residential community.

d. REDUCTION IN CONVENTION CENTER STATION COST

Brightline's estimate for the Convention Center Station (Brightline station and SunRail platform) has been reduced by \$108.8 based on the following facts; (1) the Orange County Commission has approved a multi-modal station as part of the previously approved Convention Center route study (2005 and 2010), (2) a site adjacent to the Orange County Convention Center has been dedicated for the multi-modal station, (3) the Orange County Convention Center Client Advisory Board has consistently recommended supporting the development of this facility as one of their highest priority transportation initiatives, (4) and the Universal Boulevard Property Owners Association is working with the adjacent private property owners on development and financing plans for the integration of a new multi-modal facility into adjacent high density developments; all of which clearly demonstrate the continuing commitment to build a station by the various entities invested in the region. In addition, part of Brightline's estimate included a new \$38 million elevated Sun Rail station, which should be removed from the Brightline estimate for comparison of the two routes. The cost estimate includes the track & ballast, bridges and other associated costs for Brightline to construct an elevated platform at the Convention Center Station.

2. SR 417 Route Questions and Observations

a. INCREASED ROUTE LENGTH – SEE EXHIBIT C

The new alignment from 417 to Disney appears to add .5 miles to the overall 417 route distance. Using Brightline's per mile route cost for this section adds a minimum of \$40 million.

b. INCREASED CONSTRUCTION COST MSE WALLS – SEE EXHIBIT D

The unit costs of the walls for the 417 route and the Convention Center route cannot be the same. The costs of the walls on the 417 will be greater due to the increased heights of walls shown in the plan, restrictive access along the property line, and constructability issues associated with construction along 417, etc. Over the length of the alignment, the delta in unit cost combined with the significant amount of wall could create a significant increase in the 417 route estimate. Actual unit costs associated with these specific walls are required in order to make a reasonable comparison.

c. TRACK CONSTRUCTION COSTS

Similar to the MSE wall construction, does the construction estimate account for increase in track construction costs associated with limited access from within the trackbed itself or impacts to CFX due to lane closures of construction from the roadway? It is assumed that these costs would vary from traditional track at grade, or on lower retained fill with more accessible staging areas, and therefore should be represented in the updated estimate.

d. LACK OF DOCUMENTATION OF DRAINAGE DESIGN

No information is contained in the 15% design relative to the proposed drainage anticipated within the rail corridor. Is Brightline intending to utilize existing CFX drainage facility capacity? How will that impact CFX future serviceability. If new infrastructure, where is it located and what are the land/environmental impacts? Additional details of the drainage system are required to more fully evaluate impacts to the CFX assets.

e. ADDITIONAL LAND COST

It is our understanding that Brightline has not yet finalized the alignment for the 417 route therefore it is unclear as to the estimated land cost. However, the latest proposed alignment would require the acquisition of additional private property, as well as securing Orange County property and possibly Duke Energy property. Brightline's proposed 417 route includes impact to a 34-acre Orange County mitigation site. With rapidly increasing land values and wetland mitigation costs in this region, it is difficult and premature to even estimate the actual cost of these additional requirements until a more refined design is developed.

f. SUNRAIL AT GRADE PLATFORMS

Brightline showed two "passenger at grade platforms" in their estimate, at \$3 million each. However, the 15% design plans show the Hunter's Creek station as an elevated station 30 feet above surrounding grade. Brightline's provided cost for a SunRail elevated platform is \$39 million, which is more in line with the Hunters Creek design, resulting in a \$36 million increase in their estimate.

It has been asked of this team by you and your staff to try to compare the costs for the two routes. As set forth above, we believe this will be a more fruitful effort when we have the opportunity to review Brightline's completed route, its 30% drawings, its 30% rollout plots for the Brightline, and its projected costs for wetland mitigation and damages from Hunter's Creek. Along the same lines, the cost analysis is not complete without the estimated costs for the damages and legal fees arising out of the eminent domain proceedings with the residents of Hunter's Creek and South Chase.

Finally, we believe Brightline will soon be required to perform an extensive Supplemental Environmental Impact Statement (EIS) for its proposed route. That assessment will take considerable time and effort, but the end result will be a report that actually includes Brightline's "final" route, an assessment of all the environmental impacts currently missing or not developed, and otherwise answer all of the questions we have raised in this exercise.

OIA to Tampa Segment 1 - Taft-Vineland SR 628 Alignment Cost Breakdown										TVR / SR 528			CFRC			CFRC to OIA		
Element	Unit	Unit Cost	528 Route Total			Disney to I-4			I-4 at SR 635 to CFRC			CFRC			CFRC to OIA			
			Quantity	Cost	%	Quantity	Cost	%	Quantity	Cost	%	Quantity	Cost	%	Quantity	Cost	%	
Rail Infrastructure																		
Track & Ballast	TF	\$ 519	176,138	\$ 929,051,000		4,700	\$ 75,575,458		117,358	\$ 60,900,802	499	\$ 11,590,522		48,581	\$ 27,935,268		3,000	\$ 1,900,000
MSE Walls	SF	\$ 51	1,056,369	\$ 53,852,340		113,301	\$ 5,756,672		943,068	\$ 48,096,468	0	\$ -		0	\$ -		0	\$ -
Bridges	SF	\$ 464	1,044,188	\$ 389,613,321		108,105	\$ 36,312,508		862,000	\$ 337,565,500	0	\$ -		0	\$ -		60,396	\$ 23,808,171
Civil/Site	RM		17.8	\$ 140,564,294	0.49	\$ 11,540,257	10.99	\$ 102,344,318	1.06	\$ 2,659,163	5.06	\$ 12,480,300		5.06	\$ 24,384,935		0.00	\$ -
Train Control & Signals	RM		17.8	\$ 85,973,869	0.49	\$ 2,381,387	10.99	\$ 52,527,273	1.06	\$ 5,782,989	5.06	\$ 1,989,071		5.06	\$ 13,536,522		0.00	\$ -
Contractor Indirect & General Costs	LS		20.90%	\$ 160,610,377	1	\$ 13,060,923		\$ -		\$ -		\$ -		1	\$ -		1	\$ 5,371,208
Land/Building/Other																		
Land	RM		17.8	\$ 94,674,604	0.49	\$ 67,000,000	11.16	\$ -		\$ -		\$ -		5.06	\$ 4,674,604		0	\$ -
Station Building	EA		1	\$ 34,674,604	1	\$ -		\$ -		\$ -		\$ -		1	\$ 4,674,604		0	\$ -
Passenger Platform At-Grade	EA		1	\$ 57,000,000	1	\$ -		\$ -		\$ -		\$ -		0	\$ -		0	\$ -
Professional Fees																		
Permitting	%		7.7%	\$ 74,715,334		\$ 10,240,362		\$ -		\$ -		\$ 665,016			\$ 6,412,119		7.7%	\$ 2,400,626
Design	%		1.3%	\$ 11,210,194		\$ 1,728,061	1.3%	\$ 7,774,508	1.3%	\$ 150,021	1.3%	\$ 1,082,045		1.3%	\$ 1,082,045		1.3%	\$ 405,106
			6.4%	\$ 63,506,140		\$ 8,512,301	6.4%	\$ 46,882,052	6.4%	\$ 736,994	6.4%	\$ 5,330,074		6.4%	\$ 5,330,074		6.4%	\$ 1,995,520
Project Management																		
BL Project Management	LS		3.3%	\$ 32,854,912		\$ 4,433,316	3.3%	\$ 24,775,921	3.3%	\$ 384,878	3.3%	\$ 2,775,971		3.3%	\$ 2,775,971		3.3%	\$ 1,039,017
Insurance	LS		2.3%	\$ 23,047,534		\$ 3,089,269	2.3%	\$ 17,014,350	2.3%	\$ 268,194	2.3%	\$ 1,834,381		2.3%	\$ 1,834,381		2.3%	\$ 724,211
Financial Advisory	LS		1.0%	\$ 9,543,795		\$ 1,280,045	1.0%	\$ 7,473,623	1.0%	\$ 111,127	1.0%	\$ 801,515		1.0%	\$ 801,515		1.0%	\$ 300,078
			1	\$ 397,582	1	\$ 64,002	1	\$ 287,948	1	\$ 5,556	1	\$ 40,076		1	\$ 40,076		1	\$ 14,728
Construction Allowance/Contingency																		
	%		12.4%	\$ 136,002,248		\$ 18,255,526	12.4%	\$ 100,371,972	12.4%	\$ 1,584,951	12.4%	\$ 11,430,906		12.4%	\$ 11,430,906		12.4%	\$ 4,279,670
GRAND TOTAL	RM		17.8	\$ 1,267,466,179	0.49	\$ 165,504,664	11.16	\$ 939,972,548	1.2	\$ 14,388,267	5.06	\$ 103,632,626		0.19	\$ 38,798,662		0.19	\$ 38,798,662

Includes addition of 0.5 mile of route (see paragraph 2.a above)

GRAND TOTAL - SR 417 Route (15% Design plans)	RM		16.7	\$ 1,088,116,936
DIFFERENTIAL - SR 417 Route (15% Design) compared to TVR / SR 528 with I-4 At-Grade	RM		16.7	\$ 198,362,242

Attachment

This information below is included to document questions received by CFX's consultant Dewberry and responses by VHB during the estimate reviews.

Questions were received regarding the lengths of bridge and wall in the VHB estimates. The questions and response are included below.

Q. Upon further review, the FLHSR plans show the tracks on MSE walls approaching and departing the bridge overpass at SR 535. The kmz (VHB alignment) shows these same limits at grade. Please confirm the intent and your estimate was based on the MSE walls approaching this bridge.

A. Revisions have been made to the quantities to reflect this change.

Q. Also, the KMZ rail alignment at grade under the Darryl Carter Parkway overpass will be in conflict with the bridges center piers located in the center of the existing median. What is the plan to deal with this conflict? Replace the bridge? Offset the rail corridor?

A. The typical section and plans for the currently approved I-4 BtU design includes the rail corridor at grade under the existing Darryl Carter Parkway overpass. Please see the attached exhibit I-4 BtU typical section.

Q. Upon review of the I-4 BTU plans and comparing that to your KMZ, do you have an exhibit to show how you can fit the proposed rail alignment will fit within the R/W at the southwest quadrant of the SR 528/I-4 interchange with the I-4 BTU improvements?

A. The kmz files of the I-4 BtU design in this section along with the kmz file of the TVR / SR 528 alignment were provided to Keith Jackson (Dewberry). Below is a screenshot of this section.



Exhibit A
Taft Vineland Road / SR 528 Alignment

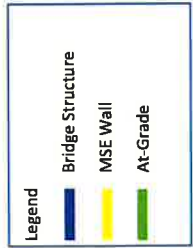
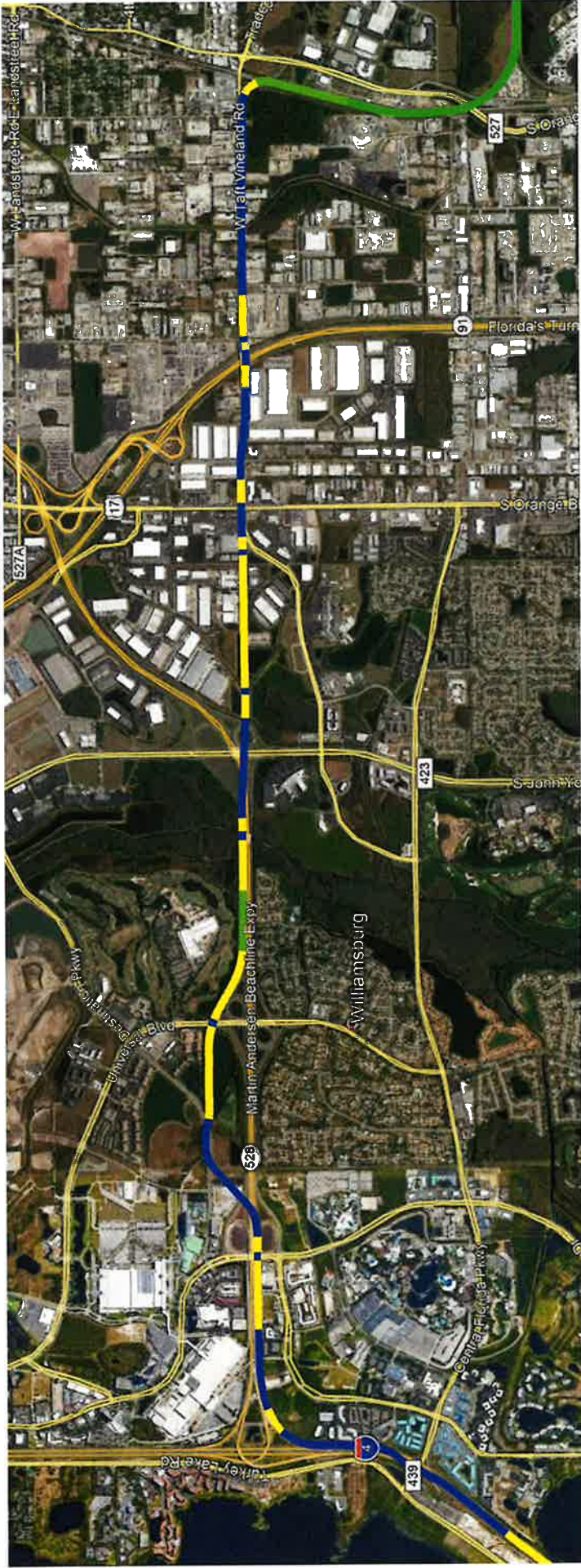
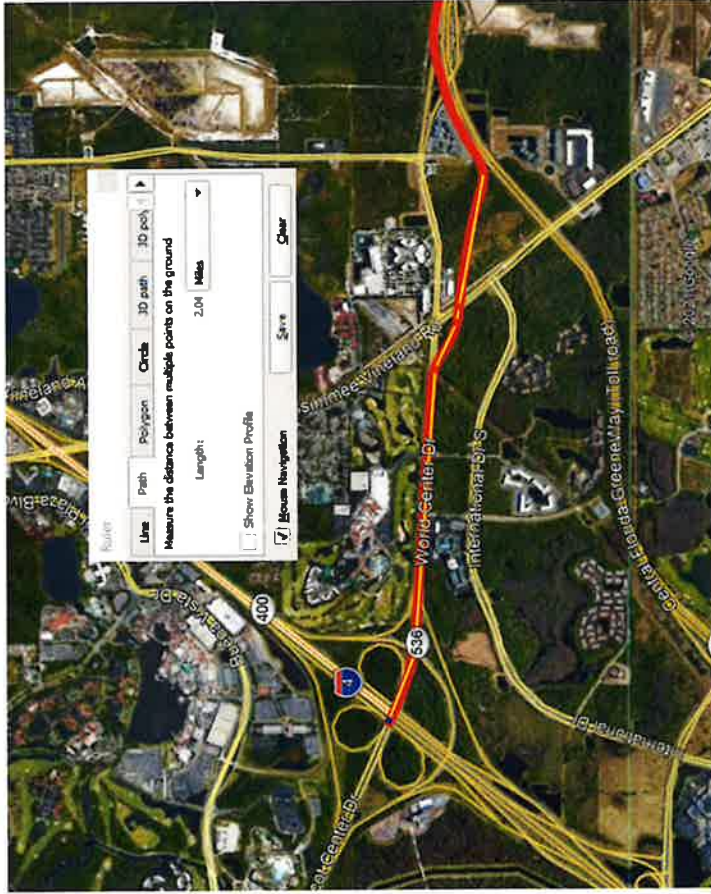


Exhibit C – Increased 417 Route Length

Initial 15% Design plans – Connection to I-4 / Disney



Revised 15% Design plans – Connection to I-4 / Disney

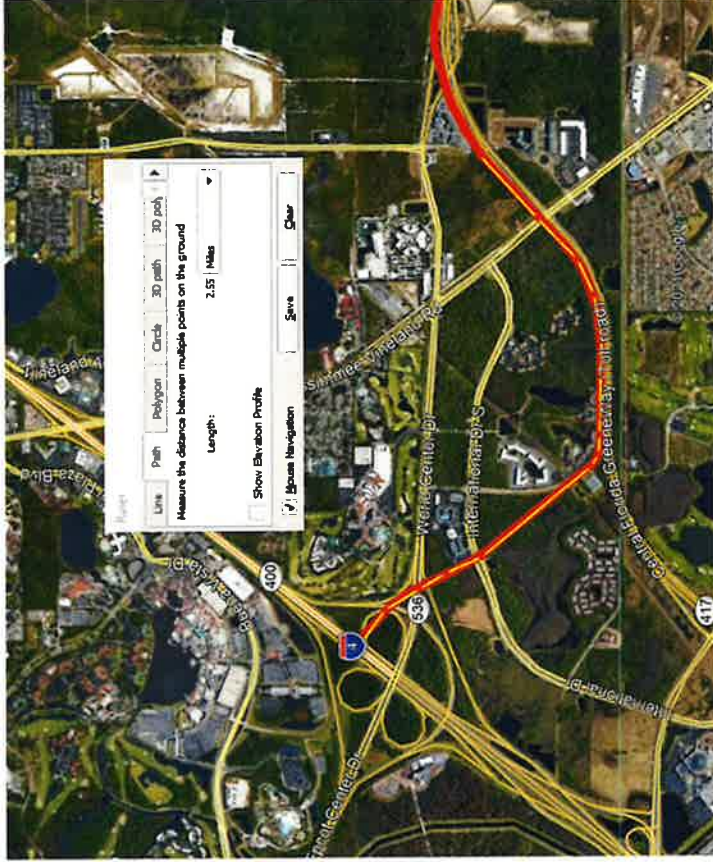


Exhibit D – MSE Wall Along SR 417 Route

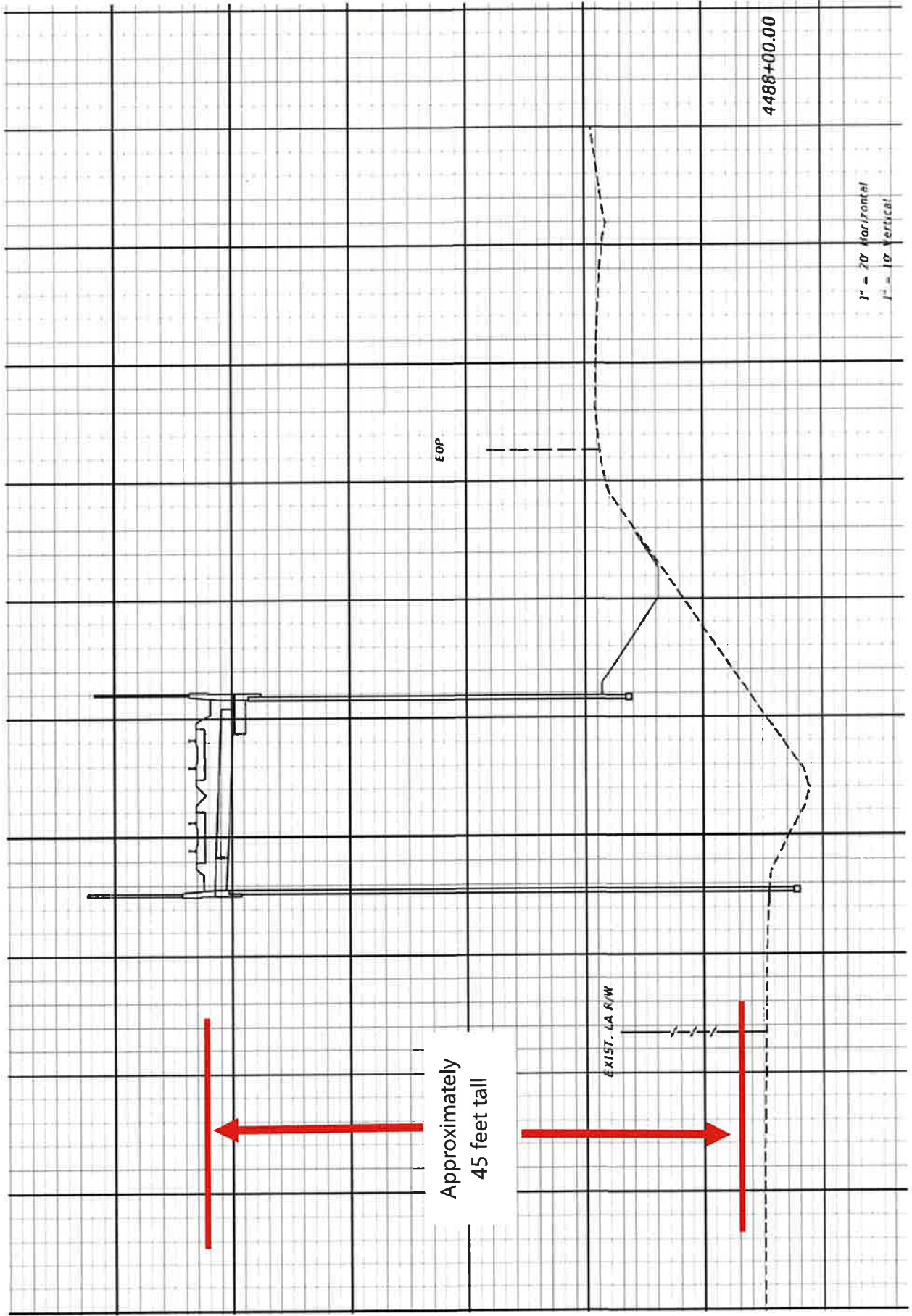


EXHIBIT 13

Estimated Property Value Impacts of Proposed Brightline SR-417 Route on Single-Family Residential Properties at Hunter's Creek

Jesse Saginor, PhD, AICP¹

Woody Hanson, CRE, MAI, CCIM²

July 15, 2021

Executive Summary

Brightline Holdings (“Brightline”) develops and operates high-speed passenger rail systems in the United States. Brightline owns and operates an express passenger rail system connecting major population centers in Florida. Prior to temporarily suspending passenger rail service due to COVID-19, Brightline operated between Miami and West Palm Beach, Florida. Brightline has commenced construction of the extension of its Florida passenger rail system from West Palm Beach to Orlando, Florida. In Orlando, Brightline’s station will be integrated into the Orlando International Airport’s (“OIA”) new South Terminal and is owned by the airport and leased to Brightline.³

Brightline has engaged in discussions with regulatory authorities to construct a separate passenger rail system between Orlando and Tampa, with a station in downtown Tampa. In November 2018, Brightline received approval from the State of Florida to begin negotiating with the Central Florida Expressway Authority (“CFX”) for acquiring space in the right of way (“ROW”) required to construct the passenger rail system to Tampa. Brightline is in active planning for the potential system extension.⁴

Brightline’s preferred alignment would exit the OIA property and join the Orlando Utilities Commission corridor, then join the Central Florida Rail Corridor, connect with CFX’s SR-417, enter the median of I-4 and remain in the median and emerge into its terminus in a downtown Tampa station location.⁵ CFX’s SR-417 traverses Hunter’s Creek, a 6.5-square-mile community

¹ Jesse Saginor attended Michigan State University and received an undergraduate degree in Political Theory and Constitutional Democracy. He also received a Master of Public Administration from The Ohio State University and a Ph.D. in Urban Studies and Public Affairs with a concentration in economic development and real estate from Cleveland State University. He holds a professional designation from the American Institute of Certified Planners. He previously published a study on the impact of Brightline on residential property values in Martin County in the *Journal of Property Tax Assessment & Administration*.

² Woody Hanson attended the University of Florida and received undergraduate degrees in Real Estate and Urban Land Studies and Architectural Design. He also received a master’s degree in Florida Studies from the University of South Florida at St. Petersburg. He is a postgraduate student at Trinity College in Dublin, Ireland. He holds professional designations from the Counselors of Real Estate, the Appraisal Institute, and the Commercial Institute of the National Association of Realtors. He has been a member of the real profession for over 40 years.

³ Data Source: Limited Remarketing Memorandum, Florida Development Finance Corporation, Surface Transportation Facility Revenue Bonds (Brightline Florida Passenger Rail Project), December 11, 2020, p. 46.

⁴ *Ibid.*, 69-70.

⁵ Data Source: Proposal for the Lease of Rights-of-Way Owned by the Florida Department of Transportation and Central Florida Expressway, Submitted by Brightline on November 7, 2018, B-2-3.

located in the southwest corner of Orange County. The development is comprised of 35 single-family neighborhoods, seven apartment communities, four condominium properties and one townhome neighborhood. Hunter's Creek is home to almost 25,000 residents.⁶

The purpose of this assignment is to assess the effects that the construction and operation of Brightline, a high-speed intercity passenger railway, will have on the value of properties located along that segment of the SR-417 right-of-way that Brightline now refers to as its "preferred route." This report examines the residential component.

The first of this assignment examines the impacts that Brightline will have on the value of single-family residential properties located in Hunter's Creek, a mature mixed-use master planned community which lies north and south of the SR-417 right-of-way. Brightline is expected to operate 18 daily departures, generally beginning at 6:00 am and ending the day at just after 12:00 a.m., traveling at an average speed of 75 mph.

The peer-reviewed literature is fairly consistent regarding mostly positive impacts based on proximity to a rail station irrespective of whether that station is light rail, commuter rail, or high-speed rail. While considering the impacts of the planned widening of SR-417, this report examines the impacts of Brightline on single-family residential properties located within 1,000 feet of the center line of the SR-417 right-of-way.

The assignment results are based on a review of the peer-reviewed literature, real estate prices and trends at Hunter's Creek and competitive developments, and just values for single family homes in Hunter's Creek based on 2020 property tax rolls submitted to the Florida Department of Revenue (DOR). Other information was obtained from the Multiple Listing Service (MLS).

The greatest property value impacts are likely to be incurred by homes located closest to SR-417. Using 2020 just value estimates obtained from DOR the loss in value that all single-family homes located within the 1,000-foot zone of influence will incur is estimated to range from \$15.7 million to \$27.5 million. Using the MLS data instead of the DOR information causes the damage estimate range to increase slightly, \$16.9 million to \$29.8 million. Assuming a "worst case basis," the loss of property value within the 1,000-foot zone of influence is slightly less than \$30.0 million.

Based upon the limited information provided by Brightline at this time and time constraints, we have summarized other factors that will increase the damages and costs:

1. Apartments – We did not receive adequate information to determine the effects on multi-family residential rental apartments. At this time, we do not expect the diminution in value of this property class to be less than the lower end of the range of percentage property value losses for single-family residential properties, or approximately 10.0%.
2. Neighborhood Commercial – We did not receive adequate information to determine the effects on neighborhood commercial (e.g., retail and office) properties. Although non-

⁶ Data Source: Commissioner Nicole H. Wilson, Hunter's Creek, A District 1 Community. Available at <https://www.orangecountyfl.net/BoardofCommissioners/District1Commissioner/District1Communities/HuntersCreek.aspx#.YOjOrS33b4A>.

residential properties are usually not affected by noise and vibration to the same extent as residential properties, some peer-reviewed literature has found a loss of value to non-residential properties due to increased traffic levels on nearby local streets. Without further information, it is not possible to develop an estimate of the impact that Brightline will have on this property segment.

3. Community Assets (Schools, churches, parks and open space) – These properties are vital to the Hunter’s Creek community. Noise and vibrations associated with the daily operations of the Brightline high-speed intercity passenger rail will be noticed by residents while they are outdoors, particularly at open spaces located near stormwater storage areas or on jogging/hiking trails or other pathways that are near either side of the SR-417 right-of-way. Although noise abatement options (e.g., double-pane windows, sound dampening wall surfaces and so forth) may be available for schools and churches, such options, other than sound walls, are not available for outdoor spaces. Without a noise study, it is not possible to probe this issue further.
4. Sound and Vibration – We did not receive a sound study (e.g., noise levels, frequency, duration, time-of-day, contours and so forth). The 1,000-foot zone of impact used in this study was estimated based upon our review of peer-reviewed literature. Although reliable, this source information is less credible than a formal corridor noise study. If the results of such a study are contrary to the peer-reviewed literature, the size and shape of the zone of influence will likely change. If Brightline shifts the location of its railway to the north or south of the centerline of SR-417, it is likely that the zone of influence will extend beyond the 1,000-foot distance used in this study.
5. The negative impact on property values caused by Brightline operations is not limited to Hunter’s Creek. Other residential communities located along Brightline’s “desired alignment” will experience similar effects. These communities include Southchase and Meadow Woods.
6. In addition to the \$29.8 million loss of value and the unquantifiable (at this time) damages relating to Items 1 through 5, there is a contingent liability associated with litigation costs if it becomes necessary for CFX to exercise its power of eminent domain. Examination of information prepared by a local eminent domain attorney, suggest that this contingent liability would be approximately 30% of the monetary amount associated with all matters identified above.

1. Introduction

The purpose of this assignment is to assess the effects that the construction and operation of Brightline, a high-speed intercity passenger railway, will have on the value of certain properties located along that segment of the SR-417 right-of-way that Brightline now refers to as its “preferred route.”

The first phase of this assignment examines the impacts that Brightline will have on the value of single-family residential properties located in Hunter’s Creek, a mature mixed-use master planned community which lies north and south of the SR-417 right-of-way. Brightline is expected to

operate 18 daily departures, generally beginning at 6:00 am and ending the day at just after 12:00 a.m., traveling at an average speed of 75 mph.

This paper includes an introduction, eight sections, and appendices. The Introduction includes a summary and overview of the assignment, including (without limitation) the purpose of the assignment, nature of the assignment, and assignment conditions. Section 2 identifies various features and characteristics of the Hunter's Creek mixed-use master planned community located in southwest Orange County, Florida. Section 3 examines conditions and trends related to the resale market for single-family residences within Hunter's Creek. Using comparative analyses, this information sheds light on the depth of Hunter's Creek market penetration and illuminates its consistent performance over the past several years. Section 4 identifies certain features and characteristics of that segment of the SR-417 right-of-way that traverses Hunter's Creek. Section 5 examines Brightline's proposed use of this segment of the SR-417 right-of-way for construction and operation of a high-speed intercity passenger railway that will run from Orlando International Airport to a station in downtown Tampa, Florida. Section 6 examines peer-reviewed articles that investigate and evaluate the effects that railways have on nearby residential properties. These materials together with 2020 just values for those single-family homes located within Hunter's Creek and within 1,000-feet of the centerline of SR-417 will be used to develop an estimate of the loss in value that these homes will incur due to the Brightline disamenity. Section 7 summarizes the findings and conclusions of this report. Section 8 identifies assumptions and limiting conditions. Section 9 contains the final reconciliation of the assignment results.

2. Hunter's Creek Mixed-Use Master Planned Community

Hunter's Creek is a 6.5-square-mile master-planned mixed-use golf community located in the southwest corner of Orange County. Home to almost 25,000 residents, Hunter's Creek is comprised of 35 single-family neighborhoods with over 5,900 single-family residences, seven apartment communities with over 3,700 apartment units, four condominium properties and one townhouse neighborhood.

Hunter's Creek is one of many residential developments in south Orange County and is a focal point for all residents in the south Orange Blossom Trail corridor. The hub of Hunter's Creek – centered around the intersection of Town Center Boulevard and John Young Parkway – contains approximately 1.0 million square feet of commercial and office space. With the residential neighborhoods clustered around the commercial district, Hunter's Creek is an independent, self-contained city.

Hunter's Creek opened in 1985 with an 18-hole golf course and now has two major community parks, each equipped with tennis and racquetball courts and softball fields. The community has bike paths and hiking trails that lead from individual neighborhoods to each park. A spokesman for Charles Wayne Consulting was quoted in a March 1992 article published in the Orlando Sentinel, "The location, the proximity to jobs, the transportation network and – very significantly – the recreational features are all right there in one package." A visual aid depicting the master land use plan for Hunter's Creek is provided on the following page.

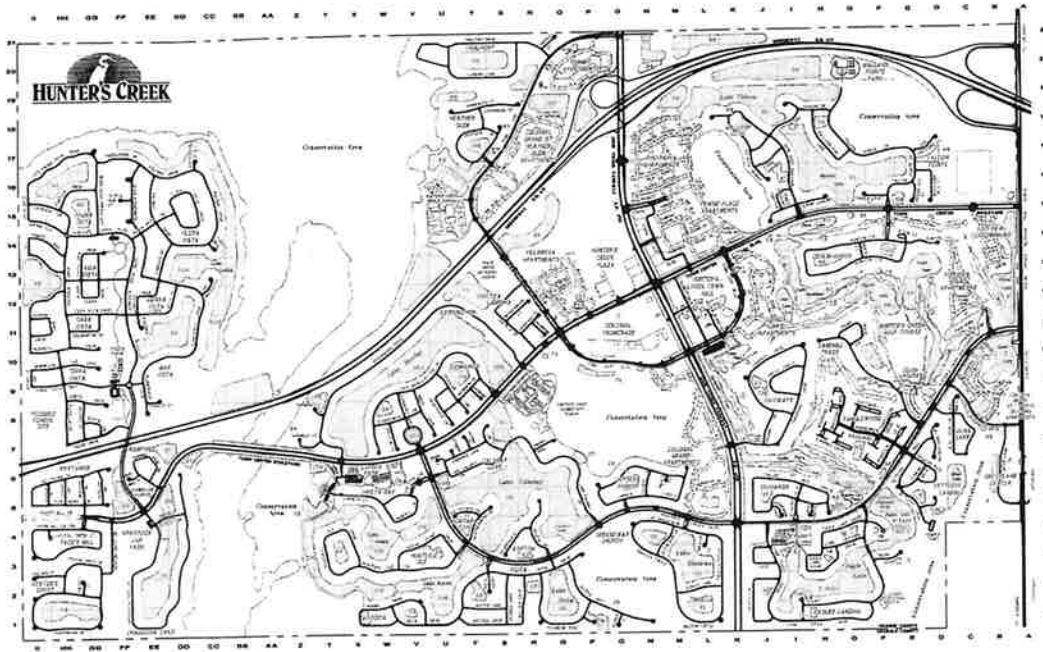


Illustration of Hunter's Creek master land use plan.

3. Hunter's Creek's Single-Family Residential Resale Market

Four metrics are used to interpret conditions and trends at the Hunter's Creek single-family residential resale market. These metrics include a) average annualized sales price per single-family residence, b) total number of annual sales of single-family residences, c) average annualized days-on-market, and d) average annualized listing price for single-family residences measured on a per-square-foot of living area basis. The same information pertaining to Horizon West and Lake Nona was collected and included in the summary tables for use in comparative analyses.

Information contained in the tables provided below was obtained from the Multiple Listing Service (MLS). Zip codes were used for identification of the geographic areas of the data inquiry. Zip codes used include 32837 for the Hunter's Creek development, 34787 for Horizon West, and 32827 for the Lake Nona community.

- a. Average Annualized Sales Price Per Single-Family Residence: From 2016 to 2021, the average annualized sales price per single family residence at Hunter's Creek increased from \$231,001 to 312,597. Over this six-year period, sales prices for single-family residences increased by \$81,596 or 35.3% (see table below).

<u>Year</u>	<u>Hunter's Creek</u>	<u>Horizon West</u>	<u>Lake Nona</u>
2016	\$231,001	\$284,953	\$322,883
2017	\$248,139	\$312,677	\$388,385
2018	\$249,272	\$321,291	\$374,437
2019	\$280,691	\$318,781	\$354,814
2020	\$270,794	\$341,351	\$396,409
2021	\$312,597	\$387,485	\$505,036

At Horizon West, for the same period, the average annualized sales price per single family residence increased from \$284,953 to \$387,495, an increase of \$102,532 per residence or 36.0% and at Lake Nona the average annualized sales price per single-family residence increased from \$322,883 to \$505,036, an increase of \$182,513 or 56.4%.

This metric suggests that Hunter’s Creek, despite its older age, remained competitive, particularly with Horizon West, a newer community that features products provided by many of the most well-known national homebuilders. Hunter’s Creek, by comparison, is a mature community that has reached build-out and the sales activity pertains mostly, if not all, to second and third-generation resales.

- b. Total Number of Annual Sales of Single-Family Residences: From 2016 to 2020, the total number of annual sales of single-family residences ranged from a low of 1,022 residences to a high of 1,127 residences. New listings for residential properties located within the Orlando Area Market increased by 5.9% in 2020, totaling 18,184 listings.

	Hunter's	Horizon	Lake
<u>Year</u>	<u>Creek</u>	<u>West</u>	<u>Nona</u>
2016	1,127	2,088	575
2017	1,083	2,553	629
2018	1,022	2,645	723
2019	1,082	2,511	761
2020	1,106	2,853	821

At Horizon West and Lake Nona, for the same period, the total number of annual sales steadily increased from 2,088 residences to 2,853 residences and from 575 residences to 821 residences, respectively.

This information and these trends suggest that Hunter’s Creek holds a strong and stable position within the Orlando housing market. Its stability is attributable to its long-term success and depth of penetration with the wide range of market segments that are available at this development. Furthermore, Hunter’s Creek is widely known for being a well-established community whose demography has remained stable for many years.

- c. Average Annualized Days-on-Market: From 2016 to 2020, at Hunter’s Creek the average annualized number of days-on-market for single-family residences ranged from a low of 33.3 days in 2018 to 42.2 days in 2016. to a high of 1,127 residences. For the period from January 2020 to December 2020, days-on-market as reported by the Orlando Regional Realtor Association ranged from 44 days to 60 days for the entire region.

	Hunter's	Horizon	Lake
<u>Year</u>	<u>Creek</u>	<u>West</u>	<u>Nona</u>
2016	42.2	63.3	64.3
2017	34.3	51.8	83.6
2018	33.3	48.7	62.6
2019	38.6	48.4	68.1
2020	36.8	46.3	62.5

At Horizon West and Lake Nona, for the same period, the number of days-on-market ranged from 46.3 to 63.3 and from 62.5 to 83.6, respectively.

This information suggests that the days-on-market for single-family residences located at each of these developments is fairly consistent. At Hunter’s Creek the average annualized days-on-market for single-family residences is stable and somewhat lower than the number of days-on-market at Horizon West and Lake Nona. One explanation for this slight variance is that the available inventory of single-family residences at Hunter’s Creek is stabilized, there is little (if any) competition from new product, and the secondary market for single-family residences is an efficient market.

- d. Average Annualized Listing Price Per-Square-Foot: From 2016 to 2020, at Hunter’s Creek the average annualized listing price per-square-foot for single-family residences increased from \$65.92 to \$82.33, an increase of \$16.41-per-square-foot or a difference of 24.9%. During the first six months of 2021, the annualized listing price-per-square-foot for single-family residential properties at Hunter’s Creek spiked at \$106.67.

<u>Year</u>	<u>Hunter's Creek</u>	<u>Horizon West</u>	<u>Lake Nona</u>
2016	\$65.92	\$79.33	\$82.08
2017	\$70.50	\$85.00	\$87.33
2018	\$79.42	\$97.50	\$105.58
2019	\$83.33	\$105.00	\$113.58
2020	\$82.33	\$108.83	\$98.33
2021	\$106.67	\$126.33	\$144.50

At Horizon West and Lake Nona, for the same period (2016-2020), the average annualized listing price-per-square foot for single-family residences ranged from \$79.33 to \$108.33 and from \$82.08 to \$113.58 (2019), respectively. For the first six months in 2021, the annualized listing prices at Horizon West and Lake Nona spiked, as was the case at Hunter’s Creek.

In conclusion, the information and analyses provided above suggests that the single-family residential market segment at Hunter’s Creek is relatively stable, able to successfully compete with other developments, and generally track in a pattern that is generally consistent with the overall market.

Thus, absent the externalities and/or detrimental conditions (e.g., noise, vibrations, dust and odors, accident events and so forth) that will likely occur due to the construction and continuous operation of Brightline’s high-speed intercity railway, as now proposed within the existing right-of-way of SR-417, the Hunter’s Creek community had a long history as a successful development that successfully serviced the local demand for a wide range of residential products.

Whether or not Hunter’s Creek will be able to sustain its historic record is not known at this time. Generally, externalities are conditions that are external to a given property and are not capable of being managed or controlled by the owner of the property that is adjacent to the source of the external and detrimental conditions.

4. State Road 417

State Road 417 is a limited access four-lane toll road that bisects Hunter's Creek. Brightline is proposing to use portions of the SR-417 corridor for the installation of segments of the Brightline high-speed rail from Tampa to Orlando.

The Central Florida Expressway Authority (CFX) owns and operates that portion of SR-417 located in Orange County. Starting in early 2021, the CFX will add a travel lane to SR-417 in each direction as well as sound walls along several locations of the expressway.

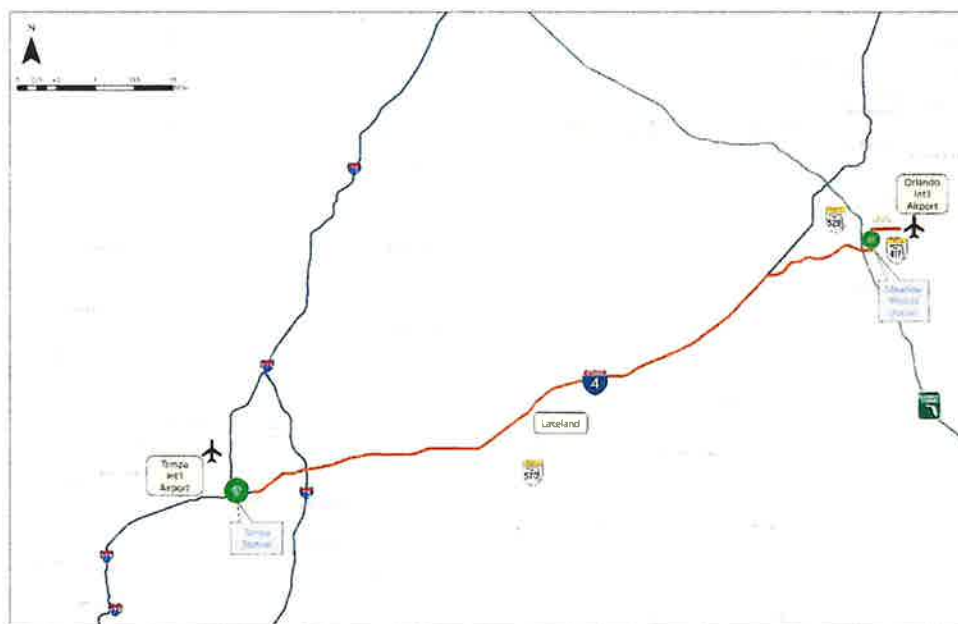
Historical annual average weekday mainline traffic volumes for SR-417, from International Drive to John Young Parkway, increased from 39,630 in Year 2010 to 51,500 in Year 2015 and to 79,710 in Year 2019.

5. Brightline's Proposed Alignment and Railway Operations

On March 26, 2018, Brightline presented an "unsolicited proposal regarding certain rights of way owned by the Florida Department of Transportation (FDOT) and the Central Florida Expressway Authority (CFX) for purposes of constructing and operating an inter-city passenger rail service between Orlando and Tampa."

On or about November 7, 2018, Brightline published a document titled "Proposal for the Lease of Rights-of-Way Owned by the Florida Department of Transportation and Central Florida Expressway Authority," hereafter referred to as the "Lease Proposal."

The Lease Proposal was prepared in response to "the June 22, 2018 Request for Proposal (the "RFP") for Leasing of the Florida Department of Transportation ("FDOT") and Central Florida Expressway Authority ("CFX") Rights of Way for an intercity passenger rail system between Orlando and Tampa." Below, is an illustration that depicts Brightline's preferred alignment.

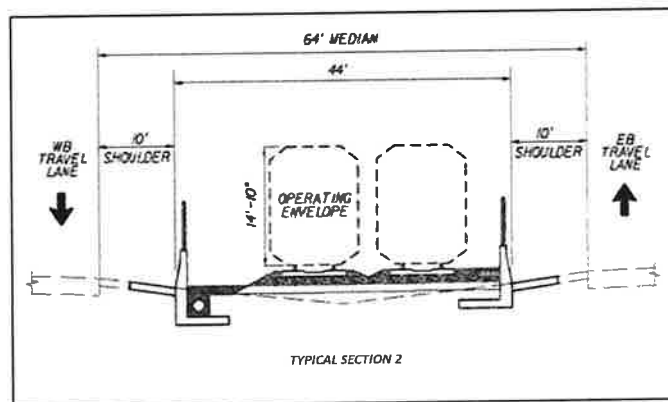


Source: The Lease Proposal, p. B-2-3.

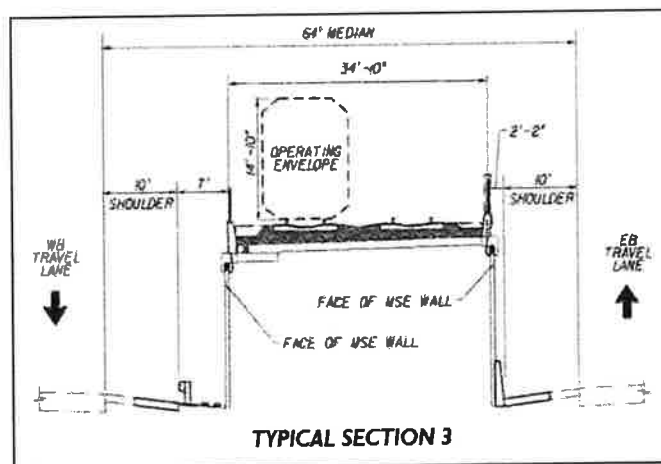
Brightline’s preferred alignment “would exit the Orlando International Airport (“OIA”) property and join the Orlando Utilities Commission (“OUC”) corridor for approximately 4 miles, then join the Central Florida Rail Corridor for approximately 3 miles, connect with CFX’s SR 417 Greenway for approximately 18 miles, enter the median of I-4 in the preserved corridor for rail and remain in the median for approximately 62 miles, and emerge for approximately 1 mile into its terminus in a downtown Tampa station location.”

Brightline expects the “expansion to Tampa” to “operate on a similar timetable [as the existing operations plan, with] 16 hourly trips in each direction that would be tied to the service from Orlando to Miami and dispatched through the same back-office operation.”

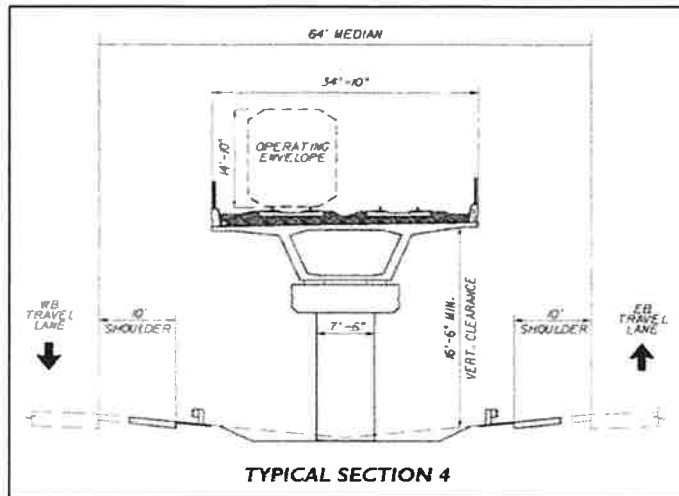
Brightline reports that as “the alignment approaches SR 417, a siding will be constructed which will allow the alignment to exit the Central Florida Rail Corridor and enter the SR 417 median by constructing a new southbound SR 417 bridge which allows Brightline to pass under it. The alignment stays in the median of SR 417 alignment using Typical Section 2, along with Typical Sections 3 and 4 when going over crossroads, until it follows one of the three alternatives shown in Figure 3. Brightline is considering an intermediate station somewhere in the area shown in Figure 3.” Visual aids depicting Typical Section 2, 3 and 4 are provided below and on the following page.



Source: The Lease Proposal, p. C-1-5



Source: The Lease Proposal, p. C-1-5



Source: The Lease Proposal, p. C-1-6

On or about December 11, 2020, the Florida Development Finance Corporation issued the Florida Development Finance Corporation Surface Transportation Bonds, Series 2019B, totaling \$950,000,000 (the Bond Documents). Among other things, the Bond Documents provide an overview of Brightline’s existing operations and proposed expansion.

The Bond Documents state, “Brightline Holdings develops and operates high-speed passenger rail systems in the United States. ... The Company owns and operates an express passenger rail system connecting major population centers in Florida. Prior to temporarily suspending its passenger rail service due to COVID-19, the Company operated between Miami and West Palm Beach, Florida, one of the most heavily traveled and congested regions in the U.S. ... The Company has commenced construction of its Florida passenger rail system to Orlando, Florida.”

Furthermore, Brightline “currently owns three stations in Miami, Fort Lauderdale, and West Palm Beach, Florida. In Orlando, the Company’s station will be integrated into the Orlando International Airport’s new South Terminal and is owned by the airport and leased to the Company. The Company is also advancing the New In-Line Stations. In addition, the Company is obtaining necessary permits related to the Tampa corridor, which includes the station at Disney Springs.”

Regarding the leasing of rights of way, the Bond Documents state that, “The extension from the Orlando airport to the station at Disney Springs comprises a component of the Tampa extension for which the Company won the RFP process in November 2018. The RFP was issued by the Florida Department of Transportation (FDOT) and the Central Florida Expressway Authority (CFX) for the leasing of rights of way owned by FDOT and CFX to provide intercity passenger rail service between Orlando and Tampa. The Company expects the station at Disney Springs to have a significant potential to increase the Company’s ridership, revenue and EBIDTA.”

Descriptions of the trainsets and operation speeds are contained in the Bond Documents. They state, “Siemens produced five state-of-the-art trainsets (10 locomotives and 20 coaches) that, prior to the suspension of the Company’s passenger rail service, provided passenger service on the South Segment. ... Each trainset currently consists of two diesel-electric locomotives (4,400 horsepower Cummins diesel engines) and four stainless steel passenger cars and has a total capacity of 240

passengers per train. This dual locomotive arrangement allows trains to achieve a top speed of 125 mph, while realizing fuel efficiency.”

In conclusion, Brightline now proposes to construct and operate a high-speed intercity passenger railway that will run along the SR-417 right-of-way, sharing space with six travel lanes – three eastbound and three westbound – that will run from the Orlando International Airport to Tampa, Florida. Once operational, Brightline is expected to operate 18 daily departures, generally beginning at 6:00 am and ending the day at just after 12:00 a.m., traveling at an average speed of 75 mph. Detailed information pertaining to noise levels, noise studies, or the construction of noise abatement walls is not available at this time.

6. Studies on Impacts of Rail on Residential Property Values

While many studies have focused on the impacts of rail and residential property values, it is important to highlight that not all peer-reviewed studies are created equal. Several studies focus on the impacts of light rail, which often has the negative impacts of crossings and proximity to rail offset by the positive impacts of proximity to a rail stop. The speeds of these types of rail uses are most often lower than the speeds affiliated with Brightline’s proposed 75 MPH speed through Hunter’s Creek. Other studies focus on commuter rail, but similar to light rail, even commuter rail goes at speeds far less than the proposed 75 MPH of Brightline. Additionally, many commuter rail lines and even freight lines run parallel to highways, causing some issues in delineating the negative impacts of highways from the negative impacts of the railroad. Despite these issues, the studies that provide some insight into the likely effects of proximity issues and property values are consistently negative, with property losses ranging from two percent within to over 30 percent for properties with frontage on the rail line.

Several studies regarding rail highlight the positive impacts of proximity to a rail stop, often without mentioning any impacts of proximity to rail. These studies, to one extent or another, all focus on accessibility, which in turn implies having a rail stop. Whether it is high-speed rail (Loukaitou-Sideris, Higgins, Piven, and Wei, 2013) or light rail (Debrezion, Pels, and Rietveld, 2007; Baldwin-Hess and Almeida, 2007; Duncan, 2011; Dube, Theriault, Des Rosiers, 2013; Kim and Lahr, 2014; Wu, Dong, and Wang, 2015), the majority of studies focusing on accessibility denote positive impacts related to proximity to a rail stop, increased property values related to the rail stop, and even higher levels of public investment in these geographic areas for transit-oriented development. There are at least two peer-reviewed studies (Bowes and Ihlandfeldt, 2001; Pan, 2012) that discovered negative impacts regarding light rail stops and sales prices within a quarter mile in Atlanta and Houston.

The studies related to the impact of railroads on property values vary based on the type of rail use and distance, with the largest losses in value occurring closest to the rail irrespective of the type of railroad. Additional studies that account for rail noise levels were not included in this study given the absence of any formal noise study regarding Brightline’s speed along the 417 route and noise contours. The inclusion of these studies in the future may result in additional, negative property value impacts beyond those impacts discussed in this section.

The impacts of commuter rail on property values varies. Studies in the mid-1990s in California as well as Boston, in addition to a study from Haifa, Israel found losses ranging from 13% to 20% for properties within 1,000 feet of the rail line (Armstrong, 1994; Landis, et al, 1995; Portnov, Genkin, and Karzilay, 2009). Freight rail impacts range from 5% to 32.5%, with losses impacting property values up to ¼ mile from the rail (Simons and Jaouhari, 2004; Clark, 2006; Chica-Olmo et al, 2019). For railroads that may have multiple uses or where the type of use was not included, the impacts ranged from 5% for a home closer to 1,000 feet away from the rail line to 23% for home within 66 feet (Bowes and Ihlandfeldt, 2001; Strand and Vagnes, 2001; Federal Transit Administration, 2000; Saginor, 2016).

Overall, the majority of research regarding rail and transit stops demonstrates a positive relationship between having a rail stop and property values. Where there is only the rail and no stop in sight, the impacts demonstrate a negative impact on residential property values, generally ranging from 5% to over 32.5%. This range acts as a frame of reference to determine the future impact of Brightline should the 417 route be chosen for future construction. Additionally, it is important to note that these studies do not examine the impacts of construction and other short-term aspects that may only have a temporary effect on property values.

7. Findings of Hypothetical Property Value Impacts on Hunter's Creek

Based on the existing real estate studies, the boundaries used for the hypothetical model of property values impacts from Brightline on Hunter's Creek focus only on single-family residential properties within 1,000 feet of the center line of SR-417. Properties not included in this study are single-family properties that are undeveloped and commercial uses, including apartments.

To isolate these properties, shapefiles from Orange County and the Florida Department of Revenue were utilized to create the 1,000-foot buffer. Property characteristics, such as use type, number of buildings, livable area, and just value for the conservative market of single-family homes, were also included based on the Florida Department of Revenue's Property Tax Oversight Property Tax Data files for 2020.

These files are the formal property tax rolls submitted by counties to the state on an annual basis. The just value is based on the Orange County Property Appraiser's estimates of the true market value of a property largely based on mass appraisal with some adjustments allowed based on state guidelines. The just value used in these findings is before any adjustments, such as Homestead discounts, that would result in a lower overall assessed value. These data, therefore, are likely to provide a more conservative estimate of the true market value of single-family homes in Hunter's Creek given that government property appraisal values are often below actual market values.

There are approximately 163 single-family homes within 400 feet of the centerline of 417 and another 472 homes between 400 feet and 1,000 feet of the centerline of 417. Due to the width of the current right-of-way of 417, there are no single-family homes within 100 feet of the centerline of 417, but this number is likely to change based on the final location of Brightline's tracks. The average year built is 1998 and the average size of the living area is 2,473 square feet. Using the just value figures for 2020 from the Florida Department of Revenue, the average value of homes

within 1,000 feet is \$288,717. Beyond 1,000 feet, the average value of homes in Hunter's Creek is \$297,391. This difference in just value may reflect the capitalized impacts of proximity to the highway given that there is no significant difference in living area or year built for the existing single-family housing stock.

8. Assumptions and Limiting Conditions

There are several different property types that exist within Hunter's Creek. The limitations and conclusions in this study only relate to single-family residential uses. Other property elements, such as the apartments north of SR-417 and west of John Young Parkway, are also likely to be impacted, but were not included in this study.

Noise barriers have been proposed and/or planned for multiple areas north and south of Hunter's Creek along 417, but the lack of project specifics related to the final location of Brightline's track, whether the track will be elevated or not, and the impact that track construction may have on the actual final placement of noise barriers may cause additional property impacts not accounted for in the estimates provided in this report.

Currently, the proposed track is generally north of SR-417, but the center line of SR-417 was used to determine properties within 1,000 as an approximation of impacted properties within 1,000 feet based on a known factor (the existence of SR-417) as opposed to a hypothetical factor (Brightline's final location of the track based on the completion of an environmental impact study and related regulations). Without a finalized route, a future study may require shifting the likely properties affected further north, thereby removing properties on the south side of SR-417.

9. Conclusions

Based on the data available from the Florida Department of Revenue from 2020 Orange County property tax rolls, coupled with diminution in value based on the peer-reviewed literature, estimates for the loss in property value for single-family residential homes in Hunter's Creek are likely to be borne largely by homes within 400 feet of the center line of SR-417. The percentage loss in value for these homes ranges from 11.8% to 20%, or approximately \$34,460 to \$58,453 per home. Within 1,000 feet of the center line of SR-417, the loss in value for all properties ranges from 8.5% to 15% or approximately \$24,684 to \$43,308.

Using 2020 just value estimates obtained from DOR the loss in value that all single-family homes located within the 1,000-foot zone of influence will incur is estimated to range from \$15.7 million to \$27.5 million. Using the MLS data instead of the DOR information causes the damage estimate range to increase slightly, \$16.9 million to \$29.8 million. Assuming a "worst case basis," the loss of property value within the 1,000-foot zone of influence is slightly less than \$30.0 million.

Based upon the limited information provided by Brightline at this time and time constraints, we have summarized other factors that will increase the damages and costs:

1. Apartments – We did not receive adequate information to determine the effects on multi-family residential rental apartments. At this time, we do not expect the diminution in value

of this property class to be less than the lower end of the range of percentage property value losses for single-family residential properties, or approximately 10.0%.

2. Neighborhood Commercial – We did not receive adequate information to determine the effects on neighborhood commercial (e.g., retail and office) properties. Although non-residential properties are usually not affected by noise and vibration to the same extent as residential properties, some peer-reviewed literature has found a loss of value to non-residential properties due to increased traffic levels on nearby local streets. Without further information, it is not possible to develop an estimate of the impact that Brightline will have on this property segment.
3. Community Assets (Schools, churches, parks and open space) – These properties are vital to the Hunter’s Creek community. Noise and vibrations associated with the daily operations of the Brightline high-speed intercity passenger rail will be noticed by residents while they are outdoors, particularly at open spaces located near stormwater storage areas or on jogging/hiking trails or other pathways that are near either side of the SR-417 right-of-way. Although noise abatement options (e.g., double-pane windows, sound dampening wall surfaces and so forth) may be available for schools and churches, such options, other than sound walls, are not available for outdoor spaces. Without a noise study, it is not possible to probe this issue further.
4. Sound and Vibration – We did not receive a sound study (e.g., noise levels, frequency, duration, time-of-day, contours and so forth). The 1,000-foot zone of impact used in this study was estimated based upon our review of peer-reviewed literature. Although reliable, this source information is less credible than a formal corridor noise study. If the results of such a study are contrary to the peer-reviewed literature, the size and shape of the zone of influence will likely change. If Brightline shifts the location of its railway to the north or south of the centerline of SR-417, it is likely that the zone of influence will extend beyond the 1,000-foot distance used in this study.
5. The negative impact on property values caused by Brightline operations is not limited to Hunter’s Creek. Other residential communities located along Brightline’s “desired alignment” will experience similar effects. These communities include Southchase and Meadow Woods.
6. In addition to the \$29.8 million loss of value and the unquantifiable (at this time) damages relating to Items 1 through 5, there is a contingent liability associated with litigation costs if it becomes necessary for CFX to exercise its power of eminent domain. Examination of information prepared by a local eminent domain attorney, suggest that this contingent liability would be approximately 30% of the monetary amount associated with all matters identified above.

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EXHIBIT 14

Mitigation Plan

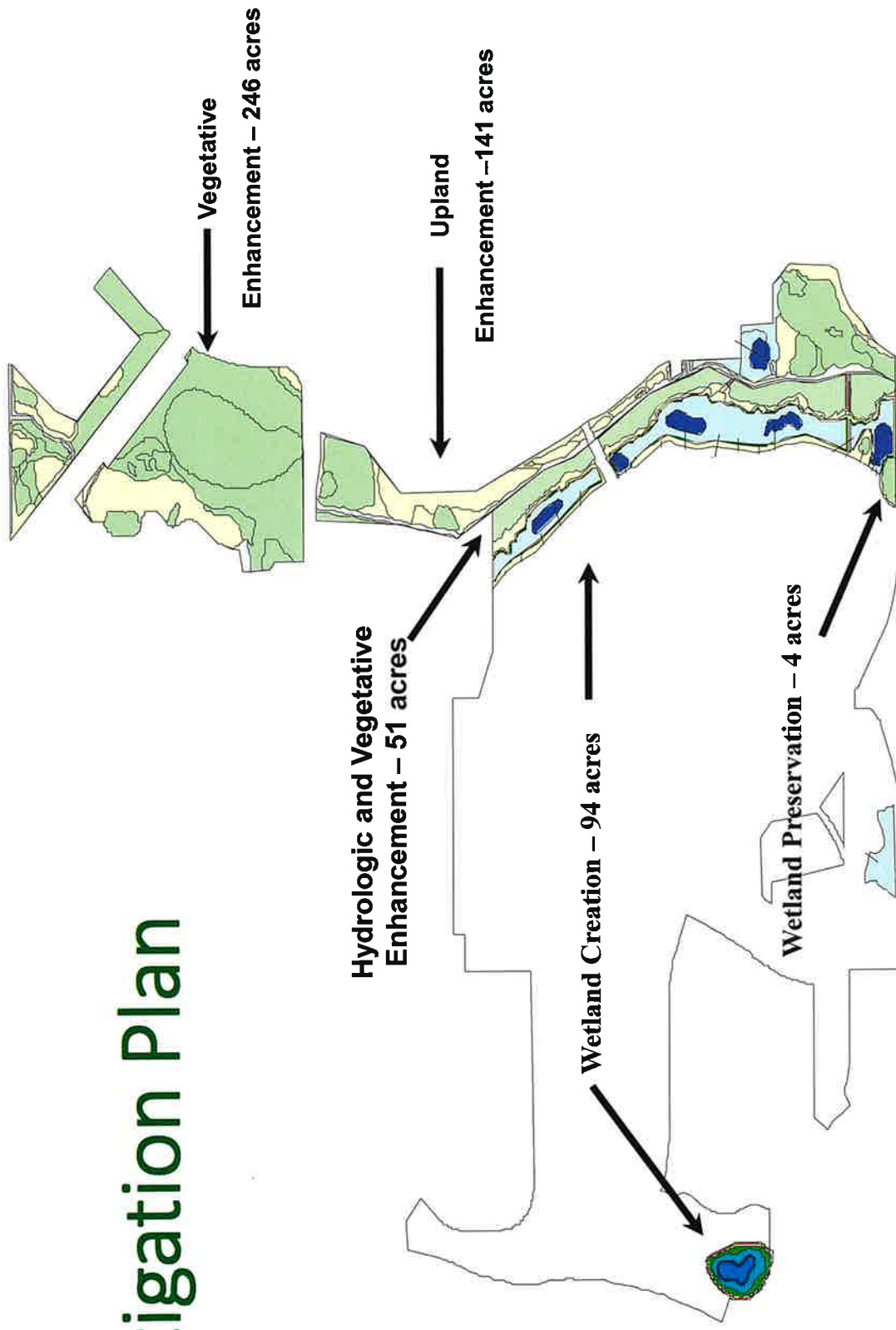


EXHIBIT 15

MAURICE PEARSON

PROFESSIONAL EXPERIENCE

Maurice Pearson—better known as Mo—is a Principal of the firm and also provides senior leadership for the Natural Resources service line. Mo has managed natural resource projects since 1993 and is recognized regionally as a leader of this practice area.

Over the course of his career, which involves both the public and private sectors, Maurice has acquired an exceptional perspective in understanding, negotiating, and meeting project needs in natural resource management and planning for clients. He has fostered and maintains valuable relationships with agency personnel, providing clients the assurance that each project will be presented professionally and that their interests will be articulated and supported. Mo is an active member of his community and participates in numerous professional associations and boards including the Children's Home Society of Florida, Orange County Sheriff's Office Citizens Advisory Board, Orange County Code Enforcement Board, and Orange County M/WBE Advisory Committee.

AREAS OF EXPERTISE

- Department of Transportation project development and environment (PD&E) studies
- Agency coordination
- Section 404 dredge and fill permitting
- Environmental resource permitting
- Wildlife and habitat analysis
- Wetland evaluation reports
- Endangered species biological assessments
- Environmental assessments
- Environmental impact statements

PROJECT EXPERIENCE

Confidential Global Security Company: Wetland Mitigation Bank Permitting, Orange County, Florida

Sr. Project Manager responsible for all technical aspects of the project including permit approval and negotiation with multiple regulatory agencies. The firm is providing all levels of field services and permit coordination for permitting of a wetland mitigation bank at a 4,000-acre site within the Econlockhatchee watershed in southeast Orange County. The project team has completed delineation, review, and assessment of approximately 2,200 acres of on-site wetlands, surveys for threatened and endangered (T&E) species, and potential occurrence and assessment of land management needs (control burn planning, fuel reduction, etc.) to maintain the integrity of the landscape. A permit application package is under review by St. Johns River Water Management District. USACE has approved the prospectus and the project is entering the mitigation banking instrument (MBI) phase.

U.S. Army Corps of Engineers (USACE) Mobile District: Architect-Engineer Services to Provide Environmental Support to Civil, Military, and Federal Agencies, District-wide

Sr. Scientist responsible for ecological support for all applicable task orders awarded under this 5-year, \$5 million indefinite delivery order contract with the Mobile District that involved a broad range of A/E services. Primary technical



PRINCIPAL SENIOR SCIENTIST

EXPERIENCE

28 years of experience in ecological sciences

EDUCATION

M.A., Organizational Management, University of Phoenix

B.S., Biology, University of Central Florida

PROFESSIONAL REGISTRATIONS & CERTIFICATIONS

- Authorized Gopher Tortoise Agent (#GTA-09-00297)
- FDEP Acquisition & Restoration Council (ARC) (Governatorial appointment)
- Central Florida Association of Environmental Professionals



ADDITIONAL INFORMATION

Maurice Pearson

support included environmental compliance; environmental engineering and design; operational range assessments and design; Leadership in Energy and Environmental Design (LEED)/sustainability project support; and GIS data management. The firm completed nine task orders from 2009 through 2014, collectively valued at over \$4.75 million. Specific tasks included providing four staff located onsite at Fort Campbell, Kentucky, for more than 4 years in support of the spill response and tank management program; environmental compliance support at over 25 installations for IMCOM-West; landfill design and permitting for the U.S. Air Force; and landfill maintenance and environmental support at Fort Gordon, Georgia.

Florida Department of Transportation (FDOT): State Road 35, Baseline Road Design/Build, Marion County, Florida

Sr. Project Manager responsible for successful completion of all technical and regulatory negotiation aspects of the project. The firm provided gopher tortoise survey, permitting, and relocation efforts on a 4.5-mile segment of roadway construction. The project team successfully completed a 100 percent survey of the project corridor finding, locating, and documenting 128 burrows, and received permit authorization for relocation efforts from the Florida Fish and Wildlife Conservation Commission. The team completed backhoe excavation of gopher tortoise burrows and visual evaluation of burrow interiors using a borescope for presence/absence of the eastern indigo snake.

FDOT District Five: I-4 PD&E Study, Polk/Osceola County line to west of Kirkman Road and 1 mile east of SR 434 to 0.5 mile east of SR 472, Osceola County, Florida

Sr. Project Manager responsible for the review and evaluation of wetland communities within the limits of the I-4 PD&E study (approximately 23 miles). Activities included wetlands and other surface water identification, assessments using UMAM, and documentation of findings in completing the Wetland Evaluation Report (WER). Provided field services support in wetland identification and UMAM assessments. Stantec provided quality control for each of the five WER documents from draft to final.

Air Force Center for Engineering and the Environment (AFCEE): Ecological Risk Monitoring IV, Cape Canaveral Air Force Station (CCAFS) and Patrick Air Force Base (AFB), Florida

Sr. Scientist responsible for planning and implementation of the field program, evaluation of impacts to indigenous lands and wildlife, and coordination with project stakeholders relative to mitigation of potential high-risk impacts. The firm provided environmental compliance and remediation services at CCAFS and Patrick AFB following Resource Conservation and Recovery Act (RCRA) and Toxic Substances Control Act guidance. This project was completed under the direction of EPA and Florida Department of Environmental Protection. In addition to RCRA requirements, the project provided data to effectively determine the present status and stakeholder position for compliance with total maximum daily load (TMDL) requirements, respond and comply with current and future TMDL regulations, and assist in maintaining compliance with the National Pollution Discharge Elimination System program. The project also assisted the Air Force in developing, programming, and implementing projects, such as catch basin filtration devices to minimize potential pollutants that may discharge to surface waters and maintain compliance with Clean Water Act regulations.

OUTSIDE THE OFFICE

Mo, his wife Ileana, and daughter Megan are natives of Orange County, Florida. They are active supporters of Children's Home Society and Orlando Children's Church, both nonprofit organizations. On weekends, Mo and his family can be found volunteering at one of many charitable organizations or playing at a local beach.



EXHIBIT 16







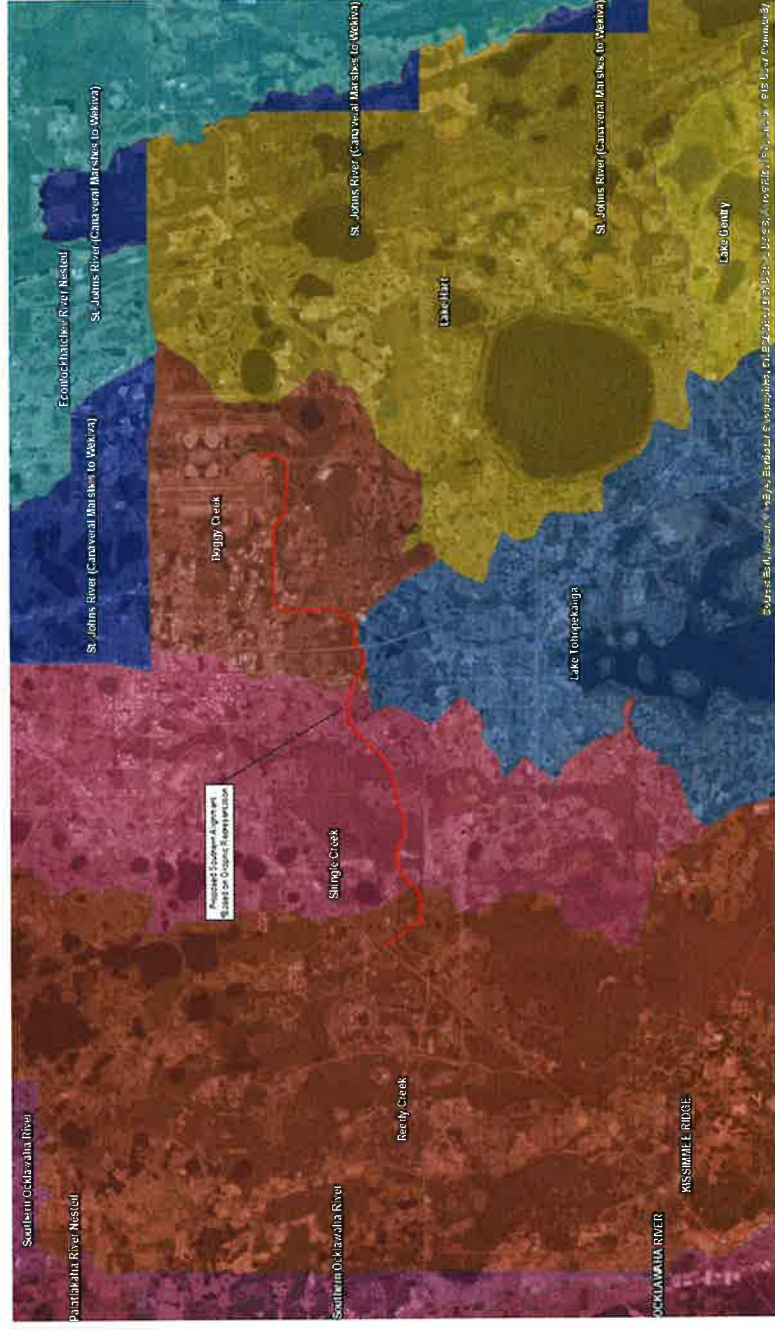


Existing Environmental Analysis

Wetland Impacts

Proposed southern alignment:

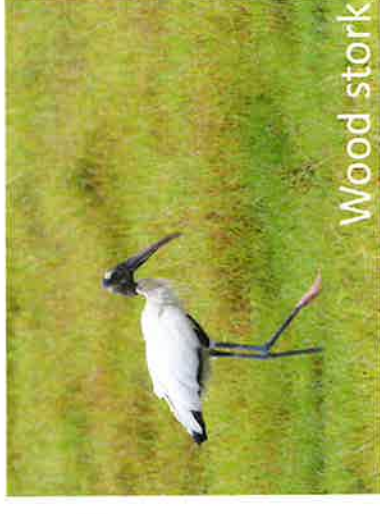
- 15 to 20 acres of direct wetland Impacts.
- 3 hydrological basins
 - Shingle Creek
 - Reedy Creek
 - Boggy Creeks
- Cumulative wetland impacts????



Existing Environmental Analysis

Wildlife Impact Considerations

- Wetland systems provide habitat for the entire lifecycle of wildlife species.
- Wildlife Consultation Areas within project limits include:
 - Florida scrub-jay
 - Red-cockaded woodpecker
 - Audubon's crested caracara
 - Everglade snail kite
 - Sand-skink



Existing Environmental Analysis

Conservation Land Impacts

Proposed southern alignment:

- Impacts to approximately 20 acres of conservation lands



EXHIBIT 17

**ECOLOGICAL SUMMARY REPORT
BRIGHTLINE PROPOSED SOUTHERN ALIGNMENT**

Prepared By:
MSE Group, LLC
5858 South Semoran Boulevard
Orlando, Florida 32822

July 2021

Table of Contents

Table of Contents	i
1.0 Executive Summary	v
2.0 Introduction	1
3.0 Project Description	1
4.0 Methodology	1
4.1 Wetlands and Surface Waters	1
4.2 Protected Wildlife Species and Their Habitat	2
5.0 General Site Conditions	2
5.1 Soils	2
5.2 Current Land Use	2
5.2.1 Uplands	3
5.2.2 Wetlands	3
6.0 Federally and State-Protected Wildlife Species	4
6.1 Bald Eagle	5
6.2 Federally Protected Wildlife Species.....	6
6.2.1 American Alligator.....	6
6.2.2 Audubon’s Crested Caracara	6
6.2.3 Florida Scrub-Jay	6
6.2.4 Red-Cockaded Woodpecker	6
6.2.5 Everglade Snail Kite.....	7
6.2.6 Sand Skink.....	7
6.2.7 Wood Stork	7
6.3 State-Protected Wildlife Species.....	8
6.3.1 Gopher Tortoise	8
6.3.2 Florida Pine Snake.....	8
6.3.3 Florida Sandhill Crane	8
6.3.4 Wading Birds.....	8
7.0 Conservation Lands	9
8.0 Regulatory Requirements	9
8.1 Federal Requirements	9
8.1.1 U.S. Army Corps of Engineers	9
8.1.2 U.S. Fish and Wildlife Service	11
8.2 State Requirements.....	11
8.2.1 South Florida Water Management District	11
8.2.2 Florida Fish and Wildlife Conservation Commission.....	12
8.3 Local Government	13
8.3.1 Orange County Environmental Protection Division.....	13
9.0 Proposed Ecological Impacts	13

9.1	Wetland and Surface Water Impacts	13
9.2	Secondary Impacts.....	13
9.3	Cumulative Impacts	14
9.4	Wetland Mitigation	14
9.5	Conservation Lands.....	14
9.6	Protected Wildlife Species.....	14
10.0	Conclusion	14
11.0	Bibliography.....	16

List of Tables

Table 1: Federally and State-Protected Wildlife Species Known to Occur in Orange and Osceola Counties, Florida, and the Potential for Occurrence within the Brightline Proposed Southern Alignment⁴

List of Figures

- Figure 1 – Location Map
- Figure 2 – Aerial Map
- Figure 3 – USGS Topographic Map
- Figure 4 – NRCS Soils Map
- Figure 5 – Land Use Map
- Figure 6 – NWI Map
- Figure 7 – Flood Zones Map
- Figure 8 – Bald Eagle Nest Locations Map
- Figure 9 – Audubon’s Crested Caracara Consultation Area Map
- Figure 10 – Florida Scrub-Jay Consultation Area Map
- Figure 11 – Red-Cockaded Woodpecker Consultation Area Map
- Figure 12 – Everglades Snail Kite Consultation Area Map
- Figure 13 – Sand Skink Consultation Area Map
- Figure 14 – Wood Stork Colonies and Core Foraging Area Map
- Figure 15 – Conservation Lands Map
- Figure 15A – Conservation Lands Impact Map
- Figure 16 – Hydrologic Basins Map

Appendices

- Appendix A – Permit Documents – Orange Avenue Widening
- Appendix B – Recorded Conservation Easement – Orange Avenue Widening Mitigation

List of Acronyms and Abbreviations

AJD	Approved Jurisdictional Determination
BA	Biological Assessment
BE	Biological Evaluation
BRP	Biodiversity Resource Priorities
CFA	Core Foraging Area
CFR	Code of Federal Regulations
CLEAR	Conservation Lands, Easements, and Recreation
CLIP	Critical Lands and Waters Identification Project
CWA	Clean Water Act
E	Endangered
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ERP	Environmental Resource Permit
ESA	Endangered Species Act
ESR	Ecological Summary Report
FAC	Florida Administrative Code
FDACS	Florida Department of Agriculture and Consumer Services
FDEP	Florida Department of Environmental Protection
FDOT	Florida Department of Transportation
FL-SOLARIS	Florida State Owned Lands and Records Information System
FLUCFCS	Florida Land Use, Cover, and Forms Classification System
FNAI	Florida Natural Areas Inventory
FS	Florida Statute
FWC	Florida Fish and Wildlife Conservation Commission
GP	General Permit
ISMP	Imperiled Species Management Plan
MB	Mitigation Bank
MSE	MSE Group, LLC
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NRCS	Natural Resources Conservation Service
NWP	Nationwide Permit
NWPR	Navigable Waters Protection Rule
OCEPD	Orange County Environmental Protection Division
RCW	Red-Cockaded Woodpecker
RHA	Rivers and Harbors Act of 1899
ROW	Right-of-Way
SFH	Suitable Foraging Habitat
SFWMD	South Florida Water Management District
SP	Standard Permit
SR	State Road
SSC	Species of Special Concern

List of Acronyms and Abbreviations (Cont'd.)

T	Threatened
USACOE	U.S. Army Corps of Engineers
USDA	U.S. Department of Agriculture
USC	U.S. Code
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
WOTUS	Waters of the U.S.

1.0 Executive Summary

The rail alignment between Orlando and Tampa has been reviewed several times by multiple government agencies, including the Federal Railroad Administration, the U.S. Army Corps of Engineers (USACOE), and the South Florida Water Management District (SFWMD). These detailed reviews resulted in the 2005 Environmental Impact Statement (EIS), which was reaffirmed by the 2010 EIS and Record of Decision (ROD), and concluded that the Northern Alignment (Taft-Vineland, S.R. 528) results in fewer natural impacts than the southern alignment (S.R. 417) and is the preferred alignment from Orlando to Tampa. Nonetheless, Brightline is now proposing a Southern Alignment (also along S.R. 417) that is similar to the one previously dismissed in 2005 and 2010, without properly identifying many of the associated ecological impacts, mitigation costs, and permitting challenges that make the currently proposed Southern Alignment problematic. Such ecological impacts and mitigation costs must be specifically identified and evaluated in connection with the federally mandated NEPA environmental review process, as well as the USACOE and SFWMD permitting processes, and, as such, it would be detrimental to the project to disregard them at this stage. That said, Brightline's current plans fail to acknowledge or adequately address a number of moderate and high-quality wetlands, including Shingle Creek; lands that are under recorded conservation easements; floodplain or floodways compensating storage requirements; stormwater management; and the destruction of habitat that supports protected wildlife species.

Based on my analysis to date, in addition to the mitigation costs that Brightline has failed to account for to date, Brightline's proposed alignment will require several years of negotiation with regulatory agencies prior to obtaining the requisite approvals and permits. As such, it is premature to make any commitments relative to the proposed Brightline alignment.

Ecological Issues

The ecological impacts associated with the Southern Alignment have not been fully identified or subject to required regulatory review, which includes the opportunity for public notice and input. To date, there is no existing study or analysis, such as an EIS, Environmental Assessment (EA), Project Development & Environment (PD&E) Study, or Roadway Conceptual Analysis (RCA) that identifies, quantifies, or qualifies the adverse impacts that will result from construction and operation of the Southern Alignment.

In my initial review I have identified the following issues.

- Brightline's most recent proposed alignment will adversely impact 15 to 20 acres of wetlands across three different hydrological basins, including Boggy Creek, Shingle Creek and Reedy Creek. These fully established wetlands are moderate to high quality systems with a long history of community investment.
 - One of the wetland systems impacted by Brightline's proposed alignment is a wetland conservation area that was created to offset adverse wetland impacts for construction associated with Orange Avenue and to provide necessary floodplain compensation within the Boggy Creek basin. The currently proposed alignment would bisect this 34-acre wetland conservation area, causing direct and secondary impacts to this system.
 - In total, approximately 20 acres of conservation lands, including the mentioned Orange Avenue mitigation parcel, will need to be filled and mitigated under the currently proposed alignment.

- Approximately 1,000 linear feet of elevated crossing will be needed at Shingle Creek, at a significant additional expense, in order to avoid adverse impacts to the open water portion of the creek. Additionally, another 700 linear feet of forested wetlands that are contiguous with Shingle Creek will be adversely impacted by the currently proposed alignment.
- Floodplain or floodway impacts from the Brightline project will require analysis and mitigation, which do not appear to be available for those portions of the alignment located within the 100-year flood plain.
- The currently proposed alignment is located within the consultation area of several federally protected wildlife species and concurrence with any impact and mitigation will be required to be obtained from the U.S. Fish and Wildlife Service and/or Florida Fish and Wildlife Conservation Commission.

Permitting Issues

The Southern Alignment will require permitting from the USACOE (Section 404 retained wetlands at Shingle Creek), SFWMD, Florida Department of Environmental Protection (FDEP) (Section 404 Assumption wetlands), and Orange County Environmental Protection Division (OCEPD) for wetland impact authorization.

- The USACOE regulations require that project alternatives be identified and analyzed as part of its review. Brightline does not, however, appear to give any consideration to addressing this requirement. A study to consider and quantify the alternatives will need to be completed prior to permit application submittal to any of the regulatory agencies for approval.
- 15 to 20 acres of proposed impacts resulting from the currently proposed alignment are providing mitigation for previously approved wetland impacts in the area. Releasing the existing conservation easements, mitigating for the value that these areas currently provide, and the additional mitigation of the identified Brightline impacts will result in the requirement for double mitigation, adding significant complexity to the permitting efforts with the USACOE and SFWMD and lengthening the permit review timeframes.
- Based on my experience, the required permitting process timeframe would be expected, conservatively, to take 12 to 36 months.
- All permits must be obtained prior to any construction that results in a wetland impact.

Regulatory and Process Issues

The Southern Alignment has not undergone the required regulatory review for projects subject to NEPA, resulting in regulatory uncertainty, increased costs, and project delays.

- The Northern Alignment (Taft-Vineland, S.R. 528) was the subject of full review with identified impacts and established mitigation requirements in both the 2005 and 2010 EIS, as well as the 2010 ROD. As such, the ecological impacts and required mitigation are known and have been conceptually approved by the regulatory agencies having jurisdiction. Further, both the 2005 and 2010 EEHS, as well as the 2010 ROD, concluded that the Northern Alignment was the preferred alignment and resulted in fewer natural impacts.
- The Southern Alignment (S.R. 417) that is now being proposed by Brightline has not been subject to the same level of regulatory scrutiny or public involvement, leading to significantly

greater uncertainty relative to the full ecological impacts, mitigation requirements, associated costs, and project timeline (a NEPA review takes, on average, between 41 to 47 months to complete).

2.0 Introduction

This report documents the ecological features within the Brightline Currently Proposed Southern Alignment (Southern Alignment). Ecological features include wetland and/or surface water communities; the occurrence, or potential for occurrence, of federally- and/ or state-protected wildlife species and their habitat; conservation lands, floodplain, etc. and the likelihood of impacts of such during project construction and operation.

3.0 Project Description

Brightline is considering the design, permitting, construction and operation of an intercity high-speed passenger rail service along the Southern Alignment within Orange and Osceola Counties, FL. This high-speed passenger rail begins at Orlando International Airport and traverses southwest onto State Road (S.R.) 417 (Central Florida Greenway), northern right-of-way, and ultimately to Interstate 4 (**Figure 1**). The Southern Alignment is approximately 16.6 miles in length with approximately half of the high-speed passenger rail located within the right-of-way of S.R. 417.

4.0 Methodology

MSE completed an ecological evaluation of the study area, which identified and documented current hydrologic and natural features, threatened and endangered species, and permitting requirements for the Southern Alignment. This evaluation included review and analysis of the following items:

- Public records databases, handbooks, and manuals
 - Aerial Mapping (**Figure 2**)
 - Florida Department of Transportation (FDOT) Florida Land Use, Cover, Forms and Classification System (FLUCFCS) Handbook (1999)
 - Florida Fish and Wildlife Conservation Commission (FWC)
 - U.S. Fish and Wildlife Service (USFWS)
 - USFWS North Florida Ecological Services Office Species Account
 - Florida Department of Environmental Protection (FDEP) Map Direct
 - Florida Natural Inventories (FNAI) Tracking List
 - National Wetlands Inventory (NWI) Maps
 - National Resources Conservation Services (NRCS) Soil Survey Maps
 - South Florida Water Management District (SFWMD)
 - U.S. Army Corps of Engineers (USACOE)
 - U.S. Geological Survey (USGS) topographic quadrangle maps (**Figure 3**)
 - Data/Information made available by Brightline in support of the Southern Alignment
- Physical setting conditions (topography, soils) in the study area
- Land use types within the study area
- Ground-truth activities for wetlands and surface water features
- Evaluation of habitat for wildlife species, including threatened and endangered species

4.1 Wetlands and Surface Waters

The jurisdictional extent of wetlands and other surface water systems were aerial interpreted, and field verified in general accordance with the *1987 Corps of Engineers Wetlands Delineation Manual* (Technical Report Y-87-1), *November 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic Gulf Coastal Plan Region*, and the State of Florida's *Delineation of the Landward Extent*

of *Wetlands and Surface Waters* (Chapter 62-340, Florida Administrative Code [FAC]). Wetlands and surface waters observed were classified using the SFWMD land use type data, and the U.S. Fish and Wildlife Service classification system as described in their *Classification of Wetlands and Deepwater Habitats of the United States* (Cowardin et al. 1979). Ground-truthing of wetlands and surface waters was completed along the study area in July 2021.

4.2 Protected Wildlife Species and Their Habitat

Database queries were completed to evaluate the occurrence or potential for occurrence of wildlife species identified as threatened (T), endangered (E), or species of special concern (SSC) by governing regulatory agencies, followed by ground-truth activities in July 2021. Visual observations during a site walk for the occurrence or potential for occurrence of federally- and/or state-protected wildlife were completed along the Southern Alignment. Wildlife observations included visual observation of species, scat, nests, etc. and audible detection.

5.0 General Site Conditions

5.1 Soils

The U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Soil Survey is a comprehensive published source of information regarding near-surface soil and depth-to-groundwater conditions. The NRCS Soil Surveys of Orange and Osceola Counties, Florida, were reviewed for information regarding near-surface soil conditions within the Southern Alignment (**Figure 4**).

The NRCS Soil Survey identified the following soil units within the limits of the study area:

- 3 – Basinger fine sand, frequently ponded, 0 to 1 percent slopes (Hydric)
- 20 – Immokalee fine sand
- 26 – Ona fine sand, 0 to 2% slopes
- 34 – Pomello fine sand, 0 to 5 percent slopes
- 37 – St. Johns fine sand
- 40 – Samsula Muck, frequently ponded, 0 to 1% slopes (Hydric)
- 41 – Samsula-Hontoon Basinger associated depressional (Hydric)
- 42 – Sanibel Muck (Hydric)
- 44 – Smyrna-Smyrna, wet, fine sand, 0 to 2 percent slopes (Hydric components)
- 54 – Zolfo Fine Sand, 0 to 2 percent slopes
- 99 – Water

Generally, the NRCS data suggests that the depth to the water table for these soil types ranges from 0 to 42 inches; these soil types are identified as very poorly to moderately well-drained soils, with permeability ranging from moderately high to very high (NRCS, Web Soil Survey). During site reviews, a large percentage of the study area was observed to having saturated soils conditions in addition to inundation within wetland systems. Site observations of soil conditions would suggest soil types are consistent with mapped units.

5.2 Current Land Use

Land use types within and abutting the Southern Alignment range from undeveloped/natural lands, both wetlands and uplands, to high density multiple dwelling units and commercial services (**Figure 5**). A

summary description of the dominate undeveloped/natural lands observed during site reviews is provided below.

5.2.1 Uplands

- **FLUCFCS 1900 – Open Land** – This land use type best describes the area between Orange Avenue and the Florida’s Turnpike within the Southern Alignment. This area is vegetatively comprised of bahiagrass (*Paspalum notatum*), dog fennel (*Eupatorium capillifolium*), prickly pear (*Opuntia* spp.), saw palmetto (*Serenoa repens*), blackberry (*Rubus* spp.), grapevine (*Vitis* spp.), beautyberry (*Callicarpa americana*), golden rain tree (*Koelreuteria paniculata*), and rattlebox (*Crotalaria* spp.). This area is bordered by wetlands to the north and south and is maintained as a part of the overhead utilities.
- **FLUCFCS 3210 – Palmetto Prairies** – This land use type best describes the lands on the northside of SR 417, just west of the toll plaza. Vegetation present includes a groundcover of saw palmetto, with fetterbush (*Lyonia lucida*), coastal plain staggerbush (*Lyonia fruticosa*), and gallberry (*Ilex glabra*) in the midstory. A sparse canopy of slash pine (*Pinus elliotii*) makes up the overstory.
- **FLUCFCS 4110 – Pine Flatwoods** – This land use type is found within and abutting the study area, east and west along the SR 417 alignment. This land use includes a canopy of slash pine (*Pinus elliotii*) and live oaks (*Quercus* spp.), with a subcanopy and groundcover of wax myrtle (*Myrica cerifera*), saw palmetto, fetterbush, gallberry and wiregrass (*Aristida stricta* var. *beyrichiana*).

5.2.2 Wetlands

- **FLUCFCS 5120 – Channelized Waterways, Canals** – This land use type best characterizes the surface water of Shingle Creek that lies within the Southern Alignment corridor. This area is an open water feature with submerged aquatic vegetation.
- **FLUCFCS 6210 – Cypress** – This land use type makes up most of the forested wetland systems within and abutting the Southern Alignment. Vegetation present includes a mature canopy dominated by cypress (*Taxodium* spp.), with scattered red bay (*Persea borbonia*), and dahoon holly (*Illex cassine*), with a groundcover of cinnamon fern (*Osmunda cinnamomea*), Virginia chainfern (*Woodwardia virginica*), netted chain fern (*Woodwardia areolata*) and standing water.
- **FLUCFCS 6250 – Hydric Pine Flatwoods** – This land use is vegetatively comprised of pond pine (*Pinus serotina*), loblolly pine (*Pinus taeda*), slash pine, Brazilian pepper, water oak, dahoon holly, saw palmetto, red root (*Lachnanthes caroliana*), cinnamon fern, sedges (*Carex* spp.), muscadine grapevine, and areas of standing water. This habitat type is largely located along the western limits of the Southern Alignment.
- **FLUCFCS 6300 – Wetland Forested Mixed** – This land use type best describes the undeveloped land along SR 417 near Kissimmee Vineland Road overpass. Vegetation present includes cypress, slash pine, water oak (*Quercus nigra*), red maple (*Acer rubrum*), sweetbay magnolia (*Magnolia grandiflora*), loblolly bay, wax myrtle, dahoon holly, Virginia chain fern, maidencane (*Panicum hemitomon*), Virginia creeper (*Parthenocissus quinquefolia*), and standing water.

- **FLUCFCS 6410 – Freshwater Marshes** – This land use type best describes the herbaceous wetland along the eastside of Orange Avenue where the Southern Alignment leaves the existing tracks, bisecting the wetland system. This wetland is vegetated by a groundcover of pickerelweed (*Pontederia cordata*) and bulltongue arrowhead (*Sagittaria lancifolia*) with scattered cypress in the canopy.

6.0 Federally and State-Protected Wildlife Species

Literature reviews and database queries were completed to identify federally and/or state-protected wildlife species known to occur in Orange and Osceola Counties, Florida, and the potential occurrence of such species to inhabit the study corridor. Federally and/or state-protected wildlife species are those categorized by USFWS and/or FWC as T, E, or SSC, thereby receiving a level of protection because of their status. The potential occurrence of protected wildlife species identified within the study corridor is based on the type and quality of present vegetative communities and the surrounding land uses. The probability of each wildlife species occurring within the study corridor was ranked using the following requirements:

1. **No** – indicates no suitable habitat present. Suitable habitat is defined as intact natural land that is typically used by the species under consideration.
2. **Low** – indicates that marginally suitable habitat may exist within the study area, but the species was not observed during field observations. Marginal describes natural land that has been altered from its native state due to human activity, ecological succession, or conversion; however, the species under consideration could still inhabit the area.
3. **Moderate** – indicates that suitable habitat exists within the study area, but the species was not observed during field observations.
4. **High** – indicates that suitable habitat exists within the study area and the species of interest was observed during field observations.

Table 1 provides a summary of those federally and/or state-protected species known to occur in Orange and Osceola Counties and their potential for occurrence within the study corridor. A discussion of federal and/or state-protected wildlife with the occurrence potential to be found within the study area, or the study area falls within the species consultation area, are discussed in detail below.

Table 1: Federally and State-Protected Wildlife Species Known to Occur in Orange and Osceola Counties, Florida, and the Potential for Occurrence within the Southern Alignment

Scientific Name	Common Name	Protection Status	Occurrence Potential	Consultation Area	Habitat
Fish					
<i>Pteronotropis welaka</i>	Bluenose shiner	ST	No	--	Quiet backwaters and pools of blackwater streams and rivers and spring runs; usually with thick vegetation nearby
Reptiles					
<i>Alligator mississippiensis</i>	American alligator	FT(S/A)	Moderate	--	Various aquatic habitats
<i>Drymarchon corais couperi</i>	Eastern indigo snake	FT	Moderate	--	Wide variety of natural habitats

Scientific Name	Common Name	Protection Status	Occurrence Potential	Consultation Area	Habitat
<i>Gopherus polyphemus</i>	Gopher tortoise	ST	Moderate	--	Sandhills, scrub, hammocks, dry prairies, flatwoods, mixed forests
<i>Lampropeltis extenuata</i>	Pine snake	ST	Moderate	--	Sandhills, scrubby flatwoods, xeric hammocks, ruderal areas
<i>Plestiodon reynoldsi</i>	Sand Skink	FT	Low	Partially within	Rosemary scrub, scrubby flatwoods, sand pine, oak scrub
<i>Lampropeltis extenuate</i>	Short-tailed snake	ST	Low	--	Longleaf pine-turkey oak, sand pine scrub, xeric hammocks
Birds					
<i>Haliaeetus leucocephalus</i>	*Bald eagle	--	High	--	Forested areas adjacent to bodies of water
<i>Polyborus plancus</i>	Audubon's Crested Caracara	FT	Moderate	Yes	Open country, dry prairie, ruderal areas
<i>Rostrhamus sociabilis</i>	Everglade snail kite	FE	Moderate	Yes	Freshwater marshes, vegetated fringes of shallow lakes and ponds
<i>Athene cucularia floridiana</i>	Florida burrowing owl	ST	No	--	Sparsely vegetated sandhills, dry prairies, ruderal areas
<i>Grus canadensis</i>	Florida sandhill crane	ST	High	--	Shallow wetlands, freshwater marshes, wet prairies
<i>Aphelocoma coerulescens</i>	Florida scrub-jay	FT	Low	Yes	Scrub, scrubby flatwoods
<i>Egretta caruella</i>	Little blue heron	ST	High	--	Marshes, ponds, rivers
<i>Picoides borealis</i>	Red-cockaded woodpecker	FE	Low	Yes	Open, mature pine flatwoods
<i>Egretta Tricolor</i>	Tricolored heron	ST	Moderate	--	Marshes, ponds, rivers
<i>Platalea ajaja</i>	Roseate spoonbill	ST	Moderate	--	Coastal mangroves, Brazilian pepper on man-made dredge spoil islands, willow heads of freshwater
<i>Mycteria americana</i>	Wood stork	FT	High	--	Fresh and brackish forested wetlands, swamps, ponds, marshes

Occurrence Potential = No, Low, Moderate, High

Consultation Area = Identified within consultation area as depicted by USFWS and/or FWC GIS Data

Code Key: FE = Federally designated Endangered, ST = State-designated Threatened, FT = Federally designated Threatened, FT S/A = Federally-designated Threatened due to Similar in Appearance

Data Source: USFWS ECOS accessed July 2021:

Florida's endangered species, and threatened species dated December 2018

FNAI.org accessed July 2021

*Protected under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act

6.1 Bald Eagle

Although the bald eagle (*Haliaeetus leucocephalus*) has been delisted, under the Endangered Species Act, the species remains protected through the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. Florida has one of the densest concentrations of nesting bald eagles in the lower 48 states, with several clustered around significant lake, river, and coastal systems throughout the state (FWC, Bald

Eagle Management). Bald eagles typically nest and roost in forested habitats consisting of mature canopy trees located along habitat edges, allowing an unobstructed view of surrounding areas. Daytime roosts are in the highest trees and adjacent to shorelines. High quality foraging habitat for bald eagles has a diversity and abundance of prey, access to shallow water, and tall trees or structures (FWC, Bald Eagle Management).

The FWC Bald Eagle Nest locator was queried for known bald eagle nest sites within a 1-mile radius of the study area. Four documented bald eagle nest sites were identified within the search radius of the Southern Alignment (**Figure 8**).

6.2 Federally Protected Wildlife Species

6.2.1 American Alligator

FWS considers the American alligator (*Alligator mississippiensis*) threatened due to similarity in appearance to the federally endangered American crocodile (*Crocodylus acutus*). The American alligator inhabits fresh and brackish marshes, ponds, lakes, rivers, swamps, bayous, and large spring runs. They have been found in salt marsh and estuarine habitats in some parts of the state (Scott 2004). Alligators play a vital role in creating and maintaining microhabitats (gator holes), which can serve as refuge to water source habitats and benefit a host of species. Nests consist of a mound of compacted earth and vegetation usually 4–7 feet in diameter (Scott 2004). Nesting season occurs in the spring. The alligator has a wide variety of food sources, including fish, ducks, wading birds, raccoons, and turtles.

Although the alligator was not observed, habitat for this species is present within the study area.

6.2.2 Audubon's Crested Caracara

USFWS lists the Audubon's crested caracara (*Polyborus plancus audubonii*) as threatened. It is typically found in dry or wet prairies with scattered cabbage palms and improved and unimproved pasturelands (USFWS Multispecies Recovery Plan for South Florida). Nest sites are typically found in the tallest cabbage palm or other structures free of dense vegetation. Caracara birds are opportunistic feeders with their diets consisting of insects, fish, snakes, turtles, birds, and mammals (rabbits and skunks).

The Southern Alignment lies within the consultation area of the crested caracara (**Figure 9**).

6.2.3 Florida Scrub-Jay

USFWS lists the Florida scrub-jay (*Aphelocoma coerulescens*) as threatened. This species is typically found in sand pine, xeric oak scrub, scrubby flatwoods with sandy soils, and fire-dominated habitat types. The scrub-jay's diet consists mainly of acorns, arthropods, berries, seeds, and a wide variety of insects (Woolfenden & Fitzpatrick 1996).

The Southern Alignment is located within the USFWS consultation area for the Florida scrub-jay (**Figure 10**). Suitable habitat for this species is found within or immediately adjacent to the Southern Alignment.

6.2.4 Red-Cockaded Woodpecker

USFWS lists the red-cockaded woodpecker (*Picoides borealis*) (RCW) as endangered. The RCW is known to inhabit mature pine forests where they can bore out cavities. RCWs favor environments that have a diversity of grass, forb, and shrub species. Their diet consists mainly of insects and arthropods, with fruit and seeds making up a small portion (USFWS March 9, 2020).

The study area lies within the USFWS consultation area for the RCW (**Figure 11**).

6.2.5 Everglade Snail Kite

USFWS lists the Everglade snail kite (*Rostrhamus sociabilis plumbeus*) as endangered. The snail kite is found near large, open freshwater marshes and lakes with shallow water and low density of emergent vegetation of natural and man-made systems. The apple snail (*Pomacea paludosa*) is the snail kite's main food source, which makes the snail kite's survival directly dependent on the hydrology and water quality of watersheds associated with the Everglades, lake Okeechobee, and the Kissimmee and the upper St. Johns Rivers (USFWS Multi-Species Recovery Plan for South Florida).

The Southern Alignment is located within the USFWS consultation area with several nesting sites document just south of the area (**Figure 12**).

6.2.6 Sand Skink

The USFWS lists the sand skink as threatened. It is endemic to the sandy ridges of central Florida, occurring in Highlands, Lake, Marion, Orange, Osceola, Polk, and Putnam counties (Christman, 1988). Principal populations occur on the Lake Wales and Winter Haven Ridges in Highlands, Lake, and Polk counties. The sand skink is uncommon on the Mount Dora Ridge, including sites within the Ocala National Forest (Christman, 1970, 1992). As of 1997, there were 114 locality records for the sand skink, most of which are found within the Lake Wales Ridge.

The sand skink is adapted to an underground existence, and usually inhabits the loose sands of sand pine-rosemary scrub. Sometimes it will live in longleaf pine-turkey oak (sandhill) or turkey oak "barrens" adjacent to scrub, especially high pine-scrub ecotones (Telford, 1996). To be considered potentially suitable habitat, the site would have to be located within the USFWS delineated consultation area, contain appropriate soil type(s), and have appropriate elevations (82 feet above mean sea level). Two areas within the Southern Alignment meets all three USFWS criteria (**Figure 13**).

6.2.7 Wood Stork

USFWS lists the wood stork (*Mycteria americana*) as threatened. This species is typically found in freshwater marshes, swamps, lagoons, ponds, flooded fields, depressions in marshes, and brackish wetlands. The critical foraging areas for this species include areas of very shallow water, generally 6–10 inches in depth, where there is an abundance of small fishes and other aquatic life. These small fishes may include mosquitofish, sailfin mollies, flagfish, and several species of sunfish. Wood storks may also prey on frogs, salamanders, snakes, crayfish, insects, and baby alligators (Scott 2004). Suitable foraging habitat (SFH) is defined in *The Corps of Engineers, Jacksonville District, U.S. Fish and Wildlife Service, Jacksonville Ecological Services Field Office and State of Florida Effect Determination Key for the Wood Stork in Central and North Peninsular Florida* (2008) as "any area containing patches of relatively open (25% aquatic vegetation), calm water, and having a permanent or seasonal water depth between 2 and 15 inches." Examples of SFH include freshwater marshes and stock ponds, shallow, seasonally flooded roadside or agricultural ditches, narrow tidal creeks or shallow tidal pools, managed impoundments, and depressions in cypress heads and swamp sloughs. USFWS has identified core foraging areas (CFA) around wood stork colonies that are deemed important for reproductive success. The CFA within the study corridor is identified as a 15-mile radius from known wood stork colonies.

The Southern Alignment is located within the 15-mile CFA of four wood stork colonies (USFWS Wood

Storks 2010 – 2019 GIS Database) (Figure 14).

6.3 State-Protected Wildlife Species

6.3.1 Gopher Tortoise

FWC lists the gopher tortoise (*Gopherus polyphemus*) as threatened. The gopher tortoise inhabits subterranean burrows in dry upland habitats. Vegetative communities most often inhabited by gopher tortoises include longleaf pine sandhills, xeric oak hammocks, scrub, pine flatwoods, dry prairies and coastal dunes. Gopher tortoises can also be found in pastures, ruderal fields, and grassy roadsides. To be suitable for gopher tortoises, the habitat must have well-drained sandy soils for digging burrows, herbaceous plants, and open sunny areas for nesting and basking. Periodic natural fires play an important role in maintaining tortoise habitat by opening up the canopy and promoting growth of herbaceous plants for foraging. If natural fires are suppressed, the habitat becomes unsuitable for gopher tortoises (Cox 1987). Gopher tortoise burrows are an important habitat to many native species. It is estimated that 39 invertebrates and 42 vertebrate species use the gopher tortoise burrow to some degree (Cox 1987). Of those species, protected species that frequently inhabit the gopher tortoise burrow include the Florida pine snake, eastern indigo snake, and burrowing owl.

6.3.2 Florida Pine Snake

FWC lists the Florida pine snake (*Pituophis melanoleucus*) as threatened. The Florida pine snake is found in sandhills, including old fields and pastures, with a moderate to open canopy and dry sandy soils, in which it burrows. The pine snake is also found in sand pine scrub and scrubby flatwoods; it often coexists with pocket gophers and gopher tortoises (FNAI 2018). The diet of the Florida pine snake primarily consists of moles, rabbits, mice, rats, squirrels, lizards, and other snakes and their eggs (Ernst and Ernst 2003).

The study corridor is largely developed, with little suitable habitat for the Florida pine snake. The Florida pine snake was not observed within the limits of the study corridor; therefore, it is anticipated that the proposed project will not adversely impact the Florida pine snake.

6.3.3 Florida Sandhill Crane

The Florida sandhill crane (*Grus canadensis*) is listed as threatened by FWC. The Florida sandhill crane is a non-migratory bird found in freshwater marshes, prairies, and pastures (FNAI 2018). These birds nest in freshwater ponds and marshes that have an average water depth of 5 to 13 inches, and sites vary from year to year due to the fluctuation of water levels. Their preferred habitat contains short vegetation (less than 20 inches in uplands), and they generally avoid areas with tall vegetation or dense canopies (FWC 2020). The sandhill crane is often found foraging in a variety of open habitats, including roadsides. Their diet consists of berries, seeds, insects, mice, small birds, snakes, lizards, and frogs.

Foraging, resting, and nesting habitat is found within the Southern Alignment. This species was observed during site reviews.

6.3.4 Wading Birds

The roseate spoonbill (*Platalea ajaja*), little blue heron (*Egretta caerulea*), and tricolored heron (*Egretta tricolor*) are wading birds listed as threatened by FWC. These species are typically found in marshes, ponds, lakes, meadows, mudflats, lagoons, streams, mangrove lagoons, and other bodies of shallow waters. Their diet consists of various types of fishes, amphibians, and invertebrates. Nesting generally

occurs in both coastal and freshwater environments in swamps and/or mangrove forests. They are known to share nesting sites with other wading birds to form rookery colonies (Rodgers 1996).

Foraging habitat is present within and abutting the Southern Alignment.

7.0 Conservation Lands

FDEP maintains GIS data available to the public through FDEP Map Direct. The Florida State Owned Lands and Records Information System (FL-SOLARIS) was implemented to maintain a database of property “owned, leased, rented, or otherwise occupied” by any state government agency. In 2017 FL-SOLARIS provided Conservation Lands, Easements, and Recreation (CLEAR), which contains conservation easements for federal, municipal, county, and special districts, as well as other entities as specified in 253.87, FS. This data is refreshed every 5 years (FDEP FL-SOLARIS).

Along the Southern Alignment, there are lands designated as conservation lands which have been set aside for their conservation value to the ecosystem they serve (**Figure 15**). These lands are preserved under several different mechanisms including conservation easements and Orange County Planned Development approvals. There are 24 distinct conservation areas that abut or transverse the Southern Alignment.

8.0 Regulatory Requirements

Federal, state, and local government agencies are charged with protecting jurisdictional wetlands and surface waters, protected wildlife species, and their habitats. A discussion of each agency’s general requirements in protecting such features is provided below.

8.1 Federal Requirements

8.1.1 U.S. Army Corps of Engineers

The Department of the Army, through its regulatory division, regulates the discharge of dredge or fill material into waters of the United States (WOTUS) under Section 404 of the Clean Water Act (CWA), and in navigable waters of the United States. under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (RHA) (USACOE and EPA 2007). The term “navigable waters of the United States” is defined to include all waters that are subject to the ebb and flow of the tide, and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce (33 CFR 329.4 RHA). Since 1970, the USACOE and U.S. Environmental Protection Agency (EPA) have defined wetlands under the CWA as “areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions” and “wetlands [that] generally include swamps, marshes, bogs, and similar areas” (EPA Section 404 of the CWA).

On June 22, 2020, the Navigable Waters Protection Rule (NWPR) became affective codifying the definition of “water of the United States” under the CWA. The NWPR includes four categories of jurisdictional waters and provides specific exclusions for many water features that traditionally had been regulated (Federal Register Vol. 85, No 77. April 21, 2020). In this final rule, “waters of the United States” include the following:

1. Territorial seas and traditional navigable waters
2. Perennial and intermittent tributaries that contribute surface flow to such waters

3. Certain lakes, ponds, and impoundments of jurisdictional waters (dams)
4. Wetlands adjacent to other jurisdictional waters

To determine if a wetland system is considered jurisdictional under the USACOE rules and regulations, an applicant may submit an Approved Jurisdictional Determination (AJD) request. USACOE will review wetland and/or other surface water systems within limits of a project to determine if they are classified as waters of the United States under the NWPR.

If federal jurisdiction is determined, impacts to wetland systems would require coordination with USACOE to obtain one of the following three types of permits (USACOE Sourcebook):

- **Nationwide Permits (NWP)** – NWPs are used to allow filling of wetlands and other jurisdictional waterbodies in situations where the impacts to these systems will have minimal adverse environmental impact. NWPs allow certain categorical activities to take place so long as the activity does not exceed impact thresholds.
 - **NWP 14 – Linear Transportation Projects** – This permit is available for projects such as roadways, highways, railways, trails, airport runways, and taxiways. For issuance of an NWP-14 in non-tidal waters, a project must have 0.5-acre or less of impacts to USACOE-regulated waters.
- **General Permits (GP)** – GPs are issued on a nationwide or regional basis for a category of activities that are substantially similar in nature and cause only minimal individual and cumulative impacts. GPs are reviewed every 5 years and have been developed to reduce the burden of the regulatory program on the public and ensure timely issuance of permits.
- **Standard Permits (SP)** – SPs are required when the proposed project does not meet the criteria of a GP or NWP. SPs require a 21-day comment period under public notice.
- **Individual Permits (IP)** – IPs are required when any of the above permitting thresholds are exceeded on a project. Individual permits undergo a more rigorous review and are publicly noticed as a part of the review process.

Projects that require an IP from the USACOE are required to consider selection of alternative project sites. In this process, the applicant must determine appropriate project specific site selection screening criteria based on the need and purpose of the project. The applicant must provide a list of the project specific site selection criteria that were used to screen potential sites within its identified geographic area, and an explanation of why the criteria were selected. The applicant must provide a list of all potential alternative locations that were investigated, and an explanation of how the project specific criteria were used to screen these sites. Any alternative site that was considered, but eliminated from further consideration, should be documented as not being a practicable site, and why. Sites that do not meet all site selection criteria would not be considered in the off-site alternatives. Therefore, the applicant's preferred site and a minimum of two practicable alternative sites must be identified and evaluated in the permit application process. The USACE will review the applicant's analysis of potential off-site alternatives for consistency with the USACOE-determined overall project purpose.

In addition to direct wetland impacts, USACOE considered secondary impacts (e.g.: lighting, noise, trash, etc.) that may result from the proposed project. As part of the project review, unavoidable direct and secondary impacts to "waters of the United States" must be identified and analyzed. All identified impacts

must then be mitigated to the extent practicable. In addition, alternatives to the proposed project must be identified and investigated to determine if an alternative(s) results in fewer direct and secondary impacts.

8.1.2 U.S. Fish and Wildlife Service

USFWS regulates protected wildlife species under the Endangered Species Act (ESA) of 1973. USFWS typically becomes involved during the wetland permitting process through a Section 7 Consultation with USACOE. In accordance with the Fish and Wildlife Coordination Act (16 USC 661-666c), consultation with USFWS and FWC is required when “waters of any stream or other body of water are proposed or authorized to be impounded, diverted, ... or otherwise controlled or modified” under a federal permit.

Section 10 of the ESA is designed to regulate a wide range of activities affecting endangered or threatened organisms and their habitats (protected resources). With some minor exceptions, the ESA prohibits activities adversely impacting these protected species and their habitats, unless authorized by a permit from USFWS or the National Marine Fisheries Service (NMFS). USFWS and/or NMFS permitted activities are required to be consistent with the conservation of the species and USFWS and/or NMFS permits are required whenever USACOE permitting is not required.

During consultation with USFWS, the USACOE evaluates the proposed project and provides one of the following determinations for each species identified within the proposed project area:

- **No effect** – USACOE has determined that the proposed project will not adversely impact the species and no further coordination with USFWS is required.
- **May affect** – USACOE has determined that the proposed project may impact a protected resource. USACOE will consult with USFWS to take either of the following actions:
 - Request concurrence with “may affect, but not likely to adversely affect.”
 - Request initiation of formal consultation for determinations of “may affect, likely to adversely affect.”

Both requests include written analysis explaining the determination in the form of a Biological Assessment (BA) or a Biological Evaluation (BE) (USFWS 2016).

8.2 State Requirements

8.2.1 South Florida Water Management District

The State of Florida defines wetlands as “those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances, do support, a prevalence of vegetation typically adapted for life in saturated soils” (Chapter 62-340.200 FAC). SFWMD regulates impacts to wetlands and/or other surface waters, pursuant to Part IV Chapter 373 of the Florida Statutes (FS), and in accordance with Chapter 62-330 FAC for the area of the Southern Alignment. SFWMD requires an Environmental Resource Permit (ERP) that establishes requirements and conditions to prevent flooding, manage surface water, and protect water quality, wetlands, and surface waters. As part of the permit process, SFWMD rules and regulations require the applicant to identify, evaluate and eliminate or reduce the potential flooding as well as impacts to wetland and/or surface water systems and to properly manage stormwater resulting from the proposed project. When reviewing an application, SFWMD considers the following:

- The degree of impact to potential flooding, stormwater management, wetland and surface water functions resulting from the proposed project.

- Whether the impact to these functions can be mitigated.
- The practicability of design modification that could be made eliminate or reduce impacts to these functions, including identifying and evaluating alternatives to the proposed project.

Pursuant to Section 10.1.1(f) of the ERP Applicant's Handbook (General and Environmental) Volume 1 (December 22, 2020), an applicant must ensure that the proposed project will not cause adverse secondary impacts to water resources. Secondary impact criteria consists of the following for which the applicant must provide reasonable assurance that secondary impacts from construction and operation of the proposed project:

- will not result in flooding.
- will not cause violations of water quality standards or adverse impacts to the functions of wetlands or surface waters.
- will not adversely impact the ecological value of uplands to federal and/or state protected aquatic and wetland dependent wildlife species for enabling existing nesting or denning by these species (excluding areas needed for foraging or wildlife corridors).
- will not impact any significant historical or archeological resource.
- will not cause adverse impacts in later phases that are very closely linked and casually related to the proposed project.

SFWMD regulates cumulative impacts pursuant to Section 10.1.1(g) of the ERP Applicant's Handbook. Cumulative impacts consist of flooding, stormwater management, wetland and/or other surface water impacts within the same drainage basin as the proposed project. Cumulative impacts to water quality are evaluated by criteria set in Section 10.1.1(C), and by evaluating impacts to functions identified in Section 10.2.2 ERP Applicant's Handbook.

Design modifications to reduce and eliminate impacts must be identified and evaluated for all impacts remaining after practicable design modification which must be offset through alternative mitigation. Alternative mitigation is required for direct impacts to wetland systems greater than 5 acres in size. In addition, SFWMD defines secondary impacts as those with an average of 25 feet further into the remaining wetland system. To reduce and/or eliminate secondary impacts, SFWMD routinely requires a 15-foot minimum/25-foot average upland buffer around a preserved wetland system. Otherwise unmitigated impacts to wetland systems must be offset through preservation or the purchase of mitigation credits from an approved mitigation bank.

8.2.2 Florida Fish and Wildlife Conservation Commission

Under Article IV Section 9 of the Florida Constitution, FWC has the authority to "exercise regulatory and executive powers of the state with respect to wildlife animal life and freshwater aquatic life" (FWC Imperiled Species Management Plan [ISMP] 2016). State-protected wildlife species, prohibitions, and permits are identified in Chapter 68A-27 FAC. FWC maintains Florida's ISMP 2016-2026, which is designed to conserve 57 fish and wildlife species over the next 10 years. FWC's Species Conservation Planning Section evaluates permit applications for proposed projects that would result in adverse impacts to Florida's protected land-dwelling wildlife. Protected wildlife species are those identified as endangered, threatened, or species of special concern, as well as migratory birds and other species subject to protection under state rules. Species Conservation Measures and Permitting Guidelines have been developed for 26 species to assist in determining permit requirements that minimize impacts to wildlife (FWC 2016). These guidelines specify the requirements established in the FAC related to intentional and

incidental take permitting. These requirements include guidelines on species range, survey methodology, and recommended practices.

8.3 Local Government

8.3.1 Orange County Environmental Protection Division

The Orange County Environmental Protection Division (OCEPD) is the local government agency that regulates wetlands pursuant to Article X – Wetland Conservations Areas Section 15 (Conservation Ordinance of Orange County). This ordinance classifies wetland systems by size, hydrologic connection, and use of the system by protected wildlife species. All wetland systems within unincorporated Orange County, Florida, are classified using the following criteria:

- Class I – System has a hydrologic connection to natural surface water bodies, or lake littoral zone; is 40 acres or larger in size; or provides critical habitat to federal- and/or state-protected wildlife species.
- Class II – System consists of isolated wetlands or formerly isolated wetlands that have been altered to have a direct connection to other surface water drainage, and the system is greater than or equal to 5 acres or is not otherwise classified as a Class I wetland.
- Class III – System is isolated wetland less than 5 acres and does not qualify as a Class I or Class II system.

Class I wetland systems receive the greatest protection and may be impacted only when no alternative exists for the reasonable use of the land where there is an overriding public benefit. Class II wetland systems may be impacted except when contrary to public interest. Class III wetland systems may be impacted in every case.

OCEPD evaluates secondary impacts using a 15-foot minimum, 25-foot average width further into an impacted wetland system. Both direct and secondary unmitigated impacts must be offset through regulatory approved alternative mitigation.

9.0 Proposed Ecological Impacts

9.1 Wetland and Surface Water Impacts

The Southern Alignment adversely impacts moderate to high quality wetland systems within and abutting the project area. Preliminary estimates would suggest 15 to 20 acres of direct wetland impacts will result from construction of the Southern Alignment (**Figure 15A**).

9.2 Secondary Impacts

Federal, state, and local environmental permitting agencies with jurisdiction over the proposed wetland impacts evaluate potential secondary impacts to wetlands and wildlife during the permitting process. Secondary impacts from construction may include lighting, collisions with wildlife from vehicles, and impacts to water quality.

Secondary impacts to the habitat function of wetlands associated with regulated activities will typically not be considered adverse if upland buffers, with a minimum width of 15 feet and an average width of 25 feet, are provided adjacent to the wetlands that will remain. Buffers, except for drainage features, must be maintained in their natural/undisturbed condition, provided the construction or use of these features does not adversely impact wetlands. Wetlands or surface waters cannot be filled to create upland buffers.

9.3 Cumulative Impacts

SFWMD requires an applicant to provide reasonable assurance that proposed wetland impacts will not cause unacceptable cumulative impacts to wetlands and surface waters in the same drainage basin as the proposed impacts. SFWMD takes into consideration any potential future projects that may have environmental impacts, which, without the current project, would not otherwise be constructed.

If an applicant proposes to mitigate adverse impacts within the same drainage basin as impacts, and if mitigation fully offsets these impacts, then the proposed activity will be considered to have no unacceptable cumulative impacts to wetlands and surface waters.

9.4 Wetland Mitigation

Federal, state, and local government agencies with regulatory authority over wetland and surface waters generally require mitigation to offset unavoidable adverse impacts as a condition of the permit issuance. Mitigation requirements are based on a compilation of wetland parameters including quality, type, function, and size. Impacts to wetlands and surface waters will be avoided and minimized to the maximum extent possible while maintaining safe and sound engineering and construction practices. A mitigation plan that adequately offsets adverse impacts will need to be developed for the Southern Alignment and implemented during the permitting process.

9.5 Conservation Lands

Approximately 20 acres of conservation lands will be directly impacted by the Southern Alignment. This includes impacts to a 34-acre wetland mitigation site that was approved for construction activities for Orange Avenue and is owned by Orange County Board of County Commissioners. These conservation areas range from high quality forested wetlands to pine flatwoods under the ownership of local and state government entities and private interest (**Figure 15**).

9.6 Protected Wildlife Species

The Southern Alignment traverses the consultation area of five federally protected species. Assessing what impact the proposed project will have on such species needs to be fully evaluated and findings documented.

10.0 Conclusion

There are high-quality ecological features located within the proposed Southern Alignment, including forested and herbaceous wetlands, conservation lands and habitat potentially used by federally and state protected wildlife species. The rail alignment between Orlando and Tampa has been reviewed a number of times by multiple government agencies, including the Federal Railroad Administration, USACOE, and SFWMD. These detailed reviews resulted in the 2005 EIS, which was reaffirmed by the 2010 EIS and ROD, and concluded that the Northern Alignment results in fewer natural impacts than the southern alignment (S.R. 417) and is the preferred alignment from Orlando to Tampa. Nonetheless, Brightline is now proposing a Southern Alignment (also along S.R. 417) that is similar to the one previously dismissed in 2005 and 2010, without properly identifying many of the associated ecological impacts, mitigation costs, and permitting challenges that make the currently proposed alignment problematic.

Based on my review, Brightline's current plans fail to acknowledge or adequately address the high-quality ecological features, including Shingle Creek; lands that are under recorded conservation easements; floodplain or floodways compensating storage requirements; stormwater management; and the destruction of habitat that supports protected wildlife species. Quantifying and qualifying proposed impacts, e.g., alternatives, mitigation, flooding, stormwater management, and the like, to these adversely impacted ecological features is regulatorily required to be identified and fully evaluated prior to any decision on this route being finalized. That evaluation must include the identification and evaluation of alternative routes that avoid or minimize impacts to such ecological features. Such an evaluation is not only critical to understanding the proposed impacts, but the regulatory agencies will require it as part of the permit review process. Given that a previous EIS was completed, approved, and reaffirmed, with a ROD being issued in favor of a preferred alternative alignment the Southern Alignment will be subject to increased scrutiny in connection with any such reviews.

Based on my analysis to date, in addition to the mitigation costs that Brightline has failed to account for to date, Brightline's proposed alignment will require several years of negotiation with regulatory agencies prior to obtaining the requisite approvals and permits. As such, it is premature to make any commitments relative to the proposed Brightline alignment.

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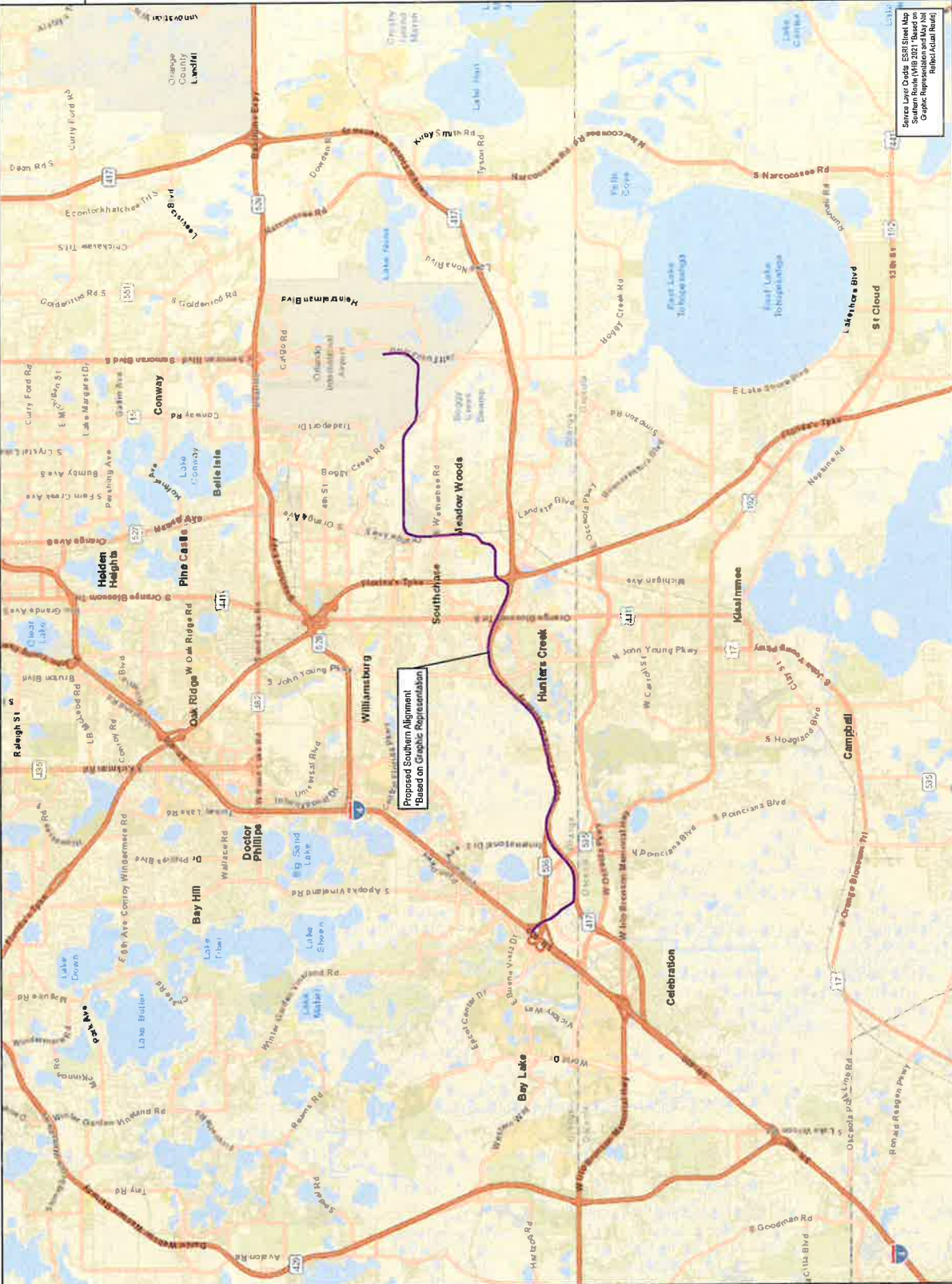
Figures

**Brightline
Proposed Southern Alignment
Location Map
Orange County, Florida**

Legend
Brightline Proposed Southern Alignment



DRN: KJT
DATE: 7.13.2021
APR: MLP
PRN: 1115.026
Figure No. 1



**Brightline
Proposed Southern Alignment**
Aerial Map
Orange County, Florida



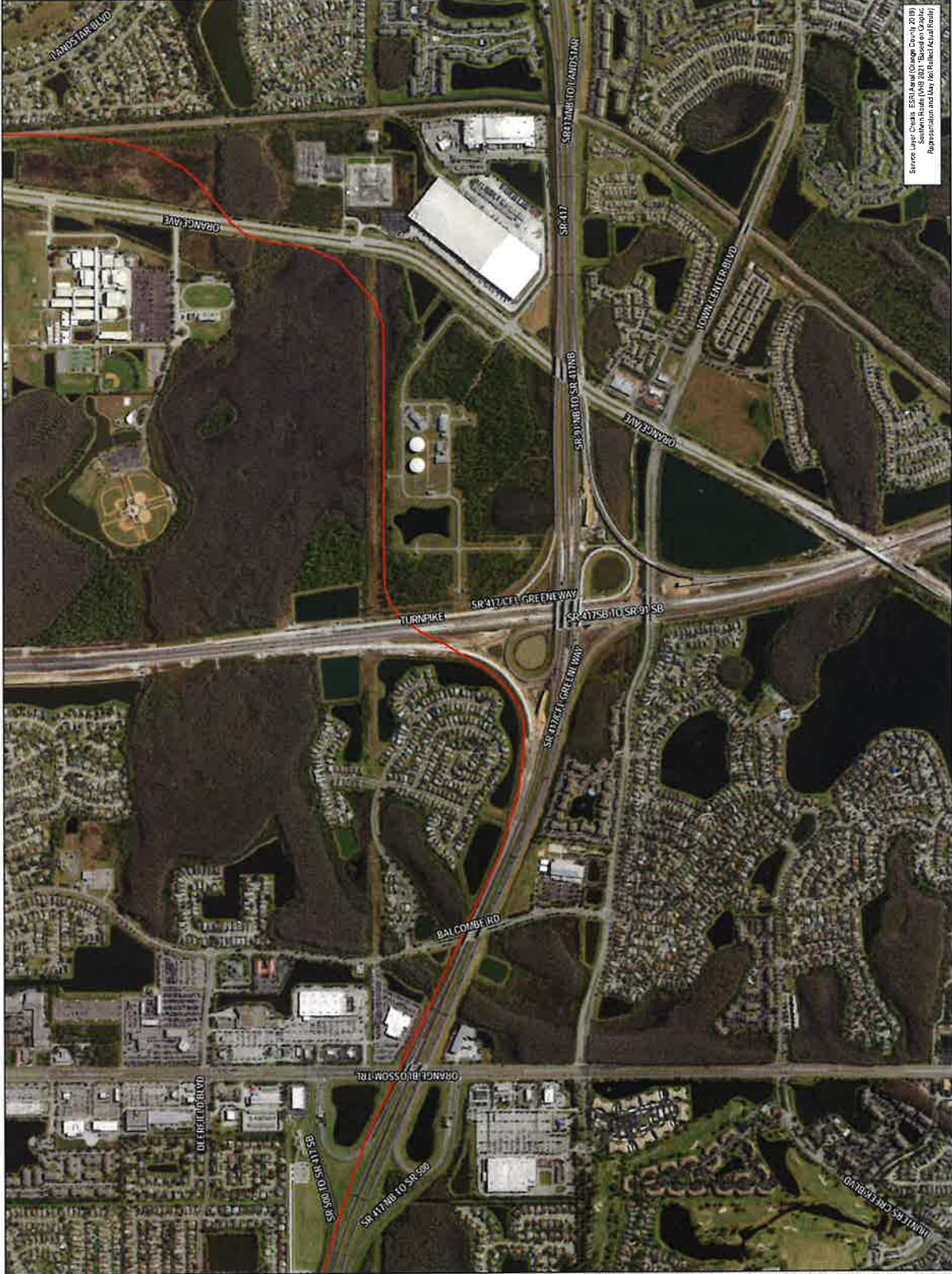
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— Brightline Proposed Southern Alignment



DRN: NJT
DATE: 7/13/2021
APR: MLP
PRN: 1116.026

Figure No. 2-3

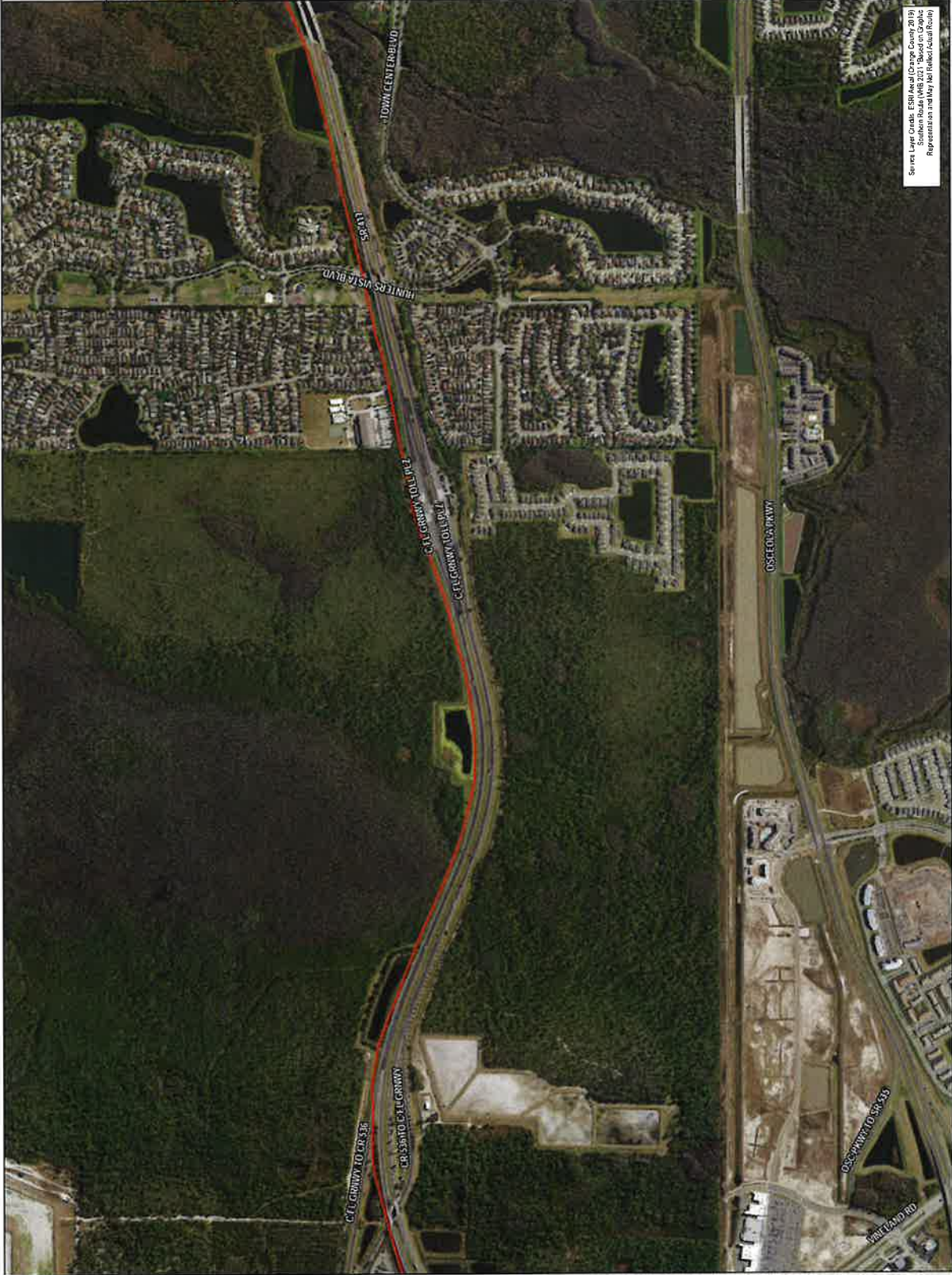


**Brightline
Proposed Southern Alignment**
Aerial Map
Orange County, Florida



Legend

— Brightline Proposed Southern Alignment



DRN: N/JT	APR: MLP
DATE: 7.13.2021	PRN: 1116.026
Figure No. 2-5	

Survey Layer Credits: ESRI Aerial (Orange County, 2019)
Southern Road (Web 2021), Based on Google
Representation in Day After Tomorrow Imagery

**Brightline
Proposed Southern Alignment**
Aerial Map
Orange County, Florida



Legend

— Brightline Proposed Southern Alignment



DRN: NJT	APR: MLP
DATE: 7.13.2021	PRN: 1116.026

Figure No. 2-6



Street Layer Credits: ESRI Aerial (Orange County, 2019)
Southern Roads (MAY 2018) - Based on Esri
Representation and May Not Reflect Actual Data

Brightline
Proposed Southern Alignment
 USGS Topographic Quadrangle Map
 Orange County, Florida



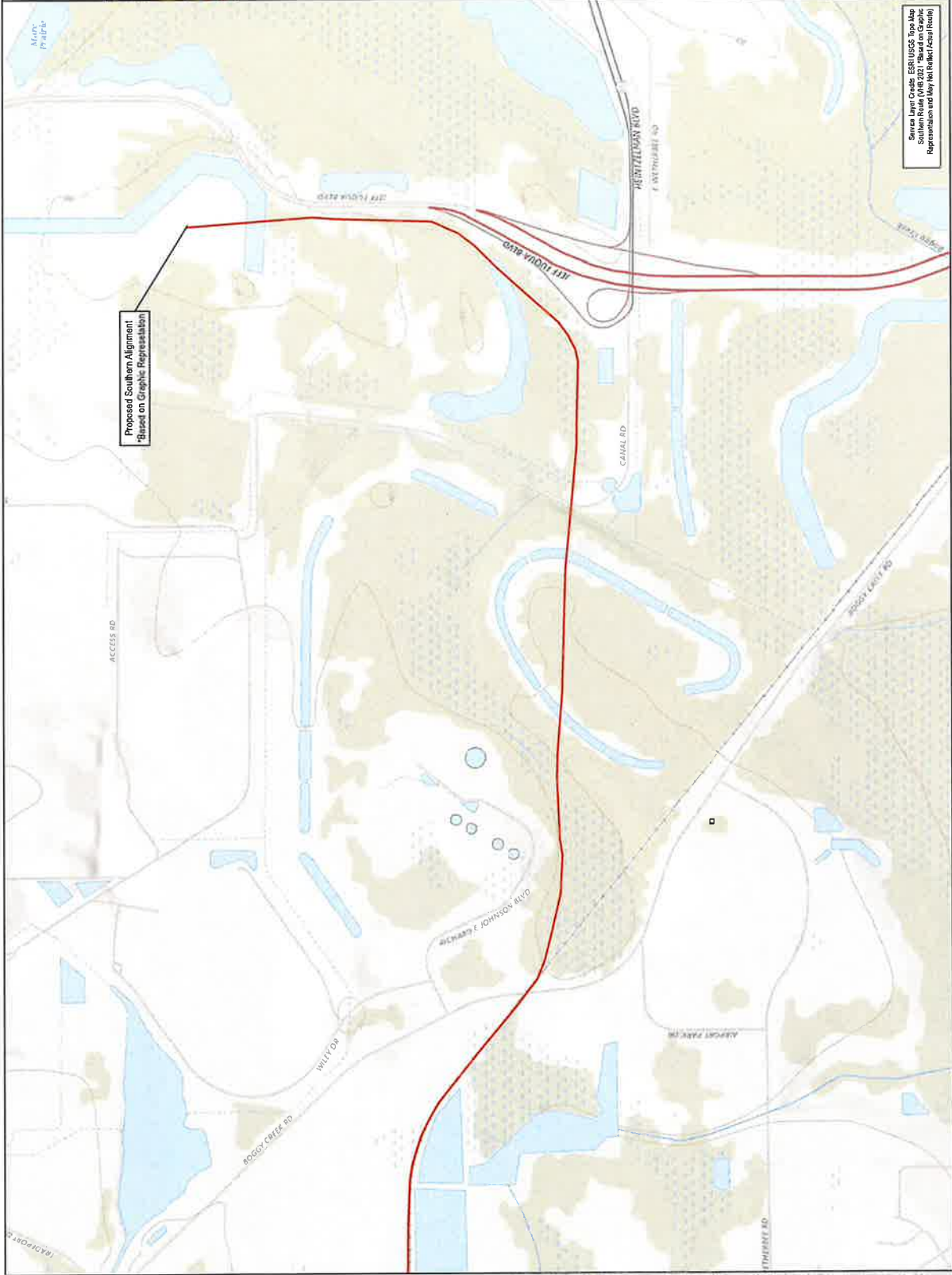
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— Brightline Proposed Southern Alignment



DRN: KJT	APP: MJP
DATE: 7.13.2021	PRN: 1116.026

Figure No. 3-1



Service Layer Credits: ESRI/USGS Topo Map
 Southern Road (V10/201) Based on Graphic
 Representation and Map Vector Data (Esri/USGS)

Brightline
Proposed Southern Alignment
 USGS Topographic Quadrangle Map
 Orange County, Florida



Legend

— Brightline Proposed Southern Alignment



DRM: KJT	APRIL 2021
DATE: 7/15/2021	PROJECT: 116 D26
Figure No. 3-2	



Shaded Layer Details: ESRI USGS Topo Map
 Color Representation and Key (in Block) Actual Boundaries

**Brightline
Proposed Southern Alignment**
USGS Topographic Quadrangle Map
Orange County, Florida

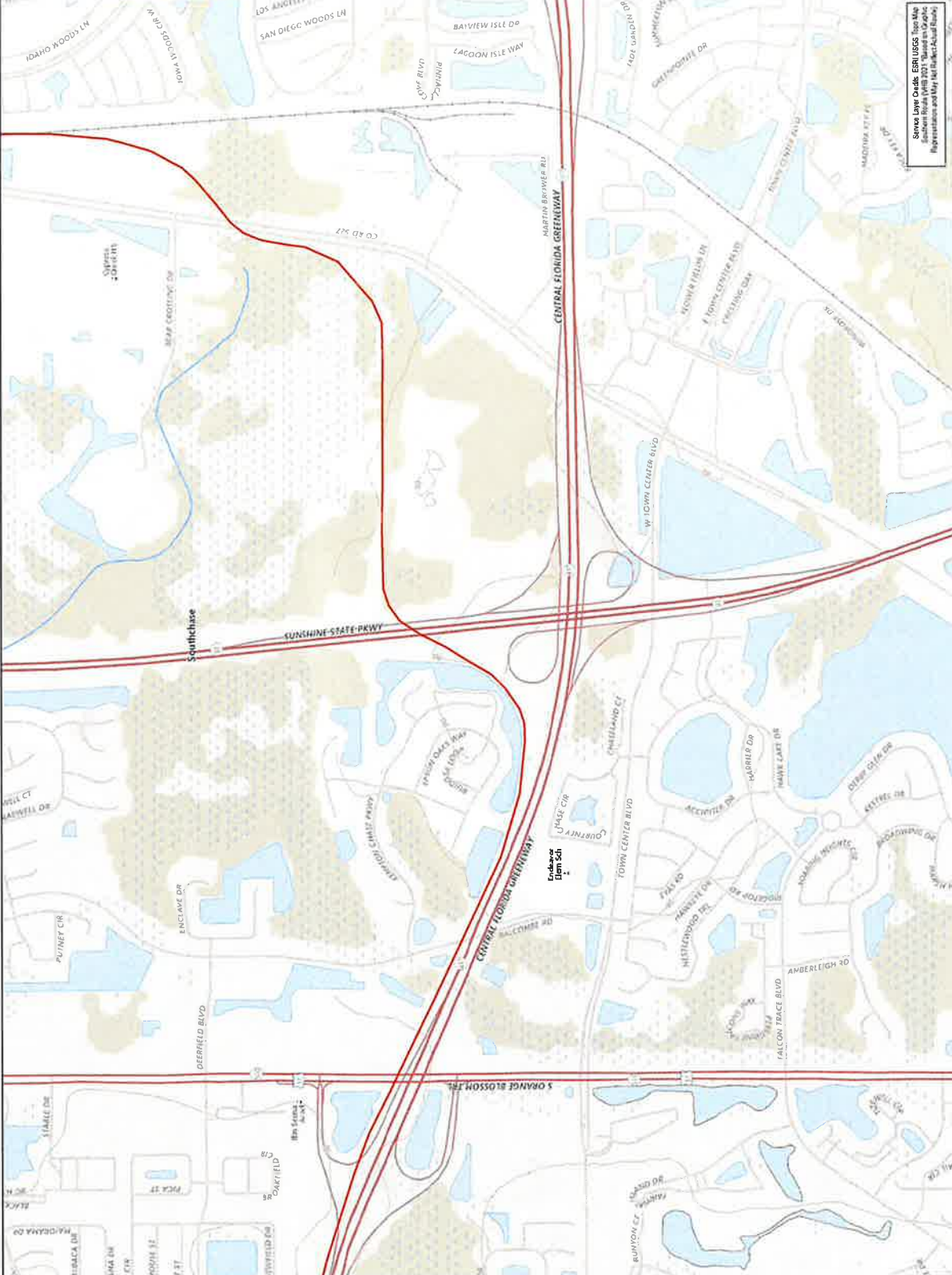


Legend

— Brightline Proposed Southern Alignment



DRN: KJT
DATE: 7.13.2021
APR: MLP
PRJ: 116.026
Figure No. 3-3



Source: Live Oracle, ERI USGS Topo Map
Registration and Map Not for Official Study

Brightline
Proposed Southern Alignment
 USGS Topographic Quadrangle Map
 Orange County, Florida



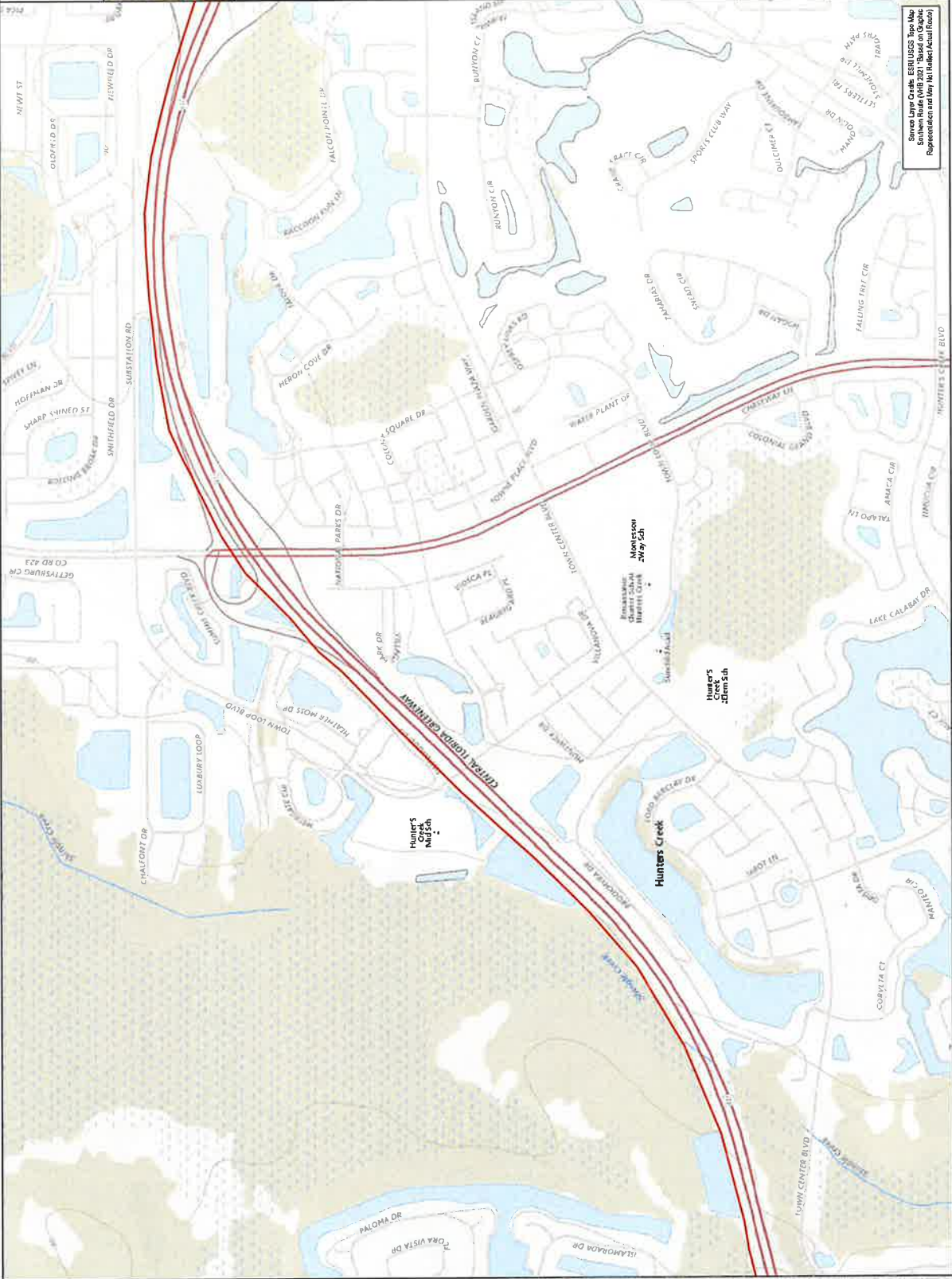
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— Brightline Proposed Southern Alignment



DEN: JLT
 APR: MLP
 DATE: 7.13.2021
 PRN: 1116.D26

Figure No. 3-4



Source: Layer 0 to 6. ESRI USGS Topo Map
 Southern Florida (1984-2001). Based on Digital
 Representation and Map Notation (Raster Data)

Brightline
Proposed Southern Alignment
 USGS Topographic Quadrangle Map
 Orange County, Florida

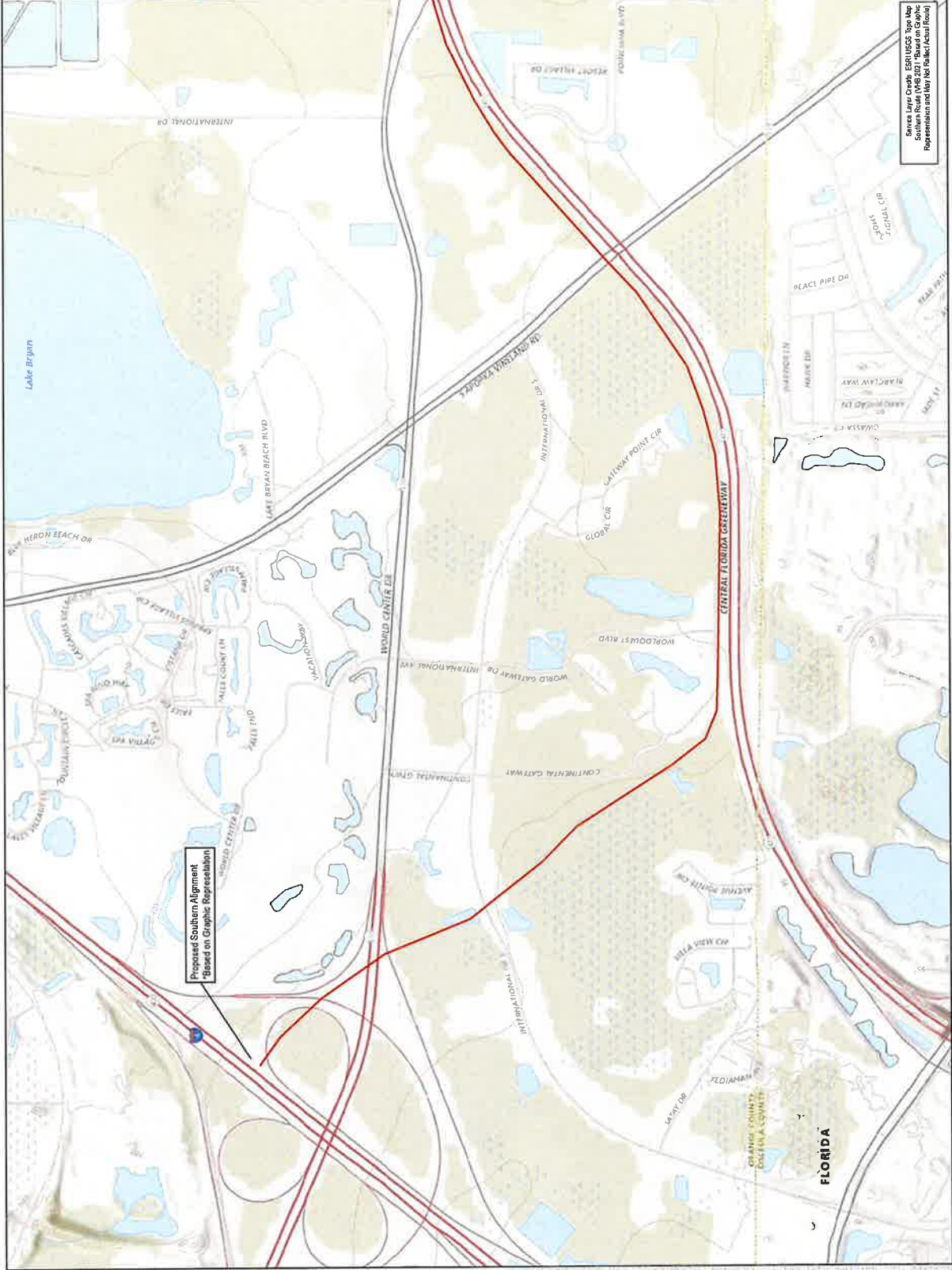


Legend

— Brightline Proposed Southern Alignment



DRN: KJT
 APR: MLP
 DATE: 7/13/2021
 PRN: 1116.026
 Figure No. 3-6



Proposed Southern Alignment
 *Based on Graphic Representation

Severely Overlaid
 Overlaid
 Partially Overlaid
 Not Overlaid
 Representation and May Not Be Actual (Scale)

Brightline
Proposed Southern Alignment
 NRCS Soil Survey Map
 Orange County, Florida



Legend

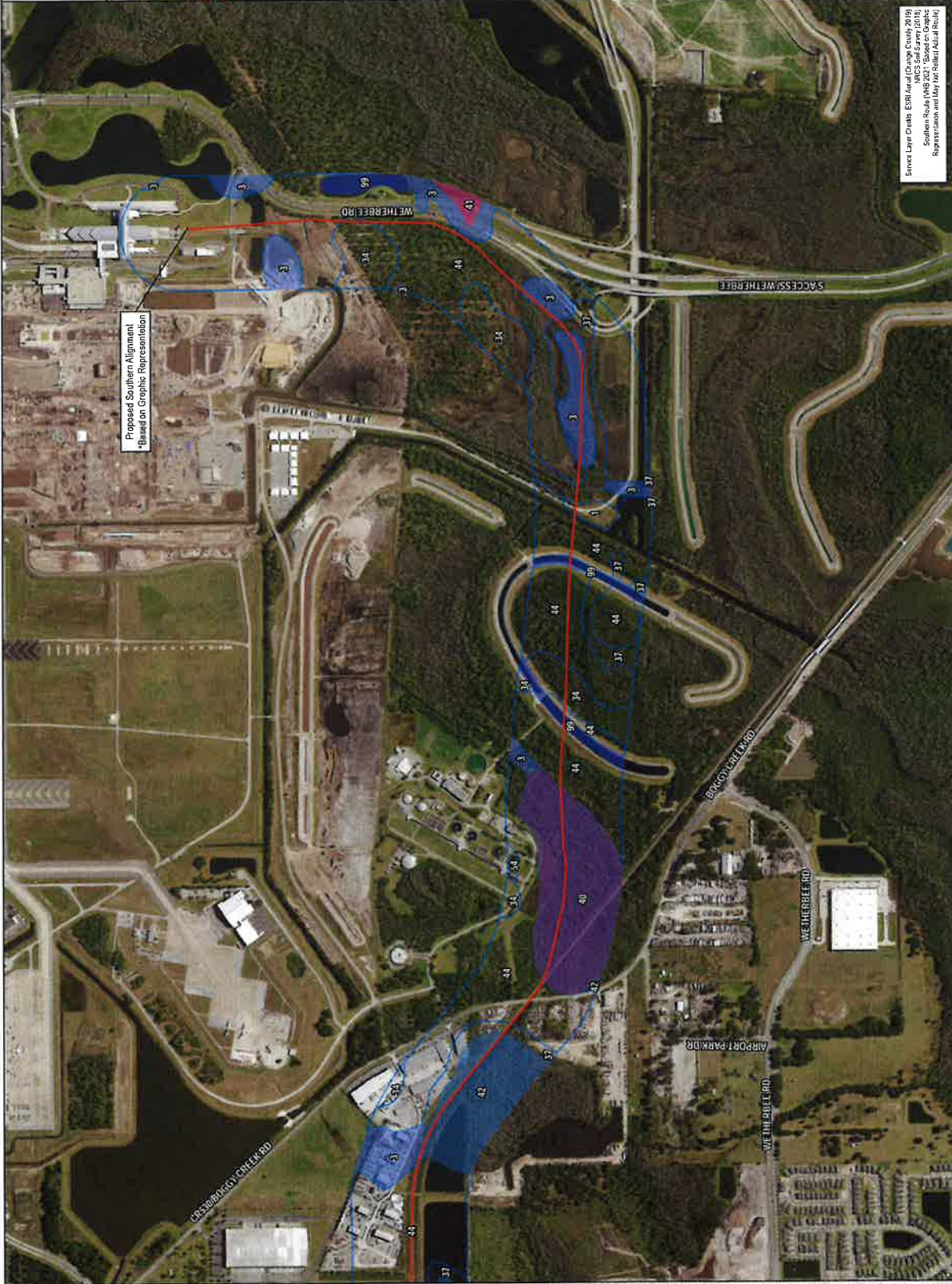
- Brightline Proposed Southern Alignment
- Soil Types
 - 1, Arenis, Nearly Level
 - 3, Basinger Fine Sand, Frequently Ponded 0 to 1% Slopes
 - 34, Pomalo Fine Sand, 0 to 5% Slopes
 - 37, St. Johns Fine Sand
 - 40, Samuel Muck, Frequently Ponded, 0 to 1% Slopes
 - 41, Samaha-Hombon-Basinger Association, Depressional
 - 42, Sanbal Muck
 - 44, Smyrna-eyre, Wet, Fine Sand, 0 to 2% Slopes
 - 54, Zolfo Fine Sand, 0 to 2% Slopes
 - 99, Water

Notes: Soil survey based on 800-foot buffer.
 Colored soils depict hydric soils.



DRN: KJT
 DATE: 7.13.2021
 APPR: MJP
 PRN: 1116.026

Figure No. 4-1



Source: Layer Credits: ESR1 Aerial (Orange County, 2019)
 NRCS Soil Survey (2018)
 Soil Survey Data (1987-2021) based on Graphic Representation (Map) (Orange County, 2019)

**Brightline
Proposed Southern Alignment
NRCS Soil Survey Map
Orange County, Florida**



Legend

— Brightline Proposed Southern Alignment

Soil Types

- 3, Redding Fine Sand, Frequently Ponded
0 to 1% Slopes
- 34, Pomello Fine Sand, 0 to 5% Slopes
- 37, St. Johns Fine Sand
- 42, Sanibel Muck
- 44, Snyrna-synrna, Wel, Fine Sand, 0 to 2% Slopes
- 99, Water

Notes: Soil survey based on 600-foot buffer.
Colored soils depict hydric soils.



DRN: KJT
DATE: 7.13.2021

APR: MLP
PRN: 1116.026

Figure No. 4-2



Source: Layer Credits: ESRI Aerial Orange County 2019
99025 Soil Survey (D11)
Soil Data Base (D11)
Registration and Map (M1) (D11) (M1) (R1) (F1) (C1)

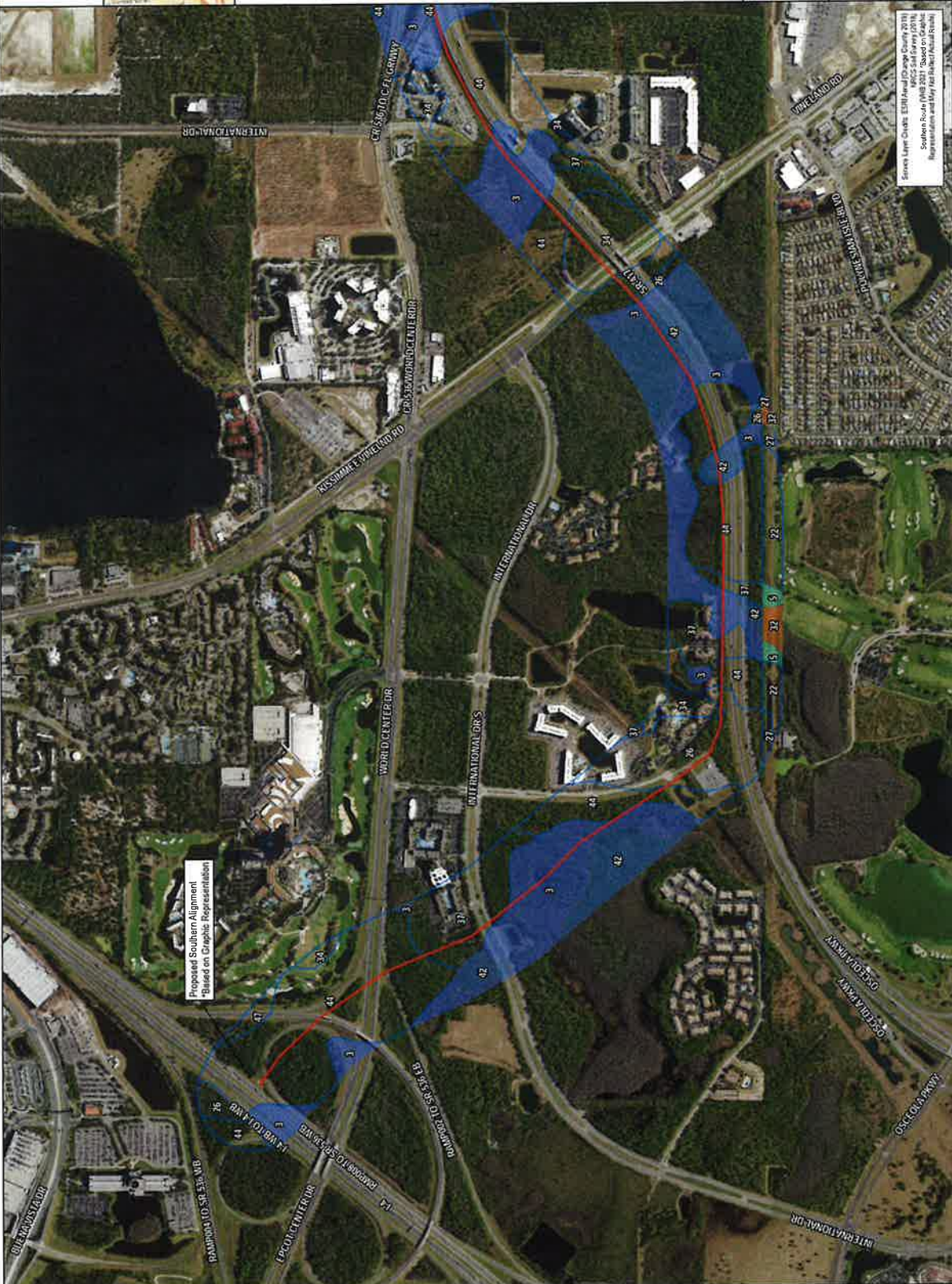
Brightline
Proposed Southern Alignment
 NRCS Soil Survey Map
 Orange County, Florida



- Legend**
- Brightline Proposed Southern Alignment
 - Soil Types
 - 3, Blasinger Fine Sand, Frequently Ponded, 0 to 1% Slopes
 - 5, Blasinger Fine Sand, 0 to 2% Slopes
 - 22, Myakka Fine Sand, 0 to 2% Slopes
 - 26, One Fine Sand, 0 to 2% Slopes
 - 27, One Fine Sand, 0 to 2% Slopes
 - 32, Pleiad Fine Sand, Frequently Ponded, 0 to 1% Slopes
 - 34, Pamela Fine Sand, 0 to 5% Slopes
 - 37, St. Johns Fine Sand
 - 42, Sanibel Muck
 - 44, Smyrne-smyrne, Wal, Fine Sand, 0 to 2% Slopes
 - 47, Tenaras-Milnopper Complex, 0 to 5% Slopes

Notes: Soil survey based on 50-foot buffer.
 Colored cells depict hydraulic soils.

DRN: KJT
 DATE: 7/13/2021
 APR: MLP
 PRN: 116.026
 Figure No. 4-6



Proposed Southern Alignment
 Based on Graphic Representation

Soil Survey Data: ERM Final (Orange County 2018)
 Soil Survey Data: NRCS National Engineering Laboratory
 Revision: 10/11/2011
 Prepared by: MSE Group

**Brightline
Proposed Southern Alignment**
Land Use Map
Orange County, Florida



Legend

- Brightline Proposed Southern Alignment
- 1400: Commercial and Services
- 1900: Open Land (Urban)
- 3100: Herbaceous (Dry Prairie)
- 3200: Shrub and Brushland
- 3300: Mixed Upland Nonforested
- 4110: Pine Flatwoods
- 4200: Upland Hardwood Forests
- 4340: Upland Mixed - Coniferous / Hardwood
- 5120: Channelized Waterways, Canals
- 5200: Reservoir
- 6170: Mixed Wetland Hardwoods
- 6172: Mixed Shrubs
- 6210: Cypress
- 6215: Cypress - Dome/Heads
- 6216: Cypress - Mixed Hardwoods
- 6300: Wetland Forested Mixed
- 6410: Freshwater Marshes
- 6430: Wet Prairies
- 7470: Dikes and Levees
- 8140: Roads and Highways
- 8340: Sewage Treatment

Notes: Land use based on 600-foot buffer.



Scale: 1" = 1,000'

DRN: KJT	APR: MLP
DATE: 7/13/2021	PRN: 116.026
Figure No. 5-1	



Source: Lyrle Credits: ERM Aerial (Orange County, 2019)
Land Use Database: Land Use (2019)
Soil Survey: Soil Survey (2019)
Representation: May (2019)

**Brightline
Proposed Southern Alignment**
Land Use Map
Orange County, Florida



Legend

- Brightline Proposed Southern Alignment
- 1210: Medium Density, Fixed Single Family Units
- 1310: High Density, Fixed Single Family Units
- 1330: High Density, Multiple Dwelling Units, Low Rise
- 1400: Commercial and Services
- 1423: Wholesale Sales
- 1550: Other Light Industrial
- 1710: Educational Facilities
- 1860: Community Recreational Facilities
- 1900: Open Land (Urban)
- 2100: Improved Pastures
- 2120: Unimproved Pastures
- 2130: Woodland Pastures
- 2230: Other Groves (Pean, Avocado, Coconut, Mango, etc)
- 3100: Herbaceous (Dry Prairie)
- 3300: Shrub and Brushland
- 4340: Upland Mixed - Coniferous / Hardwood
- 5300: Reservoirs
- 6210: Cypress
- 6215: Cypress-Domestichlands
- 6216: Cypress - Mixed Hardwoods
- 6410: Freshwater Marshes
- 8140: Roads and Highways
- 8510: Electric Power Facilities

Notes: Land use based on 500-foot buffer.



DRN: MJT
APR: MLP
DATE: 7/13/2021
PRN: 115.076
Figure No. 5-2



**Brightline
Proposed Southern Alignment**
Land Use Map
Orange County, Florida



Legend

- Brightline Proposed Southern Alignment
- 1320: High Density, Multiple Dwelling Units, Low Rise
- 1340: High Density, Multiple Dwelling Units, High Rise
- 1400: Commercial and Services
- 1490: Commercial and Services Under Construction
- 1820: Golf Courses
- 1900: Open Land (Urban)
- 3100: Herbaceous (Dry Prairie)
- 3200: Shrub and Brushland
- 4110: Pina Flakwoods
- 4340: Upland Mixed - Coniferous / Hardwood
- 4430: Forest Regeneration Areas
- 5300: Reservoirs
- 6170: Mixed Wetland Hardwoods
- 6172: Mixed Shrubs
- 6210: Cypress
- 6215: Cypress-Dumshrublands
- 6500: Hydric Pina Flakwoods
- 6500: Wetland Forested Mixed
- 8410: Freshwater Marshes
- 8140: Roads and Highways
- 8320: Electrical Power, Transmission Lines

Noise: Land use based on 600-foot buffer.



DRN: KJT	APR: MJP
DATE: 7/3/2021	PRN: 116.076
Figure No. 5-6	



Proposed Southern Alignment
Based on Graphic Representation

Service Layer Credits: ESRA Aerial (Orange County, 2019)
ESRA Aerial (Orange County, 2019)
Southern Power (2019)
Recreation and May Not Request Aerial Photo

Brightline
Proposed Southern Alignment
 National Wetland Inventory Map
 Orange County, Florida



Legend

- Brightline Proposed Southern Alignment
- - - USACE Retained Waters of the U.S.
- National Wetland Inventory
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Riverine



DRN: KJT
 DATE: 7/13/2021
 APR: MLP
 PRN: 116.026

Figure No. 6-1



**Brightline
Proposed Southern Alignment**
National Wetland Inventory Map
Orange County, Florida

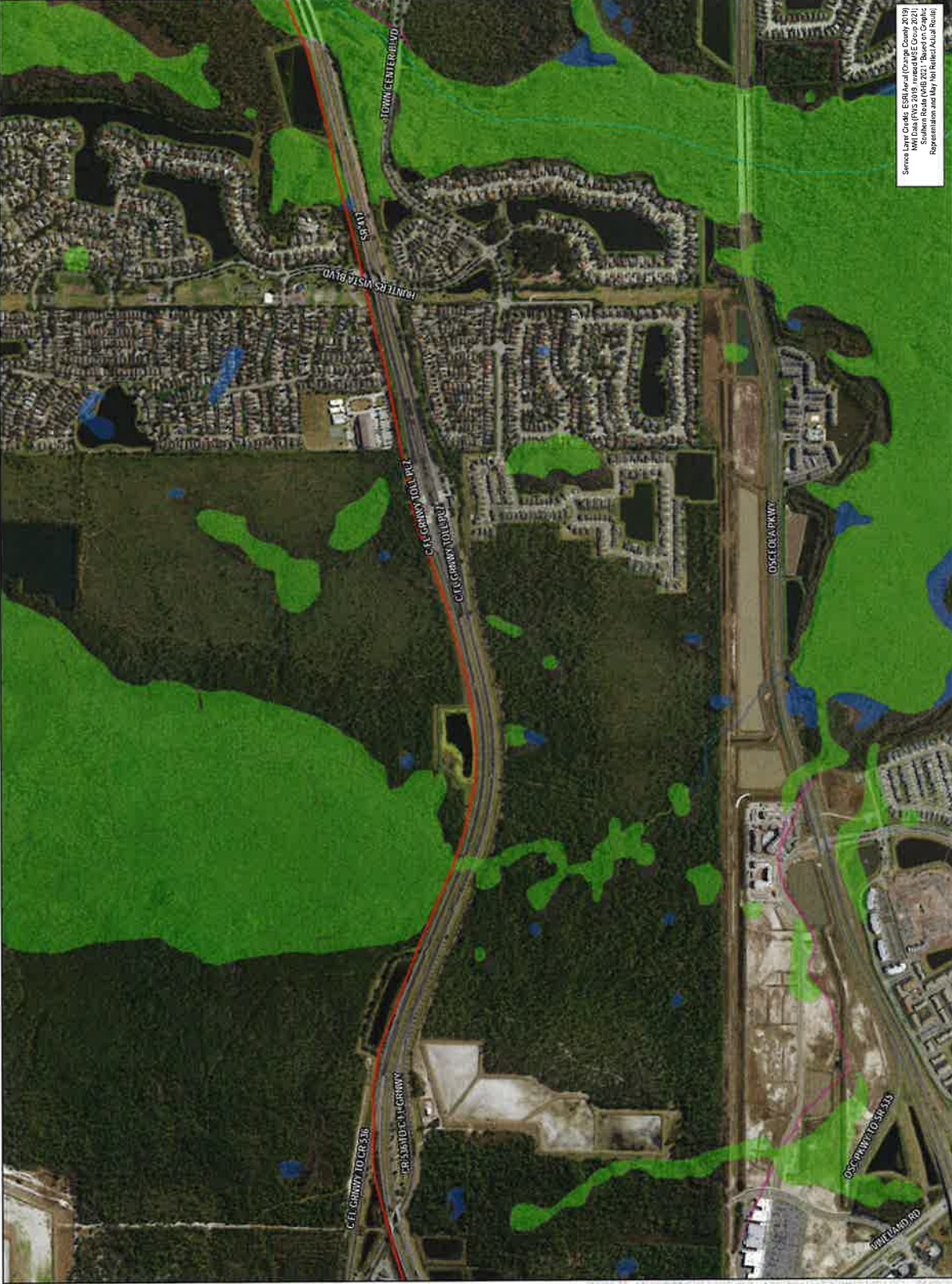


Legend

- Brightline Proposed Southern Alignment
- USACE Retained Waters of the U.S.
- National Wetland Inventory
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Riverine



DRN: KJT	APR: MLP
DATE: 7.13.2021	PROJ: 116.026
Figure No. 6-5	



Brightline
Proposed Southern Alignment
 National Wetland Inventory Map
 Orange County, Florida



Legend

- Brightline Proposed Southern Alignment
- National Wetland Inventory
- Freshwater Emergent Wetland
- Freshwater Forest/Shrub Wetland
- Freshwater Pond
- Lake
- Riverine



DRN: KJT
 APR: MLP
 DATE: 7/13/2021
 PRN: 116.026
 Figure No. 6-6



Service Layer Credits: ESRI Aerial (Orange County, 2019)
 National Wetland Inventory (U.S. Army Corps of Engineers, 2019)
 Statewide Road Network (2019) Based on Google
 Representation and May (for Project Account) (Google)

**Brightline
Proposed Southern Alignment**
 FEMA Flood Zone Map
 Orange County, Florida



Legend

- Brightline Proposed Southern Alignment
- Flood Zones
- A
- AE



DRN: KJT APR: MLP
 DATE: 7/15/2021 PRN: 116.026
 Figure No. 7-2



Source: Layer Credits: ESRI Aerial (Orange County 2019)
 Southern Borealis (WB 2021) Base on Geographic
 Representation and May Not Reflect Aerial Borealis

**Brightline
Proposed Southern Alignment**
FEMA Flood Zone Map
Orange County, Florida



Legend

- Brightline Proposed Southern Alignment
- Flood Zones
 - A
 - AE



Source: Layer Credits: ESRI Aerial (Orange County, 2019)
 FEMA Data (2019)
 Scale: 1 inch = 1,000 feet
 Representation and May 10th 2021



DRN: KJT	APR: MJP
DATE: 7/13/2021	PRN: 1116.026

Figure No. 7-5

**Brightline
Proposed Southern Alignment**
FEMA Flood Zone Map
Orange County, Florida



- Legend**
- Brightline Proposed Southern Alignment
 - Flood Zones
 - A
 - AE



DRN KJT
DATE: 7.13.2021
APRIL MLP
PRN: 116.026
Figure No. 7-6



Service Layer Credits ESRI/Aerial (Orange County 2019)
FEMA Maps (2018)
Source: Base Map (2018)
Representation and Map Art (Esri/Aerial/Google)

**Brightline
Proposed Southern Alignment
Bald Eagle Nest Location Map
Orange County, Florida**



Legend

- Brightline Proposed Southern Alignment
- Bald Eagle Nests
- Primary Protection Zone (330-feet)
- Secondary Protection Zone (660-feet)

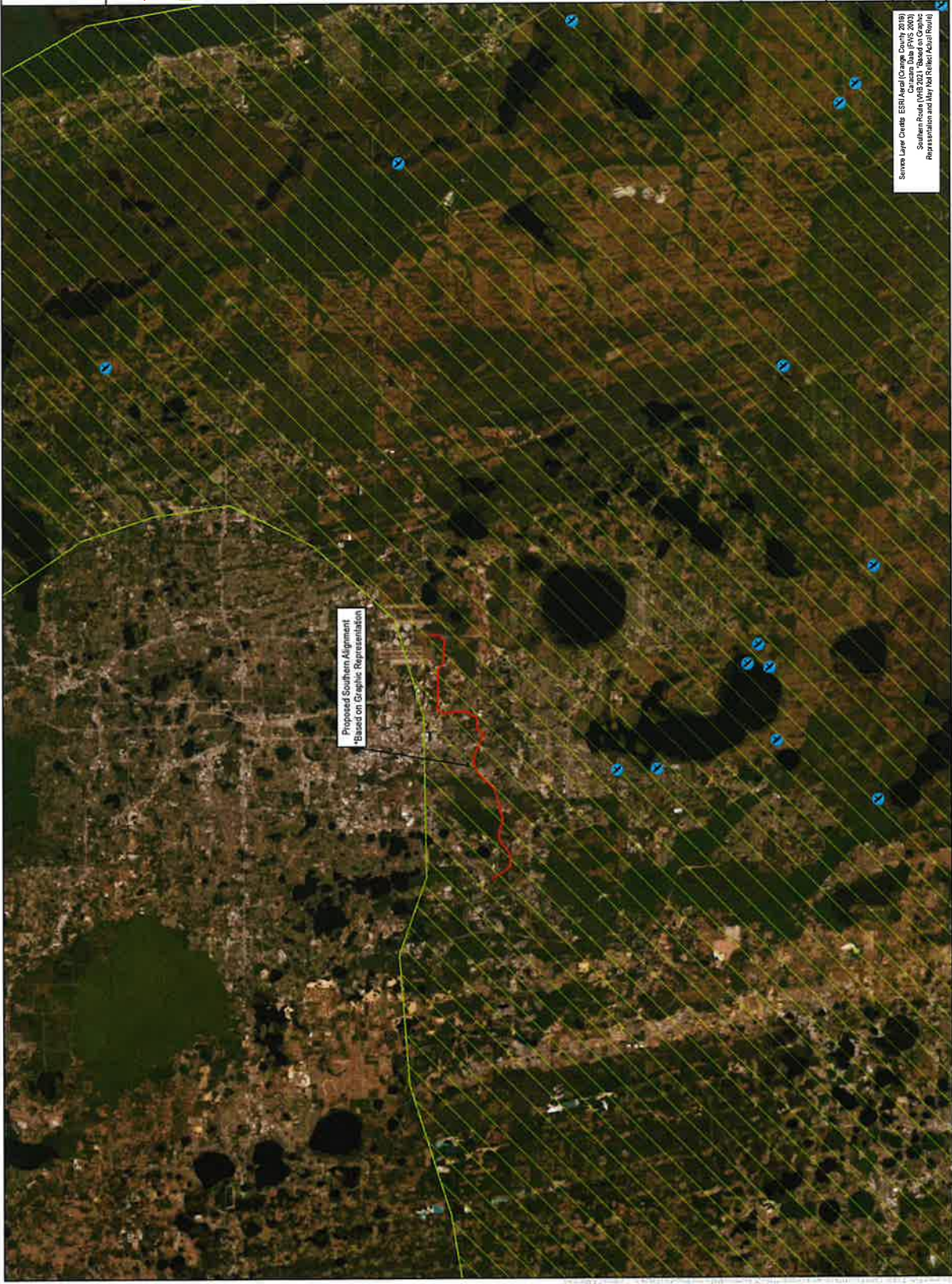


DRN: K/JT	APR: M/P
DATE: 7.13.2021	PRN: 1116.026

Figure No. 8-3



Series Layer: Oracle: ESRI Aerial Orange County, 2019
 PWC: Bald Eagle Nest Database (2019)
 Scale: 1:1000
 Approximate and May Not Reflect Actual Results



**Brightline
Proposed Southern Alignment
Caracara Nests and
Consultation Area Map
Orange County, Florida**

Legend

- Brightline Proposed Southern Alignment
- Caracara Nests and Observations
- Caracara Consultation Area



DRN: N/JT	APR: MJP
DATE: 7.13.2021	PRN: 1116.026

Figure No. 9

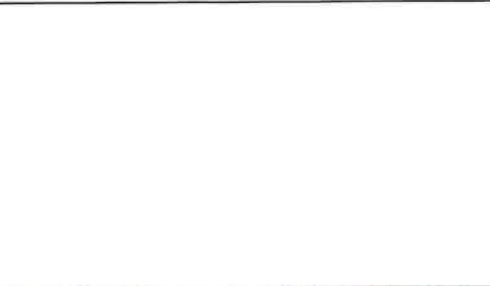
Proposed Southern Alignment
Based on Google Earth Imagery

Source: Layer Credits: ESRI/Aerial (Orange County, 2018)
Caracara Data (FWS, 2001)
Southern Blue Wildlife (Orange County, 2018)
Reproduction by MSA/Robert Anderson

**Brightline
Proposed Southern Alignment
Florida Scrub-jay and
Consultation Area Map
Orange County, Florida**



- Legend**
- Brightline Proposed Southern Alignment
 - Florida Scrub-jay Consultation Area
 - Scrub-jay Habitat



DRN: KJT
APR: MLP
PRN: 1116.026
DATE: 7.13.2021

Figure No. 10-1

Proposed Southern Alignment
Based on Graphic Representation

Screen Layer Data: EIR# Aerial (Orange County 2019)
Screen Layer Data: EIR# Aerial (Orange County 2019)
Screen Layer Data: EIR# Aerial (Orange County 2019)
Screen Layer Data: EIR# Aerial (Orange County 2019)

**Brightline
Proposed Southern Alignment
Florida Scrub-jay and
Consultation Area Map
Orange County, Florida**

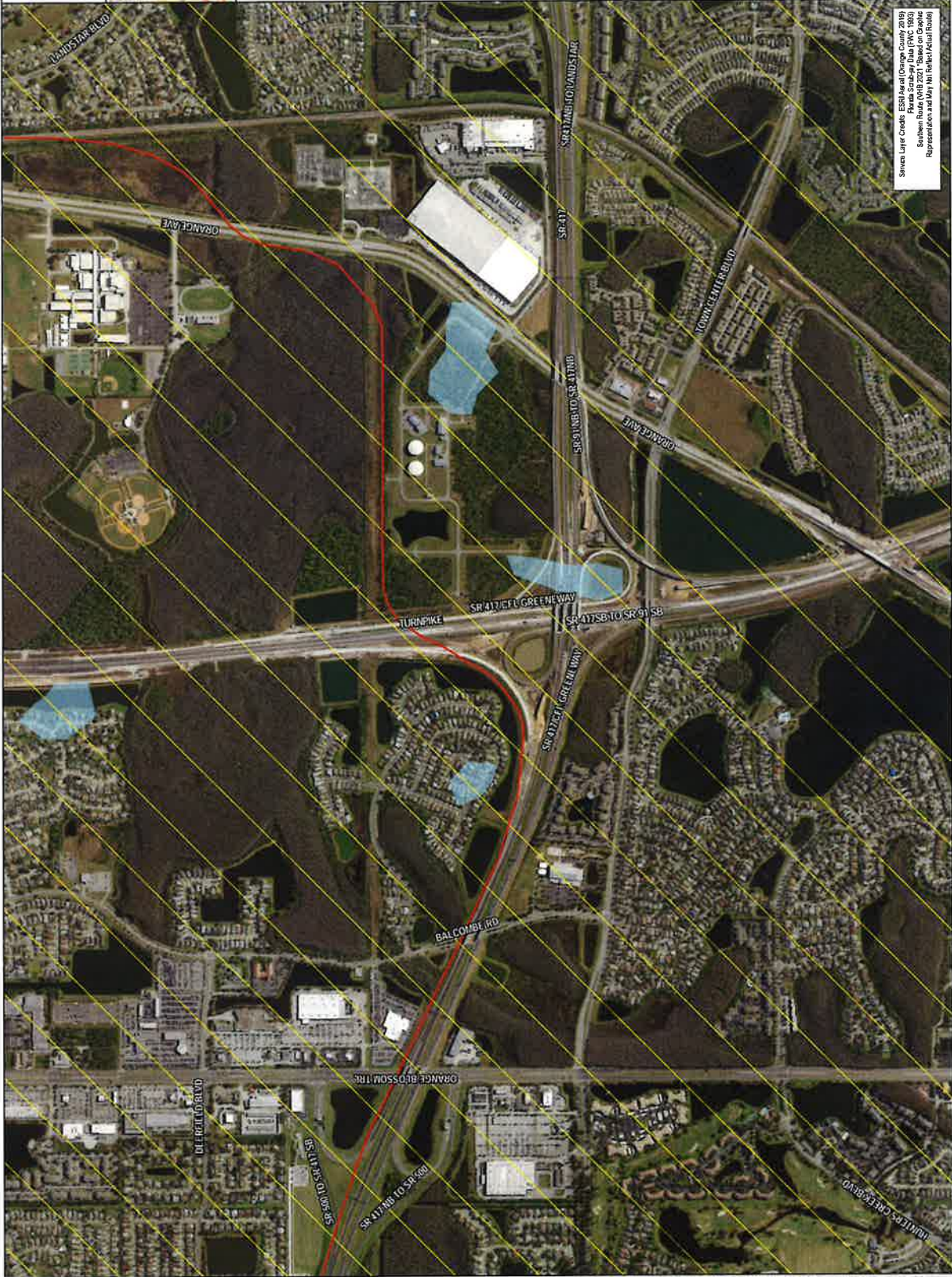


Legend

- Brightline Proposed Southern Alignment
- Florida Scrub-jay Consultation Area
- Scrub-jay Habitat



DRN: NJT	APR: MJP
DATE: 7.13.2021	PRN: 1116.026
Figure No. 10-3	



Source: Layer Credits: ESRI Aerial (Orange County, 2019)
Florida Scrub-jay Data (FWC, 1993)
Southern Roadway Data (FWC, 1993)
Reproduction of Map by MDC (Not for Redistribution)

**Brightline
Proposed Southern Alignment**
Florida Scrub-jay and
Consultation Area Map
Orange County, Florida

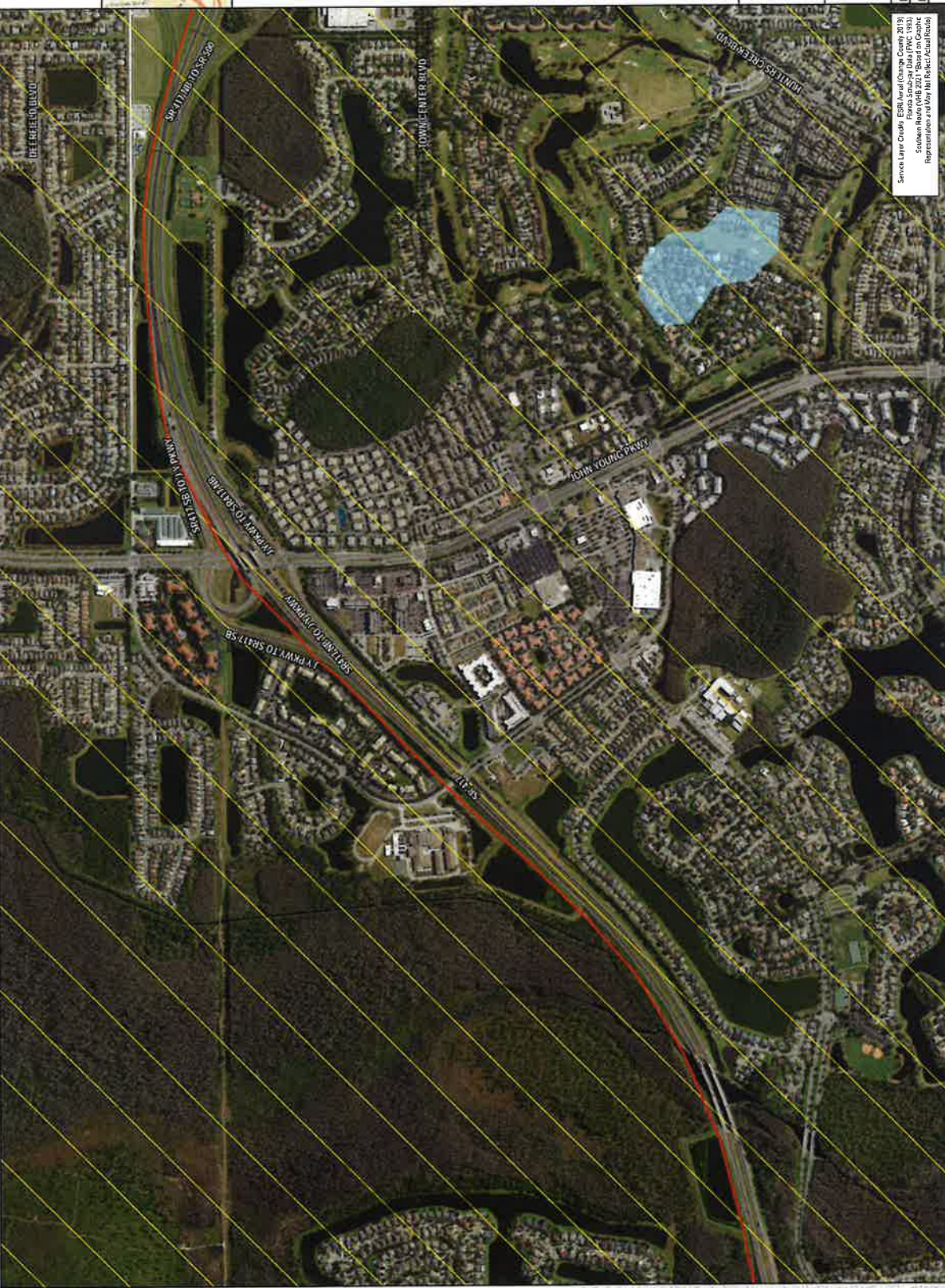


Legend

- Brightline Proposed Southern Alignment
- Florida Scrub-jay Consultation Area
- Scrub-jay Habitat

N
0 500 1000 Feet

DBA: KJT	APR: MLP	PRJ: 116.026	
DATE: 7.13.2021		Figure No. 10-4	



Source: Layer Grade: ESRI, Aerial (Orange County 2019)
Florida Scrub-jay Data (FWC 1993)
Representative of May 2019 Aerial Imagery

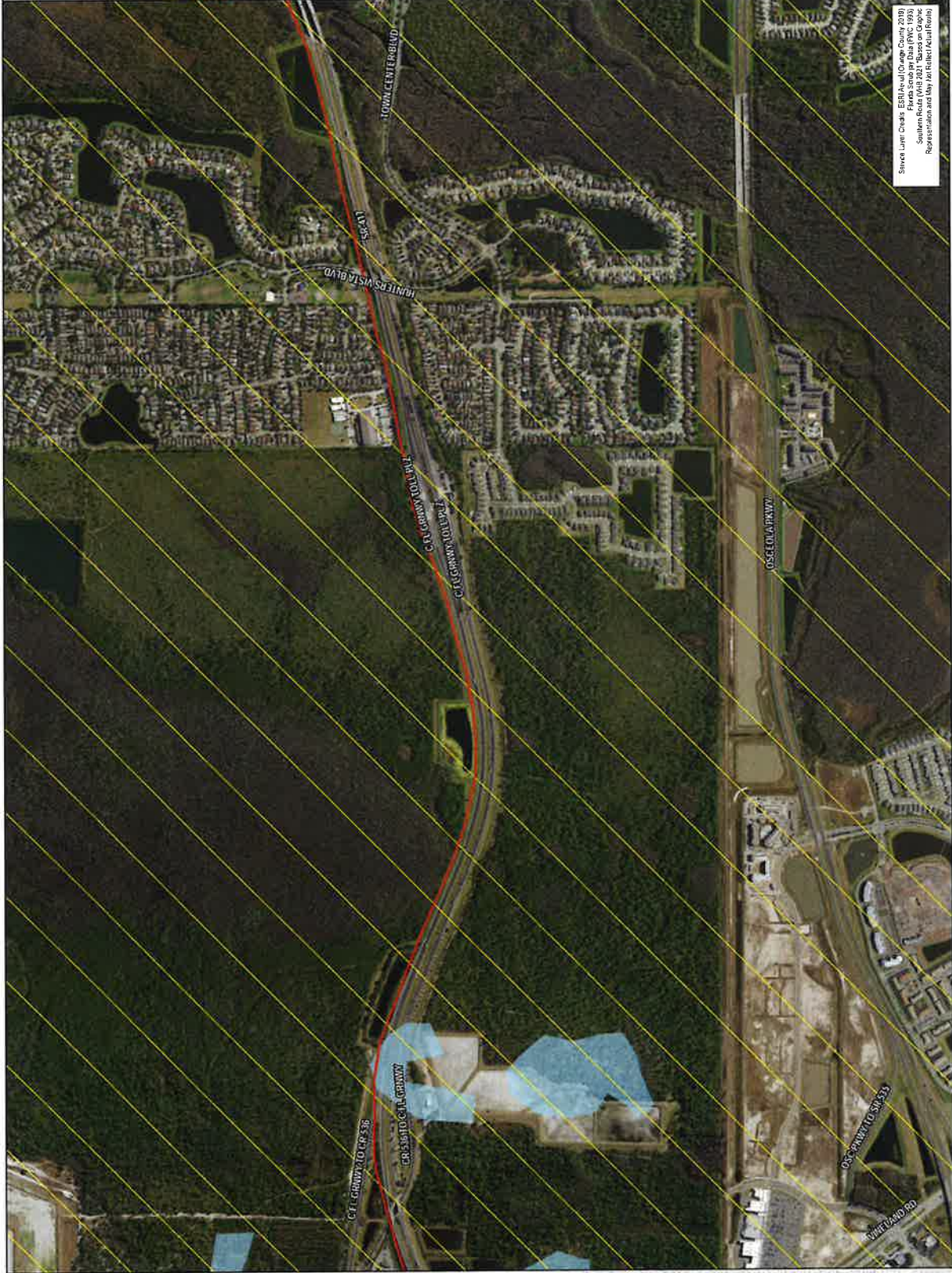
**Brightline
Proposed Southern Alignment
Florida Scrub-jay and
Consultation Area Map
Orange County, Florida**



- Legend**
- Brightline Proposed Southern Alignment
 - Florida Scrub-jay Consultation Area
 - Scrub-jay Habitat



DRM: KUT	APR. MLP
DATE: 7.13.2021	PRN: 116.026
Figure No. 10-5	



Service Layer Credits: ERI (Area of Orange County 2019)
Florida Scrub-jay Data (FWC 1993)
Southern Scrub-jay Data (FWC 1993)
Representation and May Not Reflect Actual Terrain

**Brightline
Proposed Southern Alignment
Florida Scrub-jay and
Consultation Area Map
Orange County, Florida**



Legend

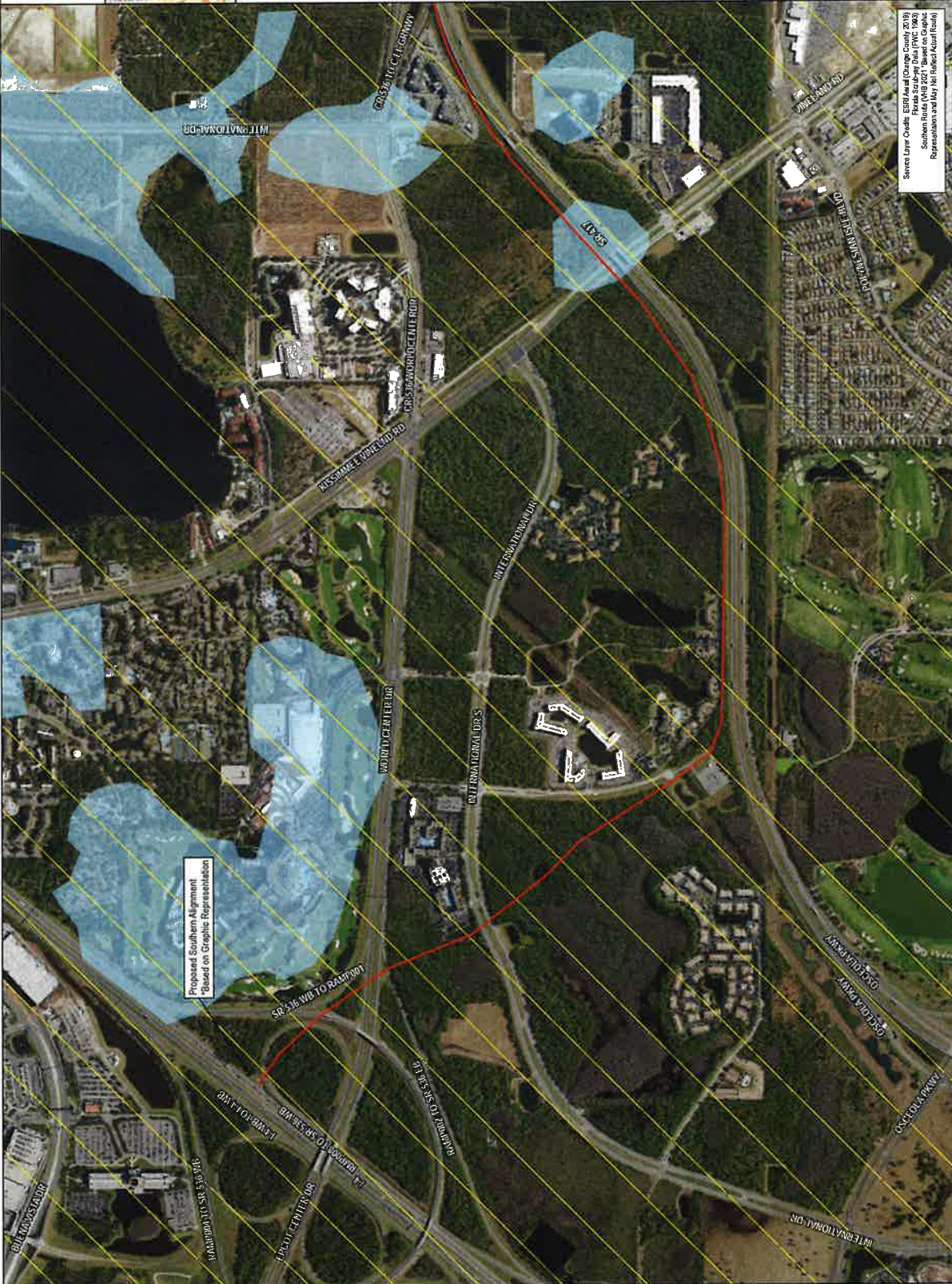
- Brightline Proposed Southern Alignment
- Florida Scrub-jay Consultation Area
- Scrub-jay Habitat

Scale: 0 1000 2000 Feet

North Arrow

DRN: M/JT	APR: M/LP
DATE: 7.13.2021	PRN: 1116.026

Figure No. 10-6



**Brightline
Proposed Southern Alignment
Everglades Snail Kite Nest Sites and
Consultation Area
Orange County, Florida**

Legend

- Brightline Proposed Southern Alignment
- Everglades Snail Kite Nest Sites
- Everglades Snail Kite Conservation Area



DRN: KJT
APR: MLP
PRN: Y1E.026
DATE: 7.13.2021

Figure No. 12



**Brightline
Proposed Southern Alignment
Sand Sink Habitat Map
Orange County, Florida**



Legend

- Brightline Proposed Southern Alignment
- Suitable Sand Sink Soil
- Pomello Fine Sand, 0 to 5% slope
- Suitable Sand Sink Elevation (>82 feet)
- Sand Sink Consultation Area







DRN: IJ/T	APR: MJP
DATE: 7.13.2021	PRN: 1116.026
Figure No. 13	




Proposed Southern Alignment
Based on Graphic Representation


Source Layer Credits: ESRI Aerial (Orange County 2018)
Soil Suitability Data (FWC 2008)
Elevation Data (FWC 2008)
Base Map and Elevation (FWC 2012)
Background and Map (Not to Scale)

**Brightline
Proposed Southern Alignment
Wood Stork Colony and
Core Foraging Area Map
Orange County, Florida**

- Legend**
-  Brightline Proposed Southern Alignment
 -  Wood Stork Colonies
 -  Wood Stork Core Foraging Area
 -  15-mile buffer



N
↑



DRN: KJT	APR: MJP	PRN: 116 026
DATE: 7/19/2021		
Figure No. 14		



Proposed Southern Alignment
Based on Graphic Representation

Source: Layer Credits: ESR (Aerial) (Orange County 2018)
ESR (Satellite) (Orange County 2018)
Wood Stork Colonies (MJB 2021) (Based on Graphic Representation and May 1st Release/Actual Results)

**Brightline
Proposed Southern Alignment
Conservation Areas Map
Orange County, Florida**



- Legend**
- Brightline Proposed Southern Alignment
 - Conservation Area
 - FDEP
 - Airport South Impact
 - Bishop, Bailey Pit
 - J. Lawson Boulevard
 - Orlando Airport Park

Notes: Conservation Areas Identified within 4,000 feet of the Brightline Proposed Southern Alignment



DRN KJT	APRIL MLP
DATE 7/13/2021	PRN 1116.026

Figure No. 15-1



Service Layer Credits: ESRI/Aerial (Orange County 2019)
Conservation Areas (FDIP Map) (2017, Revisions July 2020)
Reproduction and May 2021 (Public/Admitt. Bound.)

**Brightline
Proposed Southern Alignment**
Conservation Areas Map
Orange County, Florida



Legend

- Brightline Proposed Southern Alignment
- Conservation Area
- APO South Orange Properties Phase I
- Creekside Villas of Meadow Woods
- Jilpert Park Add No. 1
- Jilpert Park Add No. 3
- Orange Ave (S. Connector to Telf-Vine/land)
- Sewerage Lining
- Southchase
- Waterhigh Phase I
- Waterbase Lakes Subdivision
- Woodland Park

Note: Conservation Areas identified within 4,000 feet of the Brightline Proposed Southern Alignment.



DRN: MJT	APR: MJP
DATE: 7.13.2021	PRN: 1116.026

Figure No. 15-2



Source: Laysan Credit: ESRI Aerial (Orange County 2019)
Conservation Area (GDP) Modified Accessed July, 2021
Representation and Map (Not Forged Actual Results)

**Brightline
Proposed Southern Alignment**
Conservation Areas Map
Orange County, Florida



Legend

- Brightline Proposed Southern Alignment
- Conservation Area
 - Falcon Trees
 - Ginger Mill
 - Greenpointe
 - Hunters Creek
 - Meadow Woods PD
 - Orange Ave (S Connector to Tpk/Vineyard)
 - Rosewood Unit 1
 - South Regional Water
 - Southchase
 - Winrose @ Southmeadow

Note: Conservation Areas identified within 4,000 feet of the Brightline Proposed Southern Alignment



DRN: MJT	APR: MJP
DATE: 7.13.2021	PRN: 1116.026

Figure No. 15-3



Since Lant Credits (ESR) Area (Orange County 2018)
Conservation Areas (DEP) Map (Accessed July 2021)
Map of Orange County, Florida
Representation and Use (Not for Navigation)

**Brightline
Proposed Southern Alignment
Conservation Areas Map
Orange County, Florida**



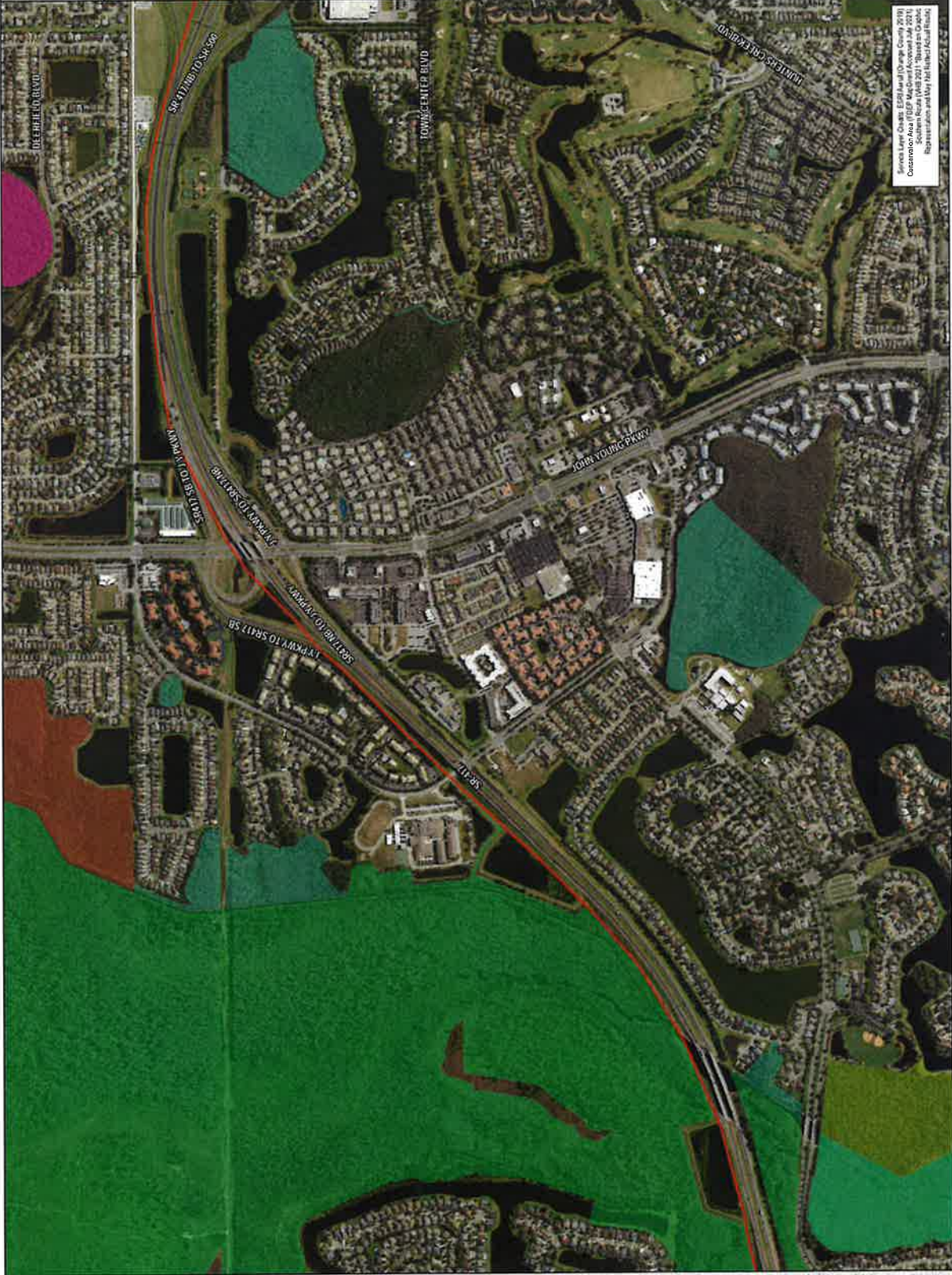
- Legend**
- Brightline Proposed Southern Alignment
 - Conservation Area
 - Deerfield
 - Heritage Place
 - Hunters Creek
 - Town Center Blvd
 - Shingle Creek (SFWMD)

Notes: Conservation Areas identified within 4,000 feet of the Brightline Proposed Southern Alignment



DRN: KJT	APR: MLP
DATE: 7.13.2021	PRN: 116.026

Figure No. 15-4



**Brightline
Proposed Southern Alignment
Conservation Areas Map
Orange County, Florida**



Legend

- Brightline Proposed Southern Alignment
- Conservation Area
- Kelley's Ridge
- Hunters Creek
- Outer Circle PD
- Ponte at Hunters Creek
- Town Center Blvd
- Shingle Creek (SFWMO)
- Shingle Creek Regional Park

Note: Conservation Areas identified within 4,000 feet of the Brightline Proposed Southern Alignment.



DEN: KJT	APR: MLP
DATE: 7-13-2021	PRN: 1115.026

Figure No. 15-5



Shingle Creek (SFWMO)
Outer Circle PD
Hunters Creek
Kelley's Ridge
Conservation Area
Brightline Proposed Southern Alignment

Brightline
Proposed Southern Alignment
 Conservation Areas Map
 Orange County, Florida



- Legend**
- Brightline Proposed Southern Alignment
 - Conservation Area
 - Outer Circle PD
 - World Gateway

Notes: Conservation Areas identified within 4,000 feet of the Brightline Proposed Southern Alignment



DRN: KJT	APR: MLP
DATE: 7/13/2021	PROJ: 1116.076
Figure No. 15-6	



Proposed Southern Alignment
 Based on Graphic Representation

Service Layer Credits: EDRI Aerial (Orange County 2019)
 Conservation Area (GCP) (Public Works 2021)
 Registration and Day (H) (Public Works 2021)

**Brightline
Proposed Southern Alignment**
Conservation Areas Potential Impacts Map
Orange County, Florida



Legend

- Brightline Proposed Southern Alignment**
- Brightline Proposed Southern Alignment
 - Conservation Area
 - FDEP
 - Airport South Impact
 - Bishop, Bultray Pk
 - J. Lawson Boulevard
 - Orlando Airport Park

Notes: Potential Impacts based on a 50-foot wide corridor. Conservation Areas identified within 4,000 feet of the Brightline Proposed Southern Alignment



DRN: KJT	APR: MLP
DATE: 7.13.2021	PRN: 116.076

Figure No. 15A-1



**Brightline
Proposed Southern Alignment**
Conservation Areas Potential Impacts Map
Orange County, Florida



Legend

- Brightline Proposed Southern Alignment
- Conservation Area**
 - AIPO South Orange Properties Phase I
 - Creskide Villas at Meadow Woods
 - Jalport Park Add No. 1
 - Jalport Park Add No. 3
 - Orange Ave (S. Connector to Telt-Vineland)
 - Sawgrass Landing
 - Soubichase
 - Waterhigh Phase I
 - Waterbase Lakes Subdivision
 - Woodland Park

Notes: Potential impacts based on a 50-foot wide corridor. Conservation Areas identified within 4,000 feet of the Brightline Proposed Southern Alignment



DRN: KJT	APR: MLP
DATE: 7.13.2021	JRN: 116.026
Figure No. 15A-2	



Source: Layer 01.a10. CDRI Aerial (Orange County 2019)
Conservation Area (DEP MapSheet Accessed July 2021)
Proposed Brightline Southern Alignment (MSE Group)
Registration and May Not Reflect Actual Plans

Brightline
Proposed Southern Alignment
 Conservation Areas Potential Impacts Map
 Orange County, Florida



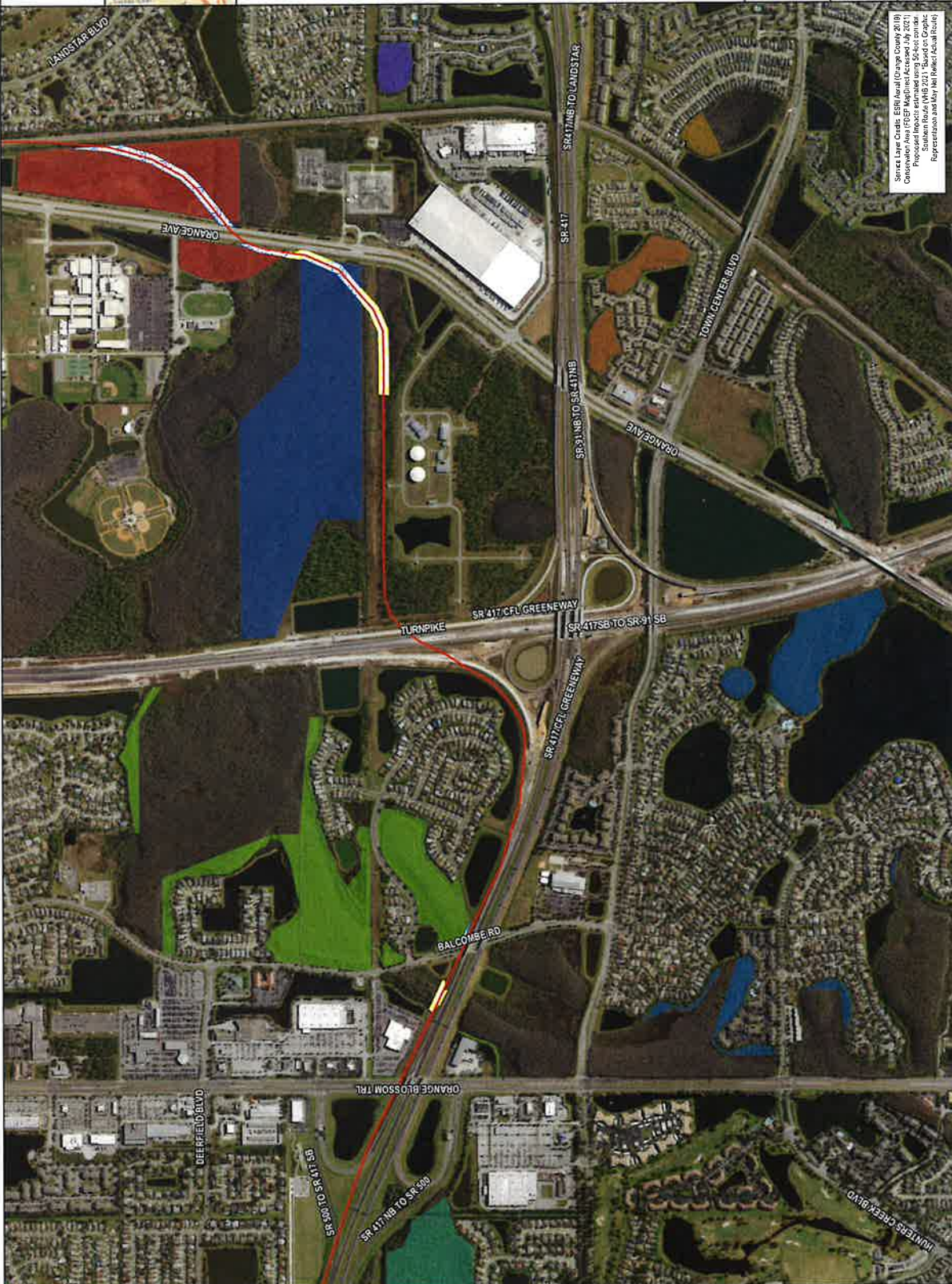
- Legend**
- Brightline Proposed Southern Alignment
 - Potential Impacts
 - Conservation Area Impact
 - Wetland Impact
 - Conservation Area
 - Falcon Trace
 - Ginger Mill
 - Greenpoint
 - Humane Creek
 - Meadow Woods PD
 - Orange Ave (S. Connector to Telt-Vineland)
 - Rosewood Unit 1
 - South Regional Water
 - Southphase
 - Winrose @ Southmeadow

Notes: Potential impacts based on a 50-foot wide corridor. Conservation Areas identified within 4,000 feet of the Brightline Proposed Southern Alignment

Scale: 0 to 1,000 Feet

DRN: NJT APR: MLP
 DATE: 7.13.2021 PRN: 1116.026

Figure No. 15A-3



Source: Layer Credits: ESRI, Aerial (Orange County, 2018)
 Conservation Area: FRESI MapPrint (Accessed July 2021)
 Proposed impacts estimated using 50-foot corridor
 Representations and may not reflect actual field

Brightline
Proposed Southern Alignment
 Conservation Areas Potential Impacts Map
 Orange County, Florida



Legend

- Brightline Proposed Southern Alignment
- Potential Impacts**
- Conservation Area Impact
- Wetland Impact
- Conservation Area**
- Kelly's Ridge
- Hunters Creek
- Oulter Circle PD
- Pointe at Hunters Creek
- Town Center Blvd
- Shingle Creek (SFWMD)
- Shingle Creek Regional Park

Notes: Potential impacts based on a 50-foot wide corridor. Conservation Areas identified within 1,000 feet of the Brightline Proposed Southern Alignment



DRN: KJT	APR: MLP
DATE: 7/13/2021	PRN: 1116 026
Figure No. 15A-5	



Service Layer Credits: ESRI/ArcGIS/Orange County 2019
 Conservation Area (PDF) Machine Accessed July 2021
 Florida Wetlands (PDF) Machine Accessed July 2021
 Shingle Creek (PDF) Machine Accessed July 2021
 Registration and May Not Reflect Actual Status

Brightline
Proposed Southern Alignment
 Conservation Areas Potential Impacts Map
 Orange County, Florida

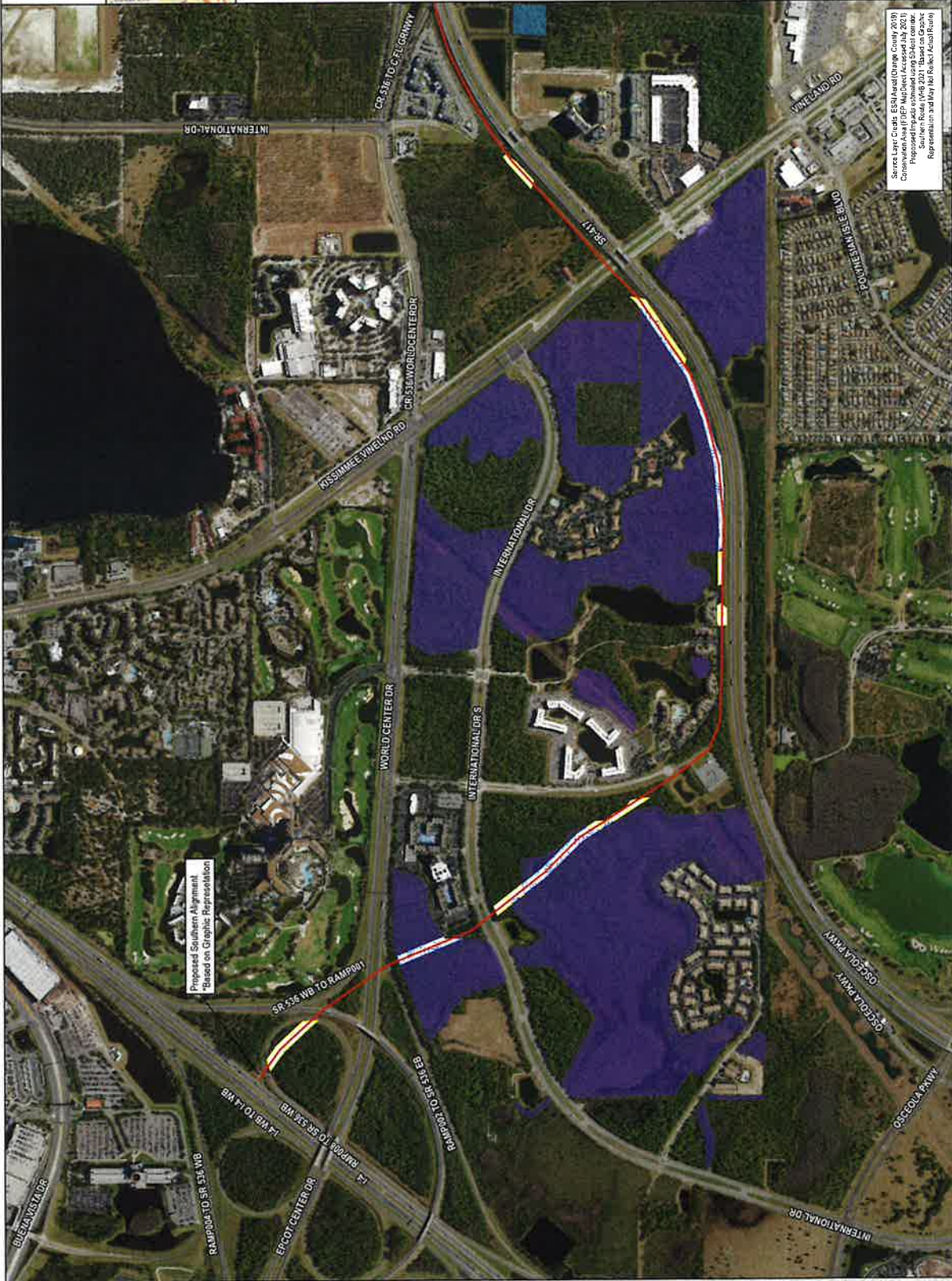


- Legend**
- Brightline Proposed Southern Alignment
 - Potential Impacts
 - Conservation Area Impact
 - Wetland Impact
 - Conservation Area
 - Outer Circle PD
 - World Gateway

Notes: Potential impacts based on a 50-foot wide corridor. Conservation Areas identified within 4,000 feet of the Brightline Proposed Southern Alignment



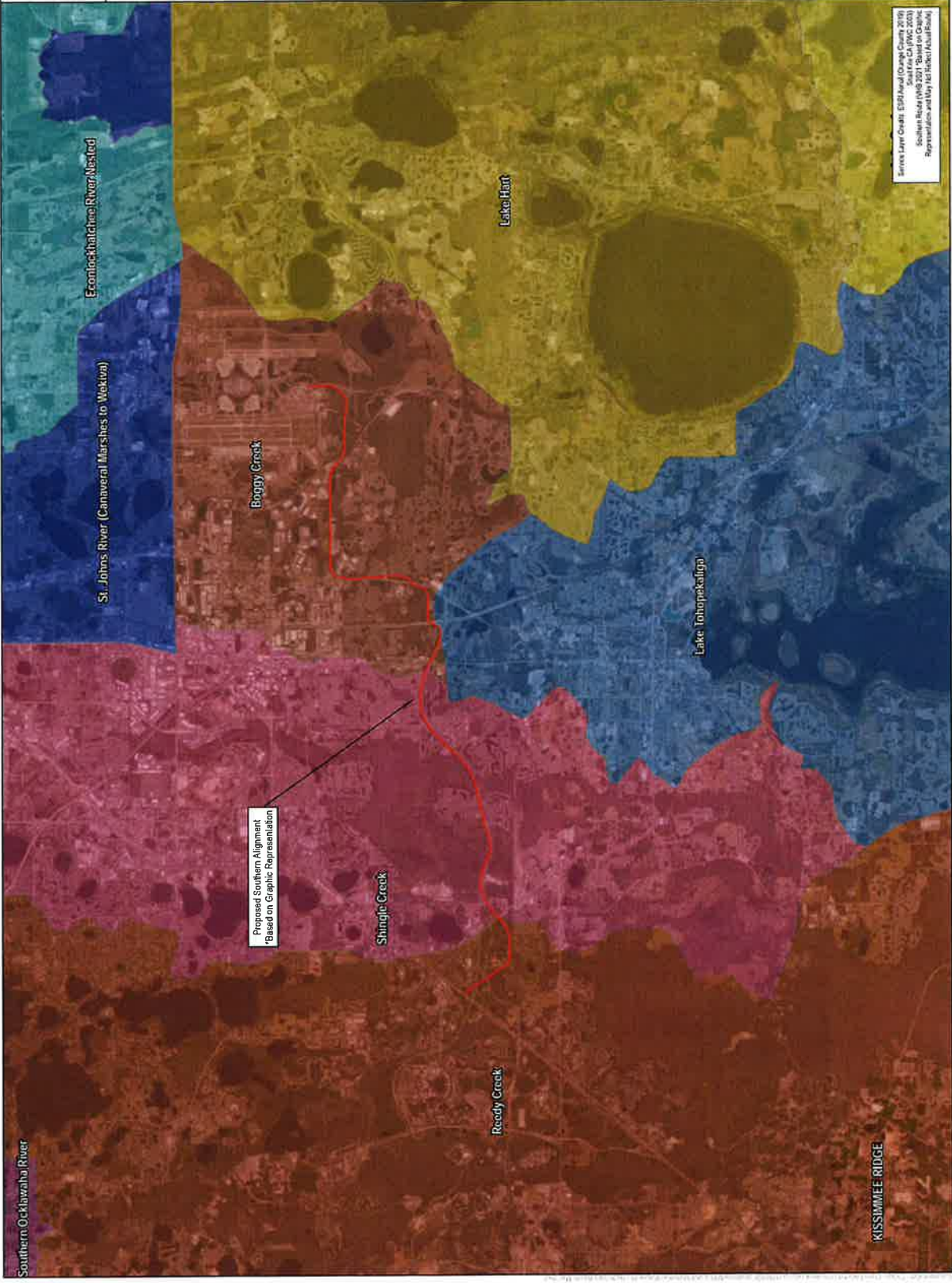
DRM: KJT	APR: MLP
DATE: 7/13/2021	PRN: 1116.026
Figure No. 15A-6	



Source Layer: Oracle ESRI Road (Orange County 2019)
 Conservation Area (IDEP MapDirect Accessed July 2021)
 File: 15A-6 Potential Impacts on Conservation Areas
 Representation and May Not Reflect Actual Boundaries

Brightline
Proposed Southern Alignment
 Florida Water Management
 District Hydrologic Basins Map
 Orange County, Florida

- Legend**
- Brightline South Alignment
 - Boggy Creek
 - Econlockhatchee River Nestled
 - Kissimmee Ridge
 - Lake Gentry
 - Lake Hart
 - Lake Tohopekaliga
 - Reedy Creek
 - Shingle Creek
 - Southern Ocklawaha River
 - St. Johns River (Canaveral Marshes to Wekiva)



Proposed Southern Alignment
 *Based on Graphic Representation

Service Layer Credits: ESRI/Aerial (Orange County 2019)
 Suez File Co./PNC 2008
 Southern Bell/AT&T
 Representations and May Not Reflect Actual Data

MSE GROUP

DRN: KJT APR: MLP
 DATE: 7.13.2021 PRN: 116.026
 Figure No. 16

Appendix A

Permit Documents – Orange Avenue Widening



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

ENVIRONMENTAL RESOURCE PERMIT NO. 48-00947-P

Form #0145

Rev 08/95

DATE ISSUED: OCTOBER 9, 1997

PERMITTEE: ORANGE COUNTY PUBLIC WORKS DIV.
(ORANGE AVE/SO CONNECTOR TO TAFT-VINELAND)
4200 WHITCOMB AVE.,
ORLANDO , FL 32809-9205

PROJECT DESCRIPTION: AUTHORIZATION FOR THE CONSTRUCTION AND OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM SERVING THE 154.92 ACRE ORANGE AVENUE WIDENING PROJECT, DISCHARGING VIA EXISTING WETLANDS TO BOGGY CREEK. CONCEPTUAL APPROVAL FOR A 4.5 ACRE FUTURE WIDENING AREA WITH A WETLAND IMPACT WHICH IS BEING MITIGATED FOR AT THIS TIME.

PROJECT LOCATION: ORANGE COUNTY , SECTION: 11-14,23,24,26 TWP: 24S RGE: 29E

This Permit is issued pursuant to Application No. 930430-3 , dated April 29, 1993. Permittee agree to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, operation, maintenance or use of activities authorized by this Permit. This Permit is issued under the provisions of Chapter 373 , Part IV Florida Statutes(F.S), and the Operating Agreement Concerning Regulation Under Part IV , Chapter 373 F.S. between South Florida Water Management District and the Department of Environmental Protection. Issuance of this Permit constitutes certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341 , unless this Permit is issued pursuant to the net improvement provisions of Subsections 373.414(1)(b), F.S., or as otherwise stated herein.

This Permit may be transferred pursuant to the appropriate provisions of Chapter 373, F.S, and Sections 40E-1.6107(1) and (2), and 40E-4.351(1),(2),and (4), Florida Administrative Code (F.A.C).

This Permit may be revoked, suspended, or modified at any time pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.351(1), (2), and (4), F.A.C.

This Permit shall be subject to the General Conditions set forth in Rule 40E-4.381,F.A.C., unless waived or modified by Governing Board. The Application, and the Surface Water Management Staff Review Summary of the Application, including all conditions, and all plans and specifications incorporated by reference, are a part of this Permit. All activities authorized by this Permit shall be implemented as set forth in the plans , specifications, and performance criteria as set forth and incorporated in the Surface Water Management Staff Review Summary. Within 30 days after completion of construction of the permitted activity, the Permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual, pursuant to the appropriate provisions of Chapter 373 , F.S., and Sections 40E-4.361 and 40E-4.381, F.A.C.

In the event the property is sold or otherwise conveyed, the Permittee will remain liable for compliance with this Permit until transfer is approved by the District pursuant to Rule 40E-1.6107, F.A.C.

SPECIAL AND GENERAL CONDITIONS ARE AS FOLLOWS:
SEE PAGES 2-6 OF 9 - 18 SPECIAL CONDITIONS.
SEE PAGES 7-9 OF 9 - 19 GENERAL CONDITIONS.

FILED WITH THE CLERK OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT

SOUTH FLORIDA WATER MANAGEMENT DISTRICT BY ITS, GOVERNING BOARD

ON Original signed by:
BY Vern Kaiser
DEPUTY CLERK

Original signed by
TONY BURNS
By ASSISTANT SECRETARY

SCANNED 06/13/2013 PL

SPECIAL CONDITIONS

1. DISCHARGE FACILITIES:

BASIN: BASIN 100:

1-14' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 83.4' NGVD.
1-3.75' W X .5' H X 150 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 82.5'
NGVD.
2-1.5' DIA. RCP CULVERTS EACH 37' LONG.

RECEIVING BODY : EXISTING WETLAND

CONTROL ELEV : 82.5 FEET NGVD. /82.5 FEET NGVD DRY SEASON.

BASIN: BASIN 200:

1-14' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 87.6' NGVD.
1-.25' W X .7' H X 20 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 86.2'
NGVD.
39 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING WETLAND

CONTROL ELEV : 86.2 FEET NGVD. /86.2 FEET NGVD DRY SEASON.

BASIN: BASIN 300:

1-6.58' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 86.8' NGVD.
1-1.5' W X .6' H X 105 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 86.2'
NGVD.
2-1.5' DIA. RCP CULVERTS EACH 100' LONG.

RECEIVING BODY : MITIGATION AREA

CONTROL ELEV : 86.2 FEET NGVD. /86.2 FEET NGVD DRY SEASON.

BASIN: BASIN 400:

1-18.33' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 86.7' NGVD.
1-1.75' W X .5' H X 120 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 86.2'
NGVD.
2-2' DIA. RCP CULVERTS EACH 45' LONG.

RECEIVING BODY : MITIGATION AREA

CONTROL ELEV : 86.2 FEET NGVD. /86.2 FEET NGVD DRY SEASON.

BASIN: BASIN 400-A:

1-10.25' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 85' NGVD.
20 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 84 FEET NGVD. /84 FEET NGVD DRY SEASON.

BASIN: BASIN 451:

1-20' WIDE BROAD CRESTED WEIR WITH CREST AT ELEV. 82.9' NGVD.
1-.25' DIA. CIRCULAR ORIFICE WITH INVERT AT ELEV. 81.5' NGVD.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 81.5 FEET NGVD. /81.5 FEET NGVD DRY SEASON.

BASIN: BASIN 500:

1-14.33' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 86.3' NGVD.
1-1.8' W X .7' H X 20 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 84.5'
NGVD.
45 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 84.5 FEET NGVD. /84.5 FEET NGVD DRY SEASON.

BASIN: BASIN 600:

1-10.25' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 85' NGVD.
1-2' W X .5' H X 128 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 84.5'
NGVD.
163 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 84.5 FEET NGVD. /84.5 FEET NGVD DRY SEASON.

BASIN: BASIN 700:

1-7.03' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 88' NGVD.
1-.7' W X 2' H X 20 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 86' NGVD.
668 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 86 FEET NGVD. /86 FEET NGVD DRY SEASON.

BASIN: BASIN 800:

1-11.25' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 91.8' NGVD.
1-1.3' W X .8' H X 20 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 91'
NGVD.
190 LF OF 1.5' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 91 FEET NGVD. /91 FEET NGVD DRY SEASON.

BASIN: BASIN 900:

1-4' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 86.1' NGVD.
1-.25' W X .6' H X 24 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 85'
NGVD.
45 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 85 FEET NGVD. /85 FEET NGVD DRY SEASON.

2. THE PERMITTEE SHALL BE RESPONSIBLE FOR THE CORRECTION OF ANY EROSION, SHOALING OR WATER QUALITY PROBLEMS THAT RESULT FROM THE CONSTRUCTION OR OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM.
3. MEASURES SHALL BE TAKEN DURING CONSTRUCTION TO INSURE THAT SEDIMENTATION AND/OR TURBIDITY PROBLEMS ARE NOT CREATED IN THE RECEIVING WATER.
4. THE DISTRICT RESERVES THE RIGHT TO REQUIRE THAT ADDITIONAL WATER QUALITY TREATMENT METHODS BE INCORPORATED INTO THE DRAINAGE SYSTEM IF SUCH MEASURES ARE SHOWN TO BE NECESSARY.
5. LAKE SIDE SLOPES SHALL BE NO STEEPER THAN 5:1 (HORIZONTAL:VERTICAL) TO A DEPTH OF TWO FEET BELOW THE CONTROL ELEVATION. SIDE SLOPES SHALL BE NURTURED OR PLANTED FROM 2 FEET BELOW TO 1 FOOT ABOVE CONTROL ELEVATION TO INSURE VEGETATIVE GROWTH.
6. FACILITIES OTHER THAN THOSE STATED HEREIN SHALL NOT BE CONSTRUCTED WITHOUT AN APPROVED MODIFICATION OF THIS PERMIT.
7. OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM SHALL BE THE RESPONSIBILITY OF ORANGE COUNTY.
8. SILT SCREENS, HAY BALES OR OTHER SUCH SEDIMENT CONTROL MEASURES SHALL BE UTILIZED DURING CONSTRUCTION. THE SELECTED SEDIMENT CONTROL MEASURES SHALL BE INSTALLED LANDWARD OF THE UPLAND BUFFER ZONES AROUND ALL PROTECTED WETLANDS. ALL AREAS SHALL BE STABILIZED AND VEGETATED IMMEDIATELY AFTER CONSTRUCTION TO PREVENT EROSION INTO THE WETLANDS AND UPLAND BUFFER ZONES.
9. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, THE PERIMETER OF THE PROTECTED WETLANDS AND BUFFER ZONES SHALL BE STAKED AND ROPED TO PREVENT ENCROACHMENT INTO THE WETLANDS. THE PERMITTEE SHALL NOTIFY THE SFWMD'S ENVIRONMENTAL COMPLIANCE STAFF IN WRITING UPON COMPLETION OF ROPING AND STAKING AND SCHEDULE AN INSPECTION OF THIS WORK. THE ROPING AND STAKING SHALL BE SUBJECT TO SFWMD STAFF APPROVAL. THE PERMITTEE SHALL MODIFY THE STAKING AND ROPING IF SFWMD STAFF DETERMINES IT IS INSUFFICIENT OR IS NOT IN CONFORMANCE WITH THE INTENT OF THIS PERMIT. STAKING AND ROPING SHALL REMAIN IN PLACE UNTIL ALL ADJACENT CONSTRUCTION ACTIVITIES ARE COMPLETE.
10. THE SFWMD RESERVES THE RIGHT TO REQUIRE REMEDIAL MEASURES TO BE TAKEN BY THE PERMITTEE IF WETLAND AND/OR UPLAND MONITORING OR OTHER INFORMATION DEMONSTRATES THAT ADVERSE IMPACTS TO PROTECTED, CONSERVED, INCORPORATED OR MITIGATED WETLANDS OR UPLANDS HAVE OCCURRED DUE TO PROJECT RELATED ACTIVITIES.
11. THE PERMITTEE SHALL BE RESPONSIBLE FOR THE SUCCESSFUL COMPLETION OF THE MITIGATION WORK, INCLUDING THE MONITORING AND MAINTENANCE OF THE MITIGATION AREAS FOR THE DURATION OF THE PLAN. THE MITIGATION AREA(S) SHALL NOT BE TURNED OVER TO THE OPERATION ENTITY UNTIL THE MITIGATION WORK IS ACCOMPLISHED AS PERMITTED AND SFWMD STAFF HAS CONCURRED.
12. A WETLAND MITIGATION PROGRAM SHALL BE IMPLEMENTED IN ACCORDANCE WITH EXHIBIT(S) 24A - 24LL. THE PERMITTEE SHALL CREATE 27.2 ACRES OF CYPRESS, 1.67 ACRES OF MARSH AND 2.86 ACRES OF MIXED FOREST AND PROTECT .48 ACRE OF UPLAND COMPENSATION AREA(S).
13. A WETLAND MONITORING PROGRAM AND MAINTENANCE PROGRAM SHALL BE IMPLEMENTED IN ACCORDANCE WITH EXHIBIT(S) 24A - 24LL. THE MONITORING PROGRAM SHALL EXTEND FOR A PERIOD OF 5 YEARS WITH ANNUAL REPORTS SUBMITTED TO SFWMD STAFF. AT THE END OF THE FIRST MONITORING PERIOD THE MITIGATION AREA(S) SHALL CONTAIN AN 80% SURVIVAL OF PLANTED VEGETATION. THE 80% SURVIVAL RATE SHALL BE MAINTAINED THROUGHOUT THE REMAINDER OF THE MONITORING PROGRAM. AT THE END

OF THE 5 YEARS MONITORING PROGRAM THE MITIGATION AREA(S) SHALL CONTAIN AN 80% SURVIVAL OF PLANTED VEGETATION AND AN 80% COVERAGE OF DESIRABLE OBLIGATE AND FACULTATIVE WETLAND SPECIES.

14. A BASELINE WETLAND MONITORING REPORT SHALL BE CONDUCTED IN ACCORDANCE WITH EXHIBIT(S) 24A - 24LL.
15. (A) NO LATER THAN JANUARY 15, 1998, THE PERMITTEE SHALL SUBMIT FOR REVIEW AND APPROVAL, TWO (2) COPIES OF THE FOLLOWING:
 1. PROJECT MAP IDENTIFYING CONSERVATION AREA(S)
 2. BOUNDARY SKETCH AND LEGAL DESCRIPTION OF CONSERVATION AREA(S)
 3. SIGNED CONSERVATION EASEMENT
 4. TITLE OPINION OR OWNERSHIP AND ENCUMBRANCE SEARCH FOR THE CONSERVATION AREA(S)

THE ABOVE INFORMATION SHALL BE SUBMITTED TO THE NATURAL RESOURCE MANAGEMENT POST PERMIT COMPLIANCE STAFF IN THE DISTRICT SERVICE CENTER WHERE THE APPLICATION WAS SUBMITTED.

B) THE REAL ESTATE INFORMATION REFERENCED IN PARAGRAPH (A) ABOVE SHALL BE REVIEWED BY THE DISTRICT IN ACCORDANCE WITH THE DISTRICT'S REAL ESTATE REVIEW REQUIREMENTS DESCRIBED IN THE ATTACHED EXHIBIT 28A & 28B. THE EASEMENT SHOULD NOT BE RECORDED UNTIL SUCH APPROVAL IS RECEIVED.

(C) THE PERMITTEE SHALL RECORD A CONSERVATION EASEMENT(S) OVER THE REAL PROPERTY DESIGNATED AS A CONSERVATION / PRESERVATION / MITIGATION AREA(S) ON ATTACHED EXHIBIT 25A - 25E. THE EASEMENT SHALL BE GRANTED FREE OF ENCUMBRANCES OR INTERESTS WHICH THE DISTRICT DETERMINES ARE CONTRARY TO THE INTENT OF THE EASEMENT. THE CONSERVATION EASEMENT SHALL BE GRANTED TO THE DISTRICT USING THE APPROVED FORM ATTACHED HERETO AS EXHIBIT 26A - 26D. ANY PROPOSED MODIFICATIONS TO THE APPROVED FORM MUST RECEIVE PRIOR WRITTEN CONSENT FROM THE DISTRICT.

D) THE PERMITTEE SHALL RECORD THE CONSERVATION EASEMENT IN THE PUBLIC RECORDS WITHIN 14 DAYS OF RECEIVING THE DISTRICT'S APPROVAL OF THE REAL ESTATE INFORMATION. UPON RECORDATION, THE PERMITTEE SHALL FORWARD THE ORIGINAL RECORDED EASEMENT, AND TITLE INSURANCE POLICY, TO THE NATURAL RESOURCE MANAGEMENT POST PERMIT COMPLIANCE STAFF IN THE DISTRICT SERVICE CENTER WHERE THE APPLICATION WAS SUBMITTED.

E) IN THE EVENT THE CONSERVATION EASEMENT REAL ESTATE INFORMATION REVEALS ENCUMBRANCES OR INTERESTS IN THE EASEMENT WHICH THE DISTRICT DETERMINES ARE CONTRARY TO THE INTENT OF THE EASEMENT, THE PERMITTEE SHALL BE REQUIRED TO PROVIDE RELEASE OR SUBORDINATION OF SUCH ENCUMBRANCES OR INTERESTS. IF SUCH ARE NOT OBTAINED, PERMITTEE SHALL BE REQUIRED TO APPLY FOR A MODIFICATION TO THE PERMIT FOR ALTERNATIVE ACCEPTABLE MITIGATION.

16. ACTIVITIES ASSOCIATED WITH IMPLEMENTATION OF THE WETLAND MITIGATION, MONITORING AND MAINTENANCE SHALL BE IN ACCORDANCE WITH THE FOLLOWING WORK SCHEDULE. ANY DEVIATION FROM THESE TIME FRAMES SHALL REQUIRE FORMAL SFWMD APPROVAL. SUCH REQUESTS MUST BE MADE IN WRITING AND SHALL INCLUDE (1) REASON FOR THE MODIFICATION; (2) PROPOSED START/FINISH DATES; AND (3) PROGRESS REPORT ON THE STATUS OF THE EXISTING MITIGATION EFFORTS.

COMPLETION DATE	ACTIVITY
MARCH 30, 2000	EXCAVATION AND GRADING MITIGATION AREA
APRIL 15, 2000	PLANTING MITIGATION AREA
APRIL 30, 2000	BASELINE MONITORING REPORT
OCTOBER 30, 2000	FIRST MONITORING REPORT

APRIL 30, 2001	SECOND MONITORING REPORT
OCTOBER 30, 2001	THIRD MONITORING REPORT
APRIL 30, 2002	FOURTH MONITORING REPORT
OCTOBER 30, 2002	FIFTH MONITORING REPORT
APRIL 30, 2003	SIXTH MONITORING REPORT
OCTOBER 30, 2003	SEVENTH MONITORING REPORT
APRIL 30, 2004	EIGHTH MONITORING REPORT
OCTOBER 30, 2004	NINETH MONITORING REPORT
APRIL 30, 2005	TENTH AND FINAL MONITORING REPORT

17. AN EXOTIC AND NUISANCE MONITORING AND MAINTENANCE PROGRAM SHALL BE INSTITUTED IN ACCORDANCE WITH EXHIBIT 10A -10F FOR THE MITIGATION CREATION AND PRESERVATION AREAS UNTIL SUCCESS OF THE CREATION AREAS IS ACHIEVED. PRIOR TO SEMI-ANNUAL MONITORING EVENTS THE SITES WILL BE MAINTAINED TO ENSURE THAT EXOTIC AND NUISANCE SPECIES, SUCH AS CATTAILS, PRIMROSE WILLOW, CHINESE TALLOW, HEMP VINE, DO NOT EXCEED 10 PERCENT OF TOTAL COVER.

SUBSEQUENT TO RELEASE FROM SUCCESS CRITERIA MONITORING IT IS THE PERMITTEES RESPONSIBILITY IN PERPETUITY TO ENSURE THAT ALL PRESERVED AREAS SHALL BE KEPT FREE FROM EXOTIC VEGETATION (PRIMROSE WILLOW, CHINESE TALLOW, BRAZILLIAN PEPPER, ETC.) AND THAT OTHER NUISANCE SPECIES SHALL CONSTITUTE NO MORE THAN 10% OF TOTAL COVER.

18. EXHIBITS 2 THRU 23, INCLUDING DRAINAGE BASIN LAYOUT, POND DETAILS AND CONTROL STRUCTURE DETAILS AND EXHIBIT 24A - 24KK INCLUDES THE "MITIGATION, MONITORING AND MAINTENANCE PLAN" AND ATTACHMENTS (FINAL REVISION AUGUST 1997). THESE EXHIBITS ARE HELD IN THE PERMIT FILE AND ARE INCLUDED HEREIN BY REFERENCE.

GENERAL CONDITIONS

1. ALL ACTIVITIES AUTHORIZED BY THIS PERMIT SHALL BE IMPLEMENTED AS SET FORTH IN THE PLANS, SPECIFICATIONS AND PERFORMANCE CRITERIA AS APPROVED BY THIS PERMIT. ANY DEVIATION FROM THE PERMITTED ACTIVITY AND THE CONDITIONS FOR UNDERTAKING THAT ACTIVITY SHALL CONSTITUTE A VIOLATION OF THIS PERMIT AND PART IV, CHAPTER 373, F.S.
2. THIS PERMIT OR A COPY THEREOF, COMPLETE WITH ALL CONDITIONS, ATTACHMENTS, EXHIBITS, AND MODIFICATIONS SHALL BE KEPT AT THE WORK SITE OF THE PERMITTED ACTIVITY. THE COMPLETE PERMIT SHALL BE AVAILABLE FOR REVIEW AT THE WORK SITE UPON REQUEST BY THE DISTRICT STAFF. THE PERMITTEE SHALL REQUIRE THE CONTRACTOR TO REVIEW THE COMPLETE PERMIT PRIOR TO COMMENCEMENT OF THE ACTIVITY AUTHORIZED BY THIS PERMIT.
3. ACTIVITIES APPROVED BY THIS PERMIT SHALL BE CONDUCTED IN A MANNER WHICH DOES NOT CAUSE VIOLATIONS OF STATE WATER QUALITY STANDARDS. THE PERMITTEE SHALL IMPLEMENT BEST MANAGEMENT PRACTICES FOR EROSION AND POLLUTION CONTROL TO PREVENT VIOLATION OF STATE WATER QUALITY STANDARDS. TEMPORARY EROSION CONTROL SHALL BE IMPLEMENTED PRIOR TO AND DURING CONSTRUCTION, AND PERMANENT CONTROL MEASURES SHALL BE COMPLETED WITHIN 7 DAYS OF ANY CONSTRUCTION ACTIVITY. TURBIDITY BARRIERS SHALL BE INSTALLED AND MAINTAINED AT ALL LOCATIONS WHERE THE POSSIBILITY OF TRANSFERRING SUSPENDED SOLIDS INTO THE RECEIVING WATERBODY EXISTS DUE TO THE PERMITTED WORK. TURBIDITY BARRIERS SHALL REMAIN IN PLACE AT ALL LOCATIONS UNTIL CONSTRUCTION IS COMPLETED AND SOILS ARE STABILIZED AND VEGETATION HAS BEEN ESTABLISHED. ALL PRACTICES SHALL BE IN ACCORDANCE WITH THE GUIDELINES AND SPECIFICATIONS DESCRIBED IN CHAPTER 6 OF THE FLORIDA LAND DEVELOPMENT MANUAL; A GUIDE TO SOUND LAND AND WATER MANAGEMENT (DEPARTMENT OF ENVIRONMENTAL REGULATION, 1988), INCORPORATED BY REFERENCE IN RULE 40E-4.091, F.A.C. UNLESS A PROJECT-SPECIFIC EROSION AND SEDIMENT CONTROL PLAN IS APPROVED AS PART OF THE PERMIT. THEREAFTER THE PERMITTEE SHALL BE RESPONSIBLE FOR THE REMOVAL OF THE BARRIERS. THE PERMITTEE SHALL CORRECT ANY EROSION OR SHOALING THAT CAUSES ADVERSE IMPACTS TO THE WATER RESOURCES.
4. THE PERMITTEE SHALL NOTIFY THE DISTRICT OF THE ANTICIPATED CONSTRUCTION START DATE WITHIN 30 DAYS OF THE DATE THAT THIS PERMIT IS ISSUED. AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ACTIVITY AUTHORIZED BY THIS PERMIT, THE PERMITTEE SHALL SUBMIT TO THE DISTRICT AN ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMMENCEMENT NOTICE FORM NO. 0960 INDICATING THE ACTUAL START DATE AND THE EXPECTED COMPLETION DATE.
5. WHEN THE DURATION OF CONSTRUCTION WILL EXCEED ONE YEAR, THE PERMITTEE SHALL SUBMIT CONSTRUCTION STATUS REPORTS TO THE DISTRICT ON AN ANNUAL BASIS UTILIZING AN ANNUAL STATUS REPORT FORM. STATUS REPORT FORMS SHALL BE SUBMITTED THE FOLLOWING JUNE OF EACH YEAR.
6. WITHIN 30 DAYS AFTER COMPLETION OF CONSTRUCTION OF THE PERMITTED ACTIVITY, THE PERMITTEE SHALL SUBMIT A WRITTEN STATEMENT OF COMPLETION AND CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER OR OTHER APPROPRIATE INDIVIDUAL AS AUTHORIZED BY LAW, UTILIZING THE SUPPLIED ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMPLETION/CONSTRUCTION CERTIFICATION FORM NO. 0881. THE STATEMENT OF COMPLETION AND CERTIFICATION SHALL BE BASED ON ONSITE OBSERVATION OF CONSTRUCTION OR REVIEW OF ASBUILT DRAWINGS FOR THE PURPOSE OF DETERMINING IF THE WORK WAS COMPLETED IN COMPLIANCE WITH PERMITTED PLANS AND SPECIFICATIONS. THIS SUBMITTAL SHALL SERVE TO NOTIFY THE DISTRICT THAT THE SYSTEM IS READY FOR INSPECTION. ADDITIONALLY, IF DEVIATION FROM THE APPROVED DRAWINGS ARE DISCOVERED DURING THE CERTIFICATION PROCESS, THE CERTIFICATION MUST BE ACCOMPANIED BY A COPY OF THE APPROVED

PERMIT DRAWINGS WITH DEVIATIONS NOTED. BOTH THE ORIGINAL AND REVISED SPECIFICATIONS MUST BE CLEARLY SHOWN. THE PLANS MUST BE CLEARLY LABELED AS "ASBUILT" OR "RECORD" DRAWING. ALL SURVEYED DIMENSIONS AND ELEVATIONS SHALL BE CERTIFIED BY A REGISTERED SURVEYOR.

7. THE OPERATION PHASE OF THIS PERMIT SHALL NOT BECOME EFFECTIVE: UNTIL THE PERMITTEE HAS COMPLIED WITH THE REQUIREMENTS OF CONDITION (6) ABOVE, HAS SUBMITTED A REQUEST FOR CONVERSION OF ENVIRONMENTAL RESOURCE PERMIT FROM CONSTRUCTION PHASE TO OPERATION PHASE, FORM NO.0920; THE DISTRICT DETERMINES THE SYSTEM TO BE IN COMPLIANCE WITH THE PERMITTED PLANS AND SPECIFICATIONS; AND THE ENTITY APPROVED BY THE DISTRICT IN ACCORDANCE WITH SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, ACCEPTS RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE SYSTEM. THE PERMIT SHALL NOT BE TRANSFERRED TO SUCH APPROVED OPERATION AND MAINTENANCE ENTITY UNTIL THE OPERATION PHASE OF THE PERMIT BECOMES EFFECTIVE. FOLLOWING INSPECTION AND APPROVAL OF THE PERMITTED SYSTEM BY THE DISTRICT, THE PERMITTEE SHALL INITIATE TRANSFER OF THE PERMIT TO THE APPROVED RESPONSIBLE OPERATING ENTITY IF DIFFERENT FROM THE PERMITTEE. UNTIL THE PERMIT IS TRANSFERRED PURSUANT TO SECTION 40E-1.6107, F.A.C., THE PERMITTEE SHALL BE LIABLE FOR COMPLIANCE WITH THE TERMS OF THE PERMIT.
8. EACH PHASE OR INDEPENDENT PORTION OF THE PERMITTED SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO THE INITIATION OF THE PERMITTED USE OF SITE INFRASTRUCTURE LOCATED WITHIN THE AREA SERVED BY THAT PORTION OR PHASE OF THE SYSTEM. EACH PHASE OR INDEPENDENT PORTION OF THE SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO TRANSFER OF RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE PHASE OR PORTION OF THE SYSTEM TO A LOCAL GOVERNMENT OR OTHER RESPONSIBLE ENTITY.
9. FOR THOSE SYSTEMS THAT WILL BE OPERATED OR MAINTAINED BY AN ENTITY THAT WILL REQUIRE AN EASEMENT OR DEED RESTRICTION IN ORDER TO ENABLE THAT ENTITY TO OPERATE OR MAINTAIN THE SYSTEM IN CONFORMANCE WITH THIS PERMIT, SUCH EASEMENT OR DEED RESTRICTION MUST BE RECORDED IN THE PUBLIC RECORDS AND SUBMITTED TO THE DISTRICT ALONG WITH ANY OTHER FINAL OPERATION AND MAINTENANCE DOCUMENTS REQUIRED BY SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, PRIOR TO LOT OR UNIT SALES OR PRIOR TO THE COMPLETION OF THE SYSTEM, WHICHEVER OCCURS FIRST. OTHER DOCUMENTS CONCERNING THE ESTABLISHMENT AND AUTHORITY OF THE OPERATING ENTITY MUST BE FILED WITH THE SECRETARY OF STATE WHERE APPROPRIATE. FOR THOSE SYSTEMS WHICH ARE PROPOSED TO BE MAINTAINED BY THE COUNTY OR MUNICIPAL ENTITIES, FINAL OPERATION AND MAINTENANCE DOCUMENTS MUST BE RECEIVED BY THE DISTRICT WHEN MAINTENANCE AND OPERATION OF THE SYSTEM IS ACCEPTED BY THE LOCAL GOVERNMENT ENTITY. FAILURE TO SUBMIT THE APPROPRIATE FINAL DOCUMENTS WILL RESULT IN THE PERMITTEE REMAINING LIABLE FOR CARRYING OUT MAINTENANCE AND OPERATION OF THE PERMITTED SYSTEM AND ANY OTHER PERMIT CONDITIONS.
10. SHOULD ANY OTHER REGULATORY AGENCY REQUIRE CHANGES TO THE PERMITTED SYSTEM, THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING OF THE CHANGES PRIOR TO IMPLEMENTATION SO THAT A DETERMINATION CAN BE MADE WHETHER A PERMIT MODIFICATION IS REQUIRED.
11. THIS PERMIT DOES NOT ELIMINATE THE NECESSITY TO OBTAIN ANY REQUIRED FEDERAL, STATE, LOCAL AND SPECIAL DISTRICT AUTHORIZATIONS PRIOR TO THE START OF ANY ACTIVITY APPROVED BY THIS PERMIT. THIS PERMIT DOES NOT CONVEY TO THE PERMITTEE OR CREATE IN THE PERMITTEE ANY PROPERTY RIGHT, OR ANY INTEREST IN REAL PROPERTY, NOR DOES IT AUTHORIZE ANY ENTRANCE UPON OR ACTIVITIES ON PROPERTY WHICH IS NOT OWNED OR CONTROLLED BY THE PERMITTEE, OR CONVEY ANY RIGHTS OR PRIVILEGES OTHER THAN THOSE SPECIFIED IN THE PERMIT AND CHAPTER

40E-4 OR CHAPTER 40E-40, F.A.C.

12. THE PERMITTEE IS HEREBY ADVISED THAT SECTION 253.77, F.S. STATES THAT A PERSON MAY NOT COMMENCE ANY EXCAVATION, CONSTRUCTION, OR OTHER ACTIVITY INVOLVING THE USE OF SOVEREIGN OR OTHER LANDS OF THE STATE, THE TITLE TO WHICH IS VESTED IN THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND WITHOUT OBTAINING THE REQUIRED LEASE, LICENSE, EASEMENT, OR OTHER FORM OF CONSENT AUTHORIZING THE PROPOSED USE. THEREFORE, THE PERMITTEE IS RESPONSIBLE FOR OBTAINING ANY NECESSARY AUTHORIZATIONS FROM THE BOARD OF TRUSTEES PRIOR TO COMMENCING ACTIVITY ON SOVEREIGNTY LANDS OR OTHER STATE-OWNED LANDS.
13. THE PERMITTEE MUST OBTAIN A WATER USE PERMIT PRIOR TO CONSTRUCTION DEWATERING, UNLESS THE WORK QUALIFIES FOR A GENERAL PERMIT PURSUANT TO SUBSECTION 40E-20.302(4), F.A.C., ALSO KNOWN AS THE "NO NOTICE" RULE.
14. THE PERMITTEE SHALL HOLD AND SAVE THE DISTRICT HARMLESS FROM ANY AND ALL DAMAGES, CLAIMS, OR LIABILITIES WHICH MAY ARISE BY REASON OF THE CONSTRUCTION, ALTERATION, OPERATION, MAINTENANCE, REMOVAL, ABANDONMENT OR USE OF ANY SYSTEM AUTHORIZED BY THE PERMIT.
15. ANY DELINEATION OF THE EXTENT OF A WETLAND OR OTHER SURFACE WATER SUBMITTED AS PART OF THE PERMIT APPLICATION, INCLUDING PLANS OR OTHER SUPPORTING DOCUMENTATION, SHALL NOT BE CONSIDERED BINDING UNLESS A SPECIFIC CONDITION OF THIS PERMIT OR A FORMAL DETERMINATION UNDER SECTION 373.421(2), F.S., PROVIDES OTHERWISE.
16. THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING WITHIN 30 DAYS OF ANY SALE, CONVEYANCE, OR OTHER TRANSFER OF OWNERSHIP OR CONTROL OF A PERMITTED SYSTEM OR THE REAL PROPERTY ON WHICH THE PERMITTED SYSTEM IS LOCATED. ALL TRANSFERS OF OWNERSHIP OR TRANSFERS OF A PERMIT ARE SUBJECT TO THE REQUIREMENTS OF RULES 40E-1.6105 AND 40E-1.6107, F.A.C. THE PERMITTEE TRANSFERRING THE PERMIT SHALL REMAIN LIABLE FOR CORRECTIVE ACTIONS THAT MAY BE REQUIRED AS A RESULT OF ANY VIOLATIONS PRIOR TO THE SALE, CONVEYANCE OR OTHER TRANSFER OF THE SYSTEM.
17. UPON REASONABLE NOTICE TO THE PERMITTEE, DISTRICT AUTHORIZED STAFF WITH PROPER IDENTIFICATION SHALL HAVE PERMISSION TO ENTER, INSPECT, SAMPLE AND TEST THE SYSTEM TO INSURE CONFORMITY WITH THE PLANS AND SPECIFICATIONS APPROVED BY THE PERMIT.
18. IF HISTORICAL OR ARCHAEOLOGICAL ARTIFACTS ARE DISCOVERED AT ANY TIME ON THE PROJECT SITE, THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE APPROPRIATE DISTRICT SERVICE CENTER.
19. THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE DISTRICT IN WRITING OF ANY PREVIOUSLY SUBMITTED INFORMATION THAT IS LATER DISCOVERED TO BE INACCURATE.

DRAFT
Subject to Governing
Board Approval

LAST DATE FOR GOVERNING BOARD ACTION:
OCTOBER 9, 1997

ENVIRONMENTAL RESOURCE PERMIT STAFF REVIEW SUMMARY

I. ADMINISTRATIVE

APPLICATION NUMBER: 930430-3
PROJECT NAME: ORANGE AVE/SO CONNECTOR TO TAFT-VINELAND
LOCATION: ORANGE COUNTY, S11-14,23,24,26/T24S/R29E
APPLICANT'S NAME: ORANGE COUNTY PUBLIC WORKS DIV.
OWNERS NAME AND ADDRESS: ORANGE COUNTY PUBLIC WORKS DIV.
4200 WHITCOMB AVE.
ORLANDO, FL 32809-9205
ENGINEER: BOWYER-SINGLETON & ASSOCS INC

II. PROJECT DESCRIPTION

PROJECT AREA: 159.42 acres DRAINAGE AREA: 159.42 acres
DISTRICT DRAINAGE BASIN: BOGGY CREEK
RECEIVING BODY: BOGGY CREEK VIA EXISTING WETLANDS
CLASSIFICATION: CLASS III

PURPOSE:

The purpose of this application is to authorize construction and operation of the surface water management system to serve the 154.92 acre Orange Avenue widening project and conceptual approval for 4.5 acres of future roadway widening area. The area for conceptual approval is at the southern end of the project, between the actual beginning of construction and Pond 100. Staff's recommendation is for approval.

EXISTING FACILITIES:

This is an existing two lane roadway traversing uplands and wetlands. Existing drainage is to roadside ditches which discharge to Boggy Creek.

PROPOSED FACILITIES:

Construction proposed consists of a six lane urban roadway with runoff directed to detention ponds which overflow to existing wetlands and then to Boggy Creek. The project results in approximately 8.2 acre feet of encroachment into the 100 year flood plain, with the proposed facilities providing 8.2 acre feet of compensating storage. Roadway construction plans, showing drainage basin layout, pond details and control structure details identified as Exhibits 2 thru 23 are placed in the permit file and included as part of this report by reference. See Special Condition No. 18.

BASIN INFORMATION:

<u>Basin</u>	<u>Area Acres</u>	<u>WSWT Elev (ft, NGVD)</u>	<u>Normal/Dry Ctrl Elev (ft, NGVD)</u>	<u>Method of Determination</u>
BASIN 100	32.40	82.50	82.5/82.5	WET SEASON SOIL BORINGS
BASIN 200	19.60	86.20	86.2/86.2	WET SEASON SOIL BORINGS
BASIN 300	17.70	86.20	86.2/86.2	WET SEASON SOIL BORINGS
BASIN 400	14.81	86.20	86.2/86.2	WET SEASON SOIL BORINGS
BASIN 400-A	4.45	83.00	84/84	WET SEASON SOIL BORINGS
BASIN 451	9.75	81.50	81.5/81.5	WET SEASON SOIL BORINGS
BASIN 500	7.18	84.50	84.5/84.5	WET SEASON SOIL BORINGS
BASIN 600	22.20	84.50	84.5/84.5	WET SEASON SOIL BORINGS
BASIN 700	10.73	86.00	86/86	WET SEASON SOIL BORINGS
BASIN 800	13.90	91.00	91/91	WET SEASON SOIL BORINGS
BASIN 900	6.70	85.00	85/85	WET SEASON SOIL BORINGS

DISCHARGE STRUCTURE INFORMATION:

Water Quality Structures:

Basin	Str. #	Bleeder Type	Dimensions	Invert Elev. (ft, NGVD)
BASIN 100	1	TRIANGULAR ORIFICE	3.75' wide X .5' high 150 degrees	82.50
BASIN 200	1	TRIANGULAR ORIFICE	.25' wide X .7' high 20 degrees	86.20
BASIN 300	1	TRIANGULAR ORIFICE	1.5' wide X .6' high 105 degrees	86.20
BASIN 400	1	TRIANGULAR ORIFICE	1.75' wide X .5' high 120 degrees	86.20
BASIN 451	1	CIRCULAR ORIFICE	.25' dia.	81.50
BASIN 500	1	TRIANGULAR ORIFICE	1.8' wide X .7' high 20 degrees	84.50
BASIN 600	1	TRIANGULAR ORIFICE	2' wide X .5' high 128 degrees	84.50
BASIN 700	1	TRIANGULAR ORIFICE	.7' wide X 2' high 20 degrees	86.00
BASIN 800	1	TRIANGULAR ORIFICE	1.3' wide X .8' high 20 degrees	91.00
BASIN 900	1	TRIANGULAR ORIFICE	.25' wide X .6' high 24 degrees	85.00

Major Discharge Structures:

Basin	Str. #	Description	Crest Elev. (ft, NGVD)
BASIN 100	1	14' wide SHARP CRESTED weir	83.40
BASIN 200	1	14' wide SHARP CRESTED weir	87.60
BASIN 300	1	6.58' wide SHARP CRESTED weir	86.80
BASIN 400	1	18.33' wide SHARP CRESTED weir	86.70
BASIN 400-A	1	10.25' wide SHARP CRESTED weir	85.00
BASIN 451	1	20' wide BROAD CRESTED weir	82.90
BASIN 500	1	14.33' wide SHARP CRESTED weir	86.30
BASIN 600	1	10.25' wide SHARP CRESTED weir	85.00
BASIN 700	1	7.03' wide SHARP CRESTED weir	88.00
BASIN 800	1	11.25' wide SHARP CRESTED weir	91.80
BASIN 900	1	4' wide SHARP CRESTED weir	86.10

Discharge Culverts:

Basin	Str. #	Description
BASIN 100	1	37' long, 1.5' dia. RCP
BASIN 100	1	37' long, 1.5' dia. RCP
BASIN 200	1	39' long, 2' dia. RCP
BASIN 300	1	100' long, 1.5' dia. RCP
BASIN 300	1	100' long, 1.5' dia. RCP
BASIN 400	1	45' long, 2' dia. RCP
BASIN 400	1	45' long, 2' dia. RCP
BASIN 400-A	1	20' long, 2' dia. RCP
BASIN 500	1	45' long, 2' dia. RCP
BASIN 600	1	163' long, 2' dia. RCP
BASIN 700	1	668' long, 2' dia. RCP
BASIN 800	1	190' long, 1.5' dia. RCP
BASIN 900	1	45' long, 2' dia. RCP

Receiving Body:

Basin	Str. #	Receiving Body
BASIN 100	1	EXISTING WETLAND
BASIN 200	1	EXISTING WETLAND
BASIN 300	1	MITIGATION AREA
BASIN 400	1	MITIGATION AREA
BASIN 400-A	1	EXISTING DITCH
BASIN 451	1	EXISTING DITCH
BASIN 500	1	EXISTING DITCH
BASIN 600	1	EXISTING DITCH
BASIN 700	1	EXISTING DITCH
BASIN 800	1	EXISTING DITCH
BASIN 900	1	EXISTING DITCH

III. PROJECT EVALUATION

Discharge Rate:

As shown in the table below, the proposed project discharge is within the allowable limit for the area and includes the runoff from the existing roadway.

Design Storm Frequency: 25 YR 24 HR Design Rainfall: 8.60 inches

Basin	Allow Disch (cfs)	Method of Determination	Design Disch (cfs)	Design Stage (ft, NGVD)
BASIN 100	30	PRE VS. POST	26.6	84.6
BASIN 200	23	PRE VS. POST	21.1	88.5
BASIN 300	17.5	PRE VS. POST	15.1	87.9
BASIN 400	21.4	PRE VS. POST	21.4	87.2
BASIN 400-A	8.1	PRE VS. POST	7.1	86.4
BASIN 45I	6	PRE VS. POST	5	83.2
BASIN 500	8.75	PRE VS. POST	8.62	86.5
BASIN 600	17	PRE VS. POST	10.88	87
BASIN 700	10.2	PRE VS. POST	9.4	88.4
BASIN 800	13	PRE VS. POST	11.7	92.6
BASIN 900	5.2	PRE VS. POST	3.44	86.97

WATER QUALITY:

Water quality treatment for the first inch of runoff over the project area is provided in wet and dry detention ponds.

Basin	Treatment Method	Vol Req'd. (ac-ft)	Vol Prov'd (ac-ft)
BASIN 100	3.9 acres WET DETENTION	2.70	3.34
BASIN 200	1.74 acres WET DETENTION	1.63	2.02
BASIN 300	2.46 acres WET DETENTION	1.48	1.63
BASIN 400	2.88 acres WET DETENTION	1.24	1.54
BASIN 400-A	1.55 acres DRY RETENTION	0.30	0.30
BASIN 45I	.52 acres DRY DETENTION	0.07	0.09
BASIN 500	.5 acres WET DETENTION	0.79	0.84
BASIN 600	3.03 acres WET DETENTION	1.48	1.65
BASIN 700	1.06 acres WET DETENTION	0.93	1.03
BASIN 800	2.15 acres WET DETENTION	1.66	1.69
BASIN 900	.5 acres WET DETENTION	0.24	0.24

ROAD DESIGN:

As shown in the following table, minimum road center lines have been set at or above the calculated design storm flood elevation.

Design Storm Freq: 10 YR 24 HR

Design Rainfall: 7.00 inches

Basin	Flood Elevation (ft., NGVD)	Minimum Centerline Elevation (ft., NGVD)
BASIN 100	84	88.6
BASIN 200	88.3	92.2
BASIN 300	87.7	92.2
BASIN 400	87	90.68
BASIN 400-A	85.8	88.6
BASIN 451	82.8	88.6
BASIN 500	85.9	88.41
BASIN 600	86.4	86.7
BASIN 700	88.3	89.1
BASIN 800	92.4	94.17
BASIN 900	86.69	87

IV. ENVIRONMENTAL ASSESSMENT

PROJECT SITE DESCRIPTION:

The project site consists of rural pasture and ranchlands, natural vegetated areas and industrial /commercial business parks surrounding the existing roadway. Portions of Mill Slough and Boggy Creek headwater tributaries bisect the existing and proposed right-of-way (ROW). The expansion project is proposed between the interchange with the newly constructed Greenway, through the on-going development of Southchase DRI, and the Airport Industrial Park and Regency Industrial Park.

EXISTING ON SITE WETLAND COMMUNITIES AND OTHER SURFACE WATERS:

ID NO	TOTAL ACREAGE	BIOLOGICAL CONDITION	COMMUNITY TYPE	COMMUNITY ACREAGE
WET #10	10.74	GOOD/FAIR	CYPRESS	10.74
WET #11	2.11	GOOD/FAIR	CYPRESS	2.11
WET #12,18	1.25	FAIR/POOR	STREAMS AND WATERWAYS	1.25
WET #16	.47	N/A	LAKES < 10 ACRES WHICH ARE DOMINANT	.47
WET #17	.78	FAIR/POOR	CYPRESS	.78
WET #6	.25	GOOD	CYPRESS	.25
WET #7	.23	FAIR	CYPRESS	.23
WET #8	.03	GOOD/FAIR	CYPRESS	.03
WET #9	5.23	GOOD/FAIR	CYPRESS	5.23

TOTAL ON SITE WETLAND/SURFACE WATER ACREAGE: 21.09

EXISTING ON SITE UPLAND COMMUNITIES:

ID NO	TOTAL ACREAGE	BIOLOGICAL CONDITION	COMMUNITY TYPE	COMMUNITY ACREAGE
MITutiBUF	2.16	FAIR	ELECTRICAL POWER TRANSMISSION LINE	1.44
			UTILITIES	.72
Mit.Bufr	.48	FAIR	IMPROVED PASTURES	.48
Mit.Creat	30.16	FAIR/POOR	IMPROVED PASTURES	30.16
Org.Create	1.65	N/A	ROADS AND HIGHWAYS	1.65
ROW	103.88	N/A	INDUSTRIAL	9.18
			IMPROVED PASTURES	7.80
			HERBACEOUS	5.51
			SHRUB AND BRUSHLAND	10.31
			UPLAND CONIFEROUS FORESTS	30.42
			RAILROADS	.92
			ROADS AND HIGHWAYS	39.55
			ELECTRICAL POWER TRANSMISSION LINE	.19
TOTAL ON SITE UPLAND ACREAGE:				138.33

ENDANGERED, THREATENED & SPECIES OF SPECIAL CONCERN SUMMARY:

The project site does not contain preferred habitat for endangered, threatened, or species of special concern. No endangered/threatened or species of special concern were observed on site, and submitted information indicates that potential use of the site by endangered/threatened species or species of special concern is minimal. This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if in the future, endangered/threatened or species of special concern are discovered on the site.

WETLAND PRESERVATION AND IMPACT SUMMARY:

A total 21.09 acres of wetlands and surface waters occur within the combined construction and conceptual permit application project area. (See Exhibits 27A - 27D) This project will affect these wetlands and surface waters in the following ways:

Wetlands 6 & 7 Totaling .48 acres conceptually permitted for impact (Wetland 7 is an isolated cypress dome less than half acre in size and therefore not requiring mitigation).

Wetlands 8, 9, 10, 11, and 17 totaling 8.15 acres construction permit for impact;

Wetland 10, totaling 10.74 acres construction permitted for impact to 3.38 acres and preservation/enhancement of remaining 7.36;

"Wetlands" 12 and 18 are portions of the channel and floodplains of a channelized headwater tributary of Boggy Creek totaling 1.25 acres which are

proposed for construction approval for .001 acre permanent impact (new bridge pilings), and 1.04 acre temporary impacts from widening of the channel.

Wetland #6 is a stormwater treatment pond, which will not require mitigation when impacted.

Activities within "wetlands" 12, 18, and 16 are shown as impacts within the impact table although the impacts will not require mitigation since they occur within surface waters and/or manmade stormwater ponds.

Summary:

Conceptual Approval: .48 acres of impacts to wetlands of which only .25 will require mitigation.

Construction Approval: 11.53 acres of permanent impacts to wetlands.

A portion of the existing roadway, which crosses wetlands 10 and 11 will be re-aligned to eliminate dangerous curves. The deserted roadbed will be restored to natural grade and incorporated into the mitigation area plans. Historic sheet flows through these wetlands were channeled into a narrow ditch under the roadway. The re-alignment will include additional culverts under the roadway to allow re-establishment of historic flow patterns and a large box culvert that can serve dual stormwater and animal crossing purposes.

The roadway widening and re-alignment are required to accommodate increased traffic and address traffic and alignment related safety issues. Avoidance and minimization efforts are restricted, to a certain extent, by the existing alignment, although the side of road that expansion will occur in has been considered to reduce wetland impacts.

Design details include specifications for erosion control devices, turbidity barriers and a turbidity monitoring program during construction within the Boggy Creek channels.

Design control elevations of the various stormwater ponds are sufficient to meet wetland gradient criteria. In addition, the ponds are designed to discharge through spreader swales to adjacent wetlands in order to maintain basin contribution volumes, and mimic historic dispersion patterns.

WETLAND PRESERVATION:

ID NO	COMMUNITY TYPE	PRESERVATION ACREAGE
WET #10	CYPRESS	7.36
WET #12,18	STREAMS AND WATERWAYS	.21

TOTAL ON SITE PRESERVATION ACREAGE: 7.57

WETLAND IMPACTS:

ID NO	COMMUNITY TYPE	IMPACT ACREAGE	IMPACT TYPE	BIOLOGICAL CONDITION	ACREAGE
WET #10	CYPRESS	3.38	CLEARING AND FILLING	GOOD/FAIR	3.38
WET #11	CYPRESS	2.11	CLEARING AND FILLING	GOOD/FAIR	2.11
WET #12,18	STREAMS AND WATERWAYS	1.04	EXCAVATION	FAIR/POOR	1.04
WET #16	LAKES < 10 ACRES WHICH ARE DOMINANT	.47	CLEARING AND FILLING	N/A	.47
WET #17	CYPRESS	.78	CLEARING AND FILLING	GOOD/FAIR	.78
WET #6	CYPRESS	.25	CLEARING AND FILLING	GOOD/FAIR	.25
WET #7	CYPRESS	.23	CLEARING AND FILLING	GOOD/FAIR	.23
WET #8	CYPRESS	.03	CLEARING AND FILLING	GOOD/FAIR	.03
WET #9	CYPRESS	5.23	CLEARING AND FILLING	GOOD/FAIR	5.23

TOTAL IMPACT ACREAGE: 13.52

MITIGATION/MONITORING:

The applicant proposes to create 31.73 acres of herbaceous and forested wetlands, and preserve 7.36 acres of adjacent on-site cypress slough as mitigation to offset the 11.76 acres of permanent wetland impacts proposed for construction and conceptual approval. These mitigation areas have been positioned to be surrounded by stormwater ponds, 0.48 acres of preserved upland buffer and 2.16 acres of gas and electrical easements. (Because of the utility easements already in place over the gas and electrical lines a conservation easement over the gas and electrical easement areas is not possible. But, the function of the utility easements will provide some buffer to surrounding development. A conservation easement will be placed over the preserved and created areas.) Creation will occur on both sides of the roadway, incorporating the abandoned roadbed into the mitigation design. Muck removed from within the impact area of wetland #10 will be used as a seed source ("muck blanket") for the mitigation creation areas. Graded elevations, hydrology and vegetative cover of the mitigation design are patterned after wetland 10.

The proposed construction schedule of the roadway is divided into three sections (Exhibit 1). Section 1 extends from Zell Drive to Wetherbee Road Extension, scheduled to begin 7/1/98 and completed 4/3/2000. Section 2 Extends from Fairway Woods Boulevard to Zell Drive and from Wetherbee Road Extension

to Taft-Vineland Road, scheduled to begin 11/8/98 and completed 5/31/2000. Section 3 extends from Central Florida Greenway (FKA Southern Connector) to Fairway Woods Boulevard, to begin 8/1/99 and completed by 11/30/2000. The mitigation area lies within Section 3 and will be tied to its scheduled construction dates since an integral part of the plan involves restoring wetlands to existing roadway and using muck removed from the Wetland 10 (impacted area within Section 3) to dress the mitigation area. Therefore earthwork within the mitigation area will be completed by March 30, 2000, and planting will be complete by April 15, 2000. With the in-separable schedule of the roadway and mitigation area these dates are approximate and may change.

Detailed mitigation, monitoring and maintenance data and plans are included as Exhibit(s) (24A - 24KK).

PROPOSED ON SITE MITIGATION:

ID NO	MITIGATION TYPE	TOTAL ACREAGE MIT.	COMMUNITY TYPE	COMMUNITY ACREAGE
UPLAND Mit.Creat	CREATION	30.16	IMPROVED PASTURES	30.16
UPLAND Org.Create	CREATION	1.65	ROADS AND HIGHWAYS	1.65
			ROADS AND HIGHWAYS	1.65
UPLAND Mit.Bufr	UPLAND COMP	.48	IMPROVED PASTURES	.48
			IMPROVED PASTURES	.48
			IMPROVED PASTURES	.48
			IMPROVED PASTURES	.48

TOTAL ON SITE MITIGATION ACREAGE: 32.29

WETLAND INVENTORY NOTE:

The land use table reflects 0.47 acres of a surface water pond and 1.25 acres of Boggy Creek Channel which are not included within the wetland inventory table.

A portion of the right of way from the Greenway (FKA Southern Connector) to the Turnpike is proposed for conceptual approval of expansion to accommodate future roadway widening. Two wetlands (numbers 6 and 7) fall within the expanded ROW limits (Exhibit 27A - 27D). The applicant proposes to mitigate for the impacts to these wetlands in conjunction with the mitigation being performed to offset construction level wetland impacts proposed for approval under this application. Approval of construction level details and the corresponding impacts to wetlands 6 and 7 are not proposed at this time. Consequently, the impacts to these wetlands are reflected in the conceptual wetland inventory table, while the mitigation to offset the impacts are included in the "phase" wetland inventory table.

WETLAND INVENTORY -

NEW PHASE - ORANGE AVE: SO. CONNECTOR TO TAFT ONSITE

	Cypress	Marsh	Trans.	Mix Forest	Totals
Total Wet. AC	18.89	0	0	0	18.89
Wet. Preserved	7.36	0	0	0	7.36
Wet. Impacted	11.53	0	0	0	11.53
Wet. Disturbed	0	0	0	0	0
Wet. Improved	0	0	0	0	0
Wet. Created	27.2	1.67	0	2.86	31.73
Uplands					
Other Compensation		.48			

WETLAND INVENTORY -

MOD CONCEPTUAL - ORANGE AVE: SO. CONNECTOR TO TAFT

ONSITE

	Cypress	Marsh	Trans.	Mix Forest	Totals
Total Wet. AC	.48	0	0	0	.48
Wet. Preserved	0	0	0	0	0
Wet. Impacted	.48	0	0	0	.48
Wet. Disturbed	0	0	0	0	0
Wet. Improved	0	0	0	0	0
Wet. Created	0	0	0	0	0
Uplands					
Other Compensation		0			

ENVIRONMENTAL SUMMARY:

The proposed activities have been evaluated for potential secondary and cumulative impacts and to determine if the project is contrary to the public interest. Based upon the proposed project design, the District has determined that the project will not cause adverse secondary or cumulative impacts to the water resources and is not contrary to the public interest.

This 159.42 acre roadway project will cause permanent impacts to 11.53 acres of the 21.09 acres of wetlands and surface waters within the project limits. Mitigation to offset the proposed impacts includes 31.73 acres of on-site wetland creation, and preservation of 7.36 acres of cypress slough wetlands. Within the limits of the options available the project has been designed to avoid and minimize wetland impacts. The project design employs best management practices to avoid turbidity or sedimentation impacts offsite and the stormwater management system is designed to avoid gradient impacts while maintaining historical flow volumes and dispersal patterns of surface waters to adjacent wetlands. No adverse impacts to wetland, surface water or listed species resources are anticipated to result from the proposed activities.

SYSTEM OPERATION:

Orange County

PROPOSED LAND USE(S):

Highway

WATER USE PERMIT STATUS:

Irrigation of landscaped areas is not proposed at this time.

DRI STATUS:

This project is not a DRI.

SAVE OUR RIVERS:

The project is not within or adjacent to lands under consideration by the Save Our Rivers program.

SWIM BASIN:

The project is not within nor does it discharge directly to a designated SWIM basin.

RIGHT-OF-WAY PERMIT STATUS:

A Right-of-Way Permit is not required for this project.

ENFORCEMENT ACTIVITY:

There has been no enforcement activity associated with this application.

THIRD PARTY INTEREST:

No third party has contacted the District with concerns about this application.

WELL FIELD ZONE OF INFLUENCE:

The project is not located within the zone of influence of a wellfield.

PRIMARY ISSUES RESOLVED:

Wetland impacts, onsite wetland mitigation.

V. APPLICABLE LAND AREA

The land use table is for the roadway widening project.

PROJECT

	<u>TOTAL PROJECT</u>	<u>PREVIOUSLY PERMITTED</u>	<u>THIS PHASE</u>	
TOTAL ACRES	159.42		159.42	acres
WTRM ACREAGE	20.02		20.02	acres
PAVEMENT	57.10		57.10	acres
PRESERVED	39.57		39.57	acres
PERVIOUS	42.73		42.73	acres

VI. STAFF RECOMMENDATION

The Staff recommends that the following be issued:

Authorization for the construction and operation of the surface water management system serving the 154.92 acre Orange Avenue widening project, discharging via existing wetlands to Boggy Creek. Conceptual approval for a 4.5 acre future widening area with a wetland impact which is being mitigated for at this time.

Based on the information provided, District rules have been adhered to.

Staff recommendation is for approval subject to the attached General and Special Conditions.

DRAFT
Subject to Governing
Board Approval

VII. STAFF REVIEW

NATURAL RESOURCE MANAGEMENT DIVISION APPROVAL

ENVIRONMENTAL EVALUATION

Susan C. Elfers
Susan C. Elfers

SUPERVISOR

Marc S. Ady
Marc S. Ady

DIVISION DIRECTOR:

Robert G. Robbins
Robert G. Robbins

DATE: 9/24/97

SURFACE WATER MANAGEMENT DIVISION APPROVAL

ENGINEERING EVALUATION

Afan L. Leavens
Afan L. Leavens

SUPERVISOR

Edward W. Yaun
Edward W. Yaun, P.E.

DIVISION DIRECTOR:

Anthony M. Waterhouse
Anthony M. Waterhouse, P.E.

DATE: 9/23/97

GENERAL CONDITIONS

1. ALL ACTIVITIES AUTHORIZED BY THIS PERMIT SHALL BE IMPLEMENTED AS SET FORTH IN THE PLANS, SPECIFICATIONS AND PERFORMANCE CRITERIA AS APPROVED BY THIS PERMIT. ANY DEVIATION FROM THE PERMITTED ACTIVITY AND THE CONDITIONS FOR UNDERTAKING THAT ACTIVITY SHALL CONSTITUTE A VIOLATION OF THIS PERMIT AND PART IV, CHAPTER 373, F.S.
2. THIS PERMIT OR A COPY THEREOF, COMPLETE WITH ALL CONDITIONS, ATTACHMENTS, EXHIBITS, AND MODIFICATIONS SHALL BE KEPT AT THE WORK SITE OF THE PERMITTED ACTIVITY. THE COMPLETE PERMIT SHALL BE AVAILABLE FOR REVIEW AT THE WORK SITE UPON REQUEST BY THE DISTRICT STAFF. THE PERMITTEE SHALL REQUIRE THE CONTRACTOR TO REVIEW THE COMPLETE PERMIT PRIOR TO COMMENCEMENT OF THE ACTIVITY AUTHORIZED BY THIS PERMIT.
3. ACTIVITIES APPROVED BY THIS PERMIT SHALL BE CONDUCTED IN A MANNER WHICH DOES NOT CAUSE VIOLATIONS OF STATE WATER QUALITY STANDARDS. THE PERMITTEE SHALL IMPLEMENT BEST MANAGEMENT PRACTICES FOR EROSION AND POLLUTION CONTROL TO PREVENT VIOLATION OF STATE WATER QUALITY STANDARDS. TEMPORARY EROSION CONTROL SHALL BE IMPLEMENTED PRIOR TO AND DURING CONSTRUCTION, AND PERMANENT CONTROL MEASURES SHALL BE COMPLETED WITHIN 7 DAYS OF ANY CONSTRUCTION ACTIVITY. TURBIDITY BARRIERS SHALL BE INSTALLED AND MAINTAINED AT ALL LOCATIONS WHERE THE POSSIBILITY OF TRANSFERRING SUSPENDED SOLIDS INTO THE RECEIVING WATERBODY EXISTS DUE TO THE PERMITTED WORK. TURBIDITY BARRIERS SHALL REMAIN IN PLACE AT ALL LOCATIONS UNTIL CONSTRUCTION IS COMPLETED AND SOILS ARE STABILIZED AND VEGETATION HAS BEEN ESTABLISHED. ALL PRACTICES SHALL BE IN ACCORDANCE WITH THE GUIDELINES AND SPECIFICATIONS DESCRIBED IN CHAPTER 6 OF THE FLORIDA LAND DEVELOPMENT MANUAL; A GUIDE TO SOUND LAND AND WATER MANAGEMENT (DEPARTMENT OF ENVIRONMENTAL REGULATION, 1988), INCORPORATED BY REFERENCE IN RULE 40E-4.091, F.A.C. UNLESS A PROJECT-SPECIFIC EROSION AND SEDIMENT CONTROL PLAN IS APPROVED AS PART OF THE PERMIT. THEREAFTER THE PERMITTEE SHALL BE RESPONSIBLE FOR THE REMOVAL OF THE BARRIERS. THE PERMITTEE SHALL CORRECT ANY EROSION OR SHOALING THAT CAUSES ADVERSE IMPACTS TO THE WATER RESOURCES.
4. THE PERMITTEE SHALL NOTIFY THE DISTRICT OF THE ANTICIPATED CONSTRUCTION START DATE WITHIN 30 DAYS OF THE DATE THAT THIS PERMIT IS ISSUED. AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF ACTIVITY AUTHORIZED BY THIS PERMIT, THE PERMITTEE SHALL SUBMIT TO THE DISTRICT AN ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMMENCEMENT NOTICE FORM NO. 0960 INDICATING THE ACTUAL START DATE AND THE EXPECTED COMPLETION DATE.
5. WHEN THE DURATION OF CONSTRUCTION WILL EXCEED ONE YEAR, THE PERMITTEE SHALL SUBMIT CONSTRUCTION STATUS REPORTS TO THE DISTRICT ON AN ANNUAL BASIS UTILIZING AN ANNUAL STATUS REPORT FORM. STATUS REPORT FORMS SHALL BE SUBMITTED THE FOLLOWING JUNE OF EACH YEAR.
6. WITHIN 30 DAYS AFTER COMPLETION OF CONSTRUCTION OF THE PERMITTED ACTIVITY,

THE PERMITTEE SHALL SUBMIT A WRITTEN STATEMENT OF COMPLETION AND CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER OR OTHER APPROPRIATE INDIVIDUAL AS AUTHORIZED BY LAW, UTILIZING THE SUPPLIED ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION COMPLETION/CONSTRUCTION CERTIFICATION FORM NO.0881. THE STATEMENT OF COMPLETION AND CERTIFICATION SHALL BE BASED ON ONSITE OBSERVATION OF CONSTRUCTION OR REVIEW OF ASBUILT DRAWINGS FOR THE PURPOSE OF DETERMINING IF THE WORK WAS COMPLETED IN COMPLIANCE WITH PERMITTED PLANS AND SPECIFICATIONS. THIS SUBMITTAL SHALL SERVE TO NOTIFY THE DISTRICT THAT THE SYSTEM IS READY FOR INSPECTION. ADDITIONALLY, IF DEVIATION FROM THE APPROVED DRAWINGS ARE DISCOVERED DURING THE CERTIFICATION PROCESS, THE CERTIFICATION MUST BE ACCOMPANIED BY A COPY OF THE APPROVED PERMIT DRAWINGS WITH DEVIATIONS NOTED. BOTH THE ORIGINAL AND REVISED SPECIFICATIONS MUST BE CLEARLY SHOWN. THE PLANS MUST BE CLEARLY LABELED AS "ASBUILT" OR "RECORD" DRAWING. ALL SURVEYED DIMENSIONS AND ELEVATIONS SHALL BE CERTIFIED BY A REGISTERED SURVEYOR.

7. THE OPERATION PHASE OF THIS PERMIT SHALL NOT BECOME EFFECTIVE: UNTIL THE PERMITTEE HAS COMPLIED WITH THE REQUIREMENTS OF CONDITION (6) ABOVE, HAS SUBMITTED A REQUEST FOR CONVERSION OF ENVIRONMENTAL RESOURCE PERMIT FROM CONSTRUCTION PHASE TO OPERATION PHASE, FORM NO.0920; THE DISTRICT DETERMINES THE SYSTEM TO BE IN COMPLIANCE WITH THE PERMITTED PLANS AND SPECIFICATIONS; AND THE ENTITY APPROVED BY THE DISTRICT IN ACCORDANCE WITH SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, ACCEPTS RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE SYSTEM. THE PERMIT SHALL NOT BE TRANSFERRED TO SUCH APPROVED OPERATION AND MAINTENANCE ENTITY UNTIL THE OPERATION PHASE OF THE PERMIT BECOMES EFFECTIVE. FOLLOWING INSPECTION AND APPROVAL OF THE PERMITTED SYSTEM BY THE DISTRICT, THE PERMITTEE SHALL INITIATE TRANSFER OF THE PERMIT TO THE APPROVED RESPONSIBLE OPERATING ENTITY IF DIFFERENT FROM THE PERMITTEE. UNTIL THE PERMIT IS TRANSFERRED PURSUANT TO SECTION 40E-1.6107, F.A.C., THE PERMITTEE SHALL BE LIABLE FOR COMPLIANCE WITH THE TERMS OF THE PERMIT.
8. EACH PHASE OR INDEPENDENT PORTION OF THE PERMITTED SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO THE INITIATION OF THE PERMITTED USE OF SITE INFRASTRUCTURE LOCATED WITHIN THE AREA SERVED BY THAT PORTION OR PHASE OF THE SYSTEM. EACH PHASE OR INDEPENDENT PORTION OF THE SYSTEM MUST BE COMPLETED IN ACCORDANCE WITH THE PERMITTED PLANS AND PERMIT CONDITIONS PRIOR TO TRANSFER OF RESPONSIBILITY FOR OPERATION AND MAINTENANCE OF THE PHASE OR PORTION OF THE SYSTEM TO A LOCAL GOVERNMENT OR OTHER RESPONSIBLE ENTITY.
9. FOR THOSE SYSTEMS THAT WILL BE OPERATED OR MAINTAINED BY AN ENTITY THAT WILL REQUIRE AN EASEMENT OR DEED RESTRICTION IN ORDER TO ENABLE THAT ENTITY TO OPERATE OR MAINTAIN THE SYSTEM IN CONFORMANCE WITH THIS PERMIT, SUCH EASEMENT OR DEED RESTRICTION MUST BE RECORDED IN THE PUBLIC RECORDS AND SUBMITTED TO THE DISTRICT ALONG WITH ANY OTHER FINAL OPERATION AND MAINTENANCE DOCUMENTS REQUIRED BY SECTIONS 9.0 AND 10.0 OF THE BASIS OF REVIEW FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS WITHIN THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT - AUGUST 1995, PRIOR TO LOT OR UNIT

SALES OR PRIOR TO THE COMPLETION OF THE SYSTEM, WHICHEVER OCCURS FIRST. OTHER DOCUMENTS CONCERNING THE ESTABLISHMENT AND AUTHORITY OF THE OPERATING ENTITY MUST BE FILED WITH THE SECRETARY OF STATE WHERE APPROPRIATE. FOR THOSE SYSTEMS WHICH ARE PROPOSED TO BE MAINTAINED BY THE COUNTY OR MUNICIPAL ENTITIES, FINAL OPERATION AND MAINTENANCE DOCUMENTS MUST BE RECEIVED BY THE DISTRICT WHEN MAINTENANCE AND OPERATION OF THE SYSTEM IS ACCEPTED BY THE LOCAL GOVERNMENT ENTITY. FAILURE TO SUBMIT THE APPROPRIATE FINAL DOCUMENTS WILL RESULT IN THE PERMITTEE REMAINING LIABLE FOR CARRYING OUT MAINTENANCE AND OPERATION OF THE PERMITTED SYSTEM AND ANY OTHER PERMIT CONDITIONS.

10. SHOULD ANY OTHER REGULATORY AGENCY REQUIRE CHANGES TO THE PERMITTED SYSTEM, THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING OF THE CHANGES PRIOR TO IMPLEMENTATION SO THAT A DETERMINATION CAN BE MADE WHETHER A PERMIT MODIFICATION IS REQUIRED.
11. THIS PERMIT DOES NOT ELIMINATE THE NECESSITY TO OBTAIN ANY REQUIRED FEDERAL, STATE, LOCAL AND SPECIAL DISTRICT AUTHORIZATIONS PRIOR TO THE START OF ANY ACTIVITY APPROVED BY THIS PERMIT. THIS PERMIT DOES NOT CONVEY TO THE PERMITTEE OR CREATE IN THE PERMITTEE ANY PROPERTY RIGHT, OR ANY INTEREST IN REAL PROPERTY, NOR DOES IT AUTHORIZE ANY ENTRANCE UPON OR ACTIVITIES ON PROPERTY WHICH IS NOT OWNED OR CONTROLLED BY THE PERMITTEE, OR CONVEY ANY RIGHTS OR PRIVILEGES OTHER THAN THOSE SPECIFIED IN THE PERMIT AND CHAPTER 40E-4 OR CHAPTER 40E-40, F.A.C.
12. THE PERMITTEE IS HEREBY ADVISED THAT SECTION 253.77, F.S. STATES THAT A PERSON MAY NOT COMMENCE ANY EXCAVATION, CONSTRUCTION, OR OTHER ACTIVITY INVOLVING THE USE OF SOVEREIGN OR OTHER LANDS OF THE STATE, THE TITLE TO WHICH IS VESTED IN THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND WITHOUT OBTAINING THE REQUIRED LEASE, LICENSE, EASEMENT, OR OTHER FORM OF CONSENT AUTHORIZING THE PROPOSED USE. THEREFORE, THE PERMITTEE IS RESPONSIBLE FOR OBTAINING ANY NECESSARY AUTHORIZATIONS FROM THE BOARD OF TRUSTEES PRIOR TO COMMENCING ACTIVITY ON SOVEREIGNTY LANDS OR OTHER STATE-OWNED LANDS.
13. THE PERMITTEE MUST OBTAIN A WATER USE PERMIT PRIOR TO CONSTRUCTION DEWATERING, UNLESS THE WORK QUALIFIES FOR A GENERAL PERMIT PURSUANT TO SUBSECTION 40E-20.302(4), F.A.C., ALSO KNOWN AS THE "NO NOTICE" RULE.
14. THE PERMITTEE SHALL HOLD AND SAVE THE DISTRICT HARMLESS FROM ANY AND ALL DAMAGES, CLAIMS, OR LIABILITIES WHICH MAY ARISE BY REASON OF THE CONSTRUCTION, ALTERATION, OPERATION, MAINTENANCE, REMOVAL, ABANDONMENT OR USE OF ANY SYSTEM AUTHORIZED BY THE PERMIT.
15. ANY DELINEATION OF THE EXTENT OF A WETLAND OR OTHER SURFACE WATER SUBMITTED AS PART OF THE PERMIT APPLICATION, INCLUDING PLANS OR OTHER SUPPORTING DOCUMENTATION, SHALL NOT BE CONSIDERED BINDING UNLESS A SPECIFIC CONDITION OF THIS PERMIT OR A FORMAL DETERMINATION UNDER SECTION 373.421(2), F.S., PROVIDES OTHERWISE.

16. THE PERMITTEE SHALL NOTIFY THE DISTRICT IN WRITING WITHIN 30 DAYS OF ANY SALE, CONVEYANCE, OR OTHER TRANSFER OF OWNERSHIP OR CONTROL OF A PERMITTED SYSTEM OR THE REAL PROPERTY ON WHICH THE PERMITTED SYSTEM IS LOCATED. ALL TRANSFERS OF OWNERSHIP OR TRANSFERS OF A PERMIT ARE SUBJECT TO THE REQUIREMENTS OF RULES 40E-1.6105 AND 40E-1.6107, F.A.C. THE PERMITTEE TRANSFERRING THE PERMIT SHALL REMAIN LIABLE FOR CORRECTIVE ACTIONS THAT MAY BE REQUIRED AS A RESULT OF ANY VIOLATIONS PRIOR TO THE SALE, CONVEYANCE OR OTHER TRANSFER OF THE SYSTEM.
17. UPON REASONABLE NOTICE TO THE PERMITTEE, DISTRICT AUTHORIZED STAFF WITH PROPER IDENTIFICATION SHALL HAVE PERMISSION TO ENTER, INSPECT, SAMPLE AND TEST THE SYSTEM TO INSURE CONFORMITY WITH THE PLANS AND SPECIFICATIONS APPROVED BY THE PERMIT.
18. IF HISTORICAL OR ARCHAEOLOGICAL ARTIFACTS ARE DISCOVERED AT ANY TIME ON THE PROJECT SITE, THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE APPROPRIATE DISTRICT SERVICE CENTER.
19. THE PERMITTEE SHALL IMMEDIATELY NOTIFY THE DISTRICT IN WRITING OF ANY PREVIOUSLY SUBMITTED INFORMATION THAT IS LATER DISCOVERED TO BE INACCURATE.

SPECIAL CONDITIONS

1. DISCHARGE FACILITIES:

BASIN: BASIN 100:

1-14' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 83.4' NGVD.
1-3.75' W X .5' H X 150 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV.
82.5' NGVD.
2-1.5' DIA. RCP CULVERTS EACH 37' LONG.

RECEIVING BODY : EXISTING WETLAND

CONTROL ELEV : 82.5 FEET NGVD. /82.5 FEET NGVD DRY SEASON.

BASIN: BASIN 200:

1-14' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 87.6' NGVD.
1-.25' W X .7' H X 20 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 86.2'
NGVD.
39 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING WETLAND

CONTROL ELEV : 86.2 FEET NGVD. /86.2 FEET NGVD DRY SEASON.

BASIN: BASIN 300:

1-6.58' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 86.8' NGVD.
1-1.5' W X .6' H X 105 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 86.2'
NGVD.
2-1.5' DIA. RCP CULVERTS EACH 100' LONG.

RECEIVING BODY : MITIGATION AREA

CONTROL ELEV : 86.2 FEET NGVD. /86.2 FEET NGVD DRY SEASON.

BASIN: BASIN 400:

1-18.33' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 86.7' NGVD.
1-1.75' W X .5' H X 120 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV.
86.2' NGVD.
2-2' DIA. RCP CULVERTS EACH 45' LONG.

RECEIVING BODY : MITIGATION AREA

CONTROL ELEV : 86.2 FEET NGVD. /86.2 FEET NGVD DRY SEASON.

BASIN: BASIN 400-A:

1-10.25' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 85' NGVD.
20 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 84 FEET NGVD. /84 FEET NGVD DRY SEASON.

BASIN: BASIN 451:

1-20' WIDE BROAD CRESTED WEIR WITH CREST AT ELEV. 82.9' NGVD.
1-.25' DIA. CIRCULAR ORIFICE WITH INVERT AT ELEV. 81.5' NGVD.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 81.5 FEET NGVD. /81.5 FEET NGVD DRY SEASON.

BASIN: BASIN 500:

1-14.33' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 86.3' NGVD.
1-1.8' W X .7' H X 20 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 84.5'
NGVD.
45 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 84.5 FEET NGVD. /84.5 FEET NGVD DRY SEASON.

BASIN: BASIN 600:

1-10.25' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 85' NGVD.
1-2' W X .5' H X 128 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 84.5'
NGVD.
163 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 84.5 FEET NGVD. /84.5 FEET NGVD DRY SEASON.

BASIN: BASIN 700:

1-7.03' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 88' NGVD.
1-.7' W X 2' H X 20 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 86'
NGVD.
668 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 86 FEET NGVD. /86 FEET NGVD DRY SEASON.

BASIN: BASIN 800:

1-11.25' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 91.8' NGVD.
1-1.3' W X .8' H X 20 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 91'
NGVD.

190 LF OF 1.5' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 91 FEET NGVD. /91 FEET NGVD DRY SEASON.

BASIN: BASIN 900:

1-4' WIDE SHARP CRESTED WEIR WITH CREST AT ELEV. 86.1' NGVD.
1-.25' W X .6' H X 24 DEG. TRIANGULAR ORIFICE WITH INVERT AT ELEV. 85'
NGVD.

45 LF OF 2' DIA. RCP CULVERT.

RECEIVING BODY : EXISTING DITCH

CONTROL ELEV : 85 FEET NGVD. /85 FEET NGVD DRY SEASON.

2. THE PERMITTEE SHALL BE RESPONSIBLE FOR THE CORRECTION OF ANY EROSION, SHOALING OR WATER QUALITY PROBLEMS THAT RESULT FROM THE CONSTRUCTION OR OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM.
3. MEASURES SHALL BE TAKEN DURING CONSTRUCTION TO INSURE THAT SEDIMENTATION AND/OR TURBIDITY PROBLEMS ARE NOT CREATED IN THE RECEIVING WATER.
4. THE DISTRICT RESERVES THE RIGHT TO REQUIRE THAT ADDITIONAL WATER QUALITY TREATMENT METHODS BE INCORPORATED INTO THE DRAINAGE SYSTEM IF SUCH MEASURES ARE SHOWN TO BE NECESSARY.
5. LAKE SIDE SLOPES SHALL BE NO STEEPER THAN 5:1 (HORIZONTAL:VERTICAL) TO A DEPTH OF TWO FEET BELOW THE CONTROL ELEVATION. SIDE SLOPES SHALL BE NURTURED OR PLANTED FROM 2 FEET BELOW TO 1 FOOT ABOVE CONTROL ELEVATION TO INSURE VEGETATIVE GROWTH.
6. FACILITIES OTHER THAN THOSE STATED HEREIN SHALL NOT BE CONSTRUCTED WITHOUT AN APPROVED MODIFICATION OF THIS PERMIT.
7. OPERATION OF THE SURFACE WATER MANAGEMENT SYSTEM SHALL BE THE RESPONSIBILITY OF ORANGE COUNTY.
8. SILT SCREENS, HAY BALES OR OTHER SUCH SEDIMENT CONTROL MEASURES SHALL BE UTILIZED DURING CONSTRUCTION. THE SELECTED SEDIMENT CONTROL MEASURES SHALL BE INSTALLED LANDWARD OF THE UPLAND BUFFER ZONES AROUND ALL PROTECTED WETLANDS. ALL AREAS SHALL BE STABILIZED AND VEGETATED IMMEDIATELY AFTER CONSTRUCTION TO PREVENT EROSION INTO THE WETLANDS AND

UPLAND BUFFER ZONES.

9. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, THE PERIMETER OF THE PROTECTED WETLANDS AND BUFFER ZONES SHALL BE STAKED AND ROPED TO PREVENT ENCROACHMENT INTO THE WETLANDS. THE PERMITTEE SHALL NOTIFY THE SFWMD'S ENVIRONMENTAL COMPLIANCE STAFF IN WRITING UPON COMPLETION OF ROPING AND STAKING AND SCHEDULE AN INSPECTION OF THIS WORK. THE ROPING AND STAKING SHALL BE SUBJECT TO SFWMD STAFF APPROVAL. THE PERMITTEE SHALL MODIFY THE STAKING AND ROPING IF SFWMD STAFF DETERMINES IT IS INSUFFICIENT OR IS NOT IN CONFORMANCE WITH THE INTENT OF THIS PERMIT. STAKING AND ROPING SHALL REMAIN IN PLACE UNTIL ALL ADJACENT CONSTRUCTION ACTIVITIES ARE COMPLETE.
10. THE SFWMD RESERVES THE RIGHT TO REQUIRE REMEDIAL MEASURES TO BE TAKEN BY THE PERMITTEE IF WETLAND AND/OR UPLAND MONITORING OR OTHER INFORMATION DEMONSTRATES THAT ADVERSE IMPACTS TO PROTECTED, CONSERVED, INCORPORATED OR MITIGATED WETLANDS OR UPLANDS HAVE OCCURRED DUE TO PROJECT RELATED ACTIVITIES.
11. THE PERMITTEE SHALL BE RESPONSIBLE FOR THE SUCCESSFUL COMPLETION OF THE MITIGATION WORK, INCLUDING THE MONITORING AND MAINTENANCE OF THE MITIGATION AREAS FOR THE DURATION OF THE PLAN. THE MITIGATION AREA(S) SHALL NOT BE TURNED OVER TO THE OPERATION ENTITY UNTIL THE MITIGATION WORK IS ACCOMPLISHED AS PERMITTED AND SFWMD STAFF HAS CONCURRED.
12. A WETLAND MITIGATION PROGRAM SHALL BE IMPLEMENTED IN ACCORDANCE WITH EXHIBIT(S) 24A - 24LL. THE PERMITTEE SHALL CREATE 27.2 ACRES OF CYPRESS, 1.67 ACRES OF MARSH AND 2.86 ACRES OF MIXED FOREST AND PROTECT .48 ACRE OF UPLAND COMPENSATION AREA(S).
13. A WETLAND MONITORING PROGRAM AND MAINTENANCE PROGRAM SHALL BE IMPLEMENTED IN ACCORDANCE WITH EXHIBIT(S) 24A - 24LL. THE MONITORING PROGRAM SHALL EXTEND FOR A PERIOD OF 5 YEARS WITH ANNUAL REPORTS SUBMITTED TO SFWMD STAFF. AT THE END OF THE FIRST MONITORING PERIOD THE MITIGATION AREA(S) SHALL CONTAIN AN 80% SURVIVAL OF PLANTED VEGETATION. THE 80% SURVIVAL RATE SHALL BE MAINTAINED THROUGHOUT THE REMAINDER OF THE MONITORING PROGRAM. AT THE END OF THE 5 YEARS MONITORING PROGRAM THE MITIGATION AREA(S) SHALL CONTAIN AN 80% SURVIVAL OF PLANTED VEGETATION AND AN 80% COVERAGE OF DESIRABLE OBLIGATE AND FACULTATIVE WETLAND SPECIES.
14. A BASELINE WETLAND MONITORING REPORT SHALL BE CONDUCTED IN ACCORDANCE WITH EXHIBIT(S) 24A - 24LL.
15. (A) NO LATER THAN JANUARY 15, 1998, THE PERMITTEE SHALL SUBMIT FOR REVIEW AND APPROVAL, TWO (2) COPIES OF THE FOLLOWING:
 1. PROJECT MAP IDENTIFYING CONSERVATION AREA(S)
 2. BOUNDARY SKETCH AND LEGAL DESCRIPTION OF CONSERVATION AREA(S)
 3. SIGNED CONSERVATION EASEMENT
 4. TITLE OPINION OR OWNERSHIP AND ENCUMBERANCE SEARCH FOR THE CONSERVATION AREA(S)

THE ABOVE INFORMATION SHALL BE SUBMITTED TO THE NATURAL RESOURCE MANAGEMENT POST PERMIT COMPLIANCE STAFF IN THE DISTRICT SERVICE CENTER WHERE THE APPLICATION WAS SUBMITTED.

B) THE REAL ESTATE INFORMATION REFERENCED IN PARAGRAPH (A) ABOVE SHALL BE REVIEWED BY THE DISTRICT IN ACCORDANCE WITH THE DISTRICT'S REAL ESTATE REVIEW REQUIREMENTS DESCRIBED IN THE ATTACHED EXHIBIT 28A & 28B. THE EASEMENT SHOULD NOT BE RECORDED UNTIL SUCH APPROVAL IS RECEIVED.

(C) THE PERMITTEE SHALL RECORD A CONSERVATION EASEMENT(S) OVER THE REAL PROPERTY DESIGNATED AS A CONSERVATION / PRESERVATION / MITIGATION AREA(S) ON ATTACHED EXHIBIT 25A - 25E. THE EASEMENT SHALL BE GRANTED FREE OF ENCUMBRANCES OR INTERESTS WHICH THE DISTRICT DETERMINES ARE CONTRARY TO THE INTENT OF THE EASEMENT. THE CONSERVATION EASEMENT SHALL BE GRANTED TO THE DISTRICT USING THE APPROVED FORM ATTACHED HERETO AS EXHIBIT 26A - 26D. ANY PROPOSED MODIFICATIONS TO THE APPROVED FORM MUST RECEIVE PRIOR WRITTEN CONSENT FROM THE DISTRICT.

D) THE PERMITTEE SHALL RECORD THE CONSERVATION EASEMENT IN THE PUBLIC RECORDS WITHIN 14 DAYS OF RECEIVING THE DISTRICT'S APPROVAL OF THE REAL ESTATE INFORMATION. UPON RECORDATION, THE PERMITTEE SHALL FORWARD THE ORIGINAL RECORDED EASEMENT, AND TITLE INSURANCE POLICY, TO THE NATURAL RESOURCE MANAGEMENT POST PERMIT COMPLIANCE STAFF IN THE DISTRICT SERVICE CENTER WHERE THE APPLICATION WAS SUBMITTED.

E) IN THE EVENT THE CONSERVATION EASEMENT REAL ESTATE INFORMATION REVEALS ENCUMBRANCES OR INTERESTS IN THE EASEMENT WHICH THE DISTRICT DETERMINES ARE CONTRARY TO THE INTENT OF THE EASEMENT, THE PERMITTEE SHALL BE REQUIRED TO PROVIDE RELEASE OR SUBORDINATION OF SUCH ENCUMBRANCES OR INTERESTS. IF SUCH ARE NOT OBTAINED, PERMITTEE SHALL BE REQUIRED TO APPLY FOR A MODIFICATION TO THE PERMIT FOR ALTERNATIVE ACCEPTABLE MITIGATION.

16. ACTIVITIES ASSOCIATED WITH IMPLEMENTATION OF THE WETLAND MITIGATION, MONITORING AND MAINTENANCE SHALL BE IN ACCORDANCE WITH THE FOLLOWING WORK SCHEDULE. ANY DEVIATION FROM THESE TIME FRAMES SHALL REQUIRE FORMAL SFWMD APPROVAL. SUCH REQUESTS MUST BE MADE IN WRITING AND SHALL INCLUDE (1) REASON FOR THE MODIFICATION; (2) PROPOSED START/FINISH DATES; AND (3) PROGRESS REPORT ON THE STATUS OF THE EXISTING MITIGATION EFFORTS.

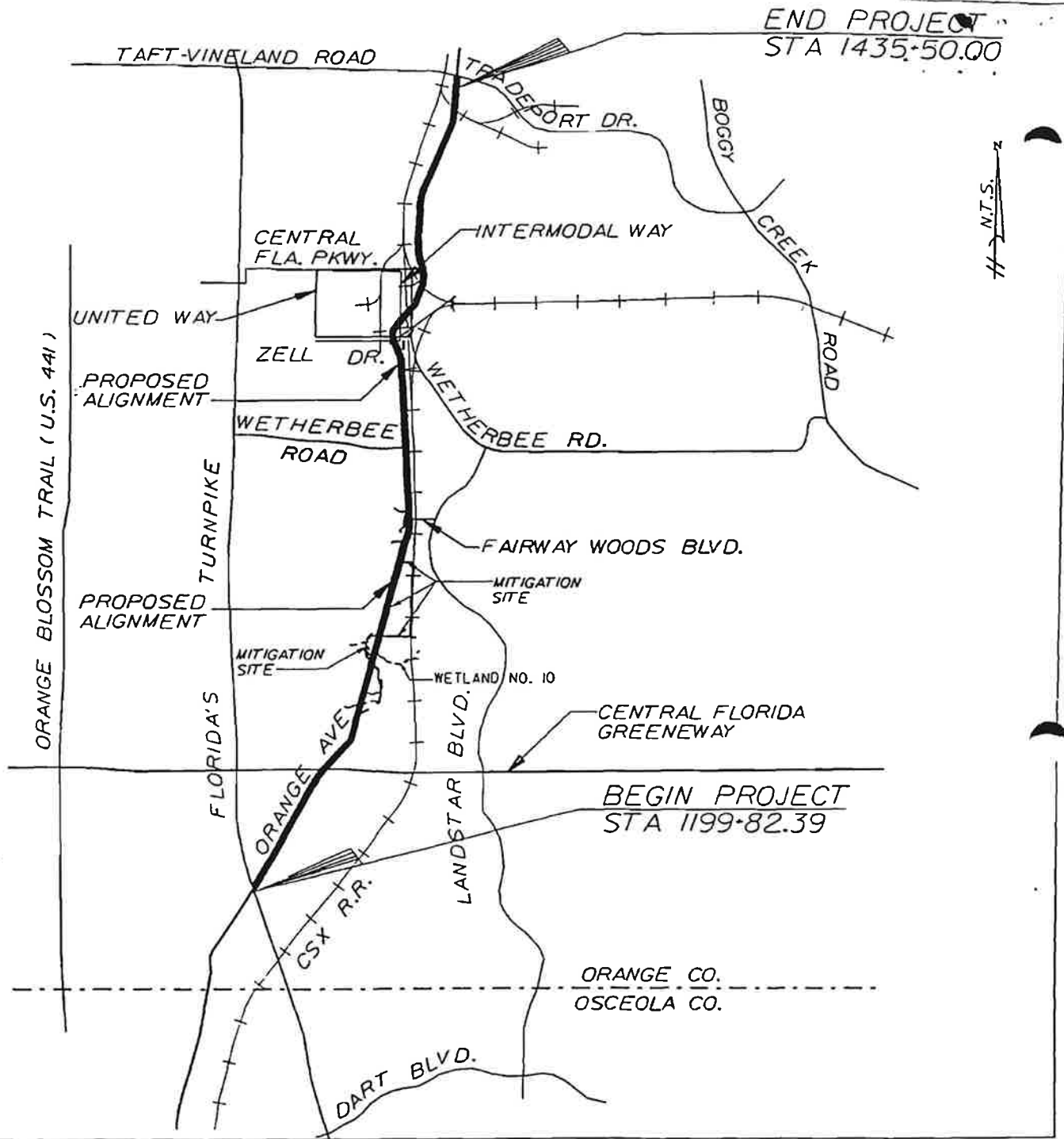
COMPLETION DATE	ACTIVITY
MARCH 30, 2000	EXCAVATION AND GRADING MITIGATION AREA
APRIL 15, 2000	PLANTING MITIGATION AREA
APRIL 30, 2000	BASELINE MONITORING REPORT
OCTOBER 30, 2000	FIRST MONITORING REPORT
APRIL 30, 2001	SECOND MONITORING REPORT
OCTOBER 30, 2001	THIRD MONITORING REPORT
APRIL 30, 2002	FOURTH MONITORING REPORT
OCTOBER 30, 2002	FIFTH MONITORING REPORT

APRIL 30, 2003 SIXTH MONITORING REPORT
OCTOBER 30, 2003 SEVENTH MONITORING REPORT
APRIL 30, 2004 EIGHTH MONITORING REPORT
OCTOBER 30, 2004 NINETH MONITORING REPORT
APRIL 30, 2005 10TH AND FINAL MONITORING REPORT

17. AN EXOTIC AND NUISANCE MONITORING AND MAINTENANCE PROGRAM SHALL BE INSTITUTED IN ACCORDANCE WITH EXHIBIT 10A -10F FOR THE MITIGATION CREATION AND PRESERVATION AREAS UNTIL SUCCESS OF THE CREATION AREAS IS ACHIEVED. PRIOR TO SEMI-ANNUAL MONITORING EVENTS THE SITES WILL BE MAINTAINED TO ENSURE THAT EXOTIC AND NUISANCE SPECIES, SUCH AS CATTAILS, PRIMROSE WILLOW, CHINESE TALLOW, HEMP VINE, DO NOT EXCEED 10 PERCENT OF TOTAL COVER.

SUBSEQUENT TO RELEASE FROM SUCCESS CRITERIA MONITORING IT IS THE PERMITTEES RESPONSIBILITY IN PERPETUITY TO ENSURE THAT ALL PRESERVED AREAS SHALL BE KEPT FREE FROM EXOTIC VEGETATION (PRIMROSE WILLOW, CHINESE TALLOW, BRAZILLIAN PEPPER, ETC.) AND THAT OTHER NUISANCE SPECIES SHALL CONSTITUTE NO MORE THAN 10% OF TOTAL COVER.

18. EXHIBITS 2 THRU 23, INCLUDING DRAINAGE BASIN LAYOUT, POND DETAILS AND CONTROL STRUCTURE DETAILS AND EXHIBIT 24A - 24KK INCLUDES THE "MITIGATION, MONITORING AND MAINTENANCE PLAN" AND ATTACHMENTS (FINAL REVISION AUGUST 1997). THESE EXHIBITS ARE HELD IN THE PERMIT FILE AND ARE INCLUDED HEREIN BY REFERENCE.



MITIGATION PLAN
LOCATION MAP

LOCATION:
SEC 23, 24 & 26
TWP 24S RNG 29E
DATUM: NGVD (1929)

**bowyer-
singleton &
associates**

INCORPORATED
CONSULTING ENGINEERING - LAND SURVEYING
520 S. MAGNOLIA AVENUE - ORLANDO FLORIDA 32809
407/841-5420

ORANGE AVENUE
ORANGE COUNTY FLORIDA

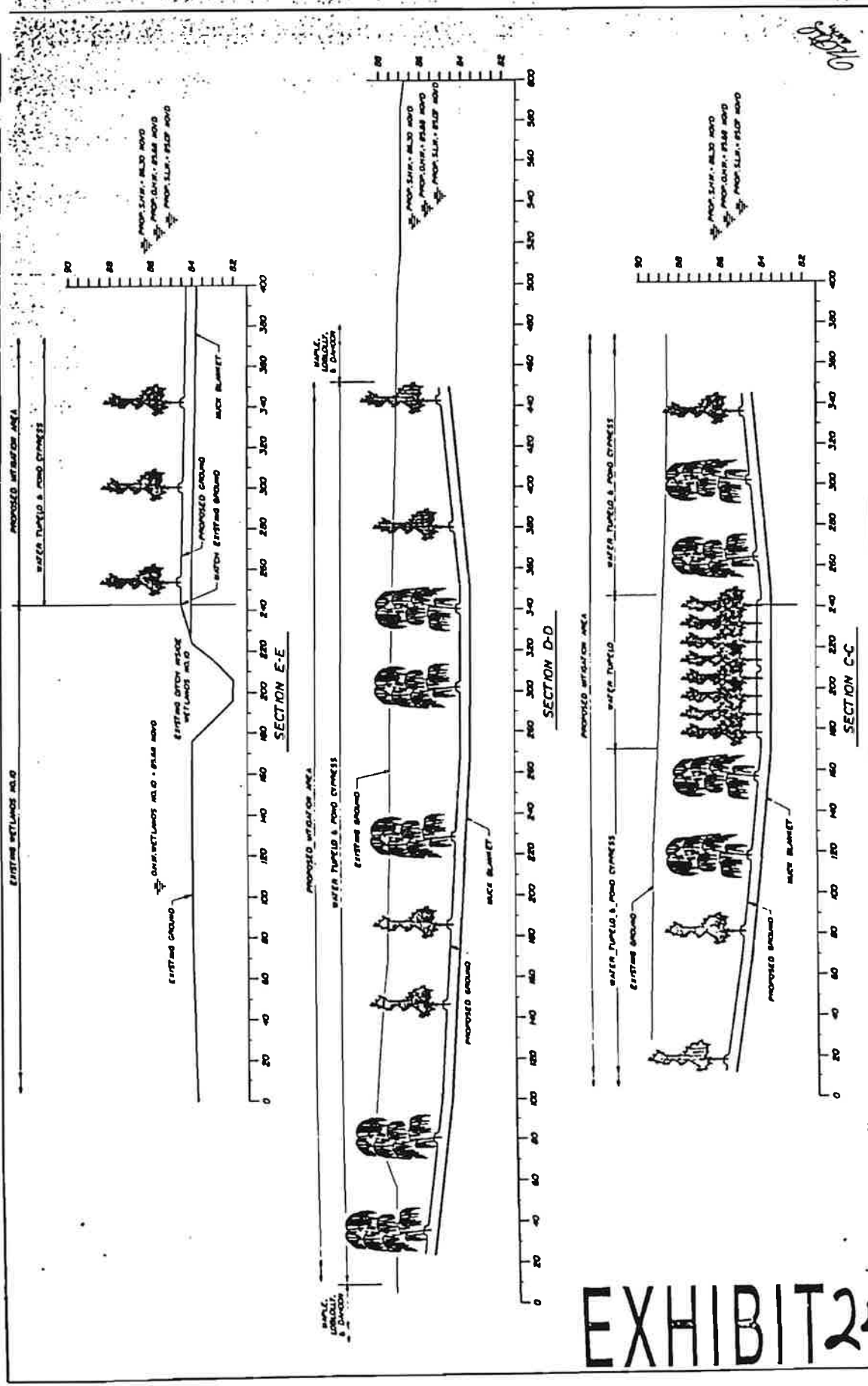
CUO-J37 / 02-25-97

SHEET MI OF M9

EXHIBIT 1

CODE: CUOJ37CPM.209

EXHIBIT 2 THRU 23, 24A - 24KK
ARE INCORPORATED INTO THIS STAFF REPORT BY
REFERENCE AND ARE INCLUDED IN THE PERMIT FILE



ORANGE AVENUE
 CROSS-SECTIONS FOR PROPOSED
 IRRIGATION AREAS

bonner-jungston & associates
 ENGINEERS
 1000 WEST 10TH AVENUE, SUITE 100
 DENVER, COLORADO 80202

NO.	DATE	BY	REVISION

NOTE: SEE FUTURE 213 IRRIGATION PLAN
 PLANTING SCHEDULE!
 PLANTS IN THIS AREA SHALL BE PLANTED INTO DESIGN
 PLANTING SCHEDULE. PLANTS SHALL BE PLANTED
 PLANTED IN THE ORIGINAL QUANTITY OF PLANTINGS SHALL NEVER BE BELOW 100
 FEET PER ACRE PLANTING TO BE FIELD APPROVED BY THE COUNTY OF THE
 COUNTY REPRESENTATIVE.

EXHIBIT 2444

SKETCH OF DESCRIPTION

THAT PART OF THE NORTHEAST 1/4 OF SECTION 26, TOWNSHIP 24 SOUTH, RANGE 29 EAST AND THE SOUTHEAST 1/4 OF SECTION 23, TOWNSHIP 24 SOUTH, RANGE 29 EAST; BOTH IN ORANGE COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 23, TOWNSHIP 24 SOUTH, RANGE 29 EAST; THENCE RUN NORTH 89°47'17" WEST, ALONG THE SOUTH LINE OF SAID SOUTHEAST 1/4, A DISTANCE OF 502.40 FEET FOR A POINT OF BEGINNING; THENCE RUN SOUTH 08°39'10" WEST, ALONG THE WESTERLY RIGHT OF WAY LINE OF THE PROPOSED ORANGE AVENUE RE-ALIGNMENT, A DISTANCE OF 311.94 FEET; THENCE RUN NORTH 81°20'50" WEST, A DISTANCE OF 5.00 FEET; THENCE CONTINUE SOUTH 08°39'10" WEST, ALONG SAID PROPOSED WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 200.99 FEET TO THE WESTERLY RIGHT OF WAY LINE OF THE FORMER ORANGE AVENUE (C.R. 527) ALIGNMENT, AS RECORDED IN STATE ROAD PLAT BOOK 2, PAGES 65-74; THENCE RUN ALONG THE FORMER ORANGE AVENUE RIGHT OF WAY THE FOLLOWING COURSES: NORTH 30°59'29" WEST, A DISTANCE OF 139.52 FEET; NORTH 32°54'47" WEST, A DISTANCE OF 199.81 FEET; NORTH 26°37'11" WEST, A DISTANCE OF 105.61 FEET; NORTH 19°04'58" WEST, A DISTANCE OF 88.67 FEET; NORTH 12°44'21" WEST, A DISTANCE OF 34.09 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 749.20 FEET, THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°47'27" A DISTANCE OF 468.00 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH 23°03'06" EAST, A DISTANCE OF 201.19 FEET; THENCE DEPARTING SAID FORMER WESTERLY RIGHT OF WAY LINE, RUN NORTH 90°00'00" EAST, A DISTANCE OF 323.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF THE PROPOSED ORANGE AVENUE RE-ALIGNMENT; THENCE RUN SOUTH 08°39'10" WEST, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 643.80 FEET TO THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 23 AND THE POINT OF BEGINNING.

CONTAINING 7.681 ACRES, MORE OR LESS.

ADDITIONAL INFORMATION
JAN 13 1997
 ORLANDO SERVICE CENTER

Dennis L. Deal

DENNIS L-DEAL P.S.M. LICENSE No. LS 3421
 NOT VALID WITHOUT THE SIGNATURE AND
 THE ORIGINAL RAISED SEAL OF A FLORIDA
 LICENSED SURVEYOR AND MAPPER.

SKETCH OF DESCRIPTION ONLY, THIS IS NOT A SURVEY.

SHEET 1 OF 3 REVISED 01/11/97

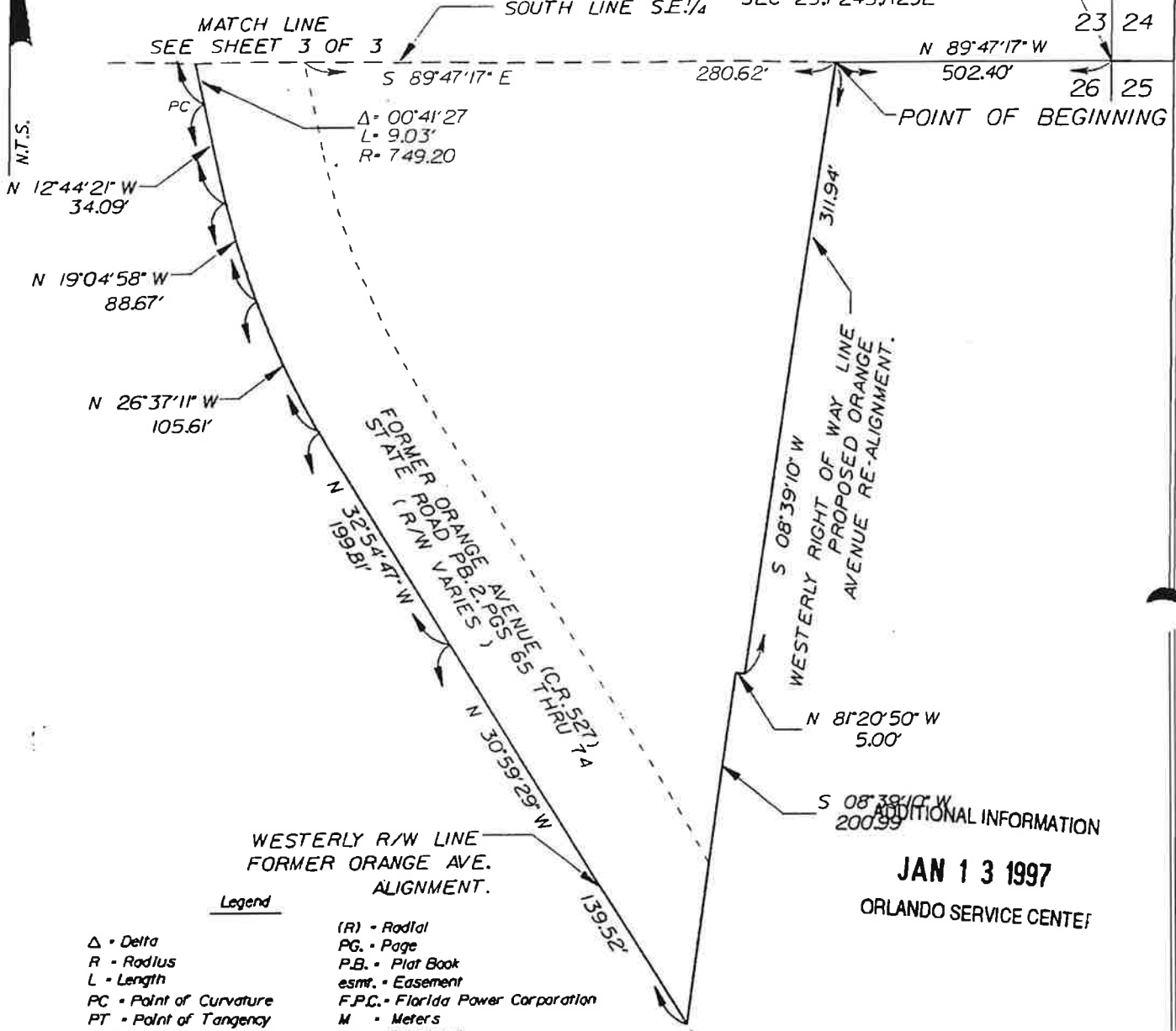
THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:		PROJECT NUMBER:	DESCRIPTION:	
BOWYER-SINGLETON & ASSOCIATES, INCORPORATED <small>ENGINEERING - PLANNING - SURVEYING - ENVIRONMENTAL 520 SOUTH MAGNOLIA AVENUE : ORLANDO, FLORIDA 32801 407-843-5120 • FAX 407-649-8664 CERTIFICATE OF AUTHORIZATION No. LB 1221</small>		CUO/J37	MITIGATION AREA ORANGE AVENUE	
		DRAWN BY: K. MITCHELL	CLIENT: ORANGE COUNTY HIGHWAY CONSTRUCTION DEPARTMENT	
DATE: 11/04/96		SECTION-TOWNSHIP-RANGE SEC. 23 & 26, TWP. 24 S. RGE. 29 E	W.P.I. NUMBER: N/A	COUNTY: ORANGE COUNTY

EXHIBIT 12A

MITIGATE.001

SKETCH OF DESCRIPTION

POINT OF COMMENCEMENT
S.E. COR. S.E. 1/4
SEC 23, T. 24 S., R. 29 E



Legend

- Δ - Delta
- R - Radius
- L - Length
- PC - Point of Curvature
- PT - Point of Tangency
- POB - Point of Beginning
- POC - Point of Commencement
- C - Chord Length
- C/L - Centerline
- O.R. - Official Records
- BK. - Book
- Ex. - Expires
- (R) - Radial
- PG. - Page
- P.B. - Plat Book
- esmt. - Easement
- F.P.C. - Florida Power Corporation
- M - Meters
- (C) - Calculated
- C.B. - Chord Bearing
- D.B. - Deed Book
- P - Plat
- (RT) - Right
- (LT) - Left
- R/W - Right-of-Way
- N.T.S. - Not to Scale
- Sec. - Section

WESTERLY R/W LINE
FORMER ORANGE AVE.
ALIGNMENT.

ADDITIONAL INFORMATION
JAN 13 1997
ORLANDO SERVICE CENTER

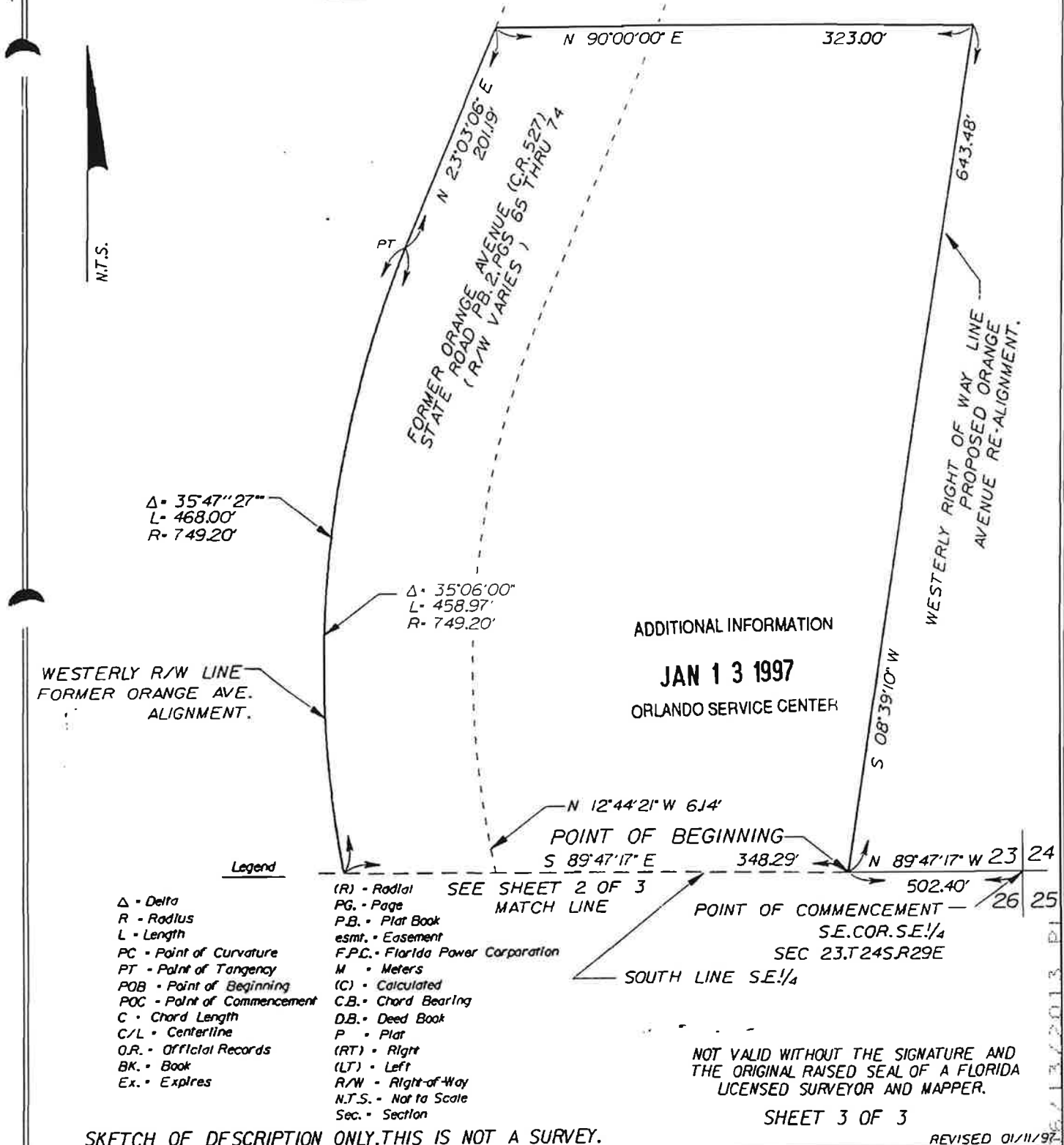
NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER.

SHEET 2 OF 3
REVISED 01/11/97

SKETCH OF DESCRIPTION ONLY, THIS IS NOT A SURVEY.

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:		PROJECT NUMBER: CU0/J37		DESCRIPTION: MITIGATION AREA ORANGE AVENUE	
BOWYER-SINGLETON & ASSOCIATES INCORPORATED		DRAWN BY: K. MITCHELL		CLIENT: ORANGE COUNTY HIGHWAY CONSTRUCTION DEPARTMENT	
ENGINEERING - PLANNING - SURVEYING - ENVIRONMENTAL 520 SOUTH MAGNOLIA AVENUE - ORLANDO, FLORIDA 32801 407-843-5120 • FAX 407-649-8664 CERTIFICATE OF AUTHORIZATION No. LB 1221		DATE: 11/04/96		SECTION-TOWNSHIP-RANGE: SEC. 23 & 26, TWP. 24 S., RGE. 29 E	
				W.P.J. NUMBER: N/A	
				COUNTY: ORANGE COUNTY	

SKETCH OF DESCRIPTION



ADDITIONAL INFORMATION

JAN 13 1997

ORLANDO SERVICE CENTER

Legend

- Δ - Delta
- R - Radius
- L - Length
- PC - Point of Curvature
- PT - Point of Tangency
- POB - Point of Beginning
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- C - Chord Length
- C/L - Centerline
- O.R. - Official Records
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- esmt. - Easement
- F.P.C. - Florida Power Corporation
- M - Meters
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- D.B. - Deed Book
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- (RT) - Right
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- Sec. - Section

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET 3 OF 3

REVISED 01/11/97

SKETCH OF DESCRIPTION ONLY, THIS IS NOT A SURVEY.

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:		PROJECT NUMBER:	DESCRIPTION:
BOWYER-SINGLETON & ASSOCIATES, INCORPORATED		CU0/J37	MITIGATION AREA ORANGE AVENUE
		DRAWN BY:	CLIENT:
ENGINEERING - PLANNING - SURVEYING - ENVIRONMENTAL 520 SOUTH MAGNOLIA AVENUE : ORLANDO, FLORIDA 32809 407-843-5120 • FAX 407-649-8664 CERTIFICATE OF AUTHORIZATION No. LB 1221		K. MITCHELL	ORANGE COUNTY HIGHWAY CONSTRUCTION DEPARTMENT
DATE:	SECTION-TOWNSHIP-RANGE	W.P.J. NUMBER:	COUNTY:
11/04/96	SEC. 23&26, TWP. 24S, RGE. 29E	N/A	ORANGE COUNTY

EXHIBIT 260

MITIGATE.001

SKETCH OF DESCRIPTION

THAT PART OF THE SOUTHEAST 1/4 OF SECTION 23, TOWNSHIP 24 SOUTH, RANGE 29 EAST AND THE SOUTHWEST 1/4 OF SECTION 24, TOWNSHIP 24 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 23, TOWNSHIP 24 SOUTH, RANGE 29 EAST; THENCE RUN NORTH 89°47'17" WEST, ALONG THE SOUTH LINE OF SAID SOUTHEAST 1/4, A DISTANCE OF 249.66 FEET TO THE EASTERLY RIGHT OF WAY LINE OF THE PROPOSED ORANGE AVENUE; THENCE RUN NORTH 08°39'10" EAST, ALONG THE EASTERLY RIGHT OF WAY LINE OF THE PROPOSED ORANGE AVENUE FOR A DISTANCE OF 450.97 FEET; THENCE CONTINUE NORTH 08°52'49" EAST, ALONG THE PROPOSED EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 700.16 FEET; THENCE RUN SOUTH 81°20'50" EAST, A DISTANCE OF 15.00 FEET; THENCE CONTINUE NORTH 08°39'10" EAST, ALONG THE PROPOSED EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 514.18 FEET TO THE INTERSECTION WITH THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 23; THENCE CONTINUE NORTH 08°39'10" EAST, ALONG SAID PROPOSED EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 694.49 FEET; THENCE DEPARTING SAID PROPOSED EASTERLY RIGHT OF WAY LINE, RUN SOUTH 86°31'41" EAST, A DISTANCE OF 348.77 FEET TO THE WEST LINE OF A 15 FOOT EASEMENT GRANTED TO THE CENTRAL FLORIDA PIPELINE CORPORATION, PER OFFICIAL RECORDS BOOK 486, PAGES 4271- 4274, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN SOUTH 03°40'46" EAST, ALONG SAID WESTERLY EASEMENT LINE, A DISTANCE OF 2,316.82 FEET TO THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 24, TOWNSHIP 24 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA; THENCE RUN SOUTH 89°56'58" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 602.15 FEET TO THE POINT OF BEGINNING.

CONTAINING 31.900 ACRES, MORE OR LESS.

ADDITIONAL INFORMATION

JAN 13 1997

ORLANDO SERVICE CENTER



DENNIS L. DEAL P.S.M. LICENSE No. LS 3421

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET 1 OF 2

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

<p style="font-size: small;">THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:</p> <p style="text-align: center;">BOWYER- SINGLETON & ASSOCIATES, INCORPORATED</p> <p style="font-size: x-small;">ENGINEERING - PLANNING - SURVEYING - ENVIRONMENTAL 520 SOUTH MAGNOLIA AVENUE ORLANDO, FLORIDA 32801 407-843-5120 • FAX 407-649-8664 CERTIFICATE OF AUTHORIZATION No. LB 1221</p>	PROJECT NUMBER:	DESCRIPTION:	
	CUO/J37	MITIGATION AREA ORANGE AVENUE	
DRAWN BY:	CLIENT:		
K. MITCHELL	ORANGE COUNTY HIGHWAY CONSTRUCTION DEPARTMENT		
DATE:	SECTION-TOWNSHIP-RANGE	W.P.J. NUMBER:	COUNTY:
11/04/96	SEC. 23&24, TWP. 24S, RGE. 29E	N/A	ORANGE COUNTY

EVIDENCE MITIGATION

SKETCH OF DESCRIPTION

C.R. 527
STATE ROAD PB.2
RGS 65 THRU 74
(R/W VARIES)

S 86°31'41" E
348.77'

N 08°39'10" E
694.49'

S 03°40'46" E

EASTERLY R/W LINE PROPOSED
ORANGE AVENUE REALIGNMENT.

WEST R/W LINE CSX TRANSPORTATION
RAILROAD

30' FPC EASEMENT
OR 3750 PG 1213

15' CENTRAL FLORIDA PIPELINE
CORPORATION EASEMENT
(PER O.R. BOOK 486, PAGE 4271-4274)

N 08°39'10" E
514.18'

S 81°20'50" E
15.00'

N 08°52'49" E
700.16'

N 08°39'10" E
450.97'

E. LINE S.E. 1/4 SECT. 23

30'
15'

2316.82'

ADDITIONAL INFORMATION

JAN 13 1997
ORLANDO SERVICE CENTER

S. LINE S.E. 1/4 SECT. 23

23

24

N 89°47'17" W 249.66'

26

25

602.15'

S 89°56'58" W

S. LINE S.W. 1/4 SECT. 24

POINT OF BEGINNING
S.E. COR. S.E. 1/4
SEC 23.T24S.R29E

NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER.

SHEET 2 OF 2

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:

**BOWYER-SINGLETON
& ASSOCIATES, INCORPORATED**

ENGINEERING - PLANNING - SURVEYING - ENVIRONMENTAL
520 SOUTH MAGNOLIA AVENUE | ORLANDO, FLORIDA 32801
407-843-5120 • FAX 407-649-8664
CERTIFICATE OF AUTHORIZATION No. LB 1221

PROJECT NUMBER:

CU0/J37

DESCRIPTION:

MITIGATION AREA ORANGE AVENUE

DRAWN BY:
K. MITCHELL

CLIENT:

ORANGE COUNTY HIGHWAY CONSTRUCTION DEPARTMENT

DATE:
11/04/96

SECTION-TOWNSHIP-RANGE
SEC. 23&24, TWP. 24S, RGE. 29E

W.P.I. NUMBER:
N/A

COUNTY:
ORANGE COUNTY

EXHIBIT 5F

MITIGATION.D01

JAN 13 1997

ORLANDO SERVICE CENTER

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT is given this ___ day of _____ 1997, by Orange County

(address) _____

("Grantor") to the South Florida Water Management District ("Grantee"). As used herein, the term Grantor shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the "Property" (as hereinafter defined) and the term Grantee shall include any successor or assignee of Grantee.

WITNESSETH

WHEREAS, the Grantor is the owner of certain lands situated in Orange County, Florida, and more specifically described in Exhibit A attached hereto and incorporated herein by reference ("Property"); and

WHEREAS, the Grantor desires to construct (name of project) Orange Avenue ("Project") at a site in Orange County, which is subject to the regulatory jurisdiction of South Florida Water Management District ("District"); and

WHEREAS, District Permit No. _____ ("Permit") authorizes certain activities which affect surface waters in or of the State of Florida; and

WHEREAS, this Permit required that the Grantor preserve and/or mitigate wetlands under the District's jurisdiction; and

WHEREAS, the Grantor has developed and proposed as part of the permit conditions a conservation tract and maintenance buffer involving preservation of certain wetland and/or upland systems on the Property; and

WHEREAS, the Grantor, in consideration of the consent granted by the Permit, is agreeable to granting and securing to the Grantee a perpetual conservation easement as defined in Section 704.06, Florida Statutes (1993), over the Property.

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, Grantor hereby grants, creates, and establishes a perpetual conservation easement for and in favor of the Grantee upon the Property which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this conservation easement shall be as follows:

1. It is the purpose of this conservation easement to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants or wildlife.

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

- a. To enter upon the Property at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor at the time of such entry; and

EXHIBIT 26A

JAN 13 1997

ORLANDO SERVICE CENTER

b. To enjoin any activity on or use of the Property that is inconsistent with this conservation easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

2. Except for restoration, creation, enhancement, maintenance and monitoring activities, or surface water management improvements, which are permitted or required by the Permit, the following activities are prohibited in or on the Property:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic vegetation in accordance with a District approved maintenance plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;

g. Acts or uses detrimental to such aforementioned retention of land or water areas;

h. Acts or uses within Grantor's regulatory jurisdiction which are detrimental to the preservation of any features or aspects of the Property having historical or archaeological significance.

3. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and which are not inconsistent with any District rule, criteria, permit and the intent and purposes of this Conservation Easement.

4. No right of access by the general public to any portion of the Property is conveyed by this conservation easement.

5. Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.

6. Grantor shall pay any and all real property taxes and assessments levied by competent authority on the Property.

7. Any costs incurred in enforcing, judicially or otherwise, the terms, provisions and restrictions of this conservation easement shall be borne by and recoverable against the non-prevailing party in such proceedings.

8. Enforcement of the terms, provisions and restrictions of this conservation easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder.

EXHIBIT **Q6B**

9. Grantee will hold this conservation easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this conservation easement except to another organization qualified to hold such interests under the applicable state laws.

10. If any provision of this conservation easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this conservation easement shall not be affected thereby, as long as the purpose of the conservation easement is preserved.

11. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

12. The terms, conditions, restrictions and purpose of this conservation easement shall be inserted by Grantor in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Property. Any future holder of the Grantor's interest in the Property shall be notified in writing by Grantor of this conservation easement.

13. This conservation easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Orange County.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purpose imposed with this conservation easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that the Property is free and clear of all encumbrances; that Grantor has good right and lawful authority to convey this conservation easement; and that it hereby fully warrants and defends the title to the conservation easement hereby conveyed against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, _____ has hereunto set its authorized hand this _____ day of _____, 1997.

Signed, sealed and delivered
in our presence as witnesses:

A Florida corporation

Print Name:

By: _____
Print Name: _____
Title: _____

Print Name:

ADDITIONAL INFORMATION

JAN 13 1997

ORLANDO SERVICE CENTER

EXHIBIT 26C

STATE OF FLORIDA

) ss:

COUNTY OF _____

On this ____ day of _____, 19__ before me, the undersigned notary public, personally appeared _____, personally known to me to be the person who subscribed to the foregoing instrument and did not take an oath, as the (position) _____, of (corporation) _____, a Florida corporation, and acknowledged that he executed the same on behalf of said corporation and that he was duly authorized to do so.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

Print Name: _____

My Commission Expires: _____

South Florida Water Management District
Legal Form Approved: _____
Date: _____

ADDITIONAL INFORMATION
JAN 13 1997
ORLANDO SERVICE CENTER

EXHIBIT 26D

SCANNED 06/13/2013 PL

**INSTRUCTION for
SPECIAL CONDITIONS FOR PERMIT
Conservation Easement**

Within 90 days of Permit issuance the following items must be submitted to the South Florida Water Management District ("District") by and at the expense of the Permittee, for approval prior to conveying a conservation easement to the South Florida Water Management District:

- 1) Final Draft of the Conservation Easement in recordable form. South Florida Water Management District must approve the instrument of conveyance. Instrument must contain the legal description(s) and include legal and practical access.

- (2) Signed and Sealed Survey with legal description and plat (if property currently platted). These documents must be submitted to the District for review and approval along with the draft conveyance. A boundary or specific purpose survey of the property or the area within the conveyance must be prepared by a surveyor registered in the State of Florida. The survey must meet the requirements of the District and the minimum technical standards set forth by the Board of Professional Land Surveyors in Chapter 61 G 17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes. The survey shall include mapping those easements, exceptions and encumbrances revealed in the title insurance policy. The survey boundary shall be submitted in standard digital format for inclusion in the District's GIS coverage.

- (3) Title Insurance. (a) Title Insurance Commitment. The permittee must submit to the District for review and approval a title insurance commitment issued by a title insurer approved by the District. The title insurance commitment should commit to issuance of a title insurance policy for the conveyance, listing the District as the beneficiary, in an amount equal to the appraised value of the interest being conveyed. As part of the title insurance commitment, the permittee shall provide complete legible copies of all supporting documentation to all Schedule B title exceptions.

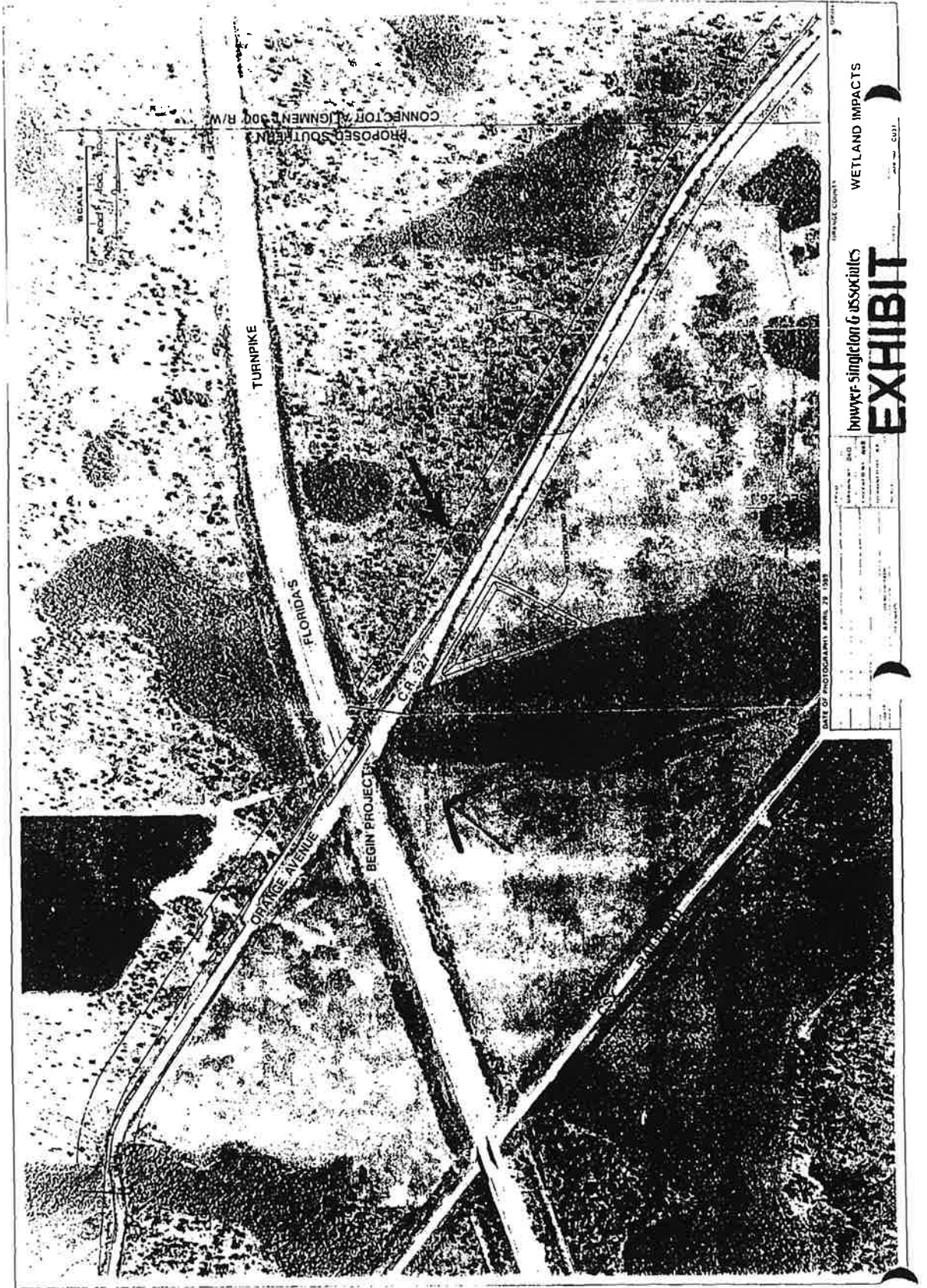
(b) The District shall have 45 days from receipt of the title insurance commitment to examine same. If the District finds the title is defective or incompatible with the conveyance grant, the District shall notify the permittee in writing of specified defects. Any such liens, encumbrances, exceptions or qualifications which are contrary to the conveyance must be satisfied or discharged by the permittee/grantee prior to the District's acceptance of the conveyance. The permittee shall have 90 days from receipt of this notice to cure such defects, or grant an equivalent conservation easement. Failure to correct such defects or to convey to the District in a timely manner, will result in the surface water management permit being suspended until such defects are cured or until the permittee grants to the District an equivalent conveyance approved by the District. Any such substitute grant shall be governed by the title review and approval requirements set forth herein.

(c) **Title Insurance Policy.** Within 30 days of the permittee's receipt of the District's approval of title and acceptance of this conveyance, the permittee must submit a title insurance policy which insures the marketable title of the Property, subject only to liens, encumbrances, exceptions or qualifications which the District has determined are not contrary to its acceptance of the conveyance.

Four (4) copies of the above items shall be submitted to the Post-Permit Compliance staff in the District's Orlando Service Center located at 1756 Orlando Central Parkway, Orlando, FL 32809. All of the information listed above should be identified by the project name, application and permit number and collated into separate complete packages. Review of the submitted information cannot commence until all of the Real Estate information listed above is received. Upon approval of the title, permittee shall provide the SFWMD with four (4) certified copies of the recorded easement.

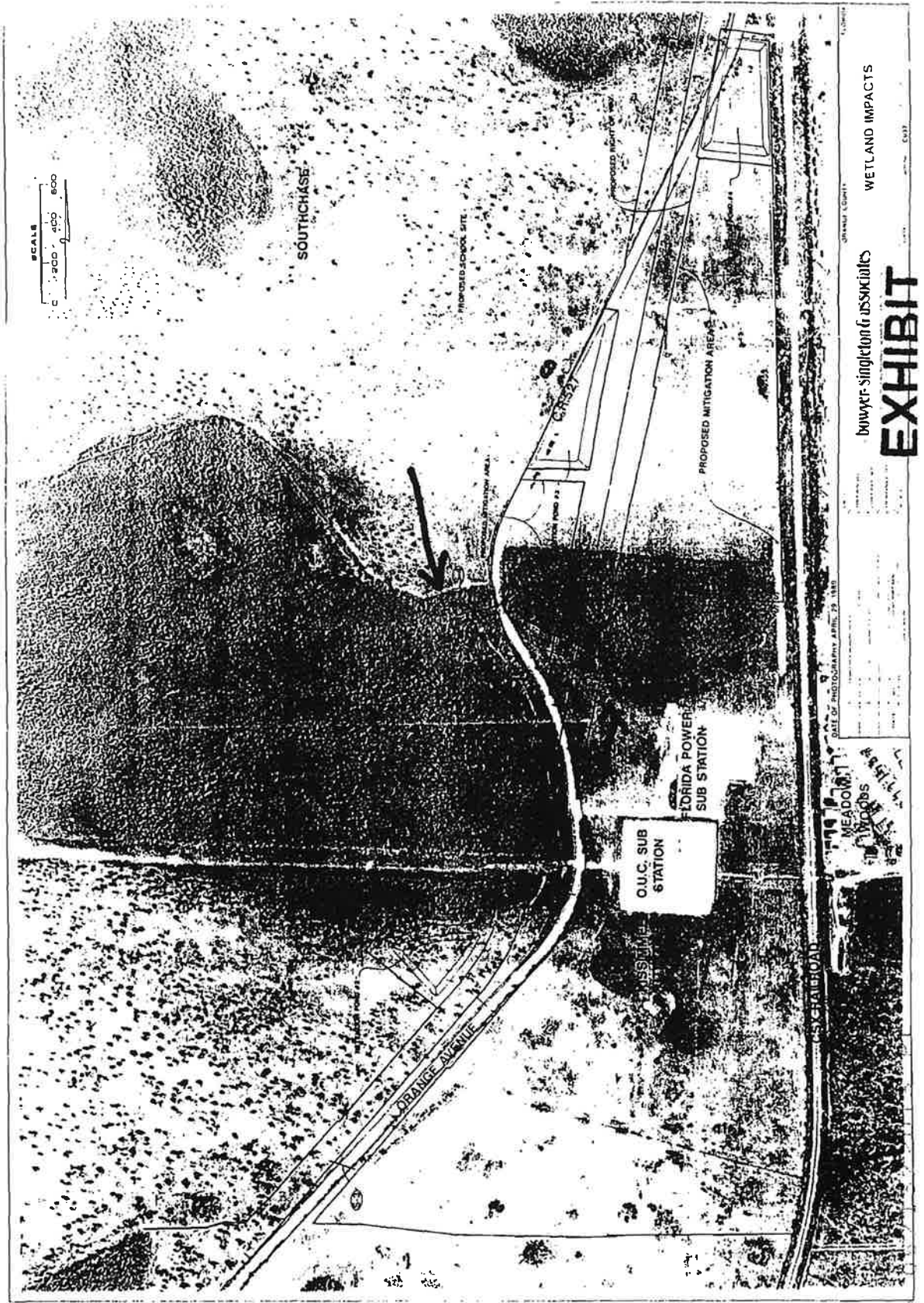
EXHIBIT

251 B



EXHIBIT

28A



WETLAND IMPACTS

by WYCF Singleton & Associates

EXHIBIT

EXHIBIT

28B

SCANNED

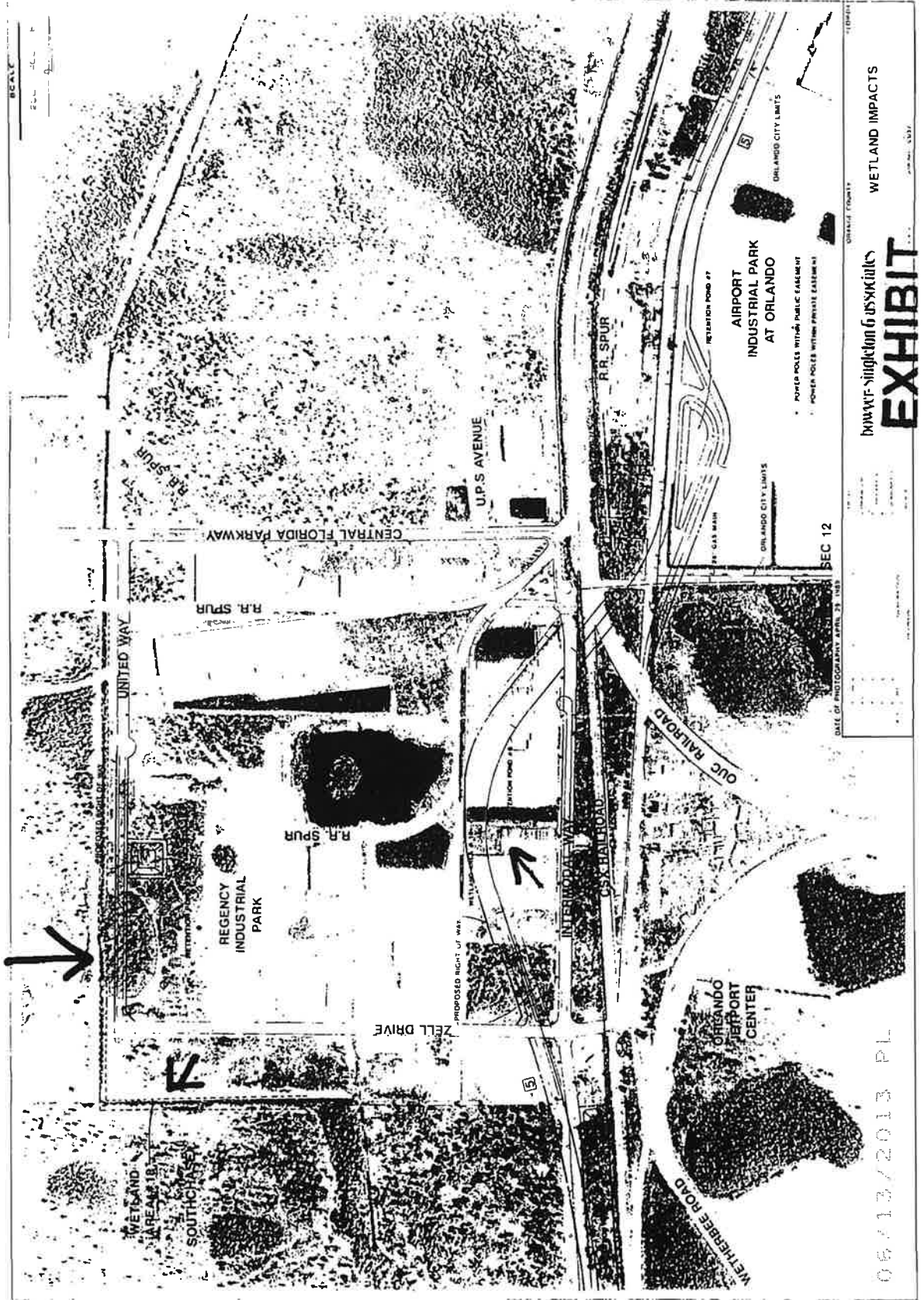


EXHIBIT
28D

CANNED 06/13/2013 PL

ENVIRONMENTAL IMPACT STATEMENT

EXHIBIT

WETLAND IMPACTS

ORLANDO COUNTY

STAFF REPORT DISTRIBUTION LIST

PROJECT: ORANGE AVE/SO CONNECTOR TO TAFT-VINELAND

APPLICATION NUMBER: 930430-3

INTERNAL DISTRIBUTION

Reviewer:

X Alan L. Leavens

X Susan C. Elfers

X Edward W. Yaun, P.E.

X Marc S. Ady

X E. Edmundson - ORL

X D. Gilpin-Hudson - UDP

X J. Golden - REG

X A. Lee - ORL

X R. Robbins - NRM

X A. Waterhouse - REG

Environmental PPC Reviewer

X Field Engineering

X Office of Counsel

GOVERNING BOARD MEMBERS

Mr. Mitchell W. Berger

Ms. Vera Carter

Mr. William Graham

Mr. William Hammond

Mr. Richard Machek

Mr. Michael Minton

Mr. Eugene K. Pettis

Ms. Miriam Singer

Mr. Frank Williamson, Jr.

DEPT. OF ENVIRONMENTAL PROTECTION

EXTERNAL DISTRIBUTION

X Applicant:

ORANGE COUNTY PUBLIC WORKS DIV.

X Applicant's Consultant:

BOWYER-SINGLETON & ASSOCS INC

X Engineer, County of:

ORANGE

Engineer, City of:

Local Drainage District:

COUNTY

X Orange

-Dept of Environmental
Protection

-Public Utilities

BUILDING AND ZONING

OTHER

X Div of Recreation and Park - District 6

X F.G.F.W.F.C.

X Florida Audubon - Charles Lee

X Sherry Williams-Hooper, AICP

X Sierra Club - Central Florida Group

Appendix B

Recorded Conservation Easement
Orange Avenue Widening Mitigation

Project: Orange Avenue (Southern Connector to Taft-Vineland Road)

AGENT 8 BCC
RETURN TO REAL ESTATE
MANAGEMENT DIVISION



APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
DEC 02 2003 *WLB*

INSTR 20030740028
OR BK 07244 PG 4456
MARTHA O. HAYNIE, COMPTROLLER
ORANGE COUNTY, FL
12/30/2003 08:56:24 AM
REC FEE 42.00

THIS INSTRUMENT PREPARED BY:

Orange County Attorney's Office
John P. Lowndes, Esq.
201 S. Rosalind Ave., 3rd Floor
P.O. Box 1393
Orlando, Florida 32802-1393
(407) 836-7320
Instrument 326.1/334.1/338.1

CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT is given this 2 day of December 2003, by Orange County, a political subdivision of the State of Florida, having a mailing address at PO Box 1393, Orlando, Florida 32802-1393 ("Grantor") to the South Florida Water Management District ("Grantee"). As used herein, the term Grantor shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the "Property" (as hereinafter defined) and the term Grantee shall include any successor or assignee of Grantee.

WITNESSETH

WHEREAS, the Grantor is the owner of certain lands situated in Orange County, Florida, and more specifically described in Schedule attached hereto and incorporated herein by reference ("Property"); and "A"

WHEREAS, the Grantor desires to construct Orange Avenue ("Project"), a six-lane urban/rural roadway, at a site in Orange County, which is subject to the regulatory jurisdiction of South Florida Water Management District; and

WHEREAS, District Permit No. 48-00947-P ("Permit") authorizes certain activities which affect surface waters in or of the State of Florida; and

WHEREAS, this Permit required that the Grantor preserve and/or mitigate wetlands under the District's jurisdiction; and

WHEREAS, the Grantor has developed and proposed as part of the permit conditions a conservation tract and maintenance buffer involving preservation of certain wetland and/or upland systems on the Property; and

WHEREAS, the Grantor, in consideration of the consent granted by the Permit, is agreeable to granting and securing to the Grantee a perpetual conservation easement as defined in Section 704.06, Florida Statutes (2000), over the Property.

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, Grantor hereby grants, creates, and establishes a perpetual conservation easement for and in favor of the Grantee upon the Property which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this conservation easement shall be as follows:

1. It is the purpose of this conservation easement to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants or wildlife.

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. To enter upon the Property at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor at the time of such entry; and

b. To enjoin any activity on or use of the Property that is inconsistent with this conservation easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

2. Except for restoration, creation, enhancement, maintenance and monitoring activities, or surface water management improvements, which are permitted or required by the Permit, the following activities are prohibited in or on the Property:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic vegetation in accordance with a District approved maintenance plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;

g. Acts or uses detrimental to such aforementioned retention of land or water areas; and

h. Acts or uses within Grantor's regulatory jurisdiction which are detrimental to the preservation of the structural integrity or physical appearance of sites and properties of historical, archaeological, or cultural significance.

3. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and which are not inconsistent with any applicable District rule, criteria, permit and the intent and purposes of this Conservation Easement.

4. No right of access by the general public to any portion of the Property is conveyed by this conservation easement.

5. Subject to the limitations in Section 768.28, Florida Statutes (2000), Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.

6. Grantor shall pay any and all real property taxes and assessments levied in accordance with applicable law or ordinance by competent authority on the Property.

7. Any costs incurred in enforcing, judicially or otherwise, the terms, provisions and restrictions of this conservation easement shall be borne by and recoverable against the non-prevailing party in such proceedings.

8. Enforcement of the terms, provisions and restrictions of this conservation easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder.

9. Grantee will hold this conservation easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this conservation easement except to another organization qualified to hold such interests under the applicable state laws.

10. If any provision of this conservation easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this conservation easement shall not be affected thereby, as long as the purpose of the conservation easement is preserved.

11. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

12. The terms, conditions, restrictions and purpose of this conservation easement shall be inserted by Grantor in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Property. Any future holder of the Grantor's interest in the Property shall be notified in writing by Grantor of this conservation easement.

13. This conservation easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be recorded in the public records in Orange County.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purpose imposed with this conservation easement shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns, and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, the parties have hereunto set their authorized hands on the days and year(s) indicated below.

GRANTOR

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Richard T. Crotty*
Richard T. Crotty
Orange County Chairman

Date: 12.2.03



ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: *Martha O. Haynie*
Deputy Clerk
Date: DEC 02 2003

SKETCH OF DESCRIPTION

SCHEDULE "A"
PARCEL: 326/338
ESTATE: PERPETUAL EASEMENT
PURPOSE: CONSERVATION

THAT PART OF THE NORTHEAST 1/4 OF SECTION 26, TOWNSHIP 24 SOUTH, RANGE 29 EAST AND THE SOUTHEAST 1/4 OF SECTION 23, TOWNSHIP 24 SOUTH, RANGE 29 EAST; BOTH IN ORANGE COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 23, TOWNSHIP 24 SOUTH, RANGE 29 EAST; THENCE RUN NORTH 89°47'17" WEST, ALONG THE SOUTH LINE OF SAID SOUTHEAST 1/4, A DISTANCE OF 502.40 FEET FOR A POINT OF BEGINNING; THENCE RUN SOUTH 08°39'10" WEST, ALONG THE WESTERLY RIGHT OF WAY LINE OF THE PROPOSED ORANGE AVENUE RE-ALIGNMENT, A DISTANCE OF 311.94 FEET; THENCE RUN NORTH 81°20'50" WEST, A DISTANCE OF 5.00 FEET; THENCE CONTINUE SOUTH 08°39'10" WEST, ALONG SAID PROPOSED WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 200.99 FEET TO THE WESTERLY RIGHT OF WAY LINE OF THE FORMER ORANGE AVENUE (C.R. 527) ALIGNMENT, AS RECORDED IN STATE ROAD PLAT BOOK 2, PAGES 65-74; THENCE RUN ALONG THE FORMER ORANGE AVENUE RIGHT OF WAY THE FOLLOWING COURSES: NORTH 30°59'29" WEST, A DISTANCE OF 139.52 FEET; NORTH 32°54'47" WEST, A DISTANCE OF 199.81 FEET; NORTH 26°37'11" WEST, A DISTANCE OF 105.61 FEET; NORTH 19°04'58" WEST, A DISTANCE OF 88.67 FEET; NORTH 12°44'21" WEST, A DISTANCE OF 34.09 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 749.20 FEET, THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°47'27" A DISTANCE OF 468.00 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH 23°03'06" EAST, A DISTANCE OF 201.19 FEET; THENCE DEPARTING SAID FORMER WESTERLY RIGHT OF WAY LINE, RUN NORTH 90°00'00" EAST, A DISTANCE OF 323.00 FEET TO THE WESTERLY RIGHT OF WAY LINE OF THE PROPOSED ORANGE AVENUE RE-ALIGNMENT; THENCE RUN SOUTH 08°39'10" WEST, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 643.48 FEET TO THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 23 AND THE POINT OF BEGINNING.

CONTAINING 7.681 ACRES, MORE OR LESS.


DENNIS L. DEAL, P.S.M., LICENSE NO. LS 3481

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET 1 OF 3

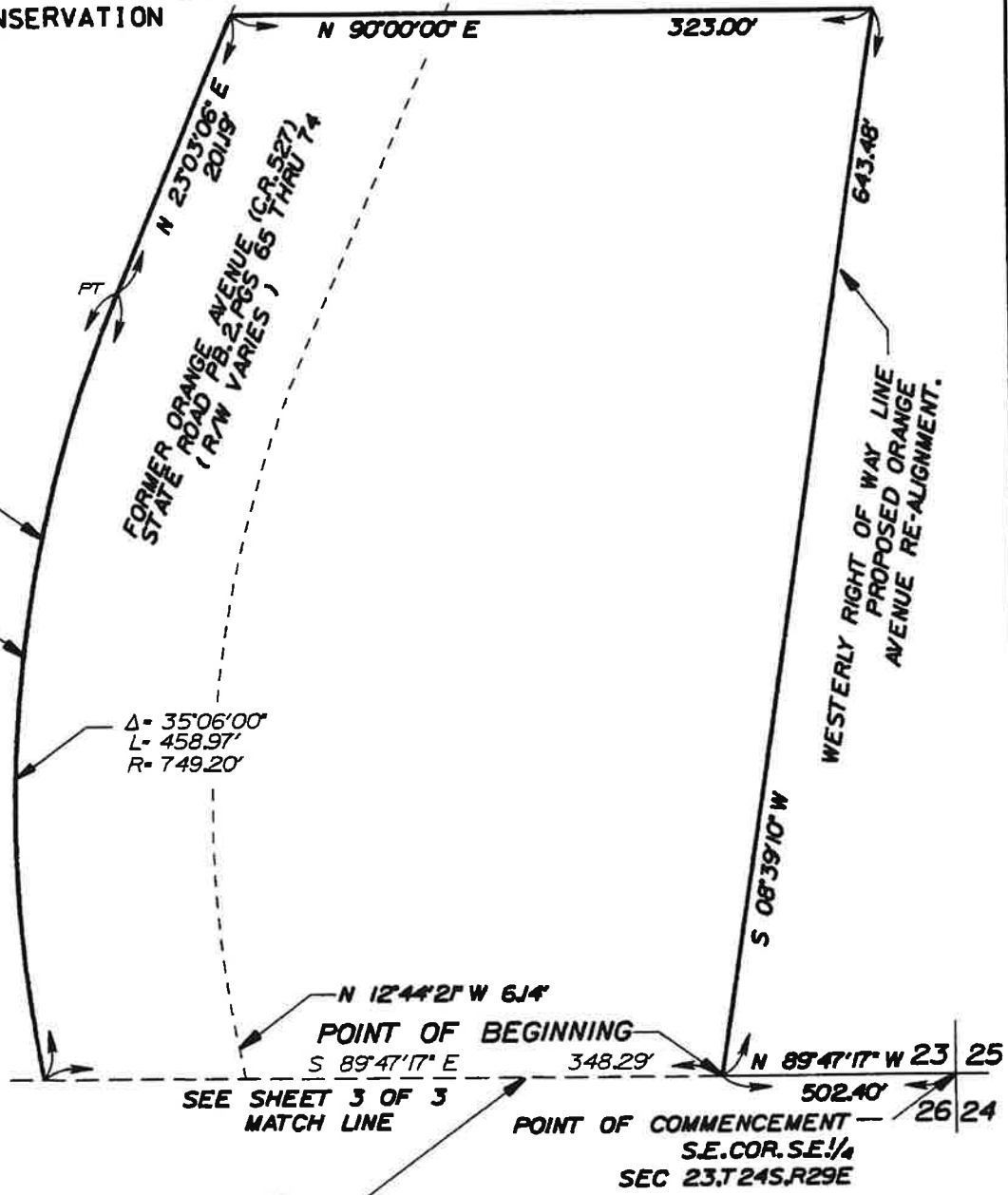
REVISED 08/14/03
REVISED 01/11/97

SKETCH OF DESCRIPTION ONLY, THIS IS NOT A SURVEY.

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:		PROJECT NUMBER:	DESCRIPTION:
BOWYER-SINGLETON & ASSOCIATES, INCORPORATED ENGINEERING - PLANNING - SURVEYING - ENVIRONMENTAL 520 SOUTH MAGNOLIA AVENUE, ORLANDO, FLORIDA 32801 407-843-5120 • FAX 407-849-8884 CERTIFICATE OF AUTHORIZATION No. LB 1221		CUO/137	MITIGATION AREA ORANGE AVENUE
		DRAWN BY: R. MITCHELL	CLIENT: ORANGE COUNTY HIGHWAY CONSTRUCTION DEPARTMENT
		DATE: 11/04/96	SECTION-TOWNSHIP-RANGE SEC. 23 & 26, TWP. 24S, RGE. 29E
			W.P.I. NUMBER: N/A
			COUNTY: ORANGE COUNTY

SKETCH OF DESCRIPTION

SCHEDULE "A"
PARCEL: 326/338
ESTATE: PERPETUAL EASEMENT
PURPOSE: CONSERVATION



WESTERLY R/W LINE
FORMER ORANGE AVE.
ALIGNMENT.

Δ = 35°47'21"
L = 468.00'
R = 749.20'

Legend
CB-N05°09'23"E

- (R) - Radial
- PG. - Page
- P.B. - Plat Book
- esmt. - Easement
- F.P.C. - Florida Power Corporation
- M - Meters
- (C) - Calculated
- C.B. - Chord Bearing
- D.B. - Deed Book
- P - Plat
- (RT) - Right
- (LT) - Left
- R/W - Right-of-Way
- N.T.S. - Not to Scale
- Sec. - Section
- Δ - Delta
- R - Radius
- L - Length
- PC - Point of Curvature
- PT - Point of Tangency
- POB - Point of Beginning
- POC - Point of Commencement
- C - Chord Length
- C/L - Centerline
- O.R. - Official Records
- BK. - Book
- Ex. - Expires

Δ = 35°06'00"
L = 458.97'
R = 749.20'

N 12°44'21" W 614'
POINT OF BEGINNING
S 89°47'17" E 502.40'
SEE SHEET 3 OF 3
MATCH LINE
POINT OF COMMENCEMENT
S.E. COR. S.E. 1/4
SEC 23, T.24S, R.29E

SOUTH LINE S.E. 1/4
NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER.

SKETCH OF DESCRIPTION ONLY, THIS IS NOT A SURVEY.

SHEET 2 OF 3

REVISED 08/14/03
REVISED 01/11/97

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:		PROJECT NUMBER:	DESCRIPTION:
BOWYER-SINGLETON & ASSOCIATES, INCORPORATED		CU0/137	MITIGATION AREA ORANGE AVENUE
		DRAWN BY: K. MITCHELL	CLIENT: ORANGE COUNTY HIGHWAY CONSTRUCTION DEPARTMENT
ENGINEERING - PLANNING - SURVEYING - ENVIRONMENTAL 820 SOUTH MAGNOLIA AVENUE ORLANDO, FLORIDA 32803 407-843-8120 • FAX 407-849-8884 CERTIFICATE OF AUTHORIZATION No. LB 1221		DATE: 11/04/96	SECTION-TOWNSHIP-RANGE SEC. 23 & 26, TWP. 24S, RGE. 29E
		W.P.I. NUMBER: N/A	COUNTY: ORANGE COUNTY

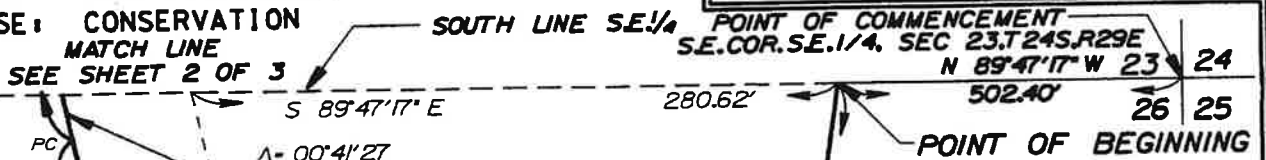
SKETCH OF DESCRIPTION

SCHEDULE "A"

PARCEL: 326/338

ESTATE: PERPETUAL EASEMENT

PURPOSE: CONSERVATION



N.T.S.

N 12°44'21" W
34.09'

N 19°04'58" W
88.67'

N 26°37'11" W
105.61'

Δ- 00°41'27"
L- 9.03'
R- 749.20

311.94'
S 08°39'10" W
WESTERLY RIGHT OF WAY LINE
PROPOSED ORANGE
AVENUE RE-ALIGNMENT.

N 81°20'50" W
5.00'

S 08°39'10" W
200.99'

FORMER ORANGE AVENUE (R/W VARIES)
STATE (R/W VARIES)
N 32°54'47" W
199.81'
N 30°59'29" W
139.52'

WESTERLY R/W LINE
FORMER ORANGE AVE.
ALIGNMENT.

Legend

- (R) - Radial
- PG. - Page
- P.B. - Plat Book
- emnt. - Easement
- F.P.C. - Florida Power Corporation
- M - Meters
- (C) - Calculated
- C.B. - Chord Bearing
- D.B. - Dead Bolt
- P - Plat
- (RT) - Right
- (LT) - Left
- R/W - Right-of-Way
- N.T.S. - Not to Scale
- Sec. - Section
- Δ - Delta
- R - Radius
- L - Length
- PC - Point of Curvature
- PT - Point of Tangency
- POB - Point of Beginning
- POC - Point of Commencement
- C - Chord Length
- C/L - Centerline
- O.R. - Official Records
- BK. - Book
- Ex. - Expires

NOT VALID WITHOUT THE SIGNATURE AND
THE ORIGINAL RAISED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER.

SHEET 3 OF 3 REVISED 08/14/03
REVISED 01/11/97

SKETCH OF DESCRIPTION ONLY. THIS IS NOT A SURVEY.

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:		PROJECT NUMBER:	DESCRIPTION:
BOWYER-SINGLETON & ASSOCIATES, INCORPORATED		CUO/JSJ	MITIGATION AREA ORANGE AVENUE
		DRAWN BY: K. MITCHELL	CLIENT: ORANGE COUNTY HIGHWAY CONSTRUCTION DEPARTMENT
ENGINEERING - PLANNING - SURVEYING - ENVIRONMENTAL 820 SOUTH MAGNOLIA AVENUE ORLANDO, FLORIDA 32808 407-843-5120 • FAX 407-849-8664 CERTIFICATE OF AUTHORIZATION No. LB 1221		DATE: 11/04/96	SECTION-TOWNSHIP-RANGE SEC. 23 & 26, TWP. 24S, RGE. 29E
		W.P.L. NUMBER: N/A	COUNTY: ORANGE COUNTY

SKETCH OF DESCRIPTION

SCHEDULE "A"
 PARCEL: 334
 ESTATE: PERPETUAL EASEMENT
 PURPOSE: CONSERVATION

THAT PART OF THE SOUTHEAST 1/4 OF SECTION 23, TOWNSHIP 24 SOUTH, RANGE 29 EAST AND THE SOUTHWEST 1/4 OF SECTION 24, TOWNSHIP 24 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA.

BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 23, TOWNSHIP 24 SOUTH, RANGE 29 EAST; THENCE RUN NORTH 89°47'17" WEST, ALONG THE SOUTH LINE OF SAID SOUTHEAST 1/4, A DISTANCE OF 249.66 FEET TO THE EASTERLY RIGHT OF WAY LINE OF THE PROPOSED ORANGE AVENUE; THENCE RUN NORTH 08°39'10" EAST, ALONG THE EASTERLY RIGHT OF WAY LINE OF THE PROPOSED ORANGE AVENUE FOR A DISTANCE OF 450.97 FEET; THENCE CONTINUE NORTH 09°52'49" EAST, ALONG THE PROPOSED EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 700.16 FEET; THENCE RUN NORTH 81°20'50" WEST, A DISTANCE OF 15.00 FEET; THENCE CONTINUE NORTH 08°39'10" EAST, ALONG THE PROPOSED EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 514.18 FEET TO THE INTERSECTION WITH THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 23; THENCE CONTINUE NORTH 08°39'10" EAST, ALONG SAID PROPOSED EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 694.49 FEET; THENCE DEPARTING SAID PROPOSED EASTERLY RIGHT OF WAY LINE, RUN SOUTH 86°31'41" EAST, A DISTANCE OF 348.77 FEET TO THE WEST LINE OF A 15 FOOT EASEMENT GRANTED TO THE CENTRAL FLORIDA PIPELINE CORPORATION, PER OFFICIAL RECORDS BOOK 486, PAGES 4271- 4274, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE RUN SOUTH 03°40'46" EAST, ALONG SAID WESTERLY EASEMENT LINE, A DISTANCE OF 2,316.82 FEET TO THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 24, TOWNSHIP 24 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA; THENCE RUN SOUTH 89°56'58" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 602.15 FEET TO THE POINT OF BEGINNING.

CONTAINING 31.900 ACRES, MORE OR LESS.

Dennis L. Deal
 DENNIS L. DEAL P.S.M. LICENSE NO. 19392
 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
 SHEET 1 OF 2

SKETCH OF DESCRIPTION ONLY, THIS IS NOT A SURVEY.

REVISED 08/14/03

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:		PROJECT NUMBER:	DESCRIPTION:
BOWYER-SINGLETON & ASSOCIATES INCORPORATED ENGINEERING - PLANNING - SURVEYING - ENVIRONMENTAL 520 SOUTH MAGNOLIA AVENUE - ORLANDO, FLORIDA 32801 407-843-5120 - FAX 407-649-8664 CERTIFICATE OF AUTHORIZATION No. LB 1221		CUO/J37	MITIGATION AREA ORANGE AVENUE
		DRAWN BY: K. MITCHELL	CLIENT: ORANGE COUNTY HIGHWAY CONSTRUCTION DEPARTMENT
DATE: 11/04/96	SECTION-TOWNSHIP-RANGE SEC. 23&24, TWP. 24S, RGE. 29E	W.P.J. NUMBER: N/A	COUNTY: ORANGE COUNTY

SKETCH OF DESCRIPTION

SCHEDULE "A"
 PARCEL: 334
 ESTATE: PERPETUAL EASEMENT
 PURPOSE: CONSERVATION

N.T.S.

EASTERLY R/W LINE PROPOSED
 ORANGE AVENUE RE-ALIGNMENT.

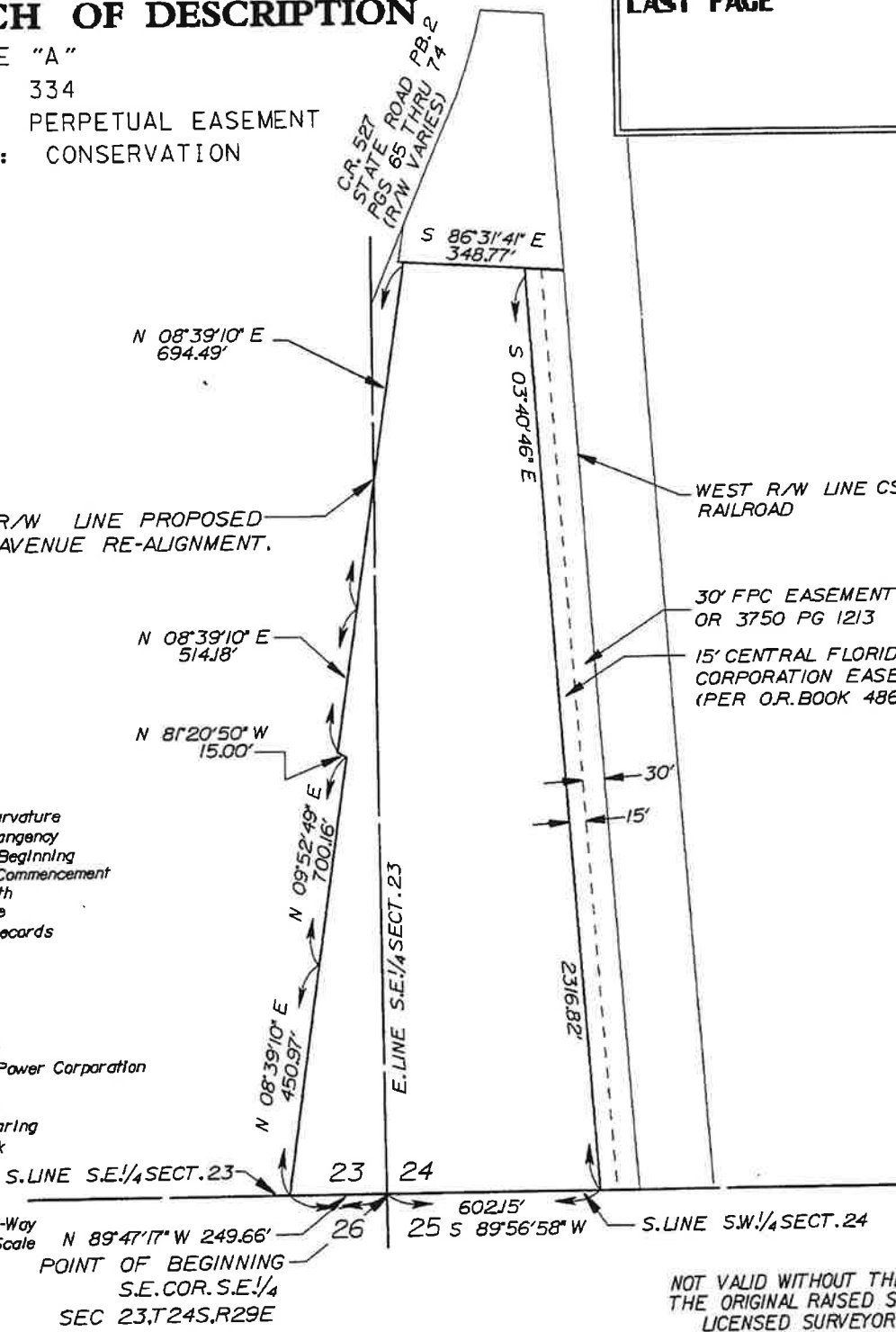
WEST R/W LINE CSX TRANSPORTATION
 RAILROAD

30' FPC EASEMENT
 OR 3750 PG 1213

15' CENTRAL FLORIDA PIPELINE
 CORPORATION EASEMENT
 (PER O.R. BOOK 486, PAGE 4271-4274)

Legend

- Δ - Delta
- R - Radius
- L - Length
- PC - Point of Curvature
- PT - Point of Tangency
- POB - Point of Beginning
- POC - Point of Commencement
- C - Chord Length
- C/L - Centerline
- O.R. - Official Records
- BK. - Book
- Ex. - Expires
- (R) - Radial
- PG. - Page
- P.B. - Plat Book
- esmt. - Easement
- F.P.C. - Florida Power Corporation
- M - Meters
- (C) - Calculated
- C.B. - Chord Bearing
- D.B. - Deed Book
- P - Plat
- (RT) - Right
- (LT) - Left
- R/W - Right-of-Way
- N.T.S. - Not to Scale
- Sec. - Section



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 LICENSED SURVEYOR AND MAPPER.

SHEET 2 OF 2
 REVISED 08/14/03

SKETCH OF DESCRIPTION ONLY, THIS IS NOT A SURVEY.

THIS LEGAL DESCRIPTION AND SKETCH PREPARED BY:		PROJECT NUMBER:	DESCRIPTION:
BOWYER-SINGLETON & ASSOCIATES, INCORPORATED ENGINEERING - PLANNING - SURVEYING - ENVIRONMENTAL 520 SOUTH MAGNOLIA AVENUE - ORLANDO, FLORIDA 32809 407-843-5120 - FAX 407-849-8864 CERTIFICATE OF AUTHORIZATION No. LB 1221		CU0/J37	MITIGATION AREA ORANGE AVENUE
		DRAWN BY:	CLIENT:
		K. MITCHELL	ORANGE COUNTY HIGHWAY CONSTRUCTION DEPARTMENT
		DATE:	SECTION-TOWNSHIP-RANGE
		11/04/96	SEC. 23&24, TWP. 24S, RGE. 29E
		W.P.J. NUMBER:	COUNTY:
		N/A	ORANGE COUNTY

EXHIBIT 18

J. DAVID THOMAS, P.E.
6296 Park Lane North #13
Park City, Utah 84098

ACCOMPLISHMENTS

- Served as a corporate officer for three Fortune 500 companies.
- Delivered services and managed projects in North and South America, North Africa, South Africa, Asia and Europe
- Built and directed global environment, health and safety (EHS) management and compliance programs, with over 50 successful ISO 14001/EMAS certifications
- Directed remediation activities at over 40 Superfund and RCRA Corrective Action sites
- Supervised or provided direct, on-site production safety for over 200 feature films and television series including numerous large-scale action-oriented motion pictures
- Designed, developed and implemented global Corporate Social Responsibility and Sustainable Development programs which have been recognized by rating agencies including Dow Jones International Sustainability Index, Eithibel Sustainability Index, FTSE4Good and Vigeo “Best in Class”
- Led due diligence and post transaction operations/facilities integration for transactions valued at over \$65 billion
- Managed an international real estate portfolio of over 15 million ft² and infrastructure/development projects with individual budgets of up to \$200 million

HISTORY

2015 **Independent Consultant**, Park City, Utah and Annapolis, Maryland
to Independent consultant providing EHS Management, Production Safety, Merger and Acquisition, Remediation
Present and Sustainability consulting services to a range of clients, including Viacom Corporation, Comcast/Universal
Parks and Resorts, Fox Studios, DreamWorks, MGM, Studio 8, Netflix, Hulu, Apple, 101 Studios, Skydance
Media and Annapurna Pictures, among others.

2012 **VIACOM CORPORATION/PARAMOUNT PICTURES CORPORATION**, New York, New York
to Major Television and Entertainment Conglomerate/Hollywood motion picture studio and filmed
2015 entertainment company (25,000 employees worldwide).
Vice President, Environmental, Health and Safety Affairs and Production Safety

- Responsible for re-organization and revitalization of corporate EHS programs, including developing and implementing “best-in-class” policies and programs, hiring, training and directing staff for motion picture productions and Viacom Media Network channels, including Nickelodeon, CMT, MTV, VH1, Spike, Logo, BET, TVLand. Responsible for supervising and directing production safety support to over 85 television productions and an average of 15 motion pictures annually.

2011 **ENVIRON INTERNATIONAL CORPORATION**, Princeton, New Jersey
to Considered to be one of the best-regarded and most sophisticated EHS consulting firms in the world
2012 having 40 offices, employing over 300 professionals and with revenues of over \$350 million (Environ is now a
division of Ramboll Environmental).

Principal/Partner

- Provided technical program management, business development, financial management for the Firm.
- Directed remediation activities at 8 Superfund and RCRA Corrective Action sites
- Served as an expert witness in environmental litigation.
- Led firm’s entertainment consulting business practice.

Joined Seagram in 1994. In 1996 Seagram acquired Universal Studios (then known as MCA INC); Vivendi acquired Seagram, including the Universal Studios subsidiary, in 2002.

2004 **VIVENDI, S.A.**, New York, New York and Paris, France
to French telecommunications and media conglomerate which included Activision Blizzard (video games),
2011 Canal+ and StudioCanal (television, movie production), GVT (Brazilian telecom company), Maroc Telecom
Group, SFR (French telecom company) and Universal Music Group (40,000 employees worldwide).

Vice President, Environmental Affairs, Health and Safety; Office of the Secrétariat general

- Corporate officer and Member of the Office of the Secrétariat general in Paris comprised of

HISTORY

Cont:

three executives: General Counsel and Corporate Secretary, Chief Legal Officer and myself.

- Overall responsibility for directing worldwide EHS management and compliance programs, Corporate Social Responsibility and Sustainable Development programs.
- Initiated supply chain sustainability program for the Group.
- Directed Risk Management program for North America.
- Directed preparation of the annual *Document of Reference* (French legal document on corporate responsibility/sustainability, part of Company's annual financial statements and annual report to shareholders). As member of the Company Risk Committee, identified and prepared response plans for various "risks" to on-going and planned future operations and businesses.
- Provided production safety direction and support for over 30 television and motion picture productions annually.
- Led disposition of music group manufacturing assets and out-sourcing of warehousing operations.
- Established Company's Sustainability Committee and "Green Teams" at various Company locations.

**1996
to
2004**

UNIVERSAL STUDIOS, INC., Los Angeles, California

Major television, motion picture and theme park operator (15,000 employees worldwide).

Vice President, Corporate Facilities, Health, Safety and Environment

- Corporate Officer responsible for directing worldwide EHS management programs, including recruiting and supervising EHS staff, and presenting corporation positions to legislative and regulatory bodies, directing waste minimization and environmental accountability programs and infrastructure planning, development and implementation, and negotiation and procurement of utility services.
- Directed the largest private remediation project in the Southeast US, earning an "Innovative Remediation" award from US EPA.
- Negotiated remediation standards and program with the governments of the City of Osaka and Japan in connection with the development of a theme park in Osaka.
- Coordinated utilities, infrastructure and environmental systems design for Universal Studios Japan theme park.
- Coordinated utilities, infrastructure and environmental systems master planning for expansion of the Universal Port Adventura theme park in Spain.
- Obtained first EMAS certification granted to a theme park for Company's Port Adventura park in Spain
- Restructured infrastructure contracts for electrical service, natural gas, potable water, sanitary sewer discharge and reclaimed water at various company locations, with over \$12 million in annual aggregate annual savings.
- Developed and implemented production safety program moving from extensive use of consultants to expert, in-house staff improving program consistency, reducing claims and reducing overall costs by 20%
- Implemented aggressive return to work and restricted work programs that resulted in over 25% reduction in Workers Compensation program expenses.
- Introduced the Safety Passport training system, reducing health and safety training costs by 15%
- Rationalized and integrated multi-national manufacturing and production facilities associated with the \$10 billion acquisition of the Polygram music and film businesses.

**1994
to
1996**

SEAGRAM COMPANY LTD., New York, New York

International beverage conglomerate (6,000 employees worldwide).

Director, Environmental Affairs, Occupational Health and Safety

- Established initial Corporate EHS programs.
- Launched startup of the first foreign-owned orange juice manufacturing plant in China.
- Directed environmental due diligence of Looza, N.V, and MCA INC acquisitions.
- Oversight of design and construction of upgrade to five million gallon/day wastewater treatment facility in Florida.
- Initiated standardized safety training program resulting in 40% reduction in training expenses.
- Directed remediation activities at sites in the United Kingdom, Belgium and Germany
- Directed start-up of first international orange juice manufacturing plant in China

J. DAVID THOMAS, P.E.

Page Three

HISTORY

Cont:

Prior to 1994 **ENVIRON CORPORATION**, Arlington, VA
National EHS consulting firm
Principal/Partner

- Provided technical program management, business development, financial management for Firm.
- Served as an expert witness in environmental litigation.
- Directed remediation activities at 35 Superfund and RCRA Corrective Action sites
- Started the Firm's airport EHS practice.

RADIAN CORPORATION, Reston, VA
National EHS consulting firm.

Practice Leader and earlier **Senior Program Manager**

- Directed program management, client relations, technical oversight, and business development.
- Managed all EHS regulatory compliance services for clients in the Eastern United States.
- Led business development efforts resulting in establishment of a Rochester, NY office.

TENNESSEE SOLID WASTE DISPOSAL CONTROL BOARD, Nashville, TN
(State Regulatory Oversight Authority)

Chairman appointed by Governor/Confirmed by State Senate

- Chaired eleven-member Board responsible for promulgating state environmental regulations, acting as the appellate body for state environmental agency actions and imposing environmental fines and penalties levied by the State.

EASTMAN KODAK COMPANY, Washington, DC and various other locations
Manager - Energy and Environmental Affairs

- Managed federal legislative and regulatory government relations activities related to energy, pharmaceutical, agriculture, biotechnology, and environmental affairs.

Senior Project Engineer Tennessee Eastman Division, Kingsport, TN

- Served as design and project engineer for various infrastructure projects, including all pollution control facilities for green field chemical plant in Batesville, Arkansas.

EDUCATION

M.E. *Environmental Engineering*, Kodak Scholar Program, Cornell University *summa cum laude*
B.S.C.E. *Civil Engineering*, Virginia Polytechnic Institute and State University *with distinction*

LICENSES

PE Registered Professional Engineer in Arkansas, South Carolina and Tennessee
(Inactive registration in Arkansas, retired status in Tennessee)

OTHER

Original member of the Department of Defense's Defense and the Environment Initiative Advisory Panel and the EPA Region IV Hazardous Waste Roundtable;
Former Board Member, California Parks and Resorts Association;
Former Board Member, New York Sustainability Roundtable;
Taught/lectured at over 25 courses in EHS management, CSR, sustainable development, legislative and regulatory advocacy, remediation and regulatory compliance;
Testified as an expert before Congress, the California Public Utilities Commission and various state legislative committees in California and other states.

HOBBIES

Sailing and snow skiing enthusiast

EXHIBIT 19 (INTENTIONALLY LEFT BLANK)

EXHIBIT 20

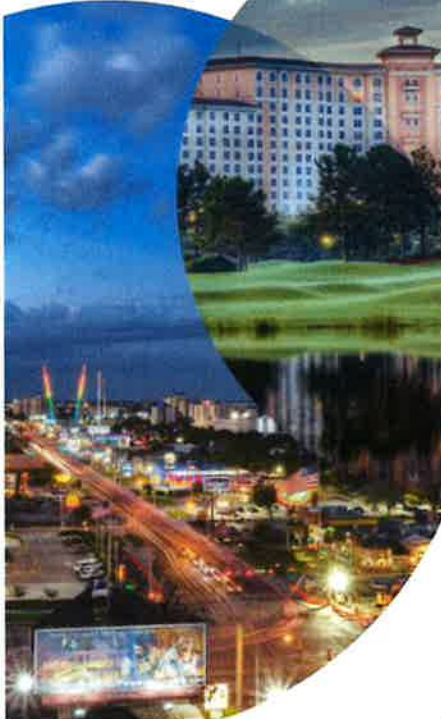


I-DRIVE
BUSINESS IMPROVEMENT
DISTRICT



INTERNATIONAL DRIVE ECONOMIC IMPACT ANALYSIS

2019



ABOUT THE DISTRICT

The International Drive Master Transit and Improvement District was created on November 10, 1992 as a Business Improvement District (BID) under a public-private partnership between the I-Drive business community, Orange County Government and the City of Orlando.

The I-Drive Business Improvement District was created to provide services such as transportation, capital improvements, public safety, marketing, promotions, clean teams, streetscape enhancements and representation to state and local governments. The BID contributes to the current and future economic development of the International Drive Resort Area!

MEET OUR LEADERS

The International Drive Business Improvement District Governing Board

The Board is comprised of three members of local government: two members of Orange County and one member from the City of Orlando. Current Board Members are:



Chairperson:
The Honorable Jerry Demings
Orange County Mayor



Orange County:
Commissioner Victoria Siplin
Orange County – District 6



City of Orlando:
Commissioner Bakari F. Burns
City of Orlando – District 6

The International Drive Business Improvement District Advisory Board

The District is served by a five-member Advisory Board: three members are appointed by Orange County and two are appointed by the City of Orlando. Members must be a District property owner, an owner-appointed representative, or an employee of a property owner.

Chairperson



Ms. Sibille Pritchard
Vice President
Orlando Plaza Partners

Other Members



Mr. Harris Rosen
President
Rosen Hotels & Resorts



Mr. Joshua Wallack
Chief Operating Officer
Mango's Tropical Cafe



Mr. Russ Dagon
Senior Vice President
of Resort Development
Universal Orlando
Creative



Mr. Marco Manzie
President
Paramount
Hospitality Group

District Staff



Ms. Luann Brooks
Executive Director
I-Drive Business
Improvement District



TABLE OF CONTENTS

About the District	Page 2
Highlights	Page 4
Executive Summary	Page 5
Introduction	Page 6
Study Area Boundary	Page 7
I-Drive Existing Conditions Analysis	Page 8
Land Use Analysis	Page 9
Vacant Land	Page 10
Commercial Land	Page 11
Theme Parks & Attractions	Page 12
Restaurants & Bars	Page 13
Accommodations	Page 14
Residential Land	Page 15
I-Drive Demographics	Page 16
Institutional Land	Page 17
Orange County Convention Center	Page 18
Transportation	Page 19
I-Ride Trolley	Page 20
I-Drive 2040 Strategic Vision Plan	Page 21
Business Profile	Page 22
Industry Structure	Page 23-24
Professional Business Services & Financial Sectors	Page 25
Orange County Public Services	Page 26
Employment By Sector	Page 27
Tourism Activity & Fiscal Impacts	Page 28
I-Drive Visitor Profile 2019	Page 29
Visitation	Page 30
Theme Park Attendance	Page 31
Group Meetings	Page 32
Property Tax Revenue	Page 33
Other Revenues	Page 34
Economic Impact Analysis	Page 35
Economic Impact of Future I-Drive Projects	Page 36-37
Conclusion	Page 38
About the East Central FL Regional Planning Council	Page 39
Technical Appendix	Pages 40-41

HIGHLIGHTS...2019

- **15.3 million** overnight & day visitors... (up from 14.8 million visitors in 2018)
- Total assessed value **\$14.7 BILLION**... (up from \$13.6 billion in 2018)
- Property taxes were \$228 million... (up from \$210.7 million in 2018)
- Sales tax collected \$530.1 million
- TDT collections were \$126.4 million
- Visitors spent \$8.2 billion
- **75,000+** full, part-time & seasonal jobs
- 132 properties – 53,015 individual accommodations (represents 42% of the tri-county region)
- 1,800 individual businesses
- **69.7 million square-feet** of Commercial Space
- Home to 22,357 residents housed in 12,742 units
- Home to the **2nd** largest convention center in the country
- Home to UCF Rosen College of Hospitality Management - the largest facility of its kind ever built for hospitality management education and is ranked in the Top 5 in the world



Orange County Convention Center



Hotel Front Desk Associate



The Courtney at Universal Boulevard Apartments

EXECUTIVE SUMMARY

The International Drive Resort Area is one of the most visited destinations in the world and an important economic hub for Orange County, the City of Orlando, and the Metro Orlando region. The purpose of this project was to analyze the area's economic impact by delving into its current conditions, assessing the actual number of people visiting the area, and calculating its overall influence on the economy. This document is divided into three main parts: existing conditions, visitation and fiscal analysis profile, and economic impact model simulations.

The existing conditions analysis found that the resort area has a diversity of commercial, institutional and residential uses within its boundaries. These include over 69.7 million square feet of commercial space, 132 accommodation properties, the nation's second largest convention center, and a major educational institution. International Drive is also home to 1,800 businesses that employ over 75,000 people. These include the office headquarters of three national/international companies: Marriott Vacations Worldwide, SeaWorld Parks and Entertainment, and Wyndham Vacation Ownership. Long thought as only a job center, International Drive is also home to more than 22,000 housed in over 12,500 housing units. Finally, about 25% of the resort area's land is still vacant.

Most, if not all, of International Drive's economic activity is the result of tourists visiting the area. This study estimates that 15.3 million people visited the resort area in 2019 based on regional visitation and hotel occupancy data. Most of these visitors stayed overnight (64%) and the vast majority of them came for leisure purposes.

International Drive visitors spent about \$8.2 billion on transportation, lodging, food, entertainment and shopping in 2019. This visitor spending has an economic ripple effect on both Orange County and Metro Orlando's economy.

This positive economic impact will continue as there are more than 50 new projects scheduled to be completed within the next six years. They represent almost \$2 billion in new investment coming to Orange County. These construction costs were used to determine the economic impact of these projects to the county and regional economies. According to REMI, these new development projects will add more than 3,800 jobs in Orange County. They will also generate about \$525 million in sales and \$187 million in personal income. They will also add close to \$308 million to the county's gross regional product. Metro Orlando would add more than 4,400 positions, \$604 million in sales, and \$283 million in personal income. This new construction will also increase Metro Orlando's gross regional product by more than \$350 million per year.

INTRODUCTION

Since the opening of Disney World in 1971, tourism has become the most important and largest generator of jobs in the Metro Orlando region. The high economic impact of this industry can be seen not only in the high number of people employed by the hotels and theme parks, but it also results in positions and investment in other sectors of the economy such as retail, construction, transportation, and professional services. The growth in the number of visitors, 75 million in 2019, and recent major investments by the public and private sector should help to keep the vibrancy in this industry.

One of the most visited tourist corridors in Metro Orlando is the International Drive Resort area (I-Drive). Home to the nation's second largest convention center and six of the world's most visited theme parks, I-Drive is one of the country's premiere tourist activity centers. Recent developments will help to solidify the corridor's competitiveness. The Orange County Convention Center just completed a new campus master plan that will help to upgrade its facilities. Orange County Government in partnership with the private sector has developed a new Strategic Vision Plan for the section of International Drive between Sand Lake Road and the Beachline Expressway. The strategies developed through this plan will help to create a more walkable and cohesive destination. These and other activities have renewed interest in redeveloping old sites into new attractions all around the district. These new investments bode well for the future of the I-Drive resort area.

Despite all the investment and careful planning put on the I-Drive area through the years, there have never been any specific efforts to calculate the economic impact that this area has on both Orange County and Metro Orlando. This study is the first attempt to do just that. The International Drive Resort Area Economic Impact Analysis is divided into three sections. The existing conditions analysis provides an overview of the area's land use, infrastructure, demographic, and economic characteristics. This is followed by a tourism activity and fiscal profile that summarizes business and revenue data collected by government and private organizations. Finally, the East Central Florida Regional Planning Council (ECFRPC) used the REMI Policy Insight model to calculate the economic value of I-Drive to the region and quantify the impact of the proposed future investments.

Brief History of the I-Drive Resort Area

In 1965, Walt Disney announced that it will build a new theme park south of Orlando. Around this time, Orlando attorney and developer Finley Hamilton paid \$90,000 for ten acres of vacant land north of Sand Lake Road and east of I-4 where he built the Hilton Inn South. The actual International Drive was not built until 1972, when Hamilton and RF Raidle's Major realty paved an 1 1/2 mile stretch connecting Kirkman and Sand Lake roads. It was named International Drive because it "sounded important". The 1970s brought other important events to the resort area including the opening of the Sea World and Wet 'n Wild theme parks and the approval from Orange County voters to use a 2% hotel room tax to build the Orange County Convention Center.



International Drive- 1978

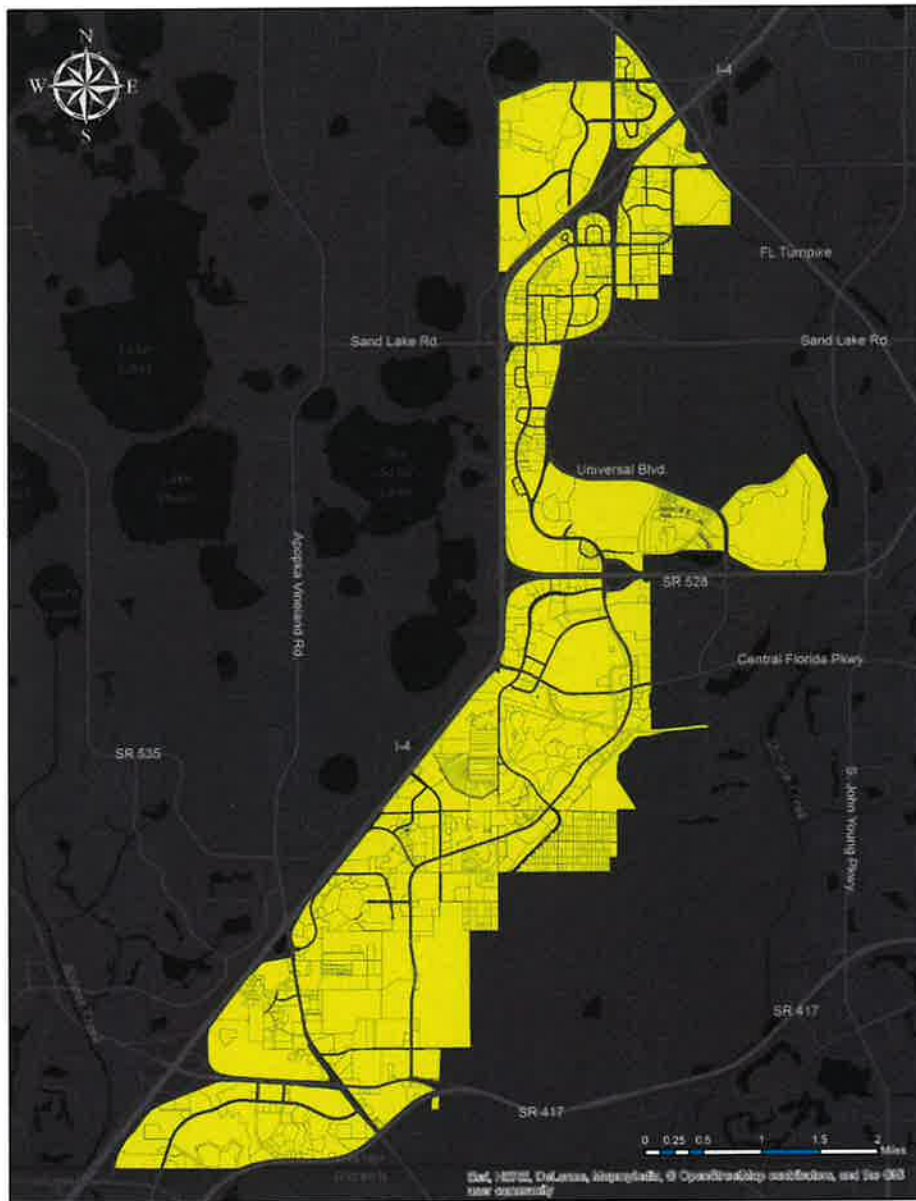
Source: International Drive Improvement District

The convention center was inaugurated in 1983, and its subsequent expansions have spurred the development of multiple hotels and commercial projects along the resort area. One of the most significant investments was the opening of the Universal Studios theme parks in the 1990s. Today the I-Drive Resort area is one of the most visited tourist corridors in the world. More detailed information about the history of International Drive can be found at the I-Drive Improvement District website at: <http://www.idrivedistrict.com/district-info/history.asp>

STUDY AREA BOUNDARY

The study area boundaries encompass several important tourist hubs. The first one is the Universal Studios Resorts area, which starts south of Vineland Road and follows Kirkman Road south to the Sand Lake Road interchange. The Florida Turnpike and the Turkey Lake road delimit the east and west borders.

After this the study is framed by International Drive starting from West Oak Ridge Road to the Orange-Osceola County line. To the east, Universal Boulevard also serves as a primary north-south corridor. Sand Lake Road is an important east-west road that divides the study area between the City of Orlando and unincorporated Orange County. The study area continues south of the Beachline Expressway and includes SeaWorld Orlando, Aquatica, Discovery Cove, a number of vacation resorts as well as housing for much of the supporting service industry professionals that work within the corridor.



Source(s): Orange County Property Appraiser, ECFRPC Research

I-DRIVE EXISTING CONDITIONS ANALYSIS

The purpose of the Existing Conditions Analysis is to provide an overview of the current conditions of the I-Drive Resort Area. This base information will serve as a background for helping the public understand the economic impact of the area. The existing conditions analysis includes a land use analysis and a business and industry profile.

The Land Use Analysis provides an overview of the major current land uses found within the International Drive area. This analysis was completed using Geographic Information Systems (GIS) software based on parcel information from the Orange County Property Appraiser's Office. For this section, the East Central Florida Regional Planning Council (ECFRPC) also used the U.S Census American Community Survey to identify the major demographic characteristics of the people living within International Drive. Finally, the report provides an overview of current and new transportation projects that will benefit the resort area.

The second part is a Business and Industry Profile that analyzes the distribution of economic activity in the I-Drive area using the number and type of establishments and number of employees. For this part of the report, the ECFRPC used the Infogroup database, which includes information on more than 25 million establishments across the United States.

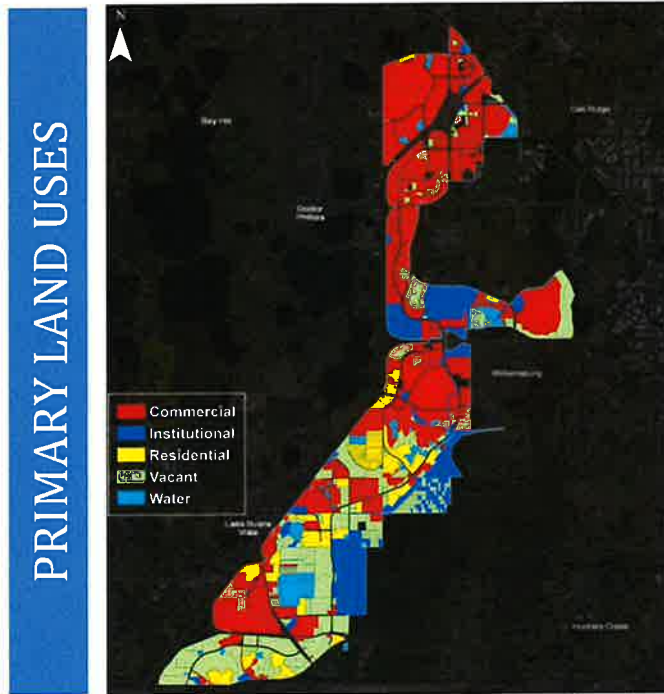
More information about the methodologies and findings of the existing conditions analysis is provided on the following pages.



International Drive

LAND USE ANALYSIS

The I-Drive Resort Area has a diverse mix of land uses. For the purpose of this discussion, the ECFRPC classified all district properties into four general land use categories: Commercial, Vacant, Institutional and Residential.



Source(s): Orange County Property Appraiser, ECFRPC Research

Approximately half of the acres within the study area can be classified as commercial. This land use category is comprised of several non-residential uses including hotel and time share properties (accommodations), retail, office, industrial developments and commercial amusement attractions. There are more than 4,000 acres of commercial land within I-Drive.

The second largest category is Vacant Land, which includes properties that are currently undeveloped or used for agricultural purposes. Vacant land encompasses about 24.7% of all land within the study area. In addition to these vacant properties, the I-Drive Resort area contains over 576 acres of land classified as Water.

Institutional uses include all land owned by federal, state and local governments, civic, educational and non-profit organizations. These uses comprise over 13% of the total study area.

Finally, the I-Drive Resort Area is home to several single-family homes and multi-family residential developments. These residential properties account for 8% of all land within the study area.

The next pages of the report discuss these land use categories in more detail.

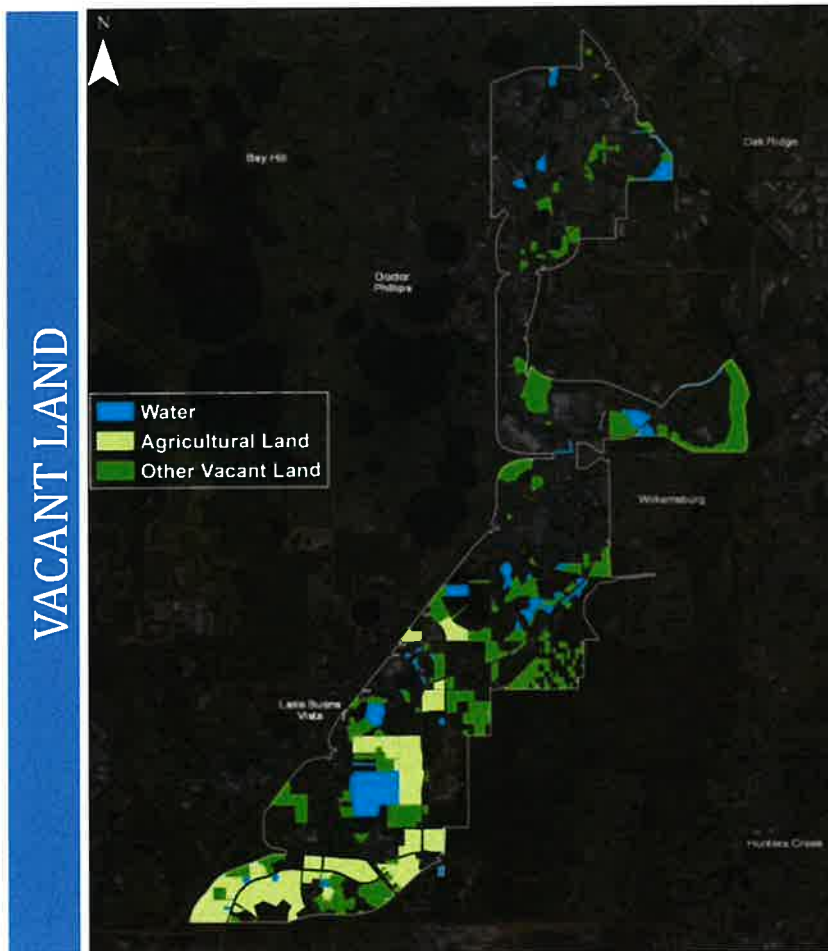
Project Area Summary by Land Use as of 2020		
Land Use Category	Acres	% Study Area
Commercial	4,044	47.1
Vacant	2,120	24.7
Institutional	1,153	13.4
Residential	698	8.1
Water	576	6.7
TOTAL	8,591	100

VACANT LAND

There are over 2,000 acres of vacant land within the I-Drive Resort area. This includes over 800 acres of agricultural land, most of which is located south of the Beachline Expressway (S.R. 528). Because they are situated near a dynamic tourist district, these parcels will probably urbanize within the next decades. In fact, most of the land is currently used for passive agricultural uses such as timberland and pastures rather than active farming. The rest of I-Drive's vacant land is comprised of smaller undeveloped parcels located within the urbanized parts of the resort area.

Largest Property Owners by Acreage as of 2020	
Organization	Acres
GGB Associates LLC	469
Universal City Development Partners LTD	162
WGMLL Investments LTD ½ Int	168
AG-RW Grande Pines LLC	59
Shingle Creek Co-Owners LLC	52

The number of parcels, their size and ownership are important variables when discussing the development potential of vacant land within the District. There are approximately 305 vacant parcels within the I-Drive Resort Area. While the average size of these properties is seven acres, more than half of these parcels are less than five acres. The vast majority of these small parcels are owned by single-property owners, which could be a deterrent for future development. The current effort by the Orange County Planning Division to densify the I-Drive Resort Area will help to address this dilemma. On the other hand, there are more than 70 large parcels located within the district that could house large developments. There are five organizations that own 43% of all vacant land in the study area.



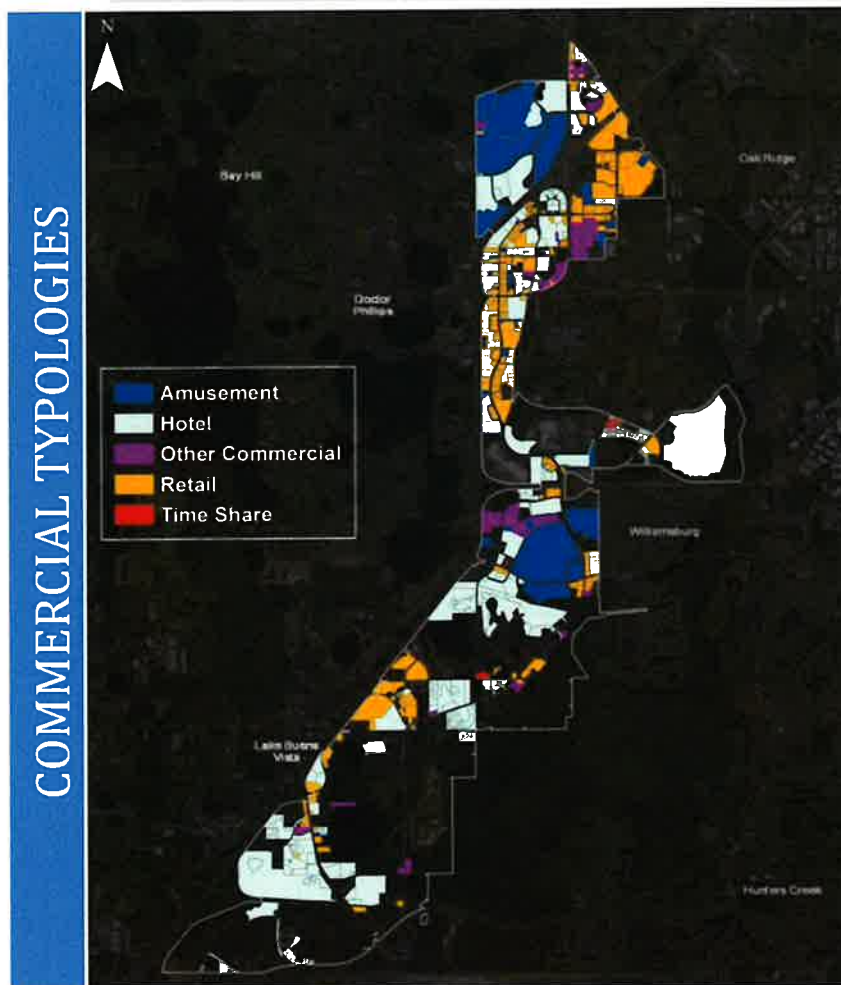
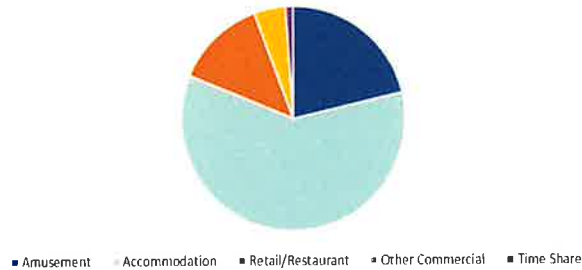
Source(s): Orange County Property Appraiser, ECFRPC Research

COMMERCIAL LAND

With close to 69.7 million square feet of commercial space, the I-Drive Resort Area is one of the busiest commercial districts in Metro Orlando. The dominant commercial types within this tourist corridor are Accommodations, Commercial Amusements and Retail. Accommodation uses comprise 60% of all commercial square footage within the study area. This category is comprised of hotels and time share properties distributed throughout the district. Commercial Amusements (21.3%) includes theme parks and other tourist attractions. Retail and Restaurants comprise another 13.1% of building space. Finally, there is about 3.9 million square feet of office space and industrial space in the study area. Together, these uses account for about 5.5% of all commercial uses.

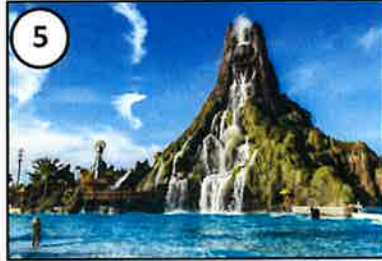
The following pages provide more information about these commercial uses.

Percent Total Acreage by Commercial Use



Source(s): Orange County Property Appraiser (2016), ECFRPC Research

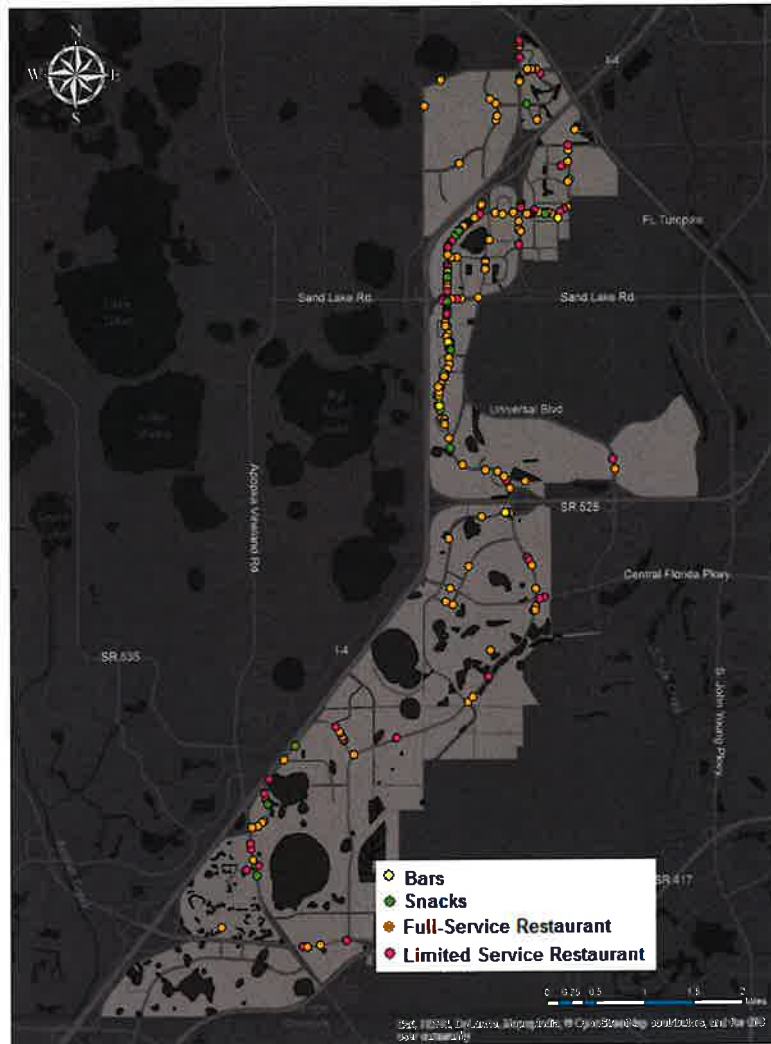
THEME PARKS & MAJOR ATTRACTIONS AS OF 2019



- Theme Parks & Attractions**
1. Islands of Adventure
 2. Universal City Walk
 3. Universal Studios
 4. Starflyer
 5. Volcano Bay
 6. Fun Spot America
 7. SkyPlex (planned)
 8. Mango's Tropical Cafe
 9. Ripley's Believe It Or Not
 10. ICON Park
 11. WonderWorks
 12. Pointe Orlando
 13. Aquatica
 14. Sea World
 15. Discovery Cove



RESTAURANTS & BARS



Source(s): Infogroup; ECFRPC Research

Popular Restaurants as of 2019

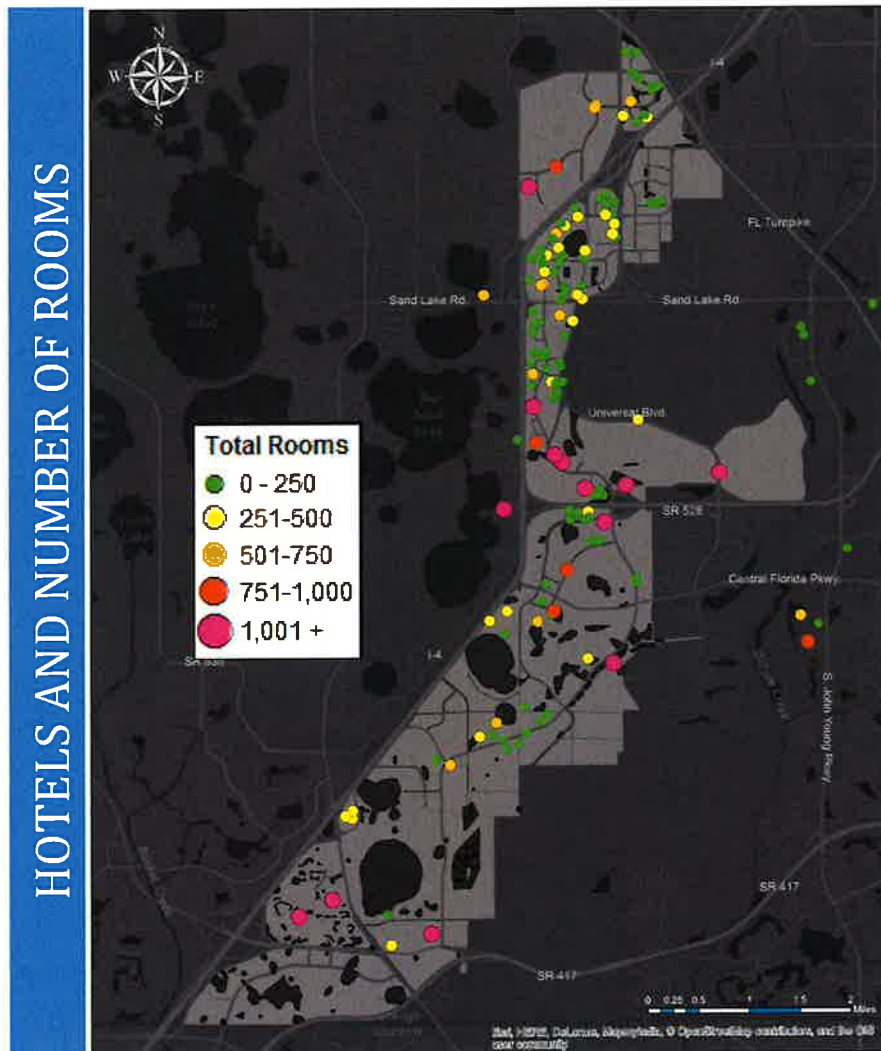
<i>Bohama Breeze</i>	<i>Ford's Gorge</i>	<i>Shake Shack</i>
<i>BB King's Blues Club</i>	<i>Hord Rock Café</i>	<i>Shogun Japanese Steakhouse</i>
<i>Benihana</i>	<i>Hosh House A Go Go</i>	<i>Sugor Factory</i>
<i>BJ's Restaurant</i>	<i>Hooters</i>	<i>Sushiology</i>
<i>Block Angus Steakhouse</i>	<i>IHOP</i>	<i>Sweet Tomatoes</i>
<i>Bloodhaund Brew</i>	<i>Itta Beno</i>	<i>Tablo Indian Chinese & Thai</i>
<i>Buffala Wild Wings</i>	<i>Jack's Ploce</i>	<i>Topo Toro</i>
<i>Cofé Tu Tu Tango</i>	<i>Jae's Crab Shock</i>	<i>Taverno Opo</i>
<i>Corrabba's</i>	<i>Kobe Japanese Steakhouse</i>	<i>Texas de Brazil</i>
<i>Charley's Steakhouse</i>	<i>Longhorn Steakhouse</i>	<i>TGI Friday's</i>
<i>Chili's Bor ond Grill</i>	<i>Moggiana's</i>	<i>Thai Thani</i>
<i>Chuy's Tex-Mex</i>	<i>Mongo's Tropical Cofe</i>	<i>The Copital Grille</i>
<i>Cooper's Howk</i>	<i>Morlow's Tavern</i>	<i>The Oceanoire Seofaad Room</i>
<i>Cubo Libre</i>	<i>Mellow Mushroom</i>	<i>Tilted Kilt</i>
<i>Dove & Buster's</i>	<i>Miller's Ale House</i>	<i>Tin Roof</i>
<i>Del Frisco's</i>	<i>Olive Gorden</i>	<i>Tokyo Sushi</i>
<i>Denny's</i>	<i>Outback Steakhouse</i>	<i>Tany Romo's</i>
<i>Everglodes Restaurant</i>	<i>Perkins Restaurant & Bakery</i>	<i>Twin Peaks</i>
<i>FishBones</i>	<i>Pio Pio</i>	<i>Urbon Tide</i>
<i>Fogo de Choo</i>	<i>Ponderosa Steakhouse</i>	<i>Yord House</i>

ACCOMMODATIONS

The I-Drive Resort area boasts low-price hotels, affordable hotels, luxury resorts, and vacation ownership units. In 2019, the area had 132 properties with a total of 53,015 rooms, placing the corridor among the densest in Central Florida⁶. Hotel sizes and typologies range from small motels with just a few hundred rooms to large resorts exceeding 1,000 rooms⁶.

Largest Accommodations by Number of Rooms as of 2019

Westgate Lakes – 1,990 Rooms	Sheraton Vistana Villages I-Drive – 1,669 Rooms
Orlando World Center Marriott – 2,008 Rooms	Rosen Inn at Pointe Orlando – 1,020 Rooms
Cabana Bay Beach Club – 2,200 Rooms	DoubleTree Orlando SeaWorld – 1,042 Rooms
Hyatt Regency Orlando – 1,641 Rooms	Royal Pacific – 1,000 Rooms
Marriott's Grande Vista – 1,616 Rooms	Rosen Plaza – 800 Rooms
Rosen Shingle Creek – 1,501 Rooms	Hilton Grand Vacations SeaWorld – 787 Rooms
Hilton Orlando – 1,424 Rooms	Renaissance Orlando at SeaWorld – 781 Rooms
Caribe Royale – 1,335 Rooms	Portofino Bay Hotel – 750 Rooms
Rosen Centre Hotel – 1,334 Rooms	Universal's Surfside Inn & Suites – 750 Rooms



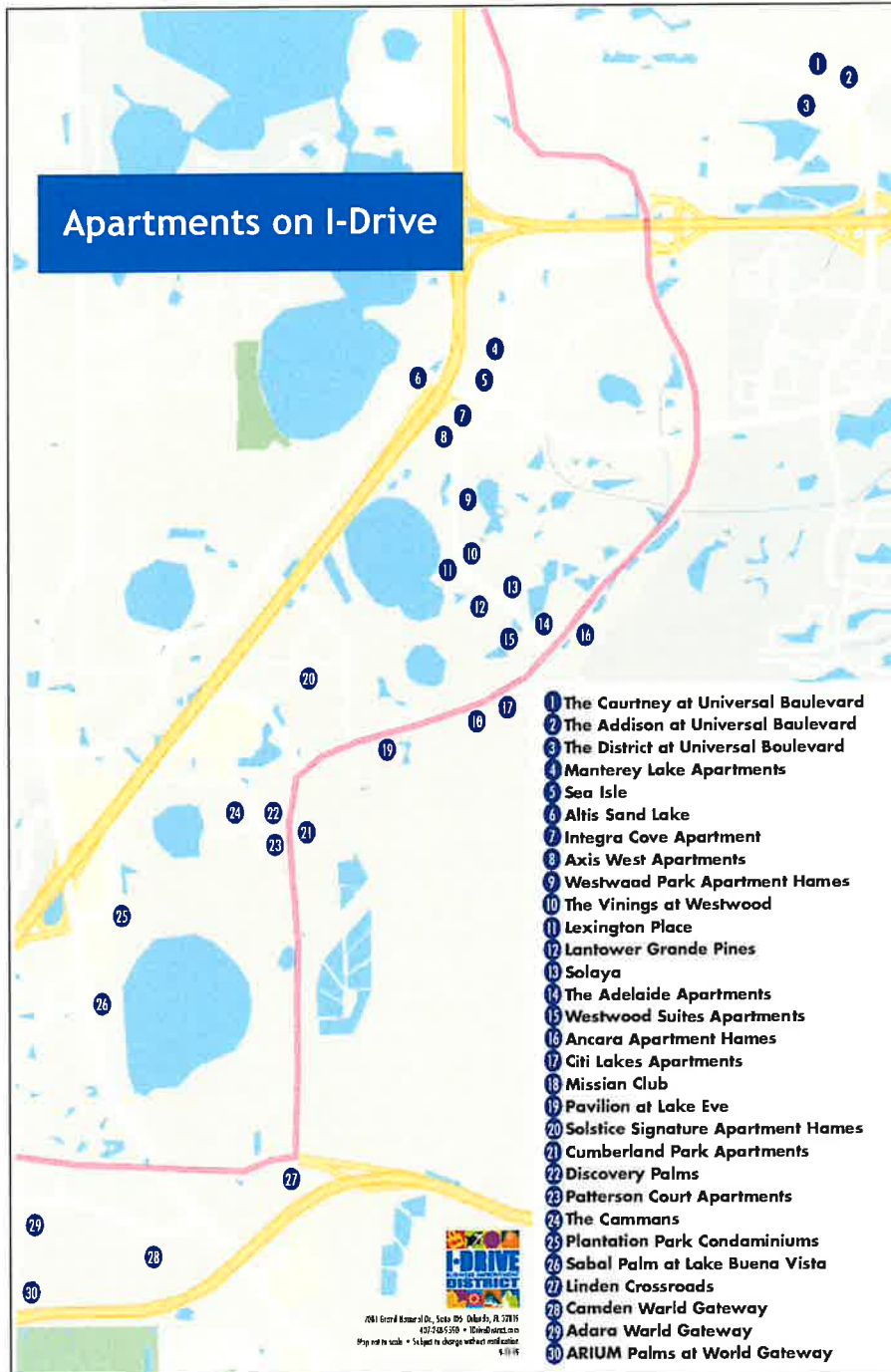
Source(s): Orange County Property Appraiser (2016), FGDL; IDID; ECFRPC Research

Source Citations: 1 – Orange County Property Appraiser; 2 – InfoGroup; 3 – Orange County GIS/Government; 4 – VisitOrlando; 5 – U.S. Census Bureau; 6 – I-Drive Improvement District --- All hotel data provided by IDID

RESIDENTIAL LAND

As of 2019, there were over 12,742 total residential units within the I-Drive Resort Area. Apartment complexes are the most common housing type followed by Condominiums. There are also 47 single family homes located within the district, most of which are lake front houses.

I-Drive Resort Area Housing Units by Type	
Residential Type	Housing Units
Apartments	11,120
Condominiums	1,575
Single Family Homes	47
Total Housing Units	12,742

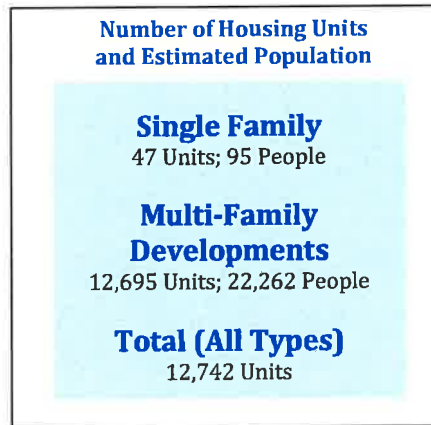


I-DRIVE DEMOGRAPHICS AS OF 2019

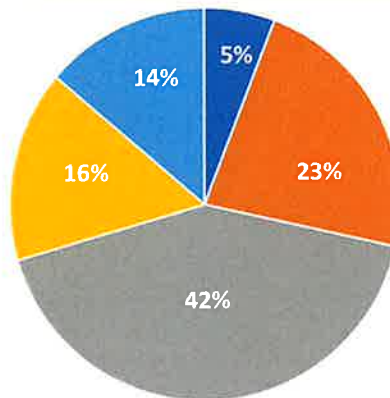
The ECFRPC used information from the U.S Census American Community Survey and the Orange County Property Appraiser to build a population profile for the I-Drive Resort Area. There are ten different Census Block Groups (the smallest geographical unit for which the bureau publishes sample data) within the resort area. However, the boundaries of most of these block groups extend far beyond the study area borders because of the commercial nature of the I-Drive corridor. Therefore, their total population counts include people that live outside the area of interest. To address this situation, the ECFRPC decided to use Orange County Property Appraiser data to get a more realistic population count.

First, the ECFRPC identified the location of residential land within the study area using DOR codes and GIS software. The Orange County Property Appraiser website was then used to identify the number of residential units available on the multi-family developments (condominiums, apartments, and student housing). To calculate the population counts, the ECFRPC multiplied the number of housing units by the average household size for each Census block group. Finally, the ECFRPC applied Orange County's housing vacancy rate (13.5%) to get the final number of people. Based on this methodology, the ECFRPC estimates that there are more than 22,350 people living within the I-Drive resort area. Most of these people are concentrated on the west side of the study area, near the Lake Bryan/Lake Ruby areas. The average household size for the area ranges from 1.77 to 3.26 persons per household, which is smaller than the county average.

The ECFRPC used the American Community Survey to get additional demographic characteristics for the population living within the I-Drive Resort area. Not surprisingly, the majority of the people residing here work for the Leisure and Hospitality Industry (41%). The educational attainment of this population tends to be relatively high, with 70% of people over age 25 having at least an Associate's Degree. This might be partly explained by the presence of the University of Central Florida's (UCF) Rosen College of Hospitality Management, which is located within the study area.



Educational Attainment



■ Less than Highschool ■ Highschool ■ Bachelors ■ Associates ■ Post-Grad

INSTITUTIONAL LAND

Institutional land includes all properties owned by government agencies (federal, state, and local), infrastructure easements, land use for mitigation purposes, and conservation areas such as wetlands. These uses account for 1,153 acres of land or approximately 13% of the total study area as of 2019. The Orange County Board of County Commissioners, the Valencia Water Control District and the South Florida Water Management District are the largest owners of Institutional land within the resort area.

The largest institutional uses within the resort area are the Orange County Convention Center (OCCC) and the UCF's Rosen College of Hospitality Management. Owned and operated by Orange County, the OCCC is one of the largest economic engines in the region. The facility includes two buildings (West and North/South) that host a variety of events catering to thousands of visitors each year. More information about the OCCC is provided on the next page. The Rosen College campus is situated on the east side of the study area. The 159,000-square foot building opened in early 2004 and is the largest, most advanced facility ever built for hospitality management education in the United States. The school's wide array of academic programs includes Hospitality Management, Event Management, Restaurant & Food Service Management, and Entertainment Management.

Orange County Convention Center

- 2,053,820** Sq. Ft. Exhibition Space
- 2** General Assembly Areas
- 2,643-Seat** Theater
- 3** Business Centers
- 106-Seat** Lecture Hall
- 74** Meeting Rooms
- 3** Full-Service Restaurants
- 232** Breakout Rooms

UCF Rosen College of Hospitality

- 22** High-Tech Classrooms
- 1** Executive Education Center
- 200-Seat** Training Dining Room/Bar
- 1** Beer and Wine Laboratory
- 2** Test Kitchens
- 400-Seat** Auditorium



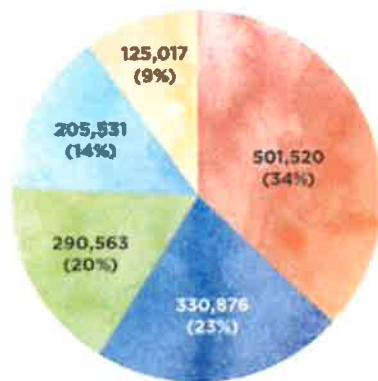
ORANGE COUNTY CONVENTION CENTER (OCCC)

The Orlando area started marketing itself as a convention destination in 1969. However, the groundwork for the future Convention Center did not start until eight years later when the Florida Legislature allowed local jurisdictions to impose a Tourism Development Tax or hotel room tax. That year the Orange County Board of County Commissioners created the Tourism Development Tax Council to help define the proposed uses for this new tax. In 1978, Orange County voters approved the use of this money to build a new Convention and Civic Center.

Since its opening in 1983, more than 32 million people have attended events at the OCCC making it one of the most important anchors of the I-Drive Resort area⁷. It is the second largest convention center in the United States with over 2 million square feet of exhibition space⁷. According to the OCCC annual report, the convention center hosted 170 events that brought more than 1.5 million people to the I-Drive area in fiscal year 2018-2019⁷.

The OCCC is currently in the midst of implementing a \$605 million Capital Improvement Plan to remain as one of the most competitive facilities in the nation⁷. The plan calls for the construction of two projects that will improve and enhance the North-South Building:

- Convention Way Grand Concourse – an enclosed connection between the North and South concourses that includes additional meeting space and an 80,000-square-foot ballroom with a grand entrance to the North-South building along Convention Way⁷.
- Multipurpose Venue – a 200,000-square-foot, flexible, divisible, column-free space with a combination of retractable and floor seating to accommodate between 18,000-20,000 guests. This project will also incorporate connectivity between the North and South concourses⁷.



EVENT CATEGORIES

FISCAL YEAR 2018-2019 MARKET MIX MEASURED BY ATTENDANCE

1,453,507 attendees

- Association (34%)
- SMERF Market (23%)
- Consumer (20%)
- Corporate (14%)
- Trade Show (9%)

SMERF = Social, Military, Educational, Religious and Family

FISCAL YEAR 2018-2019 EVENT CATEGORIES – MEASURED BY NUMBER OF EVENTS

170 TOTAL EVENTS



Source Citations: 1 – Orange County Property Appraiser; 2 – Infogroup; 3 – Orange County GIS/Government; 4 – Visit Orlando; 5 – U.S. Census Bureau; 6 – I-Drive Improvement District; 7 – OCCC; Chart data by OCCC

TRANSPORTATION

I-Drive's road network is going through several improvements that will ease traffic flow, provide more transportation options to visitors & residents, and create a more pedestrian friendly environment. For example, a traffic flow and pedestrian enhancement project in the northern portion of the study area was recently completed and four others are currently ongoing. These projects include the I-4 Ultimate Interchange-Grand National Drive Overpass, widening International Drive at Westwood Boulevard, improvements to the Sand Lake Road-John Young Parkway interchange and an extension of Destination Parkway. In addition, sidewalk additions to Sea Harbor Drive are in the design phase.

Two pedestrian projects have been planned by the Orange County Planning Division. One project is a conceptual pedestrian bridge at Sand Lake Road at the intersection of International Drive as well as planned transit lanes along Universal Boulevard and I-Drive.

Finally, the I-4 Ultimate Improvement Project will help build the Grand National Drive overpass as well as interchange improvements that will alleviate traffic at the Kirkman Road exit.



I-Drive/Sand Lake Road Pedestrian Bridge



I-Drive Premium Transit Study (concept photo)




I-4/Sand Lake Road Interchange (concept photo)

Recent and Under Construction Transportation Projects as of 2019		
Project	Status	Completion Date
International Drive Widening (Westwood-Westwood)	Completed	2019
John Young Parkway/Sand Lake Road Interchange	Completed	2019
Beachline Widening	Completed	2019
Sea Harbor Drive Sidewalk Project	Completed	2019
Kirkman Road Pedestrian Bridge	Ongoing	2020
Sand Lake Road Improvement Project	Ongoing	January 2021
I-Drive Premium Transit Study	Design Phase	Spring 2021
Kirkman Road Resurfacing Project	Ongoing	Fall 2021
I-Drive/Sand Lake Road Pedestrian Bridge Feasibility Study	Feasibility Study	2021
International Drive Dedicated Transit Lanes	Ongoing	Summer 2022
Sand Lake Road/I-4 Interchange	Design Phase	2024
I-4 Ultimate Project	Ongoing	T.B.D.
Kirkman Road Extension	Design Phase	T.B.D.

I-RIDE TROLLEY

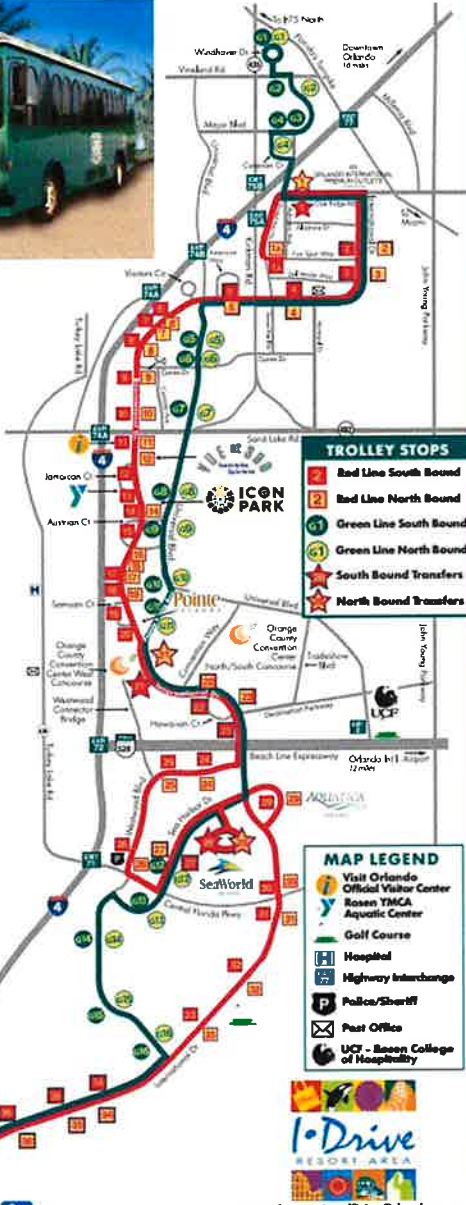
The I-Ride Trolley provides transit services to visitors and residents along International Drive and Universal Boulevard. Trolleys travel throughout the International Drive Resort Area serving over 100 convenient stops approximately every 20 minutes. In 2019 the trolley system had over 1.3 million trips. The trolley offers single-trip passes for \$2.00 (\$1 for children and \$0.25 for senior citizens) and daily passes for \$5.00. Visitors can also get extended passes lasting 14 days for \$18.00, or day-based passes.

A “park once” philosophy is planned for the future, whereas guests park once and utilize the entire corridor via the transit system. The Orange County Planning Division has unveiled plans for retrofitted street sections along Universal Boulevard and International Drive that would make the trolley system even more impactful for residents and visitors in the future. Dedicated transit lanes and other features have been discussed for the corridor alongside bicycle and pedestrian improvements to create a more urban and traversable corridor.



Daily Hours: 8:00 a.m. - 10:30 p.m.
Customer Service: 407-354-5656
www.IRideTrolley.com





- **I-RIDE Trolleys operate daily, 8:00am to 10:30 pm**
- **Single Cash Fare \$2.00 per ride**
- **Kids Cash Fare \$1.00 (ages 3-9 with paying adult)**
- **Senior Cash Fare \$0.25 per ride (65 and over)**
- **Exact Change is Required.**
- **All Trolleys are green in color on both Red and Green Lines.**
- **Red Line Route Trolleys generally arrive at each stop approx. every 15-20 minutes.**
- **Green Line Route Trolleys arrive approx. every 30 minutes.**
- **Wait times for Trolleys may vary with traffic and season.**
- **Transfers are FREE! Transfer between lines at the designated transfer stops, which are represented on the map as stars.**
- **Unlimited Ride Passes:**
 - **One Day Pass: \$ 5.00 per person**
 - **Three Day Pass: \$ 7.00 per person**
 - **Five Day Pass: \$ 9.00 per person**
 - **Seven Day Pass: \$12.00 per person**
 - **Fourteen Day Pass: \$18.00 per person**

Passes are not sold on Trolleys. Passes are consecutive day use.

Where's My Next Trolley

Get your predicted trolley arrival times by texting the Trolley Stop code to 41411. Stop Codes are located on the map at each Trolley Stop. Or via www.IRideTrolley.com

Ask your Trolley driver or your hotel guest service desk for the International Drive Resort Area **Official Visitors Guide & I-RIDE Trolley Map.**

 www.InternationalDriveOrlando.com
 10-23-19 I-Ride Trolley Fare, Route and hours subject to change.

I-DRIVE 2040 VISION PLAN (ORANGE COUNTY)

OVERVIEW

Recognizing the importance of creating a shared vision for the International Drive Area, Orange County Government created the **Steering Review Group (SRG) composed of I-Drive area stakeholders and landowners** who are committed to maintaining I-Drive as the world's premier global destination for tourism and family entertainment.

The SRG was tasked with crafting a comprehensive and cohesive plan for the Study Area along with implementation strategies and tools for consideration by the Board of County Commissioners (BCC). The I-Drive 2040 Vision was accepted by the BCC on November 3, 2015.

VISION PLAN

With hundreds of world-famous retailers and restaurants, thousands of stunning hotel rooms and contemporary resorts, dozens of family-oriented attractions and entertainment complexes, I-Drive accounts for a significant portion of Orange County's robust travel, tourism, and hospitality sectors. The proposed plan for the Convention Plaza District will create a vibrant, dynamic and safe pedestrian-centered environment with dedicated transit lanes and sidewalk enhancements for local residents, conventioners and visitors alike.

PROCESS

There are four pillars surrounding the completion of the visioning process including land development, regulatory components, parking and mobility. The 11-member SRG assisted in formulating the District's vision along with implementation alternatives.

The plan includes seven proposed sub-districts to meet the unique needs of each area including the famed Orange County Convention Center, retail and hospitality, entertainment, SeaWorld, Destination Parkway, Universal Boulevard and Rosen Shingle Creek.

HISTORY

The 11-member SRG began meeting on a monthly basis in January 2015 with the mission of formulating a shared vision for the Convention Plaza District. The SRG was tasked with creating a cohesive plan for the Study Area along with implementation strategies and tools for consideration by the BCC. Parallel initiatives that will support the SRG vision include Comprehensive Plan amendments and updated development standards.

CODE

The **I-Drive District Code** – adopted in February of 2017 – provides form-based standards to implement the I-Drive 2040 Strategic Vision. The code includes a Regulating Plan that establishes high density mixed-use development transects, as well as Special Zones for civic buildings and theme parks.

CONTACT INFORMATION

For more information on the I-Drive Vision Plan please contact the Orange County Planning Division at 407-836-5600, press 5 for the Planning Division or email Planning@ocfl.net.



BUSINESS PROFILE

To complete the I-Drive Resort Area economic impact study, the ECFRPC is using an industry cluster analysis methodology that identifies geographic concentrations of particular industries as well as explains the connections between these establishments. The I-Drive Resort area is anchored by three large theme parks (Universal Studios, Islands of Adventure and Sea World) and one of the nation's largest convention centers. These institutions receive millions of visitors each year that generate additional demand for other services including accommodations, dining, retail, transportation among others. This section of the report also provides an in-depth analysis of the economic and employment data for businesses and industries found in the I-Drive Resort area.

To complete this analysis, the ECFRPC used the Infogroup database to determine the number of businesses and employees located within the study boundaries. This information was complemented with other data sources such as the Orange County Property Appraiser's parcel data and internet searches. In additions to these sources, the ECFRPC used GIS software to depict industry concentration and employment across the study area. Finally, it provides general information about occupations and wages for the tourism industry.



As of January 2019

INDUSTRY STRUCTURE

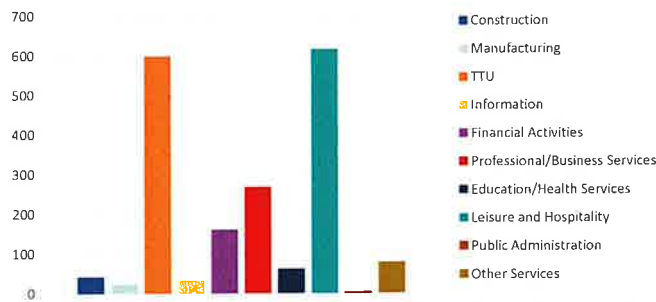
According to Infogroup, as of 2019, the resort area is home to more than 1,800 businesses that employ more than 75,000 people². These businesses can be classified into ten groupings called economic super sectors, which are defined below:

- **Construction:** This sector is comprised of establishments engaged in the construction of buildings and infrastructure projects as well as the subdivision of land.
- **Manufacturing:** Establishments within the manufacturing sector use mechanical, physical, and chemical processes to transform materials and substances into new products.
- **Trade, Transportation, and Utilities (TTU):** This is one of the most comprehensive categories. It includes businesses that sell merchandise at the wholesale level, those that sell directly to the public (retailers), industries that transport people and cargo, store goods, and provide utility services to the public.
- **Information:** This category includes all businesses that create and disseminate informational and cultural products through print, broadcast, online, or other forms of telecommunications.
- **Financial Activities:** Often referred to by the acronym FIRE, this super sector includes all establishments engaged in the facilitation of financial transactions or that are involved in the renting, leasing and management of real estate properties and other equipment.
- **Professional and Business Services:** This category is comprised of businesses that provide highly specialized technical services, strategic management and leadership, and routine support activities for the day-to-day operations of other organizations.
- **Education and Health Services:** The establishments within this category provide a variety of services to individuals including instruction and training in a wide variety of subjects, medical care, and social welfare services.
- **Leisure and Hospitality:** This is the largest category in the I-Drive Resort area. It is comprised of businesses that provide cultural, entertainment, and recreational services to the public as well as lodging and prepared meals and beverages.
- **Other Services:** Businesses within this category provide repair and maintenance, personal care, and social advocacy services. This super sector also includes home businesses.
- **Government:** This category includes all federal, state, regional and local government offices and facilities.

Examples of I-Drive Businesses by Super Sector

Most I-Drive establishments fall within two major supersectors: Leisure and Hospitality and TTU. Together these categories comprise 65% of all businesses within the International Drive Resort Area. Professional and Business Services and Financial Services comprise another 23% of all establishments within the resort area.

Number of Establishments by Industry Super Sector

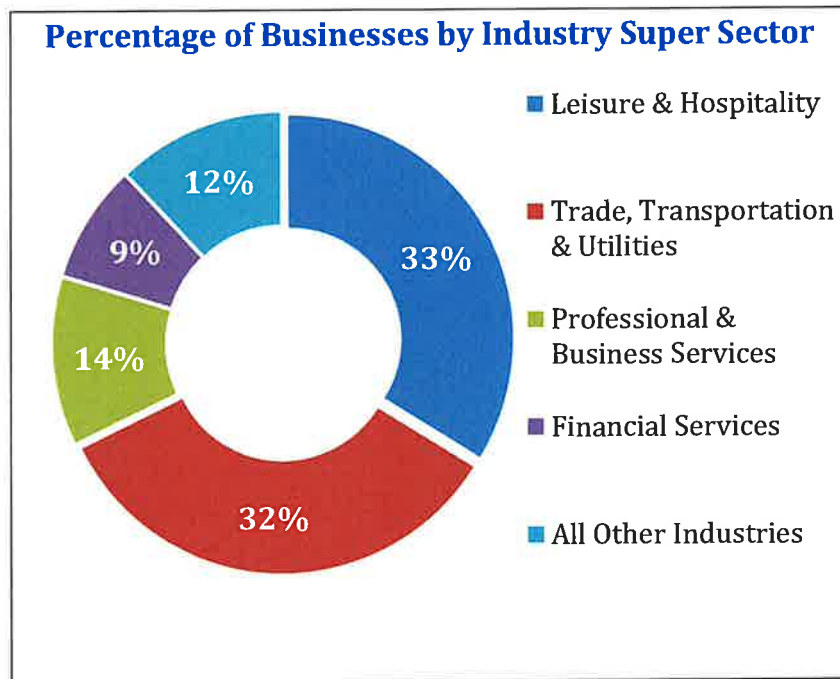


Examples of Businesses by Super Sector		
Super Sector	Total Establishments	Examples
20 - Construction	41	Building Contractors
30 - Manufacturing	23	Retail Bakeries, Tool and Die
40 - TTU	598	Charter Bus Companies, Clothing Stores
50 - Information	32	Newspapers, TV Stations
55 - Financial Activities	160	Insurance, Banks, Realtor Offices
60 - Professional/Business Services	267	Accountants, Engineers, Lawyers
65 - Education/Health Services	61	Higher Education, Doctor Offices
70 - Leisure and Hospitality	616	Hotels, Theme Parks, Restaurants
80 - Other Services	77	Auto Mechanics, Beauty Salon, Churches
92 - Public Administration	4	Government Offices

Source: InfoGroup, ECFRPC research

Analysis

The high concentration of businesses in the Leisure and Hospitality super sector is not surprising, as this category includes all core tourism businesses: Theme Parks and Commercial Amusements (56), Hotels and Other Accommodation Places (168) and Restaurants (343). The chart on page 23 shows the distribution of these businesses within the I-Drive Resort Area.



Source(s): InfoGroup; ECFRPC Research

As of 2019

PROFESSIONAL BUSINESS SERVICES AND FINANCIAL SECTORS

The Professional and Business Services super sector includes professional services offices, other business support services, and management companies.

According to Infogroup, as of 2019, there are more than 200 of these companies within the I-Drive Resort area². Based on ECFRPC research, more than 50% of these companies supply services to the Leisure and Hospitality sector².

The most important category is the Travel Arrangement and Reservation Services industry, which includes travel agencies, tour operators, convention and visitors' bureaus and similar organizations. It represents 30% of all the businesses within the Professional and Business Services super sector². While there are several engineering, design and consulting firms that serve the hospitality industry, most of the other types of businesses located within the resort area are not tied to the tourism sector.

One of the most important establishment types within this super sector is corporate, subsidiary and regional management offices. These establishments are responsible for administering, overseeing, and managing large companies. There are three of these establishments located within the I-Drive Resort area: Marriott Vacations Worldwide, Wyndham Vacation Ownership, and SeaWorld Parks and Entertainment.



Marriott Vacations was formerly the timeshare division of Marriott International, but was spun off into its own company in 2011. It runs more than 60 resorts worldwide⁹. Wyndham Vacation Ownership, part of Wyndham Worldwide, manages more than 190 vacation ownership resorts across the world⁹.

SeaWorld Entertainment relocated from St. Louis in 2008, when it was still part of Busch Entertainment⁹. From its Orlando office, the company manages 10 theme parks across the United States including five in the Central Florida area.

Finally, there are more than 160 businesses within the Financial Services super sector located in I-Drive. 37% of these firms provide a variety of services to the hospitality industry and visitors including currency exchange, hotel and commercial property management and leasing, and passenger car rental. This last category is the most prevalent in I-Drive as several passenger car rental companies have operations inside the resort area's hotels.

ORANGE COUNTY PUBLIC SERVICES

Orange County and the City of Orlando also benefit from the investments made to house I-Drive visitors in the form of public service fees. Based on data provided by the Orange County Development Services Office, businesses within the I-Drive Resort Area paid \$36.2 million in public service fees. This information was not available for the City of Orlando, which encompasses the northern part of the District.



Orange County Fire Rescue



Orange County Sheriff

The District operates its own Public Safety Program in cooperation with the Orange County Sheriff's Office and the Orlando Police Department to provide enhanced safety throughout the entire I-Drive District, seven days per week. Through the Sheriff's Office, the District funds the following assets:

- Assigned ten (10) additional deputies known as the Tourist Oriented Policing Squads (TOPS)
- Assigned five (5) District Engagement Officers (DEO's)

The District partners with the Orlando Police Department to hire off duty officers to patrol the City portion of the I-Drive District. The funding for all aforementioned assets is 100% contributed through the I-Drive District via a special assessment program.



TOPS



DEO's

EMPLOYMENT BY SECTOR

Another way of analyzing industry structure is by studying the number of jobs by industry also referred to as employment share. According to Infogroup and ECFRPC research, as of 2019, more than 75,000 people work within the International Drive Resort area². Not surprisingly, the vast majority of these workers are employed by the Leisure and Hospitality Sector, which includes hotels and theme parks. This super sector employs a little more than 61,000 people². The second largest employer is the TTU super sector, which employs close to 8,500 people².

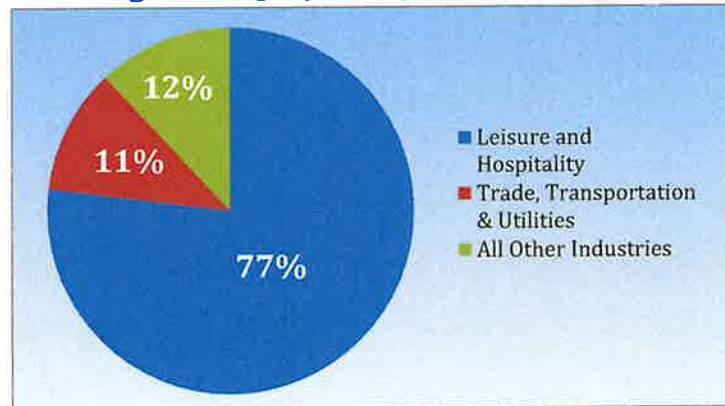
The table lists the 10 largest employers in the International Drive area. The largest employer in the I-Drive Resort area is Universal Studios, which is comprised of two theme parks that employ about 26,000 people². SeaWorld Orlando has three parks in the southern part of the resort area that employs approximately 6,032 people⁶.

Remaining firms are hotels located across the resort area. Westgate Resorts and Rosen Hotels and Resorts have numerous properties across Orlando. Wyndham Vacation Ownership's headquarters employ 3,600 people⁶. Finally, the OCCC rounds the top ten largest employers with almost 1,000 employees⁶.

Similar to what it did with businesses, the ECFRPC also used a geographic approach to analyze employment concentrations within the I-Drive Resort area. Based on GIS analysis, more than half of all I-Drive employment is concentrated north of Sand Lake Road. This portion of the I-Drive includes the Universal Resorts tourist area. It is also home to most of the establishments.

The next largest concentration of employment is south of the S.R 528. This area has five locations with 1,000 employees or more². Finally, the area between Sand Lake Road and the S.R 528 is home to more than 60,000 employees².

Percentage of Employees by Industry Super Sector



Ten Largest Employers within the Study Area (Estimates)

Company as of 2019	Estimated Number of Employees
Universal Orlando Resort	26,000
SeaWorld/Aquatica/Discovery Cove	6,032
Westgate Resorts*	5,151
Rosen Hotel & Resorts*	4,534
Loews Hotels*	2,756
Wyndham Vacation Ownership	3,600
Marriott Vacations	5,350
Hyatt Regency Orlando	1,300
Orange County Convention Center	900

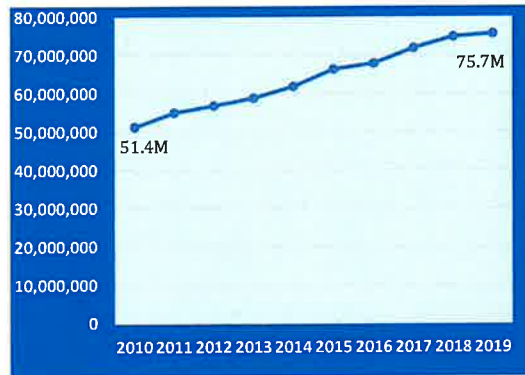
*All Properties in Hotel Group

Sources: Direct Company Contact, Orlando Sentinel, Orlando Business Journal

TOURISM ACTIVITY AND FISCAL IMPACTS

The Tourism Activity and Fiscal Impact section of the report provides estimates of the number and type of visitors coming to the I-Drive Resort Area, the amount that they spend in our region, and how much revenue this spending generates for Orange County. To complete this analysis, the ECFRPC used information from D.K Shifflet & Associates provided through the International Drive Improvement District Office. All visitation estimates are based on figures from 2019, which were the most readily available at the inception of this project.

Travel to Orlando 2010-2019



The Tourism activity report provides a general profile of I-Drive visitors. It also discusses visitor numbers according to their length of stay, purpose of the trip and origin market. These visitor characteristics are very important as they help to calculate the amount of money spent by these visitors. The ECFRPC used this information to develop different spending profiles for each of these visitor subgroups.

Finally, the report discusses the fiscal impact that I-Drive visitors have in Orange County. Visitors generate a large amount of tax revenues for local governments without consuming many services. These include estimates of the amount of TDT and sales taxes paid by these visitors. Moreover, the area's high number of visitors also has an indirect impact on the amount of fees collected by local governments such as building permits.

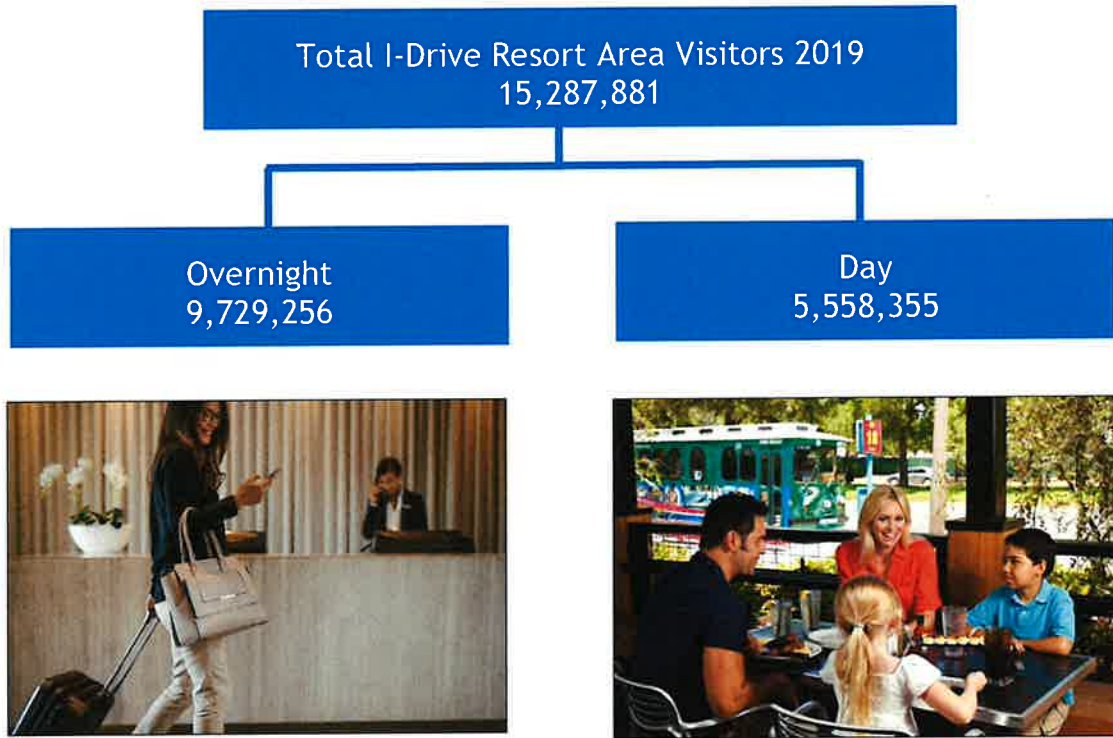
More detailed information about the assumptions and formulas used by the ECFRPC to calculate all these numbers is provided on the Technical Appendix at the end of this report.



I-DRIVE VISITOR PROFILE 2019

According ECFRPC calculations, the I-Drive Resort Area received almost 15.3 million visitors in 2019.

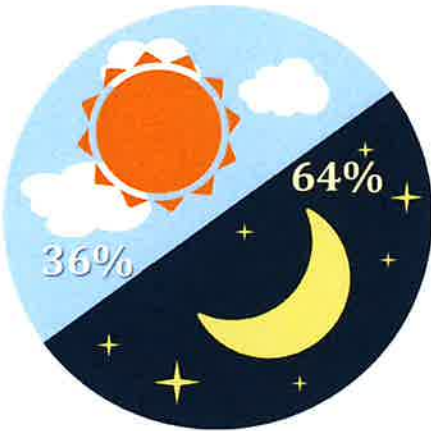
More details about the characteristics of these visitors are provided in the next pages.



According to ECFRPC calculations, the I-Drive Resort area received more than 9.7 million overnight visitors in 2019. Most of these people come from outside the state of Florida and international destinations. This number includes visitors coming to I-Drive for vacation and business purposes. Overnight visitors represented 64% of all visitors coming to the I-Drive Resort Area. Overnight visitors, which include all people that stayed at least one night, tend to spend more money than Day Visitors. Therefore, they have a higher economic impact. Most visitors arrive by plane or automobile.

The average daily rate for I-Drive Resort accommodations in 2019 was \$138.29. The average occupancy for I-Drive Resort accommodations in 2019 was 78%.

Percentage of Visitors by Length of Stay



Total Number of I-Drive Resort Area Visitors by Length of Stay		
Visitor Type	Number of Visitors	Percent Total
Overnight	9,729,526	64
Day	5,558,355	36
Total	15,287,881	100

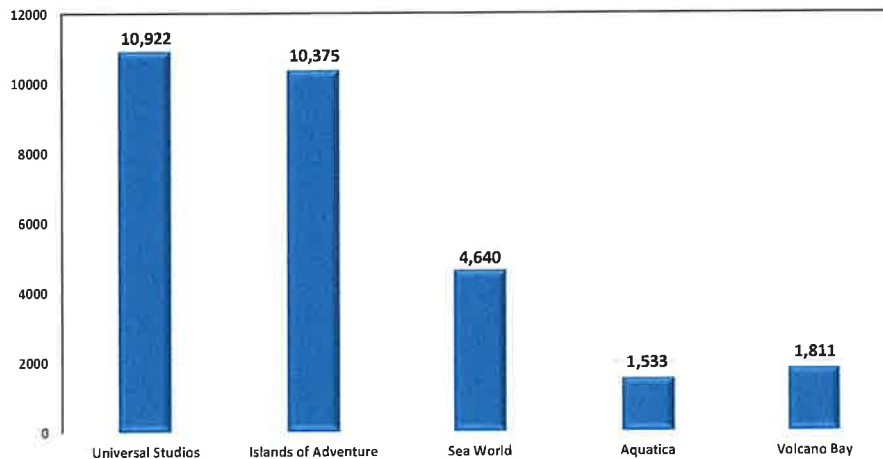
THEME PARK ATTENDANCE 2019

There are six large theme parks located within the I-Drive Resort area: Universal Orlando, Islands of Adventure, Volcano Bay, Sea World, Aquatica and Discovery Cove. While the theme park companies do not release their attendance numbers to the public, there are several businesses that estimate the total number of visitors for the largest parks. According to these reports, the Orlando area theme parks received almost 92 million visits in 2019. Based on these numbers, the I-Drive Resort area theme parks represented about 31.7% of all the theme park visits in the Metro Orlando area.

These theme park attendance figures are 18% higher than the total visitor numbers (75 million). There could be multiple explanations for this discrepancy. While one may not be familiar with the methodology used to calculate these attraction numbers, it can be assumed that they could reflect multiple visits to the theme parks by the same person. Most families that travel to Orlando try to visit as many parks as possible during their stay. The large parks are also selling multi-day passes, which allow visitors to experience several theme parks during their stay. Finally, local visitors (those that live in Orange, Lake, and Seminole counties) could account for a large number of these visits. Florida residents can buy annual passes to the largest theme parks that allow them to visit them multiple times in the year and can get discounts for seasonal events. Local organizations like churches and schools also like to take advantage of our proximity to the theme parks.



I-Drive Resort Area Theme Park Attendance 2019 (in thousands)



Source: Amusement from TEA/AECOM Annual Theme Index, all numbers are for calendar year
There is no attendance number available for Discovery Cove

GROUP MEETINGS 2019

The OCCC is the epicenter of the Orlando's convention/group meeting market, with over 2 million square feet of meeting space. Each year the convention center hosts some of the largest conventions and trade shows in the group meeting industry. In the 2018-2019 fiscal year, these events were AAU National Volleyball Nationals, Premiere Orlando 2019, HIMSS, PGA Merchandise Show 2019, and MegaCon Orlando. The 170 events hosted at the OCCC were attended by more than 1.4 million people. These included 119 private convention/tradeshows, 29 meetings and banquets, and 22 consumer and public ticketed events.

Besides the OCCC, there are numerous hotels within the I-Drive Resort area that also cater to the group meeting market. These properties provide the resort area with another 2.5 million square feet of meeting space. Therefore, there is more than 4.5 million square feet of meeting space within the I-Drive Resort Area.

OCCC Top Conventions and Trade Shows FY 2019	
Event	Attendance
AAU National Volleyball Nationals	110,000
Premiere Orlando 2019	57,000
HIMSS	46,480
PGA Merchandise Show 2019	43,000
MegaCon Orlando	68,000

Source: OCCC Annual Report 2018-2019

I-Drive Resort Hotels with Largest Meeting Space as of 2019	
Hotel	Meeting Space (sq ft)
Rosen Shingle Creek	524,000
Orlando World Center Marriott	338,306
Hyatt Regency Orlando	315,000
Hilton Orlando	236,000
Renaissance at SeaWorld	185,000
Caribe Royale Orlando	150,000
Rosen Centre Hotel	150,000
Loews Royal Pacific Resort	132,000
Double Tree by Hilton Orlando at SeaWorld	100,000
Double Tree by Hilton at the Entrance to Universal Orlando	63,000
Rosen Plaza Hotel	60,000
Wyndham Orlando Resort I-Drive	60,000
Loews Portofino Bay Hotel at Universal	57,040
Avanti Palms Resort & Conference Center	20,200
Westgate Lakes Resort & Spa	18,000
Holiday Inn & Suites at Universal	13,000

Source: International Drive Improvement District

PROPERTY TAX REVENUE

The I-Drive Resort area had a total assessed value of nearly \$14.7 billion in 2019. When acreage is taken into account, the parcels with the highest assessed value are located north of S.R. 528. I-Drive property owners paid more than \$228 million in property taxes in 2019. Commercial properties pay more than 86% all the taxes collected within the I-Drive Resort Area with the accommodation and amusement sectors accounting for most of this money.



International Drive

Total Assessed Value
\$14.7 Billion

Total Property Taxes
\$228 Million

OTHER REVENUES 2019

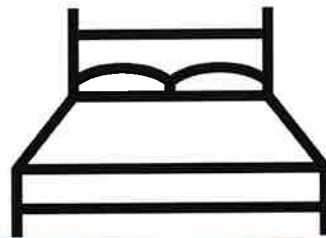
Visitor purchases also have a positive impact on Orange County's coffers. The most evident is the amount of money that these visitors pay for all items they purchase during their visit. The current sales tax rate for Orange County is 6.5%. Based on visitor expenditures of \$8.2 billion in 2019, I-Drive visitors paid approximately \$530.1 million in sales taxes that year.

Visitors staying within the resort area's accommodations also pay another 6% room charge per night, which is known as the Tourism Development Tax (TDT). Based on the total occupied hotel nights (15.2 million) and the average daily rate (\$138.29), the I-Drive Resort area was responsible for a total \$126.4 million in hotel tax collections. In 2019, this represents 44% of all TDT collections.

Tax Revenues Paid by I-Drive Visitors



\$530.1 million
Sales Tax Collections



\$126.4 million
TDT Collections



Rosen Shingle Creek

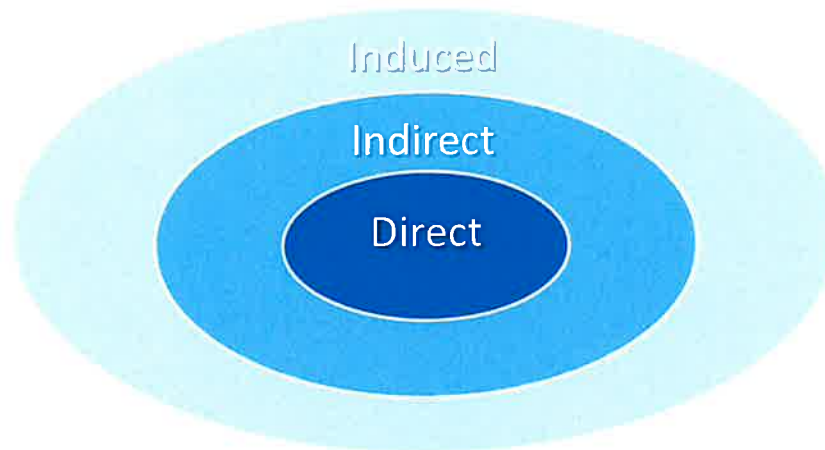
ECONOMIC IMPACT ANALYSIS 2019

One of the most important goals of this project is to calculate the total economic impact of the I-Drive Resort area to Orange County and the Orlando Metropolitan Statistical Area (Metro Orlando), which also includes Lake, Osceola, and Seminole counties. This total economic impact includes the economic benefits created by I-Drive businesses, their suppliers and employees. For example, a new business opening in I-Drive has a direct impact on the economy when it hires new employees or invests in the building where they are located. This business will also generate an additional demand for goods and services that are usually met by local suppliers. This is considered an indirect economic impact. Finally, the new employees will spend their salary in household needs such as rent, food, and entertainment among others. This is considered the local consumption or induced economic effect. These indirect and induced impacts are often referred to as the economic ripple effect.

For this part of the project, the ECFRPC prepared two different economic impact simulations for the I-Drive Resort area. The first analysis estimates the value that the I-Drive Resort area has for Orange County and the Metro Orlando region based on visitor expenditures. The second simulation estimates the economic impact of 24 new construction projects scheduled to be built between 2019 and 2024. The next pages discuss the data methodology, inputs and assumptions used to develop these simulations and their results.

To complete these analyses the ECFRPC used the PI+ model developed by Regional Economic Models, Inc. (REMI). Since 1980, the REMI model has been successfully used by decision makers across the nation to calculate the economic effects of policies and investments. The REMI model builds on the strengths of four major modeling approaches: Input-Output, General Equilibrium, Econometric, and Economic Geography. The ECFRPC has been using the REMI model since 2003. More detailed information about the model can be found at www.remi.com.

The Economic Ripple Effect



Direct Effect: Expenditures made by an organization on labor and products

Indirect Effect: Purchase of good and services from suppliers

Induced Effect: Employee expenditures from wages paid by suppliers

ECONOMIC IMPACT OF FUTURE I-DRIVE PROJECTS

Methodology, Inputs, and Assumptions

There are currently 53 I-Drive construction projects being tracked from 2019 over the next five years. For this simulation, the ECFRPC calculated the economic impact that 24 of these construction projects would have on Orange County and Metro Orlando's economies. The resort area has seen a lot of construction during the past couple of years. This momentum is expected to continue in the near future with the opening of new hotels and attractions. According to Construction Journal.com and other sources, these projects represent over \$1.9 billion in new construction investment for the I-Drive Resort area.

For this model, the ECFRPC used the REMI PI+ model's Business Development Scenario, which includes all the variables needed to calculate the economic impact of construction projects. The investment money was entered into the model according to the year the project was completed or is expected to be built. However, the ECFRPC aggregated the results for the five-year period to show the total economic impact of these projects.

Summary of Economic Simulation Results

The ECFRPC found that these 24 projects will have a positive impact on the region's economy. They will create more than 5,500 new jobs, close to \$604.2 million in sales, and bring almost \$283.2 million in personal income to the region's residents. Most of the benefit will be felt by Orange County residents. The County will add more than 3,800 new jobs, more than \$525 million in sales, and bring more than \$187 million in personal income to residents. Moreover, these projects will add close to \$308.1 million to the County's Gross Regional Product and Metro Orlando's GRP.

The next section of the report discusses these economic indicators in more detail.

I-Drive Projects Construction Investments per Year		
Year	Total Projects	Estimated Investments
2019	5	\$98,545,595
2020	8	\$276,000,000
2021	3	374,200,000
2022	4	49,635,000
2023	1	\$605,000,000
2024	3	564,560,000
Total 6-Year Period	24	\$1,967,940,595

I-Drive Projects Construction Investments per Year		
Economic Indicator	Orange County	Metro Orlando
Total Employment	3,854	4,482
Output	\$525,166,667	\$604,166,667
Personal Income	\$187,000,000	\$283,166,667
Gross Regional Product	\$308,166,667	\$354,666,667

Source: REMI PI+ East Central Florida Region v 1.7

Sources: International Drive Improvement District Office estimates based on information from Construction Journal and the Orlando Business Journal

ECONOMIC IMPACT OF FUTURE I-DRIVE PROJECTS

Employment

Overall, these construction projects would result in the creation of more than 4,500 jobs within Metro Orlando. This number includes 2,583 direct jobs, 1,962 indirect jobs, and induced jobs. All the direct jobs are located in Orange County. The County would also benefit from 85% of the indirect and induced jobs.

Almost 60% of the jobs created will be in the construction sector. However, the construction of these projects will translate into additional jobs in a variety of industries.

Output

According to REMI, the investment made for these projects would generate about \$604.2 million in sales in Metro Orlando and \$525.5 million in Orange County. 56% of the output gains spurred by these projects will benefit the Construction sector. Other industry sectors that will also see increases in sales include Real Estate, Retail Trade, and Professional, Scientific and Technical Services.

Personal Income

These I-Drive Projects will generate \$283.2 million of personal income to Metro Orlando residents, most of which will stay in Orange County (66%). Most of this income will be the result of wages and salaries paid to employees for a variety of industries. The most benefited industries will be Professional, Scientific, and Technical Services, Retail Trade, and Construction.

Gross Regional Product

These I-Drive projects would add \$354.7 million and about \$308.2 million to Metro Orlando and Orange County's Gross Regional Products respectively.

Average Annual Employment by Industry Sector		
Industry Category	Orange County	Metro Orlando
Construction	2,249	2,538
Retail Trade	214	289
State and Local Government	144	168
Professional, Scientific and Technical Services	150	181
Other Industries	1,097	1,306

This Economic Impact Analysis Report has confirmed that the I-Drive Resort area is an important economic activity center for Orange County, the City of Orlando, and the Metro Orlando area. The resort area is home to more than 1,800 businesses including six of the world's most visited theme parks and three national/international company headquarters. In 2019, the study area had a total assessed value of more than **\$14.7 billion** and generated more than **\$228 million** in property taxes. This economic activity is the result of the **15.3 million** visitors that came to I-Drive to visit one of its many attractions or attend a business convention. These visitors are also responsible for generating approximately **\$530.1 million** in sales tax and **\$126.4 million** in TDT collections.

The economic impact of the resort area extends beyond its boundaries. This positive economic impact will continue through the next six years. Private companies are expected to invest about \$1.97 billion to build new hotels, apartment complexes, retail projects and new attractions. The economic impact of these projects will reverberate across Orange County and the Metro Orlando region. These projects are estimated to generate more than 4,400 additional jobs, \$604.2 million in sales, \$283.2 million in personal income, and add close to \$354.7 million to Metro Orlando's gross regional product.

Based on this analysis results, the I-Drive Resort area is an important contributor to the success of the Metro Orlando region. Careful planning and investment will keep the area as one of the nation's most competitive tourism activity centers and help it continue to be an important source of jobs and tax revenue for Orange County and the region, for years to come.

Upcoming I-Drive Resort Area Development



ABOUT THE EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL (ECFRPC)

The ECFRPC was established in 1962 as an area-wide association of local governments. It is one of Florida's ten regional planning councils and serves governments and organizations located within Brevard, Lake, Orange, Osceola, Seminole, Sumter and Volusia counties. Council staff provides technical assistance in the areas of land use and environmental planning, emergency preparedness, geographic information systems (GIS), health, housing, urban design, transportation and economic and fiscal analysis among others. Because of the ECFRPC, member governments have received more than \$10.6 million in federal grants since 2011. This represents a return on investment of \$2.53 for every dollar paid in assessments.

The ECFRPC is currently designated by the U.S Economic Development Administration as the region's Economic Development District (EDD). The EDD program provides economic technical assistance to public and private organizations within the seven-county region. This includes performing economic impact analyses using the REMI model, developing economic strategic plans, and assisting with grant applications.

For more information about ECFRPC programs, visit the organization's website at www.ecfrpc.org.



East Central Florida Regional Planning Council

455 North Garland Avenue, Suite 414

Orlando, FL 32801

Phone: 407-245-0300

This technical appendix provides the formulas and assumptions used to develop the visitation numbers for the I-Drive Resort Area and the spending profiles.

Overnight Visitors

The number of overnight visitors was calculated using the following formula: Total number of occupied hotel/time share nights x annual room occupancy x average party size / length of stay.

Overnight visitors were distributed among five different subcategories (Leisure Florida, Leisure Non-Florida, Business Florida, Business Non-Florida and International) to account for different spending patterns. For the purpose of this analysis, all International travelers were considered overnight visitors. The business visitation numbers were adjusted based on the number of convention delegates that visited the Orange County Convention Center in 2019.

Occupied Hotel/Time Share Nights

According to the I-Drive Improvement District, there are 48,223 hotel rooms located within resort area's boundaries. The ECFRPC multiplied this number by 365 to get the total number of occupied room nights.

I-Drive Average Party Size

The ECFRPC used a weighted average rather than a regular average to calculate the average party size of I-Drive visitors. In 2019, the average party size of Orange County visitors ranged from 1.3 people for Business Travelers to 2.4 people for Domestic Leisure Travelers. The influence of each visitor category in determining this average is based on the total number of visitors received in 2019.

I-Drive Average Length of Stay

The ECFRPC used a weighted average rather than a regular average to calculate the average length of stay for I-Drive visitors. In 2019, the average length of stay for Orange County visitors ranged from 2.9 nights for Leisure Florida Visitors to 9.1 nights for International Visitors. The influence of each visitor category in determining this average is based on the total number of visitors.

Tourist Development Tax Calculations

It is important to note that the TDT numbers provided by the Orange County Comptroller are based on Orange County's fiscal year (Oct-Sept) while the hotel occupancy numbers reflect calendar year (Jan-Dec). For the percentage calculation, the ECFRPC used the Actual Number figure, which was published in the Annual Revenue Monitoring Report published by OCCC on September 30, 2018.

REMI Model (Regional Economic Models, Inc.)

Visitor spending categories were put into the REMI model as industry sales according to the closest NAICS category. For car transportation, the ECFRPC used the Fuel consumer spending category.

The ECFRPC made small adjustments to the model to prevent over counting. The retail numbers were adjusted down 25% to account for opportunity costs. The ECFRPC also applied a local spending offset for all the spending generated by Florida Visitors. The reasoning behind using this variable is that the money that state residents pay for I-Drive vacations could be used to pay for other recreational expenses at their local communities. For this variable, the ECFRPC used the spreader option in REMI, which distributes the money across the different Florida regions. The ECFRPC decided against making any adjustments to the spreader.

Infogroup

Analytics and marketing services provider that delivers best in class data-driven customer-centric technology solutions. Their data and software-as-a-service (DaaS & SaaS) offerings help clients of all sizes, from small companies to FORTUNE 100™ enterprises, increase their sales and customer loyalty. Infogroup provides both digital and traditional marketing channel expertise that is enhanced by access to our proprietary data on 245MM individuals and 25MM businesses, which is distributed real-time to their clients.

SOURCES UTILIZED:

- I-Drive Business Improvement District
- Visit Florida
- Visit Orlando
- D.K Shifflet & Associates
- The Info Group
- Orange County Property Appraisers Office
- Orange County Tax Collector's Office
- REMI (Regional Economic Models Inc.)

EXHIBIT 21

JOHN SPROULS

Executive Vice President and Chief Administrative Officer
Universal Parks and Resorts
Chief Executive Officer
Universal Orlando Resort

Mr. Sprouls is Executive Vice President and Chief Administrative Officer for Universal Parks & Resorts, the division of NBC Universal responsible for all worldwide theme park resort and development activities. He oversees Human Resources, Legal, Business Affairs, Global Merchandise, Risk Management, EHS, Information Technology, Real Estate, Corporate Communications, External Affairs and Community Relations for the Group.

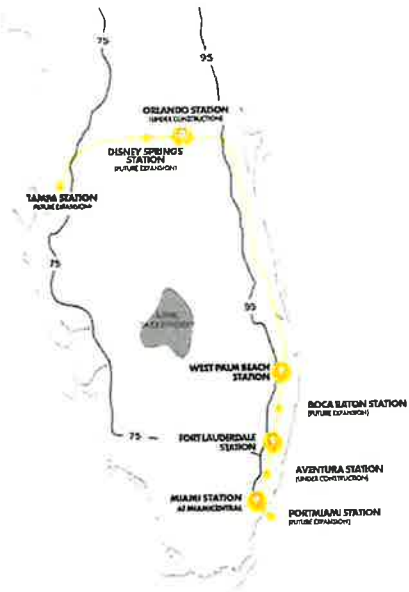
Mr. Sprouls also serves as Chief Executive Officer of Universal Orlando Resort and previously served as President/CEO of Universal Holdings I and II, the entities that owned and controlled Universal Orlando from 2006 to 2011.

Mr. Sprouls serves on the U.S. Commerce Department's Tourism and Travel Advisory Board and is its former chairman. He is a member of the U.S. Travel Association CEO Roundtable, and a former member of USTA's Board of Directors. Mr. Sprouls is President of the Universal Orlando Foundation and Chairman Emeritus of the Board of Directors for City Year Orlando. He has also served on the Board of Trustees for the University of Central Florida, the University of Central Florida Foundation, the Central Florida Coalition for the Homeless and the Orlando Repertory Theatre.

EXHIBIT 22



Brightline Florida



Brightline is actively constructing a new rail line to bring passengers from our **Miami**, **Fort Lauderdale** and **West Palm Beach** stops to **Orlando**. Our team is hard at work to continue our excited expansion plans. Service connecting South Florida to Central Florida is expected to open in 2022.

We are also pleased to announce another three additional stops along our South Florida Express line including stations in Aventura, Boca Raton and PortMiami.

KEY FACTS

- ✓ 100% Carbon Neutral footprint (proud partners with FPL)
- ✓ Fast Company's World's Most Innovative Companies of 2020
- ✓ 2 Million passengers since inception
- ✓ Metrorail, Metromover & Tri-rail access

Learn more about our [station experience](#) and [onboard experience](#).

More about this project:

More than train service, Brightline is part of a real estate vision to reenergize static neighborhoods with transportation hubs including modern stations, 40,000 sq ft food hall and 27+ acres of office, retail, residential and commercial space. Brightline's new South Terminal at the Orlando International Airport (MCO) is a part of the company's Phase 2 expansion into Central Florida including a Tampa extension. The massive infrastructure project is making progress and encompasses four zones including the area of the Orlando International Airport and the Brightline Vehicle Maintenance Facility. This monumental endeavor, which will use 225 million pounds of American steel, will include the laying of 490,000 ties and transporting 2.35 million tons of granite and limestone by 20,000 railcars. Additionally, approximately 2 million spikes and bolts will be hammered and put in place over the next 36 months.

"The City of Orlando is excited to welcome Brightline to Central Florida. This new higher speed rail service will serve as an important connector between south and central Florida as we continue to expand our transit options and work to ensure reliable transportation is available for everyone Who wants to live, work or visit Orlando."

- Buddy Dyer, Orlando Mayor

Economic & Environmental Impact



**\$2.4 Billion in
Labor Income**



**\$6.4 Billion in
Economic
Impact**



**\$3.5 Billion
Added to
Florida's GDP**



**2,000+ Jobs
Created Post
Rail-Line
Construction**



**10,000+ Jobs
Created
Through Rail-
Line
Construction**



**\$653 Million in
Federal, State
and Local Tax
Revenue**

Be the first to know

the latest Brightline news.

Email Address

By signing up, you agree to Brightline's [privacy policy](#).

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EXHIBIT 23

Elizabeth Castro Gulacsy has served as Chief Financial Officer and Treasurer since May 2021. Prior to that she served as Interim Chief Financial Officer and Treasurer since April 2020 and from September 2019 to November 2019. She also served as Chief Accounting Officer of the Company from August 2017 to April 2021. Prior to that, Ms. Gulacsy served as Corporate Vice President, Financial Reporting from 2016 to 2017 and Director, Financial Reporting from 2013 to 2016. Prior to joining the Company, from 2011 to 2013, Ms. Gulacsy served as Chief Accounting Officer and Corporate Controller for Cross Country Healthcare, Inc., from 2006 to 2011 she served as their Director of Corporate Accounting and from 2002 to 2006 as their Assistant Controller. From 1997-2002, Ms. Gulacsy was an auditor for Ernst & Young LLP where she most recently served as Audit Manager. Ms. Gulacsy is a member of the Audit Committee for IAAPA, the global association for the theme park industry. Ms. Gulacsy previously served as a board member and treasurer for the SeaWorld and Busch Gardens Conservation Fund from 2018 to 2020. Ms. Gulacsy holds a bachelor's degree and master's degree in accounting from the University of Florida and is a Certified Public Accountant.

Ms. Gulacsy lives in Orlando with her husband and two children. She was born and raised in Florida and has lived in Orange county since 2013.

EXHIBIT 24

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BOARD OF COUNTY COMMISSIONERS MEETINGS
BRIGHTLINE
WORK SESSION AGENDA
A PLANNING, ENVIRONMENTAL AND DEVELOPMENT
SERVICES DEPARTMENT

DATE: June 22, 2021

TRANSCRIBED BY: Denise Smith Byer, RPR, FPR
Notary Public, State of
Florida

Pages 1 - 85

1 MR. CEGELIS: Correct. More than the
2 estimate that we had made for the 417
3 alignment. Our own estimate is a billion.

4 MAYOR DEMINGS: Right.

5 MR. CEGELIS: The VHB estimate was
6 between 28 and 250.

7 MAYOR DEMINGS: However, at the
8 Expressway Authority board meeting, there
9 were professional engineers, representatives
10 of VHB that had a caveat that they put in
11 there that that was just an estimate, there
12 was a lot of additional work that needed to
13 be done to really validate that estimate.
14 There were certain assumptions that were
15 made.

16 And so given that, that suggests that the
17 costs for the alternative route could be
18 anywhere from 28 million to \$1 billion.
19 That's a wide disparity in the potential
20 costs. And we don't know what that is.

21 But today, based on what you just said,
22 that this project is viable because
23 Brightline would be making the private
24 investment or getting investors involved and
25 it's not contingent upon the receipt of

1 federal dollars or any other public
2 dollars --

3 MR. CEGELIS: That is correct.

4 MAYOR DEMINGS: -- is that correct?

5 And to my knowledge, in terms of whatever
6 that -- if it truly is additional dollars, I
7 have not seen any proposal from other --
8 others who would pay the delta, the
9 difference there. Have you?

10 MR. CEGELIS: No. We have not seen.

11 It is important to note that this big
12 cost variance causes a lot of concern amongst
13 the community. We understand that. We have
14 completed 15 percent design, so our own cost
15 estimate for our preferred alternative is
16 based on that 15 percent design.

17 And we also -- the way that we made our
18 comparison is we utilized the Florida high
19 speed rail design, which was completed to a
20 level of 30 percent back in 2010. So that is
21 a studied route where the impacts have been
22 understood, the utility interfaces, the
23 roadway interfaces, the grades, the impacts
24 to local businesses, have all been understood
25 in that Florida high speed rail alignment.

EXHIBIT 25

Congress of the United States
Washington, DC 20515

May 6, 2021

The Honorable Peter DeFazio, Chair
The Honorable Sam Graves, Ranking Member
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman DeFazio and Ranking Member Graves,

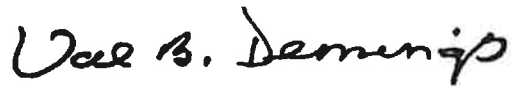
We are writing to express our support for the Passenger Rail Improvement, Modernization, and Expansion (PRIME) grant program that was included in last year's House-passed H.R. 2 Moving Forward Act. As the Committee develops transportation legislation in the coming weeks, we urge you to make privately funded higher-speed intercity passenger rail carriers eligible for PRIME grants if they apply in partnership with one of the other eligible governmental entities and meet the program requirements.

Florida has the first operational higher-speed rail system in the United States. Brightline built the first phase of its rail network between Miami and West Palm Beach. It is now constructing the second phase to Orlando International Airport and is over 50% complete. Brightline is also planning a third extension to Tampa. Not only does high speed rail provide fast, safe, and reliable transportation, but it reduces greenhouse gas emissions by providing a viable alternative to travel by passenger vehicle. We see great benefits from high speed rail enabling tourists to travel from beaches to theme parks and for business travelers to travel around the state by train. Our communities have also benefited from economic development around train stations.

Our country has lagged behind other countries in developing high-speed passenger rail networks. The fact that some passenger rail projects have private investment should not make them any less eligible for PRIME program grants than projects undertaken by government entities. Brightline is collaborating with state and local governments to develop stations and connect directly to commuter rail systems and airports. Section 9102 in the Moving Forward Act specifies documentation applicants must provide and technical and financial requirements they must meet to be eligible for a PRIME grant. It also specifies the types of projects the Secretary of Transportation should prioritize. With these requirements in place, we believe that private applicants in partnership with otherwise eligible public entities should be eligible for PRIME grants.

We appreciate your hard work and look forward to supporting your efforts to advance transformative infrastructure legislation. Thank you for your consideration.

Sincerely,



Val B. Demings
Member of Congress



Stephanie Murphy
Member of Congress



Darren Soto
Member of Congress



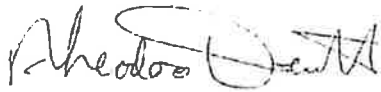
Maria Salazar
Member of Congress



Carlos Gimenez
Member of Congress

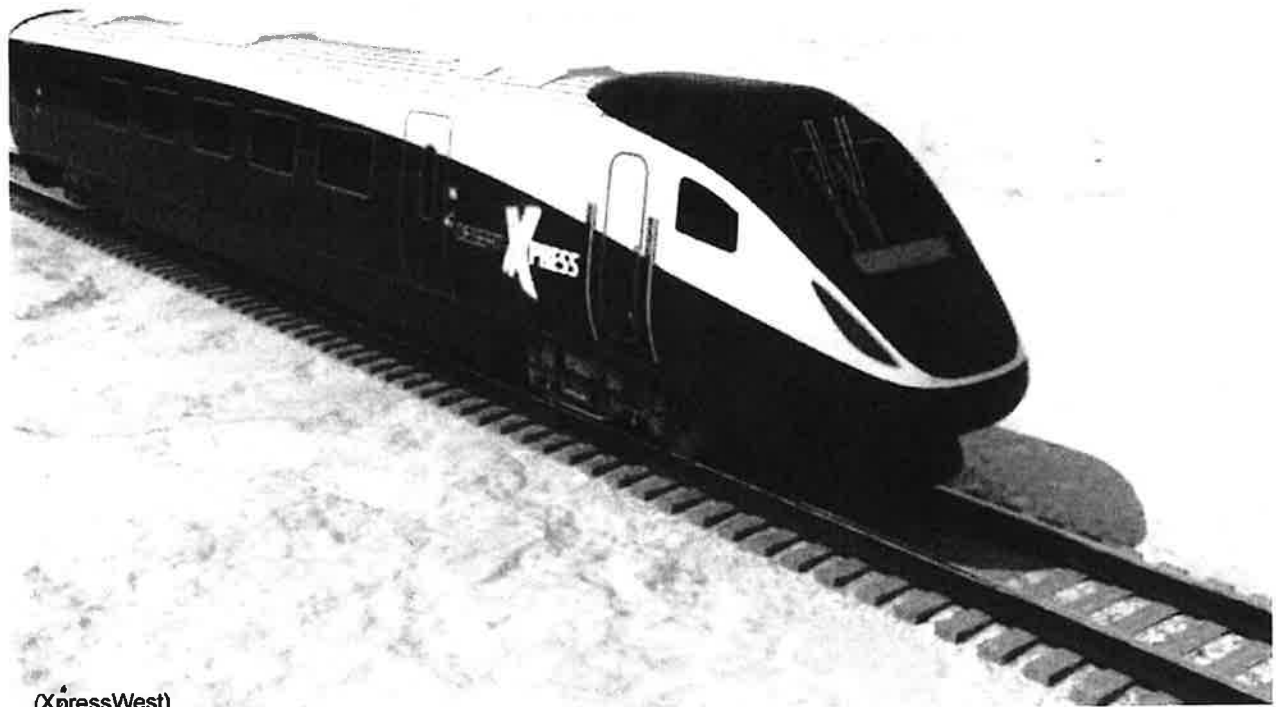


Debbie Wasserman Schultz
Member of Congress



Ted Deutch
Member of Congress

EDITORIAL: Handouts may soon be coming to Vegas-SoCal train



Las Vegas Review-Journal

June 29, 2021 - 9:00 pm

Don't miss the big stories. Like us on Facebook.

When Brightline West took over the planned high-speed rail project between Las Vegas and Victorville in 2018, the idea was to use private funds to finally bring the long-envisioned project to fruition. The company made a name for itself by developing the only privately run intercity rail line in the country, in Florida.

Turns out, however, that the taxpayers aren't safe after all. Funny how that works out.

The Review-Journal's Gary Martin reported this week that, thanks to the handiwork of Rep. Dina Titus, Brightline West may soon be eligible to receive federal transportation funds under the \$547 billion Invest in America Act. While the language of the bill has yet to be finalized, Rep. Titus said she has worked closely with Rep. Peter DeFazio, the Oregon Democrat who chairs the House Transportation Committee, to amend the legislation to allow certain "private" rail projects to tap federal cash as long as they partner with a public entity.

None of this should be surprising. Brightline West officials have repeatedly oversold the project's financial viability and have backed off their previous construction timetable because investors wouldn't bite. Despite receiving \$800 million in private-activity bonds from California and Nevada — which could be leveraged to raise four times that amount — Brightline was forced to pull a planned bond sale last year because of a lack of interest. It will now have to reapply for the bonds and claims to be preparing for a 2022 reboot.

The pandemic didn't help, no doubt. But the fact that some version of this proposal has been floating around for more than 30 years with so little to show for all the promotion and hype indicates that the challenges remain vast and that the project's viability may be more complicated than the optimistic promises suppose.

All that would be irrelevant if Brightline West raised enough private capital in the markets to give it a go and live with the results. But now it appears increasingly likely that the company will sidle up to the federal trough, leaving taxpayers rather than private investors to assume much of the risk. And the risk will not be insignificant. The Victorville-to-Vegas train will cost \$8 billion, but if history is any guide, the final price tag will be much higher. Witness the ongoing fiasco in California involving the L.A. to San Francisco rail line money pit.

Perhaps a train shuttling gamblers from Victorville to the Strip will turn out to be a gold mine for Southern Nevada. Perhaps not, given that even heavily subsidized Amtrak couldn't maintain a similar route and airline travel remains more convenient for many travelers. Either way, the taxpayers may soon be forced to find out.

EXHIBIT 26

brightline



If you need assistance,
please contact security
at the following number:
1-954-955-2369

brightline

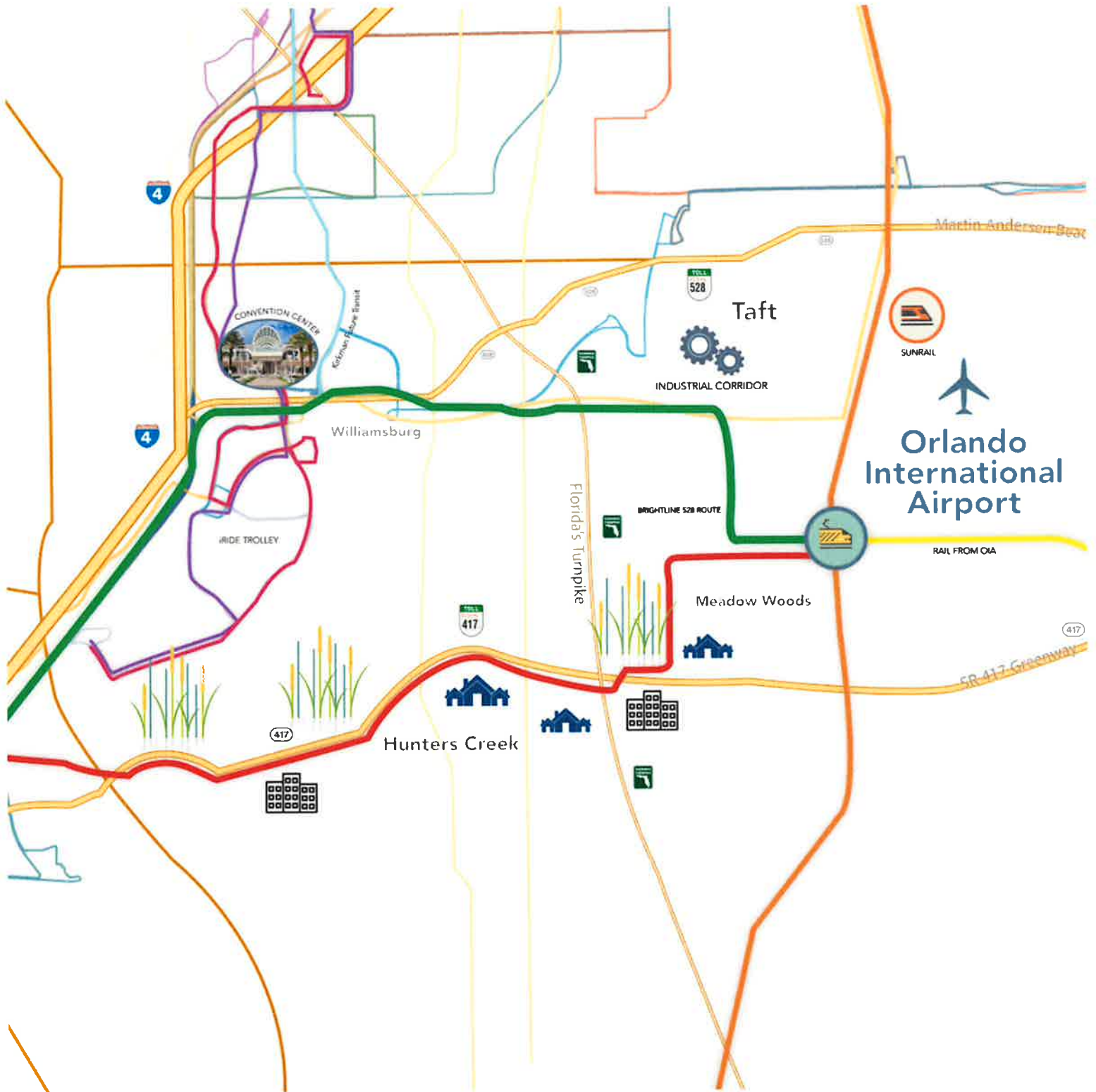
CLOSED TO THE
PUBLIC CHECK APP
FOR UPDATES

AUTOMATIC SLIDING DOOR

AVIS



EXHIBIT 27



I oppose the proposed Brightline route on SR 417.
This train will negatively affect the following:

- ① public schools
- ② playgrounds and parks
- ③ thousands of homes
- ④ Shingle Creek / wet lands
- ⑤ Property Values

By using the already approved 528 route, this could possibly support the community including Universal Studios, I-drive and our public funded Convention Center. This is a private business not tax payer funded. My family, community vote NO and opposed Brightline on the 417.

(Please continue comments on the back of this page if more space is needed. Thank you.)

Name: Reggie Blanco

Address: 2426 Runyon Circle
Orlando, FL 32837

Email: reggiefb@yahoo.com

Phone: 407-616-2567

We welcome your comments. You may also email your comments to Brian Hutchings, Communications Manager, Central Florida Expressway Authority, at Info@cfxway.com.

Thank you!

D.

Consent Agenda

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

CONSENT AGENDA August 12, 2021

CONSTRUCTION

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

Project 528-143	SEMA Construction, Inc.	\$ 44,636.78
Project 538-165	The Lane Construction Corp.	\$ 97,951.05
Project 429-169	Cathcart Construction Co.	\$ 15,082.00
Project 528-760A	Hubbard Construction	(\$ 25,073.25)
Project 599-421	BASE Construction	\$ 224,216.00
2. Approval of Contract Award to AE Engineering, Inc. for Construction Engineering and Inspection (CEI) Services for SR 429 Widening from Stoneybrook West Parkway (South) to Florida's Turnpike, Project No. 429-154, Contract No. 001698 (Agreement Value: \$6,478,000.00)

ENGINEERING

3. Approval of Supplemental Agreement No. 2 with The Balmoral Group, LLC for Design Consultant Services for SR 528 Widening from Narcoossee Road to SR 417, Project No. 528-160, Contract No. 001589 (Agreement Value: \$112,956.72)
4. Approval of Contract Award to WBQ Design & Engineering, Inc. for Design Consultant Services for SR 528 Widening from SR 417 to Innovation Way, Project No. 528-161, Contract No. 001697 (Agreement Value: not-to-exceed \$3,600,000.00)
5. Approval of Contract Award to Hubbard Construction Company for SR 417 Resurfacing from SR 408 to Canal E-4 Bridge, Project No. 417-761, Contract No. 001801 (Agreement Value: \$6,779,194.64)
6. Approval of Contract Award to Traffic Control Devices, Inc. for SR 408 Guide Sign and Lighting Replacements West Colonial Drive (SR 50) to Ingenuity Drive, Project No. 408-628B, Contract No. 001805 (Agreement Value: \$3,846,846.00)
7. Approval of Second Contract Renewal with CDM Smith, Inc. for Traffic and Earnings Consultant Services, Contract No. 001300 (Agreement Value: \$1,200,000.00)

FINANCE

8. Approval of Revised Debt Policy
9. Approval of Revised Interest Rate Risk Management Policy

INTERNAL AUDIT

10. Acceptance of Internal Audit Report:
 - a. Fiscal 2022 Internal Audit Plan and Risk Assessment

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

LEGAL

11. Approval of Joint Participation Agreement (Narcoossee Road at SR 417 Interchange) Between the City of Orlando and CFX, Project No. 417-150
12. Approval of Reimbursement Agreement with Florida Southeast Connection, LLC, Project No. 538-235 (Agreement Value: not-to-exceed \$750,000.00)
13. Approval of Reimbursement Agreement with Central Florida Pipeline, LLC, Project No. 538-235 (Agreement Value: not-to-exceed \$448,715.00)
14. Approval of First Amendment to Joint Participation Agreement Between Osceola County and CFX for the Shingle Creek Mainline and Poinciana Boulevard Ramp Toll Plazas, Project No. 599-902
15. Approval of Consortium Appraisal, Inc. and Donald W. McIntosh Associates, Inc. as Subconsultants to Shutts & Bowen LLP for Right-of-Way Services, Contract No. 001431
16. Approval of Landon, Moree & Associates, Inc. and Consortium Appraisal, Inc. as Subconsultants to Lowndes, Drosdick, Doster, Kantor & Reed, P.A. for Right-of-Way Services, Contract No. 001792
17. Approval of Cooperative Purchase Agreement with Durrance & Associates, P.A. for Appraisal Services, Contract No. 001825 (Agreement Value: not-to-exceed \$150,000.00)

MAINTENANCE

18. Approval of Supplemental Agreement No. 6 with Traffic Engineering and Management, LLC d/b/a Control Specialists for Traffic Signal Maintenance Services, Contract No. 001322 (Agreement Value: not-to-exceed \$150,000.00)
19. Approval of First Contract Renewal with Aero Groundtek, LLC for Landscape Maintenance Services for SR 408, SR 417 and CFX's Headquarters, Contract No. 001680 (Agreement Value: \$1,750,000.00)
20. Approval of Contract Award to Arazoza Brothers Corporation for SR 408 Landscaping from SR 417 to Alafaya Trail, Project No. 408-830, Contract No. 001804 (Agreement Value: \$1,998,647.90)

PUBLIC OUTREACH

21. Approval of Second Contract Renewal with Quest Corporation of America, Inc.(QCA) for Public Information Services, Contract No. 001298 (Agreement Value: \$875,721.48)

RISK MANAGEMENT

22. Approval of Insurance Policy with Florida Municipal Insurance Trust (FMIT) (Agreement Value: not-to-exceed \$235,000.00)

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TECHNOLOGY/TOLL OPERATIONS

23. Approval of First Agreement Renewal with Law Enforcement Systems, LLC for Out of State Division of Motor Vehicles (DMV) Lookups, Contract No. 001410 (Agreement Value: \$400,000.00)

TRAFFIC OPERATIONS

24. Approval of the Third Extension of the Inter-local Agreement between CFX and University of Central Florida (UCF) for the Wrong Way Driving Phase 3 Study: Allocating and Evaluating Countermeasures on CFX Roadway Network, Contract No. 001143 (Agreement Value: \$115,000.00)
25. Approval of HNTB Corporation and Metric Engineering, Inc. as Subconsultants to AECOM Technical Services, Inc. for General Systems Consultant Services, Contract No. 001215

The following items are for information only:

- A. The following is a list of advertisement(s) from June 7, 2021 through August 8, 2021:
 1. 408-830: SR 408 From SR 417 to Alafaya Trail Landscape
 2. 408-628B: SR 408 Guide Sign and Lighting Replacements – West Colonial Dr. to Ingenuity Dr.
 3. 408-763: SR 408 Resurfacing from Yucatan Drive to West of SR 417
 4. 429-153: Construction Engineering and Inspection Services for SR 429 Widening from West Rd. to SR 414
 5. 429-152: SR 429 Widening from Florida's Turnpike to West Road

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. Miscellaneous SSBE Design Consultants (Select 2 Firms) – Design
 2. Miscellaneous SSBE Planning Consultant - Design
 3. 414-640: SR 414 Guide Sign Replacement – Construction
 4. 599-765: Systemwide Toll Plaza Fascia and Roof Replacements - Construction
 5. 408-167: SR 408 Lighting Replacements (LAMS System) I-4 to SR 417 - Construction
 6. 429-154: SR 429 Widening from Tilden Road to South of Florida's Turnpike – Construction
 7. 599-542: Field Ethernet Switch Replacement – ITB Equipment Procurement
 8. Traffic Monitoring Station Replacement– ITB Equipment Procurement
 9. 429-427: Independence Mainline Photovoltaics Deployment – Design/Build
 10. 599-545B: DMS Replacement Phase II - Construction
 11. 528-163: SR 528 and SR 520 Interchange Lighting – Construction
 12. 528-160: SR 528 Widening From Narcoossee Road to SR 417 – Construction
 13. 528-757: SR 528 Farm Access 1 Bridge Removal – Construction
 14. 599-759: South Access Road Slope Repair – Construction
 15. 599-416B: McCoy Road Facility Sewer Line Installation
 16. 408-831: SR 408/417 Interchange Landscape
 17. Roadway and Bridge Asset Maintenance (SR 414, SR 429, SR 451 and SR 453)
 18. 599-416A: McCoy Road Facility Water Line Installation
 19. Advocacy Services
 20. Disclosure Counsel Services
 21. Bond Counsel Services


CONSENT AGENDA ITEM

#1

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

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

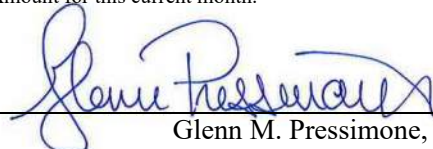
DATE: July 21, 2021

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 (\$) August 2021	Total Amount (\$) to Date*	Time Increase or Decrease
528-143	SEMA Construction, Inc.	SR 528 / SR 436 Interchange Improvements	\$ 106,520,000.00	\$ 456,289.54	\$ 44,636.78	\$ 107,020,926.32	0
538-165	The Lane Construction Corp.	SR 538 Widening, Ronald Reagan Parkway to Cypress Parkway	\$ 92,628,420.00	\$ 87,255.76	\$ 97,951.05	\$ 92,813,626.81	0
429-169	Cathcart Construction Co.	SR 429 Pond E By-Pass Ditch	\$ 569,173.50	\$ -	\$ 15,082.00	\$ 584,255.50	0
528-760A	Hubbard Construction	SR 528 Pavement Repair, Goldenrod Rd. to Narcoossee Rd.	\$ 412,897.03	\$ -	\$ (25,073.25)	\$ 387,823.78	0
599-421	BASE Construction	CFX Magnolia Ave. E-Pass Service Center Renovations	\$ 1,466,527.00	\$ -	\$ 224,216.00	\$ 1,690,743.00	59
TOTAL					\$	356,812.58	

* Includes Requested Amount for this current month.

Reviewed By:  _____
Glenn M. Pressimone, P.E., Chief of Infrastructure

Project 528-143: SR 528 / SR 436 Interchange Improvements
SEMA Construction, Inc.
SA 528-143-0821-03

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 May 2020 through June 2021. During this period of time, \$74,821,940.71 of construction was performed/produced.

ADD THE FOLLOWING ITEMS:

Fuel Price Index Adjustments: May 2020 - June 2021	\$ (106,899.99)
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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 May 2020 through June 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: May 2020 - June 2021	\$ 13,687.22
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Quantity Adjustments for Field Conditions

These quantity adjustments of existing contract pay items reflect the actual field measured quantities installed.

INCREASE THE FOLLOWING ITEMS:

Type B Stabilization	\$ 1,596.20
Optional Base, Base Group 02	\$ 4,320.00
Optional base, Base Group 15	\$ 21,106.00
Superpave Asphaltic Conc., TL C	\$ 4,980.00
Miscellaneous Asphalt Pavement	\$ 1,809.00
Reinf. Steel-Bridge Superstructure	\$ 34,400.35
Reinf. Steel- Bridge Substructure	\$ 328.50
Pipe Culvert, Opt Mat'l, Rnd 18" S/CD	\$ 476.00
Riprap, Rubble, F&I, Ditch Lining	\$ 3,240.00
Fencing, Type B, 5.1-6.0', w/ Vinyl Coating	\$ 294.00
Conduit, F&I, Directional Bore	\$ 4,488.00
FO Cable (12SM Fiber) (F&I)	\$ 312.50
Pull & Splice Box, F&I, 13"x24" Cover Size	\$ 20,000.00
Junction Box, F&I, Embedded	\$ 2,240.00
Conduit, 2~1" HDPE (Trench or Plow) (F&I)	\$ 1,105.00
Conduit, 6" HDPE Outer Duct w/ 2~2" PVC (Directional Bore) (F&I)	\$ 2,960.00
Electrical Conductors (Insulated) (No. 6) (F&I)	\$ 288.00
Electrical Conductors (Insulated) (No. 1/0) (F&I)	\$ 936.00
Traffic Monitoring System, Pole Mounted (Relocate)	\$ 3,000.00
Single Post Sign, Relocate	\$ 570.00
Multi-Post Sign, F&I, Ground Mount, 201-300 SF	\$ 19,400.00
Thermo, Preformed, Multi-Color, Message	\$ 34,000.00
	\$ 161,849.55

DECREASE THE FOLLOWING ITEMS:

Optional Base, Base Group 06	\$ (1,056.00)
Optional Base, Base Group 08	\$ (198.00)
Milling Exist Asph Pvt, 1-1/2" Avg Depth	\$ (910.80)
Concrete Ditch Pavement, Non-Reinforced, 3"	\$ (7,600.00)
Fence Gate, Vinyl, Dbl, 18.1-20.0 Opening	\$ (1,400.00)

Conduit, F&I, Open Trench	\$ (1,566.20)
FO Cable (Existing Remove)	\$ (825.50)
Concrete Manhole (Remove)	\$ (4,800.00)
Electrical Conductors (Remove)	\$ (1,135.50)
Lighting Conductors, F&I, Insulated, No. 4 to No. 2	\$ (308.00)
Light Pole Complete Relocate	\$ (4,200.00)
	\$ (24,000.00)

Subtotal: Quantity Adjustments \$ 137,849.55

TOTAL AMOUNT FOR PROJECT 528-143 **\$ 44,636.78**

Project 538-165: SR 538 Widening, Ronald Reagan Parkway to Cypress Parkway
The Lane Construction Corp.
SA 538-165-0821-02

Upgrade Existing Guardrail

This agreement compensates the Contractor for resetting the existing guardrail to comply with the current standards and maintain consistency with the portion of the facility currently being constructed.

ADD THE FOLLOWING ITEM:

Upgrade Existing Guardrail \$ 80,580.55

Sound/Noise Wall Redesign

Modification of the sound/noise wall design was directed to eliminate an overrun in this plan quantity. The design/build firm incurred the following costs for this extra work.

ADD THE FOLLOWING ITEM:

Redesign of Sound/Noise Walls \$ 27,450.50

DECREASE THE FOLLOWING ITEM:

Sound Wall Plan Quantity \$ (10,080.00)

Subtotal: Sound/Noise Wall Redesign \$ 17,370.50

TOTAL AMOUNT FOR PROJECT 538-165 \$ **97,951.05**

Project 429-169: SR 429 Pond E By-Pass Ditch
Cathcart Construction Co.
SA 429-169-0821-01

Adjustments to Final Quantities for Completed Contract Items

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

INCREASE THE FOLLOWING ITEMS:

SR 429 Bedding Stone	\$	67.50
SR 408 Bedding Stone	\$	82.50
SR 429 Performance Turf, Sod	\$	24,020.00
SR 408 Performance Turf, Sod	\$	<u>3,110.00</u>
	\$	27,280.00

DECREASE THE FOLLOWING ITEM:

SR 408 Rip Rap, Rubble	\$	(198.00)
Allowance for Disputes Review Board	\$	(2,000.00)
Work Order Allowance	\$	<u>(10,000.00)</u>
	\$	(12,198.00)

Subtotal: Adjustments to Final Quantities for Completed Contract Items \$ 15,082.00

TOTAL AMOUNT FOR PROJECT 429-169 **\$ 15,082.00**

Project 528-760A: SR 528 Pavement Repairs, Goldenrod Rd. to Narcoossee Rd.
Hubbard Construction
SA 528-760A-0821-01

Adjustments to Final Quantities for Completed Contract Items

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

INCREASE THE FOLLOWING ITEMS:

Milling Existing Asphalt Pavement, 2 3/4"	\$ 1,554.61
Milling Existing Asphalt Pavement, 4 3/4"	\$ 3,742.89
Superpave Asphaltic Concrete TL-D	\$ 17,192.00
Asphalt Concrete FC-5, PG 76-22	\$ 14,066.20
Asphalt Concrete FC-12.5, PG 76-22	\$ 623.70
Superpave Asphaltic Concrete TL-C	\$ 336.96
	<u>\$ 37,516.36</u>

ADD THE FOLLOWING ITEM:

Standard Thermoplastic Arrow	\$ 63.39
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DECREASE THE FOLLOWING ITEMS:

MOT for Emergency Base Repair	\$ (14,400.00)
Portable Changeable Message Sign, Temp	\$ (53.00)
Roadway Repair, Emergency Base Repair	\$ (13,200.00)
Allowance for Disputes Review Board	\$ (5,000.00)
Work Order Allowance	\$ (30,000.00)
	<u>\$ (62,653.00)</u>

Subtotal: Adjustments to Final Quantities for Completed Contract Items \$ (25,073.25)

TOTAL AMOUNT FOR PROJECT 528-760A **\$ (25,073.25)**

Project 599-421: CFX Magnolia Ave. E-Pass Service Center Renovations

BASE Construction

SA 599-421-0821-01

Revised Layout/Location of E-Pass Service Center

The planned renovation was revised to provide better access to E-Pass customers from the parking lot and accommodate additional office staff for the proposed E-Pass Service Center. The change required both the layout and the location in the existing facility to be revised.

ADD THE FOLLOWING ITEM:

Revised Layout/Location of E-Pass Service Center \$ 42,216.00

Renovation of Existing Building Space for the Toll Facilities Operation and Management Contractor

Provide design, permitting and establishment of a work order allowance for up front construction costs needed for the renovation to provide office space and storage accommodations for the Toll Facilities Operation and Management contractor.

ADD THE FOLLOWING ITEM:

Renovation for Toll Facilities Operation and Management Contractor \$ 182,000.00

Increase Contract Time

The 59 days non-compensable time extension is to provide additional time for the site investigation, design, permits and construction for revised layout/location of E-Pass Service Center and renovations to the existing building space for the Toll Facilities Operation and Management office space.

Increase Contract Time 59 Non-Compensable Calendar Days

TOTAL AMOUNT FOR PROJECT 599-421

\$ 224,216.00

Project 528-143: SR 528 / SR 436 Interchange Improvements
SEMA Construction, Inc.
SA 528-143-0821-03

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 May 2020 through June 2021. During this period of time, \$74,821,940.71 of construction was performed/produced.

ADD THE FOLLOWING ITEMS:

Fuel Price Index Adjustments: May 2020 - June 2021	\$ (106,899.99)
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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 May 2020 through June 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: May 2020 - June 2021	\$ 13,687.22
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These quantity adjustments of existing contract pay items reflect the actual field measured quantities installed.

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Light Pole Complete Relocate	\$ (4,200.00)
	\$ (24,000.00)

Subtotal: Quantity Adjustments \$ 137,849.55

TOTAL AMOUNT FOR PROJECT 528-143 **\$ 44,636.78**

Project 538-165: SR 538 Widening, Ronald Reagan Parkway to Cypress Parkway
The Lane Construction Corp.
SA 538-165-0821-02

Upgrade Existing Guardrail

This agreement compensates the Contractor for resetting the existing guardrail to comply with the current standards and maintain consistency with the portion of the facility currently being constructed.

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Subtotal: Sound/Noise Wall Redesign	\$ 17,370.50
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<u>TOTAL AMOUNT FOR PROJECT 538-165</u>	<u>\$ 97,951.05</u>
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Subtotal: Adjustments to Final Quantities for Completed Contract Items \$ 15,082.00

TOTAL AMOUNT FOR PROJECT 429-169 **\$ 15,082.00**

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Hubbard Construction
SA 528-760A-0821-01

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Work Order Allowance	\$ (30,000.00)
	<u>\$ (62,653.00)</u>

Subtotal: Adjustments to Final Quantities for Completed Contract Items \$ (25,073.25)

TOTAL AMOUNT FOR PROJECT 528-760A **\$ (25,073.25)**

Project 599-421: CFX Magnolia Ave. E-PASS Service Center Renovations
BASE Construction
SA 599-421-0821-01

Revised Layout/Location of E-PASS Service Center

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Renovation for Toll Facilities Operation and Management Contractor \$ 182,000.00

Increase Contract Time

The 59 days non-compensable time extension is to provide additional time for the site investigation, design, permits and construction for revised layout/location of E-PASS Service Center and renovations to the existing building space for the Toll Facilities Operation and Management office space.

Increase Contract Time 59 Non-Compensable Calendar Days

TOTAL AMOUNT FOR PROJECT 599-421

\$ 224,216.00


CONSENT AGENDA ITEM

#2

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 23, 2021

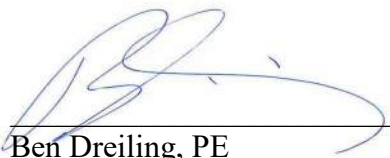
SUBJECT: Approval of Contract Award to AE Engineering, Inc.
for Construction Engineering and Inspection (CEI) Services for SR
429 Widening from Stoneybrook West Parkway (South) to Florida's
Turnpike
Project No. 429-154, Contract No. 001698

The Board approved on September 10, 2020, the final ranking and authorization to negotiate with firms for CEI Services for SR 429 Widening from Stoneybrook West Parkway (South) to Florida's Turnpike.

Board award of the contract to AE Engineering, Inc. is requested in the amount of \$6,478,000.00.

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

Reviewed by:


Ben Dreiling, PE
Director of Construction


Glenn Pressimone, PE

AGREEMENT

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

AND

AE ENGINEERING, INC.

**CONSTRUCTION ENGINEERING AND INSPECTION SERVICES
FOR
SR 429 WIDENING FROM STONEYBROOK WEST PARKWAY
(SOUTH) TO FLORIDA'S TURNPIKE**

**PROJECT NO. 429-154
CONTRACT NO. 001698**

CONTRACT DATE: AUGUST 12, 2021

CONTRACT AMOUNT: \$6,478,000.00

**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 429 WIDENING FROM STONEYBROOK WEST PARKWAY (SOUTH)
TO FLORIDA'S TURNPIKE
PROJECT NO. 429-154**

CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

CONTRACT NO. 001698

AUGUST 2021

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TABLE OF CONTENTS

<u>Section</u>	<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	6
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. 001698**

THIS AGREEMENT, made and entered into this 12th day of August 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 AE Engineering, Inc., hereinafter called “CONSULTANT”, carrying on professional practice in engineering with offices located at 25 E. 13th Street, Suite 12, St. Cloud, FL. 34769.

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. 01698, SR 429 Widening from Stonybrook West Parkway (South) to Florida’s Turnpike. 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. 001698 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 27 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 29 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:

Stantec Consulting Services, Inc.	Echezabal & Associates, Inc.
Civil/Site Engineering, Inc.	Mehta and Associates, Inc.
Pi Consulting Services, LLC	Greenfield Diversified, LLC (Consulex)
GRL Engineers, Inc.	
Madrid Engineering Group, Inc. d/b/a MADRID CPWG	

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 \$6,478,000.00. 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 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 25 E. 13th Street, Suite 12, St. Cloud, FL. 34769.

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.

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.

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: AE Engineering, Inc.
25 E. 13th Street, Suite 12
St. Cloud, FL. 34769
Attn: Christopher Nolen, P.E.

AE Engineering, Inc.
25 E. 13th Street, Suite 12
St. Cloud, FL. 34769
Attn: Roderick Myrick, P.E.

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 August 12, 2021.

AE ENGINEERING, INC.

**CENTRAL FLORIDA
EXPRESSWAY AUTHORITY**

BY: _____
Authorized Signature

BY: _____
Director of Procurement

Title: _____

Print Name: _____

Print Name: _____

ATTEST: _____ (Seal)
Secretary or Notary

Approved as to form and execution, only.

General Counsel for CFX

Print Name: _____

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. 001698, S.R. 429 Widening from Stoneybrook West Parkway (South) to Florida’s Turnpike, Project No. 429-154.

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. Testing

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. Personnel Qualifications

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. Personnel Training and Experience Standards

The following are the minimum training and experience standards for CONSULTANT personnel. 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. Senior Inspector (Roadway/Bridge)

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 will not be allowed 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
#3**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 23, 2021

SUBJECT: Approval of Supplemental Agreement No. 2 with The Balmoral Group, LLC for Design Consultant Services for SR 528 Widening from Narcoossee Road to SR 417
Project No. 528-160, Contract No. 001589

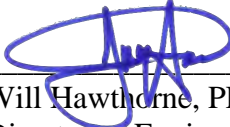
Board approval of Supplemental Agreement No. 2 with The Balmoral Group, LLC in a not-to-exceed amount of \$112,956.72 is requested. The original contract was for five years with five one-year renewals.

The work to be performed includes additional design services, drainage and utility modifications adjacent to the Brightline rail corridor.


Original Contract	\$1,290,000.00
Supplemental Agreement No. 1	\$ 0.00
Supplemental Agreement No. 2	<u>\$ 112,956.72</u>
Total	\$1,402,956.72

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

Reviewed by:



Will Hawthorne, PE
Director of Engineering



Glenn Pressimone, P.E.

SUPPLEMENTAL AGREEMENT NO. 2
TO
AGREEMENT FOR PROFESSIONAL SERVICES
FINAL DESIGN
SR 528 Widening from Narcoossee Road to SR 417

THIS SUPPLEMENTAL AGREEMENT NO. 2 TO AGREEMENT FOR PROFESSIONAL SERVICES FINAL DESIGN (“Supplemental Agreement”) is made and entered into this _____ day of _____, 2021, 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 THE BALMORAL GROUP, LLC., a Florida corporation, hereinafter called the “CONSULTANT”.

WHEREAS, CFX and CONSULTANT entered into that certain Agreement for Professional Services between CFX and the CONSULTANT, dated February 13, 2020 (“Agreement”); and

WHEREAS, Articles 2.0 and 11.0 of the Agreement provide that in the event that CFX elects to add, delete or change 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 July 16, 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" of the Agreement is hereby amended as follows:

- a. The Salary Related Costs are adjusted upwards by \$174,333.89 to \$659,781.67
- b. The Direct Expenses - Lump Sum (Prime) remains unchanged at \$0.00.
- c. The Subcontract Items are adjusted downward by \$35,816.13 to \$743,175.05

as follows:

•WBA	\$6,228.24
•Base	\$7,955.63
•DRMP	(\$43,000.00)
•GEC	(\$7,000)

- d. The Allowance is adjusted downwards by \$25,561.04 to \$0.00.
- e. The Total Maximum Limiting Amount is adjusted upward by \$112,956.72 to \$1,402,956.72

3. All provisions of said Agreement, or any amendments or supplements thereto, not specifically modified, shall remain in full force and effect, the same as if they had been set forth herein. In the event of a conflict between the provisions of this

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

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

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

By: _____
Aneth Williams, Director of Procurement

THE BALMORAL GROUP, LLC.

By: _____
Print Name: _____
Title: _____

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

By: _____
Diego "Woody" Rodriguez
General Counsel



MEMORANDUM

Date: July 17, 2021
To: Will Hawthorne, PE CFX Director of Engineering
From: James E. Bradford, PE
Subject: Design Consultant Services - Contract 001589
 CFX Project No. 528-160
 SR 528 Widening from Narcoossee Road to SR 417
 Supplemental Agreement No. 2

Comments:

I have reviewed the fee transfer and SA proposal submitted by the Balmoral Group provided via email on July 16, 2021, for the SR 528 Widening from Narcoossee Road to SR 417. This requested contract amendment is to provide additional design services to cover additional work that was recommended for the Rapid Response M&R plans under Project #528-760A and additional drainage and utility modifications adjacent to the Brightline rail corridor.

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

\$ 174,333.89	Balmoral as Prime
\$ 6,228.24	WBQ as subconsultant
\$ 7,955.63	BASE as subconsultant
(\$ 43,000.00)	DRMP reduction of subconsultant fee
(\$ 7,000.00)	GEC reduction of subconsultant fee
<u>\$ 138,517.76</u>	Total Requested Contract Amendment Amount

The total fee transfers are reasonable and acceptable, and the man hour rates are consistent with their contract; therefore, I recommend approval of this agreement in the amount of \$138,517.76. Should you have questions or need additional information, please call me at 321.354.9605.

CC:

Keith Jackson, PE Dewberry
 Jamison Edwards, PE CFX Engineering Project Manager
 File



April 15, 2021 *(Revised 7/16/2021)*

Jamison Edwards, PE
Engineering Project Manager
Central Florida Expressway Authority
4974 ORL Tower Rd.
Orlando, FL 32807

Re: SR 528 Widening from Narcoossee Road to SR 417
CFX Contract No. 001589
CFX Project #528-160
TBG Project #1220050001.00
Supplemental Agreement #2/Funds Transfer Request

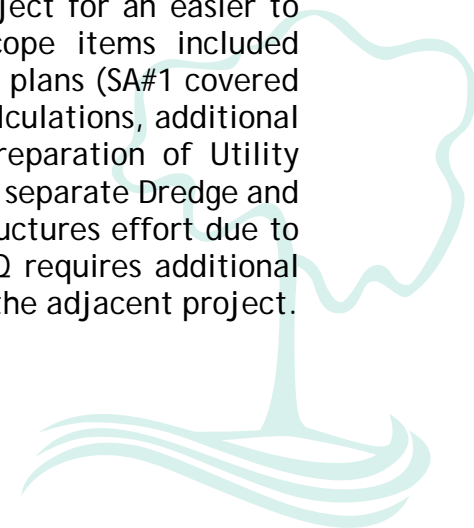
Dear Mr. Edwards:

The Balmoral Group appreciates the opportunity to provide services to CFX on this important project. Per our November 2, 2020 phone conversation and subsequent discussions, The Balmoral Group is requesting additional funds through Supplemental Agreement #2 plus a funds transfer to cover efforts required for previously unscoped services and changes to the drainage approach initiated by CFX during the permitting process. The total requested amount for Supplemental Agreement #2 is \$138,517.76, which includes additional design services fee in the amount of \$188,517.76. Please see attached fee estimate.

The additional design fee utilizes existing contract funds through a funds transfer and supplemental funds as outlined below.

- a) Funds transfer of \$50,000.00 from DRMP and GEC to The Balmoral Group.
- b) Supplemental funds in the amount of \$138,517.76 to cover the remaining additional design service fees for The Balmoral Group, BASE and WBQ.

The majority of the supplemental effort is due to the change in drainage approach that eliminated the nutrient loading requirements and floodplain mitigation that required a reconfiguration of the roadway cross sections for the entire project for an easier to construct, more aesthetically pleasing design. The out of scope items included management and coordination of the 528-760A Emergency Repair plans (SA#1 covered plans only and this became a separate set), additional quantity calculations, additional cost estimates, additional traffic control, pavement design, preparation of Utility Adjustment Sheets including the OUC Electric relocation plans and separate Dredge and Fill Sketches for the USACE. BASE Consultants had additional structures effort due to the relocation of the signs and updates requested by CFX. WBQ requires additional funding for the topographic survey required after construction of the adjacent project.





A breakdown of the proposed funds transfers and SA #2 is as follows:

Consultant	Current Fee	Remaining Fee As of 10/31/20	Estimated Remaining Effort	Amount to Deduct	Amount to Transfer	Amount of SA#2	Proposed Final Fee
CES	\$81,666.99	\$33,647.76	\$33,647.76	\$0.00	\$0.00	\$0.00	\$81,666.99
DRMP	\$313,242.76	\$196,686.09	\$153,686.09	\$43,000.00	\$0.00	\$0.00	\$270,242.76
GEC	\$147,273.14	\$19,137.17	\$12,137.17	\$7,000.00	\$0.00	\$0.00	\$140,273.14
WBQ	\$215,514.56	\$745.90	\$6,974.14	\$0.00	\$0.00	\$6,228.24	\$221,742.80
BASE	\$21,293.73	\$4,454.09	\$10,997.42	\$0.00	\$0.00	\$7,955.63	\$29,249.36
Balmoral	\$485,447.78	\$28,614.70	\$202,948.59	\$0.00	\$50,000.00	\$124,333.89	\$659,781.67
Total	\$1,264,438.96	\$283,285.71	\$420,391.17	\$50,000.00	\$50,000.00	\$138,517.76	\$1,402,956.72

Please note that the supplemental time period should begin November 2, 2020 per our documented conversation with you.

Please do not hesitate to contact me should you have any questions or comments (407.739.4899).

Best Regards,

Gregory S. Seidel, P.E.
Project Manager



PRINCIPALS

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

July 19, 2021

DRMP Job #: 19-0478.000

Gregory S. Seidel, P.E.
The Balmoral Group
165 Lincoln Avenue
Winter Park, Florida 32789

**Subject: DRMP, Inc - Fee Reassignment
SR 528 WIDENING FROM NARCOOSSEE ROAD TO SR 417
Contract No. 001589
Project No. 528-160**

Dear Mr. Seidel,

DRMP's total fee under this contract is \$313,242.76 for professional surveying and engineering services. DRMP has completed all necessary tasks needed for the design of this project. DRMP's invoice was submitted to The Balmoral Group for services performed through April 22, 2021. After analyzing the remaining budget, an amount of \$49,956.87 is available for reassignment as deemed necessary.

We sincerely appreciate the opportunity given to provide professional survey and engineering services to The Balmoral Group and the Central Florida Expressway Authority on this project. Please don't hesitate to contact me if you have any questions.

Sincerely,
DRMP, Inc.



Frank Lopez, PSM
Survey Manager

CC: Jim Highland
Chris DiMarco

OFFICES

Asheboro, North Carolina
Boca Raton, Florida
Cary, North Carolina
Charlotte, North Carolina
Chipley, Florida
DeLand, Florida
Fort Myers, Florida
Gainesville, Florida
Jacksonville, Florida
Lakeland, Florida
Melbourne, Florida
Orlando, Florida
Panama City Beach, Florida
Pensacola, Florida
Stockbridge, Georgia
Tallahassee, Florida
Tampa, Florida
Troutman, North Carolina



July 19, 2021

The Balmoral Group (TBG)
165 Lincoln Avenue
Winter Park, Florida 32789

Attention: Mr. Sherman Klaus, P.E.

Subject: Geotechnical Fee Reassignment
SR 528 WIDENING FROM NARCOOSSEE ROAD TO SR 417
Contract No. 001589
CFX Project No. 528-160
TBG Project No. 120050001.01
GEC Project No. 4560G

Dear Mr. Klaus:

Geotechnical and Environmental Consultants, Inc. (GEC)'s total contract fee for this project is \$147,273.14. GEC has expended \$137,416.41 of our total design fee and has completed all necessary geotechnical services for the referenced project. GEC's invoice No. 9 for design services was submitted for services performed through April 22, 2021. Based on this evaluation, \$9,856.73 of the geotechnical fee is available for reassignment as deemed necessary.

GEC appreciates the opportunity to be of service to TBG and the Central Florida Expressway Authority (CFX) on this project. If you should have any questions concerning the letter, please contact us.

Sincerely,
GEOTECHNICAL AND ENVIRONMENTAL CONSULTANTS, INC.

A handwritten signature in blue ink, appearing to read "Rachel", with a long, sweeping horizontal line extending to the right.

Rachel F. André, P.E.
President

Exhibit A

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

SCOPE OF SERVICES

FOR

**S.R. 528 WIDENING
Narcoossee Road to S.R. 417
Supplemental Agreement No. 2**

PROJECT NO. 528-160

IN ORANGE COUNTY, FLORIDA

July 2021

TABLE OF
CONTENTS

Description	Page No. A-
1.0 GENERAL – No change.....	3
2.0 STANDARDS – No change	4
3.0 DESIGN CRITERIA – No change	5
4.0 WORK PERFORMED BY CONSULTANT	6
4.01 Design Features	6
4.02 Governmental Agencies	6
4.03 Preliminary Design Report – Review	6
4.04 Surveys and Mapping (DRMP & WBQ)	6
4.05 Geotechnical Investigation	6
4.06 Contamination Impact Analysis – N/A	6
4.07 Pavement Design	6
4.08 Governmental Agency and Public Meetings	6
4.09 Environmental Permits	6
4.10 Utilities	7
4.11 Roadway Design.....	7
4.12 Structures Design.....	7
4.13 Drainage Design	7
4.14 Roadway Lighting	7
4.15 Traffic Engineering.....	8
4.16 Signing and Pavement Marking Plans.....	8
4.17 Right-of-Way Surveys.....	8
4.18 Cost Estimates	8
4.19 Special Provisions and Specifications	8
4.20 Fiber Optic Network (FON)	8
4.21 Toll Plazas	8
4.22 Post-Design Services	8
5.0 MATERIALS FURNISHED BY CFX OR ITS DESIGNEE – No change.....	9
6.0 WORK PERFORMED BY CFX OR ITS DESIGNEE - No change	10
7.0 ADMINISTRATION – No change.....	11

1.0 GENERAL – No change

2.0 STANDARDS – No change

3.0 DESIGN CRITERIA – No change

4.0 WORK PERFORMED BY CONSULTANT

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

4.01 Design Features

- A. Additional work includes the following: updating project limits, development of emergency repair plans, and preparation of detailed OUC relocation plans.

4.02 Governmental Agencies

- A. There is no additional government agency work included in this supplemental agreement.

4.03 Preliminary Design Report – Review

- A. There is no additional Preliminary Design Report work included in this supplemental agreement.

4.04 Surveys and Mapping (**DRMP & WBQ**)

- A. (WBQ) Re-surveying and mapping required due to CFX 528-747 resurfacing being performed after initial survey.

4.05 Geotechnical Investigation

- A. There is no additional geotechnical investigation included in this supplemental agreement.

4.06 Contamination Impact Analysis – N/A

4.07 Pavement Design

- A. Update pavement design for new limits and incorporation of constructability comments.

4.08 Governmental Agency and Public Meetings

- A. There is no additional governmental agency work or public meetings included in this supplemental agreement.

4.09 Environmental Permits

- A. Separate Dredge and Fill Sketches were required for both the SFWMD and FDEP due to the new laws delegating wetland review to the state.
- B. Provide additional RAI responses.

4.10 Utilities

- A. Coordinate and prepare detailed relocation layout of OUC facility.

4.11 Roadway Design

- A. Additional work includes the following:
 - 1. Update cover sheet (key sheet) for new limits
 - 2. Update Typical Sections based on RAI responses
 - 3. Update Project Layout for new limits
 - 4. Update plans and profiles for drainage changes
 - 5. Update cross-sections for drainage changes
 - 6. Add two sub-phases to Traffic Control Plan
 - 7. Prepare detailed layout of OUC relocation
 - 8. Additional effort for quantities for additional requested plan submittals and the addition of the 528-760A contract plans set.

4.12 Structures Design

- A. Evaluate use of existing structure for proposed changes in lieu of the originally designed/completed structure at Sta. 904+15.
- B. Revise OT-2 structure for cross section/span changes and DMS changes.
- C. Data collection and evaluation of proposed new bridge mounted pendent hung lighting design based on lighting plans.

4.13 Drainage Design

- A. Update drainage design per CFX direction as per coordination with the SFWMD. The SFWMD approved a drainage approach for the project and then modified the requirements which required a redesign of the stormwater management system and updates to all the drainage plans and calculations.

4.14 Roadway Lighting

- A. There is no additional roadway lighting design included in this supplemental agreement.

- 4.15 Traffic Engineering
 - A. Maintenance of Traffic Plans updated to include two sub-phases of Traffic Control Plan cross sections.
- 4.16 Signing and Pavement Marking Plans
 - A. Update DMS cross sections to include catwalk details
 - B. Add FY 2021-22 Standard Plans Index 700-091 (Catwalk Details)
- 4.17 Right-of-Way Surveys
 - A. There is no additional effort for right-of-way surveys included in this supplemental agreement.
- 4.18 Cost Estimates
 - A. Additional effort for cost estimates for additional requested plan submittals and the addition of the 528-760A contract plans set.
- 4.19 Special Provisions and Specifications
 - A. There is no additional effort for Special Provisions and Specifications included in this supplemental agreement.
- 4.20 Fiber Optic Network (FON)
 - A. There is no additional Fiber Optic Network design included in this supplemental agreement.
- 4.21 Toll Plazas
 - A. This project does not include modifications and/or improvements to any of the existing toll plazas, including any associated equipment and gantry systems.
- 4.22 Post-Design Services
 - A. No changes to this section.

5.0 MATERIALS FURNISHED BY CFX OR ITS DESIGNEE – No change

6.0 WORK PERFORMED BY CFX OR ITS DESIGNEE - No change

7.0 ADMINISTRATION – No change

SUPPLEMENTAL AGREEMENT NO. 1

TO

AGREEMENT FOR PROFESSIONAL SERVICES

FINAL DESIGN

SR 528 Widening from Narcoossee Road to SR 417

THIS SUPPLEMENTAL AGREEMENT is made and entered into this 8th day of May, 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 THE BALMORAL GROUP, LLC. of Winter Park, Florida, hereinafter called the "CONSULTANT".

WHEREAS, Articles 2.00 and 12.0 of the Agreement for Professional Services between CFX and the CONSULTANT, dated the 13th day of February 2020, 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 March 30, 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 \$81,422.22 to \$485,447.78
 - b. The Subcontract Items remains unchanged at \$778,991.18
 - c. The Allowance is adjusted downward by \$81,422.22 to \$25,561.04.

The Total Maximum Limiting Amount remains unchanged at \$1,290,000.00.

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 triplicate, the day and year first above written.

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.05.08 07:10:28 -04'00'
Director of Procurement

THE BALMORAL GROUP, LLC

By: Jennifer Nunn
Title: Vice President
Print Name: Jennifer Nunn

Approved as to form and execution, only.

Diego "Woody" Rodriguez Digitally signed by Diego "Woody"
Rodriguez
Date: 2020.05.04 11:45:22 -04'00'

General Counsel for CFX

[https://cfxgov.sharepoint.com/:f:/r/operations/engineering/SharedDocuments/General/528-160WideningNarcoossetoSR417/2Contract/2.A SupplementalAgreements/SA1](https://cfxgov.sharepoint.com/:f:/r/operations/engineering/SharedDocuments/General/528-160WideningNarcoossetoSR417/2Contract/2.A%20SupplementalAgreements/SA1)



MEMORANDUM

Date: April 3, 2020
To: Jamison Edwards, PE, CFX Engineering Project Manager
From: James E. Bradford, PE
Subject: Design Consultant Services – Contract No. 001589
SR 528 Eastbound Widening from Narcoossee Rd to SR 417
CFX Project No. 528-160 SA No. 1

Comments:

I have reviewed the Supplemental Agreement No. 1 fee sheet and scope of services submitted by the Balmoral Group sent via E-mail on March 30, 2020 for SR 528 EB Widening from Narcoossee Rd to SR 417 (CFX Project No. 528-160). This requested contract is to provide professional services to prepare construction plans and bid documents.

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

\$ 81,422.22	in Labor Cost
\$ 0.00	in Direct Cost
\$ 0.00	in <u>Subconsultant Cost</u>
\$ 81,422.22	Total Requested

The total manhours for each task are reasonable and acceptable, and the man hour rates are consistent with their contract; therefore, I recommend approval of this agreement in the amount of \$81,422.22.

Should you have questions or need additional information, please call me at 321.354.9605.

CC:

Keith Jackson, PE Dewberry
File



March 30, 2020

Jamison Edwards, PE
Engineering Project Manager
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

Re: SR 528 Widening from Narcoossee Road to SR 417
CFX Contract No. 001589
CFX Project #528-160
Supplemental Amendment #1

Dear Jamison:

The Balmoral Group appreciates the opportunity to provide services to CFX on this important improvement project. During the initial design phase of this project, CFX asked that the Milling and Resurfacing limits be extended. The change includes adding Milling and Resurfacing the westbound lanes from Station 862+27 to Station 945+00 including the WB on Ramp and WB off ramp at Narcoossee Road. The Milling limits on Eastbound SR 528 will be extended to Station 862+27 and will not include the Narcoossee Road ramps.

Supplemental services are required to accommodate these updates. The attached scope and fee estimate detail the task, effort and fee for the supplemental services. The fee for the supplemental services is \$81,422.22; see attached detailed staff hour and fee breakdown.

There is no proposed change to 12-month schedule at this time and the team is still looking to accelerate the 12-month schedule.

Please do not hesitate to contact me should you have any questions or comments (407.739.6533).

Best Regards,

Gregory Seidel, P.E.
Project Manager

Exhibit A

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

SCOPE OF SERVICES

FOR

**S.R. 528 WIDENING
Narcoossee Road to S.R. 417
Supplemental Agreement No. 1**

PROJECT NO. 528-160

IN ORANGE COUNTY, FLORIDA

April 2020

TABLE OF
CONTENTS

Description	Page No. A-
1.0 GENERAL.....	4
1.01 Location.....	4
1.02 Description.....	4
1.03 Purpose.....	4
1.04 Organization.....	4
1.05 Term of Agreement for Design Services.....	4
2.0 STANDARDS – No change.....	5
3.0 DESIGN CRITERIA – No change.....	6
4.0 WORK PERFORMED BY CONSULTANT.....	7
4.01 Design Features.....	7
4.02 Governmental Agencies.....	7
4.03 Preliminary Design Report - Review.....	7
4.04 Surveys and Mapping (DRMP & WBQ).....	7
4.05 Geotechnical Investigation.....	7
4.06 Contamination Impact Analysis – N/A.....	7
4.07 Pavement Design.....	7
4.08 Governmental Agency and Public Meetings.....	8
4.09 Environmental Permits.....	8
4.10 Utilities.....	8
4.11 Roadway Design.....	8
4.12 Structures Design.....	9
4.13 Drainage Design.....	9
4.14 Roadway Lighting.....	10
4.15 Traffic Engineering.....	10
4.16 Signing and Pavement Marking Plans.....	10
4.17 Right-of-Way Surveys.....	11
4.18 Cost Estimates.....	11
4.19 Special Provisions and Specifications.....	11
4.20 Fiber Optic Network (FON).....	11
4.21 Toll Plazas.....	11
4.22 Post-Design Services.....	11

5.0	MATERIALS FURNISHED BY CFX OR ITS DESIGNEE.....	27
5.01	No changes to this section.	27
6.0	WORK PERFORMED BY CFX OR ITS DESIGNEE.....	28
6.01	No changes to this section.	28
7.0	ADMINISTRATION.....	28
7.01	No Changes to this section.	28

1.0 GENERAL

1.01 Location

- A. See EXHIBIT “E”, Project Location Map.

1.02 Description

The supplemental services will include a change to the project limits and a change to the milling and resurfacing limits. There is no change to the milling, resurfacing and widening limits. The change includes adding milling and resurfacing to the westbound lanes from Station 862+27 to Station 945+00 including the WB on Ramp and WB off ramp at Narcoossee Road. The milling limits on eastbound SR 528 will be extended to Station 862+27 and will not include the Narcoossee Road ramps. The ramps are being modified or milled and resurfaced by Virgin Trains.

Additional elements include signing and pavement markings, maintenance of traffic, scheduling and project control, progress reporting and other tasks and associated activities.

1.03 Purpose

- A. The purpose of this Exhibit is to describe the scope of work and responsibilities required in connection with Supplemental Agreement No 1 - Final Engineering and Final Construction Drawings and Documents for the proposed additional milling and resurfacing eastbound and westbound S.R. 528 in the area of Narcoossee Road.

1.04 Organization

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

1.05 Term of Agreement for Design Services

- A. Shall follow the original contract terms.

2.0 STANDARDS – No change

3.0 DESIGN CRITERIA – No change

4.0 WORK PERFORMED BY CONSULTANT

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

4.01 Design Features

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

The additional work includes milling and resurfacing the westbound lanes from Station 862+27 to Station 945+00 including the WB on Ramp and WB off ramp at Narcoossee Road. The milling limits on eastbound SR 528 will be extended to Station 862+27 and will not include the Narcoossee Road ramps. These ramps are being modified or milled and resurfaced by Virgin Trains and will need to be coordinated with the construction of this project.

4.02 Governmental Agencies

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

4.03 Preliminary Design Report - Review

- A. This effort will be incorporated into the Preliminary Design Report.

4.04 Surveys and Mapping (**DRMP & WBQ**)

- A. There is no additional surveying and mapping included in this supplemental agreement.

4.05 Geotechnical Investigation

- A. A separate supplemental agreement will be submitted for additional pavement coring and analysis if additional funds are required.

4.06 Contamination Impact Analysis – N/A

4.07 Pavement Design

- A. The Consultant shall prepare the pavement design as appropriate in accordance with the requirements of the FDOT Pavement Design Manual.

- B. The proposed pavement design recommendation resulting from the Consultant's analysis of the various alternatives shall be contained in a Pavement Design Summary.

4.08 Governmental Agency and Public Meetings

- A. Except as may be provided elsewhere in this Scope of Services, the Consultant shall have appropriate representatives present at such meetings, conferences or hearings as CFX may direct to secure necessary approvals and/or support of the project by county, municipal, or other governmental agencies. If so directed, the Consultant shall also have appropriate representatives present at meetings or conferences of CFX, its Chairman or staff.
- B. The Consultant shall assist CFX in presentations to various parties. The Consultant shall prepare exhibits pertaining to basic roadway 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.

4.09 Environmental Permits

- A. There is no additional environmental permit work included in this supplemental agreement.

4.10 Utilities

- A. There is no additional utility work included in this supplemental agreement.

4.11 Roadway Design

- A. A Typical Section Package will not be prepared for this project. Rather, typical sections for mainline and impacted interchange ramps will be prepared as part of the Preliminary Engineering Memorandum and submitted to CFX for review and approval.
- B. The Consultant shall design the geometrics for this project using the design standards included in the scope. The design elements shall include, but not be limited to, the horizontal and vertical alignments, cross section template development, lane width, shoulder widths, cross slopes, borders, sight distance, side slopes, lane transitions, superelevations, features of intersections, ramp terminal details, interchanges, and limited access points.
- C. The Consultant shall prepare designs and contract documents for the roadway improvements, including, but not necessarily limited to:

1. Cover sheet (key sheet)
2. Summary of Pay Items
3. General notes
4. Summary Quantities sheets
5. Project Layout
6. Typical roadway sections
7. Typical roadway details
8. Plans and profiles (plans at 1" = 50' scale)
9. Interchange layout plans
10. Ramp Terminal Details
11. Cross-sections (with pattern plan) (1" = 20' horiz.) (1" = 10' vert.)
 - a. 1/2 section from WB EOT to southern LA R/W line (minimum)
 - b. Earthwork quantities
12. Traffic Control Sheets including Temporary Drainage
13. Utility Adjustment Sheets
14. Details
15. Special provisions
16. Special specifications

4.12 Structures Design

- A. There is no additional structural design included in this supplemental agreement.

4.13 Drainage Design

- A. There is no additional drainage design included in this supplemental agreement.

4.14 Roadway Lighting

- A. There is no additional roadway lighting design included in this supplemental agreement.

4.15 Traffic Engineering

- A. Traffic Data will be furnished by CFX.
- B. Maintenance of Traffic Plans
 1. The Consultant shall prepare maintenance of traffic plans at scale of 1"=100' to safely and effectively move vehicular and pedestrian traffic during all phases of construction. The designs shall include construction phasing of roadways ingress and egress to existing property owners and businesses, routing, signing and pavement markings, and detour quantity tabulations. Special consideration shall be given to the construction of the drainage system when developing the construction phases. Positive drainage must be maintained at all times.
 2. The Consultant shall investigate the need for temporary traffic signals, signs, alternative detour roads, arrow boards, flagging operations, and the use of materials such as sheet pilings in the analysis. A certified designer who has completed the FDOT training course shall prepare the maintenance of traffic plan.
 3. Traffic shall be maintained during all phases of project construction at all locations, including existing posted speed, lane widths and number of lanes entering and leaving Orlando International Airport unless determined by CFX and other governmental agencies. This includes meeting with the governmental agencies which may be impacted by the maintenance of traffic plans.

4.16 Signing and Pavement Marking Plans

- A. The Consultant shall prepare designs and contract documents for final signing and pavement marking plans including layouts showing the locations of ground mounted and overhead signs, special sign details, lighting, and any structural or foundation requirements in accordance with applicable design standards. Any requirements for electric service shall be coordinated with the local electric utility.
- B. CFX will provide conceptual signing plans for the project as deemed necessary.
- C. Plan sheets will be developed at a scale of 1" =50' (11"x17" format).

- D. The Consultant shall determine the existing structures that will be impacted by the widening and need to be replaced.
- E. Replace DMS 528-14.0 WB and place new DMS approaching the SR 417 interchange (2 DMS signs).

4.17 Right-of-Way Surveys

- A. There is no additional effort for right-of-way surveys included in this supplemental agreement.

4.18 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.

4.19 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.

4.20 Fiber Optic Network (FON)

- A. There is no additional Fiber Optic Network design included in this supplemental agreement.

4.21 Toll Plazas

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

4.22 Post-Design Services

- A. No changes to this section.

5.0 MATERIALS FURNISHED BY CFX OR ITS DESIGNEE

5.01 No changes to this section.

6.0 WORK PERFORMED BY CFX OR ITS DESIGNEE

6.01 No changes to this section.

7.0 ADMINISTRATION

7.01 No Changes to this section.

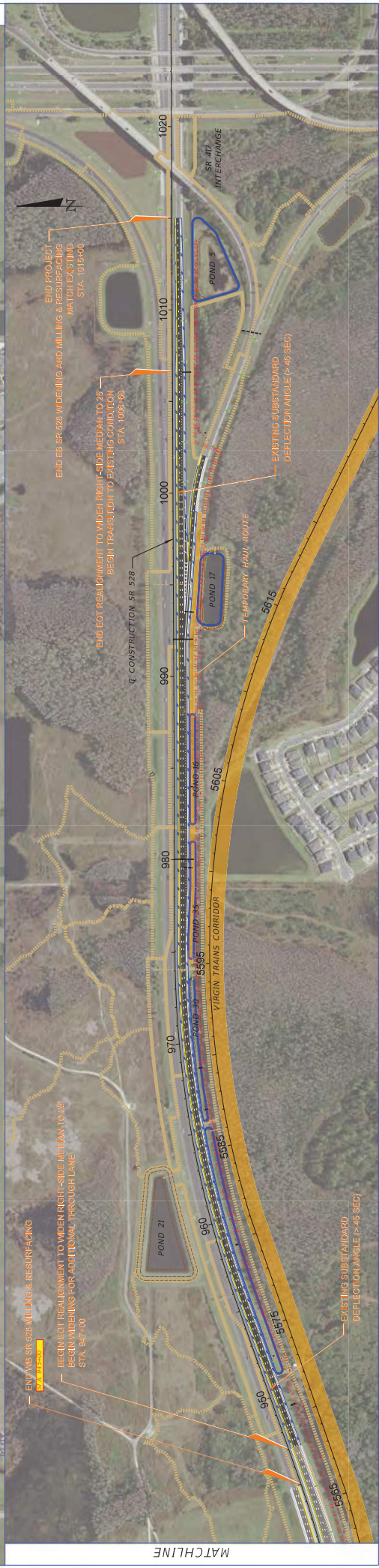
EASTBOUND SR 528 WIDENING FROM MARCOOSSEE ROAD TO SR 417



BEGIN PROJECT
BEGIN EB & WB MILLING & RESURFACING
STA. 852+297



MATCHLINE



END SR 528 MILLING & RESURFACING
STA. 852+297

END PROJECT
BEGIN EB SR 528 WIDENING AND MILLING & RESURFACING
MATCH EXISTING
STA. 1015+000

END EB REALIGNMENT TO WIDER RIGHT-SIDE MEDIAN TO 25'
BEGIN TRANSITION TO EXISTING CONDITION
STA. 1005+50

CONSTRUCTION SR 528

TEMPORARY HAUL ROUTE

EXISTING SUBSTANDARD
DEFLECTION ANGLE (>45 BEC)

MATCHLINE



ORIGINAL

AGREEMENT

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AND
THE BALMORAL GROUP, LLC**

SR 528 WIDENING FROM NARCOOSSEE ROAD TO SR 417

CONTRACT NO. 001589, PROJECT 528-160

**CONTRACT DATE: FEBRUARY 13, 2020
CONTRACT AMOUNT: \$1,290,000.00**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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

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COSTS AND FEES, PROJECT ORGANIZATIONAL CHART, PROJECT LOCATION
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FOR

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DESIGN SERVICES

FEBRUARY 2020

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TABLE OF CONTENTS

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

Table of Contents

1.0. DEFINITIONS..... 1
2.0. SERVICES TO BE PROVIDED 1
3.0. TERM OF AGREEMENT AND RENEWALS 2
4.0. PROJECT SCHEDULE..... 2
5.0. PROFESSIONAL STAFF 3
6.0. COMPENSATION 4
7.0. DOCUMENT OWNERSHIP AND RECORDS..... 5
8.0. COMPLIANCE WITH LAWS 7
9.0. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE 7
10.0. TERMINATION 7
11.0. ADJUSTMENTS 8
12.0. HOLD HARMLESS AND INDEMNIFICATION, SOVEREIGN IMMUNITY 8
13.0. INFRINGEMENT OF PATENTS AND COPYRIGHTS 9
14.0. THIRD PARTY BENEFICIARY 10
15.0. INSURANCE..... 10
16.0. COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS..... 12
17.0. CONFLICT OF INTEREST AND STANDARD OF CONDUCT 13
18.0. DOCUMENTED ALIENS 14
19.0. E-VERIFY CLAUSE 14
20.0. INSPECTOR GENERAL 14
21.0. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT 14
22.0. COMPANIES PURSUANT TO SECTION 287.135 AND 215.473..... 15
23.0. AVAILABILITY OF FUNDS 15
24.0. AUDIT AND EXAMINATION OF RECORDS..... 15
25.0. GOVERNING LAW AND VENUE..... 16
26.0. NOTICE..... 17
27.0. HEADINGS 17
28.0. CONTRACT LANGUAGE AND INTERPRETATION 17
29.0. ASSIGNMENT 18
30.0. SEVERABILITY 18
31.0. INTEGRATION..... 18
32.0. ATTACHMENTS 18

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

THIS AGREEMENT, made and entered into this 13th day of February 2020, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter “CFX,” and The Balmoral Group, LLC, hereinafter called “CONSULTANT,” registered and authorized to conduct business in the State of Florida, carrying on professional practice in engineering, with offices located at 165 Lincoln Ave., Winter Park, FL. 32789.

WITNESSETH:

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

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

1.0. DEFINITIONS.

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

2.0. SERVICES TO BE PROVIDED

CFX does hereby retain the CONSULTANT to furnish certain professional services in connection with the design of SR 528 Widening from Narcoossee Road to SR 417 identified as Project 528-160 and Contract No. 001589.

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:

Comprehensive Engineering Services, Inc.	Class I
DRMP, Inc.	Class I
DRMP , Inc. (Survey)	Class II
Geotechnical and Environmental Consultants, Inc.	Class II
WBQ Design & Engineering, Inc.	Class I
WBQ Design & Engineering, Inc. (Survey)	Class II
Base Consultants, Inc.	Class I

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

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

6.0. COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in **Exhibit "B"**, Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$1,290,000.00 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 165 Lincoln Ave., Winter Park, FL. 32789.

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

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

An excerpt of Section 119.0701, Florida Statutes is below.

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

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

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

The CONSULTANT shall allow public access to all documents, papers, letters, or other material as approved and authorized by CFX and subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONSULTANT in conjunction with this Agreement. Failure by the CONSULTANT to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by CFX.

The obligations in Section 7.0, Document Ownership and Records, shall survive the expiration or termination of this Agreement and continue in full force and effect.

8.0. COMPLIANCE WITH LAWS

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

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

8.1 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

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 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 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.

15.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than 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/annual aggregate. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

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

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) per claim / annual aggregate, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the CONSULTANT.

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

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

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

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

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

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

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

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. 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.

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. 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.

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 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.

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: The Balmoral Group, LLC
165 Lincoln Ave.
Winter Park, FL. 32789
Attn: Greg Seidel, P.E

The Balmoral Group, LLC
165 Lincoln Ave.
Winter Park, FL. 32789
Attn: Byron Sprague, P.E

27.0. HEADINGS

Headings are given to the sections of the Agreement solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Agreement.

28.0. CONTRACT LANGUAGE AND INTERPRETATION

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

References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined

that have well known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective functions and capacities.

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

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

29.0. ASSIGNMENT

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

30.0. SEVERABILITY

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

31.0. INTEGRATION

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

32.0. ATTACHMENTS

- Exhibit "A", Scope of Services
- Exhibit "B", Method of Compensation
- Exhibit "C", Details of Cost and Fees
- Exhibit "D", Project Organization Chart
- Exhibit "E", Project Location Map [Note: Attach if applicable]
- Exhibit "F", Project Schedule [Note: Attach if applicable]
- Exhibit "G", Potential Conflict Disclosure Form

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, the CONSULTANT and CFX have caused this instrument to be signed by their respective duly authorized officials, as of the day and year first above written. This Contract was awarded by CFX's Board of Directors at its meeting on February 13, 2020.

THE BALMORAL GROUP, LLC

**CENTRAL FLORIDA
EXPRESSWAY AUTHORITY**

BY: *Valerie Seidel*
Authorized Signature

BY: *Aradh Williams*
Director of Procurement

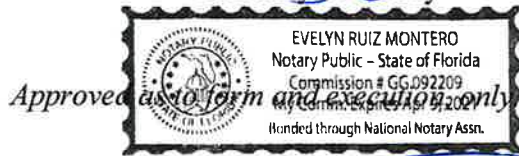
Print Name: Valerie Seidel

Print Name: Aradh Williams

Title: President

Effective Date: 2/13/20

ATTEST: *Evelyn Ruiz Montero* (Seal)
Secretary or Notary



[Signature]
General Counsel for CFX

20 FEB 20 PM 3:55

EXHIBIT A

SCOPE OF SERVICES

Exhibit A

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

SCOPE OF SERVICES

FOR

**S.R. 528 WIDENING
Narcoossee Road to S.R. 417**

PROJECT NO. 528-160

IN ORANGE COUNTY, FLORIDA

January 27, 2020

TABLE OF
CONTENTS

Description	Page No. A-
1.0 GENERAL.....	5
1.01 Location.....	5
1.02 Description.....	5
1.03 Purpose.....	5
1.04 Organization.....	5
1.05 Term of Agreement for Design Services.....	6
2.0 STANDARDS.....	7
3.0 DESIGN CRITERIA.....	8
3.01 General.....	8
3.02 Geometry.....	8
3.03 Bridge and Other Structures.....	11
4.0 WORK PERFORMED BY CONSULTANT.....	12
4.01 Design Features.....	12
4.02 Governmental Agencies.....	12
4.03 Preliminary Design Report - Review.....	12
4.04 Surveys and Mapping (DRMP & WBQ).....	13
4.05 Geotechnical Investigation.....	16
4.06 Contamination Impact Analysis.....	17
4.07 Pavement Design.....	17
4.08 Governmental Agency and Public Meetings.....	18
4.09 Environmental Permits.....	18
4.10 Utilities.....	19
4.11 Roadway Design.....	20
4.12 Structures Design.....	22
4.13 Drainage Design.....	22
4.14 Roadway Lighting.....	23
4.15 Traffic Engineering.....	24
4.16 Signing and Pavement Marking Plans.....	24
4.17 Right-of-Way Surveys.....	25
4.18 Cost Estimates.....	25
4.19 Special Provisions and Specifications.....	25

4.20	Fiber Optic Network (FON)	25
4.21	Toll Plazas	29
4.22	Arc Flash Hazard Analysis	29
4.23	Post-Design Services	30
5.0	MATERIALS FURNISHED BY CFX OR ITS DESIGNEE.....	32
5.01	Record Documents	32
5.02	Traffic Data.....	32
5.03	Other	32
6.0	WORK PERFORMED BY CFX OR ITS DESIGNEE.....	33
6.01	Right-of-Way Acquisition	33
6.02	Utility Agreements	33
6.03	Public Involvement.....	33
6.04	Contracts and Specifications Services.....	33
6.05	Post-Design Services	33
6.06	Environmental Permits	33
6.07	Conceptual Specialty Design.....	33
7.0	ADMINISTRATION	34
7.01	Central Florida Expressway Authority	34
7.02	CFX's Project Manager	34
7.03	Consultant.....	34
7.04	Project Control.....	35
7.05	Work Progress	35
7.06	Schedule.....	36
7.07	Project Related Correspondence.....	36
7.08	Quality Control	36
7.09	Consultant Personnel	36
7.10	Site Visit	37
7.11	Acceptability of the Work	37
7.12	Design Documentation	37
7.13	Reviews and Submittals.....	38
7.14	30% Roadway Plan Submittal	40
7.15	60% Roadway Plan Submittal	41
7.16	90% Roadway Plan Submittal	43
7.17	100% Roadway, Bridge, Structural and Right-of-Way Plans	45
7.18	Pre-Bid Plans	45

7.19 Bid Set 45

1.0 GENERAL

1.01 Location

- A. See EXHIBIT “E”, Project Location Map.

1.02 Description

The services will include final design and preparation of construction drawings / specifications for the proposed S.R. 528 outside widening from Narcoossee Road to SR 417. Specifically, the project consists of widening to the outside to accommodate an additional general use travel lane in the eastbound direction, widening to the inside to accommodate the appropriate inside shoulder width, and widening to provide a two-lane exit at SR 417. Additional elements include milling & resurfacing, surveying, drainage evaluation and design, permitting, lighting, signing and pavement markings, 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.

1.03 Purpose

- A. The purpose of this Exhibit is to describe the scope of work and responsibilities required in connection with Final Engineering and Final Construction Drawings and Documents for the proposed eastbound S.R. 528 outside widening from Narcoossee Road to SR 417.
- B. The Consultant shall perform those engineering services as required for final roadway/drainage plans, final lighting plans, final traffic control plans, utility coordination and final utility adjustment plans, final ITS (fiber optic network) plans, 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.

1.04 Organization

- A. CFX’s Project Manager will administer the Consultant services detailed

in this scope. The following sections define the duties and obligations of CFX and the Consultant.

1.05 Term of Agreement for Design Services

- A. The term of the Agreement to perform the required design services shall be within twelve (12) months from notice to proceed, including all reviews. Any fast track of services will be at the direction of CFX's Project Manager.

- B. The Consultant may continue the design efforts while design submittals are being reviewed. Doing so, however, in no way relieves the Consultant of the responsibility to incorporate review comments into the design, nor does it entitle the Consultant to any additional design fees as a result of making changes due to review comments.

1. Project Milestones:

The Consultant will prepare a tabulation of major project milestones.

2. Project Schedule:

The Consultant shall include a schedule of major design tasks.

2.0 STANDARDS

- A. The applicable design and construction standards and policies of the Florida Department of Transportation, Federal Highway Administration (FHWA), American Association of State Highway and Transportation Officials (AASHTO), Transportation Research Board (TRB), Standard Building Code, CFX's Design Practices and Standard Notes and CFX's Guidelines for Preparation of Signing and Pavement Marking Plans shall be followed throughout the design and construction of the project unless specifically stated otherwise. The editions and updates of the applicable standards and policies in effect at the time of Contract execution shall be used as follows for this project:
1. Division II, Construction Details, and Division III, Materials, of the FDOT Standard Specifications for Road and Bridge Construction, 2019 edition, and updates thereafter, shall be used for this project.
 2. The FDOT Standard Plans
 3. The FDOT Design Manual
 4. The FDOT Basis of Estimates Handbook
 5. The AASHTO Policy on Geometric Design of Highway and Streets (Green Book)
 6. The FHWA Manual on Uniform Traffic Control Devices (MUTCD)

3.0 DESIGN CRITERIA

3.01 General

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

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

3.02 Geometry

- A. The following criteria are to be incorporated into the design:

<u>DESIGN ELEMENT</u>	<u>EXPRESSWAY</u>		<u>CROSSROADS/ COLLECTORS</u>
	<u>MAINLINE</u>	<u>RAMPS</u>	
<u>Design Speed, MPH</u>	70 mph	30 mph (Loop) 50 mph (Diamond) 50 mph (Directional)	30 Local 45 Urban 50 Rural
<u>Horizontal Alignment</u>			
a. Max. Curve, Degrees	3° 30'	24° 45' Loop 8° 15' Diamond 8° 15' Directional	20°
b. Max. Superelevation, ft. /ft.	0.10	0.10	0.05 Urban 0.10 Rural
c. Lane Drop Tapers	70:1	50:1	
d. Transitions	Use spirals for curves > 1° 30'	Use spirals for curves > 1° 30'	Use spirals for curves > 1° 30'
<u>Vertical Alignment</u>			
a. Max. Grade	3%	5% to 7% (30 mph) 3% to 5% (50 mph)	5% Arterial Rural 7% Collector Rural
b. Vertical Curvature (K) (K=Len./%grade change)			
Crest	506 FDOT 290 to 540 AASHTO	31 (30 mph) 136 (50 mph) 110 to 160 Other (AASHTO)	31 to 136
Sag	206 FDOT 150 to 200 AASHTO	31 (30 mph) 136 (50 mph) 90 to 110 Other (AASHTO)	37 to 96
c. Decision Sight Dist., ft.	Refer to AASHTO	N/A	N/A
<u>Cross Sections</u>			
a. Lane Widths, ft.	12	12 dual lanes 15 min. single lane	12 inner lanes 12-16 outer lanes
b. Shoulder width, ft.	<u>4-Lane</u>	<u>Single Lane</u>	
Right	12 (10 paved)	6 (4 paved)	8 (4*paved)
Left	8 (4 paved)	6 (2 paved)	8 (2 paved)
			* min. 5' paved FDOT

<u>DESIGN ELEMENT</u>	<u>EXPRESSWAY</u>		<u>CROSSROADS/ COLLECTORS</u>
	<u>MAINLINE</u>	<u>RAMPS</u>	
Right	<u>6-Lane</u> 12 (10 paved)	<u>Dual Lane</u> 10* (8* paved)	
Left	12 (10 paved)	8 (4 paved) (* add 2' for interstate)	
<u>Bridges, ft.</u>	<u>4-Lane</u>	<u>Single-Lane</u>	
Right	10	6	
Left	6	6	
	<u>6-Lane</u>	<u>Dual Lane</u>	
Right	10	10	
Left	10	6	
c. Cross Slopes			
1. Traffic Lanes	2% (4-lane) 3% or tbd (6-lane)	2%	2%
2. Bridge Lanes	2% typ. (no break)		
3. Left Shoulder	Match Mainline	5%	5%
4. Right Shoulder	Match Mainline	6%	6%
d. Median Width (4-lane), ft. (E.O.P./E.O.P.)	64' (typical) 26' (with barrier)	N/A	22' or 40'
Lateral Offset	FDM Table 215.2.4	FDM Table 215.2.4	FDM Table 215.4
Vertical Clearance, ft.			
a. Over Roadway*	16.5	16.5	16.5
b. Overhead Signs	17.5	17.5	17.5
c. Over Railroad	23.5	23.5	N/A

Ramp Operations

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

Right of Way

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

3.03 Bridge and Other Structures

- A. All plans and designs shall be prepared in accordance with the following standards and specifications in effect at the time of contract execution: AASHTO LRFD Bridge Design Specifications, FDOT Structures Manual, FDOT Design Manual, FDOT Standard Plans, FDOT Load Rating Manual, except as otherwise directed by CFX.

4.0 WORK PERFORMED BY CONSULTANT

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

4.01 Design Features

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

The services will include final design and preparation of construction drawings / specifications for the proposed SR 528 outside widening from east of Narcoossee Road (Station 905+00 +/-) to east of the exit to SR 417 (Station 1015+00 +/-). Specifically, the project consists of milling and resurfacing the existing pavement from west of Narcoossee Road to Station 947+00 +/- to remove the existing outside lane drop, widening to the outside for the additional general use lane, widening to the median to accommodate appropriate inside shoulder width, and to the outside to provide a two-lane exit to SR 417. Additional elements include milling & resurfacing, surveying, drainage evaluation and design, permitting, lighting, signing and pavement markings, ITS, maintenance of traffic, utility design and coordination, geotechnical analysis, scheduling and project control, progress reporting and other tasks and associated activities.

4.02 Governmental Agencies

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

4.03 Preliminary Design Report - Review

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

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

- B. Preliminary Design Report (PDR) - Review: Brief report addressing the following items:
1. Add parallel deceleration lane to create the two-lane exit to SR 417 including necessary widening along the existing ramp.
 2. Pavement analysis
 3. Drainage and permitting approach
 4. Hydroplaning Analysis
 5. Adjacent project coordination including LED lighting conversion by 528-143 and rail construction by Brightline Trains

4.04 Surveys and Mapping (DRMP & WBQ)

- 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 (WBQ)

Right of Way dgn/geopak files and alignment dgn/geopak files (as available) to be provided to design team by CFX. Calculate/Locate Alignment and R/W for construction purposes. Alignment and R/W will not be set/staked in field. Alignment will be referenced by station and offset of control established in 27.1 and 27.2 and included in CTL/PNC sheets prepared in 27.5.

Research Recon Recover existing CL Survey and R/W monumentation per SR 528 Project 907 Right of Way Map, Eastern Beltway 775300-6440-401/402 Right of Way Map, Virgin Train Easement Surveys.

Prepare ALIGNRD01 & RW528-160_RW Lines dgn files.

C. Reference Points (WBQ)

1. Utilize Right of Way dgn/geopak files and alignment dgn/geopak files (as available) provided to design team by CFX, control established in Task 27.1 and Task 27.2 and alignment/RW from Task 27.3. Prepare CTL/PNC sheets for Design Plans (mainline and side streets)

D. Bench Levels (WBQ)

1. The Consultant shall establish new benchmarks on points established in 27.1.

E. Topography (DRMP & WBQ)

1. Planimetric mapping and a digital terrain model (DTM), suitable for 1" = 50' display scale shall be conducted by the Consultant.
2. Topographic survey of S.R. 528 (Eastbound only) from Narcoossee Rd to S.R. 417 will extend from the grass median of S.R. 528 to toe of slope and/or right of way fence. Survey data will be collected using a combination of Terrestrial Mobile LiDAR (TML), GPS and conventional methods.
3. The Consultant will obtain existing pavement elevations and cross slopes along the inside travel lane and outside travel lane every 100' from TML data.
4. Cross-sections will be performed at 1000' intervals along the mainline to verify DTM. (WBQ)
5. Additional topographic and DTM surveys, as needed for the project design, are the responsibility of the Consultant. These may include existing water bodies and pavement elevations.

F. Drainage Survey (WBQ)

Perform a 3D DTM Survey of off pavement area; from EB south edge of pavement to 25' past R/W and the grassed median within the project limits. Provide to DRMP for Data merge.

Perform a drainage survey including pipe type, location, size and flow line elevations.

G. Underground Utilities (DRMP)

Locate all underground utilities, horizontally and vertically as flagged by

respective utility companies or a qualified utility marking consultant. Provide soft excavation verifications as needed to verify location and at utility conflict areas. DRMP will provide survey support of a total of 240 geotechnical borings as described below:

QL-B (Designates): Designate of an estimate of 4 underground utilities lying within area of interest. According to Sunshine 811 (OneCall) Design Ticket # 347900623, there are 17 utility companies with infrastructure within the area to be investigated, but only 4 will be considered per current site conditions. ITS will be designated by CFX, DRMP will survey the ITS line only.

Utilities x 14,678 ft = 58,712 ft = 11.12 mi (Approx)

QL-A (Test Holes) - Verification Test Holes & Conflict Test Holes
Estimate of 3 Verification test hole per utility to support designate effort
4 utilities x 3 Test Holes = 12 Verification Test Holes. An estimate of 30 Test Holes for conflict resolution, 20 test holes to clear new light poles, single pole traffic signs. Clearance Holes consisting of a cross of five (5) test holes per clearance area for 3- Multi Pole Traffic Signs, 2-Overhead Sign Structures and 1-Cantilever Sign Structure. $(6+4+1) * 5 = 55$ Test Holes.

Total Locates = $12+45+20+55 = 117$ test Holes

H. Right-of-Way Ties (WBQ)

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

I. Bridge Survey (N/A)

J. Jurisdictional Line Surveys (WBQ)

Perform Jurisdictional Line Surveys as needed for engineering design and permitting. Locate wetland flags delineated by CFX's GEC; anticipate 4 miles of wetland delineation (includes surveying flagging for surface waters or roadside ditches).

K. Geotechnical Surveys (DRMP)

Locate and/or stake boring locations as needed for geotechnical investigations. DRMP will provide survey support of a total of 240 geotechnical borings as described below:

- Roadway- 212 borings • Ponds/Swales- 16 borings • Piezometers- 4
- Signs- 5 borings • CCTV Poles- 3 borings.

Total Amount = 240

L. 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.

M. CFX ITS/FON (DRMP)

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 ITS Consultant shall review the collected data before submitting it to the CFX GSC for review. The survey data collected will be included in the 30% plans submittal package.

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

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

4.05 Geotechnical Investigation

A. The Consultant shall perform a geotechnical investigation of the project in accordance with the requirements of CFX.

B. Investigations shall be performed with minimal disruption of the normal traffic flow for the project. Field personnel shall use safety devices such as warning signs, traffic cones, warning lights, and safety vests at all times, according to CFX requirements. The Consultant shall adhere to all traffic control requirements when taking samples on existing roadways. A traffic control plan and permit may be required. Any advanced warning signs required when crews are working on CFX system shall be made with 3M Scotchlite Diamond Grade Fluorescent orange roll up sign sheeting.

C. The work includes, but is not limited to, 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, pH and resistivity conditions requiring design considerations, soil shrinkage/swell characteristics, slope stability and benching in embankment/excavation locations, 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.

- D. The results of the geotechnical investigation shall be contained in a Geotechnical Report which shall be submitted to CFX's Project Manager for approval. The geotechnical investigation shall include all necessary laboratory testing of materials.
- E. Upon approval of the Geotechnical Report, the Consultant shall proceed with preparation of the pavement and foundation designs.
- F. Boring profiles shall be included on cross-section sheets in the contract plans and include the boring number, station, offset, soil legend, observed water table, design high water elevation and geotechnical consultant's address. A boring number and target symbol shall be shown at the appropriate location on the roadway and bridge plans.
- G. Roadway core samples shall be taken to determine the existing pavement section. The Consultant shall submit a plan to CFX for location approval.

4.06 Contamination Impact Analysis

- A. The Consultant 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, Part 2, Chapter 20, the Florida Department of Environmental Protection (FDEP), and all other pertinent State or Federal agencies having jurisdiction, and the requirements of CFX.
- B. At a minimum, the Consultant shall conduct a windshield survey along the project corridor to identify any new sources of environmental contamination not reported in the referenced document(s).
- C. The testing of any sites including the use of ground penetrating radar, if required to complete the design and/or construction of the project, will be added to the Scope of Services by Supplemental Agreement.

4.07 Pavement Design

- A. The Consultant shall prepare the pavement design as appropriate in accordance with the requirements of the FDOT Pavement Design Manual.
- B. The proposed pavement design recommendation, resulting from the

Consultant's analysis of the various alternatives, shall be contained in a Pavement Design Summary.

4.08 Governmental Agency and Public Meetings

- A. Except as may be provided elsewhere in this Scope of Services, the Consultant shall have appropriate representatives present at such meetings, conferences or hearings as CFX may direct to secure necessary approvals and/or support of the project by county, municipal, or other governmental agencies. If so directed, the Consultant shall also have appropriate representatives present at meetings or conferences of CFX, its Chairman or staff.
- B. The Consultant shall assist CFX in presentations to various parties. The Consultant shall prepare exhibits pertaining to basic roadway 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.

4.09 Environmental Permits

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

6. Assist CFX in responding to any requests for additional information made by regulatory agencies after the permit application is submitted.
7. Incorporate any changes required by changes in regulatory agency requirements during the course of the project. If this requires additional work by the Consultant a Supplemental Agreement will be prepared.
8. Prepare a list of adjacent landowners along with address and nine-digit zip code at all wetland encroachment sites.
9. Provide all permit application material in .pdf format.
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
12. Preliminary field evaluation of general land use and wildlife habitat within existing ROW, pond sites, and bridges
13. Pre-application meeting with SFWMD

4.10 Utilities

A. Location

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

B. Utility Coordination

1. The Consultant shall identify utility owners within the project

limits and contact each to obtain utility system maps, plan mark-ups or equivalent utility sketches and/or as-built drawings depicting the location of their facilities. The Consultant shall prepare reproducible utility adjustments plans based on information provided by respective utility companies.

2. Private utilities will prepare design plans for the relocation of their facilities. If a utility cannot or will not prepare these design plans, the work shall be added to the scope by Supplemental Agreement and the Consultant shall prepare design plans for utility relocation for approval of the utility and review by CFX.
3. Where utility conflicts occur, which require utility relocation agreements between the affected utility and CFX, the Consultant shall prepare the necessary data/plans required for the agreements. The Consultant shall advise CFX seven days in advance of meetings with utility companies/agencies scheduled to discuss utility relocations.
4. The preparation and negotiation of the agreement will be performed by CFX's Project Manager. After approval of the agreement by the utility and CFX, the Consultant shall prepare reproducible utility adjustment sheets identifying proposed relocations with respect to the construction plans.
5. The Consultant shall prepare a utility conflict matrix to assist in identifying and resolving conflicts between utilities and proposed construction prior to completion of the plans.
6. The Consultant shall obtain utility work schedules from the utility companies for all utility relocation or adjustments required to accommodate construction.
7. The Consultant shall prepare the Utility Certification Letter certifying that all utility negotiations (full execution of each agreement, approved utility work schedule, technical special provisions written, etc.) have been completed with arrangements made for utility work to be undertaken and completed as required.
8. The Consultant shall make two utility contacts with the utility agencies (Phase II and Phase III) and hold a utility conference at each contact.

4.11 Roadway Design

- A. A Typical Section Package will not be prepared for this project. Rather, typical sections for mainline and impacted interchange ramps will be prepared as part of the Preliminary Engineering Memorandum and submitted to CFX for review and approval.

- B. The Consultant shall design the geometrics for this project using the design standards included in the scope. The design elements shall include, but not be limited to, the horizontal and vertical alignments, cross section template development, lane width, shoulder widths, cross slopes, borders, sight distance, side slopes, lane transitions, superelevations, features of intersections, ramp terminal details, interchanges, and limited access points.

- C. The Consultant shall prepare designs and contract documents for the roadway improvements, including, but not necessarily limited to:
 - 1. Cover sheet (key sheet)
 - 2. Summary of Pay Items
 - 3. General notes
 - 4. Summary Quantities sheets
 - 5. Project Layout
 - 6. Typical roadway sections
 - 7. Typical roadway details
 - 8. Plans and profiles (plans at 1" = 50' scale)
 - 9. Interchange layout plans
 - 10. Ramp Terminal Details
 - 11. Cross-sections (with pattern plan) (1" = 20' horiz.) (1" = 10' vert.)
 - a. 1/2 section from WB EOT to southern LA R/W line (minimum)
 - b. Earthwork quantities
 - 12. Traffic Control Sheets including Temporary Drainage
 - 13. Utility Adjustment Sheets

14. Details
15. Special provisions
16. Special specifications

4.12 Structures Design

- A. The Consultant shall prepare designs and contract documents for structural design including, but not necessarily limited to the following items.
 1. Sign structures:
 - a. Structural evaluation of the following existing structures:
 - i. Overhead truss with 1 DMS, 1 static sign panel)
 - b. Design of sign structures:
 - i. 2 Overhead Cantilever
 - ii. 3 Overhead Truss
 - iii. 3 Multi-Post ground mount signs

4.13 Drainage Design

- A. As part of the drainage design requirements, the Consultant shall:
 1. Perform all drainage design in accordance with the approved criteria from Section 3.01D.
 2. Finalize the pond design at the 30% submittal. Modify existing ponds for additional treatment for the ramp modification areas and slight increase of mainline impervious area.
 3. Have its chief drainage engineer available at the scheduled (bi-weekly/monthly) team meetings to review progress and discuss problems.
 4. Notify CFX's Project Manager immediately if any deviation from approved design criteria is anticipated.
 5. Provide drainage/contour maps as needed used in the development of the drainage design to CFX for use in scheduled reviews. These maps will be returned to the Consultant along with review comments at the end of the review process.
 6. Provide copies of its internal quality control comments and calculations at the scheduled reviews.

7. Prepare a technical memorandum identifying existing drainage concerns along the corridor and potential fixes or modifications. Known existing drainage concerns include: None at this time.
 8. Critical duration analysis is not included in this effort and, if required, shall be added to the scope by Supplemental Agreement. A pond siting report is not required.
- B. The Consultant shall prepare designs and contract documents for drainage features including, but not necessarily limited to:
1. Connector pipes
 2. Drainage structure details
 3. Storm drain and culvert profiles and/or drainage cross-sections
 4. Lateral ditches/channels
 5. Outfall ditches/channels
 6. Retention/detention ponds/exfiltrationsystem

4.14 Roadway Lighting

- A. The Consultant shall provide a complete set of final roadway lighting documents in accordance with FDOT and CFX design criteria. These plans shall include replacement of all CFX lighting on the corridor to LED, including roadway and ramp fixtures, overhead sign lighting and underdeck lighting. The work shall include coordination with the local utility to provide electrical service. Plan sheet scale shall be at 1"=50' scale.
- B. The Consultant shall provide arc flash and short circuit analysis for Roadway Lighting.
- C. If required, CFX will provide a cut sheet for the type of lighting fixtures to be used for this project.
- D. The Consultant will prepare designs and contract documents for lighting design including, but not necessarily limited to the following items.
 - Cover sheet (key sheet)
 - Tabulation of Quantities
 - General notes

- Pole data and Legend sheet
- Project Layout sheet
- Plans sheets (plans at 1"=50' scale)
- Service point detail
- Special Details

4.15 Traffic Engineering

A. Traffic Data will be furnished by CFX.

B. Maintenance of Traffic Plans

1. The Consultant shall prepare maintenance of traffic plans at scale of 1"=100' to safely and effectively move vehicular and pedestrian traffic during all phases of construction. The designs shall include construction phasing of roadways ingress and egress to existing property owners and businesses, routing, signing and pavement markings, and detour quantity tabulations. Special consideration shall be given to the construction of the drainage system when developing the construction phases. Positive drainage must be maintained at all times.
2. The Consultant shall investigate the need for temporary traffic signals, signs, alternative detour roads, arrow boards, flagging operations, and the use of materials such as sheet pilings in the analysis. A certified designer who has completed the FDOT training course shall prepare the maintenance of traffic plan.
3. Traffic shall be maintained during all phases of project construction at all locations, including existing posted speed, lane widths and number of lanes entering and leaving Orlando International Airport unless determined by CFX and other governmental agencies. This includes meeting with the governmental agencies which may be impacted by the maintenance of traffic plans.

4.16 Signing and Pavement Marking Plans

- A. The Consultant shall prepare designs and contract documents for final signing and pavement marking plans including layouts showing the locations of ground mounted and overhead signs, special sign details, lighting, and any structural or foundation requirements in accordance with applicable design standards. Any requirements for electric service shall be coordinated with the local electric utility.
- B. CFX will provide conceptual signing plans for the project as deemed necessary.

- C. Plan sheets will be developed at a scale of 1" = 50' (11"x17" format).
- D. The Consultant shall determine the existing structures that will be impacted by the widening and need to be replaced.
- E. Replace DMS 528-14.0 WB and place new DMS approaching the SR 417 interchange (2 DMS signs).

4.17 Right-of-Way Surveys

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

4.18 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.

4.19 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.

4.20 Fiber Optic Network (FON)

A. Fiber Optic Infrastructure Plans

1. The site construction plans shall be developed at a scale of 1" equals 50 feet. These plans shall include the relocation of all existing fiber optic duct banks, cables, manholes, and pull boxes in areas where the existing locations conflict with construction and as necessary to relocate the FON into the new paved shoulder. The Consultant shall identify existing physical features and utilities that will impact the construction and installation of the equipment. The Consultant shall review and modify standard FON details as necessary. Any devices that are damaged or impacted by the project shall be replaced. The Consultant shall provide arc flash and short circuit analysis for the FON components.
2. Fiber optic network (FON) plans shall include the following:
 - a. Roadway geometry
 - b. Rights-of-Way
 - c. Existing utilities within the right-of-way including CFX's FON

- d. Physical features affecting construction/installation (sign structures, light poles, fences, etc.)
- e. Manhole/Pull box locations and stub-out details (standard details provided)
- f. Device layout
- g. Device installation details
- h. Conduit installation details (standard details provided)
- i. Fiber optic cable route marker detail (standard details provided)
- j. Fiber count per conduit
- k. Communications interconnect
- l. Connectivity with the FON backbone conduits
- m. Fiber cable splice details for new or relocated fiber optic cabling.
- n. Controller cabinet, CCTV/ TMS pole, and foundation details for proposed CCTV/ TMS sites.
- o. Power interconnect, calculations to support conductor size, and details. Power conductors to each device location shall be sized to the maximum connected load in the cabinet plus 10A to accommodate other loads such as UPS battery charging or Maintenance equipment (lowering device drill, shop vac, etc.). Determination on conductor sizing and voltage drop limits are only required for proposed sites and existing sites where the total site load is being significantly modified.
- p. Design Methodology Report shall include voltage drop calculation, typical cabinet load summary table and CCTV sighting for proposed camera locations. Power conductors to each device location shall be sized to the capacity of the main breaker in the cabinet and shall also include a 10 Amp maintenance load that is carried to the end of each circuit.
- q. Grounding
- r. Table of quantities
- s. Special notes
- t. Maintenance of fiber operations (protection of existing FON through all phases of construction and cutover phasing to ensure continuous operation of existing ITS devices)
- u. All existing and proposed FON to be included and shown with roadway cross sections and drainage cross sections
- v. Replacement of existing CCTV sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing CCTV is not compatible with proposed construction.
- w. Replacement of existing data collection sensor (DCS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details

- provided), in the event existing DCS would not survive project construction.
- x. Relocation of existing dynamic message sign (DMS) to be centered over the proposed roadway. If site is to be impacted by widening activities then the Designer is to replace the existing site and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided).
 - y. Replacement of existing traffic monitoring sites (TMS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing TMS would not survive project construction.
 - z. Conversion of any existing ITS devices within the project limits from point-to-point fiber optic modems to gigabit Ethernet field switches, relocation of video encoders from the mainline toll plazas to the CCTV cabinets and upgrading other cabinet equipment as needed to meet current CFX ITS equipment standards.
 - aa. Install new EB DMS approaching the SR 417 Interchange.
 - bb. Replace existing EB backbone/feeder conduit and place within proposed outside shoulder widening.
 - cc. Replace any existing Skyline DMS within the project limits to the new CFX standard. Coordinate with CFX staff to obtain manufacturer for new proposed sign.
3. Upgrading other cabinet equipment as needed to meet current CFX ITS equipment standards within the project limits The Consultant shall take the following information into consideration when developing the site construction plans:
- a. Minimize utility conflicts and adjustments.
 - b. Minimize traffic impact.
 - c. Accessibility and ease of equipment maintenance.
 - d. Safety of equipment maintenance personnel and the traveling public.
 - e. Maintain the existing FON system through all phases of construction.
 - f. Environmental conditions.
 - g. Concurrent/future CFX projects.
 - h. Compatibility with existing and proposed ITS infrastructure (e.g. CFX enhanced grounding standards for ITS devices, CFX surge suppression (TVSS) standards for ITS devices, etc.)
 - i. Leased conduits in CFX FON duct bank that are occupied by the fiber optic cable of other agencies or entities.
 - j. Location of proposed sound walls

B. Splice and Cable Routing Details

1. The Consultant shall provide splicing detail diagrams to document proposed fiber optic splices within and between manholes, ITS devices, tollbooths, and other junction points. This includes splice diagrams for re-termination of drop or end to end (butt) splices.
2. Proposed splicing tables shall include ITS device connectivity, fiber use, drop cable fiber identification, drop cable identification, backbone cable identification, translateral cable identification, backbone into mainline cable identification, and toll plaza patch panel jack.
3. The Consultant shall provide cable routing diagrams in CFX's standard format to document the functional connectivity between proposed fiber optic conduit and splices.

C. Maintenance of Fiber Operations

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

D. Inside Plant Plans

1. The Consultant shall be responsible for any data collection necessary to complete its design.
2. All equipment shown on the inside-plant construction plans shall be clearly delineated as existing, proposed, or by-others. The Consultant shall be responsible for identifying and detailing on the inside-plant construction plans with notes and drawings any make-ready work required. The Consultant shall also provide a table of quantities for all materials and equipment specified in the inside-plant construction plans.
3. The Consultant shall sign and seal final inside-plant construction plans by a licensed professional Electrical Engineer registered in the state of Florida. The inside-plant construction plans shall be subject to the review and approval of CFX.

- E. Standard CFX specifications will be provided to the Consultant. The Consultant shall review the specifications and modify them as necessary.

4.21 Toll Plazas

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

4.22 Arc Flash Hazard Analysis

- A. This project includes an Arc Flash Hazard Analysis for the roadway lighting and ITS load centers as detailed below:
 1. Identify the locations of lighting load centers at the power service-entrance locations. Conduct a field visit to obtain any necessary data required for the arc flash hazard analysis.
 2. Data Collection – Coordination is required with the local power company to gather technical information on their transformer and impedance, operating voltage, power service delivery type, and any other necessary information.
 3. Prepare a One-Line Diagram of the system for each individual power service-entrance location. The results of analysis such as short circuit studies and arc flash hazard assessment shall be placed on the diagram.
 4. Perform a short Circuit Study – Calculate the short circuit current in symmetrical RMS amperes for all buses or equipment, and for each possible operation mode.
 5. Calculate arc current for every required equipment or bus.
 6. Estimate arcing time by plotting Time-Current Curve and obtaining the trip time of branch and main circuit breakers.
 7. Estimate arc flash incident energy for the equipment at the given distances. Evaluate incident energy for each type of possible connection and arc current changing through the series of breaker operations.
 8. Determine the arc flash boundary.
 9. The arc flash hazard analysis shall be documented in a detailed report. The report should include the following items.
 10. The name of person performing the assessment
 11. The date of assessment.
 12. All data collected and used in the assessment, including protective device settings.
 13. Assumptions used in the absence of data.
 14. The name of the software and the revision.
 15. Provide documentation for all results related to incident energy and arc flash boundary for each equipment.
 16. Arc Flash Labeling – Include provisions in the plans or specifications to furnish and install labels. Arc flash labels are to

be placed on exterior cover of equipment at the power service-entrance locations. Arc flash labels should be located in a place that is easily visible and readable from some distance. The label shall include nominal voltage, arc flash boundary, and site-specific level of personal protection equipment, minimum arc rating of clothing, available incident energy and the corresponding working distance.

4.23 Post-Design Services

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

Reviews will be conducted and returned within two weeks from receipt of information.

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

5.0 MATERIALS FURNISHED BY CFX OR ITS DESIGNEE

5.01 Record Documents

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

5.02 Traffic Data

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

5.03 Other

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

6.0 WORK PERFORMED BY CFX OR ITS DESIGNEE

6.01 Right-of-Way Acquisition

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

6.02 Utility Agreements

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

6.03 Public Involvement

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

6.04 Contracts and Specifications Services

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

6.05 Post-Design Services

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

6.06 Environmental Permits

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

6.07 Conceptual Specialty Design

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

7.0 ADMINISTRATION

7.01 Central Florida Expressway Authority

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

7.02 CFX's Project Manager

CFX's Project Manager will:

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

7.03 Consultant

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

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

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

7.04 Project Control

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

7.05 Work Progress

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

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

7.06 Schedule

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

7.07 Project Related Correspondence

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

7.08 Quality Control

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

7.09 Consultant Personnel

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

7.10 Site Visit

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

7.11 Acceptability of the Work

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

7.12 Design Documentation

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

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

7.13 Reviews and Submittals

- A. Review and coordination of the Consultant's work by CFX shall continue through the project development process
- B. Formal submittals for review shall be made to CFX when the plans have been developed to the following levels of completion:
 1. Preliminary Engineering (Memorandum) (1 CD/DVD with all files 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. 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)
 4. 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)
 5. 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)
 6. 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)
 7. Bid Set (1 set signed and sealed plans, 1 set "clean" plans, 1 set signed and sealed reports and one (1) CD/DVD with .PDF of all plans and reports)
- C. Formal review submittals shall include copies as listed above. 8-1/2" x 11" and 11" x 17" documents do not require reproducible copies.
- D. Preparation and distribution of roadway and ROW plans to other than CFX or CFX GEC will not be made until approved by CFX.
- E. The format of review submittal plans shall conform to the FDOT Design Manual, except as amended by CFX.
- F. Due to the compact schedule of the design, review, and construction process, any modification to the agreed submittal dates will require a letter from the Consultant to CFX giving:

1. The reason for the delay.
 2. The design components impacted.
 3. Proposed methods to maintain submittal dates.
- G. The Consultant shall submit all CADD files, including GEOPAK files, use in the preparation of the plans and right of way mapping on compact disk with the final submittal.

7.14 30% Roadway Plan Submittal

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

4. Plan and Profile Sheets

- a. Centerline plotted.
- b. Reference points and bench marks shown.
- c. Existing topography.
- d. Base line of surveys, curve data, bearings, etc. shown.
- e. Beginning and end stations (project and construction).
- f. Geometric dimensions.
- g. Proposed and existing limited access right-of-way lines.
- h. Existing ground line.
- i. Proposed profile grade.
- j. Type, size and horizontal location of existing utilities.
- k. Drainage structures and numbers are shown
- l. Drainage ponds are shown.

5. Cross Sections

- a. Existing ground line.
- b. Preliminary templates at critical locations (not to exceed 500 feet).
- c. Existing utilities shown.

6. Interchange Layout and Ramp Profiles

- a. Geometric dimensions.
- b. Proposed profile grades.

7. Right-of-Way Control Survey

8. Signing and Pavement Markings

- a. Striping layout.
- b. Sign structure locations.
- c. Roll plot with guide sign panels shown

7.15 60% Roadway Plan Submittal

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

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

2. Drainage Maps
 - a. Flood data shown.
 - b. Cross drains and storm sewer shown.
 - c. Bridges shown with beginning and ending stations.
 - d. Interchange supplemental sheets updated.

3. Typical Section Sheets
 - a. All required typical sections are included.
 - b. Limited access right-of-way lines are shown.
 - c. Design speed and traffic are shown.
 - d. Special details have been completed.
 - e. Station limits of each typical section are shown.

4. Plan and Profile Sheets
 - a. Match lines shown.
 - b. Limited access right-of-way lines shown.
 - c. Stations and offset shown for all fence corners and angles.
 - d. All work shown should be within right-of-way or proposed easement.
 - e. Drainage structures and numbers are shown.
 - f. Drainage ponds shown.
 - g. Curve data and superelevation included.
 - h. Pavement edges, shoulders and dimensions shown.
 - i. Project and construction limits shown.
 - j. Bridges shown with beginning and ending stations.
 - k. General Notes.

5. Drainage Structures
 - a. Drainage structures plotted and numbered.
 - b. Station location and offsets identified.

6. Cross Sections
 - a. Templates are shown at all stations.
 - b. Limited access right-of-way lines are shown.
 - c. Cross section pattern sheet included.
 - d. Miscellaneous notes included.
 - e. Boring profiles.

7. Interchange Layouts, Ramp Profiles and Intersection Details
 - a. Geometric data shown.
 - b. Profiles finalized.
 - c. Coordinate data shown.
 - d. Limited access right-of-way lines shown.
 - e. Curve data shown.
 - f. Bearings and bridges shown.
 - g. Cross roads, frontage roads, and access roads shown.
 - h. Intersection details shown.

8. Traffic Control Plans

9. Utility Adjustments

10. Signing and Pavement Marking Plans

11. Intelligent Transportation System (ITS) Plans

12. Highway Lighting Plans

13. Selective Clearing and Grubbing (if required)

7.16 90% Roadway Plan Submittal

- A. At completion of this phase, design and plan development should be approximately 90 percent complete. The following material shall be developed and submitted for review:
 1. Key Map
 - a. Length of Project with exceptions shown.
 - b. Index of sheets updated.

2. Drainage Maps
 - a. Drainage divides, areas and flow arrows shown.
 - b. Elevation datum and design high water information shown.
 - c. Disclaimer and other appropriate notes added.
3. Typical Section Sheets
4. Plan and Profile Sheets
 - a. Curve Control Points (P.C., P.I., P.T.) flagged and labeled.
 - b. Limits of side road construction.
 - c. Angle and stationing for intersections.
 - d. Treatment for non-standard superelevation transitions diagramed.
 - e. General notes shown.
 - f. Special ditches profiled.
5. Drainage Structures
 - a. Existing structures requiring modifications are shown.
 - b. Existing and proposed utilities are shown.
6. Soil Borings
 - a. Soils data and estimated high seasonal groundwater table shown.
7. Cross Section Sheets
 - a. Scale and special ditch grades shown.
 - b. Utilities plotted.
 - c. Sub-excavation shown.
 - d. Volumes computed and shown.
8. Utility Relocation Plans
 - a. Utility relocation plans prepared.
9. Traffic Control Plans
10. Signing and Pavement Marking Plans
11. Signalization Plans

12. Intelligent Transportation System (ITS) Plans
 13. Highway Lighting Plans
 14. Selective Clearing and Grubbing (if required)
- 7.17 100% 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.
- 7.18 Pre-Bid Plans
- 7.19 Bid Set



MEMORANDUM

Date: January 27, 2020
To: Jamison Edwards, PE, CFX Engineering Project Manager
From: James E. Bradford, PE *JSB*
Subject: Design Consultant Services – Contract No. 001589
SR 528 Eastbound Widening from Narcoossee Rd to SR 417
CFX Project No. 528-160

Comments:

I have reviewed the fee sheet and scope of services submitted by the Balmoral Group sent via E-mail on January 27, 2020 for SR 528 EB Widening from Narcoossee Rd to SR 417 (CFX Project No. 528-160). This requested contract is to provide professional services to prepare construction plans and bid documents.

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

\$ 404,025.56	in Labor Cost (Prime)
\$ 0.00	in Direct Cost (Prime)
<u>\$ 778,991.18</u>	<u>in Subconsultant Cost</u>
\$ 1,183,016.74	Total Requested

The total manhours for each task are reasonable and acceptable, and the man hour rates are consistent with their contract; therefore, I recommend approval of this agreement in the amount of \$1,183,016.74.

Should you have questions or need additional information, please call me at 321.354.9605.

CC:

Keith Jackson, PE Dewberry
File

EXHIBIT D

PROJECT ORGANIZATIONAL CHART



Capabilities and Experience

Subconsultants

1. BASE Consultants, Inc. (BASE) SSBE, M/WBE
2. Comprehensive Engineering Services, Inc. (CES) SSBE
3. DRMP, Inc. (DRMP)
4. Geotechnical & Environmental Consultants, Inc. (GEC) SSBE
5. WBQ Design & Engineering, Inc. (WBQ) SSBE, M/WBE

CFX

Director in Charge

Sherman Klaus, P.E. (24)

Project Manager

Gregory Seidel, P.E. (30)

Roadway/TTCP/S&PM

Byron Sprague, P.E. (15)
Albert Smidebush, P.E. (12)
Arban Gjonbibaj, P.E. (6)
Armando Perez, E.I. (4)
TJ Lallathin, P.E.³ (16)

Drainage

Katrina Paolini, P.E. (11)
Jennifer Nunn, P.E. (14)
Amanda Exposito-Ferree, P.E. (6)
Makese Powe, E.I. (4)
Anthony Lowe (2)

Structures

Ram Kozhikote, P.E.¹ (30)
Ken Zagers, P.E.¹ (23)

Traffic/Signals/ITS

Robert Sykes, P.E.² (14)
Ernest Herbert, P.E., PTOE (9)
Zachary Prytula, E.I.² (5)

Survey/Mapping

Danny Williams, PSM⁵ (33)
Darrell Andrews, PSM⁵ (22)
Frank Lopez, PSM³ (16)
Ryan Grab, CST³ (20)

Geotechnical

Daniel Stanfill, P.E.⁴ (35)
Craig Ballock, P.E.⁴ (15)

Utility Coordination

Sherman Klaus, P.E. (24)
Armando Perez, E.I. (4)

Lighting

Jim Highland, P.E.³ (30)
Bharathi Chigurupati, P.E.³ (13)

EXHIBIT E

PROJECT LOCATION MAP

EXHIBIT F

SCHEDULE



Schedule

- 6 months
- Begin Design from Day 1 with existing info
- All field data obtained in first 60 days

6 Month Design Schedule	2020						
	Jan.	Feb.	Mar.	Apr.	May	June	July
Notice to Proceed							
Field Survey							
Geotechnical Investigations							
Preliminary Design Report							
60% Roadway/Drainage Plans							
100% Roadway/Drainage Plans							
Bid Submittal							

**CONSENT AGENDA ITEM
#4**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 19, 2021

SUBJECT: Approval of Contract Award to WBQ Design & Engineering, Inc.
for Design Consultant Services for SR 528 Widening from SR 417 to
Innovation Way
Project No. 528-161, Contract No. 001697

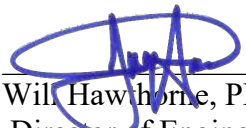
The Board approved on September 10, 2020, the final ranking and authorization to negotiate with firms for the Design Consultant Services for SR 528 Widening from SR 417 to Innovation Way.

The work to be performed includes final design and preparation of construction drawings/specifications for the four-to-six lane widening of SR 528 from SR 417 to Innovation Way.

Board award of the contract to WBQ Design & Engineering, Inc. is requested in the not-to-exceed amount of \$3,600,000.00.

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

Reviewed by:



Wil Hawthorne, PE
Director of Engineering



Glenn Pressimone, PE

AGREEMENT



AND

WBQ DESIGN & ENGINEERING, INC.

**DESIGN CONSULTANT SERVICES FOR
SR 528 WIDENING FROM SR 417 TO INNOVATION WAY**

PROJECT NO. 528-161, CONTRACT NO. 001697

CONTRACT DATE: AUGUST 12, 2021

CONTRACT AMOUNT: \$3,600,000.00

**AGREEMENT, SCOPE OF SERVICES, METHOD OF COMPENSATION, DETAILS
OF COSTS AND FEES, PROJECT ORGANIZATIONAL CHART, PROJECT
LOCATION MAP, SCHEDULE, 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 528 WIDENING FROM SR 417 TO INNOVATION WAY
PROJECT 528-161**

DESIGN SERVICES

CONTRACT NO. 001697

AUGUST 2021

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	
AG	Agreement	1 - 20
A	Exhibit "A", Scope of Services	
B	Exhibit "B", Method of Compensation	
C	Exhibit "C", Details of Cost and Fees	
D	Exhibit "D", Project Organization Chart	
E	Exhibit "E", Project Location Map	
F	Exhibit "F", Schedule	
G	Exhibit "G", Potential Conflict Disclosure Form	

Table of Contents

1.0.	DEFINITIONS.....	1
2.0.	SERVICES TO BE PROVIDED.....	1
3.0.	TERM OF AGREEMENT AND RENEWALS.....	2
4.0.	PROJECT SCHEDULE.....	2
5.0.	PROFESSIONAL STAFF.....	3
6.0.	COMPENSATION.....	4
7.0.	DOCUMENT OWNERSHIP AND RECORDS.....	5
8.0.	COMPLIANCE WITH LAWS.....	7
9.0.	WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE.....	7
10.0.	TERMINATION.....	7
11.0.	ADJUSTMENTS.....	8
12.0.	HOLD HARMLESS AND INDEMNIFICATION, SOVEREIGN IMMUNITY.....	9
13.0.	INFRINGEMENT OF PATENTS AND COPYRIGHTS.....	10
14.0.	THIRD PARTY BENEFICIARY.....	10
15.0.	INSURANCE.....	10
16.0.	COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS.....	12
17.0.	CONFLICT OF INTEREST AND STANDARD OF CONDUCT.....	13
18.0.	DOCUMENTED ALIENS.....	14
19.0.	E-VERIFY CLAUSE.....	14
20.0.	INSPECTOR GENERAL.....	14
21.0.	PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT.....	14
22.0.	COMPANIES PURSUANT TO SECTION 287.135 AND 215.473.....	15
23.0.	AVAILABILITY OF FUNDS.....	15
24.0.	AUDIT AND EXAMINATION OF RECORDS.....	15
25.0.	GOVERNING LAW AND VENUE.....	17
26.0.	NOTICE.....	17
27.0.	HEADINGS.....	17
28.0.	CONTRACT LANGUAGE AND INTERPRETATION.....	18
29.0.	ASSIGNMENT.....	18
30.0.	SEVERABILITY.....	18
31.0.	INTEGRATION.....	18
32.0.	ATTACHMENTS.....	18

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

THIS AGREEMENT, made and entered into this 12th day of August 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 WBQ Design & Engineering, 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 N. Magnolia Ave., Suite 200, 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 528 Widening from SR 417 to Innovation Way identified as Project No. 528-161 and Contract No. 001697.

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 two one-year renewals at CFX's option. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONSULTANT are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide CONSULTANT with written notice of its intent at least thirty (30) days prior to the expiration of the original term and subsequent renewal, if any.

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

4.0. PROJECT SCHEDULE

The CONSULTANT agrees to provide Project Schedule progress reports for each project in a format acceptable to CFX and at intervals established by CFX. CFX will be entitled at all times to be advised, at its request, as to the status of work being done by the CONSULTANT and of the details

thereof. Coordination shall be maintained by the CONSULTANT with representatives of CFX, or of other agencies interested in the project on behalf of CFX. Either party to the Agreement may request and be granted a conference.

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

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

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

5.0. PROFESSIONAL STAFF

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

Prior to retaining a subconsultant, or assigning any work to a subconsultant, the CONSULTANT shall verify that the subconsultant does not have any conflicts and acknowledges its duty to comply with CFX's Code of Ethics. The CONSULTANT shall ensure that each subconsultant adheres to, and cause all subconsultants to be bound by, all requirements, conditions, and standards set forth herein. The CONSULTANT shall collect and maintain the necessary subconsultant compliance and

acknowledgement documentation and remove any subconsultant immediately, if the necessary said documentation is unavailable or the subconsultant is not adhering to the requirements and standards herein. The CONSULTANT shall provide subconsultant compliance and acknowledgement documentation to CFX upon request.

The approved subconsultants are:

Base Consultant, Inc. – Class I
DRMP, Inc. – Class I
RS&H, Inc.– Class I

The Balmoral Group – Class I
M.G. Vera & Associates, Inc. – Class I & II
Tierra, Inc. – Class II

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

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

6.0. COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in **Exhibit "B"**, Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$3,600,000.00 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 N. Magnolia Ave., Suite 200, 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.

8.1 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.

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 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 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, 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.

15.1 Commercial General Liability coverage shall be on an occurrence form policy for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits shall be not less than 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/annual aggregate. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

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

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) per claim / annual aggregate, protecting the selected firm or individual against claims of CFX for negligence, errors, mistakes or omissions in the performance of services to be performed and

furnished by the CONSULTANT.

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

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

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

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

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

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

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

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. 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.

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. 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.

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 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.

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: WBQ DESIGN & ENGINEERING, INC.
 201 N. Magnolia Ave., Suite 200
 Orlando FL, 32801
 Attn: Derek C. Burke, P.E., President

 WBQ DESIGN & ENGINEERING, INC.
 201 N. Magnolia Ave., Suite 200
 Orlando FL, 32801
 Attn: Troy Vargas, P.E.

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

Project No. 528-161
Contract No. 001697

Exhibit “E”, Project Location Map
Exhibit “F”, Project Schedule
Exhibit “G”, Potential Conflict Disclosure Form

[SIGNATURES TO FOLLOW]

Project No. 528-161
Contract No. 001697

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 August 12, 2021.

WBQ DESIGN & ENGINEERING, INC.

**CENTRAL FLORIDA
EXPRESSWAY AUTHORITY**

BY: _____
Authorized Signature

BY: _____
Director of Procurement

Print Name: _____

Print Name: _____

Title: _____

Effective Date: _____

ATTEST: _____ (Seal)
Secretary or Notary

Approved as to form and execution, only.

General Counsel for CFX

Print Name: _____

EXHIBIT A

PROJECT SCOPE OF SERVICES

Exhibit A

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

SCOPE OF SERVICES

FOR

**S.R. 528 WIDENING FROM
S.R. 417 to Innovation Way**

PROJECT NO. 528-161

IN ORANGE COUNTY, FLORIDA

April 21, 2021

Exhibit A
SCOPE OF SERVICES

TABLE OF CONTENTS

	<u>Description</u>	<u>Page No. A-</u>
1.0	GENERAL	5
1.1	Location	5
1.2	Description	5
1.3	Purpose	5
1.4	Organization	6
1.5	Term of Agreement for Design Services	6
2.0	STANDARDS	7
3.0	DESIGN CRITERIA	8
3.1	General	8
3.2	Geometry	8
3.3	Bridge and Other Structures	10
4.0	WORK PERFORMED BY CONSULTANT.....	11
4.1	Design Features	11
4.2	Governmental Agencies	11
4.3	Preliminary Design Report – Review	11
4.4	Surveys and Mapping	12
4.5	Geotechnical Investigation	14
4.6	Contamination Impact Analysis – N/A	15
4.7	Pavement Design	15
4.8	Borrow Pits – N/A	15
4.9	Governmental Agency and Public Meetings	16
4.10	Environmental Permits	16
4.11	Utilities	17
4.12	Roadway Design	18
4.13	Structures Design	19
4.14	Drainage Design	20
4.15	Roadway Lighting	21
4.16	Traffic Engineering	21

4.17	Signing and Pavement Marking Plans	22
4.18	Signalization Plans – N/A	22
4.19	Right-of-Way Surveys	23
4.20	Cost Estimates	23
4.21	Special Provisions and Specifications	23
4.22	Fiber Optic Network (FON)	23
4.23	Toll Plazas	26
4.24	Post-Design Services	26
5.0	MATERIALS FURNISHED BY CFX OR ITS DESIGNEE	27
5.1	Record Documents	27
5.2	Traffic Data	27
5.3	Other	27
6.0	WORK PERFORMED BY CFX OR ITS DESIGNEE	28
6.1	Right-of-Way Acquisition	28
6.2	Utility Agreements	28
6.3	Public Involvement	28
6.4	Contracts and Specifications Services	28
6.5	Post-Design Services	28
6.6	Environmental Permits	28
6.7	Conceptual Specialty Design	28
7.0	ADMINISTRATION	29
7.1	Central Florida Expressway Authority	29
7.2	CFX’s Project Manager will:	29
7.3	Consultant	29
7.4	Project Control	30
7.5	Work Progress	30
7.6	Schedule	31
7.7	Project Related Correspondence	31
7.8	Quality Control	31
7.9	Consultant Personnel	31
7.10	Site Visit	31
7.11	Acceptability of the Work	32
7.12	Design Documentation	32
7.13	Reviews and Submittals	33
7.14	30% Plans Submittal	34

7.15	60% Plans Submittal	36
7.16	90% Plans Submittal	38
7.17	100% Roadway, Bridge, and Structural	39
7.18	Pre-Bid Plans	39
7.19	Bid Set	39

1.0 GENERAL

1.1 Location

- A. See Widening Concept Roll Plots.

1.2 Description

The services will include final design and preparation of construction drawings / specifications for the proposed SR 528 outside widening from SR 417 to Innovation Way. Specifically, the project consists of widening to the outside to accommodate an additional general use travel lane in each direction, widening to the inside to accommodate the appropriate inside shoulder width, replacement of the concrete pavement through the ORT tolling zone, and re-alignment of the westbound entrance ramps from Innovation Way to accommodate a future widening project to the east. Additional elements include milling & resurfacing, surveying, drainage evaluation and design, permitting, lighting, signing and pavement markings, ITS (fiber optic network), maintenance of traffic, 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/Documents for the proposed SR 528 outside widening from west of SR 417 to east of Innovation Way. Milling and resurfacing limits are to begin at the construction limits (approximately Sta. 975+00 WB and 1005+00 EB) and end east of the Innovation Way bridge over SR 528 (approximately Sta. 1225+00).
- B. The Consultant shall perform those engineering services as required for final roadway/drainage plans, final lighting plans, final traffic control plans, utility coordination and final utility adjustment plans, final ITS (fiber optic network) plans, final signing and pavement marking plans and support for the preparation of the environmental resource application (or permit modification) including 100% storm water management.
- C. CFX's Project Manager will provide contract administration, management services, and technical reviews of all work associated with the preliminary and final designs.
- D. It is understood that references throughout this document to items of work and services to be performed are the responsibility of the Consultant unless otherwise expressly stated as the responsibility of others.

1.4 Organization

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

1.5 Term of Agreement for Design Services

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

1. Project Milestones:

The Consultant will prepare a tabulation of major project milestones.

2. Project Schedule:

The Consultant shall include a schedule of major design tasks.

2.0 STANDARDS

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

3.0 DESIGN CRITERIA

3.1 General

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

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

3.2 Geometry

The following criteria are to be incorporated into the design:

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

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

DESIGN ELEMENT	EXPRESSWAY		CROSSROADS/ COLLECTORS
	MAINLINE	RAMPS	
Median Width (6-lane), ft. (E.O.P./E.O.P.)	50' (typical with guardrail)	N/A	22' or 40'
Lateral Offset	FDM 215.2.4	FDM 215.2.4	FDM 215.2.4
Vertical Clearance, ft.			
Over Roadway*	16.5	16.5	16.5
Overhead Signs	17.5	17.5	17.5
Over Railroad	23.5	23.5	N/A

Ramp Operations

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

Right of Way

- a. Ten (10) ft. from back of walls or limit of construction.
- b. Two (2) ft. from back of sidewalk on frontage roads.
- c. Drainage and construction easements as required
- d. Limited access right-of-way limits per FDOT Design Manual 211.15.
- e. Right of way limits for ramps is based upon limit of construction plus 10 feet.

3.3 Bridge and Other Structures

- A. All plans and designs shall be prepared in accordance with the following standards and specifications in effect at the time of contract execution: AASHTO LRFD Bridge Design Specifications, FDOT Structures Manual, FDOT Design Manual, FDOT Standard Plans, FDOT Load Rating Manual, except as otherwise directed by CFX.

4.0 WORK PERFORMED BY CONSULTANT

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

4.1 Design Features

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

The services will include final design and preparation of construction drawings / specifications for the proposed SR 528 outside widening from the SR 417 interchange to the Innovation Way interchange. Specifically, the project consists of milling and resurfacing the existing pavement within the limits of the Temporary Traffic Control temporary marking limits from west of SR 417 to east of Innovation Way, widening to the outside for the additional general use lane in each direction, and widening to the median to accommodate appropriate inside shoulder width. Widening and ramp realignments to accommodate the widening will be necessary at the SR 417 interchange, Beachline Main toll plaza, and the Innovation Way interchange. Additional elements include milling & resurfacing, surveying, drainage evaluation and design, permitting, lighting, signing and pavement markings, ITS, maintenance of traffic, 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, USACE, and the applicable Water Management District(s).

4.3 Preliminary Design Report - Review

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

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

- B. Preliminary Design Report (PDR) - Review: Brief report addressing the

following items:

1. Overall widening concept
2. Typical Section analysis at Toll Plaza Gantry
3. Pavement Evaluation by CFX/GEC
4. Drainage and permitting approach
5. Hydroplaning Analysis
6. Adjacent project coordination with 528-160, 417-150, and rail construction by AAF (Brightline Trains)
7. Contra-Flow Coordination

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.

The Consultant shall utilize existing survey data from Project Nos. 528-160 and 417-150. The survey effort for this project will include field survey of the additional project area not covered by the existing survey and to merge the existing data into combined DGN and TIN file for the project.

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 will be provided to design team by CFX/GEC. Alignment and R/W will not be set/staked in field. Alignment will be referenced by station and offset of control established in 27.1 and 27.2 and included in CTL/PNC sheets prepared in 27.5.

C. Reference Points

1. Utilize Right of Way dgn/geopak files and alignment dgn/geopak files provided to design team by CFX/GEC, and control established in Task 27.1 and Task 27.2 to prepare CTL/PNC sheets for Design Plans.

D. Bench Levels

1. The Consultant shall establish new benchmarks at 1000' intervals. (Included in CTL/PNC sheets)

E. Topography

1. Planimetric mapping and a digital terrain model (DTM), suitable for 1" =50' display scale shall be conducted by the Consultant.
2. Topographic survey will extend from the edge of paved shoulder to toe of slope and/or right of way fence. Provide DTM to existing or R/W throughout the corridor.
3. The Consultant will obtain existing pavement elevations and cross slopes along the inside travel lane and outside travel lane every 100'.
4. Cross-sections will be performed at 1000' intervals along the mainline to verify DTM.
5. Additional topographic and DTM surveys, as needed for the project design, are the responsibility of the Consultant. These may include existing water bodies and pavement elevations.

F. Drainage Survey

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

G. Underground Utilities

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

H. Side Street Surveys – N/A

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

I. Bridge Survey

Provide complete bridge survey data as needed for engineering design. Utilize Terrestrial Mobile and/or Static Lidar for clearance, features, and any other extraction needed to support design.

J. Jurisdictional Line Surveys – N/A

Perform Jurisdictional Line Surveys as needed for engineering design and permitting. Locate wetland flags delineated by CFX’s GEC (includes surveying flagging for surface waters or roadside ditches).

No delineation exhibit was provided by CFX’s GEC, therefore no wetland flagging is included.

K. Geotechnical Surveys

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

L. Right-of-Way Ties – N/A

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

M. 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. The Consultant shall review existing geotechnical data from adjacent projects and provide additional geotechnical investigations as required for the project.

C. 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.

- D. The work includes, but is not limited to, identifying roadway structural section requirements, LBR testing, design methods for the selected foundations, groundwater and estimated seasonal high groundwater levels, providing necessary geotechnical design parameters to the project Drainage Engineer to evaluate pond drawdown and recovery, pH and resistivity testing of soil and/or surface water to identify environmental classification required for various design considerations, soil shrink/swell characteristics, slope stability in embankment/excavation locations, evaluating the availability of structural fill materials, location and depths of unsuitable material (muck), or other deleterious materials, providing design alternatives based on geotechnical findings; design values for temporary sheet pile walls; allowable design loads or pressures for each foundation type, corrosion testing for structures and geotechnical parameters to aid in the design of foundations for sign structures.
- E. 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.
- F. Upon approval of the Geotechnical Report, the Consultant shall proceed with preparation of the pavement and foundation designs.
- G. 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.
- H. 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 – N/A

4.7 Pavement Design

- A. The CFX/GEC shall provide the pavement design in accordance with the requirements of the FDOT Pavement Design Manual.

4.8 Borrow Pits – N/A

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
12. Preliminary field evaluation of general land use and wildlife habitat within existing ROW, pond sites, and bridges
13. Pre-application meetings with SFWMD and SJRWMD

4.11 Utilities

A. Location

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

B. Utility Coordination

1. The Consultant shall identify utility owners within the project limits and contact each to obtain utility system maps, plan mark-ups or equivalent utility sketches and/or as-built drawings depicting the location of their facilities. The Consultant shall prepare reproducible utility adjustments plans based on information provided by respective utility companies.
2. Private utilities will prepare design plans for the relocation of their facilities. If a utility cannot or will not prepare these design plans, the work shall be added to the scope by Supplemental Agreement and the Consultant shall prepare design plans for utility relocation for approval of the utility and review by CFX.
3. Where utility conflicts occur, which require utility relocation agreements between the affected utility and CFX, the Consultant shall prepare the necessary data/plans required for the agreements. The

Consultant shall advise CFX seven days in advance of meetings with utility companies/agencies scheduled to discuss utility relocations.

4. The preparation and negotiation of the agreement will be performed by CFX's Project Manager. After approval of the agreement by the utility and CFX, the Consultant shall prepare reproducible utility adjustment sheets identifying proposed relocations with respect to the construction plans.
5. The Consultant shall prepare a utility conflict matrix to assist in identifying and resolving conflicts between utilities and proposed construction prior to completion of the plans.
6. The Consultant shall obtain utility work schedules from the utility companies for all utility relocation or adjustments required to accommodate construction.
7. The Consultant shall prepare the Utility Certification Letter certifying that all utility negotiations (full execution of each agreement, approved utility work schedule, technical special provisions written, etc.) have been completed with arrangements made for utility work to be undertaken and completed as required.
8. The Consultant shall make two utility contacts with the utility agencies (Phase II and Phase III) and hold a utility conference at each contact.

4.12 Roadway Design

- A. A Typical Section Package will not be prepared for this project. Rather, typical sections for mainline and impacted interchange ramps will be prepared as part of the *Preliminary Engineering Memorandum* and submitted to CFX for review and approval.
- B. The Consultant shall design the geometrics for this project using the design standards included in the scope. The design elements shall include, but not be limited to, the horizontal and vertical alignments, cross section template development, lane width, shoulder widths, cross slopes, borders, sight distance, side slopes, lane transitions, superelevations, features of intersections, ramp terminal details, interchanges, and limited access points.
- C. The Consultant shall prepare designs and contract documents for the roadway improvements, including, but not necessarily limited to:
 1. Cover sheet (key sheet)
 2. Summary of Pay Items
 3. General notes

4. Summary Quantities sheets
5. Project Layout
6. Typical roadway sections
7. Typical roadway details
8. Plans and profiles (plans at 1" = 50' scale)
9. Interchange layout plans
10. Ramp Terminal Details (with pattern plan) (1" = 20' horiz.) (1" = 10' vert.)
11. Roadway and Pond cross sections
12. Traffic Control Sheets including Temporary Drainage
13. Utility Adjustment Sheets
14. Details
15. Special provisions
16. Special specifications

4.13 Structures Design

- A. The Consultant shall prepare designs and contract documents for structural design including, but not necessarily limited to the following items.
 1. Sign structures:
 - a. Structural evaluation of the following existing structures:
 - i. See Concept Roll Plot for sign structures to remain (Additional sign area less than 20%)
 - ii. Toll gantry truss at Beachline Main Plaza (Additional sign area less than 20%)
 - iii. Condition Evaluation and Ancillary Structures Report for 5 existing overhead span sign structure and 1 existing overhead cantilever sign structure. Assume that ground mounted signs, aluminum light poles, and CCTV poles are not included in Condition Evaluation. Assumes existing plans are available. Also, Ancillary Structures Report for items listed in Condition Evaluation.
 - b. Design of sign structures:

- i. 5 Overhead Cantilever
- ii. 4 Overhead Truss
- iii. Up to 4 Multi-Post ground mount signs

2. Lighting

- a. 1 Structural lighting detail not covered by Standard Plans. Assumed for closing up barrier gaps for at grade median light poles.

3. ITS

- a. CCTV pole foundation designs for 50' and 60' tall poles.
- b. TMS pole foundation designs for 30' and 40' tall poles.

4. Walls

- a. Design 600' long steel sheet pile wall with concrete facing between SR 528 and Innovation Way ramp.

5. Drainage

- a. Design of box culvert extension:
(2) 8' x 3' Concrete Box Culvert near Sta. 1164+00 to be extended and connected to box culvert that run under the AAF tracks with provisions for outfalls to the linear ponds on both sides.

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. Substantial pond design at the 30% submittal. Modify existing ponds for additional treatment for the widening, concurrence when widening included in the existing permit, and design of new ponds as necessary.
3. Notify CFX's Project Manager immediately if any deviation from approved design criteria is anticipated.
4. 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.
5. Provide copies of its internal quality control comments and calculations at the scheduled reviews.
6. Prepare a technical memorandum identifying existing drainage concerns along the corridor and potential fixes or modifications. Known existing

drainage concerns include: None at this time.

7. 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 impacted by the widening, overhead sign lighting and wall/pier mount, underdeck lighting. 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.
- Cover sheet (key sheet)
 - Tabulation of Quantities
 - General notes
 - Pole data and Legend sheet
 - Project Layout sheet
 - Plans sheets (plans at 1" =50' scale)
 - Service point detail
 - Special Details

4.16 Traffic Engineering

- A. Traffic Data will be furnished by CFX.
- B. Traffic Data Analysis will be furnished by CFX and include an AM and PM peak weaving analysis at the seven (7) ramp terminals including the toll

plaza ramps along the project. Results of analysis will be used to validate the concept(s) included with the PDR.

C. Maintenance of Traffic Plans

1. The Consultant shall prepare maintenance of traffic plans at scale no smaller than 1" =100' to safely and effectively move vehicular and pedestrian traffic during all phases of construction. The designs shall include construction phasing of roadways ingress and egress to existing property owners and businesses, routing, signing and pavement markings, and detour quantity tabulations. Special consideration shall be given to the construction of the drainage system when developing the construction phases. Positive drainage must be maintained at all times.
2. The Consultant shall investigate the need for temporary 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 Consultant shall determine the existing structures that will be impacted by the widening and need to be replaced.
- E. A roll plot of the proposed signing and pavement markings is required with the PDR and 60% Plans submittals

4.18 Signalization Plans – N/A

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 90%, 100%, 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" = 50'. These plans shall include the relocation of all existing fiber optic duct banks, cables, manholes, and pull boxes in areas where the existing locations conflict with construction and as necessary to relocate the FON into the new paved shoulder. The Consultant shall identify existing physical features and utilities that will impact the construction and installation of the equipment. The Consultant shall review and modify standard FON details as necessary. In general intent is to replace all existing devices with new; requiring older items be turned over to the CFX (plan note)
2. Fiber optic network (FON) plans shall include the following:
 - a. Roadway geometry
 - b. Rights-of-Way
 - c. Existing utilities within the right-of-way including CFX's FON
 - d. Physical features affecting construction/installation (sign structures, light poles, fences, etc.)
 - e. Manhole/Pull box locations and stub-out details (standard details provided)
 - f. Device layout
 - g. Device installation details
 - h. Conduit installation details (standard details provided)
 - i. Fiber optic cable route marker detail (standard details provided)
 - j. Fiber count per conduit
 - k. Communications interconnect

- l. Connectivity with the FON backbone conduits
- m. Controller cabinet, CCTV/ TMS pole, and foundation details for proposed CCTV/ TMS sites.
- n. Power interconnect, calculations to support conductor size, and details. Power conductors to each device location shall be sized to the maximum connected load in the cabinet plus 10A to accommodate other loads such as UPS battery charging or Maintenance equipment (lowering device drill, shop vac, etc.). Determination on conductor sizing and voltage drop limits are only required for proposed sites and existing sites where the total site load is being significantly modified.
- o. Design Methodology Report shall include voltage drop calculation and typical cabinet load summary table Power conductors to each device location shall be sized to the capacity of the main breaker in the cabinet and shall also include a 10 Amp maintenance load that is carried to the end of each circuit.
- p. Grounding
- q. Table of quantities
- r. Special notes
- s. Maintenance of fiber operations (protection of existing FON through all phases of construction and cutover phasing to ensure continuous operation of existing ITS devices)
- t. All existing and proposed FON to be included and shown with roadway cross sections and drainage cross sections
- u. Replacement of existing CCTV sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing CCTV is not compatible with proposed construction.
- v. Replacement of existing data collection sensor (DCS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing DCS would not survive project construction.
- w. Relocation of existing dynamic message sign (DMS) to be centered over the proposed roadway. If site is to be impacted by widening activities then the Designer is to replace the existing site and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided).
- x. Replacement of existing traffic monitoring sites (TMS) sites and any necessary structures, foundations, attachment details, power service, fiber optic connections, and cabinets (standard details provided), in the event existing TMS would not survive project construction.
- y. Conversion of any existing ITS devices within the project limits from point-to-point fiber optic modems to gigabit Ethernet field switches, relocation of video encoders from the mainline toll plazas to the CCTV cabinets and upgrading other cabinet equipment as needed to meet current CFX ITS equipment standards.
- z. Replace existing EB and WB backbone/feeder conduit and place within proposed outside shoulder widening.

- aa. Relocation of existing mainline wrong way detection site (WWDS) to be centered over the proposed roadway. If site is to be impacted by widening activities then the Designer is to relocate or replace the existing site and any necessary attachment details, power service, fiber optic connections, and cabinets (standard details provided).
 - bb. Provide a ramp wrong way detection site (WWDS) at the SR 528 Eastbound off-ramp to Innovation Way
3. Upgrading other cabinet equipment as needed to meet current CFX ITS equipment standards within the project limits The Consultant shall take the following information into consideration when developing the site construction plans:
- a. Minimize utility conflicts and adjustments.
 - b. Minimize traffic impact.
 - c. Accessibility and ease of equipment maintenance.
 - d. Safety of equipment maintenance personnel and the traveling public.
 - e. Maintain the existing FON system through all phases of construction.
 - f. Environmental conditions.
 - g. Concurrent/future CFX projects.
 - h. Compatibility with existing and proposed ITS infrastructure (e.g. CFX enhanced grounding standards for ITS devices, CFX surge suppression (TVSS) standards for ITS devices, etc.)
 - i. Leased conduits in CFX FON duct bank that are occupied by the fiber optic cable of other agencies or entities.
 - j. Location of proposed sound walls

B. Splice and Cable Routing Details

- 1. The Consultant shall provide splicing detail diagrams to document proposed fiber optic splices within and between manholes, ITS devices, tollbooths, and other junction points. This includes splice diagrams for re-termination of drop or end to end (butt) splices.
- 2. Proposed splicing tables shall include ITS device connectivity, fiber use, drop cable fiber identification, drop cable identification, backbone cable identification, translateral cable identification, backbone into mainline cable identification, and toll plaza patch panel jack.
- 3. The Consultant shall provide cable routing diagrams in CFX's standard format to document the functional connectivity between proposed fiber optic conduit and splices.

C. Maintenance of Fiber Operations

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

D. Inside Plant Plans

1. The Consultant shall be responsible for any data collection necessary to complete its design.
2. All equipment shown on the inside-plant construction plans shall be clearly delineated as existing, proposed, or by-others. The Consultant shall be responsible for identifying and detailing on the inside-plant construction plans with notes and drawings any make-ready work required. The Consultant shall also provide a table of quantities for all materials and equipment specified in the inside-plant construction plans.
3. The Consultant shall sign and seal final inside-plant construction plans by a licensed professional Electrical Engineer registered in the state of Florida. The inside-plant construction plans shall be subject to the review and approval of CFX.

- E. Standard CFX specifications will be provided to the Consultant. The Consultant shall review the specifications and modify them as necessary.

4.23 Toll Plazas

- A. This proposal includes modifications and/or improvements to the existing toll plazas, including any associated equipment and gantry systems.
- New wireways on existing gantry
 - Conduits from gantry to existing tunnel
 - Loop conduits from new pavement to existing tunnel
 - Structural penetrations of existing tunnel
- B. New concrete pavement is to be included at the mainline tolling point in accordance with current CFX preferences.
- Toll pavement to be coordinated with TEC/CFX Tolls
 - Pavement and loop conduit design will accommodate no more than 2 TEC loop layout variations

4.24 Post-Design Services – Not included at this time.

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 will provide conceptual aesthetics design and treatments for structures.

7.0 ADMINISTRATION

7.1 Central Florida Expressway Authority

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

7.2 CFX's Project Manager will:

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

7.3 Consultant

- A. The Consultant has total responsibility for the accuracy and completeness of the construction contract documents and related design prepared under this project and shall check all such material accordingly. The plans will be

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

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

7.4 Project Control

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

7.5 Work Progress

- A. The Consultant shall meet with CFX's Project Manager on a bi-weekly basis (or more often if necessary) and provide written progress reports which describe the work performed on each task. The dates and times of these meetings will be established by CFX. Two working days prior to each progress meeting, the Consultant shall provide CFX's Project Manager with a draft copy of the Progress Report and a typewritten agenda for the meeting. The Consultant shall prepare typewritten meeting minutes and submit them to CFX's

Project Manager within five working days after the meeting. The minutes shall indicate issues discussed and the resolution or action required to resolve any issues.

7.6 Schedule

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

7.7 Project Related Correspondence

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

7.8 Quality Control

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

7.9 Consultant Personnel

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

7.10 Site Visit

- A. The Consultant shall arrange a site visit within twenty (20) calendar days of receipt of written Notice to Proceed. Consultant personnel assigned to perform the work on the project shall attend. CFX representatives will be present. Within seven calendar days of the site visit, the Consultant shall issue to CFX a brief written report including observations, discussions, and any questions pertaining to the scope or level of effort of the project. The purpose of this visit is to acquaint key personnel with the details and features of the project to facilitate the design process.

7.11 Acceptability of the Work

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

7.12 Design Documentation

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

7. Geotechnical report.
8. Hydraulics Report for each bridged stream crossing.
9. Earthwork calculations not included in the quantity computation booklet.
10. Calculations showing cost comparisons of various alternatives considered, if applicable
11. Computations of quantities.
12. Documentation of decisions reached resulting from meetings, telephone conversations, or site visits.
13. Lighting and voltage drop calculations.
14. Lighting service letter from the power company stating the following: service voltage, type of service (overhead or underground), location of power company service point, and any other power company requirements.

7.13 Reviews and Submittals

- A. Review and coordination of the Consultant's work by CFX shall continue through the project development process
- B. Formal submittals for review shall be made to CFX when the plans have been developed to the following levels of completion:
 1. Preliminary Engineering (Memorandum) (Electronic file transfer with all files in pdf format)
 2. 30% Roadway Plans (Electronic file transfer with all files in pdf format)
 3. 60% Roadway and specifications, Geotechnical Report (Electronic file transfer with all files in pdf format and CAD files in DGN format)
 4. 90% Roadway and specifications (Electronic file transfer with all files in pdf format and CAD files in DGN format)
 5. 100% Roadway, Bridge and specifications, Geotechnical Report (Electronic file transfer with all files in pdf format and CAD files in DGN format)
 6. Pre-Bid Plans (Electronic file transfer with all files in pdf format and CAD files in DGN format. Submit final hard copies of reports to the CFX project manager)

7. Bid Set (1 set signed and sealed plans, 1 set "clean" plans, 1 set signed and sealed reports and one (1) Electronic file transfer with all files in pdf format and CAD files in DGN format)
- 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% Plans Submittal

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

- d. High water information shown.
- e. Beginning and end stations shown along with any equations on project.
- f. Interchange supplemental maps prepared.

3. Typical Section Sheets

- a. Ramp typical sections developed.
- b. Pavement structure shown.
- c. Special details developed.
- d. General notes shown.

4. Plan and Profile Sheets

- a. Centerline plotted.
- b. Reference points and benchmarks shown.
- c. Existing topography.
- d. Base line of surveys, curve data, bearings, etc. shown.
- e. Beginning and end stations (project and construction).
- f. Geometric dimensions.
- g. Proposed and existing limited access right-of-way lines.
- h. Existing ground line.
- i. Proposed profile grade.
- j. Type, size and horizontal location of existing utilities.
- k. Drainage structures and numbers are shown
- l. Drainage ponds are shown.
- m. Conceptual sign structure locations 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. Preliminary Traffic Control

- a. General Notes
- b. Phasing Typical Sections/Notes
- c. Detour Plans

8. Right-of-Way Control Survey
9. Signing and Pavement Markings
 - a. Striping layout.
 - b. Sign structure locations.
 - c. Roll plot with guide sign panels shown.

7.15 60% Plans Submittal

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

1. Key Map
 - a. Project description and number shown.
 - b. Equations, exceptions, and bridge stations shown.
 - c. North arrow and scale included.
 - d. Consultant and CFX sign-off included.
 - e. Contract set index complete.
 - f. Index of sheets updated.
2. Drainage Maps
 - a. Flood data shown.
 - b. Cross drains and storm sewer shown.
 - c. Bridges shown with beginning and ending stations.
 - d. Interchange supplemental sheets updated.
3. Typical Section Sheets
 - a. All required typical sections are included.
 - b. Limited access right-of-way lines are shown.
 - c. Design speed and traffic are shown.
 - d. Special details have been completed.
 - e. Station limits of each typical section are shown.
4. Plan and Profile Sheets
 - a. Match lines shown.
 - b. Limited access right-of-way lines shown.
 - c. Stations and offset shown for all fence corners and angles.

- d. All work shown should be within right-of-way or proposed easement.
- e. Drainage structures and numbers are shown.
- f. Drainage ponds shown.
- g. Proposed sign structures are shown
- h. Curve data and superelevation included.
- i. Pavement edges, shoulders and dimensions shown.
- j. Project and construction limits shown.
- k. Bridges shown with beginning and ending stations.
- l. 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. Crossroads, 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)

7.16 90% Plans Submittal

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

1. Key Map

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

2. Drainage Maps

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

3. Typical Section Sheets

4. Plan and Profile Sheets

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

5. Drainage Structures

- a. Existing structures requiring modifications are shown.
- b. Existing and proposed utilities are shown.

6. Soil Borings

- a. Soils data and estimated high seasonal groundwater table shown.

7. Cross Section Sheets

- a. Scale and special ditch grades shown.
- b. Utilities plotted.
- c. Sub-excavation shown.


- d. Volumes computed and shown.
 - 8. Utility Relocation Plans
 - a. Utility relocation plans prepared.
 - 9. Traffic Control Plans
 - 10. Signing and Pavement Marking Plans
 - 11. Signalization Plans
 - 12. Intelligent Transportation System (ITS) Plans
 - 13. Highway Lighting Plans
 - 14. Structures Plans
 - 15. Selective Clearing and Grubbing (if required)
- 7.17** 100% Roadway, Bridge, and Structural Plans
- A. At the completion of this phase, the design plans and special provisions shall be 100 percent complete.
- 7.18** Pre-Bid Plans
- 7.19** Bid Set

**CONSENT AGENDA ITEM
#5**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 21, 2021

SUBJECT: Approval of Contract Award to Hubbard Construction Company
for SR 417 Resurfacing from SR 408 to Canal E-4 Bridge
Project No. 417-761, Contract No. 001801

An Invitation to Bid for the above referenced project was advertised on May 30, 2021. Four (4) responses were received by the July 20, 2021 deadline.

Bid results were as follows:

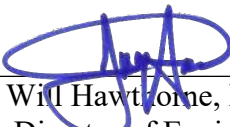
<u>Bidder</u>	<u>Bid Amount</u>
1. Hubbard Construction Company	\$6,779,194.64
2. Ranger Construction Industries, Inc.	\$6,942,433.57
3. Preferred Materials, Inc.	\$6,967,054.09
4. Middlesex Paving, LLC	\$8,157,947.18

The engineer's estimate for this project is \$6,077,448.33. Included in the Five-Year Work Plan is \$6,588,000.00.

The work to be performed includes all labor, materials, equipment, and incidentals necessary to resurface SR 417 from SR 408 and the E-4 Canal Bridge.

Board award of the contract to Hubbard Construction Company in the amount of \$6,779,194.64 is requested.

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

Reviewed by: 
Will Hawthorne, PE
Director of Engineering


Glenn Pressimone, PE

CONTRACT



AND

HUBBARD CONSTRUCTION COMPANY

**SR 417 RESURFACING FROM SR 408
TO CANAL E-4 BRIDGE**

PROJECT NO. 417-761, CONTRACT NO. 001801

**CONTRACT DATE: AUGUST 12, 2021
CONTRACT AMOUNT: \$6,779,194.64**

**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 417 RESURFACING FROM SR 408 TO CANAL E-4 BRIDGE

**PROJECT NO. 417-761
CONTRACT NO. 001801**

AUGUST 2021

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
C	CONTRACT	C-1 to C-2
	Memorandum of Agreement	1 to 5
GS	GENERAL SPECIFICATIONS	1 – 156
	Attachment A	ATT-1 to ATT-9
	(See General Specifications Table of Contents for listing of individual specifications sections.)	
TS	TECHNICAL SPECIFICATIONS	TS-1 to TS-14
	(See Technical Specifications Table of Contents for listing of individual specifications sections.)	
SP	SPECIAL PROVISIONS	SP-1 to SP-31
	(See Special Provisions Table of Contents for listing of each special provision.)	
	Addendum No. 1	Addendum No. 2
	Addendum No. 3	Addendum No. 4
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. 001801 (the “Contract”), made this 12th day of August 2021, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and Hubbard Construction Company, of 1936 Lee Road, Suite 300, Winter Park, FL. 32789, hereinafter the CONTRACTOR:

WITNESSETH: The CONTRACTOR shall, for the consideration herein mentioned and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents (and under security as set forth in the attached 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. 417-761, SR 417 Resurfacing from SR 408 to Canal E-4 Bridge, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 220 calendar days. The Contract Amount is \$6,779,194.64. This Contract was awarded by the Governing Board of CFX at its meeting on August 12, 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: _____
Director of Procurement

Print Name

DATE: _____

HUBBARD CONSTRUCTION COMPANY

By: _____
Signature

Print Name

Title

ATTEST: _____ (Seal)

DATE: _____

Approved as to form and execution, only.

General Counsel for CFX

Print Name

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 1 - Abbreviations and Definitions	1
1.1 General	1
1.2 Abbreviations	1
1.3 Definitions	2
Section 2 - 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	23
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	32
2.6 Right To and Use of Materials Found at the Site of the Work	32
2.6.1 Ownership and Disposal of Existing Materials	
2.6.2 Ornamental Trees and Shrubs	
2.7 Restoration of Right of Way	32

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 3 - Control of Work	34
3.1 Plans and Working Drawings	34
3.1.1 Plans and Contract Documents	
3.1.2 CFX Plans	
3.1.3 Alterations in the Plans	
3.1.4 Shop Drawings	
3.2 Coordination of Plans and Specifications	44
3.3 Conformity of Work with Plans	44
3.3.1 Record Drawings	
3.4 Pre-Award Meeting	45
3.5 Orders and Instructions	46
3.5.1 Observation of the Work	
3.5.2 Examination of the Work	
3.5.3 Communications	
3.6 Engineering and Layout	48
3.6.1 Control Points Furnished by CFX	
3.6.2 Furnishing of Stake Material	
3.6.3 Layout of Work	
3.6.4 Specific Staking Requirements	
3.6.5 Personnel, Equipment, and Record Requirements	
3.6.6 Global Navigation Satellite Systems (GNSS) Work Plan	
3.6.7 Payment	
3.7 Contractor's Supervision	52
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 General Inspection Requirements	52
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 Inspection and Acceptance	54
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 Audit and Examination of Contract Records and Bid Records	55

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
3.11 Escrow of Bid Records	57
3.12 Prevailing Party Attorney's Fees	58
Section 4 - Control of Materials	60
4.1 Acceptance Criteria	60
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)	61
4.3 Source of Supply and Quality Requirements	61
4.3.1 Only Approved Materials to be Used	
4.3.2 Notification of Placing Order	
4.3.3 Approval of Source of Supply	
4.4 Inspection and Tests at Source of Supply	62
4.4.1 General	
4.4.2 Cooperation by Contractor	
4.4.3 Retest of Materials	
4.5 Storage of Materials and Samples	63
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	63
Section 5 - Legal Requirements and Responsibility to the Public	65
5.1 Laws to be Observed	65
5.1.1 General	
5.1.2 Plant Quarantine Regulations	
5.1.3 Introduction or Release of Prohibited Aquatic Plants, Plant Pests or Noxious Weeds	
5.1.4 Compliance with Federal Endangered Species Act	
5.1.5 Occupational Safety and Health Requirements	
5.1.6 Discovery of Unmarked Human Burial Site	
5.1.7 Insecticides and Herbicides	
5.2 Permits and Licenses	67
5.3 Patented Devices, Materials and Processes	67

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.4 Right of Way Furnished by CFX	68
5.5 Sanitary Provisions	68
5.6 Control of the Contractor's Equipment	68
5.6.1 Traffic Interference	
5.6.2 Overloaded Equipment	
5.6.3 Crossings	
5.6.4 Protection from Damage by Tractor-Type Equipment	
5.6.5 Contractor's Equipment on Bridge Structures	
5.6.6 Posting of the Legal Gross Vehicular Weight	
5.7 Structures Over Navigable Waters	70
5.7.1 Compliance with Jurisdictional Regulations	
5.8 Use of Explosives	70
5.9 Preservation of Property	70
5.9.1 General	
5.9.2 Failure to Restore Damaged Property	
5.9.3 Contractor's Use of Streets and Roads	
5.9.4 Traffic Signs, Signal Equipment, Highway Lighting and Guardrail	
5.9.5 Operations Within Railroad Right of Way	
5.9.6 Utilities	
5.10 Responsibility for Damages, Claims, etc.	75
5.10.1 Contractor to Provide Defense Against Claims and Suits	
5.10.2 Guaranty of Payment for Claims	
5.11 Insurance	76
5.11.1 Schedule of Required Limits for Workers' Compensation, General Liability and Automobile Liability	
5.11.2 Workers' Compensation and Employer's Liability Insurance	
5.11.3 Comprehensive General Liability Insurance	
5.11.4 Comprehensive Automobile Liability Insurance	
5.11.5 Umbrella/Excess Liability Insurance	
5.11.6 Builder's Risk	
5.11.7 Railroad Insurance	
5.11.8 Pollution Legal Liability	
5.11.9 Professional Liability	
5.12 Contract Bond (Public Construction Bond) Required	83
5.12.1 General Requirements of the Bond	
5.12.2 Continued Acceptability of Surety	
5.13 Contractor's Responsibility for Work	83
5.14 Opening Section of Highway to Traffic	84
5.15 Scales for Weighing Materials	84
5.15.1 Applicable Regulations	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.15.2 Base for Scales	
5.15.3 Protection and Maintenance	
5.16 Source of Forest Products	84
5.17 Regulations of Air Pollution	84
5.17.1 General	
5.17.2 Dust Control	
5.17.3 Asphalt Material	
5.17.4 Asphalt Plants	
5.18 Dredging and Filling	85
5.19 Erosion Control	85
5.20 Contractor's Motor Vehicle Registration	85
5.21 Internal Revenue Service Form W-9	85
5.22 Tolls and Access	86
5.23 Requests for References or Performance Evaluations	86
5.24 Unauthorized Aliens	86
5.25 Public Records	87
5.26 Inspector General	88
5.27 Convicted Vendor List	88
5.28 Discriminatory Vendor List	88
5.29 Severability	88
5.30 Companies Pursuant to Florida Statute Sections 287.135	89
Section 6 - Prosecution and Progress of the Work	90
6.1 Subletting or Assigning of Contract	91
6.2 Work Performed by Equipment Rental Agreement	92
6.3 Prosecution of Work	92
6.3.1 Sufficient Labor, Materials and Equipment	
6.3.2 Impacts by Adjacent Projects	
6.3.3 Submission of Preliminary, Baseline, Updated Baseline, and Two-Week Look-Ahead Schedules	
6.3.4 Beginning Work	
6.3.5 Provisions for Convenience of the Public	
6.3.6 Pre-Construction Conference	
6.4 Limitations of Operations	111
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
6.4.7 Protection of Structures	
6.4.8 Fencing	
6.4.9 Hazardous or Toxic Waste	
6.4.10 Milling	
6.5 Qualifications of Contractor's Personnel	114
6.6 Temporary Suspension of Contractor's Operations	116
6.6.1 CFX to Suspend Contractor's Operations	
6.6.2 Prolonged Suspensions	
6.6.3 Permission to Suspend Operations	
6.6.4 Suspension of Contractor's Operations – Holidays	
6.7 Contract Time	116
6.7.1 General	
6.7.2 Date of Beginning of Contract Time	
6.7.3 Adjusting Contract Time	
6.8 Failure of Contractor to Maintain Satisfactory Progress	118
6.8.1 General	
6.9 Default and Termination of Contract	119
6.9.1 Determination of Default	
6.9.2 Public Interest Termination of Contract	
6.9.3 Completion of Work by CFX	
6.10 Liquidated Damages for Failure to Complete the Work	121
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 Release of Contractor's Responsibility	122
6.12 Recovery of Damages Suffered by Third Parties	122
6.13 Express Warranty	122
Section 7 - Measurement and Payment	123
7.1 Measurement of Quantities	123
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	
7.1.5 Truck Requirements	
7.1.6 Ladders and Instrument Stands for Bridge Construction	
7.2 Scope of Payments	124

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
7.2.1 Items Included in Payment	
7.2.2 Non-Duplication of Payment	
7.3 Compensation for Altered Quantities	127
7.3.1 General	
7.3.2 Payment Based on Plan Quantity	
7.3.3 Lump Sum Quantities	
7.3.4 Deviation from Plan Dimensions	
7.4 Force Account Work	129
7.4.1 Method of Payment	
7.4.2 Records	
7.4.3 Preliminary Order-of-Magnitude Estimate	
7.5 Deleted Work	133
7.6 Partial Payments	133
7.6.1 General	
7.6.2 Unsatisfactory Payment Record	
7.6.3 Withholding Payment for Defective Work	
7.6.4 Partial Payments for Delivery of Certain Materials	
7.6.5 Certification of Payment to Subcontractors	
7.6.6 Reduction of Payment for Unsatisfactory Services or Products	
7.7 Record of Construction Materials	136
7.7.1 General	
7.7.2 Non-Commercial Materials	
7.8 Disputed Amounts Due Contractor	137
7.9 Acceptance and Final Payment	137
7.10 Offsetting Payments	139
Section 8 – Disadvantaged/Minority/Women Business Enterprise (D/M/WBE) Participation	140
8.1 General	140
8.2 Disadvantaged/Minority and Women Owned Businesses – Participation Objectives	141
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	146

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 9 - Binding Arbitration	147
Section 10 – Partnering and Disputes Resolution	149
10.1 Partnering	149
10.2 Disputes Resolution	149
10.2.1 Disputes Review Board	
10.2.2 Continuance of Work During Dispute	
10.2.3 Disputes Review Board Membership	
10.2.4 Board Operations	
10.2.5 Procedure for Disputes Resolution	
10.2.6 Conduct of Disputes Hearings	
10.2.7 Compensation	
10.2.8 Three Party Agreement	
Attachment A - Disputes Review Board Three Party Agreement	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

GENERAL SPECIFICATIONS

SECTION 1 - ABBREVIATIONS AND DEFINITIONS

1.1 General

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

1.2 Abbreviations

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

AAN	American Association of Nurserymen, Inc.
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AGC	The Associated General Contractors of America, Inc.
AGMA	American Gear Manufacturers Association
AIA	American Institute of Architects
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
AREA	American Railway Engineering Association
ASCE	American Society of Civil Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWG	American Wire Gauge
AWPA	American Wood Preservers Association
AWS	American Welding Society
AWWA	American Water Works Association
CRSI	Concrete Reinforcing Steel Institute
EASA	Electrical Apparatus Service Association
EPA	Environmental Protection Agency of the United States Government
FDOT	Florida Department of Transportation
FHWA	Federal Highway Administration
FNGLA	Florida Nursery, Growers and Landscape Association
FSS	Federal Specifications and Standards
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society

IPCEA	Insulated Power Cable Engineers Association
ISO	International Organization for Standards
MASH	AASHTO Manual for Assessing Safety Hardware
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
NFPA	National Fire Protection Association
NIST	National Institute for Standards and Technology
NOAA	National Oceanic and Atmospheric Administration
OSHA	Occupational Safety and Health Administration
SAE	Society of Automotive Engineers
SI	International System of Units
SSPC	The Society for Protective Coatings
UL	Underwriters' Laboratories

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

1.3 Definitions

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

- 1.3.1 **Advertisement** - The public announcement, as required by law, inviting bids for work to be performed or materials to be furnished, usually issued as “Notice to Contractors,” or “Notice to Bidders.”
- 1.3.2 **Addendum** - A written or graphic instrument issued prior to the bid opening which modifies or interprets the proposed Contract Documents by additions, deletions, clarifications, or corrections
- 1.3.3 **Article** - The prime subdivision of a Section of the General and/or Technical Specifications.
- 1.3.4 **Bid** - The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed. All Bids will include a Bid Bond in the amount of 5% of the total bid as a surety to CFX that the Bidder will honor the Bid and enter into a Contract with CFX.
- 1.3.5 **Bidder** - An individual, firm, or corporation submitting a proposal for the proposed work.

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

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

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

Bridges with an individual span longer than 300 feet.

Structurally continuous superstructures with spans over 150 feet.

Steel box and plate girder bridges.

Steel truss bridges.

Concrete segmental and longitudinally post-tensioned continuous girder bridges.

Cable stayed or suspension bridges.

Curved girder bridges.

Arch bridges.

Tunnels.

Movable bridges (specifically electrical and mechanical components).

Rehabilitation, widening or lengthening of any of the above.

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

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

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

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

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

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

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

Lighting: poles, bracket arms, frangible bases and foundations.

Signing: Mounting brackets for bridge mounted signs, overhead cantilever structures, overhead truss structures, overhead sequential sign structures and multiple post sign supports, along with applicable foundations.

In general, shop drawings shall be required for:

(a) Bridge, Bulkhead and Retaining Wall Structures, cofferdams, Lighting and Signing Structural Items along with applicable foundations.

(b) Signing, Lighting, Drainage Structures and Attenuators and other nonstructural items.

(c) Building Structures.

(d) Contractor Originated Re-Design.

(e) Design and/or structural details furnished by the Contractor in compliance with the Contract, according to the sections of the Specifications pertaining to the Work, to the Plans or other Contract Documents.

(f) Special Erection Equipment.

(g) Falsework and Shoring.

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

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

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

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

3.1.4.4 Style, Numbering and Material of Submittals:

3.1.4.4.1 Drawings: The Contractor shall furnish such shop drawings as may be required to complete the structure in compliance with the design shown on the Plans. Each page shall be numbered consecutively for the series and the page number shall indicate the total number in the series (e.g., 1 of 12, 2 of 12, ...12 of 12). Each shop drawing shall contain the following items as a minimum requirement: the CFX Project Number, drawing title and number, a title block showing the names of the fabricator or producer and the Contractor for which the Work is being done, the initials of the person(s) responsible for the drawing, the date on which the Work was performed, the location of the item(s) within the Project, the Contractor's approval stamp and initials and when applicable, the signature and seal of the Contractor's Florida registered Specialty Engineer. The absence of any of this minimum information may be cause for a request for a re-submittal.

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

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

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

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

3.1.4.5 Submittal Paths and Copies: All submittals will be transmitted from the Contractor to the CEI. Should additional distribution be desired in order to expedite processing, contact information for additional reviewers will be provided to the Contractor. These contacts may include the Engineer of Record (EOR), General Engineering Consultant (GEC), Specialty Engineers, and/or CFX. At the preconstruction conference, CFX may notify the Contractor of any additional entities to be included in the submittal distribution.

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

3.1.4.5.2 Signing, Lighting, Drainage Structures, Attenuators and other nonstructural items.

3.1.4.5.3 Building Structures: Each series of working, shop and erection drawings.

3.1.4.5.4 Contractor Originated Design or Redesign: The Contractor shall submit to the CEI each series of shop drawings and applicable calculations. The cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer. The submittal and copies shall be transmitted in accordance with the requirements of 3.1.4.5.1 through 3.1.4.5.3, as appropriate.

3.1.4.5.5 Special Erection Equipment: For (a) Construction Affecting Public Safety and (b) Major or Unusual Structures: The Contractor shall submit to the CEI, each series of shop drawings and applicable calculations. Each cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer.

3.1.4.5.6 Falsework and Shoring: For (a) Construction Affecting Public Safety and (b) Major and Unusual Structures: The Contractor shall submit to the CEI of each series of shop drawings and applicable calculations. Each cover sheet of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer.

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

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

3.1.4.5.9 Other miscellaneous design and/or structural details furnished by the Contractor in compliance with the contract: The Contractor shall submit to the CEI each series of shop drawings and applicable calculations. Each cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer.

3.1.4.5.10 Beam and Girder Temporary Bracing: The Contractor is solely responsible for ensuring stability of beams and girders during all handling, storage, shipping and erection. Adequately brace beams and girders to resist wind, weight of forms and other temporary loads, especially those eccentric to the vertical axis of the products, considering actual beam geometry and support conditions during all stages of erection and deck construction. Develop the required designs following the AASHTO Guide Design Specifications for Bridge Temporary Works and Construction Handbook for Bridge Temporary Works and the Contract Documents.

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

3.1.4.6 Certifications:

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

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

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

3.1.4.7 Processing of Shop Drawings:

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

All shop drawings prepared by the Contractor or its agents (subcontractor, fabricator, supplier, etc.) shall be coordinated, reviewed, dated, stamped, approved and signed by the Contractor prior to submission to the CEI for review. The Contractor's signed approval of drawings submitted shall confirm the Contractor has verified the Work requirements, field measurements, construction criteria, sequence of assembly and erection, access and clearances, catalog numbers and other similar data. Each series of drawings shall indicate the specification section and page or drawing number of the Contract plans to which the submission applies. The Contractor shall indicate on the shop drawings all deviations from the Contract drawings and shall itemize all deviations in the letter of transmittal. Likewise, whenever a submittal does not deviate from the Contract plans, the Contractor shall also clearly state so in the transmittal letter.

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

It is incumbent upon the Contractor to submit shop drawings to facilitate expeditious review. Voluminous submittals of shop drawings at one time are discouraged and may result in increased review time. The submittal/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 day and 30 day review periods shown above.

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

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

3.1.4.7.3 Special Review by CEI of Shop Drawings for Construction Affecting Public Safety: For Construction Affecting Public Safety, the CEI will make an independent review of all relevant shop drawings and similar documents in order to verify the safety of the intended construction and construction of the permanent Work shall not proceed until receipt of the CEI's approval. The requirement herein does not supercede the Contractor's duty and responsibility for all safety provisions, public and/or otherwise, for the Project.

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

3.1.4.9 Other Requirements for Shop Drawings for Bridges:

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

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

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

(1) Overall construction program for the duration of the Contract. milestone dates should be clearly shown. (For example; the need to open a structure by a certain time for traffic operations.)

(2) Overall construction sequence. The order in which individual structures are to be built, the sequence in which individual spans of girders or cantilevers are erected and the sequence in which spans are to be made continuous.

(3) The general location of any physical obstacles to construction that might impose restraints or otherwise affect the construction and an outline of how the Contractor intends to deal with such obstacles as it builds the structure(s). (For example; obstacles might include road, rail and waterway clearances, temporary diversions, transmission lines, utilities, property and the Contractor's own temporary Work such as haul roads, cofferdams, plant clearances and the like.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.2 Coordination of Plans and Specifications

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

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

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

Computed dimensions shall govern over scaled dimensions.

3.3 Conformity of Work with Plans

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

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

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

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

3.3.1 As-Built Drawings: During the entire construction operation, both the CEI and the Contractor shall maintain independent, separate records of all deviations from the plans and specifications including Requests for Information (RFI), field directives, sketches, etc. The Contractor shall submit a draft of the as-built drawings, including all deviations, to the CEI no less than once every two months for review. A minimum submittal would be a pdf with all changes in red, accurately plotted. The Contractor's as-built drawings shall be reviewed regularly throughout the course of the project by the CEI. The Contractor's final as-built drawing submittal shall also include cross-sections, prepared by a registered surveyor, of all retention ponds in the Project limits. The Contractor's final as-built drawings shall be submitted within 15 days of the Project acceptance or termination of Work. Retainage will not be released by CFX until the marked-up pdf and records have been submitted and accepted by the CEI.

3.4 Pre-Award Meeting

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

CFX will make a determination as to whether or not any adjustments to the Plans, Specifications and/or bid price are appropriate and desired and will make such corrections and interpretations as CFX deems necessary to reflect the intent of the Plans and Specifications.

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

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

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.

4) Where utilities cross pipe trenches transversely within the excavation area but not within positions from which relocation or removal is necessary, the utility owner will be responsible for providing and effecting all reasonable measures for their support and protection during construction operations. The Contractor shall cooperate with the utility owner in the owner's effecting such support and protective measures. The Contractor shall be responsible for any damage to the utility that is caused by neglect or failure on the Contractor's part to cooperate and to use proper precaution in performing the Work.

In the event that a temporary relocation of a utility or a particular sequence of timing in the relocation of a utility is necessary, such relocation shall be done only as directed by CFX. CFX will not be responsible for utility adjustments or temporary relocation work or for the conditions resulting therefrom, where such adjustments are: not necessitated by the construction of the Project; or done solely for the benefit or convenience of the utility owner or its contractor (or the Contractor where Contractor's construction procedures are considered by CFX to be other than normal); or not shown on the approved Plans for the utilities relocation or the construction.

5.9.6.2 Cooperation with Utility Owners: The Contractor shall cooperate with the utility owners in the removal and/or rearrangement of utilities. If utility service is interrupted due to construction operations, the Contractor shall immediately notify the owner of the utility and the CEI and cooperate in the prompt restoration of

service. If water service is interrupted, the Contractor's repair work shall be continuous until the service is restored. No Work shall be undertaken around fire hydrants until the local fire authority has approved provisions for continued service.

5.9.6.3 Utility Adjustments: Utility adjustments and reconstruction Work may be underway during the Work. The Contractor shall effectively cooperate, coordinate, and schedule utility adjustments with utility construction crews in maintaining utility service. The Contractor shall use caution when working adjacent to utilities that have been relocated. The Contractor shall repair, at Contractor's expense, damages to relocated utilities resulting from Contractor's operations.

5.9.6.4 Weekly Meetings: Contractor shall conduct weekly meetings on the job site with all the affected utility companies and the CEI in attendance to coordinate Project construction and utility relocation, and shall submit a list of all attendees one week in advance to the CEI for approval.

Provide the approved Work Progress Schedule and Work Plan for the project to document the schedule and plan for road construction and utility adjustments. When utility relocations no longer affect construction activities, the Contractor may discontinue the meetings with the CEI's approval.

5.10 Responsibility for Damages, Claims, etc.

5.10.1 Contractor to Provide Defense Against Claims and Suits: To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless CFX (its officers, agents and employees) from and against claims, damages, losses and expenses (including but not limited to attorneys' fees), arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom. However, the indemnification herein provided is only to the extent caused in whole or in part by any act, omission or default of the Contractor, subcontractor, sub-subcontractor, materialman, agents of any tier, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described herein. The monetary limit on the indemnification provided herein to CFX or its officers, agents and employees shall be the total amount of the Agreement in aggregate or the insurance policy amount as required in article 5.11 herein, whichever is greater. The total amount of the Agreement in aggregate will be determined by the date the notice of claim was received by CFX.

In claims against any person or entity indemnified under this subarticle by an employee of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this subarticle shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

The obligations of the Contractor under this subarticle shall not extend to the liability of the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, designs or specification, or (2) the giving of or the failure to give direction or instructions by the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

The Contractor's obligation to indemnify and pay for the defense or, at CFX's option, to participate and associate with CFX in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within seven (7) days of receipt by the Contractor of the CFX notice of claim for indemnification to the Contractor. The notice of claim for indemnification will be served by certified mail. The Contractor's obligation to indemnify within seven (7) days of receipt of such notice will not be excused because of the Contractor's inability to evaluate liability or because the Contractor evaluates liability and determines the Contractor is not liable or determines CFX is solely negligent. The Contractor will pay all costs and fees related to this obligation and its enforcement by CFX.

This Contract shall not create in the public or any member thereof, a third party beneficiary hereunder or to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Contract.

5.10.2 Guaranty of Payment for Claims: The Contractor guarantees the payment of all just claims for Materials, Equipment, supplies, tools or labor and other just claims against the Contractor or any subcontractor in connection with the Contract. Final acceptance and payment by CFX will not release the Contractor's bond until all such claims are paid or released.

5.11 Insurance

Anything contained herein to the contrary notwithstanding, during the term of the Contract and for such additional time as may be further required, the Contractor shall provide, pay for and maintain in full force and effect insurance outlined in subarticles 5.11.1 through 5.11.9

below for coverage at not less than the prescribed minimum limits of liability, covering the Contractor's activities and those of any and all subcontractors (including officers, directors, employees or agents of each and their successors). All insurance shall be provided through companies authorized to do business in the State of Florida and considered acceptable by CFX.

Upon execution of the Contract, the Contractor shall furnish to CFX, Certificates of Insurance bearing an original manual signature of the authorized representative of the insurance company. No Work shall commence under the Contract unless and until the required Certificates of Insurance described herein are in effect and have been approved by CFX. The Certificate of Insurance shall be issued to CFX and shall reference the complete and correct Project number, as well as the full and complete name of each insurance company, including city and state of domicile, as listed by A.M. Best Company. All insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, or as approved by CFX, as defined by A.M. Best and Company's Key Rating Guide. Such Certificates shall provide that in the event of cancellation, non-renewal or material reduction in coverage (including any material reduction of limits of Liability), the insurer will provide thirty (30) days prior notice of such cancellation, non-renewal or material reduction by certified mail to CFX. In addition, certified true copies of all policies shall be provided to CFX upon specific written request. Renewal Certificates of Insurance for all policies shall be submitted by the Contractor so that they are received by CFX no later than thirty (30) calendar days prior to the expiration of existing insurance coverage. Failure by the Contractor to meet this required timeframe will result in suspension of partial payments on monthly estimates until the certificates are received and accepted by CFX.

All insurance coverage required of the Contractor shall be primary and noncontributory over any insurance or self-insurance program carried by CFX.

Excluding Professional and Pollution liability insurance, no liability insurance required herein shall be written under a "claims made" form.

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

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

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

Neither approval by CFX of insurance supplied by the Contractor nor disapproval of that insurance, shall release the Contractor of full responsibility for liability, damages and accidents as otherwise provided by the Contract. The requirement of insurance will not be deemed a waiver of sovereign immunity by CFX.

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide CFX with certificates of same, CFX may obtain such policies and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments. Alternately, CFX may declare CONTRACTOR in default for cause.

5.11.1 Schedule of Required Limits for Workers' Compensation, General Liability and Automobile Liability:

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

5.12 Contract Bond (Public Construction Bond) Required

5.12.1 General Requirements of the Bond: The Contractor shall furnish to CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by CFX. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to CFX. The name, address and telephone number of the surety agent shall be clearly stated on the face of the Public Construction Bond.

5.12.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after CFX's initial approval of the company, then CFX may require that the Contractor immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to CFX. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the Contractor from its payment of premium on the defaulting bond, will be borne by CFX.

5.13 Contractor's Responsibility for Work

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

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

The Contractor will not be held responsible for damage to any landscape items caused by an officially declared hurricane that occurs after the final acceptance of the entire Work but during any remaining portion of the 90-day establishment period.

5.14 Opening Section of Highway to Traffic

When any bridge or section of roadway is, in the opinion of CFX, acceptable for travel, CFX may direct that the bridge or roadway be opened to traffic. Such opening shall not be considered, in any way, to be an acceptance of the bridge or roadway or any part thereof or as a waiver of any provision of the Contract. The Contractor shall make all repairs or renewals due to defective Work or Materials (or for any cause other than ordinary wear and tear) on such opened sections without additional compensation.

5.15 Scales for Weighing Materials

5.15.1 Applicable Regulations: Prior to the use of any scales, the Contractor shall submit to the CEI a copy of a certificate of accuracy for the scales that is not more than 1 year old. All scales which are used for the determination of the weight of Materials upon which compensation will be made by CFX shall conform to the requirements of Chapter 531, Florida Statutes, pertaining to specifications, tolerances and regulations as administered by the Bureau of Weights and Measures of the Florida Department of Agriculture. CFX reserves the right to perform scale checks/inspections at its sole discretion.

5.15.2 Base for Scales: Such scales shall be placed on a substantial horizontal base that will assure proper support, rigidity and maintenance of level of the scales.

5.15.3 Protection and Maintenance: All scale parts shall be in proper condition as to level and vertical alignment and shall be fully protected against contamination by dust, dirt and other matter which might affect operation of the parts.

5.16 Source of Forest Products

As required by Section 255.20, Florida Statutes, all timber, timber piling or other forest products which are used in the construction of the Project shall be produced and manufactured in the State of Florida, price and quality being equal and provided such Materials produced and manufactured in Florida are available.

5.17 Regulations of Air Pollution

5.17.1 General: All Work shall be done in accordance with all Federal, State and local laws and regulations regarding air pollution and burning.

5.17.2 Dust Control: The Contractor shall ensure that excessive dust is not transported beyond the limits of construction in populated areas. Dust control for embankment or other cleared or unsurfaced areas may be by application of water or calcium

chloride, as directed by CFX. Any use of calcium chloride shall be in accordance with Section 102 of the Technical Specifications. When included in the Plans, mulch, seed, sod or temporary paving shall be installed as early as practical. Dust control for storage and handling of dusty materials may be made by wetting, covering or other means as approved by the CEI.

5.17.3 Asphalt Material: Any asphalt used shall be emulsified asphalt unless otherwise stated in the Plans and allowed by Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. Asphalt materials and components shall be stored and handled to minimize unnecessary release of hydrocarbon vapors.

5.17.4 Asphalt Plants: The operation and maintenance of asphalt plants shall be in accordance with Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. A valid permit as required under Chapter 17-2 shall be available at the plant site prior to the start of Work.

5.18 Dredging and Filling

If required by the Work, the Contractor shall comply with Section 370.033, Florida Statutes, regarding obtaining a certificate of registration from the Florida Department of Environmental Protection and keeping accurate records and logs of all dredge and fill activities.

5.19 Erosion Control

This Project will be constructed on properties that may be subject to environmental permits and regulation promulgated by city, county, state, federal, and regional authorities. Requirements for erosion control are included in the Technical Specifications.

5.20 Contractor's Motor Vehicle Registration

The Contractor shall provide proof to CFX that all motor vehicles operated or caused to be operated by the Contractor are registered in compliance with Chapter 320, Florida Statutes. Such proof of registration shall be submitted in the form of a notarized affidavit to CFX. No payment will be made to the Contractor until the required proof of registration is on file with CFX.

5.21 Internal Revenue Service Form W-9

The Contractor shall complete and return with the executed Contract, Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.

5.22 Tolls and Access

The Contractor shall pay all tolls incurred from using CFX's Expressway System to transport personnel, equipment, or materials to and from the site of Work. Any costs incurred by the Contractor in payment of tolls shall be considered incidental and included in associated items. The term "equipment" in this context includes loaders, graders and similar self-propelled equipment, operating under their own power, passing through a toll plaza.

Contractor shall access the Project by existing expressway ramps. No access will be allowed through the right-of-way fence.

5.23 Requests for References or Performance Evaluations

In the event CFX at any time receives any direct or third party inquiry or request concerning the Contractor, its employees or sub-contractors, or the performance of the Contractor, its employees or sub-contractors under this Contract, CFX, at any time and in all cases, may, but shall not be obligated to respond to any such inquiry or request, with or without notice to the Contractor, its employees, or subcontractors, as the case may be, but, in all cases, such response shall be limited to: (1) acknowledging that the Contractor has, or in the past has had, a contract with CFX; (2) the date, term and type of such contract; (3) whether a specified employee or subcontractor worked on the Contract, and if so, in what capacity; (4) whether such contract was terminated early for any reason other than the convenience of CFX; (5) whether such contract was eligible for renewal or extension; and, (6) if such contract was eligible for renewal or extension, whether in fact such contract was renewed or extended. Should the Contractor, its employees, its agents or subcontractors request that any further information be provided in response to such an inquiry or request, such additional information may be provided by CFX, in its sole discretion. Contractor for itself, its employees, its agents and sub-contractors, hereby expressly waives any and all claims of whatever kind or nature that the Contractor, its employees, its agents or sub-contractors may have, or may hereafter acquire, against CFX relating to, or arising out of CFX's response to any and all requests or inquiries concerning the Contractor, its employees or subcontractors under this Contract, or the performance of the Contractor, its employees or subcontractors under this Contract.

5.24 Unauthorized Aliens

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

5.25 Public Records

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

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

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

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

5.27 Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

5.28 Discriminatory Vendor List

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

5.29 Severability

If any section of the Contract Documents that are incorporated into this Contract be judged void, unenforceable or illegal, then the illegal provision will be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original

intention, and the remaining portions of the Contract will remain in full force and effect and will be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

END OF SECTION 5

SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without consent of CFX. The Contractor will be permitted to sublet a portion of the Work but shall perform, with its own organization, Work amounting to not less than 50% of the total Contract amount less the total amount for those Contract items specifically designated as "Specialty Work" below or as otherwise designated as Specialty Work by CFX. The granting or denying of consent under this provision is at CFX's sole discretion. The Certification of Sublet Work request will be deemed acceptable by CFX, for purposes of CFX's consent, unless the Engineer notifies the Contractor within 5 business days of receipt of the Certification of Sublet Work that CFX is not consenting to the requested subletting. If, at any time, a subcontractor is determined to be discriminatory, debarred or suspended by the FHWA, CFX or FDOT, the determination will be considered grounds for removal from the project.

The total Contract amount shall include the cost of Materials, manufactured component products and their transportation to the Project site. Off-site commercial production of Materials and manufactured component products purchased by the Contractor and their transportation to the Project will not be considered subcontracted Work.

If a part of a Contract item is sublet, only its proportional cost will be used in determining the percentage of subcontracted normal Work.

All subcontracts entered into by the Contractor shall be in writing and shall contain all pertinent provisions and applicable requirements of the Contract. All subcontracts shall require subcontractor to indemnify and hold harmless CFX on the same terms as contained in the General Specifications and the Contract. The Contractor shall furnish CFX with a copy of any subcontract requested by CFX. Subletting of Work shall not relieve the Contractor or surety of their respective liabilities.

The Contractor shall ensure that all Subcontractors are competent, careful and reliable. The Contractor shall submit the names and qualifications of all first and second tier subcontractors to CFX for approval prior to their beginning Work on the Project. All first and second tier subcontractors shall have the skills and experience necessary to properly perform the Work assigned and as required by the plans and specifications.

If, in the opinion of CFX, any Subcontractor employed by the Contractor is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such first or second tier subcontractor shall be immediately removed from the Project by the Contractor upon written direction

from CFX. Such subcontractor shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such subcontractor, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the subcontractor is removed. The Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Subcontractor based on the direction of CFX. All subcontracts shall expressly include an acknowledgment of CFX's right to remove any Subcontractor in accordance with this paragraph.

A Subcontractor shall be recognized only in the capacity of an employee or agent of the Contractor.

If the aggregate total of the dollar amount of Work performed by a subcontractor, including equipment rental agreements, equals or exceeds \$20,000, a formal subcontract agreement shall be entered into between the Contractor and the Subcontractor.

6.1.2 Specialty Work: The following Work is designated as Specialty Work:

- Auxiliary Power Unit
- Cleaning, Coating, Injection, Grouting, Grinding, Grooving or Sealing Concrete Surfaces
- Deep Well Installation
- Electrical Work
- Fencing
- Highway Lighting
- Installing Pipe or Pipe Liner by Jacking and Boring
- Installing Structural Plate Pipe Structure
- Landscaping
- Painting
- Plugging Water Wells
- Pressure Grouting
- Pumping Equipment
- Roadway Signing and Pavement Marking
- Riprap
- Removal of Buildings
- Rumble Strips
- Sealing Wells by Injection
- Septic Tank and Disposal System
- Signalization
- Utility Works
- Vehicular Impact Attenuator
- Water and Sewage Treatment Systems

6.2 Work Performed by Equipment Rental Agreement

The limitations set forth in 6.1, regarding the amount of Work that may be subcontracted, do not apply to Work performed by Equipment rental agreements. The Contractor shall notify CFX, in writing, if the Contractor intends to perform any Work through an Equipment rental agreement. The notification shall be submitted to CFX before any rental Equipment is used on the Project. The notification shall include a list of the Equipment being rented, the Work to be performed by the Equipment and whether the rental includes an Equipment operator. Notification to CFX will not be required for Equipment being rented (without operators) from an Equipment dealer or from a firm whose principle business is renting or leasing Equipment.

6.3 Prosecution of Work

6.3.1 Sufficient Labor, Materials and Equipment: The Contractor shall provide sufficient labor, Materials and Equipment to ensure the completion of the Work no later than the Contract completion date.

6.3.2 Impacts by Adjacent Projects: When there is a potential impact between two or more projects due to close proximity or due to logistics in moving labor, Materials, and Equipment between projects, all authorized representatives of the parties performing the projects have a responsibility to communicate and coordinate their work so that impacts to either party are eliminated or mitigated and do not endanger, delay, or create additional work or costs to either party. The Contractor shall not be compensated for any additional costs or delays so incurred by either party.

6.3.3 Submission of Preliminary, Baseline, Updated Baseline, and Two-Week Look-Ahead Schedules:

6.3.3.1 Scheduling Terminology

Accepted Baseline Schedule: The Accepted Baseline Schedule is the Baseline Schedule submitted by the Contractor and accepted by CFX. Review and acceptance of the schedule by CFX will be for the sole purpose of determining if the schedule is in substantial compliance with the General Specifications and does not mean that CFX agrees or disagrees, approves or disapproves of the constructability, means and methods, validity and accuracy of the submitted baseline schedule. The Contractor is solely responsible for the constructability, means and methods, validity and accuracy of the submitted baseline schedule.

Acknowledged Receipt of the Updated Baseline Schedule: The Contractor is solely responsible for the constructability, means and methods, validity and accuracy of the updated baseline schedule. CFX does not accept or reject, agree or disagree, approve or disapprove of the constructability, means and methods, validity or accuracy of the Updated Baseline Schedule. Instead, CFX will transmit a letter acknowledging receipt of the Contractor's submittal of the Updated Baseline Schedule.

Baseline Schedule: The Baseline Schedule does not contain any progressed activities. Therefore, each activity's early and late dates are planned dates, not actual dates. The Baseline Schedule contains the necessary breakdown of activities to adequately track the progress of the project. Activities in the Baseline Schedule shall include, but not be limited to, activities for all work to be performed. In addition, the baseline schedule should include milestone activities, and activities for the procurement of significant equipment and materials, including activities for submittals and approvals, orders, fabrication, request for delivery and delivery. Procurement activities should be logically tied to their respective work activities.

Contract Completion Date: Also called the Approved Contract Completion Date or the Authorized Contract Completion Date or the Last Chargeable Contract Date.

The Contract Completion Date is calculated by adding the number of calendar days stated in the contract to complete all work, to the first chargeable day of the Contract, less one day.

For time extensions granted by CFX, the Contract Completion Date is calculated by adding the number of calendar days granted to the Contract Completion Date.

If a critical activity is delayed, the Contract Completion Date(s) may also be delayed if the durations on the remaining activities on the critical path are accurate. The Contractor acknowledges and agrees that actual delays to activities which, according to the CPM schedule, do not directly affect the main project critical path, do not have any effect on the Contract Completion Date(s) and shall not be the basis for a change therein.

CPM: Critical Path Method of scheduling.

Critical Path: Defined as the Longest Path.

Early Dates: The earliest scheduled start and/or finish date assigned to a CPM scheduled activity.

Excusable Delay: As defined in subarticle 6.7.3.1.

Adjustments to Contract Time.

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

Lag: An undefined delay between two scheduled activities. For instance, a 5 day lag between activity A (the predecessor) and activity B (the successor) with a Finish to

Start (FS) relationship would mean that activity B would not start until 5 days after the finish of activity A.

Late Dates: The latest scheduled start and/or finish date assigned to a CPM scheduled activity.

Longest Path: In a Baseline Schedule, the Longest Path of the CPM schedule is a continuous series of activities starting from the first scheduled activity and ending with the last scheduled activity, that are linked in a logical sequence and where each activity in the sequence has the least value of total float in the schedule. If each of the longest path activities were assigned the same calendar, then each activity on the longest path would have the same value of total float. In an Updated Baseline Schedule (a baseline with actual progress recorded), the Longest Path will begin at the data date (also known as the cut-off date) and extend to the last activity scheduled in the Contract. The Contractor shall sequence work so that only one Longest Path is created in the Baseline or Updated Baseline schedule.

Negative Total Float: Also called Negative Float. The greatest number of days, stated as a negative number, that the Contract Completion Date is delayed. When an activity has negative total float, the activities with negative total float have early dates scheduled later than their late dates.

Planned Dates: Also called early and late dates.

P6: The scheduling software Primavera P6 Professional, produced by Oracle, Inc., which shall be used by the Contractor for all CPM scheduling tasks.

Preliminary Schedule: The Preliminary Schedule is a bar chart schedule submitted at the Pre-Construction Conference. Refer also to specification section 6.3.3.3.

Revised Baseline Schedule: The Baseline Schedule shall only be revised with the approval of CFX.

Total Float: Also called Float. The number of days an activity can be delayed without delaying the Contract completion date.

CFX and Contractor agree that float is not for the exclusive use or benefit of either the Contractor or CFX and must be used in the best interest of completing the Project on time. The Contractor agrees that: 1) float time may be used by CFX; and 2) there shall be no basis for a Project time extension as a result of any Project problem, change order or delay which only results in the loss of available positive float, or negative float that is greater than the most negative float in the CPM. The Contractor will not be permitted to alter float through such applications as extending duration estimates or changing sequence relationships, etc., to consume available positive float.

Time Impact Analysis: If the Contractor requests a time extension to any required milestone date for changes in the Work ordered by CFX, the Contractor shall furnish such justification and supporting evidence in the form of a Time Impact Analysis illustrating the influence of the change on the Contract time such that CFX can evaluate the request. This Time Impact Analysis shall include a network analysis demonstrating how the Contractor has incorporated the change in the schedule. Each such Time Impact Analysis shall demonstrate the time impact of the performance of the changed Work as the date upon which the change arose or was otherwise ordered, the status of the Work at that time based upon the CPM schedule update prevailing at that time and the duration or logic computations for all of the affected activities. The Time Impact Analysis shall be submitted within ten (10) calendar days following the commencement of the delay event. Failure to make notification in the time and manner required shall be considered a waiver of the Contractor's entitlement to any time extension resulting from such delay. No time extension will be considered unless it specifically contains at least the following detailed information:

1. Date delay began;
2. Date delay impact was resolved;
3. Detailed chronology of delay including the dates of all applicable notifications and submittals;
4. Specific critical activities affected and the dates of impact;
5. The activity durations used in the Time Impact Analysis shall be those reflected by the latest Project schedule update prevailing at the time of the initiation of the delay event.

Updated Baseline Schedule: Also called the Schedule Update, is a copy of the Baseline Schedule with activities updated for actual start and/or finish dates and percent completion.

Weather Event: As defined in 6.7.3

6.3.3.2 General Requirements for all Scheduling Tasks and Submittals:

Schedule Content: Failure to include any element of required Work in the schedule shall not relieve the Contractor from completing all Work necessary to complete the Project on time.

Scheduling Costs: All costs incurred by the Contractor to create and maintain the Preliminary and CPM schedules including, but not limited to, updates, revisions, time impact analyses, and any additional required scheduling data shall be borne by the Contractor and are part of the Contract requirements.

Utility Coordination, Permits and Licenses: Sufficient liaison shall be conducted and information obtained at the utility pre-construction conference to coordinate activities with utility owners having facilities within the Project limits. The schedule shall conform to the utility adjustments and Maintenance of Traffic sequencing included in the Contract Documents unless changed by mutual agreement of the utility company, the Contractor, and CFX. The schedule shall show any utility adjustments that start or continue after the Contract time has started. In addition, the Contractor shall show the acquisition of permits or licenses needed for the Project.

Required Labeling of all Correspondence and Associated Documents: All Schedule related correspondence, including transmittals and attachments, shall have the Schedule number and cut-off date (data date) entered in the document heading. A sample format to be used is as follows: "0303-25AUG15", where 0303 is the schedule update number and 25AUG15 is the cut-off date (data date).

6.3.3.3 Submission of the Preliminary Schedule:

The Contractor shall submit to CFX with the executed Contract the following documents:

The Preliminary Schedule shall cover the entire scope of the Contractor's responsibilities for the entire Contract time. The Preliminary Schedule is either a CPM or a NON-CPM generated bar chart schedule. The Preliminary Schedule shall present the Contractor's general approach to the Project and show adequate detail for Work, procurement, and submittal and approval activities covering the first 120 days of Work from the First Chargeable Contract day. The remainder of the Contract time shall be represented by summary activities.

Written Narrative: The written narrative shall explain the preliminary schedule's scope and approach to the Project in sufficient detail to demonstrate that the Contractor has a reasonable and workable plan to complete the Project within the Contract time allowed.

Geographical Layout of the Project: The geographical layout graphic of the project shall be suitable in size and content for presentation purposes. The Contractor shall also submit a copy of the geographical layout of the project in a legal landscape format.

Contractor's Oral Presentation: At the pre-construction conference, the Contractor shall show and refer to the geographical layout of the Project in an oral presentation of the Contractor's approach to performing the Work under the Contract. The Contractor's oral presentation shall conform to the format and content of the written narrative.

Within five (5) days after receipt of the Preliminary Schedule, CFX will either accept or reject the schedule. If the Preliminary Schedule is rejected, CFX and Contractor will meet within 3 days after notice of rejection at which time CFX will present the Contractor with a list of required changes to the Preliminary Schedule. The Contractor shall make the changes and submit a revised preliminary schedule acceptable to CFX within 3 days after receipt of the required changes.

Updating the Preliminary Schedule: The Contractor shall update each activity in the Preliminary Schedule with an actual start date, actual finish date, percent complete, and remaining duration through the data date each month until the Baseline Schedule is accepted by CFX. The cut-off date and submittal date for the Updated Preliminary Schedule shall be established by CFX and the Contractor shall submit the Updated Preliminary Schedule on that date. The Contractor shall include a written narrative with the Updated Preliminary Schedule explaining the progress made, any delays that have occurred, and work planned to be accomplished in the next month.

Retainage for Non-Submittal: If the Contractor fails to update the Preliminary Schedule and submit a written narrative, CFX may retain 10% of the Contractor's next Monthly Payment Request and 10% of each subsequent monthly payment request until the Contractor complies.

6.3.3.4 Submission of the CPM Baseline and Updated Baseline Schedules: The Contractor's CPM schedule shall be a detailed CPM schedule. The CPM schedule shall be generated by the latest version of Primavera (P6 Professional) by Oracle, Inc. The Contractor shall pay the scheduling software yearly maintenance fees and maintain scheduling software upgrades throughout the duration of the contract. The Contractor shall use all default settings in Primavera P6 Professional for all schedule submittals. This includes using the "Retained Logic" setting for all calculations, unless CFX chooses to allow the use of the "Progress Override" setting. Each Baseline and Updated Baseline schedule submittal shall include all reports and graphics listed in specification section 6.3.3.4.9. All Baseline Schedule submittals shall also include the Logic Diagram required under Item number 4.

The Contractor shall submit to CFX two CDs with exported copies of the above schedules in ".xer" format. Other methods of electronic submittal may be approved by the CEI.

Schedule Submittal Deadlines: The Contractor shall prepare and submit a detailed CPM construction schedule. The schedule shall be prepared according to the specifications and submitted no later than 45 calendar days after the Notice to Proceed date. The CEI shall have 30 calendar days from the Contractor's submittal date to review and notify the Contractor in writing of its findings. The Contractor shall have 15 calendar days from the date of the CEI's written notice to make all requested modifications to the schedule and re-submit the schedule.

Retainage for Non-Submittal: If the Contractor fails to submit a schedule that fully complies with the specifications within 90 calendar days from the Notice to Proceed date, CFX will automatically retain 10% of the Contractor's Current Period Monthly Payment Request amount in addition to other retainage.

CFX may retain an additional 10% of the Contractor's Period Monthly Payment Request amount for each successive month that the Contractor fails to submit any schedule on time in addition to other retainage. The Contractor must submit an Updated Baseline Schedule for each month of the Contract starting from the first chargeable day of the contract. The Due Date for the Updated Baseline Schedule shall be the Cut-Off Date established by CFX for submittal of the Contractor's Monthly Payment Request. The Due Date for the Updated Baseline Schedule may be changed from time to time by CFX. The Contractor's submitted schedule shall have a data date matching the cut-off date established by CFX.

Milestones: Construction and maintenance of traffic milestones, including completion of construction on roadway sections, building and removing temporary detours, bridges, traffic shifts, road closures and openings, and any contractually dictated interim milestones shall be adequately shown in the schedule.

Measurement of Progress: As the contract work progresses and the baseline schedule is updated with progress, each subsequent schedule update shall become the schedule upon which all Work progress will be measured.

6.3.3.4.1 CPM Activity Creation: Each schedule activity shall include the following detail in P6:

A.) ID Number - The format followed shall be uniform throughout the schedule. The activity number shall not exceed 6 digits.

B.) Original Duration (Working Days): No activity shall have a duration greater than 20 working days unless approved by CFX. However, activities such as long-term procurement, certain approvals and submittals may have durations greater than 20 working days or have a 7-day calendar assignment.

At the minimum, the schedule shall include, but not be limited to the following activities:

Bridge Activities:

Test Pile installation per bent per structure.

Production Pile installation per bent per structure.

Drilled shaft installation per pier per structure.

Pile caps per bent per structure.

Footings per pier per structure.

Columns per pier per structure.

Caps per pier per structure.

End bents per structure.
Beam or girder erection-span by span per structure.
Diaphragms.
Deck placement-span by span per structure.
Parapets-span by span per structure.
Roadway Activities:
Internal access and haul roads (location and duration in-place).
Utility relocation work by utility and by stationing and roadway.
Clearing and grubbing by stationing and roadway.
Excavation by stationing and roadway.
Embankment for each abutment location.
Embankment placed for each roadway by stationing and roadway.
Drainage by run with stationing and roadway.
Box Culvert or other large Pre-cast structure with stationing and roadway.
Reinforced Earth Wall leveling pad per bent per structure.
Reinforced Earth Wall per bent per structure.
Reinforced Earth Wall Coping per bent per structure.
Retaining walls by stationing and roadway.
Stabilization/Subgrade by stationing and roadway.
Limerock Base by stationing and roadway.
Asphalt Base by stationing and roadway.
Curb and Gutter by stationing and roadway.
Structural Pavement (asphalt and/or concrete) by stationing and roadway.
Bridge approach slabs per bridge and roadway.
Guardrail by stationing and roadway.
Slope pavement or riprap by stationing and roadway.
Roadway lighting by stationing and roadway.
Signing for each sign structure by stationing and roadway.
Striping by stationing and roadway.
Traffic signals by stationing and roadway.
Topsoil, sodding, seeding and mulching by stationing and roadway.
Landscaping by stationing and roadway.
Architectural Treatments.
Sound Walls.
Fiber Optic
Concrete Removal and Replacement.
Milling and Resurfacing.
Ponds.
Planter Walls.
Photovoltaic systems.
Integration of Photovoltaic and ITS systems.
Burn-In periods.
Tolls.

Building Activities:

Sitework, including, but not limited to clearing, excavation, storm and sanitary drainage, utility work, fill, grading, curb & gutter, sidewalks, asphalt and concrete paving, striping, retention pond excavation and grading, sodding.

Foundation work, including, but not limited to, piling, building pads, column, stem wall, slab work, conduit and piping.

Concrete work, including, but not limited to, stairwells, stairs, elevator shafts, tunnels.

Exterior Structures, including, but not limited to structural steel bridges, walkways, railings.

Exterior Walls, including, but not limited to, block, brick, pre-cast, poured-in-place concrete, wood and metal stud, stucco.

Roof, including, but not limited to, structural steel framing, wood framing, pre-cast, parapet walls, metal, poured-in-place, sheathing, underlayment, built-up, roof drainage, and soffits.

Exterior doors, windows, and store-front framing.

Interior Build-out, including, but not limited to, wood and metal stud, interior doors and windows, cabinetry, specialty work, drywall, insulation, sound proofing, carpet, tile, painting, furnishings, and miscellaneous finishes.

Electrical, including, but not limited to conduit, power supply, fixtures, wiring, finishes, and testing.

Plumbing, including, but not limited to, piping, sanitary sewer, water supply, fixtures, finishes, and testing.

HVAC, including, but not limited to, air handlers, compressors, duct work, finishes, and testing.

Fire Systems, including, but not limited to piping, sprinkler heads, and testing.

Security Systems, including, but not limited to, control panels, wiring, sensors, alarms, communications, and testing.

Specialty Work, including, but not limited to, elevators, escalators, toll booth facilities, electronic toll equipment, conduit, wiring, voice and data communication systems, and testing.

The Contractor agrees to submit for acceptance a CPM baseline schedule showing Work commencing on the first chargeable Contract day and finishing on the last chargeable Contract day, thereby showing zero total float.

The Contractor shall sequence work so that only one Longest Path is created in the Baseline or Updated Baseline schedule.

The Contract Completion Date as defined in section 6.3.2.1 shall be entered into the Primavera Project Details window under “Project must finish by”.

Mobilization Activities: Activities representing Contract pay item 1-101-1, Mobilization, shall be divided into 1 work activity with a duration no greater than 20 work days and 4 mobilization payment milestones that are revenue loaded according to the specification payment schedule as follows: 5% of Contract earned = 25% payment, 10% of Contract earned = 50% payment, 25% of Contract earned = 75% payment and 50% of Contract earned = 100% payment. The payment milestones should not be tied to any activities, but constrained by a “start no earlier than” constraint. The dates they are constrained to should be based on the early dates shown in the schedule cash flow tabular report by day generated by P6.

6.3.3.4.2 Activity Codes: The Contractor shall define and assign as appropriate, project-specific activity codes to allow for filtering, grouping, and sorting of activities by category to facilitate review and use of the Progress Schedule. The Contractor shall define the activity codes using the project-level option. The following are the minimum required activity codes and their values that are to be assigned to each activity in P6:

Phase: Shall have a field length of 4 characters. If the Project has more than one maintenance of traffic (M.O.T.) phase, each phase shall be identified. Each activity shall show which M.O.T. Phase it belongs to as shown in the Plans and Specifications.

Area: Shall have a field length of 6 characters. The Contractor shall create Area activity code values for each of the following areas. Each schedule activity shall have an assigned Area activity code value

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

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

6.3.3.4.3 Activity Relationships: Relationships between activities shall be identified with the following information:

- A. Activity ID - Shall not exceed 6 characters in length.
- B. Predecessor and successor activity ID.

- C. Relationship types:
 - FS -Finish to start
 - SS -Start to start
 - FF -Finish to finish
 - SF -Start to finish - This relationship is not allowed, unless authorized by CFX.
- D. Lag -Negative lag is not allowed, unless authorized by CFX.

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

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

- A. Calendar 1: shall be used for 5-day workweek activities: Monday through Friday. All holidays and non-work days shall be assigned to this calendar. This calendar shall be used for all normal Work activities. Calendar 1 shall be the default calendar.
- B. Calendar 2: shall be used for 7-day workweek activities. No non-work days shall be entered into this calendar. Activities such as friction course curing shall use this calendar.
- C. Calendar 3: shall be used for 7-day workweek activities. All holidays shall be entered into this calendar.
- D. Calendar 4: shall be used for 6-day workweek activities. All holidays and non-work days shall be assigned to this calendar.

Additional calendars: May be assigned depending upon need. However, the Contractor shall consult with CFX before other calendars are entered and/or used in the Project schedule.

6.3.3.4.5 Revenue Loading the Schedule: Each Work activity in the schedule shall be revenue loaded using all the Contract pay items amounts related to the Work activity. Revenue shall be loaded using resources with the “Material” type. The Contractor shall verify that each pay item is represented in the schedule. The total of all revenue loading shall equal the Contract amount.

If the monthly payment requests do not reasonably agree with the monthly schedule updates/budgeted revenue of Work performed, CFX may request that the Contractor revise its revenue loading in the accepted baseline schedule and the most current updated baseline schedule. In addition, CFX may request that the Contractor revise its revenue loading in the accepted baseline and updated baseline schedules to incorporate all Supplemental Agreement changes affecting the Contract amount.

6.3.3.4.6 Updating the Baseline Schedule

Monthly Schedule Update Meetings: Monthly Schedule Update meetings shall be set by CFX and shall be transmitted to the Contractor by written notice.

CFX will establish a schedule cut-off date for each month of the Contract.

The updated baseline schedule, project progress, issues, delays, claims, planned Work, Contractor’s monthly pay estimate, and baseline schedule revisions shall be among the priority items addressed in detail.

Schedule Update Process: The schedule update process shall include updating the activity actual start and finish dates, percent completion, remaining duration, and adjusting schedule logic to correct for activities being performed out of sequence, adjusting resource allocations for activities, and changing the calendar assignments to activities as needed. The Contractor must submit evidence to CFX that any revision to schedule logic, resources, or calendar assignment is a logical, reasonable, and necessary change. If CFX decides that the revision is not sufficiently supported and does not serve a useful purpose, CFX shall request that the Contractor remove the revision from the schedule update, and the Contractor shall comply. The Contractor shall not change an activity original duration for any reason.

6.3.3.4.7 Revisions to the Baseline Schedule

1. Revisions to the accepted Baseline Schedule are only to be made at the request of CFX. CFX will request in writing that the Contractor submit a proposed revision to the Accepted Baseline Schedule to incorporate a Board Approved Supplemental Agreement.
2. The Contractor shall have fifteen calendar days from receipt of CFX's request to submit a proposed revision to the Accepted Baseline Schedule.
3. The Contractor's proposed revision shall include all transmittals, reports, diagrams, and bar charts listed in specification section 6.3.2.4.9, unless CFX requests otherwise in writing.
4. The Contractor shall submit two Schedule Comparison reports. The first report shall be a comparison between the Accepted Baseline Schedule and the Revised Baseline Schedule. The second report shall be a comparison between the current updated baseline schedule and the proposed updated baseline schedule containing the proposed revision to the accepted baseline schedule.
5. In its required narrative report, the Contractor shall state whether or not the proposed changes affect the longest path of the accepted baseline schedule or the proposed updated baseline schedule, which contains progress.
6. CFX shall have 15 calendar days to review and transmit a written notice of acceptance or rejection of the Contractor's proposed revision. If CFX rejects the proposed revision, CFX shall state the reasons for rejection in the written notice. The Contractor shall have 5 calendar days to re-submit the proposed revision to CFX.
7. If the Contractor fails to submit a proposed revision that is accepted by CFX within 45 calendar days from CFX's original request date, CFX reserves the right to retain 10% of each of the Contractor's monthly payment requests until the Contractor submits a proposed revision that is accepted by CFX.
8. Upon acceptance of the proposed revision to the accepted baseline schedule, the proposed revision to the baseline schedule shall become the accepted baseline schedule. The Contractor shall incorporate the revision into the next scheduled updated baseline schedule.

6.3.3.4.8 Schedule Submittals: Each baseline, revised baseline, and updated baseline schedule submittal shall include the following documents,

unless CFX sends and the Contractor receives a written request to limit the submittal to certain documents for a specific submittal.

1. Transmittal: Shall be signed by the Contractor's Schedule Engineer or Resident Engineer. Shall contain the following information:

Submittal date.

Contractor Name.

Complete CFX Contract Number.

Project Description.

Contract Resident Engineer.

Four character P6 Project Number - Data Date

2. Schedule Update Narrative Report: The Contractor shall prepare a written narrative to accompany the required reports and graphics for the schedule update submittal. The narrative shall have the following sections:

Schedule Status: The Schedule Status shall be a written narrative explaining the progress during the month in sufficient detail and referencing specific activities including longest path activities, milestones, design issues, means and methods issues, out of sequence activities, and actual production rates for various types of Work performed by the crews loaded as resources in the schedule.

Delays: If the Contractor has experienced any delay, the Contractor shall explain what activities in the current period were affected by the delay and what caused the delay and how the Contractor intends to address the delay.

Milestone Comparisons: Current period projected milestone dates versus previous period projected milestone dates, and current period projected contract completion date versus previous period projected contract completion date.

3. Schedule Comparison Report: The Contractor shall submit to CFX a detailed report showing all changes to the Project schedule since the previous monthly update, including, but not limited to the following information:

Activities worked out of sequence.

Changes in Total Float.

Changes in Early and Late Dates.

Changes in Original and Remaining Duration.

Changes in Activity Constraints.
Changes in Activity Predecessors, Successors, Relationship Type, and Lags.
Changes in Activity Resource Assignments.
Changes in Activity Cost Loading.
Changes in Activity percent completion.
Changes in Longest Path Activities.

Longest Path Bar chart: Bar chart shall be time scaled and filtered on the Longest Path activities and sorted by early start.

Area Code Bar chart: Bar chart shall be time scaled and sorted by area code. The bar chart shall include:

- A. Each activity on a single line containing ID number, activity description, and a bar representing activity original duration, early start dates, early finish dates, late start dates, late finish dates and total float.
- B. Key to identify all components in the bar chart and CPM.
- C. Key to identify all the abbreviations used.

4. Revenue Loading Report: The Contractor shall submit to CFX a report entitled "Revenue Loading Report". The report shall include the following information:

- A. Activity ID number
- B. Description of activity
- C. List of pay items included in activity including:
 - 1. Pay item number
 - 2. Pay item description
 - 3. Quantity of pay item to be applied
 - 4. Unit measure of pay item
 - 5. Unit-price of pay item
 - 6. Total price for pay item to be applied
- D. Total revenue loading of activity (Sum of "C")

5. Revenue Flow Diagram: For any baseline Schedule, the Contractor shall submit to CFX a Revenue Flow Diagram by month. The Revenue Flow Diagram shall show the early and late curves representing the accumulated projected dollars to be earned for each month of the Contract.

6. Tabular Revenue Report: For any Baseline Schedule, the Contractor shall submit a Tabular Revenue Report by day. The tabular report shall show columns for the accumulated and incremental projected dollar amounts to be earned on the early and late curve for each Contract day.
7. P6 Schedule Backup: The Contractor shall submit to CFX two copies of each baseline, revised baseline, and updated baseline schedule exported in “.xer” format. The files shall be submitted on compact disk (cd) or via the electronic submittal process approved by the CEI. Each submission shall have a typed label showing the following information:
 - Contractor name
 - The complete CFX Project number
 - The four character P6 project number
 - Data Date in format -> “01JAN15”
 - Volume number _of_ total volume numbers (e.g., 1 of 5, 2 of 5)
8. Paper Sizes and Orientation: All printed reports shall be submitted on 8" x 11" portrait-bond paper. All printed bar charts and revenue flow diagrams shall be submitted on 8" x 11" landscape bond paper. All presentation layouts and logic diagrams shall be plotted in color with a color design jet plotter and submitted on ANSI E (34-inch x 44-inch) size coated paper.

6.3.3.4.9 Two Week Look Ahead Schedule: The Contractor shall submit a two-week look-ahead bar chart schedule produced in Microsoft Excel at the weekly project progress meeting. The bar chart shall show all major Work in progress.

The bar chart shall show at least one week behind for actual Work performed and two weeks ahead for planned Work.

The bar chart shall be date synchronized to the CEI’s Weekly Summaries.

Changes and revisions that require the approval of CFX shall be brought forward for discussion.

6.3.3.4.10 Adjustments to Contract Time:

1. The Contract Completion Date shall not be changed in any schedule unless CFX approves a Supplemental Agreement granting an extension to the Contract Time.

2. The Contractor has the right to finish the Contract early; however, the Contractor agrees that any impact to the projected early completion date does not justify a request for a time extension because it would constitute changing the Contract completion date to match the Contractor's projected early completion date. Any float available as a result of a schedule showing early completion shall be considered project float for joint use by CFX and the Contractor.
3. The Contractor acknowledges and agrees that for purposes of considering a time extension request, a schedule activity shall not be considered to have been subject to a claimed delay unless all originally and presently scheduled predecessor activities have been completed so that no other restraints to the performance of that activity exist in the CPM schedule at the time claimed for the delay impact. The Contractor agrees that a Contract time extension request shall only be considered for one of the following reasons:
 - A. The Contractor performed Extra Work that met all of the following conditions:
 1. CFX stated that the Extra Work was not to be performed concurrently with other Contract Work.
 2. The Extra Work delayed the Contract Completion Date.
 3. The Extra Work impacted one or more activities on the current CPM schedule longest path.
 - B. The Contractor experienced an Excusable Delay, as defined in subarticle 6.7.3.1, that met all of the following conditions:
 1. The Contract Completion Date was delayed due to circumstances beyond the control of the Contractor.
 2. The Contractor took every reasonable action to prevent the delay.
 3. The delay impacted one or more activities on the current CPM schedule longest path.
 4. The Contractor agrees that there shall be no basis for a Contract Time extension as a result of any Contract problem, Supplemental Agreement, or delay, which only results in the loss of available positive float, or an increase of negative float belonging to activities

that do not reside on the CPM schedule's Longest Path.

6.3.3.4.11 Supplemental Agreements: Supplemental Agreements shall include a time impact analysis from the Contractor as to the effect of the requested change on the detailed schedule. In cases where the requested change has no impact on the Project duration, the time impact analysis shall still be included. The time impact analysis shall include a listing of the activities that are affected by the requested changes and an analysis of the change on the longest path of the detailed schedule. The Contractor and the CEI shall agree upon the impact to the schedule before a Supplemental Agreement is approved.

The approved Supplemental Agreements shall be incorporated into the next monthly schedule update.

6.3.3.4.12 Adjustment to the Contract Time: Adjustments to the Contract time are detailed in subarticle 6.7.3.

6.3.3.4.13 CPM Recovery Schedule: Should any of the following conditions exist, the Contractor shall, at no extra cost to CFX, prepare a CPM Recovery Schedule, which shall be submitted in addition to a Progress-Only schedule update of the same data date:

1. Should the Contractor's monthly progress review indicate that a CPM Recovery Schedule is required;
2. Should the CPM schedule show the Contractor to be thirty (30) or more days behind schedule at any time during the construction period;
3. Should the Contractor request to make changes in the logic of the CPM schedule which, in the opinion of CFX, are of a major nature.

The same requirements and submittals for the CPM Recovery Schedule shall apply as the original baseline schedule.

6.3.4 Beginning Work: See Article 6.7 below.

6.3.5 Provisions for Convenience of the Public: The Contractor shall schedule operations to minimize any inconvenience to adjacent businesses, vehicular or pedestrian traffic or residences. CFX reserves the right to direct the Contractor as to the performance and scheduling of Work in any areas along the Project where restrictions caused by construction operations present significant hazards to the health and safety of the general public.

When working adjacent to or over travel lanes, the Contractor shall ensure that dust, mud and other debris from Contractor's operation does not interfere with normal traffic operations or adjacent properties. All debris shall be removed from the Work area and clear zone of the Project before Work ends for the day. Trash shall be picked up and removed daily from the job by the Contractor.

- 6.3.6 Pre-Construction Conference: Prior to Contractor's commencement of Work on the Project, the CEI will schedule a pre-construction conference with the Contractor, utility companies and other affected parties to review the proposed Work activities and schedule of events.

6.4 Limitations of Operations

- 6.4.1 Night Work: In all areas where Work is being performed during the hours of dusk or darkness, the Contractor shall furnish, place and maintain lighting facilities capable of providing light of sufficient intensity (5 foot-candles minimum) to permit good workmanship and proper inspection at all times. The lighting shall be arranged so as not to interfere with or impede traffic approaching the Work site(s) from either direction or produce undue glare to property owners and traveling public.

Lighting of Work site(s) may be accomplished using any combination of portable floodlights, standard Equipment lights, existing street lights, temporary street lights, etc., that will provide the proper illumination. The Contractor shall provide a light meter to demonstrate that the minimum light intensity is being maintained. The Contractor shall provide sufficient fuel, spare lamps, generator, etc., to maintain lighting of the Work site.

The Contractor's lighting plan shall provide for and show the location of all lights necessary for every aspect of Work to be done at night. The plan shall be presented on standard size roadway plan sheets (no larger than 24" x 36") and on a scale of either 100' or 50' to the inch. The Contractor's lighting plan shall be submitted to the CEI for review and approval at least 10 days prior to beginning any night Work. The CEI may require that modifications be made to the lighting setup to fit field conditions.

The Contractor shall furnish and place variable message signs to alert approaching motorists of lighted construction area(s) ahead.

The Contractor's pickups and automobiles used on the Project shall be provided with amber flashing lights or flashing white strobe lights. These lights shall be in operation at all times while in the Project limits and/or Work area.

The Contractor's Equipment shall be provided with a minimum of four square feet of reflective sheeting or flashing lights that will be visible to approaching motorists.

The Contractor shall provide its personnel with reflective safety vests. The Contractor shall ensure that all Subcontractors are also provided with reflective safety vests. Vests shall be worn at all times while workers are within the Work area.

The Contractor shall use padding, shielding or locate mechanical and electrical Equipment to minimize noise as directed by the CEI. Noise generated by portable generators shall comply with all applicable Federal, State and local environmental regulations.

The Contractor shall have a superintendent present to control all operations involved during night Work. The superintendent shall maintain contact with the CEI and ensure that all required actions are taken to correct any problem noted.

All required traffic control devices such as signs, stripes, etc., shall be in place before the Contractor commences Work for the night and before the Contractor leaves the Work site the next morning.

Work operations that result in traffic delays more than five minutes may be temporarily suspended by the CEI to minimize the impact on the traveling public.

No private vehicles shall be parked within the limited access right of way. The Contractor's Worksite Traffic Supervisor shall continually and adequately review traffic control devices to ensure proper installation and working order, including monitoring of lights.

Compensation for lighting for night Work shall be included in the Contract prices for the various items of the Contract. All lighting Equipment for night work shall remain the property of the Contractor.

- 6.4.2 Sequence of Operations: The Contractor shall not start new Work that will adversely impact Work in progress. Under such circumstances, CFX reserves the right to require the Contractor to finish a section on which Work is in progress before Work is started on any new section.
- 6.4.3 Interference with Traffic: The Contractor shall at all times conduct the Work in such a manner and such sequence as to ensure the least practicable interference with traffic. The Contractor's vehicles and other Equipment shall be operated in such a manner that they will not be a hazard or hindrance to the traveling public. Materials stored along the roadway shall be placed to minimize obstruction to the traveling public.

Where existing pavement is to be widened and stabilizing is not required, the Contractor shall schedule operations such that at the end of each workday the full thickness of the base for widening will be in place. Construction of the widening strips will not be permitted simultaneously on both sides of the road except where

separated by a distance of at least one-fourth of a mile along the road, where either the Work of excavation has not been started or the base has been completed.

- 6.4.4 Coordination with Other Contractors: The right is reserved by CFX to have other work performed by other contractors and to permit public utility companies and others to do work during the construction of and within the limits of or adjacent to the Project. The Contractor shall arrange the Work and dispose of Materials so as not to interfere with the operations of other contractors engaged upon adjacent work and shall perform the Work in the proper sequence in relation to that of other contractors and shall join with and connect to the work of others as required by the Plans and Specifications all as may be directed by the CEI.

Contractor shall be responsible for any damage done by Contractor's operations to the work performed by other contractors. Similarly, other contractors will be held responsible for damage caused their operations to the Contractor's Work. The Contractor agrees to make no claims against CFX for additional compensation due to delays or other conditions created by the operations of such other parties. Should a difference of opinion arise as to the rights of the Contractor and others working within the limits of, or adjacent to, the Project, CFX will decide as to the relative priority of all concerned.

- 6.4.5 Drainage: The Contractor shall conduct operations and maintain the Work in such condition that adequate drainage will be in effect at all times. Existing functioning storm sewers, gutters, ditches and other runoff facilities shall not be obstructed.
- 6.4.6 Fire Hydrants: Fire hydrants on or adjacent to the roadway shall be kept accessible to fire apparatus at all times and no material or obstruction shall be placed within 15 feet of any such hydrant.
- 6.4.7 Protection of Structures: Heavy Equipment shall not be operated close enough to pipe headwalls or other structures to cause their displacement.
- 6.4.8 Fencing: The Contractor shall expedite the installation of fencing at those locations where, in the opinion of the CEI, such installation is necessary for the protection, health, and safety of the public. All fencing shall be maintained by the Contractor at all times. Fence cuts shall be immediately replaced. All fence removed during any one working day shall be replaced during that same day. While the fence is down, continuous security shall be provided by the Contractor to ensure that no pedestrians or vehicles enter or exit the roadway from the temporarily unfenced area. Specific attention shall be given to prevent any persons, animals, or vehicles moving from adjacent private property onto the roadway right-of-way.
- 6.4.9 Hazardous or Toxic Waste: When the Contractor's operations encounter or expose any abnormal condition which may indicate the presence of a hazardous substance, toxic waste or pollutants such operations shall be discontinued in the vicinity of the abnormal condition and the CEI shall be notified immediately. The presence of

tanks or barrels; discolored earth, metal, wood, groundwater, etc.; visible fumes; abnormal odors; excessively hot earth; smoke; or other conditions which appear abnormal may be indicators of hazardous or toxic wastes or pollutants and shall be treated with extraordinary caution.

Every effort shall be made by the Contractor to minimize the spread of any hazardous substance, toxic waste or pollutant into uncontaminated areas.

The Contractor's operations in the affected area shall not resume until so directed by the CEI.

Disposition of the hazardous substance, toxic waste or pollutant shall be made in accordance with the laws, requirements and regulations of any local, state, or federal agency having jurisdiction. Where the Contractor performs Work necessary to dispose of hazardous substance, toxic waste or pollutant and the Contract does not include pay items for disposal, payment will be made, when approved in writing by a Supplemental Agreement, prior to the Work being performed.

6.4.10 Milling: The Contractor shall provide positive drainage of the remaining pavement after milling. This operation shall be done prior to opening to traffic.

The Contractor shall provide suitable transitions between milled areas of varying thickness in order to create a reasonably smooth longitudinal riding surface. In addition, the Contractor shall provide suitable transitions approaching all bridge ends at all times.

Wedges for Longitudinal and Transverse Joints: Asphalt Wedges for longitudinal and traverse joints shall be one foot wide or long, respectively, for each 1/4 inch of depth. The wedge must be installed prior to opening the lane to traffic.

The Contractor shall plan milling operations so that any lane milled will be repaved prior to opening to traffic.

6.5 Qualifications of Contractor's Personnel

The Contractor shall ensure that all of its employees are competent, careful, and reliable. All workers shall have the skills and experience necessary to properly perform the Work assigned and as required by the Plans and Specifications.

If, in the opinion of CFX, any person employed by the Contractor, or any Subcontractor, is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such person shall be immediately removed from the Project by the Contractor upon written direction from CFX. Such person shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such person, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the person is removed. The Contractor shall

indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Contractor employee based on the direction of CFX.

6.6 Temporary Suspension of Contractor's Operations

6.6.1 Authority to Suspend Contractor's Operations: CFX, at its sole discretion, may suspend the Contractor's operations, wholly or in part, for such period(s) as CFX deems necessary. These periods of suspension may include adverse weather conditions, catastrophic occurrences and heavy traffic congestion caused by special events. Written notice, giving the particulars of the suspension, will be transmitted to the Contractor by CFX.

6.6.2 Prolonged Suspensions: If the suspension of operations is for an indefinite period of time, the Contractor shall store all Materials in such a manner that they will not become damaged or obstruct or impede the traveling public unnecessarily. The Contractor shall take reasonable precautions to prevent damage to or deterioration of the Work performed, shall provide suitable drainage of the roadway by opening ditches, shoulder drains, etc., and shall provide all temporary structures necessary for public travel and convenience.

6.6.3 Permission to Suspend Operations: The Contractor shall not suspend operations or remove Equipment or Materials necessary for the completion of the Work without the permission of CFX. All requests for suspension of the Contract time shall be in writing to CFX and shall identify specific dates to begin and end.

6.6.4 Suspension of Contractor's Operations - Holidays: Unless the Contractor submits a written request to work on a holiday at least ten days in advance of the requested date and receives written approval from the CEI, the Contractor shall not work on the following days: Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Labor Day; the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Thanksgiving Day; the Friday, Saturday and Sunday immediately following Thanksgiving Day; and December 24 through January 2, inclusive. Contract Time will be charged during these holiday periods regardless of whether or not the Contractor's operations have been suspended. The Contractor is not entitled to any additional compensation for suspension of operations during such holiday periods.

During such suspensions, the Contractor shall remove all Equipment and Materials from the clear zone, except those required for the safety of the traveling public and retain sufficient personnel at the job site to properly meet the requirements of Sections 102 and 104 of the Technical Specifications. The Contractor is not entitled to any additional compensation for removal of Equipment from clear zones or for compliance with Section 102 and Section 104 during such holiday periods.

Any special events known to CFX that may impact Contractor operations are shown on the Plans.

6.7 Contract Time

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

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

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

6.7.2 Date of Beginning of Contract Time: The date on which Contract time will begin 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;
 - b. fails to perform the Work with sufficient workmen and Equipment or with sufficient Materials to assure the prompt completion of the Contract as related to the schedule or;
 - c. performs the Work unsuitably or neglects or refuses to remove Materials or;
 - d. to perform anew such Work as may be rejected as unacceptable and unsuitable or;
 - e. discontinues the prosecution of the Work or;
 - f. fails to resume Work which has been discontinued within a reasonable time after notice to do so or;
 - g. fails to pay timely its subcontractors, suppliers or laborers or;
 - h. submits a false or fraudulent Certificate of Disbursement of Previous Payments form or;
 - i. becomes insolvent or is declared bankrupt or;
 - j. files for reorganization under the bankruptcy code or;
 - k. commits any act of bankruptcy or insolvency, either voluntarily or involuntarily or;
 - l. allows any final judgment to stand against it unsatisfied for a period of ten calendar days or;
 - m. makes an assignment for the benefit of creditors or;
 - n. for any other cause whatsoever, fails to carry on the Work in an acceptable manner or;
 - o. if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of CFX.
 - p. Failure to ensure that D/M/WBE firms have the maximum opportunity to participate in performance of the Contract shall constitute failing to prosecute the Work in an acceptable manner.

If the Contractor, within a period of 10 calendar days after the notice described above, does not proceed to correct the default, CFX may give notice of default in writing to the Contractor and the surety stating the nature of the default and providing the amount of time which will be allowed to correct the default.

If the Contractor (within the curative period described in the notice of default) does not correct the default, CFX will have full power and authority to remove the Work from the Contractor and to declare the Contract in default and terminated.

If the Contract is declared in default, CFX may require the Contractor's surety to take over and complete the Contract performance. Upon the failure or refusal of the surety to assume the Contract within the time demanded, CFX may take over the Work covered by the Contract.

CFX shall have no liability for profits related to unfinished Work on a Contract terminated for default.

- 6.9.2 Public Interest Termination of Contract: CFX may, by written notice, terminate the Contract or a portion thereof after determining that, for reasons beyond either CFX or Contractor control, the Contractor is prevented from proceeding with or completing the Work as originally contracted for, and that termination would therefore be in the public interest. Such reasons for termination may include but need not be necessarily limited to, executive orders of the President relating to prosecution of war or national defense, national emergency which creates a serious shortage of Materials, orders from duly constituted authorities relating to energy conservation and restraining order or injunctions obtained by third-party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor.

When the Contract or any portion thereof, is terminated (as aforesaid) before completion of all items of Work in the Contract, payment will be made for the actual number of units or items of Work completed, at the Contract unit price or as mutually agreed for items of Work partially completed. No claims for loss of anticipated profits will be considered.

Reimbursement for mobilization expenses (when not otherwise included in the Contract), including moving Equipment to the job, will be considered where the volume of Work completed is too small to compensate the Contractor for these expenses under the Contract unit prices; the intent being that an equitable settlement will be made with the Contractor.

Acceptable Materials procured by the Contractor for the Work, that have been inspected, tested, and approved by CFX and that are not incorporated in the Work, may be purchased from the Contractor at actual cost, as shown by receipted bills and actual cost records, at such points of delivery as may be designated by CFX.

Termination of the Contract or a portion thereof, under the provisions of this subarticle, shall not relieve the Contractor of Contractor's responsibilities for the completed portion nor shall it relieve Contractor's surety of its obligation for, and concerning any just claims arising out of, the Work performed.

CFX may also, upon seven days written notice to the Contractor, without cause and without prejudice to any other right or remedy of CFX, elect to terminate the Contract. In such case, the Contractor will be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, in accordance with existing pay items;

2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, Materials or Equipment as required by the Contract Documents in connection with uncompleted Work, plus mutually agreeable sums for overhead and profit on such expenses.

The Contractor shall not be paid because loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

- 6.9.3 Completion of Work by CFX: Upon declaration of default and termination of the Contract, CFX will have the right to appropriate or use any or all Materials and Equipment on the sites where Work is or was occurring which are suitable and acceptable and may enter into agreements with others for the completion of the Work under the Contract or may use other methods which in the opinion of CFX are required for Contract completion. All costs and charges incurred by CFX because of or related to the Contractor's default (including the costs of completing Contract performance) shall be charged against the Contractor. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the Contractor and the surety shall be jointly and severally liable and shall pay CFX the amount of the excess.

6.10 Liquidated Damages for Failure to Complete the Work

- 6.10.1 Liquidated Damages for Failure to Complete the Work: The Contractor shall pay to CFX liquidated damages in the amount specified in the Special Provisions per calendar day for failure of the Contractor to complete the Work within the Contract time stipulated or within such additional time as may have been granted by CFX.
- 6.10.2 Determination of Number of Days of Default: Default days shall be counted in calendar days.
- 6.10.3 Conditions Under Which Liquidated Damages are Imposed: If the Contractor (or in circumstance of the Contractor default, the surety) fails to complete the Work within the Contract time stipulated or within such extra time as may have been granted by CFX, the Contractor (or the surety) shall pay to CFX, not as a penalty but as liquidated damages, the amount due.
- 6.10.4 Right of Collection: CFX reserves the right, at its sole option, to apply as payment on liquidated damages due any money which is due the Contractor by CFX.
- 6.10.5 Allowing the Contractor to Finish Work: Allowing the Contractor to continue and to finish the Work or any part of it, after the expiration of the Contract time allowed, including time extensions, shall in no way act as a waiver on the part of CFX of the liquidated damages due under the Contract.

6.10.6 Liability for Liquidated Damages: In the event of default of the Contract and the completion of the Work by CFX, the Contractor and the Contractor's surety shall be liable for the liquidated damages under the Contract. No liquidated damages shall be chargeable for any delay in the final completion of the Work due to any unreasonable action or delay on the part of CFX.

6.11 Release of Contractor's Responsibility

The Contract will be considered completed when all Work has been finally accepted, in writing, by CFX. The Contractor will then be released from further obligation except as set forth in the Public Construction Bond and as provided in subarticle 3.9.5, Recovery Rights Subsequent to Final Payment.

6.12 Recovery of Damages Suffered by Third Parties

In addition to liquidated damages, CFX may recover from the Contractor amounts paid by CFX for damages suffered by third parties unless the failure to timely complete the Work was caused by CFX acts or omissions.

6.13 Express Warranty

The Contractor warrants and guarantees the Work to the full extent provided for in and required by the Contract Documents. Without limiting the foregoing or any other liability or obligation with respect to the Work, the Contractor shall, at its expense and by reason of its express warranty, make good any faulty, defective, or improper parts of the Work discovered within one (1) year from the date of final acceptance of the Project, expressed in writing, by CFX. The Contractor also warrants that all materials furnished hereunder meet the requirements of the Contract Documents and expressly warrants that they are both merchantable and fit for the purpose for which they are to be used under the Contract Documents.

Should any subcontractor or material supplier of Contractor provide an express warranty for its work or materials to the Contractor which is thereafter assigned to CFX or provide a warranty for its work or materials directly to CFX, such warranty shall not preclude CFX from the exercise of any alternative means of relief against Contractor, whether contractual, extra-contractual, statutory, legal or equitable.

END OF SECTION 6

SECTION 7 - MEASUREMENT AND PAYMENT

7.1 Measurement of Quantities

7.1.1 Measurement Standards: Unless otherwise stipulated, all Work completed under the Contract shall be measured by CFX according to United States Standard Measures.

7.1.2 Method of Measurements: All measurements shall be taken horizontally or vertically unless otherwise stipulated. Consistent with this, any corrugations, rustications, or deviations in texture will not be quantified for surface area measurement and payment.

7.1.3 Determination of Pay Areas:

7.1.3.1 Final Calculation: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is determined by calculation, the lengths and/or widths used in the calculations shall be either 1) the station to station dimensions shown on the Plans, 2) the station to station dimensions actually constructed within the limits designated by CFX or 3) the final dimensions measured along the surface of the completed Work within the neat lines shown on the Plans or designated by CFX. The method or combination of methods of measurement shall be those that reflect, with reasonable accuracy, the actual plane surface area, irrespective of surface and texture details of the finished Work as determined by CFX.

7.1.3.2 Plan Quantity: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is designated to be the plan quantity, the final pay quantity shall be the plan quantity subject to the provisions of subarticle 7.3.2. In general, the plan quantity shall be calculated using lengths based on station to station dimensions and widths based on neat lines shown on the Plans.

7.1.4 Construction Outside Authorized Limits: Except where such Work is performed upon written instruction of CFX, no payment will be made for surfaces constructed over a greater area than authorized or for material moved from outside of slope stakes and lines shown on the Plans.

7.1.5 Truck Requirements:

The Contractor shall certify that all trucks used have a manufacturer's certification or permanent decal showing the truck capacity rounded to the nearest tenth of a cubic yard placed on both sides of the truck. The capacity shall include the truck body only and any side boards added shall not be included in the certified truck body capacity.

7.1.6 Ladders and Instrument Stands for Bridge Construction: To facilitate necessary measurements, the Contractor shall provide substantial ladders to the tops of piers and bents and shall place and move ladders as required by the CEI. For bridges crossing water or marshy areas, the Contractor shall provide fixed stands for instrument mounting and measurements.

7.2 Scope of Payments.

7.2.1 Items Included in Payment:

Accept the compensation as provided in the Contract as full payment for furnishing all materials and for performing all work contemplated and embraced under the Contract; also for all loss or damage arising out of the nature of the work or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its final acceptance; also for all other costs incurred under the provisions of the General Specifications.

For any item of work contained in the proposal, except as might be specifically provided otherwise in the basis of payment clause for the item, include in the Contract unit price (or lump sum price) for the pay item or items the cost of all labor, equipment, materials, tools, and incidentals required for the complete item of work, including all requirements of the Section specifying such item of work, except as specifically excluded from such payments.

7.2.1.1 Fuels: CFX will, in the Contract Documents, provide an estimated quantity for fuel requirements for gasoline and diesel to cover the work specified in the Contract. Price adjustments will be made only for the amount of gasoline and diesel fuel estimated by CFX as required to complete the Contract. The requirement of each type of fuel for each pay item is estimated by multiplying the CFX standard fuel factor for that pay item by the quantity of that pay item. Price adjustments made for fuel used after expiration of the last allowable Contract Day (including any time extensions) will be limited to the increases or decreases dictated by the index in effect on the last allowable Contract Day. On Contracts with an original Contract Time in excess of 120 calendar days, CFX will make price adjustments on each applicable progress estimate to reflect increases or decreases in the price of gasoline and diesel from those in effect during the month in which bids were received. The Contractor will not be given the option of accepting or rejecting these adjustments. Price adjustments for these fuels will be made only when the current fuel price (CFP) varies by more than 5% from the price published when bids were received (BFP), and then only on the portion that exceeds 5%. For definition purposes, should a project bid prior to the 15th of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14th of the month, the bid index will be the index for the month of the bid.

Price adjustments will be based on the monthly bulk average price for gas and diesel as derived by the FDOT. These average indexes shall be determined by averaging bulk fuel prices on the first day of each month as quoted by major oil companies that are reasonably expected to furnish fuel for projects in the State of Florida. Average price indices for gasoline and diesel will be available on the FDOT Construction Office website before the 15th of each month, at the following URL: <https://www.fdot.gov/construction/fuel-bit/fuel-bit.shtm>.

Payment will be based on the quantities shown on the progress estimate on all items for which established standard fuel factors which are included in the bid documents or, if omitted, are on a file maintained by the FDOT at the time of bid.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for gasoline and diesel in accordance with the following:

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

$A_i = F_i (P_i - .95 P_b)$ during a period of decreasing prices.

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

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

P_i = Average price for fuel prevailing during month "i."

P_b = Average price for fuel prevailing during the month "b" when bids were received on this Contract, as defined above

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

$A_i = F_i (P_i - 1.05 P_b)$ during a period of increasing prices.

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

F_i = Total gallons calculated as being used during the month.

P_i = Average price for fuel prevailing during month "i."

Pb = Average price for fuel prevailing during the month “b” when bids were received on this Contract, as defined above

Payment will be made on the current progress estimate to reflect the index difference at the time work was performed.

Adjustments will be paid or charged to the Contractor only. Contractors receiving an adjustment under this provision shall distribute the proper proportional part of such adjustment to subcontractors who perform applicable work.

7.2.1.2 Bituminous Material: On Contracts having an original Contract Time of more than 365 calendar days, or more than 5,000 tons of asphalt concrete, CFX will adjust the bid unit price for bituminous material, excluding cutback and emulsified asphalt to reflect increases or decreases in the Asphalt Price Index (API) of bituminous material from that in effect on the day on which bids were received. The Contractor will not be given the option of accepting or rejecting this adjustment. Bituminous adjustments will be made only when the current API (CAPI) varies by more than 5% of the API prevailing on the day on which bids were received (BAPI), and then only on the portion that exceeds 5%. For definition purposes, should a project bid prior to the 15th of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14th of the month, the bid index will be the index for the month of the bid.

CFX will determine the API for each month by checking the FDOT Contracts Office web site which averages quotations in effect on the first day of the month at all terminals that could reasonably be expected to furnish bituminous material to projects in the State of Florida.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for bituminous materials in accordance with the following:

$$\text{\$ Adjustment} = (\text{ID})(\text{Gallons})$$

Where ID = Index Difference = [CAPI - 0.95(BAPI)] when the API has decreased between the month of bid, as defined above, and month of this progress estimate.

Where ID = Index Difference = [CAPI - 1.05(BAPI)] when the API has increased between the month of bid, as defined above, and month of this progress estimate.

Payment will be made on the current progress estimate to reflect the index difference at the time work was performed.

For asphalt concrete items payable by the ton, and not containing Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 6.25% liquid asphalt weighing 8.58 lb/gal. For asphalt concrete items payable by the ton, that do contain Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 5% liquid asphalt weighing 8.58 lb/gal.

Asphalt concrete items payable by the square yard will be converted to equivalent tons assuming a weight of 100 lb/yd² per inch.

7.2.1.2 For FC-5 with granite, the number of gallons will be determined assuming a mix design with 5.5% liquid asphalt weighing 8.58 lb/gal.

7.2.2 Non-Duplication of Payment: In cases where the basis of payment clause in these Specifications relating to any unit price in the bid schedule requires that the unit price cover and be considered compensation for certain work or material essential to the item, CFX will not measure or pay for this same work or material under any other pay item that may appear elsewhere in these Specifications.

7.3 Compensation for Altered Quantities

7.3.1 General: When a change or combination of changes in the Plans results in an increase or decrease in the original Contract quantities and the Work added or deleted is of the same general character as that shown on the original Plans, the Contractor shall accept payment in full at the original Contract unit prices for the actual quantities of Work done. No allowance will be made for any loss of anticipated profits because of increase or decreases in quantities provided, however, that increased or decreased Work covered by a Supplemental Agreement will be paid for as stipulated in the Supplemental Agreement.

Compensation for alterations in Plans or quantities of Work requiring Supplemental Agreements shall be stipulated in such agreement, except when the Contractor proceeds with the Work without change of price being agreed upon. The Contractor shall be paid for such increased or decreased quantities at the Contract unit prices bid in the Proposal for the items of Work. If no Contract unit price is provided in the Contract, the Contractor agrees to do the Work in accordance with Subarticle 2.3.2 of these General Specifications.

7.3.2 Payment Based on Plan Quantity:

7.3.2.1 Error in Plan Quantity: When the pay quantity for an item is designated to be the original plan quantity, such quantity will be revised only in the event that the quantity increases or decreases by more than 5% of the original plan quantity or the

amount due for the item increases or decreases by more than \$5,000, whichever is smaller. In general, such revisions will be determined by final measurement or plan calculations (or both) as additions to or deductions from plan quantities. Changes resulting in pay quantity increase or decrease in excess of 25% will be in accordance with the criteria for significant changes as defined in subarticle 2.3.1 of these General Specifications.

If the Contractor determines that the plan quantity for any item is in error and additional or less compensation is due, the Contractor shall submit evidence of such error to CFX in the form of acceptable and verifiable measurements and calculations. Similarly, if CFX determines an error or errors exist, it will make its measurements and calculations available to the Contractor. The plan quantity will not be revised solely on the basis of the Contractor's method of construction.

For earthwork items, the claimant must note any differences in the original ground surfaces from that shown in the original plan cross-sections that would result in a substantial error to the plan quantity, and must be properly documented by appropriate verifiable level notes, acceptable to both the Contractor and CFX, and provide sufficient opportunity to verify the data prior to disturbance of the original ground surface by construction operations. The claimant shall support any claim based upon a substantial error for differences in the original ground surface by documentation as provided above.

7.3.2.2 Authorized Changes in Limits of Work: When the pay quantity for an item is designated to be the original plan quantity and a plan change is authorized resulting in an increase or decrease in the quantity of an item, the plan quantity will be revised accordingly provided that such change will increase or decrease the amount due for more than \$100. In general, such revisions will be determined by final measurement or plan calculations or both, subject to the provisions of Subarticle 2.3.2 of these General Specifications.

7.3.2.3 Specified Adjustments to Pay Quantities: The limitations detailed in Subarticles 7.3.2.1 and 7.3.2.2 do not apply when 1) the Specifications provide that the pay quantity for an item to be paid for on the basis of area of finished Work is to be adjusted according to the ratio of measured thickness to nominal thickness, 2) the Specifications provide for a deduction due to test results falling outside of the allowable specification tolerance or 3) paying for extra length fence posts as detailed in the Standard Specifications Section 550, Fencing, sub article 550-6.3, Payment Rates for Extra-Length Posts.

7.3.3 Lump Sum Quantities:

7.3.3.1 Error in Plan Quantity: When the pay quantity for an item is designated to be

a lump sum and the Plans show an estimated quantity, the lump sum compensation will be adjusted only in the event that either the Contractor submits satisfactory evidence or CFX determines and furnishes satisfactory evidence that the plan quantity shown is substantially in error as defined in 7.3.2.1.

7.3.3.2 Authorized Changes in the Work: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated plan quantity, compensation for that item will be adjusted proportionately when a plan change results in a significant increase or decrease in the quantity from the estimated plan quantity. When the Plans do not show an estimated plan quantity or the Specifications do not provide adjustments for contingencies, any authorized plan changes resulting in a significant increase or decrease in the cost of acceptably completing the item will be compensated for by establishing a new unit price through a Supplemental Agreement as provided in Subarticle 2.3.2. of these General Specifications.

7.3.4 Deviation from Plan Dimensions: If the Contractor fails to construct any item to plan or to authorized dimensions within the specified tolerances, the CEI, at his discretion will: require the Contractor to reconstruct the work to acceptable tolerances at no additional cost to CFX; accept the work and provide the Contractor no pay; or accept the work and provide the Contractor a reduced final pay quantity or reduced unit price. CFX will not make reductions to final pay quantities for those items designated to be paid on the basis of original plan quantity or a lump sum quantity under the provisions of this Article unless such reduction results in an aggregate monetary change per item of more than \$100, except that for earthwork items, the aggregate change must exceed \$5,000 or 5% of the original plan quantity, whichever is smaller. If, in the opinion of the CEI, the Contractor has made a deliberate attempt to take advantage of the construction tolerances as defined in Article 120-12.1 of the Standard Specifications to increase borrow excavation in fill sections or to decrease the required volume of roadway or lateral ditch excavation or embankment, CFX will take appropriate measurements and will apply reductions in pay quantities. CFX will not use the construction tolerance, as defined in Article 120-12.1, as a pay tolerance. The construction tolerance is not to be construed as defining a revised authorized template.

7.4 Force Account Work: Work performed in addition to that set forth in the original Contract and which is paid for on the basis of actual cost of the Materials and labor, plus a fixed percentage of such costs, and at agreed rental rates for major Equipment used.

7.4.1 Method of Payment: All Work done on a force account basis performed by such labor, tools and Equipment as necessary to accomplish the Work, and authorized by CFX, will be paid for in the following manner:

(a) Labor:

Payment for labor and burden shall be based on actual costs of alteration, change, additional or unforeseen Work, plus a markup of 25%, agreed upon in writing before starting such Work, for every hour that the labor is actually engaged in such Work. Such amount shall be considered as full compensation for general supervision and the furnishing and repairing of small tools used on the Work. Agreed wage rates shall not be in excess of the rates paid for comparable Work on the Project.

(b) Materials and Supplies:

Payment for Materials and supplies, directly related to the alteration, change, additional or unforeseen Work, accepted by CFX and used on the Project shall be based on actual costs of such Materials incorporated into the Work, including Contractor paid transportation charges (exclusive of Equipment as hereinafter set forth), plus a markup of 17.5%. Material is defined as any item used in the Work that remains a part of the Project. The cost of supplies may be the pro-rata portion caused by the alteration, change, additional or unforeseen Work.

(c) Equipment:

The use of each piece of such machinery or Equipment and rental rates must be agreed upon in writing before the force account Work is begun.

Payment for Contractor owned machinery or Equipment (other than small tools) shall be determined as described below, plus a markup of 7.5%. Payment for rented Equipment shall be based on invoice cost plus 7.5%.

The portion of the cost for machinery or Equipment shall be based on the lesser of actual cost or "Rental Rate Blue Book for Construction Equipment" (RRBB) or "Rental Rate Blue Book for Older Construction Equipment" (RRBBOCE) as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at time of bid) using all instructions and adjustments contained therein and as modified below.

On all projects, CFX will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the RRBB and/or RRBBOCE. Allowable Machinery and Equipment Rates will be established as set out below:

- 1.) Reimbursement for the Equipment being operated shall be at a rate of 100% of the RRBB and/or RRBBCOE ownership cost plus 100% of the RRBB and/or RRBBCOE operating costs.
- 2.) Reimbursement for Equipment directed to standby and remain on the project site shall be at 50% of the lesser of the actual rental rate or RRBB and/or RRBBCOE ownership cost only. No more than 8 hours of standby will be paid in a single day.
- 3.) Costs shall be provided on an hourly basis. Hourly rates, for Equipment being operated or on standby, shall be established by dividing the lesser of actual monthly rental rate or the RRBB and/or RRBBCOE monthly rates by 176. The columns, itemizing rates, labeled “Weekly”, “Daily” and “Hourly” shall not be used.
- 4.) No additional overhead will be allowed on Equipment costs.

Allowable Hourly Equipment Rate = Monthly Rate/176 x Adjustment Factors x 100%

Allowable Hourly Operating Cost = Hourly Operating Cost x 100%

Allowable Rate Per Hour = Allowable Hourly Equipment Rate + Allowable Hourly Operating Cost

Standby Rate = Allowable Hourly Equipment Rate x 50%

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

Transportation to and from the location at which the Equipment will be used will be allowed. If the Equipment requires assembly or disassembly for transport, the time for this will be paid at the rate for standby Equipment.

The markups in 1) through 4) above include all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

(d) Subcontractor Work

The Contractor will be allowed a markup of 10% on the first \$50,000 and a markup of 5% on any amount over \$50,000 on any subcontract directly related to the alteration, change, additional or unforeseen Work. A subcontractor mark-up will be allowed only by the prime Contractor and a first tier subcontractor.

(e) Insurance, Bond and Taxes:

A markup of 1.5% will be allowed on the overall total cost of the alteration, change, additional or unforeseen Work for insurance and bond on the prime Contractor's bond. The markup includes all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

Subcontractors who actually perform the alterations, changes, additional or unforeseen Work will be allowed all markups specified herein.

- 7.4.2 Records: The compensation as herein provided shall be accepted by the Contractor as payment in full for extra Work done on a force account basis. The Contractor and CFX shall compare records of extra Work done on a force account basis at the end of each day. Copies of these records shall be duplicated by CFX and signed by both CFX and the Contractor.

All claims for extra Work done on a force account basis shall be submitted by the Contractor upon certified statements, to which shall be attached original receipted bills covering the costs of the transportation charges on all Materials used in such Work. However, if Materials used on the force account Work are not specifically purchased for such Work but are taken from the Contractor's stock, then in lieu of the invoices, the Contractor shall furnish an affidavit certifying that such Materials were taken from Contractor's stock, that the quantity claimed was actually used and that the price and transportation claimed represent actual cost to the Contractor.

- 7.4.3 Preliminary Order-of-Magnitude Estimate: As a condition precedent to beginning work designated as Force Account, the CEI in coordination with the Contractor will prepare a Preliminary Order-of-Magnitude Estimate of the contemplated work. The purpose of this Preliminary Order-of-Magnitude

Estimate is to establish the scope of work, the approach, applicable rates, the estimated duration, and the required documentation necessary to monitor the work for final payment.

7.5 Deleted Work

CFX shall have the right to cancel the portions of the Contract relating to the construction of any acceptable item therein by payment to the Contractor of a fair and equitable amount covering all items of cost incurred prior to the date of cancellation or suspension of the Work by CFX.

7.6 Partial Payments

7.6.1 General: The Contractor will receive partial payments on monthly estimates, based on the amount of Work done or completed (including delivery of certain Materials as specified below) and reflected in the Application for Payment. The monthly payments shall be approximate only and all partial estimates and payments will be subject to correction in the subsequent estimates and the final estimate and payment.

The amount of such payments shall be the total value of the Work done to the date of the estimate based on the quantities and the Contract unit prices less an amount retained and less payments previously made. In addition to other retainage held as may be described elsewhere, the amount retained shall be determined in accordance with the following schedule:

<u>% Contract Amount Completed</u>	<u>Amount Retained</u>
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 paving or base construction operations begin except when a construction sequence designated by the CEI requires suspension of paving and base construction after the initial paving operations, partial payments will be reinstated until the paving and base construction resumes.

7.6.4.3 Off Site Storage: If the conditions of subarticle 7.6.4.1 are satisfied, partial payments will be allowed for materials stockpiled in approved in-state locations. Additionally, partial payments for materials stockpiled in approved out-of-state locations will be allowed if the conditions of subarticle 7.6.4.1 and the following conditions are met:

- 1) Furnish CFX a Materials Bond stating the supplier guarantees to furnish the material described in the Contract to the Contractor and CFX. Under this bond, the Obligor shall be the material supplier and the Obligees shall be the Contractor and the Central Florida Expressway Authority. The bond shall be in the full dollar amount of the bid price for the materials described in the Contract Documents.
- 2) The following clauses shall be added to the contract between the Contractor and the supplier of the stockpiled materials:

“Notwithstanding anything to the contrary, <supplier> will be liable to the Contractor and the Central Florida Expressway Authority should <supplier> default in the performance of this agreement.”

“Notwithstanding anything to the contrary, this agreement, and the performance bond issued pursuant to this agreement, does not alter, modify, or otherwise change the Contractor’s obligation to furnish the materials described in this agreement to the Central Florida Expressway Authority.”

- 3) The agreement between the Contractor and the supplier of the stockpiled materials shall include provisions that the supplier will store the materials and that such materials are the property of the Contractor.

7.6.5 Certification of Payment to Subcontractors: Prior to receipt of any progress (partial) payment, the Contractor shall certify that all subcontractors having an interest in the Contract have received their pro rata share of previous progress payments from the Contractor for all work completed and Materials furnished the previous period. This certification shall be in the form designated by CFX. The term “subcontractor”, as used herein, shall also include persons or firms furnishing Materials or Equipment incorporated into the Work or stockpiled in the vicinity of the Project for which partial payment has been made by CFX and Work done under Equipment-rental agreements.

On initial payment, the Contractor shall assure that all subcontractors and Materials suppliers having an interest in the Contract receive their share of the payments due. CFX will not make any progress payments after the initial partial payment until the Contractor certifies pro rata shares of the payment out of previous progress payments received by the Contractor have been disbursed to all subcontractors and suppliers having an interest in the Contract, unless the Contractor demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both CFX and the affected subcontractors and suppliers. Contractor shall execute and submit a Certification of Disbursement of Previous Payments form, supplied by CFX, with each payment request after the initial request. Submitting a false or fraudulent certification will result in a determination of default by the Contractor in accordance with Article 6.9.1 of these General Specifications.

7.6.6 Reduction of Payment for Unsatisfactory Services or Products

If any defined action, duty or service, part or product required by the Contract is not performed by the Contractor, the value of such action, duty or service or part thereof will be determined by CFX and deducted from any invoice or monthly billing period claiming such items for payment.

If the action, duty or service, part or product thereof has been completed and is determined to be unsatisfactory by CFX, the Contractor will be notified and given the opportunity to correct any deficiencies within a time certain. Payment (for the unsatisfactory Work) will be withheld by CFX from any invoice or monthly billing period until the Work is determined to be acceptable.

7.7 Record of Construction Materials

7.7.1 General: For all construction Materials used in the construction of the Project (except Materials exempted by Subarticle 7.7.2), the Contractor shall preserve for inspection by CFX all invoices and records of the Materials for a period of 3 years from the date

of completion of the Project. This requirement shall also apply to Materials purchased by subcontractors. The Contractor shall obtain the invoices and other Materials records from the subcontractors.

Not later than 30 days after the date of final completion of the Project, the Contractor shall furnish to CFX a certification of construction Materials procured for the Project by the Contractor and all subcontractors. The certification shall consist of an affidavit completed on a form furnished by CFX.

7.7.2 Non-Commercial Materials: The requirement to preserve invoices and records of Materials shall not apply to Materials generally classed as non-commercial such as fill Materials local sand, sand-clay or local Materials used as stabilizer.

7.8 Disputed Amounts Due Contractor

CFX reserves the right to withhold from the final estimate any disputed amounts between the Contractor and CFX. Release of all other amounts due shall be made as provided in Article 7.9.

7.9 Acceptance and Final Payment

When the Work of the Contract has been completed by the Contractor and the final inspection and final acceptance have been given by CFX, a tentative final estimate showing the value of the Work will be prepared by CFX as soon as the necessary measurements and computations can be made, usually within 30 days of final acceptance. All prior estimates and payments will be subject to correction in the final estimate and payment. The Contractor and CFX will have 30 days from the date of the tentative final estimate to resolve any outstanding issues. At the end of the 30 days, CFX will make a written Offer of Final Payment. Provided that the requirements of A) through J) of this Article have been met, the amount of the Offer of Final Payment, less any sums that may have been deducted or retained under the provisions of the Contract will be paid to the Contractor as soon as practicable.

A) The Contractor has submitted written acceptance of the balance due, as determined by CFX, as full settlement of the Contractor's account under the Contract and of all claims in connection therewith.

Or, the Contractor shall accept the balance due with the stipulation that acceptance of such payment will not constitute any bar, admission or estoppel or have any effect as to those payments in dispute or the subject of a pending claim between the Contractor and CFX. The Contractor shall define the dispute or pending claim in writing in the form of a qualified acceptance

letter with full particulars of all items/issues in dispute including itemized amounts claimed. Failure by the Contractor to provide either a written acceptance letter or qualified acceptance letter within 60 calendar days of the Offer of Final Payment shall constitute full acceptance of the balance due without qualification.

If the Contractor provides a qualified acceptance letter, then the Contractor agrees that a complete claim package in accordance with Article 2.4 of the General Specifications, and limited to the particulars in the qualified acceptance letter, will be provided within 120 calendar days of the Offer of Final Payment. Additionally, the Contractor agrees that any pending or future arbitration must be limited to the particulars in the qualified acceptance letter and must begin within 210 calendar days from the date of the Offer of Final Payment.

- B) The Contractor has properly maintained the Project as specified hereinbefore.
- C) The Contractor has furnished a sworn affidavit to the effect that all bills are paid and no suits are pending (other than those exceptions listed if any) in connection with the Work of the Contract and that the Contractor has not offered or made any gift or gratuity to or made any financial transaction of any nature with, any employee of CFX. Tort liability exceptions, if any, shall be accompanied by evidence of adequate insurance as required in Article 5.11 of these General Specifications.
- D) The surety on the Public Construction Bond has consented (by completion of its portion of the affidavit and surety release) to final payment to the Contractor and agrees that the making of such payment shall not relieve the surety of any of its obligations under the bond.
- E) The Contractor has submitted all mill tests and analysis reports to CFX.
- F) The Contractor has submitted insurance certificates for extended coverage as required by Article 5.11 of these General Specifications.
- G) The Contractor has previously submitted As-built Drawings as required by Article 3.3.1 of these General Specifications.
- H) The Contractor has submitted the completed density log book as required by Article 120-10.4.2 of the Technical Specifications.

- I) The Contractor has submitted the final material testing certification as required by Article 105-6 of the Technical Specifications.
- J) The Contractor has submitted all warranties and operation and maintenance manuals required by various Articles and Subarticles of Specifications.

If the Contractor fails to furnish all required Contract Documents listed in B) through J) of this Article within 90 calendar days of the Offer of Final Payment, CFX may deduct from the retainage due the Contractor, \$1,000 for each calendar day beyond the 90 calendar days that the Contractor fails to provide the required Contract Documents.

7.10 Offsetting Payments

If payment of any amount due CFX after settlement or arbitration is not made by the Contractor within 60 days, CFX may, at its sole discretion, offset such amount from payments due the Contractor for Work performed under any other contract with CFX, excluding amounts owed to subcontractors, suppliers and laborers. Offsetting any amount in this manner shall not be considered a breach of the Contract by CFX.

END OF SECTION 7

SECTION 8 – DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE (D/M/WBE) PARTICIPATION

- 8.1 General: The Contractor is encouraged to continue to meet or demonstrate the participation objectives could not be met. At any time, CFX's Executive Director may grant a partial or complete waiver of the D/M/WBE objective for the Project due to consideration of property, public safety, and health, including financial impact to CFX.

CFX has provided an exception for the Contractor's failure to meet the participation objective established for this project. The exception requires that the Contractor provide CFX with documentation supporting the Contractor's Good Faith Effort to meet the stated objective. CFX will have the sole and final determination of whether the support documentation provided by the Contractor does, in fact, meet CFX's standard for a Good Faith Effort as detailed in this Section 8. The Contractor shall demonstrate, through documentation, that every reasonable effort has been made to achieve CFX's participation objective. The Contractor shall be responsible for securing proof of the D/M/WBE certification(s) for the proposed subcontractors/suppliers and be able to provide copies of the certification(s) to the CFX's Supplier Diversity Office.

The Contractor shall meet or exceed the commitment stated in the Contractor's D/M/WBE Utilization Summary (page P-6 of the Proposal). Should the Contractor's D/M/WBE participation fall below the approved level for any reason whatsoever, or should the Contractor substitute or self-perform work identified for a D/M/WBE subcontractor/supplier without prior written approval of CFX, the Contractor will be considered by CFX to be in material breach of the Contract. If found in breach of the Contract, the Contractor may be suspended from bidding on and/or participating in any further CFX projects for up to one (1) year as provided in Section 15 of CFX's Supplier Diversity Policy.

Any change in the D/M/WBE Utilization Summary will require prior approval by the CFX Director of Supplier Diversity. Should the Contractor determine that a subcontractor/supplier named in the Utilization Summary is unavailable or cannot perform the work, the Contractor shall request approval of a revised D/M/WBE Utilization Summary. The revised summary shall be submitted, in writing, to the CFX Supplier Diversity Office at 4974 ORL Tower Road, Orlando, Florida 32807, or by facsimile to (407) 690-5011.

The Contractor will not be allowed to perform Work with its forces that has been identified on the Utilization Form to be performed by D/M/WBE firms. If a D/M/WBE subcontractor is unable to successfully perform the Work, the Contractor shall make a Good Faith Effort to replace that firm with another D/M/WBE firm. In evaluating a Contractor's Good Faith Efforts, CFX will consider:

- (1) Whether the Contractor, provided written notice to certified D/M/WBEs performing the type of Work that the Contractor intends to subcontract, advising the D/M/WBEs (a) of the specific Work the Contractor intends to subcontract; and (b) that their interest in the Contract is being solicited;
- (2) Whether the Contractor provided interested D/M/WBEs assistance in reviewing the Contract Plans and Specifications;
- (3) Whether the Contractor assisted interested D/M/WBEs in obtaining any required bonding, lines of credit, or insurance;
- (4) Whether the Contractor's efforts were merely pro forma and given all relevant circumstances, could not reasonably be expected to produce sufficient D/M/WBE participation to meet the objective.

The above list is not intended to be exclusive or exhaustive and CFX will look not only at the different kinds of efforts that the Contractor has made but also the quality, quantity and intensity of these efforts.

8.2 Disadvantaged, Minority and Women Owned Businesses - Participation Objective

8.2.1 General: The Contractor shall ensure that D/M/WBE as defined herein will have the maximum opportunity to participate in the performance of subcontracts. In this regard, the Contractor shall take all necessary and reasonable steps to accomplish that result.

8.2.2 Definitions: The following words and phrases shall have the respective meanings set forth below unless a different meaning is plainly required by the context:

- (1) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States or lawfully admitted permanent residents and who are women, Black Americans, Hispanic American, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Individuals in the following groups are presumed to be socially and economically disadvantaged:
 - (a) "Black Americans", which includes persons having origins in any of the black racial groups of Africa;
 - (b) "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;

- (c) “Asian-Pacific Americans”, which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas;
 - (d) “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (e) “Asian-Indian Americans”, which includes persons whose origins are from India, Pakistan, and Bangladesh; and
 - (f) “Women”.
- (2) “Joint Venture” means an association of two or more firms to carry out a single business enterprise for which purpose the firms combined their property, money, effects, skills or knowledge.
 - (3) “Certified” means a finding by Orange County, Florida, the City of Orlando, Florida, and Florida Department of Transportation that the business is a bona fide Minority, Women or Disadvantaged owned and operated business.
 - (4) “Independently Owned and Operated” means a business that is not affiliated or associated with the general contractor or prime contractor providing work or services on CFX project(s) or procurement in which the D/M/WBE seeks to participate. Affiliated status may be determined through common ownership, management, employees, facilities, inventory or any other factors, which would prevent or inhibit independent status
 - (5) “Women Business Enterprise” comprises all women. All women business owners will be classified as a Women Business Enterprise.

8.2.3 Specific Requirements: The Contractor shall, among other things, implement techniques to facilitate D/M/WBE participation in contracting activities including, but not limited to:

- 1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations;
- 2. Providing assistance to D/M/WBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance;

3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate;
4. Contacting Minority Contractor Associations, city, and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible D/M/WBE contractors to apply for certification.
5. Meeting with appropriate officials of CFX, including its Supplier Diversity Office, to assist with the Contractor's efforts to locate D/M/WBEs and assist with developing joint ventures, partnering, and mentorship.

8.2.4 Qualified Participation: CFX will count D/M/WBE participation toward meeting D/M/WBE objective as follows:

1. The total dollar value of the contract to be awarded to the certified D/M/WBE will not be counted toward the applicable D/M/WBE objective unless approved by CFX.
2. A portion of the total dollar value of a contract, with an eligible joint venture, equal to the percentage of the ownership and control of the D/M/WBE partner in the joint venture may be counted toward the D/M/WBE objective.
3. Only expenditures to D/M/WBEs that perform a commercially useful function may be counted toward the D/M/WBE objective. A D/M/WBE is considered to perform a commercially useful function when it actually performs and manages at least 51 percent of the work subcontracted to it. To determine whether a D/M/WBE is performing a commercially useful function, CFX will evaluate all relevant factors such as the amount of Work subcontracted and industry practices.
4. Consistent with normal industry practices, a D/M/WBE may enter into subcontracts. If a D/M/WBE subcontracts 50 percent or more of the Work assigned to it, the D/M/WBE shall be presumed not to be performing a commercially useful function.
5. Expenditures for materials and supplies obtained from D/M/WBE suppliers and manufacturers may be counted toward the D/M/WBE objective, provided that the D/M/WBEs assume the actual and contractual responsibility for the provision of the materials and supplies. The percentage allowed toward the D/M/WBE objective is as follows:

- (a) All expenditures to a D/M/WBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale) may be counted toward the D/M/WBE objective.
- (b)
 - 1. A Contractor may count toward its D/M/WBE objective 60 percent of its expenditures for materials and supplies required under a contract and obtained from a D/M/WBE regular dealer, and 100 percent of such expenditures to a D/M/WBE manufacturer.
 - 2. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.
 - 3. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this Section.
- (c) A Contractor may count toward the D/M/WBE objective for the following expenditures to D/M/WBE firm(s) that are not manufacturers or regular dealers:
 - 1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials of supplies required for performance of the Contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - 2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and

supplies, provided that the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.

3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
4. Those sums that, subsequent to the receipt of bids, CFX elects, under the provisions of the Direct Materials Purchase Option, to purchase materials originally proposed by the Contractor to CFX to have been an element of the Work of a certified D/M/WBE contractor/subcontractor/vendor.

8.2.5 Records and Reports: The Contractor shall develop a record keeping system to monitor its D/M/WBE participation and shall maintain the following records:

1. the procedures adopted to comply with these special provisions;
2. The number of subordinated contracts on CFX projects awarded to D/M/WBEs;
3. the dollar value of the contracts awarded to D/M/WBEs;
4. the percentage of the dollar value of all subordinate contracts awarded to D/M/WBEs as a percentage of the total contract amount;
5. a description of the general categories of contracts awarded to D/M/WBEs;
6. the specific efforts employed to identify and award contracts to D/M/WBEs;
7. maintenance of records of payments and monthly reports to CFX;
8. Subcontract Agreement between Contractor and D/M/WBE subcontractors;
and
9. any other records required by CFX's Project Manager or Executive Director.

The records maintained by the Contractor in accordance with this Section shall be provided to CFX for review within 48 hours of the CFX request. The Contractor shall submit a properly executed D/M/WBE Payment Certification monthly during the life of the D/M/WBE subcontract whether payment is made or not.

8.3 Subletting of Contracts - Participation Objective

No request to sublet Work will be approved unless it is in compliance with the Contractor's approved D/M/WBE Utilization Form "Certification of Subcontract Amount to D/M/WBE Contractor", shall be completed and submitted with the Request for Authorization to Sublet Work. One copy of the certification will be attached to each copy of the Request for Authorization to Sublet Work.

END OF SECTION 8

SECTION 9 - BINDING ARBITRATION

9.1 CFX and the Contractor shall submit any and all unsettled claims, counterclaims, and disputes to the Disputes Review Board (DRB) prior to initiating a demand for arbitration pursuant to this Section.

9.2 No demand for arbitration of any claim, dispute or other matter referred to the DRB initially for decision will be made until after final acceptance, per Article 3.9, of all Contract Work by CFX. The filing party shall pay all applicable fees associated with requested arbitration proceedings.

The failure to demand arbitration within thirty (30) days after final acceptance will result in the DRB's decision being final and binding upon CFX and Contractor.

9.3 Notice of the demand for arbitration is satisfied when it is filed in writing with the other party to the Contract and with the American Arbitration Association (including required fees). A copy will be sent to the Board for information.

9.4 The arbitration shall occur in Orlando, Florida and shall be conducted by a three (3) member panel pursuant to and under the auspices of the Construction Industry Arbitration Rules of the American Arbitration Association.

9.5 Procedure for Binding Arbitration

Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations of this Section. The agreement to arbitrate (and any other agreement or consent to arbitrate entered into in accordance herewith) will be specifically enforceable under the laws of Florida.

Arbitration shall include by consolidation, joinder or in any other manner any person or entity who is not a party to the Contract in circumstances where:

- the inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration, and
- such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings, and
- the written consent of the other person or entity sought to be included and of CFX and Contractor has been obtained for such inclusion, which consent shall make specific reference to this paragraph.

In order to assure complete resolution of any claim or controversy, the Contractor shall provide and require (in the agreements with subcontractors and material suppliers) for joinder in such arbitration proceedings. Therefore, if a claim, dispute or other matter in question between CFX and Contractor involves the work of a Subcontractor, either CFX or Contractor may join such subcontractor as a party to the arbitration. Nothing in this paragraph or in the provision of such subcontract consenting to joinder shall create any claim, right or cause of action in favor of subcontractor or supplier, and against CFX, CEI, or any of their consultants that does not otherwise exist.

In connection with the arbitration proceedings all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

END OF SECTION 9

SECTION 10 - PARTNERING AND DISPUTES RESOLUTION

10.1 Partnering

The objective of Partnering is to establish a partnership charter and action plan for the Contractor, CFX and other parties impacted by the activities covered under the Contract to identify and achieve reciprocal goals. These objectives may be met through participation in workshops held periodically throughout the duration of the Contract.

Prior to the pre-construction conference, CFX, the CEI, and the Contractor shall meet and plan an initial partnering/team building workshop. At this planning session, arrangements will be made to select a workshop facilitator, determine attendees, agenda, duration and location. Attendees should include representatives of CFX, the CEI, and other key Project personnel, the Contractor's superintendent and other key personnel as well as others mutually agreed upon by CFX and the Contractor. Additional workshops may be held periodically throughout the duration of the Contract if authorized by CFX.

CFX will arrange for and pay the cost of providing a facilitator and meeting room and for all other direct costs associated with the Partnering workshops. No separate compensation will be paid to the Contractor to attend partnering meetings

10.2 Disputes Resolution

10.2.1 Disputes Review Board

A Disputes Review Board ("Board") will be established to assist in the resolution of disputes arising out of the Work on the Project. This document describes the purpose, procedure, function and features of the Board.

The Board will provide special expertise to assist and facilitate the timely and equitable resolution of disputes and controversies between CFX and the Contractor in an effort to avoid construction delays and future claims.

It is not intended for CFX or the Contractor to avoid the normal responsibility to cooperatively and fairly settle differences by indiscriminately requesting dispute resolution by the Board. It is intended the Board encourage CFX and the Contractor to first try resolving potential disputes without resorting to the procedure set forth herein.

The Board will be used only when the claims procedure detailed in the Contract has been followed and has been unsuccessful. It is a condition of the Contract that the parties use the Board. Adherence to the Contract claims procedure is a condition precedent to the submission of a dispute to the Board, and the submission of an unresolved dispute to the Board is, in turn, a condition precedent to arbitration of such issue.

The Board will fairly and impartially consider disputes referred to it. The Board will receive testimony and other relevant evidence regarding such disputes, will analyze the facts within the parameters of the Contract, and will then provide written recommendations (to CFX and Contractor) to assist in the resolution of the disputes. The recommendations of the Board will not be binding on either CFX or the Contractor; however, the Board's recommendations and findings shall be admissible for all purposes in any subsequent arbitration proceedings or the judicial enforcement thereof.

10.2.2 Continuance of Work During Dispute

During the dispute resolution process the Contractor shall conform to the CEI's decision or order and continue with the Work as directed by the CEI in a diligent manner and without delay. Such Work will be governed by all applicable provisions of the Contract. With respect to any protested Work, the Contractor will keep complete records of extra costs and time incurred. Except for sealed Bid Records, the Contractor will permit CEI and the Board access to any records needed for evaluating the dispute, without any claim of privilege or confidentiality.

10.2.3 Disputes Review Board Membership

The Board will consist of three Members, one Member selected by CFX and approved by the Contractor, and one Member selected by the Contractor and approved by CFX. The first two Members will mutually select and agree on the third Member, which third Member shall not be subject to approval by either the Contractor or CFX. Normally, the third Member will act as Chairman for all Board activities. If the third Member declines to act as Chairman, the Members shall select an alternative Chairman. Neither the Contractor nor CFX shall seek to influence the Chairman selection decision.

The Contractor and CFX shall each submit the name and credentials of their proposed Member to the other within ten (10) days of the Contract award. The two Members, upon acceptance, shall meet promptly and mutually agree on the third Member. A Notice to Proceed shall not be issued until the Board Members have been selected and have signed the Three-Party Agreement. All three Members shall attend the Pre-Construction Meeting.

All Board Members shall be experienced with major road and bridge construction and the associated construction methods involved in the Project, in the interpretation of contract documents and in contract dispute resolution. The goal in selecting the third Member is to complement the construction experience of the first two Members and to provide leadership of the Board's activities.

It is imperative that Board Members show no partiality to either the Contractor or CFX, or have any conflict of interest.

The criteria and limitations for membership will be as follows:

- a. The person selected will not have any direct or indirect ownership or financial interest in (i) the Contractor, (ii) CEI or the CFX General Engineering Consultant (“GEC”), (iii) any subcontractor or supplier of the Project, or (iv) the employer of other Board Members.
- b. Except for services as a Board Member on CFX projects, no Member shall have been an employee, contractor or consultant to the Contractor or CFX, CEI, the GEC or any subcontractor or supplier for the Project within a period of ten (10) years prior to the Contract award.
- c. No Member will have had a close personal, professional or business relationship with CFX or the Contractor (or an employee or officer of CFX or the Contractor).
- d. No Member will have had any prior involvement in the Project (other than as a dispute board member) of a nature which could be construed to compromise an ability to impartially resolve disputes.
- e. No Member will be employed by the Contractor, the CEI, the GEC or any subcontractor or supplier of the Project during the term of the Contract, except as a Board Member pursuant to the Three Party Agreement.
- f. During the term of the Contract no discussion or agreement will be made between a Board Member and CFX or Contractor regarding employment after the Contract is completed.
- g. During the term of the Contract, ex-parte communications between a Board Member and a party to the Three Party Agreement is prohibited.

Before appointments are final, the first two prospective Members will submit complete disclosure statements for the approval of both CFX and the Contractor. Each statement (in the form prepared by CFX) will include a statement of experience and a declaration describing all past, present and anticipated or planned future relationships to the Project and with the parties to the Contract. Disclosure of professional or personal relationships with parties to the Contract will be included. The third Board Member will supply a similar statement to the first two Board Members (and to CFX and the Contractor) before the third Member appointment is finalized.

CFX and the Contractor will each select a Member, execute the Three Party Agreement (described below) and assure the Members execute the Three-Party Agreement within the first three (3) weeks after Contract award. CFX and the Contractor will immediately notify the selected Members to begin selection of the third Member. The first two Members will ensure the third Member meets all of the criteria listed above. The third Member will be selected within two (2) weeks after the first two Members are notified to proceed with the selection of the third Member. If there is an impasse in the selection of the third Member, the third Member will be selected by CFX and the Contractor, with the first consideration to the nominees reviewed by the first two Members.

In the event of death, disability or resignation of a Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for whatever other reason a Member fails or is unable to serve, the Chairman (or failing the action of the Chairman, then either of the other Members) shall inform the parties and such non-serving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within fifteen (15) days after the event giving rise to the vacancy on the Board, failing which the replacement shall be made by the two remaining Members of the Board. Replacement shall be considered completed when the new Member executes the Dispute Review Board Three Party Agreement.

10.2.4 Board Operations

The Board will formulate procedures of operation that shall be flexible with respect to the functioning of the Board. The Board may formulate new or revised procedures respecting its operation from time to time to accommodate the needs of the Board and the circumstances.

Each Board Member shall be provided a complete set of the Contract Documents. CFX and the Contractor shall keep the Board informed of construction activity and progress by submitting written progress reports and other relevant data at least monthly. The Board will visit the Project at regular intervals and/or at times of critical construction events and meet with CEI and the Contractor. In circumstances of unresolved disputes, the Board will meet at least monthly until the unresolved disputes are concluded. The frequency of visits will be agreed upon by CFX, the Contractor and the Board, depending upon the progress of the Work.

Regular meetings will be held at the job site. Each meeting will consist of an informal discussion and a field inspection of the Work. The informal discussion will be attended by selected personnel from CFX, the CEI and the Contractor. Agenda for regular meetings of the Board will generally include the following:

- a. Meeting opened by the Chairman of the Board.
- b. Remarks by the CEI.

- c. A description by the CEI and the Contractor of Work accomplished since the last meeting, current status of the Work schedule, schedule for the future, potential problems and proposed solutions to anticipated problems.
- d. Discussion by the CEI of Work schedule, potential new disputes or claims, status of past disputes and claims and other issues.
- e. Set a date for next meeting.

The CEI will prepare minutes of all Board meetings and circulate them for comments, revisions and/or approval by all concerned.

The field inspection will cover all active segments of the Work. The Board will be accompanied by representatives of both the CEI and the Contractor. Soliciting any Board Member's advice or consultation regarding the Work or the Contract is expressly prohibited.

10.2.5 Procedure for Disputes Resolution

Disputes will be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Steps may be omitted as agreed by both parties and the time periods stated below may be shortened in order to hasten resolution.

- a. If either CFX or Contractor object to any decision of the CEI with respect to claims, change order requests, or other actions or orders of the CEI, the objecting party may file a written protest with the CEI within fifteen (15) days after the CEI's disputed decision, action or order. The written protest must clearly state in detail the basis for the objection.
- b. The CEI will consider the written protest to its decision or directive, and make a final decision on the basis of the pertinent Contract provisions, together with the facts and circumstances involved in the protest. The decision will be furnished to CFX and Contractor in writing within fifteen (15) days after receipt of the written protest.
- c. The CEI's decision with respect to the protest will be final, unless a written exception is filed by CFX or Contractor with the CEI within fifteen (15) days after receiving the protest decision. If either rejects the CEI's final decision, the disputed matter may be referred to the Board by either CFX or the Contractor.

- d. Upon receipt by the Board of a written dispute, the Board will first decide when to conduct the hearing. If the matter is not urgent, it may be heard at the next regularly scheduled Board meeting. For an urgent matter, the Board will meet at its earliest convenience.
- e. Either party furnishing written evidence or documentation to the Board will furnish copies of such information to the other party a minimum of fifteen (15) days prior to the date the Board sets to hear the dispute. If the Board requests additional documentation or evidence prior to, during or after the hearing, CFX and/or the Contractor will provide the requested information to the Board and to the other party. Because each side needs a reasonable opportunity to understand and rebut the opposing side's point of view, failure of either party to timely provide written documentation in accordance with this provision shall result in such written documentation being excluded from the hearing before the Board unless the other party consents to its admission or consents to a delay in the hearing.
- f. The Contractor and CFX will each be afforded an opportunity to be heard by the Board and to offer evidence. The Board will consider all relevant evidence presented and analyze the same solely within the parameters of the Contract. Hearsay evidence shall be admissible but shall not be the sole basis for any recommendation of the Board.
- g. The Board's recommendations for resolution of the dispute will be given in writing within fifteen (15) days of completion of the hearing(s). In cases of extreme complexity, both parties may agree to allow additional time for the Board to formulate its recommendations. Generally, the Board will initially focus its attention (in the written report) only to matters of entitlement, and allow the parties to thereafter determine the monetary relief. If both parties request, and sufficient documentation is available, the Board may also make a recommendation of monetary relief, but only after formulation of the entitlement recommendation and only after the parties have attempted to agree upon the monetary relief amount.
- h. If the Board's recommendation for resolution is not unanimous, the dissenting member shall prepare a separate written opinion.
- i. Within fifteen (15) days of receiving the Board's recommendations, both CFX and the Contractor will respond to the other and to the Board in writing, signifying either acceptance or rejection of the Board's recommendations. The failure of a party to respond within the fifteen (15) day period will be deemed an acceptance by such party of the Board's recommendations. If CFX and the Contractor are able to resolve the dispute (with or without the

aid of the Board's recommendations), CFX will promptly process any required Contract changes.

- j. If the dispute remains unresolved because of a bona fide lack of clear understanding of the recommendation, either party may request the Board clarify specific portions of its recommendations. Further, if new evidence becomes available, either party may request the Board reconsider its prior recommendation. Only evidence which did not exist at the time of the hearing, or which existed but which could not be discovered with reasonable and normal diligence shall be considered new evidence.
- k. If the Board's recommendation is rejected, either party may thereafter initiate resolution of the dispute by binding arbitration conducted pursuant to the Contract.

Both CFX and the Contractor should carefully consider the Board's recommendations, as the recommendations are binding unless written notice is provided to the other party within 30 days of the recommendations stating the party's intent to bring the disputed issue to arbitration. However, if the Board's recommendations do not resolve the dispute, all records and written recommendations, including any minority reports, will be admissible for informational purposes in any subsequent dispute resolution procedures. Such informational purposes shall include but not be limited to establishing that the Board considered the dispute, the qualifications of the Board Members, and the Board's recommendation that resulted from the dispute resolution process.

10.2.6 Conduct of Disputes Hearings

Each party shall file three copies of its written arguments with the Board no less than seven days prior to the scheduled hearing and shall simultaneously deliver a copy of such written arguments to the opposing party. Each party shall also submit to the Board along with its written arguments copies of its written evidence and documentation which has been previously provided to the opposing party as provided above.

Normally, the hearing will be conducted at the job site. However, any location more convenient and which provides all required facilities and access to necessary documentation is satisfactory.

While the Board will keep a record of its sessions during consideration of a dispute, the Board will not be required to keep its record in any particular form. The nature and completeness of the record will depend upon the nature and magnitude of the dispute and the desires of the parties. If possible, the hearings shall be kept informal. Formal records of the Board meetings may be taken and transcribed by a court reporter if requested by a party (at the requesting party's cost). Audio and/or video recording of the meeting is discouraged and shall only be made with the prior agreement of all parties and a majority of the Board.

CFX and the Contractor will have representatives at all dispute resolution hearings. The party requesting Board review will first discuss the dispute, followed by the other party. Each party will then be allowed successive rebuttals until all aspects are fully covered to the Board's satisfaction. The Members and the parties may ask questions, request clarification or ask for additional data. In large or complex cases, additional hearings may be necessary in order to consider and fully understand all evidence presented by both parties.

During the hearings, no Member will express any opinion concerning the merit of any facet of the dispute.

After the hearings are concluded, the Board will meet in private to formulate recommendations supported by two or more Members. All Board deliberations will be conducted in private, with individual views kept strictly confidential. No minutes shall be prepared of the Board's private meetings. The Board's recommendations and discussions of its reasoning will be submitted as a written report to both parties. The recommendations will be based on the pertinent Contract provisions and the facts and circumstances involved in the dispute.

The Board will make every effort to reach a unanimous decision. If a unanimous decision is not possible, the dissenting Member may (but is not required to) prepare a minority report.

10.2.7 Compensation

The Contractor shall pay the fees of all three Board Members for services rendered under the Three Party Agreement. An allowance pay item has been established in the Contract for the reimbursing the Contractor. Funds remaining in the pay item, if any, at the completion of the Project will belong to CFX. CFX and the Contractor shall agree on the procedures and method of processing payments made against the allowance. CFX or the CEI will mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services. If the Board desires special services, such as legal consultation, accounting, data research, etc., both parties must agree and the costs will be paid from the allowance.

10.2.8 Three Party Agreement

The Contractor, CFX and the Members of the Board will execute the Dispute Review Board Three Party Agreement within four (4) weeks of the final selection of the third Member.

END OF SECTION 10

ATTACHMENT A

**DISPUTES REVIEW BOARD
THREE PARTY AGREEMENT**

THIS THREE PARTY AGREEMENT (“Agreement”) made and entered into this _____ day of _____, 20__, between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”)**, _____ (**“Contractor”**) and the **DISPUTES REVIEW BOARD (“Board”)**, consisting of three members: _____, _____ and _____ (**“Members”**).

WHEREAS, CFX is now engaged in the construction of the _____, and

WHEREAS, the _____ contract (“Contract”) provides for the establishment and operation of the Board to assist in resolving disputes and claims.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein (or attached, incorporated and made a part hereof), the parties agree as set forth herein.

**I
DESCRIPTION OF PURPOSE**

To facilitate resolution of disputes between the Contractor and CFX, CFX has provided (in the Contract) for the establishment of the Board. The function of the Board is to fairly and impartially consider Contract disputes placed before it and provide written recommendations for resolution to both CFX and the Contractor. The Members of the Board shall perform the services designated in Section II, Scope of Work.

**II
SCOPE OF WORK**

The Scope of Work includes, but is not limited to, the following items:

A. Third Board Member Selection. The first duty of CFX and the Contractor selected Members of the Board is to select the third Member. The third Member shall not have any current financial or employment ties with either the Contractor or CFX. The selection goal is to obtain a third Board Member who will complement the first two by furnishing expertise, leadership and experience to facilitate the Board’s operations. The first two Board Members selected shall proceed with the selection of the third Board Member upon receiving their appointment. If the first two Members are unable to select a third

Member within four (4) weeks, CFX and the Contractor will select the third Member.

B. Procedures. After selecting the third Board Member and prior to considering a dispute, the Board shall establish procedures to govern the conduct of its business and reporting procedures based on the Guidelines, attached as an Appendix to this Agreement. The Board recommendations (resulting from a consideration of a dispute) shall be furnished in writing to CFX and the Contractor. The recommendations shall be based solely on the pertinent Contract provisions and the facts as reasonably determined by the Board. The Board shall have no authority to disregard or unilaterally modify pertinent Contract provisions including, but not necessarily limited to, those provisions pertaining to notices and claims procedures.

C. Furnishing Documents. CFX shall, at the time of each Board Member's appointment, furnish such Member a copy of the Contract. Both CFX and the Contractor shall, no later than seven (7) days prior to the scheduled Board hearing, submit to the Board three copies of all written documents and arguments that such party wishes the Board to consider. Each party shall provide its written documentation to the other side no later than fifteen (15) days prior to the scheduled Board hearing and shall provide a copy of its written argument to the other side no later than seven (7) days before the hearing in order to afford the other side the opportunity to review such documents and prepare any necessary rebuttal for the hearing.

D. Site Visits. The Board shall visit the project site to: (i) keep abreast of construction activities, and (ii) develop a familiarity of the work in progress. The frequency, exact time and duration of visits shall be in accordance with the attached Guidelines or as mutually agreed between CFX, the Contractor and the Board.

In the circumstance of an alleged differing site condition (or specific construction problem), it will be advantageous for the Board to view any relevant conditions. If viewing by the Board would cause delay to the project, photographs and descriptions of conditions collected by either (or both) party will suffice.

E. Board Consideration of Disputes or Claims. Upon receipt by the Board of a written appeal of a dispute (from either the Contractor or CFX) the Board shall convene to review and consider the dispute. CFX, the Contractor and the Board shall determine the time and location of Board meetings. Both CFX and the Contractor shall be given the opportunity to present evidence and argument at such meetings. Absent good cause to the contrary, written evidence shall be limited to that evidence which was previously supplied to both the Board and the other party in accordance with the previous paragraph. Mere negligence in providing such written evidence shall not be considered good cause for its admission. Hearsay evidence shall be permitted but shall not be the sole basis for any recommendation by the Board. Additionally, Board Members may rely on their personal knowledge based on

prior site visits, ongoing document reviews, and general project familiarity. Each party may, but is not required to, submit its proposed recommendations for resolving the dispute to the Board for its consideration.

Board Members are to act impartially and independently in weighing the evidence and in considering the respective positions of the parties within the confines and literal interpretation of the Contract terms. The recommendations concerning any such dispute are advisory and not binding on either party. The Board shall make every effort to reach a unanimous recommendation. If a unanimous recommendation is not possible, the dissenting Member shall prepare a minority report.

The Board's recommendations, together with explanations of its reasoning, shall be submitted as a written report to both parties. The recommendation shall be based solely on the pertinent provisions of the Contract, applicable laws and regulations, and the relevant facts as determined by the Board based upon the evidence presented. It is important for the Board to express, clearly and completely, the logic and reasoning leading to the recommendation so that both parties fully understand the recommendation.

Either CFX or the Contractor may request the Board to reconsider its recommendation. However, reconsideration will only be allowed when there is new evidence to present, or a clarification is required.

F. Miscellaneous Board Responsibilities. In addition to the matters set forth above:

1. The Board Member shall become familiar with the Contract Documents, review periodic reports, and maintain a current file of the project.
2. Except for providing the services required in this Agreement, the Board and its individual Members shall refrain from giving any advice to either party concerning conduct of the work or the resolution of problems. Ex-parte communications between a party and a Board Member are prohibited.
3. The Board shall perform services not specifically listed herein to the extent necessary to achieve the purposes of this Agreement.

G. Board Member Replacement. If the need occurs to appoint a replacement Board Member, the replacement Board Member shall be appointed in the same manner as

the original Board Members were appointed. The selection of a replacement Board Member shall begin promptly upon notification of the necessity for a replacement. The Agreement will be supplemented to indicate change in Board membership.

III CONTRACTOR RESPONSIBILITY

A party shall furnish to each Board Member one copy of all pertinent documents that are or may become necessary for the Board to perform its function. Pertinent documents are any drawings or sketches, calculations, procedures, schedules, estimates or other documents that are used in the performance of the work or in justifying or substantiating the party's position. A copy of such pertinent documents must also be furnished to the other party.

IV CFX RESPONSIBILITIES

CFX shall furnish the following services and items:

A. Contract Related Documents. CFX shall furnish the Board copies of all Contract Documents, Supplemental Agreements, written instructions issued by the CEI or CFX to the Contractor, or other documents pertinent to the performance of the Contract and necessary for the Board to perform its function.

B. Coordination and Services. CFX (in cooperation with the Contractor) will coordinate the operations of the Board. CFX, through the CEI, will arrange or provide conference facilities at or near the site and provide secretarial and copying services.

V TIME FOR BEGINNING AND COMPLETION

The Board shall be in operation throughout the term of the Contract and, if needed, for a reasonable post-construction period.

The Board Members shall not begin any work under the terms of this Agreement until authorized by CFX in writing.

VI PAYMENT

The fees and expenses of all three Board Members for services rendered under this Agreement will be an expense to the Contractor with reimbursement under the pay item allowance as provided below. Payment for services of the CFX-appointed, Contractor-appointed, and the third Board Members will be full compensation for work performed or services rendered, and for all expenses, such as food, lodging, travel, telephone, postage etc.

A. Payment.

Each Board Member will be paid One Thousand 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. Inspection of Costs Records. The Board Members shall keep available the cost records and accounts pertaining to this Agreement for inspection by representatives of CFX for a period of three (3) years after final payment. If any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records is completed.

VII ASSIGNMENT OF TASKS OF WORK

Neither the Board nor the Board Members may assign or delegate any of the work of this Agreement.

VIII TERMINATION OF AGREEMENT

With the mutual consent of CFX and the Contractor, this Agreement may be terminated at any time. However, individual Board Members may be terminated with or without cause, but only by their original appointer, i.e., CFX may terminate the CFX appointed Member, the Contractor may terminate the Contractor's appointed Member, and the first two Members must agree to terminate the third Member.

**IX
LEGAL RELATIONS**

A. Each Board Member in the performance of duties on the Board is acting in the capacity of an independent agent and not as an employee of either CFX or the Contractor.

B. CFX and the Contractor expressly acknowledge that each Board Member is acting in a capacity intended to facilitate resolution of disputes. Accordingly, to the fullest extent permitted by law, each Board Member shall be accorded quasi-judicial immunity for any actions or decisions associated with the consideration, hearing and recommendation of resolution for disputes referred to the Board.

C. Except for the negligent acts or omissions of a Board Member, or for activities outside of the scope of this Agreement, each Board Member shall be held harmless for any personal or professional liability arising from or related to Board activities. To the fullest extent permitted by law, CFX and the Contractor shall defend and indemnify all Board Members against claims, losses, demands, costs and damages (including reasonable attorney's fees) for bodily injury, property damage or economic loss arising out of or related to Board Members carrying out Board functions. The foregoing indemnity is a joint and several obligations of the Contractor and CFX.

**X
ARBITRATION, VENUE, APPLICABLE LAW**

Any dispute, claim or controversy between the parties hereto arising out of or related to this Agreement shall be resolved by arbitration. The American Arbitration Association pursuant to its Construction Industry Arbitration Rules shall conduct such arbitration, and the arbitration proceeding shall occur in Orange County, Florida. All questions and issues respecting this Agreement and the arbitration shall be resolved by application of Florida law and the judgment of the arbitration panel shall be enforceable in accordance with the provisions of the Florida Arbitration Code.

**XI
NO BONUS**

The Contractor and CFX shall not pay and the Members shall not receive any additional commission, percentage, bonus or consideration of any nature (other than the payment provided for in Section VI above) for performance and services under this Agreement.

**XII
NO CONFLICT**

The Members of the Board agree individually they do not now and during the term of this Agreement will not have any direct or indirect ownership or financial interest in the Contractor, the

Engineer of Record for the project, the CEI or any subcontractor or supplier of the project. The Members of the Board affirm they have not for a period of ten (10) years prior to this Agreement been an employee, Contractor or consultant to the Contractor, the Engineer of Record for this project, the CEI or any subcontractor or supplier of the project, and that during the term of this Agreement they shall not become so employed. During the term of the Agreement no discussion or Agreement will be made between any Board Member and any party to this Agreement for employment after the Contract is completed.

By executing this Agreement the parties mutually agree that the Members of the Board identified herein are qualified and desirable and that the criteria and limitations detailed in subarticles 10.2.3 b and 10.2.3 c of the project General Specifications are satisfied or are hereby waived.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CFX:

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____
Print Name: _____
Title: _____

BOARD:

DISPUTES REVIEW BOARD

By: _____
Print Name: _____

By: _____
Print Name: _____

By: _____
Print Name: _____

CONTRACTOR:

By: _____
Print Name: _____
Title: _____

APPENDIX

PROCEDURE GUIDELINES

1. GENERAL MEETINGS

General Meetings are defined as those meetings required for the Board to develop a familiarity of the work in progress and keep abreast of construction activities such as progress, status and nature of items in the earlier stages of escalation, changes to personnel, etc. General Meetings shall occur 60days after Notice to Proceed for the Project and every 120 days thereafter, or as determined by the parties to be in the best interest of the project. Site visits as described in Subarticle II D above shall be considered General Meetings. Site visits may be coordinated to coincide with, or be replaced by, Board meetings to review disputes brought to the Board by CFX or Contractor.

2. MONTHLY PROJECT DOCUMENT REVIEW

In an effort to keep the Board closely and concurrently apprised of the progress of the Project, each member of the Board will be provided with copies of Project related documents. These documents may include minutes from progress meetings, schedule updates, CEI's weekly summaries, monthly progress summaries, selected correspondence, Supplemental Agreements to the Contract, Project photos, and any other information that may be requested by the Board or required to answer questions by the Board.

3. REVIEW OF DISPUTES OR CLAIMS BY THE BOARD


Disputes review meetings shall be at the time and frequency mutually agreed to by CFX and Contractor.

**CONSENT AGENDA ITEM
#6**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 19, 2021

SUBJECT: Approval of Contract Award to Traffic Control Devices, Inc.
for SR 408 Guide Sign and Lighting Replacements –
West Colonial Drive (SR 50) to Ingenuity Drive
Project No. 408-628B, Contract No. 001805

An Invitation to Bid for the above referenced project was advertised on June 13, 2021. Five (5) responses were received by the July 14, 2021 deadline.

Bid results were as follows:

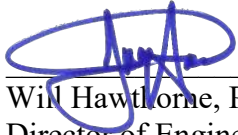
<u>Bidder</u>	<u>Bid Amount</u>
1. Traffic Control Devices, Inc.	\$3,846,846.00
2. Chinchor Electric, Inc.	\$3,932,132.08
3. Sice, Inc.	\$3,952,363.53
4. United Signs & Signals	\$4,098,267.34
5. Conti, LLC	\$4,183,497.66

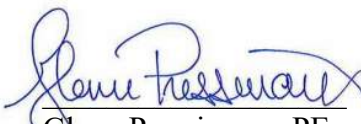
The engineer's estimate for this project is \$3,134,822.20. Included in the Five-Year Work Plan is \$2,300,000.00.

The work to be performed includes providing all labor, materials, equipment, and incidentals necessary for SR 408 Guide Sign and Lighting Replacements from West Colonial Drive (SR 50) to Ingenuity Drive.

Board award of the contract to Traffic Control Devices, Inc. in the amount of \$3,846,846.00 is requested.

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

Reviewed by: 
Will Hawthorne, PE
Director of Engineering


Glenn Pressimone, PE

CONTRACT



AND

TRAFFIC CONTROL DEVICES, INC.

**SR 408 GUIDE SIGN
AND LIGHTING REPLACEMENTS –
WEST COLONIAL DR (SR 50) TO INGENUITY DR**

PROJECT NO. 408-628B, CONTRACT NO. 001805

CONTRACT DATE: AUGUST 12, 2021

CONTRACT AMOUNT: \$3,846,846.00

**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 GUIDE SIGN AND LIGHTING REPLACEMENTS –
WEST COLONIAL DR (SR 50) TO INGENUITY DR**

PROJECT NO. 408-628B, CONTRACT NO. 001805

AUGUST 2021

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
C	CONTRACT	C-1 to C-2
	Memorandum of Agreement	1 to 5
GS	GENERAL SPECIFICATIONS	1 – 129
	Attachment A	ATT-1 to ATT-9
	(See General Specifications Table of Contents for listing of individual specifications sections.)	
TS	TECHNICAL SPECIFICATIONS	TS-1 to TS-11
	(See Technical Specifications Table of Contents for listing of individual specifications sections.)	
SP	SPECIAL PROVISIONS	SP-1 to SP-29
	(See Special Provisions Table of Contents for listing of each special provision.)	
	Addendum No. 1	Addendum No. 2
	Addendum No. 3	Addendum No. 4
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. 001805 (the “Contract”), made this 12th day of August 2021, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and Traffic Control Devices, Inc., of 242 N Westmonte Drive, Altamonte Springs, FL 32714-2404, 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. 408-628B, SR 408 Guide Sign and Lighting Replacements - West Colonial Dr (SR 50) to Ingenuity Dr., as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 240 calendar days. The Contract Amount is \$3,846,846.00. This Contract was awarded by the Governing Board of CFX at its meeting on August 12, 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: _____
Director of Procurement

Print Name

DATE: _____

TRAFFIC CONTROL DEVICES, INC.

By: _____
Signature

Print Name

Title

ATTEST: _____ (Seal)

DATE: _____

Approved as to form and execution, only.

General Counsel for CFX

Print Name

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 1 - Abbreviations and Definitions	1
1.1 General	1
1.2 Abbreviations	1
1.3 Definitions	2
Section 2 - 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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 3 - Control of Work	33
3.1 Plans and Working Drawings	33
3.1.1 Plans and Contract Documents	
3.1.2 CFX Plans	
3.1.3 Alterations in the Plans	
3.1.4 Shop Drawings	
3.2 Coordination of Plans and Specifications	36
3.3 Conformity of Work with Plans	37
3.3.1 Record Drawings	
3.4 Pre-Award Meeting	38
3.5 Orders and Instructions	39
3.5.1 Observation of the Work	
3.5.2 Examination of the Work	
3.5.3 Communications	
3.6 Engineering and Layout	41
3.6.1 Control Points Furnished by CFX	
3.6.2 Furnishing of Stake Material	
3.6.3 Layout of Work	
3.6.4 Specific Staking Requirements	
3.6.5 Personnel, Equipment, and Record Requirements	
3.6.6 Global Navigation Satellite Systems (GNSS) Work Plan	
3.6.7 Payment	
3.7 Contractor's Supervision	44
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 General Inspection Requirements	45
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 Inspection and Acceptance	47
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 Audit and Examination of Contract Records and Bid Records	48

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
3.11 Escrow of Bid Records	50
3.12 Prevailing Party Attorney's Fees	51
 Section 4 - Control of Materials	 53
4.1 Acceptance Criteria	53
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)	54
4.3 Source of Supply and Quality Requirements	54
4.3.1 Only Approved Materials to be Used	
4.3.2 Notification of Placing Order	
4.3.3 Approval of Source of Supply	
4.4 Inspection and Tests at Source of Supply	55
4.4.1 General	
4.4.2 Cooperation by Contractor	
4.4.3 Retest of Materials	
4.5 Storage of Materials and Samples	56
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	56
 Section 5 - Legal Requirements and Responsibility to the Public	 58
5.1 Laws to be Observed	58
5.1.1 General	
5.1.2 Plant Quarantine Regulations	
5.1.3 Introduction or Release of Prohibited Aquatic Plants, Plant Pests or Noxious Weeds	
5.1.4 Compliance with Federal Endangered Species Act	
5.1.5 Occupational Safety and Health Requirements	
5.1.6 Discovery of Unmarked Human Burial Site	
5.1.7 Insecticides and Herbicides	
5.2 Permits and Licenses	60
5.3 Patented Devices, Materials and Processes	60

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.4 Right of Way Furnished by CFX	61
5.5 Sanitary Provisions	61
5.6 Control of the Contractor's Equipment	61
5.6.1 Traffic Interference	
5.6.2 Overloaded Equipment	
5.6.3 Crossings	
5.6.4 Protection from Damage by Tractor-Type Equipment	
5.6.5 Contractor's Equipment on Bridge Structures	
5.6.6 Posting of the Legal Gross Vehicular Weight	
5.7 Structures Over Navigable Waters	63
5.7.1 Compliance with Jurisdictional Regulations	
5.8 Use of Explosives	63
5.9 Preservation of Property	63
5.9.1 General	
5.9.2 Failure to Restore Damaged Property	
5.9.3 Contractor's Use of Streets and Roads	
5.9.4 Traffic Signs, Signal Equipment, Highway Lighting and Guardrail	
5.9.5 Operations Within Railroad Right of Way	
5.9.6 Utilities	
5.10 Responsibility for Damages, Claims, etc.	68
5.10.1 Contractor to Provide Defense Against Claims and Suits	
5.10.2 Guaranty of Payment for Claims	
5.11 Insurance	70
5.11.1 Schedule of Required Limits for Workers' Compensation, General Liability and Automobile Liability	
5.11.2 Workers' Compensation and Employer's Liability Insurance	
5.11.3 Comprehensive General Liability Insurance	
5.11.4 Comprehensive Automobile Liability Insurance	
5.11.5 Umbrella/Excess Liability Insurance	
5.11.6 Builder's Risk	
5.11.7 Railroad Insurance	
5.11.8 Pollution Legal Liability	
5.11.9 Professional Liability	
5.12 Contract Bond (Public Construction Bond) Required	76
5.12.1 General Requirements of the Bond	
5.12.2 Continued Acceptability of Surety	
5.13 Contractor's Responsibility for Work	76
5.14 Opening Section of Highway to Traffic	77
5.15 Scales for Weighing Materials	77

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.15.1 Applicable Regulations	
5.15.2 Base for Scales	
5.15.3 Protection and Maintenance	
5.16 Source of Forest Products	77
5.17 Regulations of Air Pollution	77
5.17.1 General	
5.17.2 Dust Control	
5.17.3 Asphalt Material	
5.17.4 Asphalt Plants	
5.18 Dredging and Filling	78
5.19 Erosion Control	78
5.20 Contractor's Motor Vehicle Registration	78
5.21 Internal Revenue Service Form W-9	78
5.22 Tolls and Access	79
5.23 Requests for References or Performance Evaluations	79
5.24 Unauthorized Aliens	79
5.25 Public Records	80
5.26 Inspector General	81
5.27 Convicted Vendor List	81
5.28 Discriminatory Vendor List	81
5.29 Severability	81
5.30 Companies Pursuant to Florida Statute Sections 287.135 and 215.473	82
 Section 6 - Prosecution and Progress of the Work	 83
6.1 Subletting or Assigning of Contract	83
6.2 Work Performed by Equipment Rental Agreement	85
6.3 Prosecution of Work	85
6.3.1 Sufficient Labor, Materials and Equipment	
6.3.2 Impacts by Adjacent Projects	
6.3.3 Submission of Preliminary, Baseline, Updated Baseline, and Two-Week Look-Ahead Schedules	
6.3.4 Beginning Work	
6.3.5 Provisions for Convenience of the Public	
6.3.6 Pre-Construction Conference	
6.4 Limitations of Operations	86
6.4.1 Night Work	
6.4.2 Sequence of Operations	
6.4.3 Interference with Traffic	
6.4.4 Coordination with Other Contractors	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
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 Qualifications of Contractor's Personnel	90
6.6 Temporary Suspension of Contractor's Operations	90
6.6.1 CFX to Suspend Contractor's Operations	
6.6.2 Prolonged Suspensions	
6.6.3 Permission to Suspend Operations	
6.6.4 Suspension of Contractor's Operations – Holidays	
6.7 Contract Time	91
6.7.1 General	
6.7.2 Date of Beginning of Contract Time	
6.7.3 Adjusting Contract Time	
6.8 Failure of Contractor to Maintain Satisfactory Progress	93
6.8.1 General	
6.9 Default and Termination of Contract	94
6.9.1 Determination of Default	
6.9.2 Public Interest Termination of Contract	
6.9.3 Completion of Work by CFX	
6.10 Liquidated Damages for Failure to Complete the Work	97
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 Release of Contractor's Responsibility	97
6.12 Recovery of Damages Suffered by Third Parties	97
6.13 Express Warranty	98
Section 7 - Measurement and Payment	99
7.1 Measurement of Quantities	99
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
7.1.5 Truck Requirements	
7.1.6 Ladders and Instrument Stands for Bridge Construction	
7.2 Scope of Payments	100
7.2.1 Items Included in Payment	
7.2.2 Non-Duplication of Payment	
7.3 Compensation for Altered Quantities	100
7.3.1 General	
7.3.2 Payment Based on Plan Quantity	
7.3.3 Lump Sum Quantities	
7.3.4 Deviation from Plan Dimensions	
7.4 Force Account Work	103
7.4.1 Method of Payment	
7.4.2 Records	
7.4.3 Preliminary Order-of-Magnitude Estimate	
7.5 Deleted Work	106
7.6 Partial Payments	106
7.6.1 General	
7.6.2 Unsatisfactory Payment Record	
7.6.3 Withholding Payment for Defective Work	
7.6.4 Partial Payments for Delivery of Certain Materials	
7.6.5 Certification of Payment to Subcontractors	
7.6.6 Reduction of Payment for Unsatisfactory Services or Products	
7.7 Record of Construction Materials	110
7.7.1 General	
7.7.2 Non-Commercial Materials	
7.8 Disputed Amounts Due Contractor	110
7.9 Acceptance and Final Payment	110
7.10 Offsetting Payments	112
Section 8 – Disadvantaged/Minority/Women Business Enterprise (D/M/WBE) Participation	113
8.1 General	113
8.2 Disadvantaged/Minority and Women Owned Businesses – Participation Objectives	114
8.2.1 General	
8.2.2 Definitions	
8.2.3 Specific Requirements	
8.2.4 Qualified Participation	
8.2.5 Records and Reports	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
8.3 Subletting of Contracts - Participation Objectives	119
Section 9 - Binding Arbitration	120
Section 10 – Partnering and Disputes Resolution	122
10.1 Disputes Resolution	122
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	

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 multi-span box culvert is considered a bridge when the length between the extreme ends of the openings exceeds 20 feet.
- 1.3.7 **Calendar Day** - Every day shown on the calendar, ending and beginning at midnight.
- 1.3.8 **CFX** - The Central Florida Expressway Authority. To avoid unnecessary repetition of expressions, whenever in the General Specifications, Technical Specifications, or Special Provisions, the term “CFX” is used, it is understood that “or designated representative” is a part of the term unless specifically indicated otherwise. Such designated representative may be the “Engineer”, the “CEI”, the “Resident Engineer” or other individual or entity identified by CFX and defined herein.
- 1.3.9 **Construction Engineering & Inspection (CEI) Consultant** - The firm employed by CFX to observe the progress and quality of the Work being performed by the Contractor.
- 1.3.10 **Consultant** - The Professional Engineer or engineering firm, registered in the State of Florida, under contract to CFX to perform professional services for CFX. The Consultant may be the Engineer of Record or may provide services through and be subcontracted to the Engineer of Record.
- 1.3.11 **Contract** - The written agreement between CFX and the Contractor setting forth the obligations of the parties thereto including but not limited to, the performance of the Work, the furnishing of labor and materials, and the basis of payment.
- 1.3.12 **Contract Bond** - The security furnished by the Contractor and the surety as a guaranty that the Contractor shall fulfill the terms of the Contract and pay all legal debts pertaining to the construction of the project.
- 1.3.13 **Contract Claim (Claim)** - A written demand submitted to CFX by the Contractor in compliance with Article 2.4 of these General Specifications seeking additional monetary compensation, time and/or other adjustments to the Contract, the entitlement or impact of which is disputed by CFX.
- 1.3.14 **Contract Documents** - The Contract, addenda (which pertain to the Contract Documents), the Memorandum of Agreement, Contractor’s Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award), the Notice to Proceed, the Public Construction Bond, these General Specifications, the Technical Specifications, the Standard Specifications, the Contractor’s certification required pursuant to Article 3.4 of these General Specifications, the Special Provisions, the Plans, any supplemental

agreements required to complete the construction of the Project and elements incorporated by reference including, but not necessarily limited to, the FDOT Standard Plans (edition per plans).

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

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

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

1.3.18 **Contractor's Engineer of Record** - A Professional Engineer registered in the State of Florida, other than the Engineer of Record or his subcontracted consultant, who undertakes the design and drawing of components of the permanent structure as part of a redesign or Cost Savings Initiative Proposal, or for repair designs and details of the permanent work. The Contractor's Engineer of Record may also serve as the Specialty Engineer.

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

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

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

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

- 1.3.21 **Delay** - With the exception of the items listed in Subarticle 6.7.3.1 of these General Specifications, any unanticipated event, action, force or factor which extends the Contractor's time of performance of any critical path activity under the Contract. The term delay is intended to cover all such events, actions, forces or factors, whether styled "delay", "disruption", "interference", "impedance", "hindrance" or otherwise, which are beyond the control of and not caused by the Contractor or Contractor's subcontractors, materialmen, suppliers, or other agents. This term does not include Extra Work.
- 1.3.22 **Director of Construction** - Director of Construction, Central Florida Expressway Authority, acting directly or through an authorized representative.
- 1.3.23 **Engineer** - The term as may be used in various documents is understood to mean CFX or designated representative.
- 1.3.24 **Engineer of Record** - The professional engineer or engineering firm, contracted by CFX and registered in the State of Florida, who develops criteria and concept for the Project, performs the analysis and is responsible for the preparation of the plans and specifications.
- 1.3.25 **Equipment** - The machinery and equipment, together with the necessary supplies for upkeep and maintenance thereof, the tools and all other apparatus necessary for the construction and acceptable completion of the Work.
- 1.3.26 **Executive Director** - Executive Director, Central Florida Expressway Authority, acting directly or through an assistant or other representative authorized by him; the chief officer of the Central Florida Expressway Authority
- 1.3.27 **Extra Work** - Any Work which is required by CFX to be performed and which is not otherwise covered or included in the project by the existing Contract Documents, whether it be in the nature of additional work, altered work, deleted work, work due to differing site conditions or otherwise. This term does not include a "delay."
- 1.3.28 **Federal, State, and Local Rules and Regulations** - The term "Federal, State and Local Rules and Regulations" includes: any and all Federal, State, and Local laws, bylaws, ordinances, rules, regulations, orders, permits, or decrees including environmental laws, rules, regulations, and permits.
- 1.3.29 **Force Account** - Work authorized by CFX and performed in addition to that set forth in the original Contract and is paid on an actual cost basis plus a fixed percent markup and stipulated rental rates for equipment. All costs paid under Force Account will be fully documented and signed by both parties not later than the following work day.

- 1.3.30 **Highway, Street, or Road** - A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way.
- 1.3.31 **Holidays** - Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Independence Day (Observed); Labor Day; the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Veterans Day (Observed); the Wednesday immediately preceding Thanksgiving Day; Thanksgiving Day; the Friday, Saturday and Sunday immediately following Thanksgiving Day; and December 24 through January 2, inclusive.
- 1.3.32 **Inspector** - An authorized representative of the Engineer, assigned to make official inspections of the materials furnished and of the work performed by the Contractor and to monitor compliance with the Plans and Specifications of the Contract.
- 1.3.33 **Invitation to Bid** - The invitation by which the Contractor submitted its Bid for the Work.
- 1.3.34 **Laboratory** - A Testing facility certified with the Florida Department of Transportation.
- 1.3.35 **Major Item of Work** - Any item of Work having an original Contract value in excess of 5% of the original Contract amount.
- 1.3.36 **Materials** - Any substances to be incorporated in the Work.
- 1.3.37 **Median** - The portion of a divided highway or street separating the traveled ways for traffic moving in opposite directions.
- 1.3.38 **Memorandum of Agreement** - A formal summarization of the Project Pre-Award meeting, signed by CFX and a representative of the Contractor and made part of the contract documents.
- 1.3.39 **Notice to Proceed** - A written notice given by CFX to the Contractor fixing the latest date on which the Contract Time will commence to run and on which the Contractor shall start to perform the Contractor's obligations under the Contract Documents.
- 1.3.40 **Plans** - The drawings which show the scope, extent, and character of the Work to be furnished and performed by the Contractor and which are referred to in the Contract Documents.

- 1.3.41 **Project** - The total construction of which the Work to be provided under the Contract Documents may be the whole or a part as indicated elsewhere in the Contract Documents.
- 1.3.42 **Public Construction Bond** - The security furnished by the Contractor and the surety as a guaranty that the Contractor will fulfill the terms of the Contract in accordance with the Contract Documents and pay all legal debts pertaining to the construction of the Project.
- 1.3.43 **Resident Engineer** - The authorized representative of the CEI who may be assigned to the site or any part thereof.
- 1.3.44 **Right of Way** - The land to which CFX has title or right of use for the road and its structures and appurtenances and for material pits furnished or to be furnished by CFX.
- 1.3.45 **Roadbed** - That portion of the roadway occupied by the subgrade and shoulders.
- 1.3.46 **Roadway** - The portion of a highway within the limits of construction.
- 1.3.47 **Shop Drawings** - All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for the Contractor and submitted by the Contractor to illustrate some portion of the Work.
- 1.3.48 **Shoulder** - That portion of the roadbed outside the edges of the travel way (or back of curb) and extending to the top of front slopes. The shoulders may be either paved or unpaved.
- 1.3.51 **Special Event** - Any event, including but not limited to, a festival, fair, run or race, motorcade, parade, civic activity, cultural activity, charity or fund drive, sporting event, rocket/shuttle launch or similar activity.
- 1.3.49 **Special Provisions** - Specific requirements for the Project not otherwise addressed in the General Specifications, Technical Specifications, or Standard Specifications.
- 1.3.50 **Specialty Engineer** - A Professional Engineer registered in the State of Florida (specifically other than the Engineer of Record or its subcontracted consultant) who undertakes the design and drawing preparation of components, systems, or installation methods and equipment for specific portions of the Project Work. The Specialty Engineer may be an employee or officer of the Contractor or a fabricator, an employee or officer of an entity providing components to a fabricator or an independent consultant.

A Specialty Engineer shall be qualified in accordance with the Rules of the Florida Department of Transportation, Chapter 14-75, Florida Administrative

Code. Any corporation or partnership, which offers engineering services, must have their business registered with the Florida State Board of Professional Engineers and be qualified as a Professional Engineer licensed in Florida. Prior approval by CFX is required if the Contractor wishes to use a Specialty Engineer not qualified in accordance with Chapter 14-75. Approval must be received prior to proceeding with the specialty design.

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

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

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

1.3.53 **Standard Plans** - “Standard Plans for Road and Bridge Construction”, an electronic book describing and detailing aspects of the Work. Where the term Design Standards appears in the Contract Documents, it will be synonymous with Standard Plans.

1.3.54 **Standard Specifications** - The FDOT Standard Specifications for Road and Bridge Construction, July 2019 edition, Divisions II and III, hereby incorporated by reference and as may be amended in the Technical Specifications and Plans. Division I of the FDOT Standard Specifications is specifically not included in this definition and is not a part of the Contract Documents.

1.3.55 **State** - State of Florida

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

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

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

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

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

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

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

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

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

- 1.3.63 **Supplemental Agreement** - A written agreement between CFX and the Contractor, signed by the surety, modifying the Contract within the limitations set forth in these specifications.
- 1.3.64 **Surety** - The corporate body that is bound by the Contract Bond with and for the Contractor and responsible for the performance of the Contract and for payment of all legal debts pertaining thereto.
- 1.3.65 **Supplier** - A manufacturer, fabricator, supplier, distributor, materialmen, or vendor having a direct contract with the Contractor or with any subcontractor to furnish materials or equipment to be incorporated in the Work by the Contractor or any subcontractor.
- 1.3.66 **Technical Specifications** - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards, and workmanship as applied to the Work associated with road and bridge construction.
- 1.3.67 **Travel Way** - The portion of the roadway for the movement of vehicles, exclusive of shoulders and bicycle lanes.
- 1.3.68 **Unilateral Adjustment** - A payment of money or granting of Contract time made to the Contractor by CFX for sums CFX determines to be due to the Contractor for work performed on the project, and whereby the Contractor by acceptance of such payment does not waive any rights the Contractor may otherwise have against CFX for payment of any additional sums the Contractor claims are due for the work.
- 1.3.69 **Work** - The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work includes and is the result of performing or furnishing labor and furnishings and incorporating materials and equipment into the construction and performing or furnishing services and furnishing documents all as required by the Contract Documents.
- 1.3.70 **Working Day** - Any calendar day on which the Contractor works or is expected to work in accordance with the approved work progress schedule.
- 1.3.71 **Work Order Allowance** - A monetary amount established by CFX and included in the Contract Price to cover the cost of Work, that may or may not be anticipated, but is not otherwise defined by defined by the Plans or Specifications. No Work paid for under the Work Order Allowance shall be performed until written authorization is given to the Contractor by CFX. Any amount remaining in the Allowance upon completion and acceptance of the project remains the property of CFX.

END OF SECTION 1

SECTION 2 - SCOPE OF WORK

2.1 Intent of Contract

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

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

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

2.2 Work Not Covered by the General Specifications

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

2.3 Alteration of Plans

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

The term “significant change” applies only when:

A) CFX determines that the Work as altered differs materially in kind or

nature from that involved or included in the original proposed construction or

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

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

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

Notwithstanding that the Contractor shall have no formal right whatsoever to any extra compensation or time extension deemed due by the Contractor for any cause unless and until the Contractor follows the procedures set forth in 2.4.2 for preservation, presentation and resolution of the claim, the Contractor may at any time, after having otherwise timely provided a notice of intent to claim or preliminary time extension request pursuant to 2.4.2, submit to CFX a request for equitable adjustment of compensation or time or other dispute resolution proposal. The Contractor shall in any request for equitable adjustment of compensation, time, or other dispute resolution proposal certify under oath and in writing, in accordance with the formalities required by Florida law, that the request is made in good faith, that any supportive data provided are accurate and complete to the Contractor's best knowledge and belief, and that the amount of the request accurately reflects what the Contractor in good faith believes to be CFX's responsibility. Such certification must be made by an officer or director of the Contractor with the authority to bind the Contractor. Any such certified statements of entitlement and costs shall be subject to the audit provisions set forth in 2.4.13. While the submittal or review of a duly certified request for equitable adjustment shall neither create, modify, nor activate any legal rights or obligations as to the Contractor or CFX, CFX will review the content of any duly certified request for equitable adjustment or other dispute resolution proposal, with any further action or inaction by CFX thereafter being in its sole discretion. Any request for equitable adjustment that fails to fully comply with the certification requirements will not be reviewed by CFX.

The monetary compensation provided for below constitutes full and complete payment

for such additional work and the Contractor shall have no right to any additional monetary compensation for any direct or indirect costs or profit for any such additional work beyond that expressly provided below. The Contractor shall be entitled to a time extension only to the extent that the performance of any portion of the additional work is a controlling work item and the performance of such controlling work item actually extends completion of the project due to no fault of the Contractor. All time related costs for actual performance of such additional work are included in the compensation already provided below and any time extension entitlement hereunder will be without additional monetary compensation. The Contractor shall have no right to any monetary compensation or damages whatsoever for any direct or indirect delay to a controlling work item arising out of or in any way related to the circumstances leading up to or resulting from additional work (but not relating to the actual performance of the additional work, which is paid for as otherwise provided herein), except only as provided for under 2.4.5.3.

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

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

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

Payment for burden shall be limited solely to the following:

Table 2.3.2.1

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

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

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

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

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

- (b) **Materials and Supplies:** For materials accepted by the CEI and used on the project, the Contractor will receive the actual cost of such materials incorporated into the work, including Contractor paid transportation charges

(exclusive of equipment as hereinafter set forth). For supplies reasonably needed for performing the work, the Contractor will receive the actual cost of such supplies.

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

Allowable Equipment Rates will be established as set out below:

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

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

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

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

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

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

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

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

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

(i) Bond: The Contractor will receive compensation for any premium for acquiring a bond for such additional or unforeseen work at the original contract bond rate paid by the Contractor. Should the Contractor have previously elected to provide subguard coverage in lieu of requiring a bond from a sub on the original work, the Contractor shall be entitled to reimbursement for the subguard premium for the added work upon proof of said premium.

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

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

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

Where A = Original Contract Amount

B = Original Contract Time

C = 8%

D = Average Overhead Per Day

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

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

2.3.2.2 Subcontracted Work: For work performed by a subcontractor, compensation for the additional or unforeseen work shall be solely limited to as provided for in 2.3.2.1 (a), (b), (c) and (d)(1), with the exception of, in the instance of subcontractor performed work only, the subcontractor may receive compensation for any premium for acquiring a bond for the additional or unforeseen work; provided, however, that such payment for additional subcontractor bond will only be paid upon presentment to CFX of clear and convincing proof that the subcontractor has actually provided and paid for separate bond premiums for such additional or unforeseen work in such amount. The Contractor shall require the subcontractor to provide a certification, in accordance with 2.3.2.1(a), as part of the cost proposal and provide such to the CEI. Such certification must be made by an officer or director of the subcontractor with authority to bind the subcontractor. Timely certification is a condition precedent to any right of the Contractor to recover compensation for such subcontractor costs, and failure to timely submit the certification will constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to recover such subcontractor costs.

- 2.3.3 No Waiver of Contract: Changes made by CFX will not be considered to waive any of the provisions of the Contract, nor may the Contractor make any claim for loss of anticipated profits because of the changes or by reason of any variation between the approximate quantities and the quantities of Work actually performed. All Work shall be performed as directed by CFX and in accordance with the Contract Documents.
- 2.3.4 Suspensions of Work Ordered by CFX: If the performance of all or any portion of the Work is suspended or delayed by CFX, in writing, for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes additional compensation is due as a result of such suspension or delay, the Contractor shall submit to CFX in writing a request for adjustment within 7 calendar days of receipt of the notice to resume Work. The

request shall be complete, set forth all the reasons and support for such adjustment.

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

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

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

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

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

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

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

Work CFX directed to be performed in lieu of pursuing a Supplemental Agreement.

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

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

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

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

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

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

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

No Contract adjustment that results in a benefit to the Contractor will be allowed

unless the Contractor has provided the required written notice.

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

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

CFX approval of a Contractor proposed change does not relieve the Contractor of sole responsibility for all utility impacts, costs, delays or damages, whether direct or indirect, resulting from Contractor initiated changes in the design or construction activities from those in the original Contract, design plans (including traffic control plans) or other Contract Documents and which effect a change in utility work different from that shown in the utility plans, joint project agreements or utility relocation schedules.

- 2.3.11 Cost Savings Initiative Proposal

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

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

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

CFX reserves the right to reject, at its sole discretion, any CSIP submitted that proposes a change in the design of the pavement system or that would require additional right-of-way. Pending CFX's execution of a formal supplemental

agreement implementing an approved CSIP, the Contractor shall remain obligated to perform the Work in accordance with the terms of the Contract. CFX is under no obligation to grant time extensions to allow for the time required to develop and review a CSIP.

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

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

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

6. a revised Project schedule that would be followed upon approval of the CSIP. The schedule shall include submittal dates and review time for CFX review.

2.3.11.3 Processing Procedures: The Contractor shall submit the CSIP to CFX. CFX will process the CSIP expeditiously; however, CFX is not liable for any delay in acting upon a CSIP submitted pursuant to this subarticle. The Contractor may withdraw, in whole or in part, a CSIP not accepted by CFX within the period specified in the CSIP. CFX is not liable for any CSIP development cost in the case where CFX rejects, or the Contractor withdraws, a CSIP.

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

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

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

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

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

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

1. All bridge plans relating to the CSIP shall undergo an independent peer review conducted by a single independent engineering firm referred to for the purpose of this requirement as the Independent Review Engineer (IRE). The IRE shall not be the originator of the CSIP design and shall be pre-qualified by FDOT in accordance with Rule 14-75, Florida Administrative Code. The independent

peer review is intended to be a comprehensive and thorough verification of the original Work, giving assurance that the design is in compliance with all CFX requirements. The IRE's comments, along with the resolution of each comment, shall be submitted to CFX. The IRE shall sign and seal the submittal cover letter stating that all comments have been adequately addressed and the design is in compliance with CFX's requirements. If there are any unresolved comments, the IRE shall specifically list all unresolved issues in the signed and sealed cover letter.

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

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

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

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

Notwithstanding Article 5.3 of the General Specifications nor any provisions of the Standard Specifications, upon acceptance of the CSIP, the Contractor grants to CFX and its contractors (such grant being expressly limited solely to any and all existing or future CFX construction projects and any other CFX projects that are partially or wholly funded by or for CFX) a royalty-free and perpetual license under all forms of intellectual property rights to manufacture, to use, to design, to construct, to disclose, to reproduce, to prepare and fully utilize derivative works, to distribute, display and publish, in whole or in part, and to permit others to do any of the above, and to otherwise in any manner and for any purpose whatsoever do anything reasonably necessary to fully utilize any and all aspects of such CSIP on any and all existing and future construction projects and any other CFX projects.

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

2.4 Claims by Contractor

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

2.4.2 Notice of Claim:

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

notice by the Contractor, and the fact that CFX has kept account of the labor, Materials, and Equipment, and time, shall not in any way be construed as establishing the validity of the claim or method for computing any compensation or time extension for such claim. Notice of the amount of the claim with supporting data shall be delivered within sixty days after the start of such occurrence or event (unless CFX allows additional time for the Contractor to submit additional or more accurate data in support of the claim) and shall be accompanied by the Contractor's written statement that the adjustment claimed covers all known amounts to which the Contractor is entitled as a result of said occurrence or event. For any claim or part of a claim that pertains solely to final estimate quantity disputes the Contractor shall submit full and complete claim documentation as described in 2.4.3, as to such final estimate claim dispute issues, within 30 calendar days of the Contractor's receipt of CFX's Offer of Final Payment. Submission of timely notice of intent to file a claim, preliminary time extension request, time extension request, and the claim, together with full and complete claim documentation, are each a condition precedent to the Contractor bringing any arbitration or other formal claims resolution proceeding against CFX for the items and for the sums or time set forth in the Contractor's written claim, and the failure to provide such notice of intent, preliminary time extension request, time extension request, claim and full and complete claim documentation within the time required shall constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to additional compensation or a time extension for such claim.

2.4.2.2 Claims For Delay: Where the Contractor deems that additional compensation or a time extension is due on account of delay, differing site conditions, breach of Contract, or any other cause other than for Work or Materials not expressly provided for in the Contract (Extra Work) or which is by written directive of CFX expressly ordered by CFX pursuant to 2.3, the Contractor shall submit a written notice of intent to CFX within 48 hours after commencement of a delay to a Work item on the critical path expressly notifying CFX that the Contractor intends to seek additional compensation, and if seeking a time extension, the Contractor shall also submit a preliminary request for time extension pursuant to 6.7.3 within 48 hours after commencement of a delay to a Work item on the critical path, as to such delay and providing a reasonably complete description as to the cause and nature of the delay and the possible impacts to the Contractor's Work by such delay. The timely providing of a written notice of intent or preliminary time extension request to CFX are each a condition precedent to any right on behalf of the Contractor to request additional compensation or an extension of Contract Time for that delay, and the failure of the Contractor to provide such written notice of intent or preliminary time extension request within the time required shall constitute a full, complete, absolute and irrevocable waiver by the Contractor of any right to additional compensation or a time extension for that delay. Notice of the amount of the claim with supporting data shall be delivered within sixty days after the start of such occurrence or event (unless CFX allows additional time for the Contractor to submit additional or more accurate

data in support of the claim) and shall be accompanied by the Contractor's written statement that the adjustment claimed covers all known amounts to which the Contractor is entitled as a result of said occurrence or event. There shall be no Contractor entitlement to any monetary compensation or time extension for any delays or delay impacts, whatsoever, that are not related to a Work item on the critical path, and then as to any such delay to such item entitlement to any monetary compensation or time extension shall only be to the extent such is otherwise provided for expressly under 2.3 or 2.4, except that in the instance of delay to an item of Work not on the critical path the Contractor may be compensated for the direct costs of idle labor or Equipment only, at the rates set forth in 2.3, and then only to the extent the Contractor could not reasonably mitigate such idleness. The existence of an accepted schedule, including any required update(s), as stated in Article 6.3.3, is a condition precedent to the Contractor having any right to the granting of an extension of Contract Time arising out of any delay. Contractor failure to have an accepted schedule, including any required update(s), for the period of potential impact, or in the event the currently accepted schedule and applicable update(s) do not accurately reflect the actual status of the project or fail to accurately show the true controlling or non-controlling work activities for the period of potential impact, will result in any entitlement determination as to time or money for such period of potential impact being limited solely to CFX's analysis and identification of the actual controlling or non-controlling work activities. Further, in such instances, CFX's determination as to entitlement as to either time or compensability will be final, unless the Contractor can prove by clear and convincing evidence to a Disputes Review Board that the CFX's determination was without any reasonable factual basis.

- 2.4.3 Content of Written Claim: As a condition precedent to the Contractor being entitled to additional compensation or a time extension under the Contract for any claim, the Contractor shall submit a written claim to CFX which will include for each individual claim, at a minimum, the following information:
- (a) A detailed factual statement of the claim providing all relevant dates, locations, and items of Work affected and included in each claim;
 - (b) The date or dates on which actions or events resulting in the claim occurred or conditions resulting in the claim became evident;
 - (c) Identification of all pertinent documents and the substance of any material oral communications relating to such claim and the name of the persons making such material oral communications;
 - (d) Identification of the provisions of the Contract which support the claim and a statement of the reasons why such provisions support the claim, or alternatively, the provisions of the Contract which allegedly have been breached and the actions constituting such breach;
 - (e) A detailed compilation of the amount of additional compensation sought and a breakdown of the amount sought as follows:
 - (1) documented additional job site labor expenses;

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

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

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

2.4.5 Compensation for Extra Work or Delay:

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

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

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

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

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

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

- 2.4.8 Certificate of Claim: When submitting any claim, the Contractor shall certify under oath and in writing, in accordance with the formalities required by Florida law, that the claim is made in good faith, that the supportive data are accurate and complete to the Contractor's best knowledge and belief, and that the amount of the claim accurately reflects what the Contractor in good faith believes to be CFX's liability. Such certification must be made by an officer or director of the Contractor with the authority to bind the Contractor.
- 2.4.9 Non-Recoverable Items: The parties agree that for any claim CFX will not have liability for the following items of damages or expense:
- a. Loss of profit, incentives, or bonuses;
 - b. Any claim for other than Extra Work or delay;
 - c. Consequential damages including, but not limited to, loss of bonding capacity, loss of bidding opportunities, loss of credit standing, cost of financing, interest paid, loss of other work or insolvency;
 - d. Acceleration costs and expenses, except where CFX has expressly and specifically directed the Contractor in writing "to accelerate at CFX's expense";
 - e. Attorney fees except in accordance with 3.12, claims preparation expenses and costs of litigation.
- 2.4.10 Exclusive Remedies: Notwithstanding any other provision of the Contract, the parties agree that CFX shall have no liability to the Contractor for expenses, costs, or items of damages other than those which are specifically identified as payable under 2.4. In the event of any formal claims resolution process for additional compensation, whether on account of delay, acceleration, breach of Contract, or otherwise, the Contractor agrees that CFX's liability will be limited to those items which are specifically identified as payable in 2.4.
- 2.4.11 Settlement Discussions: The content of any discussions or meetings held between CFX and the Contractor to settle or resolve any claims submitted by the Contractor against CFX shall be inadmissible in any legal, equitable, arbitration or administrative proceedings, including the Disputes Review Board, brought by the Contractor against CFX for payment of such claim. Dispute Review Board proceedings are not settlement discussions, for purposes of this provision.
- 2.4.12 Personal Liability of Public Officials: In carrying out any of the provisions of the Contract or in exercising any power or authority granted to the Central Florida Expressway Authority, its employees, members, officers, agents, consultants and successors, there shall be no liability of any employee, officer, official agent or consultant of CFX either personally or as officials or representatives of CFX. It is understood that in all such matters such individuals act solely as agents and representatives of CFX.

2.4.13 Auditing of Claims: All claims filed against CFX shall be subject to audit at any time following the filing of the claim, whether or not such claim is part of a suit pending in the Courts of the State of Florida. The audit may be performed at CFX's sole discretion by employees of CFX or by any independent auditor appointed by CFX, or 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,
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.
- 4) Where utilities cross pipe trenches transversely within the excavation area but not within positions from which relocation or removal is necessary, the utility owner will be responsible for providing and effecting all reasonable measures for their support and protection during construction operations. The Contractor shall cooperate with the utility owner in the owner's effecting such support and protective measures. The Contractor shall be responsible for any damage to the utility that is caused by neglect or failure on the Contractor's part to cooperate and to use proper precaution in performing the Work.

In the event that a temporary relocation of a utility or a particular sequence of timing in the relocation of a utility is necessary, such relocation shall be done only as directed by CFX. CFX will not be responsible for utility adjustments or temporary relocation work or for the conditions resulting therefrom, where such adjustments are: not necessitated by the construction of the Project; or done solely for the benefit or convenience of the utility owner or its contractor (or the Contractor where Contractor's construction procedures are considered by CFX to be other than normal); or not shown on the approved Plans for the utilities relocation or the

construction.

5.9.6.2 Cooperation with Utility Owners: The Contractor shall cooperate with the utility owners in the removal and/or rearrangement of utilities. If utility service is interrupted due to construction operations, the Contractor shall immediately notify the owner of the utility and the CEI and cooperate in the prompt restoration of service. If water service is interrupted, the Contractor's repair work shall be continuous until the service is restored. No Work shall be undertaken around fire hydrants until the local fire authority has approved provisions for continued service.

5.9.6.3 Utility Adjustments: Utility adjustments and reconstruction Work may be underway during the Work. The Contractor shall effectively cooperate, coordinate, and schedule utility adjustments with utility construction crews in maintaining utility service. The Contractor shall use caution when working adjacent to utilities that have been relocated. The Contractor shall repair, at Contractor's expense, damages to relocated utilities resulting from Contractor's operations.

5.9.6.4 Weekly Meetings: Contractor shall conduct weekly meetings on the job site with all the affected utility companies and the CEI in attendance to coordinate Project construction and utility relocation, and shall submit a list of all attendees one week in advance to the CEI for approval.

Provide the approved Work Progress Schedule and Work Plan for the project to document the schedule and plan for road construction and utility adjustments.

When utility relocations no longer affect construction activities, the Contractor may discontinue the meetings with the CEI's approval.

5.10 Responsibility for Damages, Claims, etc.

5.10.1 Contractor to Provide Defense Against Claims and Suits: To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless CFX (its officers, agents and employees) from and against claims, damages, losses and expenses (including but not limited to attorneys' fees), arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom. However, the indemnification herein provided is only to the extent caused in whole or in part by any act, omission or default of the Contractor, subcontractor, sub-subcontractor, materialman, agents of any tier, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described herein. The monetary limit on the indemnification provided

herein to CFX or its officers, agents and employees shall be the total amount of the Agreement in aggregate or the insurance policy amount as required in article 5.11 herein, whichever is greater. The total amount of the Agreement in aggregate will be determined by the date the notice of claim was received by CFX.

In claims against any person or entity indemnified under this subarticle by an employee of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this subarticle shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

The obligations of the Contractor under this subarticle shall not extend to the liability of the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, designs or specification, or (2) the giving of or the failure to give direction or instructions by the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

The Contractor's obligation to indemnify and pay for the defense or, at CFX's option, to participate and associate with CFX in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within seven (7) days of receipt by the Contractor of the CFX notice of claim for indemnification to the Contractor. The notice of claim for indemnification will be served by certified mail.

The Contractor's obligation to indemnify within seven (7) days of receipt of such notice will not be excused because of the Contractor's inability to evaluate liability or because the Contractor evaluates liability and determines the Contractor is not liable or determines CFX is solely negligent. The Contractor will pay all costs and fees related to this obligation and its enforcement by CFX.

This Contract shall not create in the public or any member thereof, a third party beneficiary hereunder or to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Contract.

- 5.10.2 Guaranty of Payment for Claims: The Contractor guarantees the payment of all just claims for Materials, Equipment, supplies, tools or labor and other just claims against the Contractor or any subcontractor in connection with the Contract. Final acceptance and payment by CFX will not release the Contractor's bond until all such claims are paid or released.

5.11 Insurance

Anything contained herein to the contrary notwithstanding, during the term of the Contract and for such additional time as may be further required, the Contractor shall provide, pay for and maintain in full force and effect insurance outlined in subarticles 5.11.1 through 5.11.9 below for coverage at not less than the prescribed minimum limits of liability, covering the Contractor's activities and those of any and all subcontractors (including officers, directors, employees or agents of each and their successors). All insurance shall be provided through companies authorized to do business in the State of Florida and considered acceptable by CFX.

Upon execution of the Contract, the Contractor shall furnish to CFX, Certificates of Insurance bearing an original manual signature of the authorized representative of the insurance company. No Work shall commence under the Contract unless and until the required Certificates of Insurance described herein are in effect and have been approved by CFX. The Certificate of Insurance shall be issued to CFX and shall reference the complete and correct Project number, as well as the full and complete name of each insurance company, including city and state of domicile, as listed by A.M. Best Company. All insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, or as approved by CFX, as defined by A.M. Best and Company's Key Rating Guide. Such Certificates shall provide that in the event of cancellation, non-renewal or material reduction in coverage (including any material reduction of limits of Liability), the insurer will provide thirty (30) days prior notice of such cancellation, non-renewal or material reduction by certified mail to CFX. In addition, certified true copies of all policies shall be provided to CFX upon specific written request. Renewal Certificates of Insurance for all policies shall be submitted by the Contractor so that they are received by CFX no later than thirty (30) calendar days prior to the expiration of existing insurance coverage. Failure by the Contractor to meet this required timeframe will result in suspension of partial payments on monthly estimates until the certificates are received and accepted by CFX.

All insurance coverage required of the Contractor shall be primary and noncontributory over any insurance or self-insurance program carried by CFX.

Excluding Professional and Pollution liability insurance, no liability insurance required herein shall be written under a "claims made" form.

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

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

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

Neither approval by CFX of insurance supplied by the Contractor nor disapproval of that insurance, shall release the Contractor of full responsibility for liability, damages and accidents as otherwise provided by the Contract. The requirement of insurance will not be deemed a waiver of sovereign immunity by CFX.

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide CFX with certificates of same, CFX may obtain such policies and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments. Alternately, CFX may declare CONTRACTOR in default for cause.

5.11.1 Schedule of Required Limits for Workers' Compensation, General Liability and Automobile Liability:

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

5.12 Contract Bond (Public Construction Bond) Required

5.12.1 General Requirements of the Bond: The Contractor shall furnish to CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by CFX. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to CFX. The name, address and telephone number of the surety agent shall be clearly stated on the face of the Public Construction Bond.

5.12.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after CFX's initial approval of the company, then CFX may require that the Contractor immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to CFX. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the Contractor from its payment of premium on the defaulting bond, will be borne by CFX.

5.13 Contractor's Responsibility for Work

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

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

The Contractor will not be held responsible for damage to any landscape items caused by an officially declared hurricane that occurs after the final acceptance of the entire Work but during any remaining portion of the 90-day establishment period.

5.14 Opening Section of Highway to Traffic

When any bridge or section of roadway is, in the opinion of CFX, acceptable for travel, CFX may direct that the bridge or roadway be opened to traffic. Such opening shall not be considered, in any way, to be an acceptance of the bridge or roadway or any part thereof or as a waiver of any provision of the Contract. The Contractor shall make all repairs or renewals due to defective Work or Materials (or for any cause other than ordinary wear and tear) on such opened sections without additional compensation.

5.15 Scales for Weighing Materials

5.15.1 Applicable Regulations: Prior to the use of any scales, the Contractor shall submit to the CEI a copy of a certificate of accuracy for the scales that is not more than 1 year old. All scales which are used for the determination of the weight of Materials upon which compensation will be made by CFX shall conform to the requirements of Chapter 531, Florida Statutes, pertaining to specifications, tolerances and regulations as administered by the Bureau of Weights and Measures of the Florida Department of Agriculture. CFX reserves the right to perform scale checks/inspections at its sole discretion.

5.15.2 Base for Scales: Such scales shall be placed on a substantial horizontal base that will assure proper support, rigidity and maintenance of level of the scales.

5.15.3 Protection and Maintenance: All scale parts shall be in proper condition as to level and vertical alignment and shall be fully protected against contamination by dust, dirt and other matter which might affect operation of the parts.

5.16 Source of Forest Products

As required by Section 255.20, Florida Statutes, all timber, timber piling or other forest products which are used in the construction of the Project shall be produced and manufactured in the State of Florida, price and quality being equal and provided such Materials produced and manufactured in Florida are available.

5.17 Regulations of Air Pollution

5.17.1 General: All Work shall be done in accordance with all Federal, State and local laws and regulations regarding air pollution and burning.

5.17.2 Dust Control: The Contractor shall ensure that excessive dust is not transported beyond the limits of construction in populated areas. Dust control for embankment or other cleared or unsurfaced areas may be by application of water or calcium

chloride, as directed by CFX. Any use of calcium chloride shall be in accordance with Section 102 of the Technical Specifications. When included in the Plans, mulch, seed, sod or temporary paving shall be installed as early as practical. Dust control for storage and handling of dusty materials may be made by wetting, covering or other means as approved by the CEI.

5.17.3 Asphalt Material: Any asphalt used shall be emulsified asphalt unless otherwise stated in the Plans and allowed by Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. Asphalt materials and components shall be stored and handled to minimize unnecessary release of hydrocarbon vapors.

5.17.4 Asphalt Plants: The operation and maintenance of asphalt plants shall be in accordance with Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. A valid permit as required under Chapter 17-2 shall be available at the plant site prior to the start of Work.

5.18 Dredging and Filling

If required by the Work, the Contractor shall comply with Section 370.033, Florida Statutes, regarding obtaining a certificate of registration from the Florida Department of Environmental Protection and keeping accurate records and logs of all dredge and fill activities.

5.19 Erosion Control

This Project will be constructed on properties that may be subject to environmental permits and regulation promulgated by city, county, state, federal, and regional authorities. Requirements for erosion control are included in the Technical Specifications.

5.20 Contractor's Motor Vehicle Registration

The Contractor shall provide proof to CFX that all motor vehicles operated or caused to be operated by the Contractor are registered in compliance with Chapter 320, Florida Statutes. Such proof of registration shall be submitted in the form of a notarized affidavit to CFX. No payment will be made to the Contractor until the required proof of registration is on file with CFX.

5.21 Internal Revenue Service Form W-9

The Contractor shall complete and return with the executed Contract, Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.

5.22 Tolls and Access

The Contractor shall pay all tolls incurred from using CFX's Expressway System to transport personnel, equipment, or materials to and from the site of Work. Any costs incurred by the Contractor in payment of tolls shall be considered incidental and included in associated items. The term "equipment" in this context includes loaders, graders and similar self-propelled equipment, operating under their own power, passing through a toll plaza.

Contractor shall access the Project by existing expressway ramps. No access will be allowed through the right-of-way fence.

5.23 Requests for References or Performance Evaluations

In the event CFX at any time receives any direct or third party inquiry or request concerning the Contractor, its employees or sub-contractors, or the performance of the Contractor, its employees or sub-contractors under this Contract, CFX, at any time and in all cases, may, but shall not be obligated to respond to any such inquiry or request, with or without notice to the Contractor, its employees, or subcontractors, as the case may be, but, in all cases, such response shall be limited to: (1) acknowledging that the Contractor has, or in the past has had, a contract with CFX; (2) the date, term and type of such contract; (3) whether a specified employee or subcontractor worked on the Contract, and if so, in what capacity; (4) whether such contract was terminated early for any reason other than the convenience of CFX; (5) whether such contract was eligible for renewal or extension; and, (6) if such contract was eligible for renewal or extension, whether in fact such contract was renewed or extended. Should the Contractor, its employees, its agents or subcontractors request that any further information be provided in response to such an inquiry or request, such additional information may be provided by CFX, in its sole discretion. Contractor for itself, its employees, its agents and sub-contractors, hereby expressly waives any and all claims of whatever kind or nature that the Contractor, its employees, its agents or sub-contractors may have, or may hereafter acquire, against CFX relating to, or arising out of CFX's response to any and all requests or inquiries concerning the Contractor, its employees or subcontractors under this Contract, or the performance of the Contractor, its employees or subcontractors under this Contract.

5.24 Unauthorized Aliens

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

immediately and unilaterally terminate the Contract for cause.

5.25 Public Records

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

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

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

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

5.27 Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

5.28 Discriminatory Vendor List

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

5.29 Severability

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

will be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

END OF SECTION 5

SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without consent of CFX. The Contractor will be permitted to sublet a portion of the Work but shall perform, with its own organization, Work amounting to not less than 50% of the total Contract amount less the total amount for those Contract items specifically designated as "Specialty Work" below or as otherwise designated as Specialty Work by CFX. The granting or denying of consent under this provision is at CFX's sole discretion. The Certification of Sublet Work request will be deemed acceptable by CFX, for purposes of CFX's consent, unless the Engineer notifies the Contractor within 5 business days of receipt of the Certification of Sublet Work that CFX is not consenting to the requested subletting. If, at any time, a subcontractor is determined to be discriminatory, debarred or suspended by the FHWA, CFX or FDOT, the determination will be considered grounds for removal from the project.

The total Contract amount shall include the cost of Materials, manufactured component products and their transportation to the Project site. Off-site commercial production of Materials and manufactured component products purchased by the Contractor and their transportation to the Project will not be considered subcontracted Work.

If a part of a Contract item is sublet, only its proportional cost will be used in determining the percentage of subcontracted normal Work.

All subcontracts entered into by the Contractor shall be in writing and shall contain all pertinent provisions and applicable requirements of the Contract. All subcontracts shall require subcontractor to indemnify and hold harmless CFX on the same terms as contained in the General Specifications and the Contract. The Contractor shall furnish CFX with a copy of any subcontract requested by CFX. Subletting of Work shall not relieve the Contractor or surety of their respective liabilities.

The Contractor shall ensure that all Subcontractors are competent, careful and reliable. The Contractor shall submit the names and qualifications of all first and second tier subcontractors to CFX for approval prior to their beginning Work on the Project. All first and second tier subcontractors shall have the skills and experience necessary to properly perform the Work assigned and as required by the plans and specifications.

If, in the opinion of CFX, any Subcontractor employed by the Contractor is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such first or second tier subcontractor shall be immediately removed from the Project by the Contractor upon written direction

from CFX. Such subcontractor shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such subcontractor, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the subcontractor is removed. The Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Subcontractor based on the direction of CFX. All subcontracts shall expressly include an acknowledgment of CFX's right to remove any Subcontractor in accordance with this paragraph.

A Subcontractor shall be recognized only in the capacity of an employee or agent of the Contractor.

If the aggregate total of the dollar amount of Work performed by a subcontractor, including equipment rental agreements, equals or exceeds \$20,000, a formal subcontract agreement shall be entered into between the Contractor and the Subcontractor.

6.1.2 Specialty Work: The following Work is designated as Specialty Work:

- Auxiliary Power Unit
- Cleaning, Coating, Injection, Grouting, Grinding, Grooving or Sealing Concrete Surfaces
- Deep Well Installation
- Electrical Work
- Fencing
- Highway Lighting
- Installing Pipe or Pipe Liner by Jacking and Boring
- Installing Structural Plate Pipe Structure
- Landscaping
- Painting
- Plugging Water Wells
- Pressure Grouting
- Pumping Equipment
- Roadway Signing and Pavement Marking
- Riprap
- Removal of Buildings
- Rumble Strips
- Sealing Wells by Injection
- Septic Tank and Disposal System
- Signalization
- Utility Works
- Vehicular Impact Attenuator
- Water and Sewage Treatment Systems

6.2 Work Performed by Equipment Rental Agreement

The limitations set forth in 6.1, regarding the amount of Work that may be subcontracted, do not apply to Work performed by Equipment rental agreements. The Contractor shall notify CFX, in writing, if the Contractor intends to perform any Work through an Equipment rental agreement. The notification shall be submitted to CFX before any rental Equipment is used on the Project. The notification shall include a list of the Equipment being rented, the Work to be performed by the Equipment and whether the rental includes an Equipment operator. Notification to CFX will not be required for Equipment being rented (without operators) from an Equipment dealer or from a firm whose principle business is renting or leasing Equipment.

6.3 Prosecution of Work

6.3.1 Sufficient Labor, Materials and Equipment: The Contractor shall provide sufficient labor, Materials and Equipment to ensure the completion of the Work no later than the Contract completion date.

6.3.2 Impacts by Adjacent Projects: When there is a potential impact between two or more projects due to close proximity or due to logistics in moving labor, Materials, and Equipment between projects, all authorized representatives of the parties performing the projects have a responsibility to communicate and coordinate their work so that impacts to either party are eliminated or mitigated and do not endanger, delay, or create additional work or costs to either party. The Contractor shall not be compensated for any additional costs or delays so incurred by either party.

6.3.3 Submission of Working Schedule: Within 21 calendar days after award of the 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

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;
- b. fails to perform the Work with sufficient workmen and Equipment or with sufficient Materials to assure the prompt completion of the Contract as related to the schedule or;
- c. performs the Work unsuitably or neglects or refuses to remove Materials or;
- d. to perform anew such Work as may be rejected as unacceptable and unsuitable or;
- e. discontinues the prosecution of the Work or;
- f. fails to resume Work which has been discontinued within a reasonable time after notice to do so or;
- g. fails to pay timely its subcontractors, suppliers or laborers or;
- h. submits a false or fraudulent Certificate of Disbursement of Previous Payments form or;
- i. becomes insolvent or is declared bankrupt or;
- j. files for reorganization under the bankruptcy code or;
- k. commits any act of bankruptcy or insolvency, either voluntarily or involuntarily or;
- l. allows any final judgment to stand against it unsatisfied for a period of ten calendar days or;
- m. makes an assignment for the benefit of creditors or;

- n. for any other cause whatsoever, fails to carry on the Work in an acceptable manner or;
- o. if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of CFX.
- p. Failure to ensure that D/M/WBE firms have the maximum opportunity to participate in performance of the Contract shall constitute failing to prosecute the Work in an acceptable manner.

If the Contractor, within a period of 10 calendar days after the notice described above, does not proceed to correct the default, CFX may give notice of default in writing to the Contractor and the surety stating the nature of the default and providing the amount of time which will be allowed to correct the default.

If the Contractor (within the curative period described in the notice of default) does not correct the default, CFX will have full power and authority to remove the Work from the Contractor and to declare the Contract in default and terminated.

If the Contract is declared in default, CFX may require the Contractor's surety to take over and complete the Contract performance. Upon the failure or refusal of the surety to assume the Contract within the time demanded, CFX may take over the Work covered by the Contract.

CFX shall have no liability for profits related to unfinished Work on a Contract terminated for default.

- 6.9.2 Public Interest Termination of Contract: CFX may, by written notice, terminate the Contract or a portion thereof after determining that, for reasons beyond either CFX or Contractor control, the Contractor is prevented from proceeding with or completing the Work as originally contracted for, and that termination would therefore be in the public interest. Such reasons for termination may include but need not be necessarily limited to, executive orders of the President relating to prosecution of war or national defense, national emergency which creates a serious shortage of Materials, orders from duly constituted authorities relating to energy conservation and restraining order or injunctions obtained by third-party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor.

When the Contract or any portion thereof, is terminated (as aforesaid) before completion of all items of Work in the Contract, payment will be made for the actual number of units or items of Work completed, at the Contract unit price or as mutually agreed for items of Work partially completed. No claims for loss of anticipated profits will be considered.

Reimbursement for mobilization expenses (when not otherwise included in the Contract), including moving Equipment to the job, will be considered where the

volume of Work completed is too small to compensate the Contractor for these expenses under the Contract unit prices; the intent being that an equitable settlement will be made with the Contractor.

Acceptable Materials procured by the Contractor for the Work, that have been inspected, tested, and approved by CFX and that are not incorporated in the Work, may be purchased from the Contractor at actual cost, as shown by receipted bills and actual cost records, at such points of delivery as may be designated by CFX.

Termination of the Contract or a portion thereof, under the provisions of this subarticle, shall not relieve the Contractor of Contractor's responsibilities for the completed portion nor shall it relieve Contractor's surety of its obligation for, and concerning any just claims arising out of, the Work performed.

CFX may also, upon seven days written notice to the Contractor, without cause and without prejudice to any other right or remedy of CFX, elect to terminate the Contract. In such case, the Contractor will be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, in accordance with existing pay items;
2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, Materials or Equipment as required by the Contract Documents in connection with uncompleted Work, plus mutually agreeable sums for overhead and profit on such expenses.

The Contractor shall not be paid because loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

- 6.9.3 Completion of Work by CFX: Upon declaration of default and termination of the Contract, CFX will have the right to appropriate or use any or all Materials and Equipment on the sites where Work is or was occurring which are suitable and acceptable and may enter into agreements with others for the completion of the Work under the Contract or may use other methods which in the opinion of CFX are required for Contract completion. All costs and charges incurred by CFX because of or related to the Contractor's default (including the costs of completing Contract performance) shall be charged against the Contractor. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the Contractor and the surety shall be jointly and severally liable and shall pay CFX the amount of the excess.

6.10 Liquidated Damages for Failure to Complete the Work

6.10.1 Liquidated Damages for Failure to Complete the Work: The Contractor shall pay to CFX liquidated damages in the amount specified in the Special Provisions per calendar day for failure of the Contractor to complete the Work within the Contract time stipulated or within such additional time as may have been granted by CFX.

6.10.2 Determination of Number of Days of Default: Default days shall be counted in calendar days.

6.10.3 Conditions Under Which Liquidated Damages are Imposed: If the Contractor (or in circumstance of the Contractor default, the surety) fails to complete the Work within the Contract time stipulated or within such extra time as may have been granted by CFX, the Contractor (or the surety) shall pay to CFX, not as a penalty but as liquidated damages, the amount due.

6.10.4 Right of Collection: CFX reserves the right, at its sole option, to apply as payment on liquidated damages due any money which is due the Contractor by CFX.

6.10.5 Allowing the Contractor to Finish Work: Allowing the Contractor to continue and to finish the Work or any part of it, after the expiration of the Contract time allowed, including time extensions, shall in no way act as a waiver on the part of CFX of the liquidated damages due under the Contract.

6.10.6 Liability for Liquidated Damages: In the event of default of the Contract and the completion of the Work by CFX, the Contractor and the Contractor's surety shall be liable for the liquidated damages under the Contract. No liquidated damages shall be chargeable for any delay in the final completion of the Work due to any unreasonable action or delay on the part of CFX.

6.11 Release of Contractor's Responsibility

The Contract will be considered completed when all Work has been finally accepted, in writing, by CFX. The Contractor will then be released from further obligation except as set forth in the Public Construction Bond and as provided in subarticle 3.9.5, Recovery Rights Subsequent to Final Payment.

6.12 Recovery of Damages Suffered by Third Parties

In addition to liquidated damages, CFX may recover from the Contractor amounts paid by CFX for damages suffered by third parties unless the failure to timely complete the Work was caused by CFX acts or omissions.

6.13 Express Warranty

The Contractor warrants and guarantees the Work to the full extent provided for in and required by the Contract Documents. Without limiting the foregoing or any other liability or obligation with respect to the Work, the Contractor shall, at its expense and by reason of its express warranty, make good any faulty, defective, or improper parts of the Work discovered within one (1) year from the date of final acceptance of the Project, expressed in writing, by CFX. The Contractor also warrants that all materials furnished hereunder meet the requirements of the Contract Documents and expressly warrants that they are both merchantable and fit for the purpose for which they are to be used under the Contract Documents.

Should any subcontractor or material supplier of Contractor provide an express warranty for its work or materials to the Contractor which is thereafter assigned to CFX or provide a warranty for its work or materials directly to CFX, such warranty shall not preclude CFX from the exercise of any alternative means of relief against Contractor, whether contractual, extra-contractual, statutory, legal or equitable.

END OF SECTION 6

SECTION 7 - MEASUREMENT AND PAYMENT

7.1 Measurement of Quantities

7.1.1 Measurement Standards: Unless otherwise stipulated, all Work completed under the Contract shall be measured by CFX according to United States Standard Measures.

7.1.2 Method of Measurements: All measurements shall be taken horizontally or vertically unless otherwise stipulated. 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 RRBBOCE ownership cost plus 100% of the RRBB and/or RRBBOCE operating costs.
- 2.) Reimbursement for Equipment directed to standby and remain on the project site shall be at 50% of the lesser of the actual rental rate or RRBB and/or RRBBOCE ownership cost only. No more than 8 hours of standby will be paid in a single day.
- 3.) Costs shall be provided on an hourly basis. Hourly rates, for Equipment being operated or on standby, shall be established by dividing the lesser of actual monthly rental rate or the RRBB and/or RRBBOCE monthly rates by 176. The columns, itemizing rates, labeled “Weekly”, “Daily” and “Hourly” shall not be used.
- 4.) No additional overhead will be allowed on Equipment costs.

Allowable Hourly Equipment Rate = Monthly Rate/176 x Adjustment Factors x 100%

Allowable Hourly Operating Cost = Hourly Operating Cost x 100%

Allowable Rate Per Hour = Allowable Hourly Equipment Rate + Allowable Hourly Operating Cost

Standby Rate = Allowable Hourly Equipment Rate x 50%

The Monthly Rate is the Basic Machine Rate plus any Attachments. Standby rates will apply when machinery or Equipment is not in operation and is directed by CFX to stand by at the Project site when needed again to complete work and the cost of moving the Equipment will exceed the accumulated standby cost. Standby rates will not apply to any day the

Equipment operates for eight or more hours. Standby payment will be limited to only the number of hours which, when added to the operating time for that day, equals eight hours. Standby payment will not be made on days that are not normally considered workdays on the project.

Transportation to and from the location at which the Equipment will be used will be allowed. If the Equipment requires assembly or disassembly for transport, the time for this will be paid at the rate for standby Equipment.

The markups in 1) through 4) above include all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

(d) Subcontractor Work

The Contractor will be allowed a markup of 10% on the first \$50,000 and a markup of 5% on any amount over \$50,000 on any subcontract directly related to the alteration, change, additional or unforeseen Work. A subcontractor mark-up will be allowed only by the prime Contractor and a first tier subcontractor.

(e) Insurance, Bond and Taxes:

A markup of 1.5% will be allowed on the overall total cost of the alteration, change, additional or unforeseen Work for insurance and bond on the prime Contractor's bond. The markup includes all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

Subcontractors who actually perform the alterations, changes, additional or unforeseen Work will be allowed all markups specified herein.

- 7.4.2 Records: The compensation as herein provided shall be accepted by the Contractor as payment in full for extra Work done on a force account basis. The Contractor and CFX shall compare records of extra Work done on a force account basis at the end of each day. Copies of these records shall be duplicated by CFX and signed by both CFX and the Contractor.

All claims for extra Work done on a force account basis shall be submitted by the Contractor upon certified statements, to which shall be attached original receipted bills covering the costs of the transportation charges on all Materials used in such Work. However, if Materials used on the force account Work are not specifically purchased for such Work but are taken from the Contractor's stock, then in lieu of

the invoices, the Contractor shall furnish an affidavit certifying that such Materials were taken from Contractor's stock, that the quantity claimed was actually used and that the price and transportation claimed represent actual cost to the Contractor.

7.4.3 Preliminary Order-of-Magnitude Estimate: As a condition precedent to beginning work designated as Force Account, the CEI in coordination with the Contractor will prepare a Preliminary Order-of-Magnitude Estimate of the contemplated work. The purpose of this Preliminary Order-of-Magnitude Estimate is to establish the scope of work, the approach, applicable rates, the estimated duration, and the required documentation necessary to monitor the work for final payment.

7.5 Deleted Work

CFX shall have the right to cancel the portions of the Contract relating to the construction of any acceptable item therein by payment to the Contractor of a fair and equitable amount covering all items of cost incurred prior to the date of cancellation or suspension of the Work by CFX.

7.6 Partial Payments

7.6.1 General: The Contractor will receive partial payments on monthly estimates, based on the amount of Work done or completed (including delivery of certain Materials as specified below) and reflected in the Application for Payment. The monthly payments shall be approximate only and all partial estimates and payments will be subject to correction in the subsequent estimates and the final estimate and payment.

The amount of such payments shall be the total value of the Work done to the date of the estimate based on the quantities and the Contract unit prices less an amount retained and less payments previously made. In addition to other retainage held as may be described elsewhere, the amount retained shall be determined in accordance with the following schedule:

<u>% Contract Amount Completed</u>	<u>Amount Retained</u>
0 to 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 paving or base construction operations begin except when a construction sequence designated by the CEI requires suspension of paving and base construction after the initial paving operations, partial payments will be reinstated until the paving and base construction resumes.

7.6.4.3 Off Site Storage: If the conditions of subarticle 7.6.4.1 are satisfied, partial payments will be allowed for materials stockpiled in approved in-state locations. Additionally, partial payments for materials stockpiled in approved out-of-state locations will be allowed if the conditions of subarticle 7.6.4.1 and the following conditions are met:

- 1) Furnish CFX a Materials Bond stating the supplier guarantees to furnish the material described in the Contract to the Contractor and CFX. Under this bond, the Obligor shall be the material supplier and the Obligees shall be the Contractor and the Central Florida Expressway Authority. The bond shall be in the full dollar amount of the bid price for the materials described in the Contract Documents.
- 2) The following clauses shall be added to the contract between the Contractor and the supplier of the stockpiled materials:

“Notwithstanding anything to the contrary, <supplier> will be liable to the Contractor and the Central Florida Expressway Authority should <supplier> default in the performance of this agreement.”

“Notwithstanding anything to the contrary, this agreement, and the performance bond issued pursuant to this agreement, does not alter, modify, or otherwise change the Contractor’s obligation to furnish the materials described in this agreement to the Central Florida Expressway Authority.”

3) The agreement between the Contractor and the supplier of the stockpiled materials shall include provisions that the supplier will store the materials and that such materials are the property of the Contractor.

7.6.5 Certification of Payment to Subcontractors: Prior to receipt of any progress (partial) payment, the Contractor shall certify that all subcontractors having an interest in the Contract have received their pro rata share of previous progress payments from the Contractor for all work completed and Materials furnished the previous period. This certification shall be in the form designated by CFX. The term “subcontractor”, as used herein, shall also include persons or firms furnishing Materials or Equipment incorporated into the Work or stockpiled in the vicinity of the Project for which partial payment has been made by CFX and Work done under Equipment-rental agreements.

On initial payment, the Contractor shall assure that all subcontractors and Materials suppliers having an interest in the Contract receive their share of the payments due. CFX will not make any progress payments after the initial partial payment until the Contractor certifies pro rata shares of the payment out of previous progress payments received by the Contractor have been disbursed to all subcontractors and suppliers having an interest in the Contract, unless the Contractor demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both CFX and the affected subcontractors and suppliers. Contractor shall execute and submit a Certification of Disbursement of Previous Payments form, supplied by CFX, with each payment request after the initial request. Submitting a false or fraudulent certification will result in a determination of default by the Contractor in accordance with Article 6.9.1 of these General Specifications.

7.6.6 Reduction of Payment for Unsatisfactory Services or Products

If any defined action, duty or service, part or product required by the Contract is not performed by the Contractor, the value of such action, duty or service or part thereof will be determined by CFX and deducted from any invoice or monthly billing period claiming such items for payment.

If the action, duty or service, part or product thereof has been completed and is determined to be unsatisfactory by CFX, the Contractor will be notified and given the opportunity to correct any deficiencies within a time certain. Payment (for the unsatisfactory Work) will be withheld by CFX from any invoice or monthly billing period until the Work is determined to be acceptable.

7.7 Record of Construction Materials

7.7.1 General: For all construction Materials used in the construction of the Project (except Materials exempted by Subarticle 7.7.2), the Contractor shall preserve for inspection by CFX all invoices and records of the Materials for a period of 3 years from the date of completion of the Project. This requirement shall also apply to Materials purchased by subcontractors. The Contractor shall obtain the invoices and other Materials records from the subcontractors.

Not later than 30 days after the date of final completion of the Project, the Contractor shall furnish to CFX a certification of construction Materials procured for the Project by the Contractor and all subcontractors. The certification shall consist of an affidavit completed on a form furnished by CFX.

7.7.2 Non-Commercial Materials: The requirement to preserve invoices and records of Materials shall not apply to Materials generally classed as non-commercial such as fill Materials local sand, sand-clay or local Materials used as stabilizer.

7.8 Disputed Amounts Due Contractor

CFX reserves the right to withhold from the final estimate any disputed amounts between the Contractor and CFX. Release of all other amounts due shall be made as provided in Article 7.9.

7.9 Acceptance and Final Payment

When the Work of the Contract has been completed by the Contractor and the final inspection and final acceptance have been given by CFX, a tentative final estimate showing the value of the Work will be prepared by CFX as soon as the necessary measurements and computations can be made, usually within 30 days of final acceptance. All prior estimates and payments will be subject to correction in the final estimate and payment. The Contractor and CFX will have 30 days from the date of the tentative final estimate to resolve any outstanding issues. At the end of the 30 days, CFX will make a written Offer of Final Payment. Provided that the requirements of A) through J) of this Article have been met, the amount of the Offer of Final Payment, less any sums that may have been deducted or retained under the provisions of the Contract will be paid to the Contractor as soon as practicable.

A) The Contractor has submitted written acceptance of the balance due, as determined by CFX, as full settlement of the Contractor's account under the Contract and of all claims in connection therewith.

Or, the Contractor shall accept the balance due with the stipulation that acceptance of such payment will not constitute any bar, admission or estoppel or have any effect as to those payments in dispute or the subject of a pending claim between the Contractor and CFX. The Contractor shall define the dispute or pending claim in writing in the form of a qualified acceptance letter with full particulars of all items/issues in dispute including itemized amounts claimed. Failure by the Contractor to provide either a written acceptance letter or qualified acceptance letter within 60 calendar days of the Offer of Final Payment shall constitute full acceptance of the balance due without qualification.

If the Contractor provides a qualified acceptance letter, then the Contractor agrees that a complete claim package in accordance with Article 2.4 of the General Specifications, and limited to the particulars in the qualified acceptance letter, will be provided within 120 calendar days of the Offer of Final Payment. Additionally, the Contractor agrees that any pending or future arbitration must be limited to the particulars in the qualified acceptance letter and must begin within 210 calendar days from the date of the Offer of Final Payment.

- B) The Contractor has properly maintained the Project as specified hereinbefore.
- C) The Contractor has furnished a sworn affidavit to the effect that all bills are paid and no suits are pending (other than those exceptions listed if any) in connection with the Work of the Contract and that the Contractor has not offered or made any gift or gratuity to or made any financial transaction of any nature with, any employee of CFX. Tort liability exceptions, if any, shall be accompanied by evidence of adequate insurance as required in Article 5.11 of these General Specifications.
- D) The surety on the Public Construction Bond has consented (by completion of its portion of the affidavit and surety release) to final payment to the Contractor and agrees that the making of such payment shall not relieve the surety of any of its obligations under the bond.
- E) The Contractor has submitted all mill tests and analysis reports to CFX.
- F) The Contractor has submitted insurance certificates for extended coverage as required by Article 5.11 of these General Specifications.
- G) The Contractor has previously submitted As-built Drawings as required by

Article 3.3.1 of these General Specifications.

- H) The Contractor has submitted the completed density log book as required by Article 120-10.4.2 of the Technical Specifications.
- I) The Contractor has submitted the final material testing certification as required by Article 105-6 of the Technical Specifications.
- J) The Contractor has submitted all warranties and operation and maintenance manuals required by various Articles and Subarticles of Specifications.

If the Contractor fails to furnish all required Contract Documents listed in B) through J) of this Article within 90 calendar days of the Offer of Final Payment, CFX may deduct from the retainage due the Contractor, \$1,000 for each calendar day beyond the 90 calendar days that the Contractor fails to provide the required Contract Documents.

7.10 Offsetting Payments

If payment of any amount due CFX after settlement or arbitration is not made by the Contractor within 60 days, CFX may, at its sole discretion, offset such amount from payments due the Contractor for Work performed under any other contract with CFX, excluding amounts owed to subcontractors, suppliers and laborers. Offsetting any amount in this manner shall not be considered a breach of the Contract by CFX.

END OF SECTION 7

SECTION 8 – DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE
(D/M/WBE) PARTICIPATION

- 8.1 General: The Contractor is encouraged to continue to meet or demonstrate the participation objectives could not be met. At any time, CFX's Executive Director may grant a partial or complete waiver of the D/M/WBE objective for the Project due to consideration of property, public safety, and health, including financial impact to CFX.

CFX has provided an exception for the Contractor's failure to meet the participation objective established for this project. The exception requires that the Contractor provide CFX with documentation supporting the Contractor's Good Faith Effort to meet the stated objective. CFX will have the sole and final determination of whether the support documentation provided by the Contractor does, in fact, meet CFX's standard for a Good Faith Effort as detailed in this Section 8. The Contractor shall demonstrate, through documentation, that every reasonable effort has been made to achieve CFX's participation objective. The Contractor shall be responsible for securing proof of the D/M/WBE certification(s) for the proposed subcontractors/suppliers and be able to provide copies of the certification(s) to the CFX's Supplier Diversity Office.

The Contractor shall meet or exceed the commitment stated in the Contractor's D/M/WBE Utilization Summary (page P-6 of the Proposal). Should the Contractor's D/M/WBE participation fall below the approved level for any reason whatsoever, or should the Contractor substitute or self-perform work identified for a D/M/WBE subcontractor/supplier without prior written approval of CFX, the Contractor will be considered by CFX to be in material breach of the Contract. If found in breach of the Contract, the Contractor may be suspended from bidding on and/or participating in any further CFX projects for up to one (1) year as provided in Section 15 of CFX's Supplier Diversity Policy.

Any change in the D/M/WBE Utilization Summary will require prior approval by the CFX Director of Supplier Diversity. Should the Contractor determine that a subcontractor/supplier named in the Utilization Summary is unavailable or cannot perform the work, the Contractor shall request approval of a revised D/M/WBE Utilization Summary. The revised summary shall be submitted, in writing, to the CFX Supplier Diversity Office at 4974 ORL Tower Road, Orlando, Florida 32807, or by facsimile to (407) 690-5011.

The Contractor will not be allowed to perform Work with its forces that has been identified on the Utilization Form to be performed by D/M/WBE firms. If a D/M/WBE subcontractor is unable to successfully perform the Work, the Contractor shall make a Good Faith Effort to replace that firm with another D/M/WBE firm. In evaluating a Contractor's Good Faith Efforts, CFX will consider:

- (1) Whether the Contractor, provided written notice to certified D/M/WBEs performing the type of Work that the Contractor intends to subcontract, advising

the D/M/WBEs (a) of the specific Work the Contractor intends to subcontract; and (b) that their interest in the Contract is being solicited;

- (2) Whether the Contractor provided interested D/M/WBEs assistance in reviewing the Contract Plans and Specifications;
- (3) Whether the Contractor assisted interested D/M/WBEs in obtaining any required bonding, lines of credit, or insurance;
- (4) Whether the Contractor's efforts were merely pro forma and given all relevant circumstances, could not reasonably be expected to produce sufficient D/M/WBE participation to meet the objective.

The above list is not intended to be exclusive or exhaustive and CFX will look not only at the different kinds of efforts that the Contractor has made but also the quality, quantity and intensity of these efforts.

8.2 Disadvantaged, Minority and Women Owned Businesses - Participation Objective

8.2.1 General: The Contractor shall ensure that D/M/WBE as defined herein will have the maximum opportunity to participate in the performance of subcontracts. In this regard, the Contractor shall take all necessary and reasonable steps to accomplish that result.

8.2.2 Definitions: The following words and phrases shall have the respective meanings set forth below unless a different meaning is plainly required by the context:

- (1) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States or lawfully admitted permanent residents and who are women, Black Americans, Hispanic American, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Individuals in the following groups are presumed to be socially and economically disadvantaged:
 - (a) "Black Americans", which includes persons having origins in any of the black racial groups of Africa;
 - (b) "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;
 - (c) "Asian-Pacific Americans", which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the

Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas;

- (d) “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (e) “Asian-Indian Americans”, which includes persons whose origins are from India, Pakistan, and Bangladesh; and
 - (f) “Women”.
- (2) “Joint Venture” means an association of two or more firms to carry out a single business enterprise for which purpose the firms combined their property, money, effects, skills or knowledge.
 - (3) “Certified” means a finding by Orange County, Florida, the City of Orlando, Florida, and Florida Department of Transportation that the business is a bona fide Minority, Women or Disadvantaged owned and operated business.
 - (4) “Independently Owned and Operated” means a business that is not affiliated or associated with the general contractor or prime contractor providing work or services on CFX project(s) or procurement in which the D/M/WBE seeks to participate. Affiliated status may be determined through common ownership, management, employees, facilities, inventory or any other factors, which would prevent or inhibit independent status
 - (5) “Women Business Enterprise” comprises all women. All women business owners will be classified as a Women Business Enterprise.

8.2.3 Specific Requirements: The Contractor shall, among other things, implement techniques to facilitate D/M/WBE participation in contracting activities including, but not limited to:

- 1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations;
- 2. Providing assistance to D/M/WBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance;
- 3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate;

4. Contacting Minority Contractor Associations, city, and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible D/M/WBE contractors to apply for certification.
 5. Meeting with appropriate officials of CFX, including its Supplier Diversity Office, to assist with the Contractor's efforts to locate D/M/WBEs and assist with developing joint ventures, partnering, and mentorship.
- 8.2.4 Qualified Participation: CFX will count D/M/WBE participation toward meeting D/M/WBE objective as follows:
1. The total dollar value of the contract to be awarded to the certified D/M/WBE will not be counted toward the applicable D/M/WBE objective unless approved by CFX.
 2. A portion of the total dollar value of a contract, with an eligible joint venture, equal to the percentage of the ownership and control of the D/M/WBE partner in the joint venture may be counted toward the D/M/WBE objective.
 3. Only expenditures to D/M/WBEs that perform a commercially useful function may be counted toward the D/M/WBE objective. A D/M/WBE is considered to perform a commercially useful function when it actually performs and manages at least 51 percent of the work subcontracted to it. To determine whether a D/M/WBE is performing a commercially useful function, CFX will evaluate all relevant factors such as the amount of Work subcontracted and industry practices.
 4. Consistent with normal industry practices, a D/M/WBE may enter into subcontracts. If a D/M/WBE subcontracts 50 percent or more of the Work assigned to it, the D/M/WBE shall be presumed not to be performing a commercially useful function.
 5. Expenditures for materials and supplies obtained from D/M/WBE suppliers and manufacturers may be counted toward the D/M/WBE objective, provided that the D/M/WBEs assume the actual and contractual responsibility for the provision of the materials and supplies. The percentage allowed toward the D/M/WBE objective is as follows:
 - (a) All expenditures to a D/M/WBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale) may be counted toward the D/M/WBE objective.

- (b)
 - 1. A Contractor may count toward its D/M/WBE objective 60 percent of its expenditures for materials and supplies required under a contract and obtained from a D/M/WBE regular dealer, and 100 percent of such expenditures to a D/M/WBE manufacturer.
 - 2. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.
 - 3. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this Section.

- (c) A Contractor may count toward the D/M/WBE objective for the following expenditures to D/M/WBE firm(s) that are not manufacturers or regular dealers:
 - 1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials of supplies required for performance of the Contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - 2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.

3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
4. Those sums that, subsequent to the receipt of bids, CFX elects, under the provisions of the Direct Materials Purchase Option, to purchase materials originally proposed by the Contractor to CFX to have been an element of the Work of a certified D/M/WBE contractor/subcontractor/vendor.

8.2.5 Records and Reports: The Contractor shall develop a record keeping system to monitor its D/M/WBE participation and shall maintain the following records:

1. the procedures adopted to comply with these special provisions;
2. The number of subordinated contracts on CFX projects awarded to D/M/WBEs;
3. the dollar value of the contracts awarded to D/M/WBEs;
4. the percentage of the dollar value of all subordinate contracts awarded to D/M/WBEs as a percentage of the total contract amount;
5. a description of the general categories of contracts awarded to D/M/WBEs;
6. the specific efforts employed to identify and award contracts to D/M/WBEs;
7. maintenance of records of payments and monthly reports to CFX;
8. Subcontract Agreement between Contractor and D/M/WBE subcontractors;
and
9. any other records required by CFX's Project Manager or Executive Director.

The records maintained by the Contractor in accordance with this Section shall be provided to CFX for review within 48 hours of the CFX request. The Contractor shall submit a properly executed D/M/WBE Payment Certification monthly during the life of the D/M/WBE subcontract whether payment is made or not.

8.3 Subletting of Contracts - Participation Objective

No request to sublet Work will be approved unless it is in compliance with the Contractor's approved D/M/WBE Utilization Form "Certification of Subcontract Amount to D/M/WBE Contractor", shall be completed and submitted with the Request for Authorization to Sublet Work. One copy of the certification will be attached to each copy of the Request for Authorization to Sublet Work.

END OF SECTION 8

SECTION 9 - BINDING ARBITRATION

9.1 CFX and the Contractor shall submit any and all unsettled claims, counterclaims, and disputes to the Disputes Review Board (DRB) prior to initiating a demand for arbitration pursuant to this Section.

9.2 No demand for arbitration of any claim, dispute or other matter referred to the DRB initially for decision will be made until after final acceptance, per Article 3.9, of all Contract Work by CFX. The filing party shall pay all applicable fees associated with requested arbitration proceedings.

The failure to demand arbitration within thirty (30) days after final acceptance will result in the DRB's decision being final and binding upon CFX and Contractor.

9.3 Notice of the demand for arbitration is satisfied when it is filed in writing with the other party to the Contract and with the American Arbitration Association (including required fees). A copy will be sent to the Board for information.

9.4 The arbitration shall occur in Orlando, Florida and shall be conducted by a three (3) member panel pursuant to and under the auspices of the Construction Industry Arbitration Rules of the American Arbitration Association.

9.5 Procedure for Binding Arbitration

Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations of this Section. The agreement to arbitrate (and any other agreement or consent to arbitrate entered into in accordance herewith) will be specifically enforceable under the laws of Florida.

Arbitration shall include by consolidation, joinder or in any other manner any person or entity who is not a party to the Contract in circumstances where:

- the inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration, and
- such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings, and
- the written consent of the other person or entity sought to be included and of CFX and Contractor has been obtained for such inclusion, which consent shall make specific reference to this paragraph.

In order to assure complete resolution of any claim or controversy, the Contractor shall provide and require (in the agreements with subcontractors and material suppliers) for joinder in such arbitration proceedings. Therefore, if a claim, dispute or other matter in question between CFX and Contractor involves the work of a Subcontractor, either CFX or Contractor may join such subcontractor as a party to the arbitration. Nothing in this paragraph or in the provision of such subcontract consenting to joinder shall create any claim, right or cause of action in favor of subcontractor or supplier, and against CFX, CEI, or any of their consultants that does not otherwise exist.

In connection with the arbitration proceedings all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

END OF SECTION 9

SECTION 10 - DISPUTES RESOLUTION

10.1 Disputes Resolution

10.1.1 Disputes Review Board

A Disputes Review Board (“Board”) will be established to assist in the resolution of disputes arising out of the Work on the Project. This document describes the purpose, procedure, function and features of the Board.

The Board will provide special expertise to assist and facilitate the timely and equitable resolution of disputes and controversies between CFX and the Contractor in an effort to avoid construction delays and future claims.

It is not intended for CFX or the Contractor to avoid the normal responsibility to cooperatively and fairly settle differences by indiscriminately requesting dispute resolution by the Board. It is intended the Board encourage CFX and the Contractor to first try resolving potential disputes without resorting to the procedure set forth herein.

The Board will be used only when the claims procedure detailed in the Contract has been followed and has been unsuccessful. It is a condition of the Contract that the parties use the Board. Adherence to the Contract claims procedure is a condition precedent to the submission of a dispute to the Board, and the submission of an unresolved dispute to the Board is, in turn, a condition precedent to arbitration of such issue.

The Board will fairly and impartially consider disputes referred to it. The Board will receive testimony and other relevant evidence regarding such disputes, will analyze the facts within the parameters of the Contract, and will then provide written recommendations (to CFX and Contractor) to assist in the resolution of the disputes. The recommendations of the Board will not be binding on either CFX or the Contractor; however, the Board’s recommendations and findings shall be admissible for all purposes in any subsequent arbitration proceedings or the judicial enforcement thereof.

10.1.2 Continuance of Work During Dispute

During the dispute resolution process the Contractor shall conform to the CEI’s decision or order and continue with the Work as directed by the CEI in a diligent manner and without delay. Such Work will be governed by all applicable provisions of the Contract. With respect to any protested Work, the Contractor will keep complete records of extra costs and time incurred. Except for sealed Bid Records, the Contractor will permit CEI and the Board access to any records needed for evaluating the dispute, without any claim of privilege or confidentiality.

10.1.3 Disputes Review Board Membership

The Board will consist of three Members, one Member selected by CFX and approved by the Contractor, and one Member selected by the Contractor and approved by CFX. The first two Members will mutually select and agree on the third Member, which third Member shall not be subject to approval by either the Contractor or CFX. Normally, the third Member will act as Chairman for all Board activities. If the third Member declines to act as Chairman, the Members shall select an alternative Chairman. Neither the Contractor nor CFX shall seek to influence the Chairman selection decision.

The Contractor and CFX shall each submit the name and credentials of their proposed Member to the other within ten (10) days of the Contract award. The two Members, upon acceptance, shall meet promptly and mutually agree on the third Member. A Notice to Proceed shall not be issued until the Board Members have been selected and have signed the Three-Party Agreement. All three Members shall attend the Pre-Construction Meeting.

All Board Members shall be experienced with major road and bridge construction and the associated construction methods involved in the Project, in the interpretation of contract documents and in contract dispute resolution. The goal in selecting the third Member is to complement the construction experience of the first two Members and to provide leadership of the Board's activities.

It is imperative that Board Members show no partiality to either the Contractor or CFX, or have any conflict of interest.

The criteria and limitations for membership will be as follows:

- a. The person selected will not have any direct or indirect ownership or financial interest in (i) the Contractor, (ii) CEI or the CFX General Engineering Consultant ("GEC"), (iii) any subcontractor or supplier of the Project, or (iv) the employer of other Board Members.
- b. Except for services as a Board Member on CFX projects, no Member shall have been an employee, contractor or consultant to the Contractor or CFX, CEI, the GEC or any subcontractor or supplier for the Project within a period of ten (10) years prior to the Contract award.
- c. No Member will have had a close personal, professional or business relationship with CFX or the Contractor (or an employee or officer of CFX or the Contractor).
- d. No Member will have had any prior involvement in the Project (other than as a dispute board member) of a nature which could be construed to compromise an ability to impartially resolve disputes.

- e. No Member will be employed by the Contractor, the CEI, the GEC or any subcontractor or supplier of the Project during the term of the Contract, except as a Board Member pursuant to the Three Party Agreement.
- f. During the term of the Contract no discussion or agreement will be made between a Board Member and CFX or Contractor regarding employment after the Contract is completed.
- g. During the term of the Contract, ex-parte communications between a Board Member and a party to the Three Party Agreement is prohibited.

Before appointments are final, the first two prospective Members will submit complete disclosure statements for the approval of both CFX and the Contractor. Each statement (in the form prepared by CFX) will include a statement of experience and a declaration describing all past, present and anticipated or planned future relationships to the Project and with the parties to the Contract. Disclosure of professional or personal relationships with parties to the Contract will be included. The third Board Member will supply a similar statement to the first two Board Members (and to CFX and the Contractor) before the third Member appointment is finalized.

CFX and the Contractor will each select a Member, execute the Three Party Agreement (described below) and assure the Members execute the Three-Party Agreement within the first three (3) weeks after Contract award. CFX and the Contractor will immediately notify the selected Members to begin selection of the third Member. The first two Members will ensure the third Member meets all of the criteria listed above. The third Member will be selected within two (2) weeks after the first two Members are notified to proceed with the selection of the third Member. If there is an impasse in the selection of the third Member, the third Member will be selected by CFX and the Contractor, with the first consideration to the nominees reviewed by the first two Members.

In the event of death, disability or resignation of a Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for whatever other reason a Member fails or is unable to serve, the Chairman (or failing the action of the Chairman, then either of the other Members) shall inform the parties and such non-serving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within fifteen (15) days after the event giving rise to the vacancy on the Board, failing which the replacement shall be made by the two remaining Members of the Board. Replacement shall be considered completed when the new Member executes the Dispute Review Board Three Party Agreement.

10.1.4 Board Operations

The Board will formulate procedures of operation that shall be flexible with respect to the functioning of the Board. The Board may formulate new or revised procedures respecting its operation from time to time to accommodate the needs of the Board and the circumstances.

Each Board Member shall be provided a complete set of the Contract Documents. CFX and the Contractor shall keep the Board informed of construction activity and progress by submitting written progress reports and other relevant data at least monthly. The Board will visit the Project at regular intervals and/or at times of critical construction events and meet with CEI and the Contractor. In circumstances of unresolved disputes, the Board will meet at least monthly until the unresolved disputes are concluded. The frequency of visits will be agreed upon by CFX, the Contractor and the Board, depending upon the progress of the Work.

Regular meetings will be held at the job site. Each meeting will consist of an informal discussion and a field inspection of the Work. The informal discussion will be attended by selected personnel from CFX, the CEI and the Contractor. Agenda for regular meetings of the Board will generally include the following:

- a. Meeting opened by the Chairman of the Board.
- b. Remarks by the CEI.
- c. A description by the CEI and the Contractor of Work accomplished since the last meeting, current status of the Work schedule, schedule for the future, potential problems and proposed solutions to anticipated problems.
- d. Discussion by the CEI of Work schedule, potential new disputes or claims, status of past disputes and claims and other issues.
- e. Set a date for next meeting.

The CEI will prepare minutes of all Board meetings and circulate them for comments, revisions and/or approval by all concerned.

The field inspection will cover all active segments of the Work. The Board will be accompanied by representatives of both the CEI and the Contractor. Soliciting any Board Member's advice or consultation regarding the Work or the Contract is expressly prohibited.

10.1.5 Procedure for Disputes Resolution

Disputes will be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Steps may be omitted as agreed by both parties and the time periods stated below may be shortened in order to hasten resolution.

- a. If either CFX or Contractor object to any decision of the CEI with respect to claims, change order requests, or other actions or orders of the CEI, the objecting party may file a written protest with the CEI within fifteen (15) days after the CEI's disputed decision, action or order. The written protest must clearly state in detail the basis for the objection.
- b. The CEI will consider the written protest to its decision or directive, and make a final decision on the basis of the pertinent Contract provisions, together with the facts and circumstances involved in the protest. The decision will be furnished to CFX and Contractor in writing within fifteen (15) days after receipt of the written protest.
- c. The CEI's decision with respect to the protest will be final, unless a written exception is filed by CFX or Contractor with the CEI within fifteen (15) days after receiving the protest decision. If either rejects the CEI's final decision, the disputed matter may be referred to the Board by either CFX or the Contractor.
- d. Upon receipt by the Board of a written dispute, the Board will first decide when to conduct the hearing. If the matter is not urgent, it may be heard at the next regularly scheduled Board meeting. For an urgent matter, the Board will meet at its earliest convenience.
- e. Either party furnishing written evidence or documentation to the Board will furnish copies of such information to the other party a minimum of fifteen (15) days prior to the date the Board sets to hear the dispute. If the Board requests additional documentation or evidence prior to, during or after the hearing, CFX and/or the Contractor will provide the requested information to the Board and to the other party. Because each side needs a reasonable opportunity to understand and rebut the opposing side's point of view, failure of either party to timely provide written documentation in accordance with this provision shall result in such written documentation being excluded from the hearing before the Board unless the other party consents to its admission or consents to a delay in the hearing.

- f. The Contractor and CFX will each be afforded an opportunity to be heard by the Board and to offer evidence. The Board will consider all relevant evidence presented and analyze the same solely within the parameters of the Contract. Hearsay evidence shall be admissible but shall not be the sole basis for any recommendation of the Board.
- g. The Board's recommendations for resolution of the dispute will be given in writing within fifteen (15) days of completion of the hearing(s). In cases of extreme complexity, both parties may agree to allow additional time for the Board to formulate its recommendations. Generally, the Board will initially focus its attention (in the written report) only to matters of entitlement, and allow the parties to thereafter determine the monetary relief. If both parties request, and sufficient documentation is available, the Board may also make a recommendation of monetary relief, but only after formulation of the entitlement recommendation and only after the parties have attempted to agree upon the monetary relief amount.
- h. If the Board's recommendation for resolution is not unanimous, the dissenting member shall prepare a separate written opinion.
- i. Within fifteen (15) days of receiving the Board's recommendations, both CFX and the Contractor will respond to the other and to the Board in writing, signifying either acceptance or rejection of the Board's recommendations. The failure of a party to respond within the fifteen (15) day period will be deemed an acceptance by such party of the Board's recommendations. If CFX and the Contractor are able to resolve the dispute (with or without the aid of the Board's recommendations), CFX will promptly process any required Contract changes.
- j. If the dispute remains unresolved because of a bona fide lack of clear understanding of the recommendation, either party may request the Board clarify specific portions of its recommendations. Further, if new evidence becomes available, either party may request the Board reconsider its prior recommendation. Only evidence which did not exist at the time of the hearing, or which existed but which could not be discovered with reasonable and normal diligence shall be considered new evidence.
- k. If the Board's recommendation is rejected, either party may thereafter initiate resolution of the dispute by binding arbitration conducted pursuant to the Contract.

Both CFX and the Contractor should carefully consider the Board's recommendations, as the recommendations are binding unless written notice is provided to the other party within 30 days of the recommendations stating the party's intent to bring the disputed issue to arbitration. However, if the Board's recommendations do not resolve the dispute, all records and written recommendations, including any minority reports, will be admissible for informational purposes in any subsequent dispute resolution procedures. Such informational purposes shall include but not be limited to establishing that the Board considered the dispute, the qualifications of the Board Members, and the Board's recommendation that resulted from the dispute resolution process.

10.1.6 Conduct of Disputes Hearings

Each party shall file three copies of its written arguments with the Board no less than seven days prior to the scheduled hearing and shall simultaneously deliver a copy of such written arguments to the opposing party. Each party shall also submit to the Board along with its written arguments copies of its written evidence and documentation which has been previously provided to the opposing party as provided above.

Normally, the hearing will be conducted at the job site. However, any location more convenient and which provides all required facilities and access to necessary documentation is satisfactory.

While the Board will keep a record of its sessions during consideration of a dispute, the Board will not be required to keep its record in any particular form. The nature and completeness of the record will depend upon the nature and magnitude of the dispute and the desires of the parties. If possible, the hearings shall be kept informal. Formal records of the Board meetings may be taken and transcribed by a court reporter if requested by a party (at the requesting party's cost). Audio and/or video recording of the meeting is discouraged and shall only be made with the prior agreement of all parties and a majority of the Board.

CFX and the Contractor will have representatives at all dispute resolution hearings. The party requesting Board review will first discuss the dispute, followed by the other party. Each party will then be allowed successive rebuttals until all aspects are fully covered to the Board's satisfaction. The Members and the parties may ask questions, request clarification or ask for additional data. In large or complex cases, additional hearings may be necessary in order to consider and fully understand all evidence presented by both parties.

During the hearings, no Member will express any opinion concerning the merit of any facet of the dispute.

After the hearings are concluded, the Board will meet in private to formulate recommendations supported by two or more Members. All Board deliberations will be conducted in private, with individual views kept strictly confidential. No minutes shall be

prepared of the Board's private meetings. The Board's recommendations and discussions of its reasoning will be submitted as a written report to both parties. The recommendations will be based on the pertinent Contract provisions and the facts and circumstances involved in the dispute.

The Board will make every effort to reach a unanimous decision. If a unanimous decision is not possible, the dissenting Member may (but is not required to) prepare a minority report.

10.1.7 Compensation

The Contractor shall pay the fees of all three Board Members for services rendered under the Three Party Agreement. An allowance pay item has been established in the Contract for the reimbursing the Contractor. Funds remaining in the pay item, if any, at the completion of the Project will belong to CFX. CFX and the Contractor shall agree on the procedures and method of processing payments made against the allowance. CFX or the CEI will mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services. If the Board desires special services, such as legal consultation, accounting, data research, etc., both parties must agree and the costs will be paid from the allowance.

10.1.8 Three Party Agreement

The Contractor, CFX and the Members of the Board will execute the Dispute Review Board Three Party Agreement within four (4) weeks of the final selection of the third Member.

END OF SECTION 10

ATTACHMENT A

**DISPUTES REVIEW BOARD
THREE PARTY AGREEMENT**

THIS THREE PARTY AGREEMENT (“Agreement”) made and entered into this _____ day of _____, 20__, between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”)**, _____ (**“Contractor”**) and the **DISPUTES REVIEW BOARD (“Board”)**, consisting of three members: _____, _____ and _____ (**“Members”**).

WHEREAS, CFX is now engaged in the construction of the _____, and

WHEREAS, the _____ contract (“Contract”) provides for the establishment and operation of the Board to assist in resolving disputes and claims.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein (or attached, incorporated and made a part hereof), the parties agree as set forth herein.

**I
DESCRIPTION OF PURPOSE**

To facilitate resolution of disputes between the Contractor and CFX, CFX has provided (in the Contract) for the establishment of the Board. The function of the Board is to fairly and impartially consider Contract disputes placed before it and provide written recommendations for resolution to both CFX and the Contractor. The Members of the Board shall perform the services designated in Section II, Scope of Work.

**II
SCOPE OF WORK**

The Scope of Work includes, but is not limited to, the following items:

A. Third Board Member Selection. The first duty of CFX and the Contractor selected Members of the Board is to select the third Member. The third Member shall not have any current financial or employment ties with either the Contractor or CFX. The selection goal is to obtain a third Board Member who will complement the first two by furnishing expertise, leadership and experience to facilitate the Board’s operations. The first two Board Members selected shall proceed with the selection of the third Board Member upon receiving their appointment. If the first two Members are unable to select a third

Member within four (4) weeks, CFX and the Contractor will select the third Member.

B. Procedures. After selecting the third Board Member and prior to considering a dispute, the Board shall establish procedures to govern the conduct of its business and reporting procedures based on the Guidelines, attached as an Appendix to this Agreement. The Board recommendations (resulting from a consideration of a dispute) shall be furnished in writing to CFX and the Contractor. The recommendations shall be based solely on the pertinent Contract provisions and the facts as reasonably determined by the Board. The Board shall have no authority to disregard or unilaterally modify pertinent Contract provisions including, but not necessarily limited to, those provisions pertaining to notices and claims procedures.

C. Furnishing Documents. CFX shall, at the time of each Board Member's appointment, furnish such Member a copy of the Contract. Both CFX and the Contractor shall, no later than seven (7) days prior to the scheduled Board hearing, submit to the Board three copies of all written documents and arguments that such party wishes the Board to consider. Each party shall provide its written documentation to the other side no later than fifteen (15) days prior to the scheduled Board hearing and shall provide a copy of its written argument to the other side no later than seven (7) days before the hearing in order to afford the other side the opportunity to review such documents and prepare any necessary rebuttal for the hearing.

D. Site Visits. The Board shall visit the project site to: (i) keep abreast of construction activities, and (ii) develop a familiarity of the work in progress. The frequency, exact time and duration of visits shall be in accordance with the attached Guidelines or as mutually agreed between CFX, the Contractor and the Board.

In the circumstance of an alleged differing site condition (or specific construction problem), it will be advantageous for the Board to view any relevant conditions. If viewing by the Board would cause delay to the project, photographs and descriptions of conditions collected by either (or both) party will suffice.

E. Board Consideration of Disputes or Claims. Upon receipt by the Board of a written appeal of a dispute (from either the Contractor or CFX) the Board shall convene to review and consider the dispute. CFX, the Contractor and the Board shall determine the time and location of Board meetings. Both CFX and the Contractor shall be given the opportunity to present evidence and argument at such meetings. Absent good cause to the contrary, written evidence shall be limited to that evidence which was previously supplied to both the Board and the other party in accordance with the previous paragraph. Mere negligence in providing such written evidence shall not be considered good cause for its admission. Hearsay evidence shall be permitted but shall not be the sole basis for any recommendation by the Board. Additionally, Board Members may rely on their personal knowledge based on

prior site visits, ongoing document reviews, and general project familiarity. Each party may, but is not required to, submit its proposed recommendations for resolving the dispute to the Board for its consideration.

Board Members are to act impartially and independently in weighing the evidence and in considering the respective positions of the parties within the confines and literal interpretation of the Contract terms. The recommendations concerning any such dispute are advisory and not binding on either party. The Board shall make every effort to reach a unanimous recommendation. If a unanimous recommendation is not possible, the dissenting Member shall prepare a minority report.

The Board's recommendations, together with explanations of its reasoning, shall be submitted as a written report to both parties. The recommendation shall be based solely on the pertinent provisions of the Contract, applicable laws and regulations, and the relevant facts as determined by the Board based upon the evidence presented. It is important for the Board to express, clearly and completely, the logic and reasoning leading to the recommendation so that both parties fully understand the recommendation.

Either CFX or the Contractor may request the Board to reconsider its recommendation. However, reconsideration will only be allowed when there is new evidence to present, or a clarification is required.

F. Miscellaneous Board Responsibilities. In addition to the matters set forth above:

1. The Board Member shall become familiar with the Contract Documents, review periodic reports, and maintain a current file of the project.
2. Except for providing the services required in this Agreement, the Board and its individual Members shall refrain from giving any advice to either party concerning conduct of the work or the resolution of problems. Ex-parte communications between a party and a Board Member are prohibited.
3. The Board shall perform services not specifically listed herein to the extent necessary to achieve the purposes of this Agreement.

G. Board Member Replacement. If the need occurs to appoint a replacement Board Member, the replacement Board Member shall be appointed in the same manner as

the original Board Members were appointed. The selection of a replacement Board Member shall begin promptly upon notification of the necessity for a replacement. The Agreement will be supplemented to indicate change in Board membership.

III CONTRACTOR RESPONSIBILITY

A party shall furnish to each Board Member one copy of all pertinent documents that are or may become necessary for the Board to perform its function. Pertinent documents are any drawings or sketches, calculations, procedures, schedules, estimates or other documents that are used in the performance of the work or in justifying or substantiating the party's position. A copy of such pertinent documents must also be furnished to the other party.

IV CFX RESPONSIBILITIES

CFX shall furnish the following services and items:

A. Contract Related Documents. CFX shall furnish the Board copies of all Contract Documents, Supplemental Agreements, written instructions issued by the CEI or CFX to the Contractor, or other documents pertinent to the performance of the Contract and necessary for the Board to perform its function.

B. Coordination and Services. CFX (in cooperation with the Contractor) will coordinate the operations of the Board. CFX, through the CEI, will arrange or provide conference facilities at or near the site and provide secretarial and copying services.

V TIME FOR BEGINNING AND COMPLETION

The Board shall be in operation throughout the term of the Contract and, if needed, for a reasonable post-construction period.

The Board Members shall not begin any work under the terms of this Agreement until authorized by CFX in writing.

VI PAYMENT

The fees and expenses of all three Board Members for services rendered under this Agreement will be an expense to the Contractor with reimbursement under the pay item allowance as provided below. Payment for services of the CFX-appointed, Contractor-appointed, and the third Board Members will be full compensation for work performed or services rendered, and for all expenses, such as food, lodging, travel, telephone, postage etc.

A. Payment.

Each Board Member will be paid One Thousand 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. Inspection of Costs Records. The Board Members shall keep available the cost records and accounts pertaining to this Agreement for inspection by representatives of CFX for a period of three (3) years after final payment. If any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records is completed.

VII ASSIGNMENT OF TASKS OF WORK

Neither the Board nor the Board Members may assign or delegate any of the work of this Agreement.

VIII TERMINATION OF AGREEMENT

With the mutual consent of CFX and the Contractor, this Agreement may be terminated at any time. However, individual Board Members may be terminated with or without cause, but only by their original appointer, i.e., CFX may terminate the CFX appointed Member, the Contractor may terminate the Contractor's appointed Member, and the first two Members must agree to terminate the third Member.

**IX
LEGAL RELATIONS**

A. Each Board Member in the performance of duties on the Board is acting in the capacity of an independent agent and not as an employee of either CFX or the Contractor.

B. CFX and the Contractor expressly acknowledge that each Board Member is acting in a capacity intended to facilitate resolution of disputes. Accordingly, to the fullest extent permitted by law, each Board Member shall be accorded quasi-judicial immunity for any actions or decisions associated with the consideration, hearing and recommendation of resolution for disputes referred to the Board.

C. Except for the negligent acts or omissions of a Board Member, or for activities outside of the scope of this Agreement, each Board Member shall be held harmless for any personal or professional liability arising from or related to Board activities. To the fullest extent permitted by law, CFX and the Contractor shall defend and indemnify all Board Members against claims, losses, demands, costs and damages (including reasonable attorney's fees) for bodily injury, property damage or economic loss arising out of or related to Board Members carrying out Board functions. The foregoing indemnity is a joint and several obligations of the Contractor and CFX.

**X
ARBITRATION, VENUE, APPLICABLE LAW**

Any dispute, claim or controversy between the parties hereto arising out of or related to this Agreement shall be resolved by arbitration. The American Arbitration Association pursuant to its Construction Industry Arbitration Rules shall conduct such arbitration, and the arbitration proceeding shall occur in Orange County, Florida. All questions and issues respecting this Agreement and the arbitration shall be resolved by application of Florida law and the judgment of the arbitration panel shall be enforceable in accordance with the provisions of the Florida Arbitration Code.

**XI
NO BONUS**

The Contractor and CFX shall not pay and the Members shall not receive any additional commission, percentage, bonus or consideration of any nature (other than the payment provided for in Section VI above) for performance and services under this Agreement.

**XII
NO CONFLICT**

The Members of the Board agree individually they do not now and during the term of this Agreement will not have any direct or indirect ownership or financial interest in the Contractor, the

Engineer of Record for the project, the CEI or any subcontractor or supplier of the project. The Members of the Board affirm they have not for a period of ten (10) years prior to this Agreement been an employee, Contractor or consultant to the Contractor, the Engineer of Record for this project, the CEI or any subcontractor or supplier of the project, and that during the term of this Agreement they shall not become so employed. During the term of the Agreement no discussion or Agreement will be made between any Board Member and any party to this Agreement for employment after the Contract is completed.

By executing this Agreement the parties mutually agree that the Members of the Board identified herein are qualified and desirable and that the criteria and limitations detailed in subarticles 10.2.3 b and 10.2.3 c of the project General Specifications are satisfied or are hereby waived.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CFX:

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____
Print Name: _____
Title: _____

BOARD:

DISPUTES REVIEW BOARD

By: _____
Print Name: _____

By: _____
Print Name: _____

By: _____
Print Name: _____

CONTRACTOR:

By: _____
Print Name: _____
Title: _____

APPENDIX

PROCEDURE GUIDELINES

1. GENERAL MEETINGS

General Meetings are defined as those meetings required for the Board to develop a familiarity of the work in progress and keep abreast of construction activities such as progress, status and nature of items in the earlier stages of escalation, changes to personnel, etc. General Meetings shall occur 60days after Notice to Proceed for the Project and every 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
#7**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 20, 2021


SUBJECT: Approval of Second Contract Renewal with CDM Smith, Inc.
for Traffic and Earnings Consultant Services
Contract No. 001300

Board approval is requested for the second renewal of the referenced contract with CDM Smith, Inc. in the amount of \$1,200,000.00 for one year beginning on October 2, 2021 and ending October 1, 2022. The original contract was for three years with two one-year renewals.

The work to be provided is traffic and earning services.

Original Contract	\$2,550,000.00
Supplemental Agreement No. 1	\$ 950,000.00
Supplemental Agreement No. 2	\$ 49,977.57
First Renewal	\$1,200,000.00
Supplemental Agreement No. 3	\$ 49,954.55
Second Renewal	<u>\$1,200,000.00</u>
Total	<u>\$5,999,932.12</u>

This contract is included in the Five-Year Work Plan and the OM&A Budget.

Reviewed by: 
Glenn Pressimone, P.E.
Chief of Infrastructure

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 2 AGREEMENT
CONTRACT NO. 001300**

THIS CONTRACT RENEWAL NO. 2 AGREEMENT (“Renewal Agreement”), is made and entered into this 12th day of August 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and CDM SMITH, INC., registered and authorized to conduct business in the State of Florida, hereinafter called the (“Consultant”). CFX and Consultant are referred to herein sometimes as a “Party” or the “Parties”.

WITNESSETH

WHEREAS, CFX and the Consultant entered into that certain Contract Agreement dated July 13, 2017, (collectively, the “Original Agreement”), with a Notice to Proceed date of October 2, 2017, whereby CFX retained the Consultant to perform traffic and earnings consultant services; and

WHEREAS, pursuant to Article 3 of the Original Agreement, CFX and Consultant wish to renew the Original Agreement for a period of one (1) year in accordance with the terms and conditions hereof.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises set forth in this Renewal Contract, the Parties agree as follows:

1. **Recitals**. The above recitals are true and correct and are hereby incorporated by reference as if fully set forth herein.
2. **Renewal Term**. CFX and Consultant agree to exercise the second renewal of said Initial CFX Contract, which renewal shall begin on October 2, 2021 and end on October 1, 2022 (“Renewal Term”), unless otherwise extended as provided in the Original Contract.
3. **Compensation for Renewal Term**. The Consultant shall be compensated for any and all services performed during the Renewal Term under this Renewal Agreement in accordance with **Exhibit “B”** of the Original Agreement, in an amount up to \$1,200,000.00 (“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. **Counterpart and Electronic Signatures**. 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.

CDM SMITH, 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: _____
Print Name: _____

By: _____
Diego "Woody" Rodriguez, General Counsel

By: _____
Print Name: _____

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 3
TO
AGREEMENT FOR TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

This Supplemental Agreement No. 3 ("Supplemental Agreement") is entered into this 13th day of July 2021, by and between the Central Florida Expressway Authority ("CFX") and CDM Smith, Inc., ("Consultant").

WITNESSETH:

WHEREAS, CFX and the Consultant on July 13, 2017, entered into an Agreement whereby CFX retained the Consultant to provide miscellaneous construction engineering and inspection services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$49,954.55 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated July 13, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$49,954.55 which shall make the total not-to-exceed amount of the Contract \$4,799,932.12.

CFX and Consultant agree that this Supplemental Agreement No.3 shall not alter or change in any manner the force and effect of the original Contract except insofar as the same is altered and amended by this Supplemental Agreement No.3; that acceptance of this Supplemental Agreement No.3 signifies the Consultant's waiver of all future rights for additional compensation which is not already defined herein.

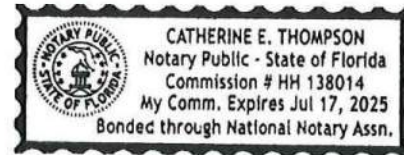
IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the day and year first written above.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2021.07.16 09:18:45 -04'00'
Director of Procurement

CDM SMITH, INC.

By: Cullen M Lynn
Title: Client Service Leader
Attest: Catherine E. Thompson (Seal)



Approved as to form and execution, only.

General Counsel for CFX

Diego "Woody" Rodriguez Digitally signed by Diego
"Woody" Rodriguez
Date: 2021.07.15 15:09:33 -04'00'



101 Southhall Lane, Suite 200
Maitland, FL 32751
tel: 407 660-2552
fax: 407 875-1161



July 8, 2021

Mr. Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Supplemental Agreement No. 3 for the CFX General Traffic and Earnings Consultant Contract #001300

Dear Mr. Pressimone:

At their meeting on August 13, 2020, the CFX Board of Directors approved the first contract renewal with CDM Smith for the General Traffic and Earnings Consultant contract #001300 for value of \$1,200,000. The annual budget was based on the four annual ongoing tasks with an anticipated budget of approximately \$494,986 (model development, annual reporting and bond support, general consultant engineering support, and meetings/workshops) and the remaining \$728,070.82 budgeted for the SR 414 Expressway Extension PD&E Study, Northeast Connector Expressway PD&E Study, the Southport Connector Expressway PD&E Study, the Tampa Avenue Interchange and Lake Orange Connector Design Traffic Support.

CDM Smith has been working on these projects but recent events have prompted some additional unforeseen work tasks related to current projects that CDM Smith anticipates a need for additional budget through the remainder of the contract year. We are requesting an additional \$49,954.55 of authorized budget for this contract year ending October 1, 2021, the end of the fourth year of our contract, Contract #001300.

The first work task is the potential S.R. 429/Binion Road Interchange. The master planning outreach process has led to the consideration of a new half interchange on S.R. 429 near Binion Road. CDM Smith has been requested to conduct a traffic and revenue analysis on this potential new interchange, which will include travel demand model runs, existing traffic and future traffic analysis, sketch level revenue analysis and coordination with local officials.

The second work task is the revision of the Osceola Parkway Extension (OPE) design traffic to include an intermediate local access interchange at Medical City Drive. The inclusion of the local access interchange in the campus of the S.R. 417/ OPE System interchange has added several new ramps, changes to previously designed ramps, and a collector/distributor system. The project is





Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
July 8, 2021
Page 2

entering the design phase and the modified interchange design will require a revision to the forecasted traffic. CDM Smith will review the interchange design for operational characteristics, provide any recommended revisions, and develop revised directional design hour volumes (DDHV) for the new interchange design, documented in a traffic technical memorandum.

The funding would amend Authorization 2017-3.0/2018-3.5/2019-3.9/2020-3.9.1/2020-3.10 (Support for General Engineering Consultant) from \$818,182.71 to \$868,137.26. As well, the additional \$49,954.55 would make the total contract value \$4,799,932.12 through October 1, 2021.

Authorization 2017-3.0/2018-3.5/2019-3.9/2020-3.9.1/2020-3.10 - Support for General
Engineering Consultant
 $\$818,182.71 + \$49,954.55 = \$868,137.26$

We expect that the additional funds will carry the budget for the contract through the next contract reauthorization. Please call either of us to discuss if you require additional information or have any questions. We look forward to continuing work on the contract.

Respectfully submitted,

CDM Smith

Hugh W. Miller, Jr. P.E., PhD
Vice President

Carleen M. Flynn, AICP
Deputy Project Manager

HMW:cmf
Attachment



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 1 AGREEMENT
CONTRACT NO. 001300**

THIS CONTRACT RENEWAL NO. 1 AGREEMENT (“Renewal Agreement”), is made and entered into this 13th day of August 2020, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and CDM SMITH, INC., registered and authorized to conduct business in the State of Florida, hereinafter called the (“Consultant”). CFX and Consultant are referred to herein sometimes as a “Party” or the “Parties”.

WITNESSETH

WHEREAS, CFX and the Consultant entered into that certain Contract Agreement dated July 13, 2017, (collectively, the “Original Agreement”), with a Notice to Proceed date of October 2, 2017, whereby CFX retained the Consultant to perform traffic and earnings consultant services; and

WHEREAS, pursuant to Article 3 of the Original Agreement, CFX and Consultant wish to renew the Original Agreement for a period of one (1) year in accordance with the terms and conditions hereof.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises set forth in this Renewal Contract, the Parties agree as follows:

1. **Recitals**. The above recitals are true and correct and are hereby incorporated by reference as if fully set forth herein.
2. **Renewal Term**. CFX and Consultant agree to exercise the second renewal of said Initial CFX Contract, which renewal shall begin on October 2, 2020 and end on October 1, 2021 (“Renewal Term”), unless otherwise extended as provided in the Original Contract.
3. **Compensation for Renewal Term**. The Consultant shall be compensated for any and all services performed during the Renewal Term under this Renewal Agreement in accordance with **Exhibit “B”** of the Original Agreement, in an amount up to \$1,200,000.00 (“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. **Counterpart and Electronic Signatures**. 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.

CDM SMITH, INC.

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

By: Carleen M Flynn
Print Name: CARLEEN M. FLYNN
Title: CLIENT SERVICE LEADER

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.09.15 11:50:50 -04'00'
Aneth Williams, Director of Procurement

ATTEST: April Michela Humphries (SEAL)

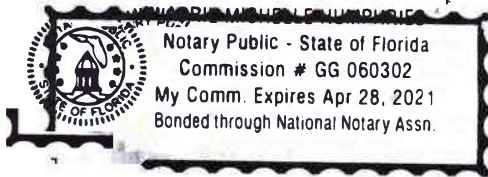
Secretary or Notary
If Individual, furnish two witnesses:

Approved as to form and legality by legal counsel
to the Central Florida Expressway Authority on
this 19th day of August, 2020 for its
exclusive use and reliance.

By: _____
Print Name: _____

By: Diego "Woody" Rodriguez Digitally signed by Diego
"Woody" Rodriguez
Date: 2020.08.19 21:04:48 -04'00'
Diego "Woody" Rodriguez, General Counsel

By: _____
Print Name: _____



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 2
TO
AGREEMENT FOR TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

This Supplemental Agreement No. 2 (“Supplemental Agreement”) is entered into this 9th day of June 2020, by and between the Central Florida Expressway Authority (“CFX”) and CDM Smith, Inc., (“Consultant”).

WITNESSETH:

WHEREAS, CFX and the Consultant on July 13, 2017, entered into an Agreement whereby CFX retained the Consultant to provide miscellaneous construction engineering and inspection services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$49,977.57 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated July 13, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$49,977.57 which shall make the total not-to-exceed amount of the Contract \$3,549,977.57.

CFX and Consultant agree that this Supplemental Agreement No.2 shall not alter or change in any manner the force and effect of the original Contract except insofar as the same is altered and amended by this Supplemental Agreement No.2; that acceptance of this Supplemental Agreement No.2 signifies the Consultant’s waiver of all future rights for additional compensation which is not already defined herein.

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.09.17 10:04:58 -04'00'
Director of Procurement

CDM SMITH, INC.

By: Carleen M. Fymer
Title: Client Service Leader

Attest: April Michelle Humphries (Seal)



Approved as to form and execution, only.

General Counsel for CFX

Diego "Woody" Rodriguez Digitally signed by Diego "Woody"
Rodriguez
Date: 2020.09.17 10:01:43 -04'00'



101 Southhall Lane, Suite 200
Maitland, FL 32751
tel: 407 660-2552
fax: 407 875-1161

June 2, 2020

Mr. Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Supplemental Agreement No. 2 for the CFX General Traffic and Earnings Consultant
Contract #001300

Dear Mr. Pressimone:

At their meeting on August 8, 2019, the CFX Board of Directors approved Supplemental Agreement No.1 to CDM Smith for value of \$950,000 for Traffic and Earnings Consultant services for FY 2020. The annual budget was based on the four annual ongoing tasks with an anticipated budget of approximately \$482,000 (model development, annual reporting and bond support, general consultant engineering support, and meetings/workshops) and the remaining \$468,0000 budgeted for the Northeast Connector Expressway PD&E, the SR 414 Expressway Extension PD&E and the Osceola Brevard Connector Expressway Concept, Feasibility and Mobility Study.

CDM Smith has been working on these projects as well as some additional tasks related to recent events, and we are anticipating a need for additional budget through the remainder of the contract year. We are requesting an additional \$49,977.57 of authorized budget for this contract year ending in September 2020, the end of the third year of our contract, Contract #001300.

As you know, the coronavirus disease (COVID-19) has impacted the lives of most Americans, and such has disrupted almost every aspect of our way of life including customer use of the CFX System. Since late March, CDM Smith has been monitoring weekly traffic and revenue, prepared an analysis of COVID-19 related impacts and submitted revised revenue estimates of the impacts for several scenarios concerning the progression of the disease and related economic impacts. These were first submitted on April 2, 2020, and then updated on April 22, 2020. The results were presented to the CFX Board of Directors as part of Budget Workshops, held on May 14, 202 and May 28, 2020. Several additional scenarios were developed in response to Board Member comments. The Board has requested that CDM Smith continue to monitor the traffic and revenue and provide a monthly report to the Board of Directors at their monthly meetings. CDM Smith has committed to providing these reports monthly and updating the revised revenue forecast on a quarterly basis through the duration of the crisis.





Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
June 2, 2020
Page 2

We anticipate a need for the additional budget to supplement unanticipated work completed in reaction to the COVID-19 crisis as well as work going forward and completion of the FY 2019 Annual Report. The funding would amend Authorization 2017-2.0 & 2.2 & 2.3 (System Review, Annual Report & Bond Support) from \$690,775.08 to \$740,752.65. As well, the additional \$49,977.57 would make the total contract budget \$3,549,977.57 through September 30, 2020.

Authorization 2017-2.0 & 2.2 & 2.3 (System Review, Annual Report & Bond Support)
 $\$690,775.08 + \$49,977.57 = \$740,752.65$

We expect that the additional funds will carry the budget for the contract through the next contract reauthorization. Please call either of us to discuss if you require additional information or have any questions. We look forward to continuing work on the contract.

Respectfully submitted,

CDM Smith

Hugh W. Miller, Jr. P.E., PhD
Vice President

Carleen M. Flynn, AICP
Deputy Project Manager

HMW:cmf
Attachment



**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 1
TO
AGREEMENT FOR TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

This Supplemental Agreement No. 1 ("Supplemental Agreement") is entered into this 13th day of June 2019, by and between the Central Florida Expressway Authority ("CFX") and CDM Smith, Inc., ("Consultant").

WITNESSETH:

WHEREAS, CFX and the Consultant on July 13, 2017, entered into an Agreement whereby CFX retained the Consultant to provide miscellaneous construction engineering and inspection services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$950,000.00 in order to continue the required services through the term of the Contract; and,

WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated July 13, 2017;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$950,000.00 which shall make the total not-to-exceed amount of the Contract \$3,500,000.00.

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

IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the day and year first written above. This Supplemental Agreement No. 1 was approved by CFX Board of Directors on June 13, 2019.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement

'19 JUN 24 PM 2:13

CDM SMITH, INC.

By: 

Title: CLIENT SERVICE LEADER

Attest: April Michelle Humphries (Seal)



Approved as to form and execution, only.

General Counsel for CFX





101 Southhall Lane, Suite 200
Maitland, FL 32751
tel: 407 660-2552
fax: 407 875-1161

June 3, 2019

'19 JUN 24 PM 2:13

Mr. Glenn Pressimone, P.E.
Chief of Infrastructure
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

RE: Request for Additional Contract Budget for the CFX General Traffic and Earnings Consultant Contract #001300

Dear Mr. Pressimone:

CDM Smith was selected by CFX as the General Traffic and Earnings Consultant in September of 2017 with an original contract budget of \$2,550,000 or \$850,000 per year for three years. The annual budget was based on the four annual ongoing tasks with an anticipated budget of approximately \$482,000 (model development, annual reporting and bond support, general consultant engineering support, and meetings/workshops) and the remaining \$368,000 per year budgeted for one additional engineering study, such as a PD&E or concept study, and any additional miscellaneous projects.

During year 1, CDM Smith had an authorization of \$556,912.88 for the four annual ongoing tasks (Tasks 1.0, 2.0, 3.0 and 4.0) but then was also authorized \$335,755.56 to complete traffic and revenue analysis on the four OCX Master Plan Concept, Feasibility and Mobility (CFM) studies, \$385,661.57 to provide traffic engineering support and T&R study for the Lake Orange Connector PD&E study, and \$197,984.73 to complete a traffic and revenue analysis of the existing section of the Poinciana Parkway. As the OCX Master Plan projects were completed, two projects were advanced to PD&E Studies in March 2018, so CDM Smith was authorized an additional \$294,997.64 to provide traffic engineering support and T&R study for the Poinciana Parkway Extension PD&E and \$253,484.36 to provide traffic engineering support and T&R study for the Osceola Parkway Extension PD&E Reevaluation. This equates to \$2,024,796.74 in year 1 authorizations.

CDM Smith is currently in the second year of the contract. Year 2 authorization included a total of \$462,886.53 for the four annual ongoing tasks and an additional \$50,540.93 to complete the Poinciana Parkway T&R study. CDM Smith also provided traffic engineering support for the Northeast Connector Expressway Extension (NECEE) study, but this was completed using remaining funds from the OCX Master Plan CFM studies authorization. The year 1 and 2 authorizations to date total \$2,538,224.20, which is 99.5% of the total contract budget of \$2,550,000. A breakdown of the current authorizations is summarized in the table on Page 2.



Mr. Glenn Pressimone, PE
 Central Florida Expressway Authority
 June 3, 2019
 Page 2

Task Number	Task Name	Year 1	Year 2	Total
1.0 & 1.1	Model Development	\$77,497.23	\$59,601.72	\$137,098.95
2.0 & 2.2	System Review, Annual Report & Bond Support	\$252,615.70	\$188,212.88	\$440,828.58
2.1 & 2.1.1	T&R for Acquisition of Poinciana Parkway	\$197,984.73	\$50,540.93	\$248,525.66
3.0 & 3.5	General Engineering Consultant Support	\$173,546.66	\$178,326.76	\$351,873.42
3.1	Osceola County Expressway Authority Projects	\$335,755.56	\$0.00	\$335,755.56
3.2	Lake Orange Connector PD&E	\$385,661.57	\$0.00	\$385,661.57
3.3	Poinciana Parkway PD&E	\$294,997.64	\$0.00	\$294,997.64
3.4	Osceola Parkway Connector PD&E	\$253,484.36	\$0.00	\$253,484.36
4.0 & 4.1	Meetings and Workshops	\$53,253.29	\$36,745.17	\$89,998.46
Total		\$2,024,796.74	\$513,427.46	\$2,538,224.20

As previously mentioned, Tasks 1.0 (Model Development), 2.0 (System Review, Annual Report & Bond Support), 3.0 (General Engineering Consultant Support) and 4.0 (Meetings and Workshops) are annual ongoing tasks. All other tasks listed above were special projects.

With total work authorizations through April 2019 of \$2,538,224.20, that only leaves \$11,775.80 in the contract budget for future project requests. CDM Smith will roll over unused funds from Years 1 and 2 authorizations but anticipates a need to request funding of an additional \$950,000 for Year 3 of the contract in anticipation of additional projects requested by CFX. The following table includes an estimate for Year 3 of the budget:

Task Name	Year 3 Estimate
Model Development	\$62,000.00
System Review, Annual Report & Bond Support	\$195,000.00
General Engineering Consultant Support	\$185,000.00
Northeast Connector Study	\$200,000.00
S.R. 414 Direct Connection Study	\$150,000.00
Corridor F Planning Study	\$118,000.00
Meetings and Workshops	\$40,000.00
Total	\$950,000.00

This includes the annual ongoing tasks (approximately \$482,000) and three additional planning studies, (S.R. 414 Direct Connection Study, Northeast Connector Study, and Corridor F Planning Study) specified in the CFX FY 2019 – FY 2023 Work Plan. This would also leave contract budget for special projects, such as the T&R impacts of the Virgin Train/Brightline. The additional \$950,000 would make the total contract budget \$3,500,000 through September 30, 2020.





'19 JUN 24 PM 2:13

Mr. Glenn Pressimone, PE
Central Florida Expressway Authority
June 3, 2019
Page 3

Please call either of us to discuss if you require additional information or have any questions. We look forward to continuing work on the contract.

Respectfully submitted,

CDM Smith

A handwritten signature in black ink that reads "Hugh W. Miller, Jr." with a stylized flourish at the end.

Hugh W. Miller, Jr. P.E., PhD
Vice President

HMW:CMF:jtb

A handwritten signature in black ink that reads "Carleen M. Flynn" in a cursive style.

Carleen M. Flynn, AICP
Deputy Project Manager



AGREEMENT

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AND
CDM SMITH, INC.**

TRAFFIC AND EARNINGS CONSULTANT SERVICES

CONTRACT NO. 001300

CONTRACT DATE: JULY 13, 2017

CONTRACT AMOUNT: \$2,550,000.00

**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

TRAFFIC AND EARNINGS CONSULTANT SERVICES

CONTRACT NO. 001300

JULY 2017

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TABLE OF CONTENTS

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

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

THIS AGREEMENT, made and entered into this 13th day of July, 2017, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a corporate body and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter "CFX," and CDM Smith, 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 101 Southhall Lane, Suite 200, Maitland, FL. 32751.

WITNESSETH:

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

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

1.0. DEFINITIONS.

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

2.0. SCOPE OF SERVICES.

CFX does hereby retain the CONSULTANT to furnish Traffic and Earning Services in accordance with Contract No. 001300.

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

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

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

3.0 TERM OF AGREEMENT AND RENEWALS

Unless otherwise provided herein or by Supplemental Agreement, the provisions of this Agreement will remain in full force and effect for a three (3) year term from the date of the Notice to Proceed for the required project services as detailed in **Exhibit "A,"** with two one-year renewals at CFX's option. The options to renew are at the sole discretion and election of CFX. Renewals will be based, in part, on a determination by CFX that the value and level of service provided by the CONSULTANT are satisfactory and adequate for CFX's needs. If a renewal option is exercised, CFX will provide CONSULTANT with written notice of its intent at least thirty (30) days prior to the expiration of the original term and subsequent renewal, if any.

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

4.0 PROJECT SCHEDULE

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

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

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

In the event the scheduled project completion date is reached and the CONSULTANT has not requested, or if CFX has denied, an extension of the completion date, partial progress payments will be

stopped when the scheduled project completion date is met. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by CFX.

5.0 PROFESSIONAL STAFF

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

Florida Transportation Engineering, Inc. (Class II) ²¹²⁵⁷
Fishkind & Associates, Inc. (Class II) - 08210
AVCON, Inc. - 03914

Resource Systems Group, Inc. - 21256
Accurate Traffic Counts, Inc. (Class II) ¹¹⁷⁸¹
SBuse Consulting (Class II)

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

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

6.0 SERVICES TO BE PROVIDED

The work covered by this Agreement as described in **Exhibit "A"**. A Supplemental Agreement will be required for the additional work. The CONSULTANT shall also provide assistance to the CFX's Project Manager with other related tasks as directed.

All 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.

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

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

7.0 COMPENSATION

CFX agrees to pay the CONSULTANT compensation as detailed in **Exhibit "B"**, Method of Compensation, attached hereto and made a part hereof, in the not-to-exceed amount of \$2,550,000.00 for the initial three-year term of this Agreement. Bills for fees or other compensation for services or expenses shall be submitted to CFX in detail sufficient for a proper pre-audit and post audit thereof.

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

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

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

The general cost principles and procedures for the negotiation and administration, and the determination or allowance of costs under this Agreement shall be as set forth in the Code of Federal Regulations, Titles 23, 48, 49, and other pertinent Federal and State Regulations, as applicable, with the understanding that there is no conflict between State and Federal regulations in that the more restrictive

of the applicable regulations will govern. Whenever travel costs are included in **Exhibit "B"**, the provisions of Section 112.061, Florida Statutes, shall govern as to reimbursable costs.

8.0 DOCUMENT OWNERSHIP AND RECORDS

All plans, documents, reports, studies, and/or other data prepared or obtained under this Agreement shall be considered instruments made for services and shall become the property of CFX without restriction or limitation on their use on this project; and shall be made available, upon request, to CFX at any time. CFX will have the right to visit the site for inspection of the work and the drawings of the CONSULTANT at any time. Unless changed by written agreement of the parties, said site shall be 101 Southhall Lane, Suite 200, Maitland, FL. 32751.

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

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

An excerpt of Section 119.0701, Florida Statutes is below.

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

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

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

2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected

or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

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

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

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

The CONSULTANT shall allow public access to all documents, papers, letters, or other material as approved and authorized by CFX and subject to the provisions of Chapter 119, Florida Statutes, and made or received by the CONSULTANT in conjunction with this Agreement. Failure by the CONSULTANT to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by CFX.

9.0 COMPLIANCE WITH LAWS

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

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

10.0 WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

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

agreed that said price provided in Section 7.0 hereof shall be adjusted to exclude any significant sums where CFX shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by CFX, whichever is later.

11.0 TERMINATION

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

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

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

If CFX abandons the work or subtracts from the work, suspends, or terminates the Agreement as presently outlined, the CONSULTANT shall be compensated in accordance with **Exhibit "B"** for work properly performed by the CONSULTANT prior to abandonment or termination of the Agreement. The ownership of all engineering documents completed or partially completed at the time of such termination or abandonment, shall be transferred to and retained by CFX.

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

12.0 ADJUSTMENTS

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

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

13.0 CONTRACT LANGUAGE AND INTERPRETATION

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

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

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

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

14.0 HOLD HARMLESS AND INDEMNIFICATION

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

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

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

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

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

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

15.0 THIRD PARTY BENEFICIARY

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement, and that the CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted. For the breach or violation of this paragraph, CFX shall have the right to terminate this Agreement without liability, and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission percentage, gift or consideration.

16.0 INSURANCE

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

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

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

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

16.2 Business Automobile Liability coverage shall be on an occurrence form policy for all owned, non-owned and hired vehicles issued on ISO form CA 00 01 or its equivalent. The limits shall be not less than One Million Dollars (\$1,000,000) per occurrence, Combined Single Limits (CSL) or its equivalent. In the event the CONSULTANT does not own automobiles the CONSULTANT shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

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

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

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

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

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

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

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

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

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

17.0 COMMUNICATIONS, PUBLIC RELATIONS, AND USE OF LOGOS

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

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

18.0 STANDARD OF CONDUCT

The CONSULTANT covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 and the CFX Code of Ethics as it relates to work performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full. The CONSULTANT agrees to complete the Potential Conflict Disclosure Form with contract execution, annually by July 1, and in the event of changed circumstances. The CONSULTANT agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

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

19.0 DOCUMENTED ALIENS

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

20.0 E-VERIFY CLAUSE

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

21.0 CONFLICT OF INTEREST

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

22.0 INSPECTOR GENERAL

CONSULTANT agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. CONSULTANT agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

23.0 PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

Pursuant to Section 287.133(2)(a), Florida Statutes, “a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.”

Pursuant to Section 287.134(2)(a), Florida Statutes, “an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

24.0 INTEGRATION

This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no other agreements between the parties

in connection with the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

25.0 ASSIGNMENT

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

26.0 AVAILABILITY OF FUNDS

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

27.0 SEVERABILITY

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

28.0 AUDIT AND EXAMINATION OF RECORDS

28.1 Definition of Records:

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

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

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

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

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

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

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

29.0 NOTICE

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

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

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

To CONSULTANT: CDM Smith, Inc.
101 Southhall Lane, Suite 200
Maitland, FL., 32751
Attn: Hugh W. Miller Jr., PhD, PE

30.0 GOVERNING LAW AND VENUE

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

31.00 ATTACHMENTS

- Exhibit "A", Scope of Services
- Exhibit "B", Method of Compensation
- Exhibit "C", Details of Cost and Fees
- Exhibit "D", Project Organization Chart

[SIGNATURES TO FOLLOW]

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 July 13, 2017.

CDM SMITH, INC.

CENTRAL FLORIDA
EXPRESSWAY AUTHORITY

BY: Amelia H. Davies
Authorized Signature

BY: [Signature]
Director of Procurement

Print Name: Amelia H. Davies

Print Name: Aneth Williams

Title: Associate

Effective Date: 10/2/17

ATTEST: April Michelle Humphries (Seal)
Secretary or Notary



Approved as to form and execution, only.

[Signature]
General Counsel for CFX

2017 SEP 28 PM 4:10

EXHIBIT A

SCOPE OF SERVICES

Exhibit "A"

**SCOPE OF SERVICES
GENERAL TRAFFIC AND EARNINGS CONSULTANT SERVICES
CONTRACT NO. 001300**

I. PURPOSE

The Central Florida Expressway Authority (CFX) requires the assistance of a Traffic & Earnings Consultant to provide traffic and earnings/revenue services on a continuing basis for financial planning on the CFX system of toll roads including any extensions, expansion projects or candidate projects. The services to be provided include, but are not necessarily limited to: data collection and analysis, traffic forecasting, impact analysis, evaluation of alternative toll rate structures, cost analysis, revenue projections, and financial/economic feasibility studies as assigned.

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

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

CFX shall request CONSULTANT services on an as-needed basis. There is no guarantee that any of all of the services described in this agreement will be assigned during the term of the Contract. Further, the CONSULTANT is providing 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 Exhibit D of the Agreement. Any changes in the key personnel by the CONSULTANT shall be subject to review and approval by CFX.

The CONSULTANT shall have a detailed knowledge of modeling and forecasting in the Orlando urban area as well as experience in applying the Florida Standard Urban Transportation Model Structure (FSUTMS). All modeling services shall be physically performed or managed from the CONSULTANT's or subconsultant's office located within CFX's regional area (defined as Orange, Lake, Osceola, Brevard and Seminole Counties).

III. CONSULTANT SERVICES AND RESPONSIBILITIES

The CONSULTANT shall perform the following tasks in carrying out the requirements of the Agreement. The following tasks provide an example of work to be required, but are not intended to be all-inclusive:

A. Transportation Planning and Traffic Engineering

1. Prepare proposals for specific studies or other tasks within the specific scope of service prepared by CFX. Complete the required services under the direction of CFX's Project Manager.
2. Monitor and evaluate economic conditions on the state, regional and national levels and determine potential impact on toll traffic and revenues.
3. Update and/or review the land use information along CFX projects.
4. Maintain county demographic and land use information about CFX's project area.
5. Develop Planning Concept Reports.
6. Develop Design Traffic Reports
7. Special Studies as assigned.
8. Create and maintain a traffic forecasting model using FSUTMS.
9. Apply CFX's model and FSUTMS to:
 - Interpret model results.
 - Develop all system and design traffic.
 - Document the model results including assumptions.
10. Develop, implement and maintain a document control and filing system that shall govern the CONSULTANT's distribution and file copies of all program related correspondence, reports, plans, technical data, etc.

B. System Review, Annual Report and Bonding Support

1. The CONSULTANT shall be knowledgeable of all covenants and provisions of CFX's current bond resolutions and shall perform operations consistent with these covenants and provisions.

2. Prepare and submit to CFX copies of an annual report on the traffic, toll and revenue aspects of CFX's operations. Included in the report shall be an updated projection of revenues for CFX's system on a fiscal year basis for the current year and a period of ten (10) years thereafter.
3. Upon request by CFX, make preliminary suggestions on any traffic or toll matters.
4. Upon request by CFX, prepare studies to include, but not be limited to, the following:
 - Financial Feasibility
 - Toll Rate Structure
 - Bonding Capacity of Projects
5. Estimate the additional toll revenues that would be earned by CFX as a result of new projects or interchanges.
6. Certification of estimated project revenues for economic feasibility determination.
7. Review reports prepared by CFX staff or CFX consultants regarding projects that have potential for becoming CFX projects under the financial criteria established by the CFX.
8. Prepare Traffic and Earnings Reports for future proposed bond sales with coordination from CFX staff, CFX's General Engineering Consultant, financial advisors and underwriters. Present information in Traffic and Earnings Report as required.

C. Support for the General Engineering Consultant

1. As requested by the Project Manager, the CONSULTANT shall coordinate with and provide support to CFX's General Engineering Consultant for the following activities:
 - Miscellaneous traffic modeling.
 - Submittal and review of design traffic.
 - Operational analysis and traffic simulation.
 - Analysis of vehicle count and classification data.
 - System project review.

D. Meetings and Workshops

1. Attend meetings with CFX staff, consulting engineers, or other

individuals or agencies designated by the CFX.

2. Meet with the State Board of Administration, Division of Bond Finance, rating agencies, bond counsel, financial advisors and underwriters, and attend bond presentations as required.

IV. CFX RESPONSIBILITIES

CFX will furnish, without cost to the CONSULTANT, the following information and data in connection with services authorized under terms of the Agreement:

- A. Furnish all CFX procedures, standards, and policies applicable to the services being provided by the CONSULTANT.
- B. Furnish drawings, specifications, schedules, reports and other information prepared by or for CFX by others which are available to CFX and which CFX considers pertinent to CONSULTANT's responsibilities as described herein.
- C. Furnish available traffic, safety (accident) and planning data.

V. SUBCONTRACTING

Services assigned to subconsultants must be approved in advance by CFX in accordance with the Agreement. Subconsultants shall be qualified and approved by CFX prior to performing any work assigned to them.

If subconsultant services are authorized, the CONSULTANT shall obtain a schedule of rates for review and approval by CFX prior to any work being performed.


END OF SECTION

**CONSENT AGENDA ITEM
#8**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Lisa Lumbard 
Chief Financial Officer

DATE: August 3, 2021

SUBJECT: Approval of Revised Debt Policy

On August 2, 2021, staff and PFM Financial Advisors presented CFX's Debt Policy to the Finance Committee for review. The policy reflected only formatting changes. The Finance Committee recommended that the Board approve this policy as presented.

Board approval of the revised Debt Policy is requested.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
BOARD DEBT POLICY

TABLE OF CONTENTS

I. PURPOSE.....2

II. CAPITAL BUDGETING AND DEBT ISSUANCE POLICY.....2

III. DEBT SERVICE COVERAGE TARGETS AND LIMITS.....3

IV. METHOD OF SALE EVALUATION.....3

V. DEBT STRUCTURE.....4

VI. CALL PROVISIONS.....5

VII. DEBT REFUNDING.....5

VIII. CREDIT ENHANCEMENT AND LIQUIDITY.....5

IX. CONTINUING DISCLOSURE.....5

X. CREDIT OBJECTIVES.....6

XI. ON-GOING REPORTING REQUIREMENTS.....6

XII. POLICY REVIEW.....6

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Purpose

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I. PURPOSE

The purpose of this Central Florida Expressway Authority (CFX) Debt Policy is to establish guidelines and a framework for the issuance and management of CFX's debt. CFX is committed to consistent, best practices financial management, including maintaining the financial strength and flexibility of CFX and the full and timely repayment of all financial obligations. CFX will be open to recommendations or ideas for any proposed transaction as well as variations from the following guidelines provided that such variation shall be fully examined in conjunction with CFX's advisors and justified to the CFX Board.

II. CAPITAL BUDGETING AND DEBT ISSUANCE POLICY

A. CFX has retained the services of a traffic engineer and a general engineering consultant to obtain independent professional advice on the acquisition, construction, operation and management of the system, including assistance on the development of a Five-Year Work Plan and Twenty-Five Year Master Plan. The Five-Year Work Plan is typically reviewed and updated at least annually. The Twenty-Five Year Master Plan is typically updated every five years. CFX has developed and will maintain and update, as appropriate, a comprehensive Capital Planning Model as a tool in developing a financing plan for its Five-Year Work Plan, as well as other additional longer-term capital improvements. The Capital Planning Model incorporates the following elements, in addition to other factors:

1. System revenue projections from CFX's traffic consultant or alternative revenue projection scenarios
2. Projected Operations, Maintenance and Administration Expenses
3. Existing debt service requirements
4. Projected Five-Year Work Plan funding needs together with estimates to complete projects beyond the five-year scope
5. Projected timing of the adopted Five-Year Work Plan projects
6. Estimated additional debt service requirements
7. Estimated investment income

B. Long-term debt will be used to finance essential capital projects and certain equipment where it is cost effective, prudent or otherwise determined to be in the best interest of CFX. Long-term debt, which includes capital lease financings, should not be used to fund CFX's operations. The useful life of the asset or project financed with long-term debt should exceed the payout schedule of any debt issued by CFX to finance such asset.

C. Medium-term or "put" bonds will be used judiciously and only after careful analysis and discussion of the interest rate and rollover risks involved.

D. Variable rate debt may be issued in various forms – e.g., bonds, commercial paper, bank lines. The amount of unhedged variable rate debt generally should not exceed 25% of all outstanding debt of CFX. As a goal, CFX desires its total

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hedged and unhedged variable rate debt not to exceed 25% of all outstanding long-term debt of CFX.

III. DEBT SERVICE COVERAGE TARGETS AND LIMITS

- A. CFX has retained the services of a traffic engineer and a general engineering. For CFX to issue new bonds on a parity basis, per the Master Resolution, CFX will need to demonstrate that pledged revenues, as defined in the Master Resolution, shall be sufficient to cover the existing and new debt service by 1.20x.
- B. CFX shall maintain a minimum senior lien debt service coverage ratio of at least 1.45x on the existing and planned debt issues. For planning purposes, staff shall make every effort to plan for a 1.60x senior lien debt service coverage ratio.

IV. METHOD OF SALE EVALUATION

CFX will sell long-term debt on a competitive basis unless, based on the advice of the CFO and Financial Advisor, the transaction is better suited for a negotiated sale or direct placement.

- A. With the goal of obtaining the lowest cost of capital and completing a successful transaction, for each transaction recommended, the CFO, with advice from the Financial Advisor, will undertake an analysis to determine the recommended method of sale, including competitive, negotiated, or direct placement.
- B. The evaluation will take into consideration, among other factors the following considerations as outlined in the Government Finance Officers' Association (GFOA) best practice recommendations:
 - 1. Expected credit rating of bonds being issued
 - 2. Strength of revenue stream
 - 3. Structure of bonds and potential need for extensive explanation to the bond market
 - 4. Use of insurance or other credit enhancement
 - 5. Other factors that staff, in consultation with the financial advisor, believes favor the use of one method over the other
- C. The evaluation will be shared with the Finance Committee and a recommendation as to the method of sale will be presented.
- D. Should CFX select the use of a negotiated sale, the following guidelines will be followed to increase the likelihood of a successful transaction and fully documents negotiated sale process:
 - 1. Underwriters will be selected through a formal RFP process under CFX's Procurement Policies.
 - 2. CFX's Financial Advisor will advise CFX on all aspects of the sale, including but not limited to structuring, disclosure preparation and bond pricing.

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3. Staff and the Financial Advisor will make a recommendation for lead underwriting firm and all participating co-senior and co-manager firms based on:
 - a. results of most recent RFP selection,
 - b. firm's contribution to development of strategies for transaction,
 - c. demonstrated ability of firm to successfully underwrite similar transaction, and/or
 - d. previous work assigned to firm under current RFP selection.
4. The Financial Advisor shall prepare a post-sale summary and analysis that documents the following:
 - a. pricing of the bonds relative to other similar transactions priced at or near the time of CFX's bond sale,
 - b. final cash flows including the true interest cost of the sale and the date of the verbal award, and
 - c. summary of all orders, allotments and allocation of takedown to the underwriting syndicate to monitor compliance with distribution rules
 The analysis shall be shared with the Finance Committee.

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- E. Should a direct placement be recommended, staff and the Financial Advisor shall undertake a competitive process for selecting the placement party to ensure CFX's objectives are met at the lowest cost of capital. Such process may include a formal RFP or solicitation of pricing indications, as appropriate.

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V. DEBT STRUCTURE

- A. In general, CFX will seek to structure long-term debt so that it provides for level annual payments of principal and interest over the life of each respective issue (or approximately aggregate level debt service for all outstanding debt issues), after a period of interest only payments and the use of capitalized interest, as appropriate, for the respective issue in order to effectively interface with other existing debt of CFX and within the context of the Five-Year Work Plan and other considerations within this Debt Management Policy. CFX may utilize various debt structures to accomplish its financing goals, including but not limited, to the use of premium bonds, discount bonds, capital appreciation bonds, convertible capital appreciation bonds, variable rate and multimodal bonds and capitalized interest, when appropriate in order to achieve the goals provided in this Debt Management Policy.
- B. CFX will consider interest rate swap transactions only as they relate to its debt management program and not as an investment instrument. No swap transaction should impair the outstanding unsecured bond rating of CFX. Additionally, no interest rate swap transactions will be considered if it causes CFX to exceed the targets in its Interest Rate Risk Management Policy. (For additional details, see CFX's Interest Rate Risk Management Policy.)

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¶ Debt Structure

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VI. CALL PROVISIONS.

- A. Call provisions for CFX bond issues shall be made as short as possible consistent with the lowest interest cost to CFX, taking into consideration the option value of such call provisions.
- B. When practical, all CFX bonds shall be callable only at par.

VII. DEBT REFUNDING.

CFX staff and the financial advisor shall monitor the municipal bond market for opportunities to obtain interest savings by refunding or refinancing outstanding debt. As a general rule, the present value savings of a particular refunding should equal or exceed 3% of the refunded maturities. For an advance refunding a higher minimum savings threshold should be required, depending on how soon the bonds may be called. However, in order to meet certain restructuring or risk management goals, CFX may elect to lower the present value savings threshold for any individual transaction.

VIII. CREDIT ENHANCEMENT AND LIQUIDITY.

Bond insurance, surety policies, letters of credit, liquidity facilities and other credit enhancements will be used when it provides economic savings or risk management opportunities for CFX. Letters of credit, liquidity facilities or other credit facilities may expose CFX to bank provider risk. In those instances, bank providers should possess minimum long-term credit ratings of "A2/A/A" and minimum short-term ratings of "P-1/A-1/F1" from Moody's Investors Services, Standard and Poor's Corporation and Fitch Ratings, respectively.

IX. CONTINUING DISCLOSURE.

CFX is committed to providing continuing disclosure of financial and pertinent credit information relevant to CFX's outstanding securities and has and will continue to comply with those provisions of Securities and Exchange Commission (SEC) Rule 15c2-12 concerning primary and secondary market disclosure. CFX has engaged the services of Digital Assurance Certification L.L.C. ("DAC") to serve as Disclosure Dissemination Agent.

Additionally, CFX will maintain financial information on its website to provide timely information to the market and public. Such information will include, but not be limited to, comprehensive annual financial reports, monthly cash flow reports, reports on revenue and expenses, transactional information, current official traffic and revenue forecasts and current year budgets. It will be noted that monthly financial information will not be audited and will not be reported on a full accrual basis but is available to provide timely information to interested parties.

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X. CREDIT OBJECTIVES

- A. It is CFX's intent to maintain and improve the credit ratings on its outstanding and proposed bond issues. CFX will maintain long-term debt ratings from at least two of the three major bond rating agencies – Moody's Investors Service, Standard and Poor's Corporation, and Fitch Ratings. CFX may discontinue the use of ratings from any agency which currently rates the debt of CFX if, based on advice from CFX's Financial Advisor and underwriting team, the discontinuance of such rating will not adversely affect the rates that can be achieved in selling CFX's debt without such rating.
- B. CFX's CFO will maintain frequent communications with the credit rating agencies that currently assign ratings to CFX's various debt obligations, bank credit providers/lenders, and bond insurers that currently enhance any of CFX's various debt obligations. This effort shall include providing periodic updates on CFX's general financial condition along with coordinating meetings and presentations, as necessary, in conjunction with a new debt issuance.
- C. CFX's CFO will develop, in conjunction with the Financial Advisor and Disclosure Counsel, an investor relations program that will be designed to keep present and future investors in CFX's debt fully informed on current developments related to CFX and its long-term debt.

XI. ON-GOING REPORTING REQUIREMENTS

At least twice each year, the Board shall receive a report on the status its debt. The report shall, at a minimum, include:

- Amount and percentage of total debt by categories:
 - natural fixed
 - synthetic fixed
 - natural variable
 - synthetic variable
- Current mark-to-market value of all interest rate exchange agreements
- Historical rate performance for all variable rate bonds
- Any changes in ratings for credit enhancers and swap counterparty

CFX's CFO, with the assistance of the financial advisor, shall be responsible for analyzing any unsolicited proposals received relative to debt issues, responding to the proposal as appropriate, and recommending to the Finance Committee any action to be taken in a timely manner.

XII. POLICY REVIEW

The Chief Financial Officer, Executive Director and the Finance Committee shall review the policy every two years and shall submit any proposed modifications to the Board for

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Policy Review¶

¶ This policy shall be reviewed at least every two years.¶

¶ APPROVED AND ADOPTED BY THE BOARD ON _____, ¶

approval. If there are no recommended changes, the policy need not be resubmitted to the Board and remains in effect.

ADOPTED this _____ day of August 2021.

Buddy Dyer
Board Chairman

ATTEST:

Mimi Lamaute
Board Services Coordinator

Approved as to form and legality:

Diego "Woody" Rodriguez
General Counsel

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**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
BOARD DEBT POLICY**

TABLE OF CONTENTS

I.	PURPOSE.....	2
II.	CAPITAL BUDGETING AND DEBT ISSUANCE POLICY.....	2
III.	DEBT SERVICE COVERAGE TARGETS AND LIMITS.....	3
IV.	METHOD OF SALE EVALUATION	3
V.	DEBT STRUCTURE	4
VI.	CALL PROVISIONS.....	5
VII.	DEBT REFUNDING	5
VIII.	CREDIT ENHANCEMENT AND LIQUIDITY	5
IX.	CONTINUING DISCLOSURE	5
X.	CREDIT OBJECTIVES.....	6
XI.	ON-GOING REPORTING REQUIREMENTS	6
XII.	POLICY REVIEW.....	6

I. PURPOSE

The purpose of this Central Florida Expressway Authority (CFX) Debt Policy is to establish guidelines and a framework for the issuance and management of CFX's debt. CFX is committed to consistent, best practices financial management, including maintaining the financial strength and flexibility of CFX and the full and timely repayment of all financial obligations. CFX will be open to recommendations or ideas for any proposed transaction as well as variations from the following guidelines provided that such variation shall be fully examined in conjunction with CFX's advisors and justified to the CFX Board.

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- B. Long-term debt will be used to finance essential capital projects and certain equipment where it is cost effective, prudent or otherwise determined to be in the best interest of CFX. Long-term debt, which includes capital lease financings, should not be used to fund CFX's operations. The useful life of the asset or project financed with long-term debt should exceed the payout schedule of any debt issued by CFX to finance such asset.
- C. Medium-term or “put” bonds will be used judiciously and only after careful analysis and discussion of the interest rate and rollover risks involved.
- D. Variable rate debt may be issued in various forms – e.g., bonds, commercial paper, bank lines. The amount of unhedged variable rate debt generally should not exceed 25% of all outstanding debt of CFX. As a goal, CFX desires its total

hedged and unhedged variable rate debt not to exceed 25% of all outstanding long-term debt of CFX.

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- A. With the goal of obtaining the lowest cost of capital and completing a successful transaction, for each transaction recommended, the CFO, with advice from the Financial Advisor, will undertake an analysis to determine the recommended method of sale, including competitive, negotiated, or direct placement.
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3. Staff and the Financial Advisor will make a recommendation for lead underwriting firm and all participating co-senior and co-manager firms based on:
 - a. results of most recent RFP selection,
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 - d. previous work assigned to firm under current RFP selection.
4. The Financial Advisor shall prepare a post-sale summary and analysis that documents the following:
 - a. pricing of the bonds relative to other similar transactions priced at or near the time of CFX' s bond sale,
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- B. When practical, all CFX bonds shall be callable only at par.

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- B. CFX's CFO will maintain frequent communications with the credit rating agencies that currently assign ratings to CFX's various debt obligations, bank credit providers/lenders, and bond insurers that currently enhance any of CFX's various debt obligations. This effort shall include providing periodic updates on CFX's general financial condition along with coordinating meetings and presentations, as necessary, in conjunction with a new debt issuance.
- C. CFX's CFO will develop, in conjunction with the Financial Advisor and Disclosure Counsel, an investor relations program that will be designed to keep present and future investors in CFX's debt fully informed on current developments related to CFX and its long-term debt.

XI. ON-GOING REPORTING REQUIREMENTS

At least twice each year, the Board shall receive a report on the status its debt. The report shall, at a minimum, include:

- Amount and percentage of total debt by categories:
 - natural fixed
 - synthetic fixed
 - natural variable
 - synthetic variable
- Current mark-to-market value of all interest rate exchange agreements
- Historical rate performance for all variable rate bonds
- Any changes in ratings for credit enhancers and swap counterparty

CFX's CFO, with the assistance of the financial advisor, shall be responsible for analyzing any unsolicited proposals received relative to debt issues, responding to the proposal as appropriate, and recommending to the Finance Committee any action to be taken in a timely manner.

XII. POLICY REVIEW

The Chief Financial Officer, Executive Director and the Finance Committee shall review the policy every two years and shall submit any proposed modifications to the Board for

approval. If there are no recommended changes, the policy need not be resubmitted to the Board and remains in effect.

ADOPTED this _____ day of August 2021.

Buddy Dyer
Board Chairman

ATTEST: _____
Mimi Lamaute
Board Services Coordinator

Approved as to form and legality:


Diego "Woody" Rodriguez
General Counsel

**CONSENT AGENDA ITEM
#9**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Lisa Lumbard 
Chief Financial Officer

DATE: August 3, 2021

SUBJECT: Approval of Revised Interest Rate Risk Management Policy

On August 2, 2021, staff and PFM Financial Advisors presented CFX's Interest Rate Risk Management Policy to the Finance Committee for review. The policy reflected only formatting changes. The Finance Committee recommended that the Board approve this policy as presented.

Board approval of the revised Interest Rate Risk Management Policy is requested.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

CENTRAL FLORIDA EXPRESSWAY AUTHORITY BOARD
INTEREST RATE RISK MANAGEMENT POLICY

TABLE OF CONTENTS

I. GOALS AND OBJECTIVES 2
II. MONITORING AND REPORTING OF EXISTING TRANSACTIONS 2
III. EXIT STRATEGIES 2
IV. EVALUATION OF PROPOSED TRANSACTIONS 3
V. TRANSACTION MANAGEMENT AND EXECUTION 3
VI. THE SWAP DEALER/COUNTERPARTY 4
VII. AUTHORITY'S REPRESENTATIONS WITH RESPECT TO SWAPS AND QIR 5
VIII. USE OF QUALIFIED INDEPENDENT REPRESENTATIVE 5
IX. TRANSACTION PRICING 7
X. DISCLOSURE AND FINANCIAL REPORTING 8
XI. POLICY REVIEW 8

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Interest Rate Risk Management Policy¶
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The Central Florida Expressway Authority (CFX) currently has a number of interest rate exchange agreements (Swaps) with a number of counterparties. As used herein, "Swap" shall mean a "swap," as defined in the Section 1a(47) of the Commodity Exchange Act and the U.S. Commodity Futures Trading Commission ("CFTC") Regulations. This policy will govern how the Swaps, together with the associated variable rate demand bonds, will be managed to provide the optimal balance of costs and risk. This policy should be read and interpreted in the context of CFX's Debt Policy.

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I. GOALS AND OBJECTIVES

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The overall objective in managing CFX's debt portfolio and interest rate risk is to balance the cost of capital with the management of risk. CFX's risk tolerance is low and therefore, opportunities to cost-effectively reduce existing or potential risks should be constantly evaluated for feasibility.

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CFX has set a limit of synthetic fixed rate debt at 25% of the total outstanding debt. This goal should be considered as CFX manages its Swap portfolio and its overall debt program. New Swaps will only be considered where the overall exposure to like transactions is not increased beyond the stated limit. New, novated or amended Swaps may also be considered where a reduction in actual or potential risks may be accomplished.

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It is also CFX's goal to limit exposure to individual swap dealers/counterparties to no more than 30% of the total notional amount of CFX's active Swap portfolio. Although this requirement shall not require CFX to terminate, novate or amend existing Swaps absent of other risk considerations, it does prohibit new Swaps to be considered if the new Swap would cause CFX's exposure to any individual swap dealer/counterparty to increase beyond 30% of the then existing total notional value of CFX's active Swap portfolio.

II. MONITORING AND REPORTING OF EXISTING TRANSACTIONS

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II. Monitoring and Reporting of Existing Transactions¶

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As part of the semi-annual debt report provided to the Board (in accordance with CFX's Debt Policy), the CFO will report the current credit ratings of each swap dealer/counterparty with which it has an existing Swap and the mark-to-market value of each Swap. In addition to reporting the weekly rates on the variable rate bonds in the semi-annual debt report, the CFO will provide the Finance Committee with a quarterly remarketing report and review the results at the next scheduled meeting. As necessary, the CFO, in consultation with CFX's financial advisors, will make recommendations to address any rate dislocation including, but not limited to, changing remarketing agents or credit providers, depending on the underlying cause of the dislocation.

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III. Exit Strategies¶

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III. EXIT STRATEGIES

The CFO and CFX's financial advisors and designated "qualified independent representative" ("QIR") (as defined herein) should constantly monitor market rates, termination values, counterparty credit ratings, and other relevant factors to determine if voluntary termination is warranted. Generally, a voluntary early termination will be warranted if it is economically

advantageous and/or if a reduction in CFX's current or anticipated risk can be accomplished at no cost. CFX shall seek to maintain sufficient liquidity, including without limitation through balances in CFX's Swap/Debt Management Contingency, short term financing capacity, and/or other borrowing capacity, to make any Swap termination payments that may become due, to the extent not paid or payable from other sources.

IV. EVALUATION OF PROPOSED TRANSACTIONS

While CFX's current goals would exclude contemplation of new derivative products, the replacement of existing Swap transactions with new ones may be the most cost-beneficial method of managing risks. For that reason, this section outlines the process for evaluating and executing new transactions.

A. Review and Analysis

The proposed use of structured products must comply with all goals and provisions of CFX's existing policies. Each Swap transaction will be evaluated as an alternative to traditional, intermediate, or long-term financing options. Consideration should be given to their comparable cost, ease of entry and exit provisions, and degree of potential risk exposure, quantified to the greatest extent possible. Any proposed Swap transaction must fit into CFX's goals to limit the percentage of variable rate debt and exposure to individual counterparties.

CFX's designated QIR will provide independent analysis of any proposed Swap transaction, including an analysis of the relevant benefits and risks of such transaction. CFX's cost of the transaction and any ongoing costs, such as remarketing, credit enhancement and/or liquidity, swap advisors, financial advisors, attorney fees and other necessary costs will be included in the cost/benefit evaluations. A review of provisions required by bond and/or swap insurance providers and the cost/benefit of such insurance will also be included in an evaluation of the Swap transaction.

B. Legal Analysis

The documentation of the swap shall be in the form of an enforceable written contract. Whenever possible, those contracts shall be transacted using Florida law or, as an alternative New York law with Florida law as to CFX's authority and Orange County, Florida as to jurisdiction or venue. Review of compliance with existing law and regulation (including but not limited to the Internal Revenue Code and CFTC Regulations) bond indentures and bond covenants should be completed before implementation of a Swap transaction.

V. TRANSACTION MANAGEMENT AND EXECUTION

Swap transactions will:

- Comply with all applicable outstanding bond resolutions, insurance covenants, and Florida law.

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IV. Evaluation of Proposed Transactions¶
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V. Transaction Management and Execution¶
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- Contain terms and conditions as set forth in the International Swap and Derivatives Association, Inc. ("ISDA") Master Agreement, Schedules to the Master, Credit Support Annex and confirmation.
- Be a market transaction for which competing good faith market quotations may be obtained and with the advice and recommendation of CFX's designated QIR, and other financial professionals.
- Include a provision for the right to early termination at market under the guidelines of the ISDA Agreement. The transaction should allow for CFX to exercise the right to optionally terminate the agreement, at the then prevailing market value of the Swap.
- Produce material economic or risk management benefit believed to not otherwise be attainable under the currently existing market conditions, or existing conventional debt structures, and improve the flexibility of debt management strategies.
- Not introduce leverage solely for the means of producing economic benefit. Transactions will not be speculative in nature.
- Not unduly impair CFX's utilization of call features on outstanding bonds.
- Employ structures that will attempt to minimize existing risks and do not substantially add new risks, including but not limited to, any additional floating rate basis risk, tax-law risk or credit risk to CFX.
- Not cause the total amount of Swap transactions to exceed the debt management limitations for fixed or floating debt.

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VI. The Swap Dealer/Counterparty ¶

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VI. THE SWAP DEALER/COUNTERPARTY

The following criteria will be used when considering swap dealer/counterparties for a Swap transaction:

- The swap dealer/counterparty must fully disclose all costs. All fees and expenses paid by the swap dealer/counterparty and to designated third parties, will be fully disclosed in writing to CFX.
- CFX will consider acquiring downgrade protection when possible, including collateral or credit support.
- The assignment of a Swap agreement will not be permitted without the consent of CFX.
- CFX will attempt to utilize domestically domiciled swap dealer/counterparties and/or utilize ISDA documentation which employs local currency-single jurisdiction status.
- The swap dealer/counterparty shall disclose relationships with other third parties which may affect the transaction, such as broker dealers, insurance companies and other swap providers.
- The swap dealer/counterparty shall provide its financial statements showing the economic capability of the entity, the amount of its swaps outstanding and credit ratings, all of which shall be acceptable to CFX. At the time of entering into the Swap

transaction, swap dealer/counterparties (or their guarantor) shall (i) be rated at least AA-/ Aa3/ AA- by at least one of the three nationally recognized credit rating agencies and not be rated lower than A/A2/A by any of the three nationally recognized credit rating agencies. Collateral should be required upon a downgrade from these levels.

VII. AUTHORITY'S REPRESENTATIONS WITH RESPECT TO SWAPS AND QIR

Solely for purposes of the rules adopted by the CFTC governing business conduct standards for swap dealers and other parties as they apply to communications regarding Swaps, the Executive Director or CFO may make substantially the following representations in writing on behalf of CFX when requested by the swap dealer/counterparty.

- 1) CFX will not rely on any "recommendation" (as such term is used in CFTC Regulations §23.434 and §23.440) provided by a swap dealer/ counterparty with respect to a Swap;
- 2) CFX will rely on advice from a "qualified independent representative" designated by CFX and that it has complied in good faith with written policies and procedures reasonably designed to ensure that it has designated a "qualified independent representative" that satisfies the applicable requirements of CFTC Regulation §23.450(b);
- 3) CFX will exercise independent judgment in evaluating any "recommendations" made by the swap dealer/counterparty with regard to a Swap; and
- 4) CFX understands that the swap dealer/counterparty is not expressing any opinion as to whether CFX should enter into or terminate a Swap.

VIII. USE OF QUALIFIED INDEPENDENT REPRESENTATIVE

In compliance with the CFTC Regulations promulgated under the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended (the "Dodd-Frank Act"), CFX will designate a QIR for all Swap related transactions, including terminations. The QIR must be capable of independently evaluating the risks of the Swap, independently evaluating the fair pricing of the Swap (including termination payments), and of making timely and effective disclosures to CFX (including with regard to material conflicts of interest that could reasonably affect the judgment or decision making or the QIR with respect to its obligations to CFX). The QIR must represent to CFX that:

- A. The QIR has sufficient knowledge and expertise to independently evaluate the Swap, the risks of the Swap, the fair pricing of the Swap (including termination payments) and the appropriateness of the Swap for CFX (taking into consideration the written policies of CFX);
- B. The QIR is not subject to a statutory or regulatory disqualification or any final disciplinary action that would prevent it from effectively serving as a representative to

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Authority's Representations with Respect to Swaps and QIR ...

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Use of Qualified Independent Representative ¶

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CFX in such capacity.

- C. The QIR, by accepting such designation by CFX, is undertaking a duty to act in the best interests of CFX;
- D. The QIR has written policies and procedures reasonably designed to ensure that it satisfies the applicable requirements of CFTC Regulation §23.450(b)(1);
- E. The QIR will exercise independent judgment in evaluating any “recommendations” (as such term is used in CFTC Regulations §23.434 and §23.440) presented to it by the swap dealer/counterparty with regard to a Swap;
- F. The QIR is not and, within one year of representing CFX in connection with the Swap has not been, an “associated person,” as such term is defined in Section 1a(4) of the Commodity Exchange Act, of the swap dealer/counterparty;
- G. There is no “principal relationship” (as that term is defined in CFTC Regulations §23.450(a)(1)) between the QIR and the swap dealer/counterparty;
- H. The QIR (a) will provide timely and effective disclosures to CFX of all material conflicts of interest that could reasonably affect the judgment or decision making of the QIR with respect to its obligations to CFX and (b) will comply with policies and procedures reasonably designed to manage and mitigate such material conflicts of interest;
- I. The QIR is not directly or indirectly, through one or more persons, controlled by, in control of, or under common control with the swap dealer/counterparty;
- J. To the best of the QIR’s knowledge, the swap dealer/counterparty did not refer, recommend, or introduce the QIR to CFX within one year of QIR’s representation of CFX in connection with the Swap;
- K. The QIR is legally obligated to comply with the applicable requirements of CFTC Regulation §23.450(b)(1) by agreement, condition of employment, law, rule, regulation, or other enforceable duty; and
- L. The QIR has registered with the CFTC as a commodity trading advisor and/or with the Securities Exchange Commission as an investment advisor under the Investment Advisers Act of 1940.

The QIR must also agree to promptly notify CFX in writing if any representations made by the QIR referenced above became incorrect or misleading in any material respect. For any representation that would be incorrect or misleading in any material respect if repeated on any date following the date on which the representation was last repeated, the QIR shall timely amend such representation by giving written notice of such amendment to CFX. The

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designated QIR must annually reaffirm in writing to CFX by delivery to the CFO on each July 1st the representations outlined in A through L above.

The QIR will be retained by CFX through CFX's implemented procurement procedures (i.e. RFP, RFQ, etc.) using selection criteria that ensure the designated QIR possesses the capabilities necessary to independently evaluate the risks of the Swap, to independently evaluate the fair pricing of the Swap (including termination payments), and to make timely and appropriate disclosures to CFX. The procurement of the QIR may be done in conjunction with CFX's procurement of its financial advisor. If CFX's financial advisor, or its registered commodity trading advisor or investment advisor affiliate, possesses the requisite capabilities and, by written contract, makes the representations set forth above, then CFX may designate its financial advisor, or its registered investment advisor affiliate, as the QIR.

To ensure compliance with the provisions above, CFX will designate the QIR in writing. The QIR must provide evidence of its registration with the CFTC as a commodity trading advisor and/or with the Securities Exchange Commission as an investment advisor prior to being designated as CFX's QIR. The designation can be done in the context of the financial advisor contract or amendment thereto with the financial advisor or its registered commodity trading advisor or investment advisor affiliate, or in a separate contract with a different firm. Prior to executing a Swap transaction, termination or novation, CFX will obtain from the designated QIR the written representations outlined in A through L above. If the designated QIR is unable to provide such representations in a timely manner, CFX may utilize an expedited quote process to select a new designated QIR to facilitate a time and market sensitive transaction. The CFO will monitor the performance of the designated QIR and that the designated QIR demonstrates on each transaction that (1) it has the knowledge and expertise to independently evaluate the Swap, the risks of the Swap, the fair pricing of the Swap (including termination payments) and the appropriateness of the Swap for CFX, (2) it is independent of the swap dealer/counterparty, (3) it is acting in the best interest of CFX and (4) it makes timely and appropriate disclosures to CFX, when applicable.

IX. TRANSACTION PRICING

When procuring financial derivative products, every effort shall be made to ensure competitive pricing. The complexity of circumstances surrounding transactions and meeting goals to limit exposure to individual counterparties may be valid reasons to negotiate a particular derivative product transaction. The CFO, upon the advice of the QIR, will make a recommendation to the Finance Committee as to the method of pricing and counterparty selection. The QIR will evaluate prices and rates to ensure transactions are at or below market. Similarly, CFX will make every effort to competitively price swap unwind transactions. The CFO, upon the advice of the QIR will make a recommendation as to the method of selecting counterparties for unwinding swaps when not selecting all swaps in a series. Offers from counterparties to unwind transactions below market is an example of a reason to negotiate with specific counterparties.

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IX. Transaction Pricing¶
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X. DISCLOSURE AND FINANCIAL REPORTING

CFX will ensure that it complies with all regulations and guidelines for the disclosure and financial reporting of interest rate swaps as set forth by the Municipal Securities Rulemaking Board (MSRB) and the Governmental Accounting Standards Board (GASB).

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XI. POLICY REVIEW

The Chief Financial Officer, Executive Director and the Finance Committee shall review the policy every two years and shall submit any proposed modifications to the Board for approval. If there are no recommended changes, the policy need not be resubmitted to the Board and remains in effect.

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XI. Policy Review¶
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This policy shall be reviewed at least every two years.¶
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APPROVED AND ADOPTED BY THE BOARD ON
_____.¶

ADOPTED this _____ day of August 2021.

Buddy Dyer
Board Chairman

ATTEST:

Mimi Lamaute
Board Services Coordinator

Approved as to form and legality:

Diego "Woody" Rodriguez
General Counsel

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CENTRAL FLORIDA EXPRESSWAY AUTHORITY

CENTRAL FLORIDA EXPRESSWAY AUTHORITY BOARD INTEREST RATE RISK MANAGEMENT POLICY

TABLE OF CONTENTS

I.	GOALS AND OBJECTIVES	2
II.	MONITORING AND REPORTING OF EXISTING TRANSACTIONS.....	2
III.	EXIT STRATEGIES	2
IV.	EVALUATION OF PROPOSED TRANSACTIONS	3
V.	TRANSACTION MANAGEMENT AND EXECUTION	3
VI.	THE SWAP DEALER/COUNTERPARTY	4
VII.	AUTHORITY'S REPRESENTATIONS WITH RESPECT TO SWAPS AND QIR.....	5
VIII.	USE OF QUALIFIED INDEPENDENT REPRESENTATIVE.....	5
IX.	TRANSACTION PRICING.....	7
X.	DISCLOSURE AND FINANCIAL REPORTING	8
XI.	POLICY REVIEW	8

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I. GOALS AND OBJECTIVES

The overall objective in managing CFX’s debt portfolio and interest rate risk is to balance the cost of capital with the management of risk. CFX’s risk tolerance is low and therefore, opportunities to cost-effectively reduce existing or potential risks should be constantly evaluated for feasibility.

CFX has set a limit of synthetic fixed rate debt at 25% of the total outstanding debt. This goal should be considered as CFX manages its Swap portfolio and its overall debt program. New Swaps will only be considered where the overall exposure to like transactions is not increased beyond the stated limit. New, novated or amended Swaps may also be considered where a reduction in actual or potential risks may be accomplished.

It is also CFX’s goal to limit exposure to individual swap dealers/counterparties to no more than 30% of the total notional amount of CFX’s active Swap portfolio. Although this requirement shall not require CFX to terminate, novate or amend existing Swaps absent of other risk considerations, it does prohibit new Swaps to be considered if the new Swap would cause CFX’s exposure to any individual swap dealer/counterparty to increase beyond 30% of the then existing total notional value of CFX’s active Swap portfolio.

II. MONITORING AND REPORTING OF EXISTING TRANSACTIONS

As part of the semi-annual debt report provided to the Board (in accordance with CFX’s Debt Policy), the CFO will report the current credit ratings of each swap dealer/counterparty with which it has an existing Swap and the mark-to-market value of each Swap. In addition to reporting the weekly rates on the variable rate bonds in the semi-annual debt report, the CFO will provide the Finance Committee with a quarterly remarketing report and review the results at the next scheduled meeting. As necessary, the CFO, in consultation with CFX’s financial advisors, will make recommendations to address any rate dislocation including, but not limited to, changing remarketing agents or credit providers, depending on the underlying cause of the dislocation.

III. EXIT STRATEGIES

The CFO and CFX’s financial advisors and designated “qualified independent representative” (“QIR”) (as defined herein) should constantly monitor market rates, termination values, counterparty credit ratings, and other relevant factors to determine if voluntary termination is warranted. Generally, a voluntary early termination will be warranted if it is economically

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While CFX's current goals would exclude contemplation of new derivative products, the replacement of existing Swap transactions with new ones may be the most cost-beneficial method of managing risks. For that reason, this section outlines the process for evaluating and executing new transactions.

A. Review and Analysis

The proposed use of structured products must comply with all goals and provisions of CFX's existing policies. Each Swap transaction will be evaluated as an alternative to traditional, intermediate, or long-term financing options. Consideration should be given to their comparable cost, ease of entry and exit provisions, and degree of potential risk exposure, quantified to the greatest extent possible. Any proposed Swap transaction must fit into CFX's goals to limit the percentage of variable rate debt and exposure to individual counterparties.

CFX's designated QIR will provide independent analysis of any proposed Swap transaction, including an analysis of the relevant benefits and risks of such transaction. CFX's cost of the transaction and any ongoing costs, such as remarketing, credit enhancement and/or liquidity, swap advisors, financial advisors, attorney fees and other necessary costs will be included in the cost/benefit evaluations. A review of provisions required by bond and/or swap insurance providers and the cost/benefit of such insurance will also be included in an evaluation of the Swap transaction.

B. Legal Analysis

The documentation of the swap shall be in the form of an enforceable written contract. Whenever possible, those contracts shall be transacted using Florida law or, as an alternative New York law with Florida law as to CFX's authority and Orange County, Florida as to jurisdiction or venue. Review of compliance with existing law and regulation (including but not limited to the Internal Revenue Code and CFTC Regulations) bond indentures and bond covenants should be completed before implementation of a Swap transaction.

V. TRANSACTION MANAGEMENT AND EXECUTION

Swap transactions will:

- Comply with all applicable outstanding bond resolutions, insurance covenants, and Florida law.

- Contain terms and conditions as set forth in the International Swap and Derivatives Association, Inc. ("ISDA") Master Agreement, Schedules to the Master, Credit Support Annex and confirmation.
- Be a market transaction for which competing good faith market quotations may be obtained and with the advice and recommendation of CFX's designated QIR, and other financial professionals.
- Include a provision for the right to early termination at market under the guidelines of the ISDA Agreement. The transaction should allow for CFX to exercise the right to optionally terminate the agreement, at the then prevailing market value of the Swap.
- Produce material economic or risk management benefit believed to not otherwise be attainable under the currently existing market conditions, or existing conventional debt structures, and improve the flexibility of debt management strategies.
- Not introduce leverage solely for the means of producing economic benefit. Transactions will not be speculative in nature.
- Not unduly impair CFX's utilization of call features on outstanding bonds.
- Employ structures that will attempt to minimize existing risks and do not substantially add new risks, including but not limited to, any additional floating rate basis risk, tax-law risk or credit risk to CFX.
- Not cause the total amount of Swap transactions to exceed the debt management limitations for fixed or floating debt.

VI. THE SWAP DEALER/COUNTERPARTY

The following criteria will be used when considering swap dealer/counterparties for a Swap transaction:

- A. The swap dealer/counterparty must fully disclose all costs. All fees and expenses paid by the swap dealer/counterparty and to designated third parties, will be fully disclosed in writing to CFX.
- B. CFX will consider acquiring downgrade protection when possible, including collateral or credit support.
- C. The assignment of a Swap agreement will not be permitted without the consent of CFX.
- D. CFX will attempt to utilize domestically domiciled swap dealer/counterparties and/or utilize ISDA documentation which employs local currency-single jurisdiction status.
- E. The swap dealer/counterparty shall disclose relationships with other third parties which may affect the transaction, such as broker dealers, insurance companies and other swap providers.
- F. The swap dealer/counterparty shall provide its financial statements showing the economic capability of the entity, the amount of its swaps outstanding and credit ratings, all of which shall be acceptable to CFX. At the time of entering into the Swap

transaction, swap dealer/counterparties (or their guarantor) shall (i) be rated at least AA-/ Aa3/ AA- by at least one of the three nationally recognized credit rating agencies and not be rated lower than A/A2/A by any of the three nationally recognized credit rating agencies. Collateral should be required upon a downgrade from these levels.

VII. AUTHORITY'S REPRESENTATIONS WITH RESPECT TO SWAPS AND QIR

Solely for purposes of the rules adopted by the CFTC governing business conduct standards for swap dealers and other parties as they apply to communications regarding Swaps, the Executive Director or CFO may make substantially the following representations in writing on behalf of CFX when requested by the swap dealer/counterparty.

- 1) CFX will not rely on any "recommendation" (as such term is used in CFTC Regulations §23.434 and §23.440) provided by a swap dealer/ counterparty with respect to a Swap;
- 2) CFX will rely on advice from a "qualified independent representative" designated by CFX and that it has complied in good faith with written policies and procedures reasonably designed to ensure that it has designated a "qualified independent representative" that satisfies the applicable requirements of CFTC Regulation §23.450(b);
- 3) CFX will exercise independent judgment in evaluating any "recommendations" made by the swap dealer/counterparty with regard to a Swap; and
- 4) CFX understands that the swap dealer/counterparty is not expressing any opinion as to whether CFX should enter into or terminate a Swap.

VIII. USE OF QUALIFIED INDEPENDENT REPRESENTATIVE

In compliance with the CFTC Regulations promulgated under the Dodd-Frank Wall Street Reform and Consumer Protection Act, as amended (the "Dodd-Frank Act"), CFX will designate a QIR for all Swap related transactions, including terminations. The QIR must be capable of independently evaluating the risks of the Swap, independently evaluating the fair pricing of the Swap (including termination payments), and of making timely and effective disclosures to CFX (including with regard to material conflicts of interest that could reasonably affect the judgment or decision making or the QIR with respect to its obligations to CFX). The QIR must represent to CFX that:

- A. The QIR has sufficient knowledge and expertise to independently evaluate the Swap, the risks of the Swap, the fair pricing of the Swap (including termination payments) and the appropriateness of the Swap for CFX (taking into consideration the written policies of CFX);
- B. The QIR is not subject to a statutory or regulatory disqualification or any final disciplinary action that would prevent it from effectively serving as a representative to

CFX in such capacity.

- C. The QIR, by accepting such designation by CFX, is undertaking a duty to act in the best interests of CFX;
- D. The QIR has written policies and procedures reasonably designed to ensure that it satisfies the applicable requirements of CFTC Regulation §23.450(b)(1);
- E. The QIR will exercise independent judgment in evaluating any “recommendations” (as such term is used in CFTC Regulations §23.434 and §23.440) presented to it by the swap dealer/counterparty with regard to a Swap;
- F. The QIR is not and, within one year of representing CFX in connection with the Swap has not been, an “associated person,” as such term is defined in Section 1a(4) of the Commodity Exchange Act, of the swap dealer/counterparty;
- G. There is no “principal relationship” (as that term is defined in CFTC Regulations §23.450(a)(1)) between the QIR and the swap dealer/counterparty;
- H. The QIR (a) will provide timely and effective disclosures to CFX of all material conflicts of interest that could reasonably affect the judgment or decision making of the QIR with respect to its obligations to CFX and (b) will comply with policies and procedures reasonably designed to manage and mitigate such material conflicts of interest;
- I. The QIR is not directly or indirectly, through one or more persons, controlled by, in control of, or under common control with the swap dealer/counterparty;
- J. To the best of the QIR’s knowledge, the swap dealer/counterparty did not refer, recommend, or introduce the QIR to CFX within one year of QIR’s representation of CFX in connection with the Swap;
- K. The QIR is legally obligated to comply with the applicable requirements of CFTC Regulation §23.450(b)(1) by agreement, condition of employment, law, rule, regulation, or other enforceable duty; and
- L. The QIR has registered with the CFTC as a commodity trading advisor and/or with the Securities Exchange Commission as an investment advisor under the Investment Advisers Act of 1940.

The QIR must also agree to promptly notify CFX in writing if any representations made by the QIR referenced above became incorrect or misleading in any material respect. For any representation that would be incorrect or misleading in any material respect if repeated on any date following the date on which the representation was last repeated, the QIR shall timely amend such representation by giving written notice of such amendment to CFX. The

designated QIR must annually reaffirm in writing to CFX by delivery to the CFO on each July 1st the representations outlined in A through L above.

The QIR will be retained by CFX through CFX's implemented procurement procedures (i.e. RFP, RFQ, etc.) using selection criteria that ensure the designated QIR possesses the capabilities necessary to independently evaluate the risks of the Swap, to independently evaluate the fair pricing of the Swap (including termination payments), and to make timely and appropriate disclosures to CFX. The procurement of the QIR may be done in conjunction with CFX's procurement of its financial advisor. If CFX's financial advisor, or its registered commodity trading advisor or investment advisor affiliate, possesses the requisite capabilities and, by written contract, makes the representations set forth above, then CFX may designate its financial advisor, or its registered investment advisor affiliate, as the QIR.

To ensure compliance with the provisions above, CFX will designate the QIR in writing. The QIR must provide evidence of its registration with the CFTC as a commodity trading advisor and/or with the Securities Exchange Commission as an investment advisor prior to being designated as CFX's QIR. The designation can be done in the context of the financial advisor contract or amendment thereto with the financial advisor or its registered commodity trading advisor or investment advisor affiliate, or in a separate contract with a different firm. Prior to executing a Swap transaction, termination or novation, CFX will obtain from the designated QIR the written representations outlined in A through L above. If the designated QIR is unable to provide such representations in a timely manner, CFX may utilize an expedited quote process to select a new designated QIR to facilitate a time and market sensitive transaction. The CFO will monitor the performance of the designated QIR and that the designated QIR demonstrates on each transaction that (1) it has the knowledge and expertise to independently evaluate the Swap, the risks of the Swap, the fair pricing of the Swap (including termination payments) and the appropriateness of the Swap for CFX, (2) it is independent of the swap dealer/counterparty, (3) it is acting in the best interest of CFX and (4) it makes timely and appropriate disclosures to CFX, when applicable.

IX. TRANSACTION PRICING

When procuring financial derivative products, every effort shall be made to ensure competitive pricing. The complexity of circumstances surrounding transactions and meeting goals to limit exposure to individual counterparties may be valid reasons to negotiate a particular derivative product transaction. The CFO, upon the advice of the QIR, will make a recommendation to the Finance Committee as to the method of pricing and counterparty selection. The QIR will evaluate prices and rates to ensure transactions are at or below market. Similarly, CFX will make every effort to competitively price swap unwind transactions. The CFO, upon the advice of the QIR will make a recommendation as to the method of selecting counterparties for unwinding swaps when not selecting all swaps in a series. Offers from counterparties to unwind transactions below market is an example of a reason to negotiate with specific counterparties.

X. DISCLOSURE AND FINANCIAL REPORTING

CFX will ensure that it complies with all regulations and guidelines for the disclosure and financial reporting of interest rate swaps as set forth by the Municipal Securities Rulemaking Board (MSRB) and the Governmental Accounting Standards Board (GASB).

XI. POLICY REVIEW

The Chief Financial Officer, Executive Director and the Finance Committee shall review the policy every two years and shall submit any proposed modifications to the Board for approval. If there are no recommended changes, the policy need not be resubmitted to the Board and remains in effect.

ADOPTED this _____ day of August 2021.

Buddy Dyer
Board Chairman

ATTEST: _____
Mimi Lamaute
Board Services Coordinator


Approved as to form and legality:

Diego “Woody” Rodriguez
General Counsel

**CONSENT AGENDA ITEM
#10**

MEMORANDUM

TO: Central Florida Expressway Authority Board

FROM: Jeffrey Tecau, Managing Director, Protiviti


DATE: July 29, 2021

SUBJECT: Internal Audit Report

Attached, please find the following Internal Audit report as reviewed and accepted by the Central Florida Expressway Authority Audit Committee on June 23, 2021.

1. Fiscal 2022 Internal Audit Plan and Risk Assessment

Reviewed by:

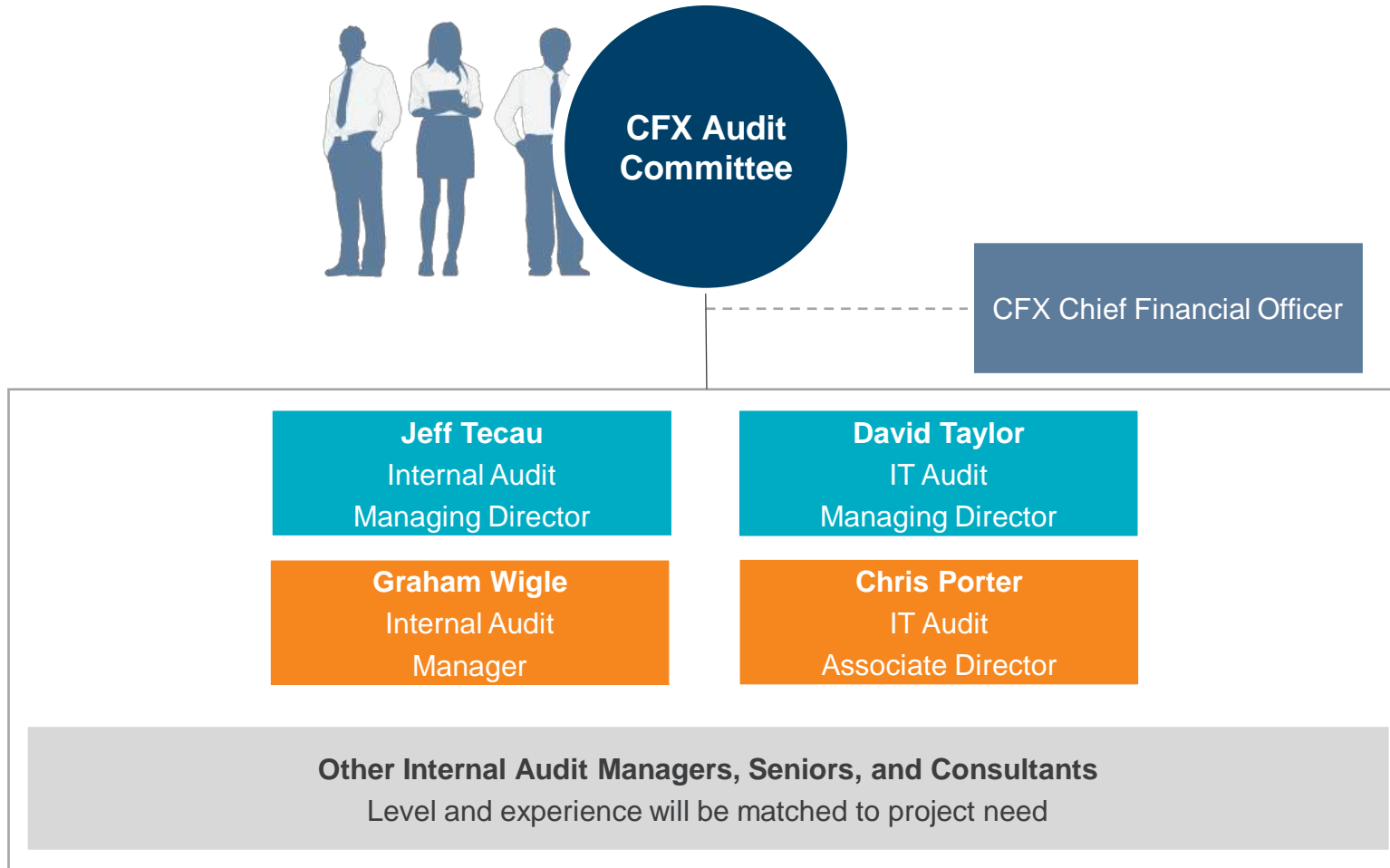


CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Internal Audit Plan




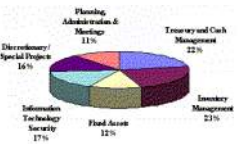
For the Fiscal Year Ending June 30, 2022

YOUR INTERNAL AUDIT TEAM



BACKGROUND

An annual risk assessment is a critical element of a high-quality Internal Audit department’s responsibility and provides the opportunity to be “front and center” with senior leadership as a strategic partner in the review and management of key business risks. The objective of the fiscal 2022 risk assessment is to identify and prioritize key areas of risk within CFX to consider in designing the fiscal 2022 Internal Audit plan. The approach to conduct the fiscal 2022 risk assessment and develop the fiscal 2022 Internal Audit plan is depicted below.

	<p>Identify Key Areas of Risk to be Assessed</p>	<ul style="list-style-type: none"> • Confirm and update prior year risk areas based upon review of prior year work papers, audit results, and discussions with staff • Determine preliminary risk ratings based upon prior year results
	<p>Assess and Prioritize Areas of Risk</p>	<ul style="list-style-type: none"> • Conduct interviews with management, the Board, and the Audit Committee Chair to confirm and validate the current enterprise risk model and gain additional insight around risk trending, key changes in the organization, and key initiatives • Aggregate and compile resulting information • Provide a graphical representation of enterprise risks on a risk heat map to prioritize residual areas of risk
	<p>Select Focus Areas</p>	<ul style="list-style-type: none"> • Evaluate the prioritized enterprise risks and management commentary to determine Internal Audit focus areas for fiscal year 2022 • Develop and define a preliminary listing of proposed Internal Audit projects to address the areas of focus
	<p>Develop and Approve Audit Plan</p>	<ul style="list-style-type: none"> • Establish high-level scoping statements and levels of effort for proposed projects • Finalize budget allotments and propose projects for Audit Committee approval • Finalize proposed timing for selected projects • Finalize Internal Audit plan and obtain Audit Committee approval

INTERVIEW LIST

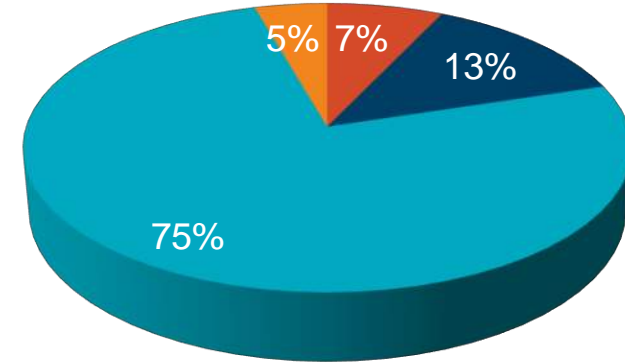
The following 24 individuals were interviewed to gather information to develop the fiscal year 2022 Internal Audit plan:

Name	Title	Name	Title
Mayor Buddy Dyer	Board Chair (City of Orlando)	Michelle Maikisch	Chief of Staff/Public Affairs Officer
Sean Parks	Board Vice Chairman (Lake County)	Jim Greer	Chief of Technology/Operations
Victoria Siplin*	Board Treasurer (Orange County)	Diego “Woody” Rodriguez	General Counsel
Mayor Jerry Demings	Board Member (Orange County)	David Wynne	Director of Toll Operations
Brandon Arrington	Board Member (Osceola County)	Will Hawthorne	Director of Engineering
Lee Constantine	Board Member (Seminole County)	Michael Carlisle	Director of Accounting and Finance
Jay Madara	Board Member (Governor’s Appointee)	Rafael Milan	Director of Information Technology
Curt Smith*	Board Member (Brevard County)	Joann Chizlett	Director of Special Projects
Michelle McCrimmon	Audit Committee Chair	Evelyn Wilson	Director of Human Resources
Laura Kelley	Executive Director	Don Budnovich	Director of Maintenance
Glenn Pressimone	Chief of Infrastructure	Iranetta Dennis	Director of Supplier Diversity
Lisa Lombard	Chief Financial Officer	Aneth Williams	Director of Procurement

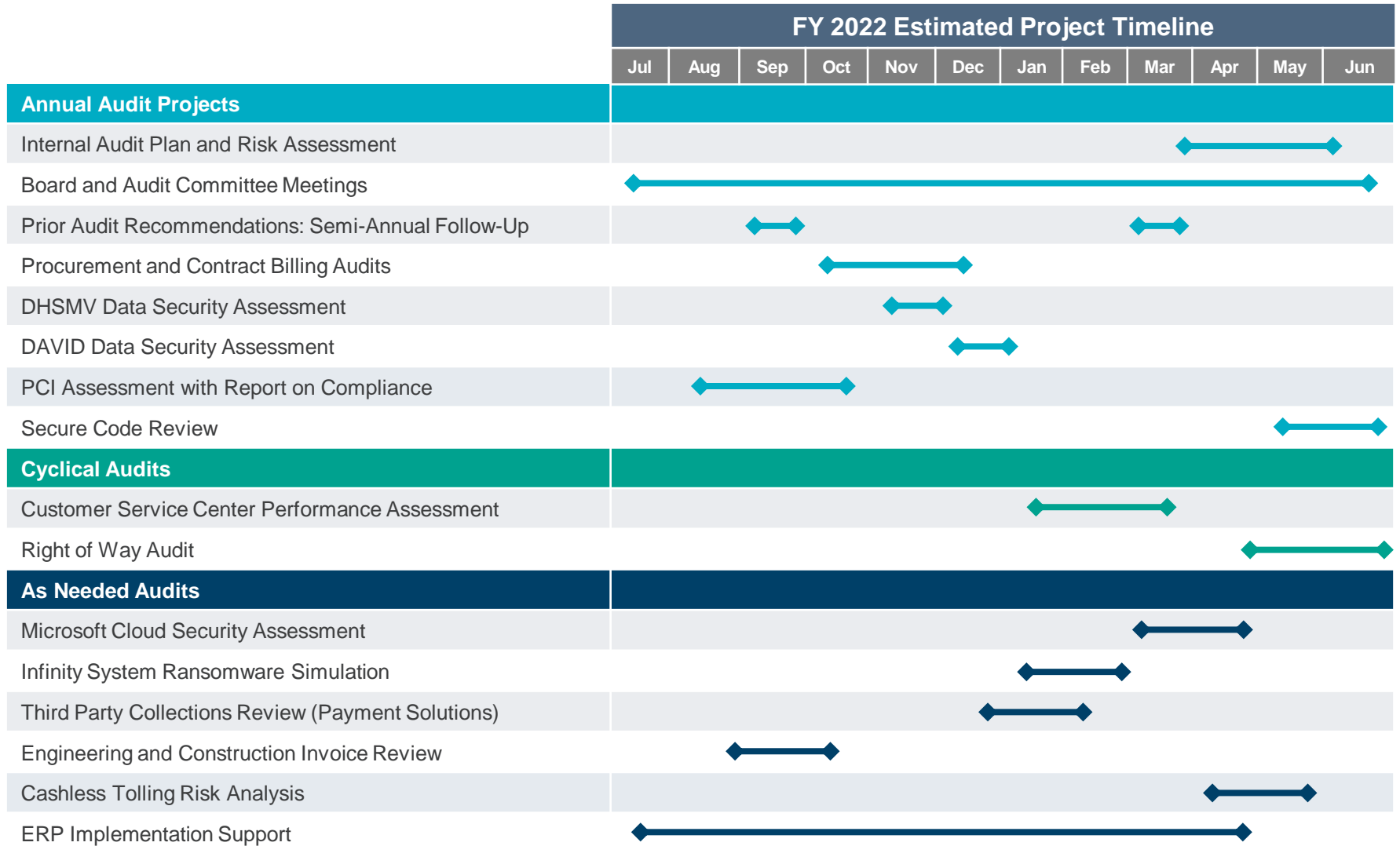
* Board member was provided a copy of the Risk Discussion Document for review and opportunity to provide input in lieu of a formal interview.

FY 2022 INTERNAL AUDIT COVERAGE

Strategic and Governance	Budget Allocation	Frequency
<ul style="list-style-type: none"> Fiscal 2023 Internal Audit Plan and Risk Assessment Prior Audit Recommendations: Semi-Annual Follow-up 	\$25,000 \$15,000	Annual Annual
Financial		
<ul style="list-style-type: none"> Procurement and Contract Billing Audits Cashless Tolling Risk Analysis 	\$50,000 \$24,000	Annual As Needed
Operations and IT		
<ul style="list-style-type: none"> DHSMV Data Security Assessment DAVID Data Security Assessment PCI Assessment with Report on Compliance Secure Code Review Customer Service Center Performance Assessment Right of Way Audit Microsoft Cloud Security Assessment Infinity System Ransomware Simulation Third Party Collections Review (Payment Solutions) Engineering and Construction Invoice Review 	\$25,000 \$20,000 \$100,000 \$25,000 \$40,000 \$45,000 \$50,000 \$40,000 \$40,000 \$40,000	Annual Annual Annual Annual 3 Year Cycle 5 Year Cycle As Needed As Needed As Needed As Needed
Other		
<ul style="list-style-type: none"> Board and Audit Committee Meetings Contingency for Special Projects ERP Implementation Support 	\$15,000 \$10,000 Separate from Audit	Annual Annual As Needed
Total Internal Audit Budget	\$564,000	



INTERNAL AUDIT TIMELINE



THREE YEAR INTERNAL AUDIT PLAN

Description	Frequency	Date Last Performed	Audit Plan Year		
			2022	2023	2024
Annual Internal Audits					
Internal Audit Plan and Risk Assessment	Annual	2021	x	x	x
Board and Audit Committee meetings	Annual	2021	x	x	x
Prior Year Recommendations : Semi-Annual Follow-up	Annual	2021	x	x	x
Procurement & Contract Billing Audits	Annual	2021	x	x	x
DHSMV Data Security Assessment	Annual	2021	x	x	x
DAVID Data Security Assessment	Annual	2021	x	x	x
PCI Assessment with Report on Compliance	Annual	2021	x	x	x
Secure Code Review	Annual	2021	x	x	x
Contingency for Special Projects	Annual	2021	x	x	x
Cyclical Audits					
Customer Service Center Performance Assessment	3 Year Cycle	2019	x		
Right of Way Audit	5 Year Cycle	2016	x		
Toll Revenue Audit	2 Year Cycle	2021		x	
Ethics Policy Compliance Audit	3 Year Cycle	2021			x
Bond Financing Review	5+ Year Cycle	2016		x	
Accounting System Access and SOD Review	5 Year Cycle	2017		x	
Human Resources Process Review	5+ Year Cycle	2017		x	
IT General Controls Review	5 Year Cycle	2018		x	
Information Security Risk Assessment Refresh	5 Year Cycle	2018		x	
Safety and Maintenance Policy and Procedures Compliance Audit	5 Year Cycle	2018		x	
Toll Violations Audit	5 Year Cycle	2018		x	
Public Records and Information Management Review	5 Year Cycle	2020			
COSO ERM Governance Review	5 Year Cycle	2020			
P-Card and Gas Card Audit	5 Year Cycle	2020			
Business Continuity management Review	5 Year Cycle	2021			
As Needed Audits					
Microsoft Cloud Security Assessment	As Needed	N/A	x		
Infinity System Ransomware Simulation	As Needed	N/A	x		
Third Party Collections Review (Payment Solutions)	As Needed	N/A	x		
Engineering and Construction Invoice Review	As Needed	N/A	x		
Cashless Tolling Risk Analysis	As Needed	N/A	x		
ERP Implementation Support	As Needed	2021	x		
Sensitive Data Review	As Needed	2014			
ITS Security Review	As Needed	2015			
Accounting and Financial Controls Review	As Needed	2019			
IT Project Management Review	As Needed	2019			
Ransomware Review	As Needed	2019			
CyberSecurity Incident Response Review	As Needed	2019			
RPA and Automation Assistance	As Needed	2020			
Policy and Procedure Review	As Needed	N/A			

FY 2022 INTERNAL AUDIT PROJECT DESCRIPTIONS

#	Project	Project Description	Risks	Estimated Cost
1	Internal Audit Plan and Risk Assessment	We will conduct a risk assessment to highlight the Expressway Authority's current year risk profile, to identify risk trends, and to form the foundation for the fiscal year 2022 Internal Audit Plan. In addition, we will conduct the annual review of the completeness of the fraud risk universe and annual refresh of the fraud risk assessment. The information and findings will be utilized to develop the 2023 Internal Audit plan, with a focus on addressing opportunities identified during the risk assessment process.	Strategic Planning Fraud Governance	\$25,000
2	Board and Audit Committee Meetings	Protiviti will attend Board meetings and prepare for and present at all Audit Committee meetings during fiscal year 2022. This includes document preparation time and preparation time with management and the Audit Committee in advance of meetings.	Governance	\$15,000
3	Prior Audit Recommendations: Semi-Annual Follow-up	This work will focus on semi-annual follow-up on the status of all OPEN action plans from prior year audits. In addition, internal audit will consider re-auditing closed recommendations for selected areas from prior year audits as requested by management or the Audit Committee.	Governance	\$15,000
4	Procurement and Contract Billing Audits	This audit will encompass a selection of 2 or 3 engineering, construction, maintenance, operations, or legal contracts, with the objective of verifying internal controls are in place to ensure work performed for CFX has been billed in accordance with contractual terms and conditions. The work will include reviewing procurement, reviewing contract SLA's, testing pricing and hours worked for accuracy and validity, testing invoice approvals, testing vendor compliance with other contractual obligations, and using data analytics to identify high risk vendors and/or change orders.	Contract Management Contract Performance Reporting Cost Containment Procurement and Vendor Selection	\$50,000
5	DHSMV Data Security Assessment	The objective of this assessment is to review internal controls for gaps in design related to the requirements set forth in the DHSMV Drivers License or Motor Vehicle Record Data Exchange Memorandum of Understanding (MOU), Section V – Safeguarding Information.	Cyber / Data Security	\$25,000

FY 2022 INTERNAL AUDIT PROJECT DESCRIPTIONS

#	Project	Project Description	Risks	Estimated Cost
6	DAVID Data Security Assessment	The objective of this assessment is to review internal controls for gaps in design related to the requirements set forth in the DHSMV Driver and Vehicle Information Database ("DAVID") Data Exchange Memorandum of Understanding (MOU), Section V – Safeguarding Information	Cyber / Data Security	\$20,000
7	PCI Assessment with Report on Compliance	This project will be to fully test CFX's compliance with the PCI Data Security Standard, (PCI-DSS) version 3.2 and issue a Report on Compliance (ROC). The testing will cover all twelve sections of the PCI-DSS.	Cyber / Data Security	\$100,000
8	Secure Code Review	This review will assess the security of production code for applications that are developed in-house. Application's functionality, security standards, and coding practices will be reviewed through documentation and by conducting both automated and manual analysis against the Open Web Application Security Project ("OWASP") framework.	Cyber / Data Security	\$25,000
9	Customer Service Center Performance Assessment	Protiviti will conduct an assessment of the customer contact center and consider current needs of the center, including opportunities to reduce staff turnover. The audit will involve a review of the center's performance through an organizational analysis, a customer contact analysis, an analysis of technology, infrastructure and applications, and a statistical data analysis.	Cost Containment Customer Satisfaction Public Relations	\$40,000
10	Right of Way Audit	This audit will include a review of the processes and procedures in place to manage Right of Way land acquisitions and may include a review of legal counsel responsibilities, involvement of the ROW Committee, and internal controls around managing legal counsel, other third-party costs, and overall purchase price. To the extent the data exists, the review may include a trending analysis of appraised cost values for recent purchases and a review of outliers.	Right of Way Cost Containment Public Relations	\$45,000

FY 2022 INTERNAL AUDIT PROJECT DESCRIPTIONS

#	Project	Project Description	Risks	Estimated Cost
11	Microsoft Cloud Security Assessment	Internal Audit will conduct an assessment of CFX's Microsoft cloud computing architecture, including evaluating the strategy, capabilities, operations and processes against industry leading practices. Internal Audit will also review CFX's strategy in determining what data is stored in the cloud as well the controls utilized to ensure that data's integrity and availability.	Cyber / Data Security	\$50,000
12	Infinity System Ransomware Simulation	Internal Audit will review the channels by which ransomware could infect the Infinity system and conduct a simulation of this attack if possible. Internal Audit will also review the effect of an Infinity outage during the ransomware attack and provide input to a response in the event of attack.	Cyber / Data Security Business / IT Applications and Systems	\$40,000
13	Third Party Collections Review (Payment Solutions)	This project will consist of identifying and reviewing risks related to the various programs in which CFX collects revenue from third parties that utilize E-Pass or through other point-of-sale payment solutions, outside of traditional toll revenue collections (e.g., parking garages and lots, charging stations, third party mobile applications, etc.)	Cost Containment Business / IT Applications and Systems	\$40,000
14	Engineering and Construction Invoice Review	This project will consist of a review of the following areas for process improvement opportunities: (1) Engineering and Construction invoicing, to identify opportunities to streamline invoicing review and payment, (2) Contracting; specifically, opportunities for and advantages of changing from a cost plus fixed fee model to a lump sum model, and (3) supporting technology.	Cost Containment Contract Management Business / IT Applications and Systems	\$40,000
15	Cashless Tolling Risk Analysis	In conjunction with CFX's continued discussions around the risks and opportunities of converting cash tolling operations to all electronic tolling, Internal Audit will participate in and support, through risk identification and analysis and by offering perspective, the discussions held by CFX management, the General Engineering Consultant, and through Board workshops. Deliverables associated with this project will be defined based upon needs identified during these discussions.	Toll Collections Cash Handling	\$24,000
16	ERP Implementation Support	Internal Audit will continue to assist CFX with ERP selection and implementation as outlined in a separate agreement.	Financial Reporting Procurement and Vendor Selection Business / IT Application and Systems	Separate from Audit

APPENDIX A OTHER POTENTIAL AUDITS

OTHER POTENTIAL AUDITS NOT SELECTED FOR FY 2022 INTERNAL AUDIT PLAN

#	Project	Project Description	Risks
1	Toll Revenue Audit	As CFX continues to migrate cash customers to electronic tolling and increase EPASS account conversion, a new Pay By Plate rate will be put into effect on July 1, 2020. In addition, the Infinity tolling system now generates a majority of CFX revenue with all systems “live” by the time of this audit. This audit will focus on electronic and cash tolling processes and include a review of Infinity transactions for accuracy, the Pay By Plate process and impact to collectability, and cash (manned and unmanned lanes). The audit will include review of (1) controls that verify revenue data captured at the point of origin is completely and accurately recorded to the financial statements, (2) physical safeguarding controls exist around cash (including the use of security and surveillance, data analytics, monitoring and reporting, and counts/other reconciling activities), (3) controls in place around processing revenue adjustments to customer accounts are operating according to policy, (4) changes to business processes and controls related to Pay By Plate billing, collection, and monitoring and (5) appropriate reconciliation controls are in place to monitor revenue related to interoperability agreements. Additionally, IT general controls around supporting systems and information technology will be reviewed.	Toll Collections Cash Handling IT Infrastructure / Tolling System Infrastructure Financial Reporting Statewide Interoperability National Interoperability
2	Ethics Policy Compliance Review	CFX has a formal ethics policy in place. Internal Audit will review the policy and (1) leverage leading practices to suggest additional areas for consideration to include in the policy and (2) review compliance with the policy, including the new provisions added as a result of Florida state legislation.	Ethical Compliance
3	Bond Financing Review	CFX has \$2.8B of bonds issued and outstanding with varying terms and is planning to issue additional bonds to finance the upcoming five-year workplan. As part of this project, we will perform a risk assessment of the financing process, a review of the policies (including policies to procure the financial advisor, underwriter, attorneys, and others involved in the financing process), and a review of the process to structure financing deals and manage existing portfolio risk. This project may also include a review of the process to monitor bond covenant compliance.	Bond Financing / Covenant Compliance
4	Accounting System Access and Segregation of Duties Review	The financial close and related accounting processes will be reviewed for appropriate segregation of duties among CFX personnel. Protiviti-developed tools will be leveraged to verify segregation for each key accounting cycle around the following: Physical custody of assets, adjustments to accounting records, approvals of accounting transactions, and review responsibilities. In addition, we will also review access rights within the Eden financial package to verify system access restrictions appropriately support segregation of duties and to identify segregation of duties conflicts within the system. We will recommend compensating monitoring controls to the extent necessary.	Financial Reporting Fraud
5	Human Resources Process Review	During the Human Resource Process review, we will evaluate the Human Resource process, policies, procedures and related internal controls. The review may include back-to-office and workplace safety protocols; recruiting and hiring; training; performance evaluations; performance, reward, and recognition; and employee terminations. The HR process and controls will be reviewed for compliance with policies and comparison to leading HR practices. Lastly, the succession planning strategy may be reviewed and compared to leading practices.	Human Resources

OTHER POTENTIAL AUDITS NOT SELECTED FOR FY 2022 INTERNAL AUDIT PLAN

#	Project	Project Description	Risks
6	IT General Controls Review	This review will focus on the Expressway Authority's Information Systems area. To accomplish this, we will assess the policies and procedures that are utilized to support the business-critical applications and systems at CFX. Our approach will be to focus on the IT General Computer Controls which include the following components: Change Management, Logical Security, Physical Security, Security Administration, IT Organization and Management.	Business / IT Applications and Systems IT Infrastructure
7	Information Security Risk Assessment Refresh	Protiviti will conduct a risk assessment of CFX's IT function that will identify asset groupings within the environment and assign them a value so that Management may prioritize in what order to address risks posed to them. This value is based on the likelihood and potential impact of threats posed to these assets, the vulnerabilities they have, and the safeguards surrounding them. This project will be a refresh of the project conducted in FY18.	Cyber / Data Security
8	Safety and Maintenance Policy and Procedures Compliance Audit	The objective of this project will be to review the safety and maintenance policies and procedures in place, including any recent technological enhancements to safety within the system (e.g., new technology measures to help reduce the risk of wrong way driving), vendor management programs, and to test compliance with the safety and maintenance policies and procedures.	Maintenance and Safety
9	Toll Violations Audit	This audit will focus on reviewing the processes, policies, procedures, technology, and reporting in place around the violations process to verify the process is working as intended. Focus will be on enhancing the efficiencies around the process to review violations and to bill and collect violations revenue. Samples of deleted/voided unpaid toll notices will also be reviewed to verify there is sufficient justification for voiding.	Toll Violations Toll Collections Business / IT Applications and Systems Customer Satisfaction
10	Public Records and Information Management Review	This review will focus on CFX's records and information management processes and the four cornerstones of a sustainable information governance program: <ol style="list-style-type: none"> 1. Compliance with internal policies and legal and regulatory requirements 2. Operational efficiencies to minimize disruptions to business operations and improve ways to create, use and dispose of data 3. Cost savings from practical solutions that reduce storage and retrieval costs, as well as requirements for responding to investigations, litigation or regulatory requests 4. Defensible processes in routine business operations that allow organizations to demonstrate reasonable and good faith efforts when challenged <p>Data retention surrounding electronic communications via email, mobile, and voice mail will also be reviewed to identify technology needed to assist with capturing and retaining data from such communication.</p>	Records Management

OTHER POTENTIAL AUDITS NOT SELECTED FOR FY 2022 INTERNAL AUDIT PLAN

#	Project	Project Description	Risks
11	COSO ERM Governance Review	This audit will involve an evaluation of the Expressway Authority's governance procedures and internal controls leveraging the COSO ERM and COSO 2013 internal control frameworks as leading practice guidelines.	Governance Ethical Compliance
12	P-Card and Gas Card Audit	The objective of the project will be to review P-card and Gas procurement expenditures to verify purchases are adequately supported and are for valid business purposes.	Cost Containment Fraud
13	Business Continuity Management Review	This review will focus on how CFX manages Business Continuity, including IT Disaster Recovery plans and Crisis Management. The review will include an assessment of the documented plans as well as the foundational efforts that were performed to create them (such as a Business Impact Analysis). This may be adjusted into a consulting project based on the recent pandemic.	Business Continuity / Disaster Recovery
14	Sensitive Data Review	This review will include an assessment of how sensitive data is defined and categorized, where it exists logically on the CFX network and systems, and how it is destroyed when it is no longer needed. IT will include a review of any policies that govern sensitive data (as defined by CFX). Additionally, IA will use an automated data loss prevention (DLP) scanning tool to conduct a scan on a sample of systems to confirm sensitive data is stored in appropriate network locations.	Cyber / Data Security
15	ITS Security Review	Protiviti will conduct an IT security review of Intelligent Transportation Systems. This review will include an assessment of access controls (physical and logical), hardening procedures, patching processes, and remote connectivity of ITS systems to identify security risks that exist in the ITS network.	Cyber / Data Security
16	Accounting and Financial Controls Review	The objective of this project is to conduct a current state design analysis of key processes, risks, and internal controls within the accounting function and to test the operating effectiveness of key accounting and financial reporting controls, including those designed to detect or prevent fraud. The audit will also include comparisons of CFX's accounting and financial reporting controls to leading practices.	Financial Reporting Fraud
17	IT Project Management Review	This project will assess CFX's ability to intake, prioritize, deliver on requests from the business. Protiviti will assess the manner in which IT requests are received and accepted, the potential risks that could impact projects, the testing procedures (including unit testing, peer review, integration, regression and user acceptance), project health metrics, change requirements, and resourcing requirements.	IT Infrastructure Business / IT Applications and Systems IT Operations Strategic Planning Communication

OTHER POTENTIAL AUDITS NOT SELECTED FOR FY 2022 INTERNAL AUDIT PLAN

#	Project	Project Description	Risks
18	Ransomware Review	As part of this project, Protiviti will review CFX's ability to prevent a ransomware attack against the organization. Controls surrounding email systems, open network ports, and USB ports will be reviewed as each of these is a channel through which ransomware may enter an organization. Controls that could contain a ransomware outbreak will also be reviewed to assess the effect of an outbreak within the organization should perimeter controls fail. Backup and recovery practices will be reviewed to determine CFX's ability to resume normal business function should ransomware spread throughout the organization.	Cyber / Data Security Public Relations Insurance Coverage
19	Cyber Security Incident Response Review	Internal Audit will review CFX's Cyber Security Incident Response program by assessing the current incident response strategy as well as the related employee training, policies and procedures, and supporting technologies deployed throughout the environment.	Cyber / Data Security Public Relations Communication Insurance Coverage
20	RPA and Automation Assistance	This project will include assisting CFX with developing automation use cases, cost benefit analyses, and prototype bot development for areas that have been identified as having opportunity for efficiency gains.	Cost Containment
21	Policy and Procedure Review	CFX has experienced growth in number of people over the past few years. During this audit, Protiviti will review whether Policies and Procedures are reflective of growth. To perform the audit, Protiviti will work with CFX to inventory policies and procedures, review for periods of last update, and make suggestions to mature the process to update policies and procedures. Protiviti may also make suggestions for potential additions to policies that are selected for detailed review.	Governance

APPENDIX B ENTERPRISE RISK ASSESSMENT

ENTERPRISE RISK ASSESSMENT

To assist with the development of the fiscal 2022 Internal Audit Plan, Internal Audit used the prior year risk model as the starting point for discussions with CFX management. Internal Audit asked CFX management to consider the current business environment, critical business initiatives, and prior year audit results to provide input on which risks warranted the most focus in today's environment. In addition, management was asked to identify any new risks that may not have been considered in past years for inclusion in the current risk model.

Internal Audit utilized the aggregated input obtained during interviews with CFX management and from risk surveys of management to develop a list of potential internal audit projects for fiscal 2022, with the objective being to help the Audit Committee and management mitigate areas of highest residual risk, monitor areas of high inherent risk, or to mitigate areas where risks are trending higher.

Risk is defined as follows:

Risk:

- Is the possibility of an event occurring that will have a negative impact on the achievement of goals and objectives and could also include the cost of missing an opportunity.



Inherent Risk:

- Is the amount of risk to the business given the environment in which it operates, without considering the application of controls. The risks identified on the following page represent the risk areas deemed most important for CFX to manage and control in order to achieve its goals and objectives.

Residual Risk:

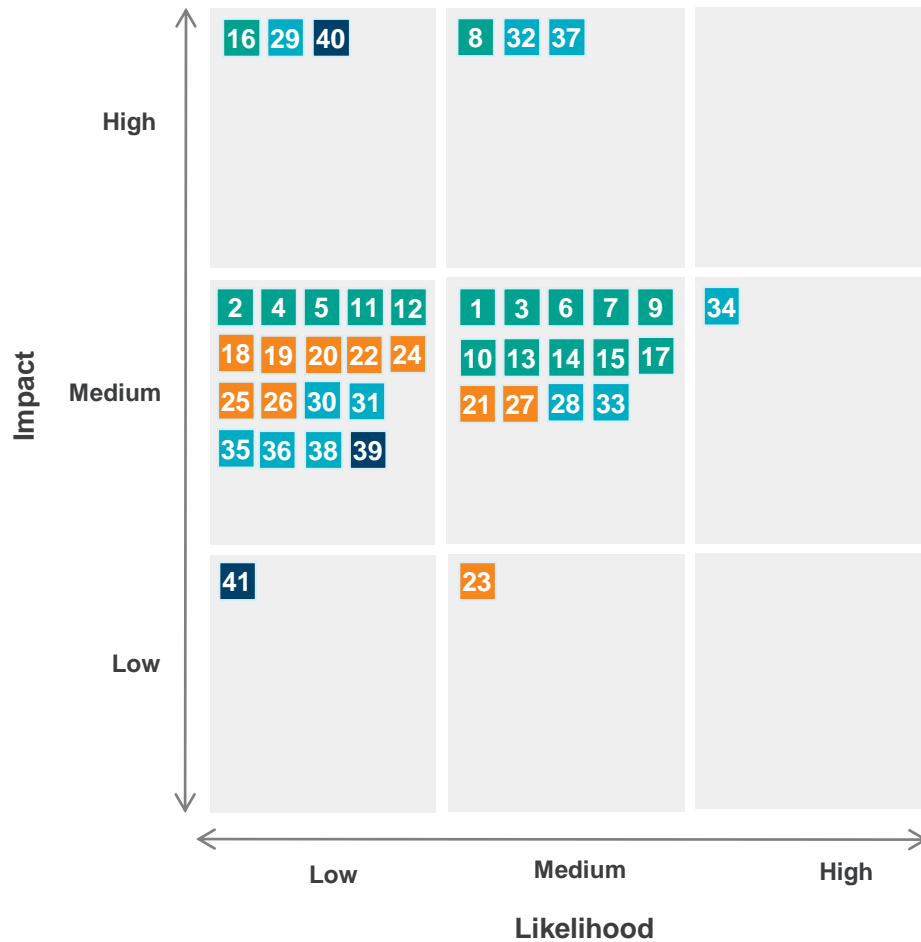
- Is the amount of risk remaining after the application of management controls. Residual risk was judgmentally considered for purposes of this fiscal 2022 audit plan in the selection of potential projects for inclusion in the plan. The results of the residual risk assessment are depicted via the Enterprise Risk Map on the following pages.

RISK MODEL

 Strategic and Governance	1. Strategic Planning	7. Governance	13. Public Relations
	2. Organization Structure	8. Political Environment	14. National Interoperability
	3. Contingency Planning	9. Ethical Compliance	15. Toll Rate Management
	4. Regulatory Changes	10. Communication	16. Asset and Liability Transfer Risk
	5. Access to Capital	11. Leadership	17. Multimodal Opportunities
	6. Statewide Interoperability	12. Outsourcing	
 Financial	18. Fraud	23. Cash Handling	
	19. Management Performance Reporting	24. Procurement and Vendor Selection	
	20. Bond Financing / Covenant Compliance	25. Contract Performance Reporting	
	21. Cost Containment	26. Financial Reporting	
	22. Treasury and Liquidity Management	27. Right of Way	
 Operations and IT	28. Toll Violations	34. Business Continuity / Disaster Recovery	
	29. Toll Collections	35. Insurance Coverage	
	30. Business / IT Applications and Systems	36. Customer Satisfaction	
	31. Human Resources	37. Cyber / Data Security	
	32. IT Infrastructure / Tolling System Infrastructure	38. Toll Discounts / Rebates	
	33. IT Operations		
 Regulatory and Compliance	39. Contract Management	41. Records Management	
	40. Maintenance and Safety		

Bold represents risks addressed by the FY 2022 Internal Audit plan.

2022 ENTERPRISE RISK MAP – RESIDUAL RISK



- | Strategic and Governance | | Operations and IT | |
|--------------------------|------------------------------------|---------------------------|---------------------------------------|
| 1 | Strategic Planning | 28 | Toll Violations |
| 2 | Organization Structure | 29 | Toll Collections |
| 3 | Contingency Planning | 30 | Business/IT Application Controls |
| 4 | Regulatory Changes | 31 | Human Resources |
| 5 | Access to Capital | 32 | IT Infrastructure |
| 6 | Statewide Interoperability | 33 | IT Operations |
| 7 | Governance | 34 | Business Continuity/Disaster Recovery |
| 8 | Political Environment | 35 | Insurance Coverage |
| 9 | Ethical Compliance | 36 | Customer Satisfaction |
| 10 | Communication | 37 | Cyber/Data Security |
| 11 | Leadership | 38 | Toll Discounts/Rebates |
| 12 | Outsourcing | | |
| 13 | Public Relations | Regulatory and Compliance | |
| 14 | National Interoperability | 39 | Contract Management |
| 15 | Toll Rate Management | 40 | Maintenance and Safety |
| 16 | Asset and Liability Transfer Risk | 41 | Records Management |
| 17 | Multimodal Opportunities | | |
| Financial | | | |
| 18 | Fraud | | |
| 19 | Management Performance Reporting | | |
| 20 | Bond Financing/Covenant Compliance | | |
| 21 | Cost Containment | | |
| 22 | Treasury and Liquidity Management | | |
| 23 | Cash Handling | | |
| 24 | Procurement and Vendor Selection | | |
| 25 | Contract Performance Reporting | | |
| 26 | Financial Reporting | | |
| 27 | Right of Way | | |

APPENDIX C INTERNAL AUDIT CHARTER

INTERNAL AUDIT CHARTER

Central Florida Expressway Authority Fiscal 2022 Internal Audit Department Charter

Mission and Purpose

The mission of the internal audit department is to provide CFX Board with independent, objective assurance and consulting services designed to add value, improve the Expressway Authority's operations, and enhance transparency. The purpose of internal audit is to enhance and protect organizational value by providing risk-based and objective assurance, advice, and insight into whether Expressway resources are responsibly and effectively managed to achieve intended results. The internal audit department helps the Expressway accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

Standards and Professionalism

Internal audit will govern itself by adherence to the mandatory elements of The Institute of Internal Auditors' International Professional Practices Framework, including the Core Principles for the Professional Practice of Internal Auditing, the Definition of Internal Auditing, the Code of Ethics, and International Standards for the Professional Practice of Internal Auditing.

The Institute of Internal Auditors' Practice Advisories, Practice Guides, and Position Papers will also be adhered to as applicable to guide operations. In addition, the internal audit activity will adhere to the Expressway's relevant policies and procedures and the internal audit activity's standard operating procedures manual. Internal Audit will report periodically to senior management and the Board regarding the internal audit department's conformance to the Code of Ethics and the Standards.

Authority

The Internal Auditor is appointed by the Expressway Authority Board, and reports to them through the Audit Committee. The role of the Internal Auditor may be filled by an outside firm that provides internal audit services to the Expressway Authority on an outsourced basis. For administrative purposes, the Internal Auditor reports to the Chief Financial Officer. To establish, maintain, and assure that the Expressway Authority's internal audit department has sufficient authority to fulfill its duties, the Board will:

INTERNAL AUDIT CHARTER

Authority (continued)

- Approve the internal audit department's charter.
- Approve the risk-based audit plan.
- Approve the internal audit department's budget and resource plan.
- Receive communications on the internal audit department's performance relative to its plan and other matters.
- Make appropriate inquiries of management and internal audit department to determine whether there is inappropriate scope or resource limitations.

Everything the Expressway Authority does is subject to assessment by internal audit. The Board authorizes the internal audit department to:

- Have full, free, and unrestricted access to all functions, records, property, and personnel pertinent to carrying out any engagement, subject to accountability for confidentiality and safeguarding of records and information.
- Allocate resources, set frequencies, select subject, determine scopes of work, apply techniques required to accomplish audit objectives, and issue reports.
- Obtain the necessary assistance of personnel in units of the organization where they perform audits, as well as other specialized service from within or outside the organization, as approved by the Audit Committee.

Internal Audit Plan

At least annually, the Internal Audit Department will submit to senior management and the Board an internal audit plan for review and approval. The internal audit plan will consist of a work schedule as well as budget and resource requirements for the next fiscal/calendar year. The Internal Audit Department will communicate the impact of resource limitations and significant interim changes to senior management and the Board.

The internal audit plan will be developed based on a prioritization of audit universe using a risk-based methodology, including input of senior management and the Board. The Internal Audit Department will review and adjust the plan, as necessary, in response to changes in the organization's business, risks, operations, programs, systems, and controls. Any significant interim changes from the approved internal audit plan will be communicated to senior management and the Board through periodic activity reports.

INTERNAL AUDIT CHARTER

Independence and Objectivity

The internal audit activity will remain free all conditions that threaten the ability of internal auditors to carry out their responsibilities in an unbiased manner, including matters of audit selection, scope, procedures, frequency, timing, and report content. If it is determined that independence or objectivity may be impaired in fact or appearance, the details of impairment will be disclosed to appropriate parties.

Internal auditors will maintain an unbiased mental attitude that allows them to perform engagements objectively and in such a manner that they believe in their work product, that no quality compromises were made, and that they do not subordinate their judgment on audit matters to others.

To ensure independence, the internal audit function has no direct responsibility or any authority over any of the activities or operations of the Expressway. Accordingly, they will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that may impair internal auditor's judgment, including:

- Assessing specific operations for which they had responsibility within the previous year.
- Performing any operational duties for the Expressway Authority or its affiliates.
- Initiating or approving transactions external to the internal audit department.
- Directing the activities of any CFX employee not employed by the internal audit department, except to the extent that such employees have been appropriately assigned to auditing teams or to otherwise assist internal auditors.

The Internal Auditor will disclose any impairment of independence or objectivity, in fact or appearance, to appropriate parties. The Internal Auditor will exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined. The Internal Auditor will make a balanced assessment of all the relevant circumstances and take necessary precautions to avoid being unduly influenced by their own interests or by others in forming judgments.

The Internal Audit Department will confirm to the Board, at least annually, the organizational independence of the internal audit activity. The Internal Audit Department will disclose to the Board any interference and related implications in determining the scope of internal auditing, performing work, and/or communicating results.

INTERNAL AUDIT CHARTER

Scope

Management is responsible for establishing and maintaining risk management, control, and governance processes. The scope of work of internal audit encompasses, but is not limited to, objective examinations of evidence for the purpose of providing independent assessments to the Board, management, and outside parties on the adequacy and effectiveness of governance, risk management, and control processes for the Expressway Authority. Internal audit assessments include determining whether management's processes are adequate and functioning in a manner to ensure:

- Risks relating to the achievement of the Expressway Authority's strategic objectives are appropriately identified and managed.
- Interaction with the various governance groups occurs as needed.
- Significant financial, managerial, and operating information and the means used to identify, measure, analyze, classify, and report such information are relevant, reliable and understandable.
- Employee, officer, director, and contractor actions comply with policies, standards, procedures, and applicable laws, regulations, and governance standards.
- Resources and assets are acquired economically, used efficiently, and adequately protected.
- Results of programs, plans, and operations consistent with established goals and objectives are achieved.
- Operations or programs are being carried out effectively and efficiently.
- Established processes and systems enable compliance with the policies, procedures, laws, and regulations that could significantly impact the Expressway Authority.
- Quality and continuous improvement are fostered in control processes.
- Significant legislative or regulatory issues are recognized and addressed properly.
- Means of safeguarding assets are adequate and, as appropriate, existence of such assets can be verified.
- Organization's risk management processes are effective.
- Quality of performance of external auditors and the degree of coordination with internal audit are appropriate.
- Specific operations are evaluated at the request of the Board or management, as appropriate.

Internal Audit also considers relying upon the work of other internal and external assurance and consulting service providers as needed. The internal audit department may perform advisory and related client service activities, the nature and scope of which will be agreed with the Expressway Authority, provided the internal audit department does not assume management responsibility. Opportunities for improving the efficiency of governance, risk management, and control processes may be identified during engagements. These opportunities will be communicated to the appropriate level of management.

INTERNAL AUDIT CHARTER

Responsibility

The internal audit department's responsibility includes, but is not limited to, the examination and evaluation of the adequacy and effectiveness of the organization's governance, risk management, and internal controls as well as the quality of performance in carrying out assigned responsibilities to achieve the organization's stated goals and objectives. This includes:

- Ensuring each engagement of the internal audit plan is executed, including the establishment of objectives and scope, the assignment of appropriate and adequately supervised resources, the documentation of work programs and testing results, and the communication of engagement results with applicable conclusions and recommendations to appropriate parties.
- Ensuring the principles of integrity, objectivity, confidentiality, and competency are applied and upheld.
- Ensuring the internal audit department collectively possesses or obtain the knowledge, skills, and other competencies needed to meet the requirements of the internal audit charter.
- Ensuring trends and emerging issues that could impact the Expressway Authority are considered and communicated to senior management and the Board as appropriate.
- Ensuring emerging trends and successful practices in internal auditing are considered.
- Establishing and ensuring adherence to policies and procedures designed to guide the internal audit department.
- Ensuring adherence to the Expressway Authority's relevant policies and procedures, unless such policies and procedures conflict with the internal audit charter. Any such conflicts will be resolved or otherwise communicated to senior management and the Board.
- Ensuring conformance of the internal audit department with the Standards, with the following qualifications:
 - If the internal audit department is prohibited by law or regulation from conformance with certain parts of the Standards, the internal audit department will ensure appropriate disclosures and will ensure conformance with all other parts of the Standards.
 - If the Standards are used in conjunction with requirements issued by other authoritative bodies, the internal audit department will ensure conformance with the Standards, even if the internal audit department also conforms with the more restrictive requirements of other authoritative bodies.

INTERNAL AUDIT CHARTER

Reporting and Monitoring

A written report will be prepared and issued by the Internal Audit Department following the conclusion of each internal audit engagement and will be distributed as appropriate. Internal audit results will also be communicated to the Board.

The internal audit report may include management's response and corrective action taken or to be taken in regard to the specific findings and recommendations. Management's response, whether included within the original audit report or provided thereafter (i.e. within thirty days) by management of the audited area should include a timetable for anticipated completion of action to be taken and an explanation for any corrective action that will not be implemented.

The internal audit activity will be responsible for appropriate follow-up on engagement findings and recommendations, and reporting periodically to senior management and the Board any corrective actions not effectively implemented. All significant findings will remain in an open issues file until cleared.

The Internal Audit Department will periodically report to senior management and the Board on the internal audit activity's purpose, authority, and responsibility, as well as performance relative to its plan and conformance with the IIA's Code of Ethics. Reporting will also include significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by senior management and the Board. Results of audit engagements and other activities, resource requirements, and any response to risk by management that may be unacceptable to the Expressway Authority will also be communicated periodically to the Board.

Quality Assurance and Improvement Program

The internal audit activity will maintain a quality assurance and improvement program that covers all aspects of the internal audit activity. The program will include an evaluation of the internal audit activity's conformance with the Definition of Internal Auditing and the Standards and an evaluation of whether internal auditors apply the Code of Ethics. The program also assesses the efficiency and effectiveness of the internal audit activity and identifies opportunities for improvement.

The Internal Audit Department will communicate to senior management and the Board on the internal audit activity's quality assurance and improvement program, including results of ongoing internal assessments and external assessments conducted at least every five years by a qualified, independent assessor or assessment team from outside the Expressway Authority.

Face the Future with Confidence

© 2021 Protiviti Inc. All Rights Reserved. This document has been prepared for use by the CFX's management, audit committee, and board of directors. This report provides information about the condition of risks and internal controls at one point in time. Future events and changes may significantly and adversely impact these risks and controls in ways that this report did not and cannot anticipate.

protiviti®

**CONSENT AGENDA ITEM
#11**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Laura Newlin Kelly, Associate General Counsel ^{LNK}

DATE: July 15, 2021

SUBJECT: Joint Participation Agreement (Narcoossee Road at SR 417 Interchange) Between the City of Orlando and the Central Florida Expressway Authority
Project No. 417-150

BACKGROUND

The Central Florida Expressway Authority (“CFX”) is designing and constructing improvements to the interchange of Narcoossee Road and State Road 417 (“CFX Project”). The City of Orlando (“City”) is concurrently designing and constructing improvements to Narcoossee Road from Kirby Smith Road to State Road 528 to expand the existing four lane section of Narcoossee Road to six lanes (“City Project”). In order to increase cost efficiencies and decrease construction timeframes, City and CFX desire to coordinate the construction efforts associated with the City Project and CFX Project in accordance with the terms and conditions of the Joint Participation Agreement between the City and CFX (“Agreement”). A copy of the Agreement is attached hereto as **Attachment “A”**. The purpose of the Agreement is to enable City and CFX to coordinate the construction of certain mast arm, signalization and roadway improvements (collectively, the “Mast Arm Improvements”) to avoid duplicative efforts and to ensure the City completes certain portions of the City Project prior to the need to install the Mast Arm Improvements.

REQUEST

Board’s approval of the following is requested:

Joint Participation Agreement Between the City of Orlando and the Central Florida Expressway Authority, subject to any minor or clerical modifications approved by the General Counsel or designee.

ATTACHMENTS

- A. Joint Participation Agreement Between the City of Orlando and the Central Florida Expressway Authority

Reviewed by: Woody Rodriguez

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

WWW.CFXWAY.COM



Attachment "A"

JOINT PARTICIPATION AGREEMENT (Narcoossee Road at SR 417 Interchange)

THIS JOINT PARTICIPATION AGREEMENT (Narcoossee Road at SR 417 Interchange) (the "Agreement"), is entered into effective as of the last date of execution (the "Effective Date"), between, **CITY OF ORLANDO** ("City"), a Florida Municipal Corporation existing under the laws of the State of Florida with a principal address of 400 South Orange Avenue, Orlando, FL 32801, and **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and an agency of the State of Florida, created by Part III of Chapter 348, Florida Statutes, hereinafter called "CFX," with a principal address of 4974 ORL Tower Road, Orlando, FL 32807. City, and CFX are sometimes collectively referred to as the "Parties" or individually referred to as a "Party."

RECITALS

WHEREAS, CFX was created by Part III, Chapter 348, Florida Statutes (the "CFX Act") to, among other things, construct, improve, maintain and operate a limited access toll road known as the Central Florida Expressway System, and was granted all powers necessary and convenient to conduct its business, including the power to contract with other public agencies; and

WHEREAS, City is constructing improvements to Narcoossee Road from Kirby Smith Road to State Road 528, consisting of expanding the existing four lane section of Narcoossee Road to a six lane section, along with attendant improvements (collectively, the "City Project"); and

WHEREAS, CFX is constructing improvements to the interchange of Narcoossee Road and SR 417 (collectively, the "CFX Project"); and

WHEREAS, City and CFX desire to coordinate their construction efforts associated with the City Project and CFX Project in order to increase cost efficiencies and shorten construction timeframes; and

WHEREAS, as part of this coordination effort, CFX has agreed, subject to the terms and conditions hereof, to construct the mast arm signalization improvements ("Mast Arm Improvements") that were originally part of the City Project at the southbound SR 417 ramps at the Narcoossee Road intersection; and

WHEREAS, in reliance on CFX's agreement to construct the Mast Arm

Improvements, the City has removed them from the City Project; and

WHEREAS, the Parties hereto desire to enter into this Agreement to set forth certain terms and conditions relating to construction of the Mast Arm Improvements and the Parties' overall coordination effort in constructing the City Project and the CFX Project.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the Parties hereto hereby agree as follows:

1. Recitals. The above recitations are true and correct and are incorporated herein as fully as if set forth hereafter.

2. CFX Project. CFX agrees to construct the CFX Project subject to the following conditions:

A. CFX will, at its cost, construct and install the Mast Arm Improvements as part of the CFX Project, said Mast Arm Improvements being more particularly described in **Exhibit "A"** attached hereto and made a part hereof. CFX will construct the Mast Arm Improvements in compliance with the design plans prepared by CFX's design consultant and referenced as CFX Project Number 417-151 ("Plans").

B. CFX will use its best faith efforts to complete construction of the Mast Arm Improvements by April 30, 2023. The parties acknowledge that the CFX Project is an active construction project that may require changes in scope that impact the construction schedule. CFX will notify City of any such changes and will keep City fully apprised of construction progress.

C. City hereby grants CFX a right-of-entry onto City right-of-way, as necessary to construct the Mast Arm Improvements, on the condition that CFX repair any and all damage to the City right-of-way caused by CFX, its contractors, agents or assigns, and return the City right-of-way to the same, similar or better condition existing before such damage occurred, to the reasonable satisfaction of the City.

3. City Project. City agrees to construct the City Project subject to the following conditions:

A. City will, in reliance on the terms of this Agreement, make the necessary signal changes to accommodate the CFX Project in the area of the SR 417 interchange at Narcoossee Road. City will remove the proposed mast arm signal at the intersection of Narcoossee Road and the southbound SR 417 ramps from the scope of the City Project, consistent with Exhibit "A." City will use its best faith efforts to complete

said work by January 2, 2022. The parties acknowledge that the City Project is an active construction project that may require changes in scope that impact the construction schedule. City will notify CFX of any such changes and will keep CFX fully apprised of construction progress. City will notify CFX in writing of the completion of the City Project.

B. CFX and City's coordination of the construction of the CFX Project and City Project in the vicinity of the CFX Project will occur as follows:

(1) CFX will include the final lift of pavement and roadway striping of the northbound lanes of Narcoossee Road between Kirby Smith Road and the Orange County Fire Station (approximately station 133+00), per the City's plans and as shown in Exhibit "A."

(2) CFX will also include the final lift of pavement and roadway striping for the southbound lanes of Narcoossee Road between Kirby Smith Road and the Orange County Fire Station (approximately station 138+00), per the City's plans, and the final lift of pavement and roadway striping for the additional northbound left turn lane to the ramp to southbound SR 417, and any other areas which are disturbed by CFX's construction activities consistent with Exhibit "A."

(3) CFX will install additional signalization improvements necessary for the CFX Project consistent with Exhibit "A", including (a) replacement of the existing northbound mast arm at Kirby Smith Road, (b) installation of a new mast arm at northbound SR 417 offramp to Narcoossee southbound and other ancillary improvements, and (c) installation of new mast arms to replace the existing signalization at the southbound SR 417 ramps.

C. Right of Entry. CFX hereby grants City a right-of-entry onto CFX right-of-way, as necessary to construct the City Project on the condition that City repair any and all damage to the CFX right-of-way caused by City, its contractors, agents or assigns and return the CFX right-of-way to the same, similar, or better condition existing before such damage occurred, to the reasonable satisfaction of the CFX.

4. Mast Arm Improvements. CFX will notify City in writing of the completion of the Mast Arm Improvements. City will inspect the Mast Arm Improvements within thirty (30) days after receipt of said notice. Within thirty (30) days after the City's inspection, City will either notify CFX of (i) its approval of the Mast Arm Improvements, or (ii) denial of the Mast Arm Improvements, which notice shall outline with specificity such items that are not in compliance with the Plans ("Deficiencies") and the required action to bring the

Deficiencies into compliance. If City notifies CFX of Deficiencies, CFX will remedy the Deficiencies and notify the City upon completion of the remedial action. City will within thirty (30) days of said notice of remedial action, inspect the Mast Arm Improvements and notify CFX of its approval or identify deficiencies. This process will continue until the City has approved the Mast Arm Improvements. Upon the City's approval, CFX will deliver to City a bill of sale for the Mast Arm Improvements in a form mutually agreed upon between the City and CFX, and forward to the City any and all warranties or maintenance guarantees/bonds related to the Mast Arm Improvements, as well as the "as-builts" and a certificate of completion from the contractor for the Mast Arm Improvements. City will then assume ownership and maintenance of the Mast Arm Improvements.

5. Failure of Performance.

A. On the part of CFX. In the event of a default by CFX under this Agreement, City may terminate this Agreement upon thirty (30) days written notice. If terminated, CFX shall, within thirty (30) days of said termination notice, repair any damage caused to the City's right-of-way by CFX, its contractors, agents or assigns and shall restore the City's right-of-way to its previously existing condition.

B. On the part of City. In the event of a default by City under this Agreement, CFX may elect to terminate this Agreement upon thirty (30) days written notice. If terminated, City shall, within thirty (30) days of said termination notice, repair any damage caused to the CFX right-of-way by City, its contractors, agents or assigns and shall restore the CFX right-of-way to its previously existing condition.

6. General Provisions. No failure of either Party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of either Party's right to demand exact compliance with the terms hereof. This Agreement contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Any amendment to this Agreement shall not be binding upon any of the parties hereto unless such amendment is in writing and executed by City and CFX. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors. Wherever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday, or Legal Holiday, such time for performance shall be extended to the next business day. This Agreement may be executed in multiple counterparts, including by electronic or digital signatures, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement. The headings inserted at the beginning of each paragraph

Orlando, Florida 32807
Attn: Executive Director

Copy to: CENTRAL FLORIDA EXPRESSWAY AUTHORITY
4974 ORL Tower Road
Orlando, Florida 32807
Attn: Chief of Infrastructure

Copy to: CENTRAL FLORIDA EXPRESSWAY AUTHORITY
4974 ORL Tower Road
Orlando, Florida 32807
Attn: General Counsel

CITY: CITY OF ORLANDO
400 South Orange Avenue
Orlando, Florida 32801
Attn: Chief Administrative Officer

Copy to: CITY OF ORLANDO
City Attorney's Office
400 South Orange Avenue
Orlando, Florida 32801
Attn: Roy K. Payne, Esq.

11. Defaults. Each of the Parties hereto shall give the other Party written notice of any alleged defaults hereunder and shall allow the defaulting Party thirty (30) days from the date of receipt to cure such defaults.

12. Severability. If any court finds part of this Agreement invalid or unenforceable, such invalidity or unenforceability shall not affect the other parts of the Agreement (i) if the rights and obligations of the Parties contained therein are not materially prejudiced and, (ii) if the intentions of the Parties can continue to be effective. To that end, this Agreement is declared severable.

13. Sovereign Immunity. Nothing herein is intended as a waiver of any Party's sovereign immunity under Section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, which might allow claims otherwise barred by sovereign immunity or operation of law.

14. Release. Upon termination of this Agreement by either Party, the Parties hereto agree that each Party is released from any and all liability, responsibility, damages or claims arising from that Party's construction of the City Project and CFX Project respectively, except to the extent that any such liability, responsibility, claims or damages arises from the negligence of the Party.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the day and year written below.

“CITY”

CITY OF ORLANDO, FLORIDA,
a Florida municipal corporation

By: _____

Printed Name: _____

Title: _____

Date: _____

ATTEST

By: _____

Printed Name: _____

Title: _____

APPROVED AS TO FORM AND LEGALITY this
_____ day of _____, 2021 for the
use and reliance by the City of Orlando, only.

By: _____

Chief Assistant City Attorney

Printed Name: _____

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

“CFX”

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

By: _____
Buddy Dyer, Chairman

Date: _____, 2021

ATTEST:

Regla (“Mimi”) Lamaute
Recording Clerk

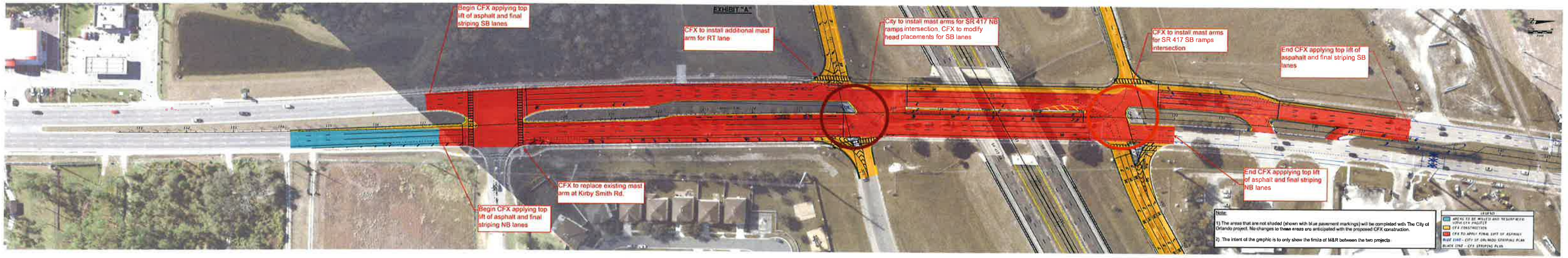
APPROVED AS TO FORM AND LEGALITY
FOR USE AND RELIANCE BY THE CENTRAL
FLORIDA EXPRESSWAY AUTHORITY ONLY.

Diego “Woody” Rodriguez, Esquire
General Counsel

Date: _____, 2021

Exhibits

Exhibit “A” Mast Arm Improvements



**CONSENT AGENDA ITEM
#12**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Diego "Woody" Rodriguez ^{we}
General Counsel

DATE: July 21, 2021

SUBJECT: Reimbursement Agreement with Florida Southeast Connection, LLC
Project No. 538-235

BACKGROUND

The Central Florida Expressway Authority ("CFX") is proceeding with the acquisition of right-of-way for the planned extension of State Road 538, Poinciana Parkway in Osceola and Polk Counties ("Poinciana Parkway Extension Project"). Certain major utilities must be relocated in order to accommodate the construction of the Poinciana Parkway Extension Project as more particularly depicted on the map attached hereto as **Attachment "A"**. Florida Southeast Connection, LLC ("FSC") owns and operates a utility pipeline that is located within an easement in the proposed location of the Poinciana Parkway Extension Project ("FSC Pipeline"). In order to determine the feasibility, cost, and proposed location to relocate the FSC Pipeline, CFX has requested FSC to undertake the necessary preliminary studies, analysis, and design, including, without limitation, determining the permitting requirements, environmental impacts, and regulatory compliance required for the proposed relocation, and preparing preliminary and final engineering design plans along with a cost estimate ("Studies and Cost Estimate").

FSC has agreed to perform the required Studies and Cost Estimate in accordance with the terms of the proposed Reimbursement Agreement with Florida Southeast Connection, LLC ("Agreement"). A copy of the proposed Agreement is attached hereto as **Attachment "B"**. Pursuant to the terms of the Agreement, CFX will reimburse FSC for the Studies and Cost Estimate in an amount not to exceed \$750,000.00 ("Proposed Design Cost"). In the event of the actual cost of the Studies and Cost Estimate is less than the Proposed Design Cost, any excess amounts will be either applied toward the construction of the relocated FSC Pipeline or refunded to CFX.

REQUEST

Board's approval of the following is requested:

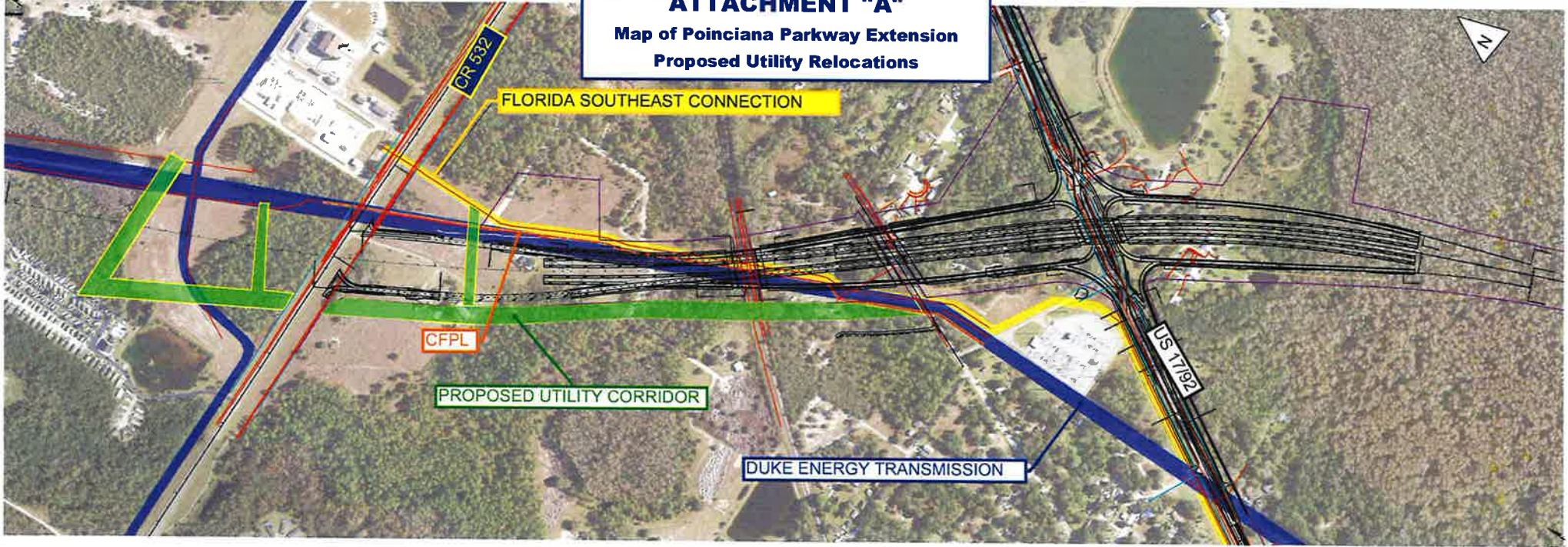
Reimbursement Agreement with Florida Southeast Connection, LLC in a form substantially similar to the attached Agreement, subject to any minor or clerical modifications or revisions approved by the General Counsel or designee.

ATTACHMENTS

- A. Map of Poinciana Parkway Extension Project

- B. Reimbursement Agreement with Florida Southeast Connection, LLC

ATTACHMENT "A"
Map of Poinciana Parkway Extension
Proposed Utility Relocations



**REIMBURSEMENT AGREEMENT
FLORIDA SOUTHEAST CONNECTION, LLC**

THIS REIMBURSEMENT AGREEMENT ("Agreement") is entered into as of the Effective Date (hereinafter defined) between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and agency of the State of Florida, created pursuant to Part III of Chapter 348, Florida Statutes, with a mailing address of 4974 ORL Tower Road, Orlando, Florida 32807 hereinafter ("CFX") and **FLORIDA SOUTHEAST CONNECTION, LLC**, a Delaware limited liability company with a mailing address of 700 Universe Boulevard, Juno Beach, Florida 33408 hereinafter ("FSC"). CFX and FSC shall be individually referred to herein as "Party" or collectively referred to herein as "Parties".

RECITALS:

WHEREAS, FSC owns and operates a federally regulated 36-inch diameter high pressure natural gas pipeline transportation system known as the "FSC Pipeline" in Osceola, Polk, Okeechobee, St. Lucie and Martin counties in the State of Florida; and

WHEREAS, CFX is a body corporate and politic existing pursuant to Chapter 348, Part III, Florida Statutes ("Act"), for the purpose of constructing, operating, and maintaining the "Central Florida Expressway System" as the same is more particularly defined in the Act;

WHEREAS, CFX owns, operates, and maintains the Central Florida Expressway System and is undertaking an expansion project known as the "Poinciana Parkway Extension Project" in Osceola County that involves the extension of State Road ("SR") 538/Poinciana Parkway to create a divided four lane expressway from Ronald Reagan Parkway to County Road ("CR") 532/Osceola Polk Line Road ("Project"); and

WHEREAS, in order to accommodate the Project, CFX has requested that FSC relocate a portion of the FSC Pipeline in Osceola County; and

WHEREAS, CFX has agreed to reimburse FSC for the reasonable costs and expenses incurred by FSC to conduct preliminary studies and analyses to determine the feasibility and manner for relocating the FSC Pipeline ("Phase I Analysis").

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

1. **INCORPORATION OF RECITALS.** The recitals set forth at the beginning of this Agreement are hereby incorporated into this Agreement as if fully set forth herein.
2. **PHASE I ANALYSIS; COST ESTIMATE.** In order to determine the feasibility and appropriate location and manner for relocating the FSC Pipeline, FSC will be required to dedicate internal resources to engage and manage external resources to conduct preliminary studies and analyses in the areas of (i) permitting requirements for the relocation of the FSC Pipeline; (ii) environmental assessment of features, including, without limitation, threatened and endangered species studies, of the proposed location of the FSC Pipeline, but only to extent the studies conducted by or on behalf of CFX and provided to FSC do not satisfy the environmental assessment or the regulatory requirements of any

government agency having jurisdiction over the potential relocation of the FSC Pipeline; (iii) regulatory compliance; (iv) preliminary and final engineering design for the relocation of the FSC Pipeline (“Design Plans”); and (v) cost estimate for the permitting, construction and installation of the relocated FSC Pipeline, and if necessary, abandonment of the existing FSC Pipeline (collectively, the “Construction Cost Estimate”). FSC anticipates the cost for the Phase I Analysis will not exceed SEVEN HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$750,000.00)(“Advance Payment”) as more particularly outlined in Exhibit “A” attached hereto and incorporated herein by reference (“Cost Estimate”).

3. **PAYMENT BY CFX.** No later than ten (10) business days from the Effective Date of this Agreement, CFX will deposit with FCS in escrow a sum equal to the Advance Payment as shown on the Cost Estimate.

4. **USE OF FUNDS; FINAL ACCOUNTING BY FSC.** FSC will use the Advance Payment paid by CFX solely for work associated with the Phase I Analysis. FSC will not exceed the Cost Estimate without the prior written consent of CFX. In the event FSC anticipates that the actual cost of the Phase I Analysis will exceed the Cost Estimate, FSC shall provide CFX with a written revised Cost Estimate (Revised Cost Estimate) for CFX’s review and approval. Within thirty (30) days from the receipt of the Advance Payment, and every thirty (30) days thereafter, FSC will provide a written accounting outlining any and all costs and expenses incurred by FSC for the Phase I Analysis, which accounting shall include copies of any and all invoices received by FSC, whether such invoices are paid or outstanding, and documentation of the internal costs incurred by FSC. Within fifteen (15) business days of completing the Phase I Analysis, FSC will provide a final accounting of the costs and expenses incurred by FSC for the Phase I Analysis with sufficient detail for CFX to determine that the costs are directly related to the Phase I Analysis, including, without limitation, copies of any and all invoices not previously provided to CFX (collectively, the “Final Accounting”). Should FSC’s costs for the Phase I Analysis be less than the Advance Payment, FSC will return the remaining balance of the Advance Payment to CFX within ten (10) business days of providing the Final Accounting to CFX.

5. **PHASE I ANALYSIS.** FSC understands and acknowledges that the commencement, continuous prosecution, and completion of the Phase I Analysis by FSC, and any potential delays, will impact the timeline for the construction and completion of the Project. FSC agrees to commence the Phase I Analysis within ten (10) days of receipt of the Advance Payment from CFX and shall complete the Phase I Analysis, including the Design Plans and Construction Cost Estimate, no later than six (6) months from receipt of the Advance Payment (“Phase I Period”), unless otherwise mutually extended by the Parties. Upon expiration of the Phase I Period, FSC shall provide CFX with the opportunity to review any and all studies and analyses obtained by FSC.

6. **ENGINEERING PLANS AND ESTIMATE.** No later than the expiration of the Phase I Period, FSC shall prepare the Design Plans and Construction Cost Estimate to CFX for review. Within thirty (30) days of review of the Design Plans and Construction Cost Estimate, CFX shall provide in writing to FSC any comments or objections to the Design Plans and Construction Cost Estimate. FSC and CFX shall cooperate and work in good faith to finalize the Design Plans and Construction Cost Estimate for the relocation of the FSC Pipeline no later than sixty (60) following the expiration of the Phase I Period.

7. **AUDIT**, CFX will have the right, upon reasonable notice and during normal business hours, to audit and obtain copies of FSC's books, records, documents, accounting procedures, practices or any other items to the extent relating to the costs incurred by FSC in connection with the Phase I Analysis.

8. **TERMINATION OF AGREEMENT**. CFX shall have the right, in its sole and absolute discretion, to terminate this Agreement, for any reason, effective immediately upon delivery of notice to FSC ("Termination Notice"). Upon receipt of written notice from CFX, FSC shall take any and all action reasonably necessary to terminate the Phase I Analysis and mitigate any additional costs incurred by FSC for the Phase I Analysis. In the event of such termination, CFX shall be responsible for any and all costs for the Phase I Analysis incurred by FSC up to and including the date of FSC's receipt of the Termination Notice, including, without limitation, any costs and expenses incurred by FSC to suspend or terminate the Phase I Analysis. Any remaining balance of the Advance Funds shall be returned to CFX within thirty (30) days of the Termination Notice.

9. **HOLD HARMLESS; SOVEREIGN IMMUNITY**. The parties intend that each shall be responsible for its own intentional and negligent acts or omissions to the greatest extent possible under the laws of the State of Florida. Nothing contained herein is intended to act as a waiver of the sovereign immunity of CFX under Section 768.28, Florida Statutes.

10. **NO JOINT VENTURE**. It is the express intention of the parties hereto that this agreement may not be construed as, or given the effect of, creating a joint venture, partnership or affiliation or association that would otherwise render the parties liable as partners, agents, employer-employee or otherwise create any joint and several liability.

11. **GOVERNING LAW; VENUE; WAIVER OF JURY TRIAL**. This Agreement will be governed by and construed in accordance with the laws and court decisions of the State of Florida. This Agreement will be enforceable in Osceola County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the same shall lie in Osceola County, Florida or the United States District Court for the Middle District of Florida, Orlando Division. Each party hereby irrevocably waives its rights to trial by jury in any action or proceeding arising out of this Agreement.

12. **ASSIGNMENT**. No Party may assign its rights and obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed.

13. **SEVERABILITY**. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in the Agreement.

14. **AGREEMENT BINDING**. This Agreement shall be binding upon and inure to the benefit of the Parties to this Agreement and their respective heirs, executors, administrators, personal representatives, legal representatives, successors and assigns subject to the provisions of Section 12.

15. **ENTIRETY OF AGREEMENT.** This agreement constitutes the entire agreement between the parties hereto relating to the subject matter hereof, and no alterations of the terms and conditions of this Agreement shall be valid unless in writing and signed by both of the parties hereto.

16. **EFFECTIVE DATE.** The effective date of this Agreement shall be the date upon which the last of the Parties hereto executes this Agreement.

17. **COUNTERPARTS.** This Agreement may be executed in multiple counterparts, including by electronic or digital signatures in accordance 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.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates written below.

“CFX”

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

Print Name: _____

Print Name: _____

By: _____
Buddy Dyer, Chairman

Date: _____

ATTEST: _____
Regla (“Mimi”) Lamaute
Recording Clerk

Approved as to form and legality by legal
counsel to the Central Florida Expressway
Authority on this ___ day of _____,
2021 for its exclusive use and reliance.

By: _____
Diego “Woody” Rodriguez
General Counsel

“FSC”

FLORIDA SOUTHEAST CONNECTION, LLC

By: Matthew Schaffer
Name: MATTHEW SCHAFER
Title: VICE PRESIDENT

EXHIBIT "A"

PHASE 1 ANALYSIS – COST ESTIMATE

ENGINEERING DESIGN/COST ESTIMATES:	\$500,000
ENVIRONMENTAL ASSESSMENT:	\$100,000
REGULATORY PERMITTING/COMPLIANCE:	\$50,000
FSC INTERNAL MANAGEMENT:	<u>\$100,000</u>
 TOTAL:	 \$750,000

**CONSENT AGENDA ITEM
#13**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Diego "Woody" Rodríguez^{WR}
General Counsel

DATE: July 21, 2021

SUBJECT: Reimbursement Agreement with Central Florida Pipeline, LLC
Project No. 538-235

BACKGROUND

The Central Florida Expressway Authority ("CFX") is proceeding with the acquisition of right-of-way for the planned extension of State Road 538, Poinciana Parkway in Osceola and Polk Counties ("Poinciana Parkway Extension Project"). Certain major utilities must be relocated in order to accommodate the construction of the Poinciana Parkway Extension Project as more particularly depicted on the map attached hereto as **Attachment "A"**. Central Florida Pipeline, LLC ("CFPL") owns and operates a utility pipeline that is located within an easement in the proposed location of the Poinciana Parkway Extension Project ("CFPL Pipeline"). In order to determine the feasibility, cost, and proposed location to relocate the CFPL Pipeline, CFX has requested CFPL to undertake the necessary preliminary studies, analysis, and design, including, without limitation, determining the permitting requirements, environmental impacts, and regulatory compliance required for the proposed relocation, and preparing preliminary and final engineering design plans along with a cost estimate ("Studies and Cost Estimate").

CFPL has agreed to perform the required Studies and Cost Estimate in accordance with the terms of the proposed Reimbursement Agreement with Central Florida Pipeline, LLC ("Agreement"). A copy of the proposed Agreement is attached hereto as **Attachment "B"**. Pursuant to the terms of the Agreement, CFX will reimburse CFPL for the Studies and Cost Estimate in an amount not to exceed \$448,715.00 ("Proposed Design Cost"). In the event of the actual cost of the Studies and Cost Estimate is less than the Proposed Design Cost, any excess amounts will be either applied toward the construction of the relocated CFPL Pipeline or refunded to CFX.

REQUEST

Board's approval of the following is requested:

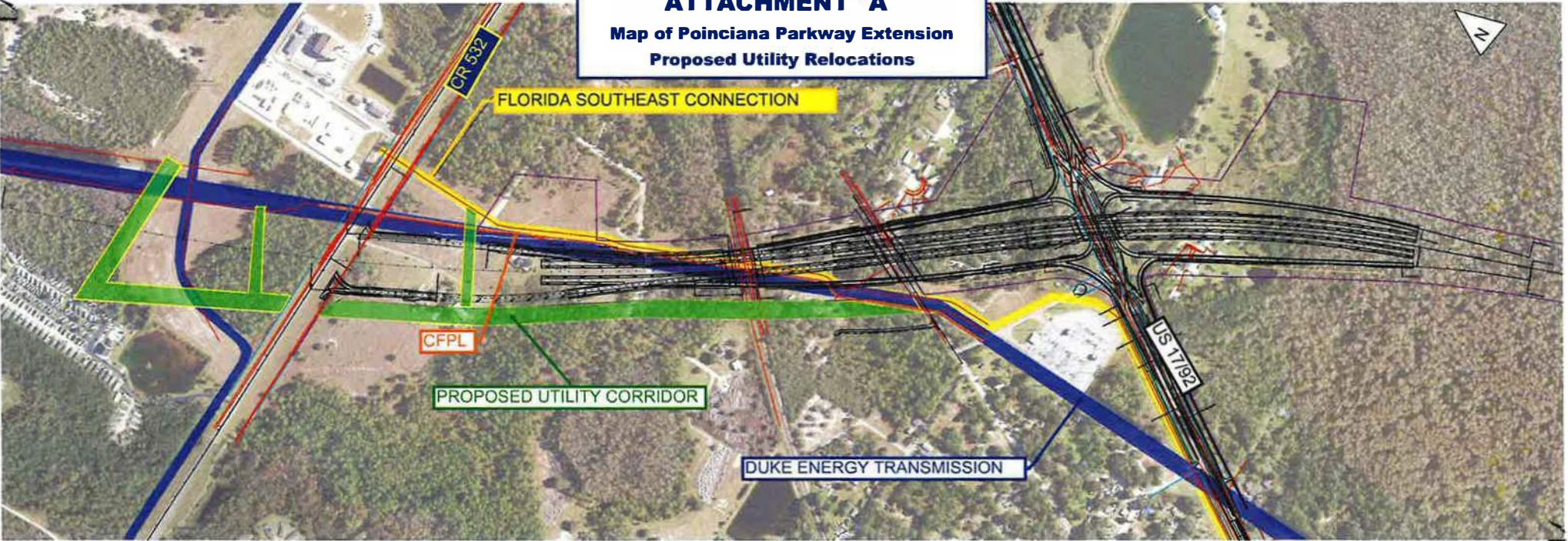
Reimbursement Agreement with Central Florida Pipeline, LLC in a form substantially similar to the attached Agreement, subject to any minor or clerical modifications or revisions approved by the General Counsel or designee.

ATTACHMENTS

- A. Map of Poinciana Parkway Extension Project

- B. Reimbursement Agreement with Central Florida Pipeline, LLC

ATTACHMENT "A"
Map of Poinciana Parkway Extension
Proposed Utility Relocations



**REIMBURSEMENT AGREEMENT
CENTRAL FLORIDA PIPELINE, LLC**

THIS REIMBURSEMENT AGREEMENT (“Agreement”) is entered into as of the Effective Date (hereinafter defined) between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and agency of the State of Florida, created pursuant to Part III of Chapter 348, Florida Statutes, with a mailing address of 4974 ORL Tower Road, Orlando, Florida 32807 hereinafter (“CFX”) and **CENTRAL FLORIDA PIPELINE, LLC**, a Florida limited liability company with a mailing address of 1001 Louisiana Street, Suite 1000, Houston, TX 77002 hereinafter (“CFPL”). CFX and CFPL shall be individually referred to herein as “Party” or collectively referred to herein as “Parties”.

RECITALS:

WHEREAS, CFPL owns and operates a federally regulated 16-inch diameter underground petroleum pipeline and associated protective easement rights (the “CFPL Pipeline”) in Osceola and Polk counties in the State of Florida; and

WHEREAS, CFX is a body corporate and politic existing pursuant to Chapter 348, Part III, Florida Statutes (“Act”), for the purpose of constructing, operating, and maintaining the “Central Florida Expressway System” as the same is more particularly defined in the Act;

WHEREAS, CFX owns, operates, and maintains the Central Florida Expressway System and is undertaking an expansion project known as the “Poinciana Parkway Extension Project” in Osceola County that involves the extension of State Road (“SR”) 538/Poinciana Parkway to create a divided four lane expressway from Ronald Reagan Parkway to County Road (“CR”) 532/Osceola Polk Line Road (“Project”); and

WHEREAS, in order to accommodate the Project, CFX has requested that CFPL relocate a portion of the CFPL Pipeline in Osceola and Polk Counties; and

WHEREAS, CFX has agreed to reimburse CFPL for the reasonable costs and expenses incurred by CFPL to conduct preliminary studies and analyses to determine the feasibility and manner for relocating the CFPL Pipeline (“Relocation Analysis”).

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

1. **INCORPORATION OF RECITALS.** The recitals set forth at the beginning of this Agreement are hereby incorporated into this Agreement as if fully set forth herein.
2. **RELOCATION ANALYSIS; COST ESTIMATE.** In order to determine the feasibility and cost for relocating the CFPL Pipeline, CFPL will be required perform certain activities, including without limitation, preliminary engineering and environmental evaluation in the areas of (i) permitting requirements for the relocation of the CFPL Pipeline; (ii) environmental assessment of features, including, without limitation, wetland review, cultural resources, threatened and endangered species studies, of the proposed location of the CFPL Pipeline, but only to extent the studies conducted by or on behalf of CFX and provided to CFPL do not satisfy the environmental assessment; (iii) regulatory

compliance; (iv) preliminary and final engineering design for the relocation of the CFPL Pipeline (“Design Plans”); and (v) cost estimate for the permitting, construction and installation of the relocated CFPL Pipeline, and if necessary, abandonment of the existing CFPL Pipeline (collectively, the “Construction Cost Estimate”) and post-construction studies, including any requirement for the monitoring of restoration of wetlands impacted by the Project for up to five years after construction. CFPL anticipates the cost for the Relocation Analysis will not exceed FOUR HUNDRED FORTY-EIGHT THOUSAND SEVEN HUNDRED FIFTEEN AND NO/100 DOLLARS (\$448,715.00) (“Advance Payment”) as more particularly outlined in Exhibit “A” attached hereto and incorporated herein by reference (“Cost Estimate”).

3. PAYMENT BY CFX. No later than ten (10) business days from the Effective Date of this Agreement, CFX shall make a payment to CFPL a sum equal to the Advance Payment as shown on the Cost Estimate. Method of payment shall be in the one of the approved formats as describes in Exhibit “B” attached hereto and incorporated herein.

4. USE OF FUNDS; FINAL ACCOUNTING BY CFPL. CFPL will use the Advance Payment paid by CFX solely for work associated with the Relocation Analysis. CFPL will not exceed the Cost Estimate without the prior written consent of CFX. In the event CFPL anticipates that the actual cost of the Relocation Analysis will exceed the Cost Estimate, CFPL shall provide CFX with a written revised Cost Estimate (Revised Cost Estimate) for CFX’s review and approval. Within thirty (30) days from the receipt of the Advance Payment, and every thirty (30) days thereafter, CFPL will provide a written accounting outlining any and all costs and expenses incurred by CFPL for the Relocation Analysis, which accounting shall include copies of any and all invoices received by CFPL, whether such invoices are paid or outstanding. Within fifteen (15) business days of completing the Relocation Analysis, CFPL will provide a final accounting of the costs and expenses incurred by CFPL for the Relocation Analysis with sufficient detail for CFX to determine that the costs are directly related to the Relocation Analysis, including, without limitation, copies of any and all invoices not previously provided to CFX (collectively, the “Final Accounting”). Should the Project move forward and a relocation of the CFPL Pipeline be feasible and necessary, any remaining balance of the Advance Payment shall be applied to the relocation of the CFPL Pipeline. Should the CFX project be canceled or placed on hold, CFPL will return the remaining balance of the Advance Payment to CFX within ninety (90) days of providing the Final Accounting to CFX.

5. RELOCATION ANALYSES. CFPL understands and acknowledges that the commencement, continuous prosecution, and completion of the Relocation Analysis by CFPL, and any potential delays, will impact the timeline for the construction and completion of the Project. CFPL agrees to commence the Relocation Analysis within thirty (30) days of receipt of the Advance Payment from CFX and shall complete the Relocation Analysis, including the Design Plans and Construction Cost Estimate, no later than nine (9) months from receipt of the Advance Payment (“Relocation Period”), unless otherwise mutually extended by the Parties. Upon expiration of the Relocation Period, CFPL shall deliver to CFX copies of any and all studies and analyses obtained by CFPL.

6. ENGINEERING PLANS AND ESTIMATE. No later than the expiration of the Relocation Period, CFPL shall deliver the Design Plans and Construction Cost Estimate to CFX for review. Within thirty (30) days of receipt of the Design Plans and Construction Cost Estimate, CFX shall provide in writing to CFPL any comments or objections to the Design Plans and Construction Cost Estimate. CFPL and CFX shall cooperate and work in good faith to finalize the Design Plans and Construction Cost

Estimate for the relocation of the CFPL Pipeline no later than sixty (60) following the expiration of the Relocation Period.

7. **AUDIT.** CFX will have the right, upon reasonable notice and during normal business hours, to audit and obtain copies of CFPL's books, records, documents, accounting procedures, practices or any other items to the extent relating to the costs incurred by CFPL in connection with the Relocation Analysis.

8. **TERMINATION OF AGREEMENT.** CFX shall have the right, in its sole and absolute discretion, to terminate this Agreement, for any reason, effective immediately upon delivery of notice to CFPL ("Termination Notice"). Upon receipt of written notice from CFX, CFPL shall take any and all action reasonably necessary to terminate the Relocation Analysis and mitigate any additional costs incurred by CFPL for the Relocation Analysis. In the event of such termination, CFX shall be responsible for any and all costs for the Relocation Analysis incurred by CFPL up to and including the date of CFPL's receipt of the Termination Notice, including, without limitation, any costs and expenses incurred by CFPL to suspend or terminate the Relocation Analysis. Any remaining balance of the Advance Funds shall be returned to CFX within thirty (30) days of the Termination Notice.

9. **HOLD HARMLESS; SOVEREIGN IMMUNITY.** The parties intend that each shall be responsible for its own intentional and negligent acts or omissions to the greatest extent possible under the laws of the State of Florida. Nothing contained herein is intended to act as a waiver of the sovereign immunity of CFX under Section 768.28, Florida Statutes.

10. **NO JOINT VENTURE.** It is the express intention of the parties hereto that this agreement may not be construed as, or given the effect of, creating a joint venture, partnership or affiliation or association that would otherwise render the parties liable as partners, agents, employer-employee or otherwise create any joint and several liability.

11. **GOVERNING LAW; VENUE; WAIVER OF JURY TRIAL.** This Agreement will be governed by and construed in accordance with the laws and court decisions of the State of Florida. This Agreement will be enforceable in Osceola County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the same shall lie in Osceola County, Florida or the United States District Court for the Middle District of Florida, Orlando Division. Each party hereby irrevocably waives its rights to trial by jury in any action or proceeding arising out of this Agreement.

12. **ASSIGNMENT.** No Party may assign its rights and obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed.

13. **SEVERABILITY.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in the Agreement.

14. **AGREEMENT BINDING.** This Agreement shall be binding upon and inure to the benefit of the Parties to this Agreement and their respective heirs, executors, administrators, personal representatives, legal representatives, successors and assigns subject to the provisions of Section 12.

15. **ENTIRETY OF AGREEMENT.** This agreement constitutes the entire agreement between the parties hereto relating to the subject matter hereof, and no alterations of the terms and conditions of this Agreement shall be valid unless in writing and signed by both of the parties hereto.

16. **EFFECTIVE DATE.** The effective date of this Agreement shall be the date upon which the last of the Parties hereto executes this Agreement.

17. **COUNTERPARTS.** This Agreement may be executed in multiple counterparts, including by electronic or digital signatures in accordance 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.

[SIGNATURE PAGE FOLLOWS]

Exhibit "A"

Detailed Cost Estimate

Dated 5/14/2021

Follows on Next Page



16 CFPL Pipeline Relocation 5500 ft. (CFX 538-235, SR 538 Poinciana Parkway Segment 2)/Project# JP2103006

CER #:	n/a
AFE / PRN #:	n/a
Project Title:	16 CFPL Pipeline Relocation 5500 ft. (CFX 538-235, SR 538 Poinciana Parkway Segment 2)/Project# JP2103006
Revision:	4
Entity:	CFPL
Location:	Central Florida
Project Type:	Reimbursable- Preliminary Engineering Only
Requestor:	Padraza, Jose E
Estimate Phase:	AFE/Budgetary
Budget Type:	Reimbursable (CC)
Project Manager/Estimator:	Padraza, Jose E
Estimate Completion Date:	5/14/2021

Project Scope of Work:
 Provide a cost estimate for line survey, topography, detailed engineering, permitting, and land agent support for approx. 5,500 ft. 16" Central Florida Pipeline (CFPL) open cut relocation project and casing extension at US 92.

PHASE CATEGORY	DESCRIPTION	UNIT COST	UNITS	QUANTITY	TOTAL COST	BASIS
10 - Project Management (KM Labor Only)	Project Management (KM Employee)	\$ 100,000.00	Lot	1	\$100,000	10 month project duration
	Project Controls Support (KM Employee)	\$ 10,000.00	Lot	1	\$10,000	
	Benefits Rate 47.10% of direct labor - Project Management & Project Controls Support	\$ 51,810.00	Lot	1	\$51,810	
	Project Management Subtotal				\$161,810	
20 - Engineering	Engineering Consultant - Survey, Design Engineering, Project Management, Geotechnical Services	\$ 150,000	Each	1	\$150,000	Budgetary quote from contractor (Kleinfelder)
	Engineering Subtotal				\$150,000	
30 - Permitting	Wetland/Waters Review, Cultural Resources, Endangered Species, NPDES Construction GP, Hydrotest Discharge Permit, State Environmental Land Disturbance Permits, SWPP, Local and County Environmental Land Disturbance Permits	\$ 50,000.00	Lot	1	\$50,000	Per Kinder Morgan Permitting Specialist - Debi McCartney
			Lot	1	\$0	
	Permitting Subtotal				\$50,000	
40 - Right of Way	Land Agent (KM Employee)	\$ 4,500.00	Lot	1	\$4,500	Per Kinder Morgan Land Agent - Tony Garcia
	Benefits Rate 47.10% of direct labor - Land Agent (KM Employee)	\$ 2,119.50	Lot	1	\$2,120	
	ROW Contractor	\$ 5,500.00	Lot	1	\$5,500	ACCT CAT 50413
	Right of Way Subtotal				\$12,120	
PROJECT SUBTOTAL:					\$373,990	
90 - General	AFUDC		Months		\$0	
	Contingency	10%			\$37,393	
91 - Reimbursable	Reimbursable Project Overhead	10%			\$37,393	Per 2021 Overhead Rates
TOTAL COST:					\$448,715	

Notes / Assumptions:

- Central Florida Expressway Authority (CFX) will acquire new CFPL ROW and temporary workspace.
- Property Boundary Survey work and plat development is not included, CFX specified they will cover all deliverables for CFPL ROW acquisition
- Estimate includes all engineering, permitting, and project management efforts not to be duplicated in construction estimate.
-
-
-

**CONSENT AGENDA ITEM
#14**

MEMORANDUM

TO: CFX Board Members

FROM: Laura Newlin Kelly, Associate General Counsel ^{*Link*}

DATE: July 15, 2021

SUBJECT: First Amendment to Joint Participation Agreement Between Osceola County and the Central Florida Expressway Authority for the Shingle Creek Mainline and Poinciana Boulevard Ramp Toll Plazas
Project No. 599-902

BACKGROUND

On or about November 12, 2020, Osceola County (“Osceola County”) and the Central Florida Expressway Authority (“CFX”) entered into that certain Joint Participation Agreement Between Osceola County and the Central Florida Expressway Authority recorded November 12, 2020 as File No. 2020158148 in Official Records Book 5835, Page 1846, Public Records of Osceola County, Florida (“Agreement”) governing the performance of certain toll collection system upgrades for three (3) toll plazas owned by Osceola County (hereinafter referred to as the “Project”).

In an effort to minimize any lost toll revenue during the pendency of the Project, Osceola County desires to work with CFX to retain the services of Transcore, LP to replace the legacy equipment for two (2) E-PASS lanes located at the Shingle Creek Mainline toll plaza owned by Osceola County (“Additional Upgrades”) in accordance with the terms and conditions of that certain First Amendment to Joint Participation Agreement Between Osceola County and the Central Florida Expressway Authority (“First Amendment”). A copy of the First Amendment is attached hereto as **Attachment “A”**. Pursuant to the terms of the First Amendment, CFX would manage the design, construction, and administration of the Additional Upgrades, subject to reimbursement from Osceola County.

REQUEST

Board’s approval of the following is requested:

First Amendment to Joint Participation Agreement Between Osceola County and the Central Florida Expressway Authority, subject to any minor or clerical modifications approved by the General Counsel or designee.



ATTACHMENT

- A. First Amendment to Joint Participation Agreement Between Osceola County and the Central Florida Expressway Authority

Reviewed by: Woody Rodriguez

ATTACHMENT "A"

FIRST AMENDMENT TO JOINT PARTICIPATION AGREEMENT BETWEEN OSCEOLA COUNTY AND THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY (Shingle Creek Mainline and Poinciana Blvd Ramp Toll Plazas)

THIS FIRST AMENDMENT TO JOINT PARTICIPATION AGREEMENT BETWEEN OSCEOLA COUNTY AND THE CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("Amendment") is entered into as of the last date of execution ("Effective Date") by and between **OSCEOLA COUNTY, FLORIDA**, a charter County and political subdivision of the State of Florida, whose address is 1 Courthouse Square, Kissimmee, Florida 34741 ("County"), and **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body politic and corporate, and an agency of the state, under the laws of the State of Florida, whose address is 4974 ORL Tower Road, Orlando, Florida 32807 ("CFX") (each, a "Party" and, collectively, the "Parties").

RECITALS

WHEREAS, on or about November 12, 2020, the Parties entered into that certain Joint Participation Agreement Between Osceola County and the Central Florida Expressway Authority recorded November 12, 2020 as File No. 2020158148 in Official Records Book 5835, Page 1846, Public Records of Osceola County, Florida ("Agreement") governing the performance of certain toll collection system upgrades for three (3) toll plazas owned by the County; and

WHEREAS, in an effort to minimize any lost toll revenue during the pendency of the Project, as defined in the Agreement, the County desires to replace the legacy equipment for two E-PASS lanes located at the Shingle Creek Mainline toll plaza owned by the County in accordance with the scope of services outlined in **Exhibit "A"** attached hereto and incorporated herein by reference ("Additional Upgrades"); and

WHEREAS, the County desires to use the Contractor, as defined in the Agreement, to perform the Additional Upgrades in accordance with the terms and conditions of the Agreement as amended hereby; and

WHEREAS, the Parties desire to amend the Agreement to revise the scope of services set forth in the Agreement to include the Additional Upgrades and increase the Projects Costs, as defined in the Agreement, in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Amendment, the Parties agree as follows:

1. **Recitals.** The above recitations are true and correct and are incorporated herein as fully as if set forth hereafter. Any capitalized terms not specifically defined herein shall have the meanings attributed to them in the Agreement.
2. **Scope of Services.** **Exhibit "B"** to the Agreement is hereby amended to include the specific scope of services for the Additional Upgrades as more specifically set forth on **Exhibit "A"** attached hereto.
3. **Project Costs.** The Project Costs shall be increased by an amount not to exceed \$184,482.84 to include the project costs for the Additional Upgrades as more particularly outlined in

Exhibit "A" attached hereto and incorporated herein by reference ("Cost of Additional Upgrades"). All references to the Project Costs in the Agreement shall include the Cost of Additional Upgrades. The total Project Costs, including the Cost of the Additional Upgrades, shall be a total amount not to exceed \$1,113,374.72.

4. **Effect of this Amendment.** Except as specifically hereby amended, the Agreement shall remain in full force and effect. In the event of any conflict between the terms of the Agreement and the terms of this Amendment, the terms of this Amendment shall govern.

5. **Counterparts and Electronic Signatures.** This Amendment 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 hereto have executed this Amendment on the day and year written below.

"COUNTY"

OSCEOLA COUNTY, FLORIDA

By: _____

Chair/Vice Chair
Board of County Commissioners

(SEAL)

ATTEST:

Date: _____

Clerk/Deputy Clerk

As authorized for execution at the Board of
County Commissioners meeting of:

[ADDITIONAL SIGNATURE PAGE TO FOLLOW]

“CFX”

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

ATTEST: _____
Regla (“Mimi”) Lamaute
Board Services Coordinator

By: _____
Buddy Dyer, Chairman

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

EXHIBIT "A"



2416 Lake Orange Drive #100
Orlando, Florida 32837
(P): 407-382-1301

Monday, June 07, 2021

Central Florida Expressway Authority
4974 Orl Tower Road
Orlando, Florida 32807

Attention: Joann Chizlett
Director of Special Projects

Subject: Shingle Creek

Ms. Chizlett,

TransCore is pleased to provide you with a preliminary price proposal to add one dedicated lane in each direction at Shingle Creek and a short-term nightly data backup solution while the plaza awaits fiber connectivity.

This is for the procurement and installation of equipment necessary to add the two lanes. This quote utilizes TSUP line-item pricing for the two dedicated lanes.

Item No.	Pay Item Description	Qty	Unit	Unit Price	Extended Price
504a	Toll Lane-Dedicated AVI-Mainline-Replace Legacy Equipment	2	Lane	\$ 87,284.24	\$ 174,568.48
504a	Digital Video & Audit Camera Credit	2	Lane	(\$1,555.00)	(\$3,110.00)
111	Commissioning (per travel lane)	2	Lane	\$ 2,089.34	\$ 4,178.68

TransCore proposes to provide the data backup solution via a time and material agreement. The estimate for labor and material is provided in the table below and will not exceed the listed total without prior approval. TransCore will work with CFX on alternate backup options and installation efficiencies in an attempt to improve the final price.

Labor	Hours
Install Tech (125.56/hr.)	4
SW Maint Tech (163.85/hr.)	8
PM (250.09/hr.)	4
Total	16

Material will be billed on a cost plus 15% basis and includes the following items:

HPE StoreEver LTO-7 Ultrium 15000 - tape drive - LTO Ultrium - SAS-2 (estimate)	\$2,830.46
7 x 6TB tapes @\$70 (estimate)	\$490.00
Veeam Availability Suite Universal License - Upfront Billing License (1 year) + Production Support - Coverage Dates: 21-MAY-2021 - 21-MAY-2022 (annual) (estimate)	\$1,550.00
Conduit, controller card, cabling (estimate)	\$375.00

The current estimated price for this effort is:

TSUP 2 Dedicated Lanes (Line Item 504a)	\$174,568.48
Digital Video & Audit Camera Credit	(\$3,110.00)
Commissioning per travel lane (Line Item 111)	\$4,178.68
Material (For Data Backup)	\$6,032.28
Labor (For Data Backup)	\$2,813.40
Total:	\$184,482.84

Additional notes:

1. Pricing provided has been estimated and will be invoiced on a T&M basis.
2. Taxes, permits and any provisions for liquidated damages are specifically excluded from our proposal.
3. Pricing proposed is valid for a period of 90 days from the date of submittal.
4. Network connectivity to be provided by others.

Sincerely,

TransCore, LP




Annie Gennaro
Project Manager

**CONSENT AGENDA ITEM
#15**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 22, 2021

SUBJECT: Approval of Consortium Appraisal, Inc. and Donald W. McIntosh Associates, Inc. as Subconsultants to Shutts & Bowen LLP for Right-of-Way Services
Contract No. 001431

Board approval of Consortium Appraisal, Inc. and Donald W. McIntosh Associates, Inc. as subconsultants to Shutts & Bowen LLP, to provide appraisal services review, land planning and engineering services is requested. The cost is expected to exceed the \$25,000.00 threshold established by the Procurement Policy for subconsultants not disclosed by Shutts & Bowen LLP when its contract with CFX was originally awarded.

Reviewed by: Laura Newlin Kelly for
Diego "Woody" Rodriguez
General Counsel

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: Shutts & Bowen LLP Date: July 20, 2021

CFX Contract Name: Right-of-Way Counsel Services CFX Contract No.: 001431

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

Subconsultant Name: Consortium Appraisal, Inc.

Address: 180 South Knowles Avenue, Suite 3, Winter Park, Florida 32789

Phone No.: (407) 647-0800

Federal Employee ID No.: 59-3297491

Description of Services to Be Sublet: Review Appraisal Services

Estimated Beginning Date of Sublet Services: August 1, 2021

Estimated Completion Date of Sublet Services: August 31, 2023

Estimated Value of Sublet Services*: \$150,000.00

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

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

Requested By: /s/ David A. Shontz
(Signature of Consultant Representative)

Partner
Title

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

Date: _____

Approved by: Woody Rodriguez
(Signature of Appropriate Chief)

Date: 07/21/2021

Attach Subconsultant's Certificate of Insurance to this Request.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: Shutts & Bowen LLP Date: July 20, 2021

CFX Contract Name: Right-of-Way Counsel Services CFX Contract No.: 001431

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

Subconsultant Name: Donald W. McIntosh Associates, Inc.

Address: 2200 Park Avenue North, Winter Park, Florida 32789-2355

Phone No.: (407) 644-4068

Federal Employee ID No.: 59-1151358

Description of Services to Be Sublet: Land Planning and Engineering Services

Estimated Beginning Date of Sublet Services: August 1, 2021

Estimated Completion Date of Sublet Services: August 31, 2023

Estimated Value of Sublet Services*: \$150,000.00

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

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

Requested By: /s/ David A. Shontz

(Signature of Consultant Representative)

Partner

Title

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

Date: _____

Approved by: Woody Rodriguez
(Signature of Appropriate Chief)

Date: 07/21/2021

Attach Subconsultant's Certificate of Insurance to this Request.


CONSENT AGENDA ITEM

#16

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 22, 2021

SUBJECT: Approval of Landon, Moree & Associates, Inc. and Consortium Appraisal, Inc. as Subconsultants to Lowndes, Drosdick, Doster, Kantor & Reed, P.A. for Right of Way Services
Contract No. 001792

Board approval of Landon, Moree & Associates, Inc. and Consortium Appraisal, Inc. as subconsultant to Lowndes, Drosdick, Doster, Kantor & Reed, P.A, to provide eminent domain parcel analysis and appraisal services is requested. The cost is expected to exceed the \$25,000.00 threshold established by the Procurement Policy for subconsultants not disclosed by Lowndes, Drosdick, Doster, Kantor & Reed, P.A when its contract with CFX was originally awarded.

Reviewed by: Laura Newlin Kelly for
Diego "Woody" Rodriguez
General Counsel

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

Date: June 20, 2021

CFX Contract Name: Right of Way Counsel Service

CFX Contract No.: 001792

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

Subconsultant Name: Landon, Moree & Associates, Inc.

Address: 31622 US 19 North, Palm Harbor, Florida 34684

Phone No.: (727) 789-5010

Federal Employee ID No.: 59-2495878

Description of Services to Be Sublet: Engineering – Eminent Domain Parcel Analysis


Estimated Beginning Date of Sublet Services: July 1, 2021

Estimated Completion Date of Sublet Services: July 31, 2024

Estimated Value of Sublet Services*: \$>25,0000

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

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

Requested By: 
(Signature of Consultant Representative)

Title

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

Date: _____

Approved by: 
(Signature of Appropriate Chief)

Date: 07/20/2021

Attach Subconsultant's Certificate of Insurance to this Request.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

Date: July 1, 2021

CFX Contract Name: Right of Way Counsel Service

CFX Contract No.: 001792

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

Subconsultant Name: Consortium Appraisal and Consulting Services, Inc.

Address: 180 S. Knowles Avenue Suite 3, Winter Park, FL 32789

Phone No.: (407) 647-0800

Federal Employee ID No.: 59-2749111

Description of Services to Be Sublet: Review appraisal services for analysis of parcels associated with eminent domain acquisitions for the Lake Orange County Connector Project.

Estimated Beginning Date of Sublet Services: July 1, 2021

Estimated Completion Date of Sublet Services: July 31, 2024

Estimated Value of Sublet Services*: \$>25,0000

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


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

Requested By:  _____
(Signature of Consultant Representative)

Title

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

Date: _____

Approved by:  _____
(Signature of Appropriate Chief)

Date: 07/23/2021


Attach Subconsultant's Certificate of Insurance to this Request.

**CONSENT AGENDA ITEM
#17**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 28, 2021

SUBJECT: Approval of Cooperative Purchase Agreement with Durrance & Associates, P.A.
for Appraisal Services
Contract No. 001825

Board approval of the cooperative purchase agreement with Durrance & Associates, P.A. in the not-to-exceed amount of \$150,000.00 is requested. This is a cooperative purchase (piggyback) agreement based on a contract between Osceola County and Durrance & Associates, P.A. which will allow CFX to take advantage of the favorable terms already negotiated.

The work to be performed includes appraisal services of parcels required for right-of-way acquisition.

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

Reviewed by: Laura Newlin Kelly for
Diego "Woody" Rodriguez
General Counsel

**COOPERATIVE PURCHASE AGREEMENT
CONTRACT NO. 001825**

THIS COOPERATIVE PURCHASE AGREEMENT CONTRACT NO. 001825 (“Agreement”) is made this 12th day of August 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 **DURRANCE & ASSOCIATES, P.A.**, a Florida corporation, whose address is 300 South Hyde Park Avenue, Suite 201, Tampa, Florida 33606 (“Consultant”). CFX and Consultant 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 Consultant to provide appraisal services; and

WHEREAS, on or about July 29, 2020, the Consultant entered into that certain Agreement for Appraisal Services with Osceola County, Florida (“County”), as amended by that certain Amendment No. 1 to the Agreement Between Osceola County and Durrance & Associates, P.A. dated effective January 27, 2021 (collectively, the “County Agreement”), a copy of which is attached hereto as **Exhibit “A”** and incorporated herein by reference, for appraisal services; and

WHEREAS, the County Agreement between the Consultant and County was procured through a competitive bidding process under County’s solicitation PS-20-11573-RJ, which process is substantially similar to those required by CFX, and where sealed proposals were received from other Consultants; and

WHEREAS, competitive bids seeking qualified consultants to perform appraisal services on behalf of CFX was not required because the Consultant has the existing County Agreement, which was awarded through a competitive bidding process, for the same appraisal services to be provided hereunder, and CFX has decided to contract with Consultant for the performance of the appraisal services described herein under the same conditions previously negotiated by the County; and

WHEREAS, the Consultant agrees to provide the appraisal services under substantially the same terms and conditions as included in the County Agreement 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 and Definitions.** 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 County Agreement.

2. **Adoption of the County Agreement.** The Parties adopt all of the County Agreement by reference as though specifically set forth herein, subject to the following substitutions or revisions:

a. All references to “Osceola County, Florida,” “Osceola County Board of County Commissioners” or “County” shall be replaced with the “Central Florida Expressway Authority” or “CFX”.

b. All references to the “County Right-of-Way Manager” shall be replaced with “CFX’s General Counsel.”

c. All references to the “Osceola County Right-of-Way Manual” shall be replaced with the “CFX’s Property Acquisition, Disposition & Permitting Procedures Manual 2017.”

d. All references to the “Procurement Department” shall be replaced with the “CFX’s Procurement Department.”

e. Section 1. Term, shall be amended and replaced with the following:

The Agreement shall become effective on August 12, 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 Consultant with written notice of its intent at least thirty (30) days prior to the expiration of the Initial Term (“CFX Renewal Deadline”), which written notice shall be signed by the Consultant. The Initial Term and any Renewal Term shall be collectively referred to herein as the “Term”.

f. The certificate holder for insurance purposes under Section 8.D.8. shall be listed as follows:

Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, Florida 32807

g. All notices required pursuant to Section 12 of the County Agreement shall be sent to CFX at the following address:

Director of Records Management
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807
407-690-5366
PublicRecords@cfxway.com

h. All notices required pursuant to Section 23 of the County Agreement shall be sent to CFX at the following address:

Central Florida Expressway Authority
c/o Diego "Woody" Rodriguez, General Counsel
4974 ORL Tower Road
Orlando, Florida 32807

i. CFX's Project Manager contact information pursuant to Section 33.A. of the County Agreement shall be as follows:

Central Florida Expressway Authority
c/o Diego "Woody" Rodriguez, General Counsel
4974 ORL Tower Road
Orlando, Florida 32807
(407) 690-5380
Woody.Rodriguez@cfxway.com

j. The first sentence of Section 1.1.7 of Exhibit "A" to the County Agreement shall be deleted.

k. CFX shall not be required to issue a purchase order for the commencement of services under the County Agreement. Written notice from the General Counsel shall be sufficient.

l. All invoices shall be sent to CFX at the following email address:
Billing@CFXWay.com.

3. **Services.** The Consultant 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 County Agreement.

4. **Compensation for Services.** Compensation will be a not-to-exceed amount of \$150,000.00 and shall be in accordance with the pricing sheet attached to the County Agreement and shall be paid in accordance with the terms of this Agreement and CFX's Procurement Policy. The following rates set forth in Fee Schedule attached as Exhibit "C" to the County Agreement:

Position/Title	Loaded Hourly/Rate
Principle	\$325.00 per hour
Senior Appraiser	\$275.00 per hour
Staff Appraiser	\$210.00 per hour
Market Analyst	\$165.00 per hour

5. **Conflict of Interest.** 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 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 **Exhibit “B”**.

[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.

“CONSULTANT”

DURRANCE & ASSOCIATES, P.A.

By: Chad Durrance
Print Name: Chad Durrance
Title: President
Date: July 18,2021

“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” - County Agreement

Exhibit “B” - CFX Conflict Disclosure Form

**AGREEMENT FOR
APPRAISAL SERVICES**

THIS AGREEMENT is made by and between OSCEOLA COUNTY, a political subdivision of the State of Florida, 1 Courthouse Square, Kissimmee, Florida 34741, hereinafter referred to as the "COUNTY", and Durrance & Associates, P.A., 300 South Hyde Park Avenue, Suite 201, Tampa, Florida 36606, hereinafter referred to as the "CONSULTANT".

WITNESSETH:

WHEREAS, the COUNTY has competitively solicited for Appraisal Services, pursuant to PS-20-11573-RJ: and

WHEREAS, the CONSULTANT has exhibited by its response to the solicitation that it is capable of providing the required services; and

WHEREAS, the parties hereto have agreed to the terms and conditions cited herein based on said solicitation.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and provisions contained herein, the parties agree as follows:

SECTION 1. TERM.

The term of this Agreement shall begin on the date of execution by the County and continue for a period of three (3) years, and may be extended when in the best interest of the County.

SECTION 2. SCOPE OF SERVICES.

The CONSULTANT will furnish and install all necessary labor, materials, and equipment to complete the services set forth in **Exhibit "A"** which is attached hereto and incorporated herein.

SECTION 3. OBLIGATIONS OF THE CONSULTANT.

Obligations of the CONSULTANT shall include, but not be limited to, the following:

- A. It is understood that the CONSULTANT shall provide and pay for all labor, tools, materials, permits, equipment, transportation, supervision, and any and all other items or services, of any type whatsoever, which are necessary to fully complete and deliver the services requested by the COUNTY, and shall not have the authority to create, or cause to be filed, any liens for labor and/or materials on, or against, the COUNTY, or any property owned by the COUNTY. Such lien, attachment, or encumbrance, until it is removed, shall preclude any and all claims or demands for any payment expected by virtue of this Agreement.

- B. The CONSULTANT will ensure that all of its employees, agents, sub-contractors, representatives, volunteers, and the like, fully comply with all of the terms and conditions set herein, when providing services for the COUNTY in accordance herewith. C. The CONSULTANT shall be solely responsible for the means, methods, techniques, sequences, safety programs, and procedures necessary to properly and fully complete the work set forth in the Scope of Services.
- D. The CONSULTANT will maintain an adequate and competent staff, and remain authorized to do business within the State of Florida. The CONSULTANT may subcontract the services requested by the COUNTY; however, the CONSULTANT is fully responsible for the satisfactory completion of all subcontracted work.

SECTION 4. STANDARD OF CARE.

- A. The CONSULTANT has represented to the COUNTY that it possesses a level of knowledge, experience, and expertise that is commensurate with firms in the areas of practice required for the services to be provided. By executing this Agreement, the CONSULTANT agrees that the CONSULTANT will exercise that degree of care, knowledge, skill, and ability as any other similarly situated CONSULTANT possessing the degree of skill, knowledge, experience, and expertise within the local area, working on similar activities. The CONSULTANT shall perform the services requested in an efficient manner, consistent with the COUNTY's stated scope of services and industry standards.
- B. The CONSULTANT covenants and agrees that it and its employees, agents, sub-contractors, representatives, volunteers, and the like, shall be bound by the same standards of conduct as stated above.

SECTION 5. COMPENSATION.

- A. The amount to be paid under this Agreement for services rendered will not exceed the combined value of each fully executed Task Authorization in accordance with the fee schedule set forth in **Exhibit "C"** which is attached hereto and made a binding part hereof.
- B. Compensation for services completed by the CONSULTANT will be paid in accordance with section 218.70, Florida Statutes, Florida's Prompt Payment Act.
- C. Services to be performed in accordance with this Agreement are subject to the annual appropriation of funds by the COUNTY. In its sole discretion, the COUNTY reserves the right to forego use of the CONSULTANT for any project which may fall within the Scope of Services listed herein. In the event the COUNTY is not satisfied with the services provided by the CONSULTANT, the

COUNTY will hold any amounts due until such time as the CONSULTANT has appropriately addressed the problem.

SECTION 6-A. TERMINATION.

Either party may terminate this Agreement, with or without cause, given thirty (30) days written notice to the other party.

SECTION 6-B. SCRUTINIZED COMPANIES AGREEMENT TERMINATION CLAUSE.

This Agreement may be terminated by the COUNTY, without penalty to the COUNTY, i) in the event that CONSULTANT is put on the scrutinized companies lists enumerated in Section 287.135, Florida Statutes, or ii) if the COUNTY determines that CONSULTANT falsely certified to the COUNTY that CONSULTANT is not listed as a scrutinized company. Exemptions and additional penalties shall be as set forth in Section 287.135, Florida Statutes. Certification is set forth in Exhibit "C", which is attached hereto and made a binding part hereof.

SECTION 7. PAYMENT WHEN SERVICES ARE TERMINATED.

- A. In the event of termination of this Agreement by the COUNTY, and not due to the fault of the CONSULTANT, the COUNTY shall compensate the CONSULTANT for all services performed prior to the effective date of termination.
- B. In the event of termination of this Agreement due to the fault of the CONSULTANT, or at the written request of the CONSULTANT, the COUNTY shall compensate the CONSULTANT for all services completed, prior to the effective date of termination, which have resulted in a usable product, or otherwise tangible benefit to the COUNTY. All such payments shall be subject to an off-set for any damages incurred by the COUNTY resulting from any delay occasioned by early termination. This provision shall in no way be construed as the sole remedy available to the COUNTY in the event of breach by the CONSULTANT.

SECTION 8. INSURANCE.

- A. The CONSULTANT shall not commence any work in connection with this Agreement until it has obtained all of the following types of insurance and has provided proof of same to the COUNTY, in the form of a certificate prior to the start of any work, nor shall the CONSULTANT allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in Florida.
- B. The CONSULTANT shall maintain the following types of insurance, with the respective minimum limits:

1. GENERAL LIABILITY - One Million Dollars (\$1,000,000) any single occurrence;
 - a. Damage to Rented Premises – Fifty Thousand Dollars (\$50,000) any single occurrence;
 - b. Medical Expense – Five Thousand Dollars (\$5,000) Any one person;
 - c. Personal & Advertising Injury – One Million Dollars (\$1,000,000)
 2. EXCESS/UMBRELLA COVERAGE – One Million Dollars (\$1,000,000);
 3. PROFESSIONAL LIABILITY – One Million Dollars (\$1,000,000);
- C. The CONSULTANT shall name the “Osceola County Board of County Commissioners” as additional insured, to the extent of the services to be provided hereunder, on all required insurance policies, and provide the COUNTY with proof of same.
- D. The CONSULTANT shall provide the COUNTY’s Procurement Services with a Certificate of Insurance evidencing such coverage for the duration of this Agreement. Said Certificate of Insurance shall be dated and show:
1. The name of the insured CONSULTANT,
 2. The specified job by name and job number,
 3. The name of the insurer,
 4. The number of the policy,
 5. The effective date,
 6. The termination date,
 7. A statement that the insurer will mail notice to the COUNTY at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy.
 8. The Certificate Holders Box must read as follows. Any other wording in the Certificate Holders Box shall not be acceptable.

Osceola County Board of County Commissioners
c/o Director of Human Resources
1 Courthouse Square, Suite 4200
Kissimmee, Florida 34741

- E. Receipt of certificates or other documentation of insurance or policies or copies of policies by the COUNTY, or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the CONSULTANT’s obligation to fulfill the insurance requirements specified herein.
- F. The CONSULTANT shall ensure that any sub-contractor(s), hired to perform any of the duties contained in the Scope of Services of this Agreement, maintain the same insurance requirements set forth herein. In addition, the CONSULTANT shall

maintain proof of same on file and made readily available upon request by the COUNTY.

- H. The COUNTY 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 CONSULTANT and/or subcontractor providing such insurance.
- I. All insurance carriers shall have an AM Best Rating of at least A- and a size of VII or larger. The General Liability and Workers' Compensation policies shall have a waiver of subrogation in favor of Osceola County. The liability policies shall be Primary/Non-Contributory.

SECTION 9. COUNTY OBLIGATIONS.

At the CONSULTANT's request, the COUNTY agrees to provide, at no cost, all pertinent information known to be available to the COUNTY to assist the CONSULTANT in providing and performing the required services.

SECTION 10. ENTIRE AGREEMENT.

This Agreement, including referenced exhibits and attachments hereto, constitutes the entire agreement between the parties and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or effect whatsoever on this Agreement.

SECTION 11. APPLICABLE LAW, VENUE, JURY TRIAL.

The laws of the State of Florida shall govern all aspects of this Agreement. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall lie in Osceola County, Florida. The parties hereby waive their right to trial by jury in any action, proceeding or claim, arising out of this Agreement, which may be brought by either of the parties hereto.

SECTION 12. PUBLIC RECORDS.

- A. **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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE FOLLOWING:**

Public Information Office
1 Courthouse Square, Suite 3100

Kissimmee, Florida 34741
407-742-0100
BCCPIO@osceola.org

- B. The CONSULTANT understands that by virtue of this Agreement all of its documents, records and materials of any kind, relating to the relationship created hereby, shall be open to the public for inspection in accordance with Florida law. If CONSULTANT will act on behalf of the COUNTY, as provided under section 119.011(2), Florida Statutes, the CONSULTANT, subject to the terms of section 287.058(1)(c), Florida Statutes, and any other applicable legal and equitable remedies, shall:
1. Keep and maintain public records required by the COUNTY to perform the service.
 2. Upon request from the COUNTY'S custodian of public records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Florida law.
 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 CONSULTANT does not transfer the records to the COUNTY.
 4. Upon completion of the contract, transfer, at no cost, to the COUNTY all public records in possession of the CONSULTANT or keep and maintain public records required by the COUNTY to perform the service. If the CONSULTANT transfers all public records to the COUNTY upon completion of the contract, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirement. If the CONSULTANT keeps and maintains public records upon completion of the contract, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY'S custodian of public records, in a format that is compatible with the information technology systems of the county.
 5. If the CONSULTANT does not comply with a public records request, the COUNTY shall enforce the contract provisions in accordance with the contract.

SECTION 13. INDEPENDENT CONTRACTOR.

This Agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the CONSULTANT, its employees, sub-contractors, representatives, volunteers, and the like, will be an independent contractor and not an employee of the COUNTY for all purposes, including, but not limited to, the application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State of Florida revenue and taxation laws, the State of Florida workers' compensation laws, the State of Florida unemployment insurance laws, and the Florida Retirement System benefits. The CONSULTANT will retain sole and absolute discretion in the judgment of the manner and means of carrying out the CONSULTANT's activities and responsibilities hereunder.

SECTION 14. APPLICABLE LICENSING.

The CONSULTANT, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein.

SECTION 15. COMPLIANCE WITH ALL LAWS.

The CONSULTANT, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county, and municipal governments, as well as their respective departments, commissions, boards, and officers, which are in effect at the time of execution of this Agreement or are adopted at any time following the execution of this Agreement.

SECTION 16. INDEMNIFICATION.

The CONSULTANT agrees to be liable for any and all damages, losses, and expenses incurred, by the COUNTY, caused by the acts and/or omissions of the CONSULTANT, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like. The CONSULTANT agrees to indemnify, defend and hold the COUNTY harmless for any and all claims, suits, judgments or damages, losses and expenses, including but not limited to, court costs, expert witnesses, consultation services and attorney's fees, arising from any and all acts and/or omissions of the CONSULTANT, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like. Said indemnification, defense, and hold harmless actions shall not be limited by any insurance amounts required hereunder.

SECTION 17. SOVEREIGN IMMUNITY.

The COUNTY expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article or paragraph of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of sovereign immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount

and liability of COUNTY for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, shall not exceed the dollar amount set by the Florida Legislature for tort. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the COUNTY which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

SECTION 18. **BANKRUPTCY OR INSOLVENCY.**

If the CONSULTANT shall file a Petition in Bankruptcy, or if the same shall be adjudged bankrupt or insolvent by any Court, or if a receiver of the property of the CONSULTANT shall be appointed in any proceeding brought by or against the CONSULTANT, or if the CONSULTANT shall make an assignment for the benefit of creditors, or proceedings shall be commenced on or against the CONSULTANT's operations of the premises, the COUNTY may terminate this Agreement immediately notwithstanding the notice requirements of Section 6 hereof.

SECTION 19. **BINDING EFFECT.**

This Agreement shall be binding upon and ensure to the benefit of the parties hereto, their heirs, personal representatives, successors, and/or assigns.

SECTION 20. **ASSIGNMENT.**

This Agreement shall only be assignable by the CONSULTANT upon the express written consent of the COUNTY.

SECTION 21. **SEVERABILITY.**

All clauses found herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Agreement. It is understood by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

SECTION 22. **WAIVER.**

Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement, or to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, condition, or right of election, but same shall remain in full force and effect.

SECTION 23. NOTICE.

The parties hereto agree and understand that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to the COUNTY and the CONSULTANT. All notices required and/or made pursuant to this Agreement to be given to the COUNTY and the CONSULTANT shall be in writing and given by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

COUNTY: Osceola County
Attention: Procurement Services
1 Courthouse Square, Suite 2300
Kissimmee, Florida 34741

CONSULTANT: Durrance & Associates, P.A.
300 South Hyde Park Avenue
Suite 201
Tampa, Florida 36606

SECTION 24. MODIFICATION.

The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

SECTION 25. HEADINGS.

All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such sections, exhibits, and attachments.

SECTION 26. ADMINISTRATIVE PROVISIONS.

In the event the COUNTY issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that any such purchase order, memorandum, letter, or other instrument is for the COUNTY's internal purposes only, and any and all terms, provisions, and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms, and provisions of this Agreement and shall have no force or effect thereon.

SECTION 27. CONFLICT OF INTEREST.

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 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. For the breach or violation of this Paragraph, the COUNTY shall have the right to terminate this Agreement immediately, without liability and without regard to the notice requirements of Section 6 hereof.

SECTION 28. PUBLIC ENTITY CRIMES.

As required by section 287.133, Florida Statutes, the CONSULTANT warrants that it is not on the convicted contractor list for a public entity crime committed within the past thirty six (36) months. The CONSULTANT further warrants that it will neither utilize the services of, nor contract with, any supplier, sub-contractor, or consultant in connection with this Agreement for a period of thirty six (36) months from the date of being placed on the convicted contractor list.

SECTION 29. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, the CONSULTANT must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONSULTANT must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONSULTANT is a state or local government, the CONSULTANT may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirement in certain subcontract, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

SECTION 30. JOINT AUTHORSHIP.

This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

SECTION 31. EQUAL OPPORTUNITY EMPLOYER.

The CONSULTANT is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The CONSULTANT will further ensure that all sub-contractors it utilizes in providing the services required hereunder will comply with all equal opportunity employment laws.

SECTION 32. AUDITING, RECORDS, AND INSPECTION.

In the performance of this Agreement, the CONSULTANT shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Throughout the term of this Agreement, books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY, and shall be retained by the CONSULTANT for a period of three years after termination or completion of the Agreement, or until the full County audit is complete, whichever comes first. The COUNTY shall retain the right to audit the books during the three-year retention period. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, chapter 119, Florida Statutes. The COUNTY also has the right to conduct an audit within sixty (60) days from the effective date of this Agreement to determine whether the CONSULTANT has the ability to fulfill its contractual obligations to the satisfaction of the COUNTY. The COUNTY has the right to terminate this Agreement based upon its findings in this audit without regard to the termination provision set forth herein.

SECTION 33. PROJECT MANAGERS.

The COUNTY and the CONSULTANT have identified individuals as Project Managers, listed below, who shall have the responsibility for managing the work performed under this Agreement. The person or individual identified by the CONSULTANT to serve as its Project Manager for this Agreement, or any replacement thereof, is subject to prior written approval and acceptance of the COUNTY. If the COUNTY or CONSULTANT replace their current Project Manager with another individual, an amendment to this agreement shall not be required. The COUNTY will notify the CONSULTANT, in writing, if the current COUNTY Project Manager is replaced by another individual.

- A. The COUNTY Project Manager's contact information is as follows:

Sally Myers, Right-of-Way & Asset Manager
Osceola County Transportation & Transit Department
1 Courthouse Square, Suite 3100
Kissimmee, Florida 34741
Phone (407) 742-0502
Email sally.myers@osceola.org

- B. The CONSULTANT Project Manager's contact information is as follows:

Chad Durrance, President
Durrance & Associates, P.A.
300 South Hyde Park Avenue
Suite 201
Tampa, Florida 36606
Phone (813) 258-8464
Email chad@durranceappraisals.com

SECTION 34. PUBLIC EMERGENCIES.

It is hereby made a part of this Agreement that before, during, and after a public emergency, disaster, hurricane, tornado, flood, or other acts of God, Osceola County shall require a "First Priority" for goods and services. It is vital and imperative that the health, safety, and welfare of the citizens of Osceola County are protected from any emergency situation that threatens public health and safety as determined by the COUNTY. The CONSULTANT agrees to rent/sell/lease all goods and services to the COUNTY or governmental entities on a "first priority" basis. The COUNTY expects to pay contractual prices for all products and/or services under this Agreement in the event of a disaster, emergency, hurricane, tornado, flood, or other acts of God. Should the CONSULTANT provide the COUNTY with products and/or services not under this Agreement, the COUNTY expects to pay a fair and reasonable price for all products and/or services rendered or contracted in the event of a disaster, emergency, hurricane, tornado, flood, or other acts of God.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective the 29 day of July, 2020.

BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA

By: [Signature]
County Manager/Designee

Date: 7-29-2020

DURRANCE & ASSOCIATES, P.A.
By: [Signature]

Print: Chad Durrance

Title: President

STATE OF FLORIDA
COUNTY OF Hillsborough

The foregoing instrument was executed before me this 6 day of July, 2020, by Chad Durrance as President of DURRANCE & ASSOCIATES, P.A., who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

[Signature]
NOTARY PUBLIC, State of Florida

(stamp)

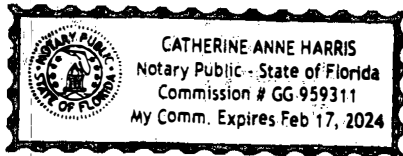


Exhibit "A" **Scope of Services**

For each project, a proposed scope of services, project schedule, and amount of compensation will be provided by the CONSULTANT to the PROJECT MANAGER. Each scope of services, schedule, and amount of compensation shall be in accordance with PS-20-11573-RJ, and shall be agreed to and executed by the CONSULTANT and the PROJECT MANAGER.

Appraisal services shall include making estimates of market value of all real estate interests and preparing written appraisal reports and updates as required, providing litigation services if requested and providing other miscellaneous appraisal related services the County shall deem appropriate. The Consultant (Vendor) shall be responsible for all work necessary and incidental to the completion of said items for assigned work unless otherwise noted herein. Such work may include coordination and management of Consultants performing land planning/engineering, traffic engineering, architectural studies, cost-to-cure estimates, and/or other specialty services as may be required to complete the Scope of Services.

Appraisal Review services shall include but are not limited to:

1. Review of comparable sales data sheets and/or project data books, market studies, appraisal reports, etc., for accuracy and compliance with County & FDOT requirements.
2. Requesting and obtaining necessary corrections and/or additional data for appraisal reports, writing Review Appraisal Statements (RAS) that suggest compensation due to the landowner, which are based on market data, and when requested by the County Right of Way Manager - Appraisal, preparation of Review Appraisal Reports (RAR) which reflect suggested compensation. The Consultant will be responsible for all work necessary and incidental to the completion of said items unless otherwise noted herein.

The Consultant shall perform all appraisal and appraisal review services necessary to make estimates of market value, prepare written appraisal reports and required updates, review appraisal reports, and provide Review Appraiser's Statements for all real estate interests within the specified project limits of assigned projects. Elements of work shall include written acquisition appraisal reports, comparable sales Data Books, required updates as applicable for the referenced project, and other services as referenced within this Scope of Services.

All services shall be performed and all appraisal reports, update reports, and Data Books, and appraisal reviews prepared in conformance with the Uniform Standards of Professional Appraisal Practices (USPAP), and County Supplemental Standards of Appraisal which is Chapter C, of the County's Right of Way Manual.

The Consultant shall obtain a copy of said Appraisal Standards from the County's Right of Way Manager. The County's Supplemental Standards of Appraisal is by reference made a part of the Scope of Services. The Consultant must be a State Certified General Real Estate Appraiser licensed with the Florida Department of Business and Professional Regulation.

1. DEFINITIONS

- 1.1. **Acceptance:** When the data book, appraisals, or appraisal review statement has been reviewed by County staff and determined to be in compliance with the USPAP, current County Supplemental Standards, and the County Appraisal and Appraisal Review Contract.
- 1.2. **Additional Services:** Those work activities associated with updates to the original appraisals, revised appraisals, additional parcel appraisals, appraisal reviews, and litigation support services.
- 1.3. **Appraisal:** A written report independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.
- 1.4. **Appraiser(s) of Record:** The individual appraiser(s) appointed by the County to perform all appraisal work for this project whose qualifications and expertise will be evaluated in the selection process. Nothing herein shall be construed to prevent other persons from assisting the Appraiser of Record in performing the appraisal work to the extent that such assistance does not require the exercise of an appraiser's judgment, conclusion, or opinion.
- 1.5. **Appraisal Services:** This type of work is defined as the services provided by an appraiser to Osceola County. Appraisal Services include: "Appraisal Assignments" in which a person is employed or retained to act as a disinterested third party in rendering objective and unbiased analyses, opinions, reviews, or conclusions relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real property. Such appraisal services must be in compliance with the Uniform Standards of Professional Practice, as incorporated by reference in Section 475.628, Florida Statutes.
- 1.6. **Assignment:** One or more appraisal reports, appraisal reviews, or data books assigned to one Consultant under one Task Authorization.
- 1.7. **Basic Services:** Those work activities associated with delivery of a Written Acquisition Appraisal Report for each parcel assigned and Comparable Sales Data Book (if required). In addition, those work activities associated with the review of a written appraisal report and/or Comparable Sales Data Book prepared by others, for negotiation purposes, obtaining any necessary corrections and/or additional data, and preparation/submission of a RAS with suggested compensation. Subsequent reviews of updated or revised appraisal reports, previously reviewed by the Consultant are considered Optional Services.
- 1.8. **Comparable Sales Data Book:** A compilation, under separate cover, of the data representing the Consultant's research, investigation efforts, and analyses

supporting various conclusions from the local real estate market and including the Consultant's basic analysis of the project and parcels assigned.

- 1.9 Consultant:** The firm, or individual performing appraisal or review assignments, entering into agreement with the County to provide such services. Also referred to as the Vendor. In the event that a firm enters into an agreement with the County for services to be rendered as specified in the Scope of Services, an Appraiser of Record will be designated. Once selected, the Appraiser of Record cannot be changed without the written approval of the County. Should an individual enter into an agreement with the County for services to be rendered as specified in the Scope of Services, the individual will be considered the Appraiser of Record. All services under this agreement will be performed by the Appraiser of Record. For the purpose of this Agreement, the term Consultant and "Appraiser of Record" are considered to be synonymous.
- 1.10 County Right-of-Way Manager:** The County Right-of-Way Manager responsible for determining the required services necessary for each appraisal project, contracting for the required services, directing the appraisal and review functions during the contract period and assuring quality control of the appraisal review function and assuring compliance with all contract terms.
- 1.11 Osceola County Right-of-Way Manual, Section 5-B and 5-C** Section 5-B sets forth the County's procedure for reviewing appraisal reports. Section 5--C, also known as the Supplemental Standards, addresses the County's expanded appraisal requirements over and above those set forth in the USPAP. The Supplemental Standards are prepared in accordance with the Supplemental Standards provisions of the USPAP. By reference, Sections 5-B and 5-C are made a part of this Agreement.
- 1.12 Letter Update:** A Letter Update Appraisal may be requested if it appears that there has been no change, or only an insignificant change in the property, or market conditions, between, the date of the last appraisal report and the present time. Letter Updates must be reviewed and made part of the last appraisal (full report) prepared by said Appraiser.
- 1.13 Parcel:** A tract of land identified by the County for acquisition as a portion of the right of way for a transportation project.
- 1.14 Parent Tract/Subject Property:** A tract of land from which the County is seeking to acquire a Parcel for transportation purposes, sometimes referred to as the "Larger Parcel."
- 1.15 Review Appraiser (RA):** A County employee or Consultant responsible for the review and approval of appraisal work products prepared by an appraiser.
- 1.16 Review Appraiser Report (RAR):** A report described in Section 5-D of the Osceola County Right-of-Way Manual which is used by a Review Appraiser, with

the concurrence of the County Right-of-Way Manager, or his or her designee, to arrive at a recommended compensation to the landowner which differs from the estimated value established by the Appraiser

- 1.17 **Review Appraiser's Statement (RAS):** A form identified as Attachment 5 in Section 5-C of the of the Osceola County Right-of-Way Manual. This form is completed by the Review Appraiser to recommend or suggest compensation to landowners from which the Department is proposing to acquire property.
- 1.18 **Task Authorization:** A document authorizing specific work assignments which establishes the delivery date for the assignment, and the agreed to fee for performing the assignment. Work by the Consultant cannot commence prior to the execution of the Purchase Order.
- 1.19 **Update:** A procedure by which the value estimate of an appraisal is reconsidered as of a current date by analysis of market data which has occurred subsequent to the original date of value. An update may result in an increase, a decrease, or no change to the original value estimate.

2. PROVISIONS FOR WORK

- 2.1. **Written Appraisal Report:** All written appraisal reports shall be prepared in compliance with the USPAP and County Supplemental Standards of Appraisal and shall be submitted in hardcopy and an acceptable electronic format.

The Consultant performing appraisal reviews shall review all appraisal reports assigned via a Purchase Order under this agreement, for compliance with the USPAP, the appraiser's contractual agreement, including the proper use of the designated sub-consultant tasks, and generally accepted appraisal practices.

- 2.2. **Comparable Sales Data Book:** All Data Books and any supplements thereto shall be prepared in compliance with the USPAP and Supplemental Standards of Appraisal and shall be submitted in hardcopy and an acceptable electronic format.
- 2.3. **Updates:** All required updates shall be prepared in compliance with the USPAP and Supplemental Standards of Appraisal and shall be submitted in hardcopy and an acceptable electronic format.

3. BASIC SERVICES

- 3.1. **Comparable Sales Data Book:** The Consultant shall submit any Data Book's and supplements in hardcopy and an acceptable electronic format when requested by the County. The appropriate Department shall set forth a due date for the Data Book as described in the Purchase Order. Each additional submittal must be accompanied by a letter of transmittal advising the review appraiser where updated information should be placed in the Data Book.

- 3.2. Additional Information:** All comparable sales shall have the following additional information on the sales data sheet: taxing authority (City or County); assessed value; assessed improvement value; assessed total value; green belt value, if applicable; eleemosynary/charitable institution; any tax exemptions; the amount of property tax and the year assessed and the amount of any impact fee credits transferred with the property.
- 3.3 Computer Disk Scanning:** Any computer disk to be submitted to the County shall be scanned for viruses prior to submitting.
- 3.4 Appraisal Services:** The Consultant shall submit a complete written acquisition appraisal report to the County no later than the delivery date set forth by the County in the individual Purchase Orders. The County may extend an appraisal due date or any due date for correction of appraisal deficiencies. Extensions shall be authorized and signed by the County Right-of-Way Manager. Extensions requested by the Consultant shall be by written request explaining in detail why such extension is necessary. The County Right-of-Way Manager shall acknowledge acceptance or denial of the Consultant's request in writing.

Unless otherwise agreed to in writing by the County, the date of valuation for Basic Services and for Order of Take hearings shall be the date of the Consultant's last inspection of the property and shall be no more than twenty (20) days prior to receipt of the appraisal report by the County. The Consultant will be instructed in the Purchase Order, to either appraise each parcel as of a current date or to appraise as of a certain value date (date of deposit). If no value date is specified then valuation as of a current date is assumed.

The Consultant shall perform or have performed all services necessary to make an estimate of market value for parcels identified by the Department in a Summary of Costs and Fees and shall deliver an appraisal report for each parcel to the County Right-of-Way Manager in hardcopy and an acceptable electronic format. Said report shall also address the following when appropriate either by the appraiser of record or the General Consultant for Right of Way as support services:

- a. **Americans with Disabilities Act:** The appraiser should make any necessary assessment of the subject improvements to determine conformance with ADA standards in both the before and after situations and determine any necessary requirements that will be placed on the subject in order to effect a cure in the after situation.
- b. **Assessment History:** Include a summary of any property owner challenges to property assessments and the basis for such challenges. Also include the results of any such challenges.
- c. **Building Floor Plans and Structure Design:** If primary parcel structures are to be affected by the County's right-of-way, provide drawings to scale

of the improvements before and after the acquisition as provided in the final cure scenario.

- d. **Comprehensive Land Use Requirements:** Determine and verify the comprehensive land use plan status of each parcel with the local Planning Department, including the status before and after the County's acquisition.
- e. **Concurrency:** Obtain concurrency ordinances from municipal and county governments and determine the concurrency status of each parcel before and after the County's acquisition.
- f. **Cost to Cure Estimate:** Develop the most feasible cure for the subject parcel by evaluating the factors described herein and other pertinent site and regulatory factors as may be appropriate. Develop a total estimate of the cost to cure based on the selected cure and considering building and site improvements, changes to access and drainage, regulatory costs and fees, architectural and engineering fees, and other cost factors as appropriate to the plan.
- g. **Environmental Regulations:** Investigate the current environmental regulations from the appropriate federal, state, municipal, county and regulatory agencies. Determine and verify the effect of environmental regulations on each parcel before and after the County's acquisition. Determine special items related to the cost to cure estimate with regard to factors related to environmental regulation.
- h. **Impact Fees:** Determine and verify any change in impact fees by parcel after the Department's acquisition and provide a complete breakdown of all impact fees applicable to the parcel.
- i. **On-Premise Signs:** On-Premise signs are to be included in the valuation process in the original acquisition appraisal. The appraiser should analyze the effect that the sign relocation will have on the remainder.
- j. **On-Site Traffic Studies:** Provide a written analysis of the on-site traffic circulation pattern and parking utilization prior to the County's acquisition. Formulate, analyze, and select an on-site traffic circulation pattern after the County's acquisition.
- k. **Outdoor Advertising Signs:** Outdoor Advertising Signs must be appraised in the original acquisition appraisal in accordance with the Heathrow Decision and FDOT Outdoor Advertising Guidance Document No. 3. The reconciled value of the Outdoor Advertising Sign is to be included on the Certificate of Value as an improvement to be acquired. The body of the report must also identify any leasehold interest due to the presence of the O.D.A. sign. All of the property interests for the whole property and the

acquisition must be separated in the body of the report and summarized at the beginning of the report. If the Consultant is unsure of FOOT appraisal procedures in the valuation of either ODA, on Premise or Monument advertising signs, he/she must contact the County Right-of-Way Manger to discuss any valuation problems, methodology and obtain proper procedural directions.

- l. **Parking Lot Design:** Evaluate the parking design of the subject parcel before the County's acquisition with respect to the potential number of spaces, configuration and layout, adherence to zoning and applicable design standards, encroachments on existing right-of-way, and any lease, easements, or other cross parking or joint use arrangements applicable to the site. Evaluate parking after the County's acquisition to determine compliance with applicable zoning and parking design standards.
- m. **Site Access (Egress and Ingress) Requirements:** Based on alternative cost to cure scenarios, evaluate site access requirements for compatibility with proposed cures. Evaluate what types of driveways are permitted subsequent to the acquisition. Driveway location must be compatible with FDOT access management policies (Rules 14-96 and 14-97, F.A.C., and the District-Wide Access Management Implementation Plan).
- n. **Site Drainage Design:** Evaluate adequacy of existing on-site drainage after the County's acquisition and, if necessary, develop alternative drainage solutions, including the potential usage of the County's drainage system if adequate drainage cannot be accommodated on site.
- o. **Site Inspection:** Inspect the subject parcel site with the County's review appraiser, negotiating agent, business damage expert, or any other County experts as required.
- p. **Survey Data/Parcel Sketch:** As needed, supplement right-of-way maps furnished by the County. Provide limited purpose surveys for each parcel to depict existing and proposed property and right of way lines, area of acquisition, easements, residue, location of improvements, parking configuration (existing and proposed), location of site access points before and after the acquisition, depiction of building overhangs, and on site traffic patterns.
- q. **Zoning:** Determine and verify zoning designations for each parcel with appropriate governmental entity. Determine and verify the zoning status of the parcel prior to the County's acquisition, with respect to existing and pending variances, non- conforming uses (legal or illegal), and any previous or pending zoning or land use applications. Determine the impact of the County's acquisition on the parcel's zoning status. Request legal opinions if necessary.

3.5 Appraisal Support Services: Services beyond the professional ability of the Consultant in the areas of professional services (e.g., land planning, miscellaneous engineering, architectural, etc.) or specialty services (e.g., sign specialists, aerial photographers, fixture appraisers, general contractors, etc.) shall not be performed by the Appraiser of Record. The County may make available to the Consultant a General Consultant for Right-of-Way who will provide the needed support services or at the discretion of the County, the Consultant may be required to retain the subconsultant appraisal support services. In this instance, selection of subconsultants shall be done with the prior written approval of the County. All subconsultant work products must be reviewed by the consultant for accuracy, and a determination of adequacy. Once accepted by the consultant, the consultant assumes full responsibility for the sub-consultant's work product.

3.6 Additional Appraisal Services: The County Right-of-Way Manager shall issue Purchase Orders for updates and additional parcel appraisals. The Purchase Orders shall specify the scope of services and the fees to be paid.

a. Additional Parcels: The County may require the appraisal of additional parcels other than those originally specified by a Purchase Order. Work to be performed and due dates will be established in a new Purchase Order to the Consultant.

b. Updates and Revisions: The Consultant may be required to update or revise the estimate of market value for parcels as required and to deliver in hardcopy and an acceptable electronic format the written update report to the County Right-of-Way Manager. The Consultant is responsible for managing, and determining the necessity and extent of involvement from all sub-consultants for updates and revisions.

4. APPRAISAL REVIEW SERVICES:

4.1 Appraisal Reports: The Consultant shall review all appraisal reports assigned via a Purchase Order under this agreement, for compliance with the USPAP, County Supplemental Standards Section 5-C, the appraiser's contractual agreement, including the proper use of the designated sub-consultant tasks, and generally accepted appraisal practices.

4.2 Approval: In accordance with Section 5-D. The Consultant shall prepare a Review Appraiser's Statement which will accompany the acceptable appraisal reports. The reviewed reports, with the separate Review Appraiser's Statements, will be transmitted to the County Right-of-Way Manager. A transmittal memorandum for each appraisal being transmitted will provide the project and parcel identification numbers, and the names of the Appraiser and the County's representative. The memorandum will indicate that the Consultant has reviewed the report, found it to be in compliance with the (USPAP), Florida State Statutes, and Section 5-D of the

County's Right-of-Way Manual It must also state the contractual requirements for the Appraiser of Record and designated sub-consultant are completed and consistent with services requested by the County. A fee review appraiser must indicate "suggested compensation" on the RAS. Only a Department employee is allowed to establish recommended compensation.

- 4.3 Corrections:** The County's Review Appraiser or the Consultant Review Appraiser will obtain any necessary corrections and/or additional data required from the Appraiser upon completion of the review of work products.
- 4.4 Format:** The County requires all appraisal services including Review Appraiser's Statements to be hardcopy and in an electronic format unless otherwise instructed by the County. Electronic versions shall be digitally signed with 3rd party verification.
- 4.5 Project Data Book including Market Studies:** The Consultant shall review all project data books and/or market studies assigned via a Purchase Order under this agreement for compliance with the USPAP, Section 5-D, and the appraiser's contractual agreement.
- 4.6 RAR:** If advised to do so, in writing, by the County Right-of-Way Manager, or his/her designee, the Consultant shall prepare a Review Appraiser Report (RAR), in accordance with Section 5-D. The Consultant's RAR will provide the County with the Consultant's estimated compensation.
- 4.7 Rejection:** In the event that the Consultant is unable to approve with the appraiser's estimate of compensation, and has exhausted all avenues of reconciliation with the Appraiser, the Consultant shall advise the County Right-of-Way Manager by memorandum explaining why the Consultant is unable to approve the appraiser's estimate of compensation. The memorandum must also document the steps taken by the Consultant to overcome the concerns.
- 4.8 Submission:** The Consultant shall transmit acceptable Project Data Books, and market studies to the County's Right-of-Way Manager, via separate memoranda, indicating that the product has been reviewed, found to be in compliance with County requirements, and are recommended for acceptance by the County. This memorandum will accompany the transmitted data book/market study package. (All appraisal services must be delivered in hardcopy and an electronic format unless otherwise instructed by the County).
- 4.9 Updates:** The Consultant shall review all updated appraisal reports assigned via a Purchase Order under this agreement or for compliance with the USPAP, County Supplemental Standards, and the appraiser's contractual agreement.
- 4.10 Uneconomic Remnant:** The Consultant will analyze the effect of the acquisition on the remaining property and determine the applicability of an Uneconomic

Remnant. If the remainder, or a portion of the remainder, is determined by the Consultant to meet the Uneconomic Remnant requirements set forth in Section 5-D, the Consultant will so indicate in the Review Appraiser's Statement.

4.11 Additional Appraisal Review Services: These services shall be performed at the direction of the County's Right-of-Way Manager. No work shall begin on these Optional Services until a Purchase Order is issued in writing by the County Right-of-Way Manager.

a. **Litigation Support Services:** The Consultant may be required to perform litigation support services on those parcels set forth by the County. If notified by the County, in writing via a Purchase Order or Expert Witness Contract, the Consultant agrees to provide Litigation Support Services up to, and including the date of completion of Litigation. Litigation Services may be obtained via an Expert Witness Contract issued by the County. Litigation services may include, but are not limited to, the following:

1. Pre-trial or pre-hearing preparation
2. Participation in mediation proceedings
3. Preparation of court exhibits
4. Attendance at depositions, pre-trial hearings, or other court hearings
5. Appearance at Order of Taking hearings or trials
6. Any other services deemed necessary by the assigned attorney to successfully litigate and defend the County's position in court (planning, engineering, architectural, etc.)

4.12 Review of Property Owner Appraisals: The Consultant may be requested to review property owner appraisal reports if same are received during the negotiation process. The review of property owner reports received for negotiation purposes will be added to the Consultant's assignment by means of a Purchase Order. The land owner reports will require a review process in the same manner as is required for the. Review of the County's appraisal report with the following exception: **the Consultant is not to contact, or request corrections and/or additional data, from the property owner's appraiser.**

4.13 Updates: The Consultant may be required to review updated appraisal reports due to a time lapse, map-revisions or changes on the property. Updated reports will be reviewed and processed in the same manner as original basic services appraisal reports.

5. GENERAL

5.1. Meetings: The Consultant and sub-consultants agree to meet with the County's Staff at the discretion of the Review Appraiser and/or County Right-of-Way Manager as necessary to discuss the progress of the appraisal assignment.

- 5.2. Appraisals for Property Owners:** The Consultant and any of his sub-consultants agree not to engage in any property owner appraisal work on an assigned project without the written consent of the County Right-of-Way Manager.
- 5.3. Sub-consultants:** When necessary, the Consultant may employ qualified sub-consultants that are necessary for the completion of services outlined herein. The Consultant shall receive prior written approval from the County to employ the sub-consultants. The Consultant will be responsible for the management, scheduling of sub-consultants. Sub-consultants retained by the Consultants will receive payment directly from the Consultant. Under normal circumstances, a late or erroneous work product by a sub-consultant will not be the cause for a delivery date extension or waiver of late penalty. The Consultant may employ qualified appraisal sub-consultants that are necessary for the completion of services outlined herein. Sub-consultants other than those needed to provide appraisal services may also be provided by the County's General Consultant for Right-of-Way at the discretion of the County.

6. COUNTY RESPONSIBILITIES

- 6.1** The County will provide the County Right-of-Way Manger or other assigned staff for administering the technical terms and conditions of this Agreement who will be identified when work is requested under this contract. He/she may be reached at (407) 742-0502. The County reserves the right to change the County Right-of-Way Manager or assigned staff at any time.
- 6.2** The County, at its option, may delegate any or all County functions, and responsibilities to a General Consultant.
- 6.3** The County will make available to the Consultant a set of right-of-way maps, title searches, acquisition deeds and construction plans for the project.

Exhibit "B"

SAMPLE

TASK AUTHORIZATION ORDER FORM	
County Project Manager:	
Osceola County	Date: _____ Number: _____
Task Authorization	Contractor: _____
In accordance with the terms and conditions of the Agreement	
ref.: PS#XX-XXX-XX, dated XX-XX-XXXX, the parties	
hereto agree to perform the work itemized below.	
Consultant Project Manager:	
NOTE: THE CONTRACTOR/CONSULTANT MAY NOT BEGIN WORK UNTIL A SIGNED PURCHASE ORDER IS DELIVERD TO THE CONTRACTOR/CONSULTANT.	
Summary of Work to be Completed by the Contractor/Consultant	
Each Task Authorization package shall include:	
Attachment A - Scope of Work	
Attachment B- Price Breakdown	
Attachment C - Schedule	
Attachment D - SubConsultant	
Task Authorization Total: \$	
Recommended By:	Date:
Department Administrator or delegate	
Reviewed By:	Date:
Requestor	
Contractor/Consultant Approved	County Manager or Delegate Approval
Name (print)	Name (print)
Signature:	Signature:
Date:	Date:

TA REVIEW AND APPROVAL PROCESS

1. The COUNTY will request written proposals from the CONSULTANT for each individual project. The task authorization form will include a summary of the proposed project, identifying the proposed project manager and shall include the following attachments at a minimum: Attachment A – Scope of Work, Attachment B – Price Breakdown, Attachment C – Schedule and Attachment D – Sub-Consultants.
2. Projects will be assigned to the individual firms based on current workload, schedule, availability and expertise, in the COUNTY'S sole discretion.

Exhibit "C"

Fee Schedule

Position/Title	Loaded Hourly Rate
Principle	\$325.00 per hour
Senior Appraiser	\$275.00 per hour
Staff Appraiser	\$210.00 per hour
Market Analyst	\$165.00 per hour

Billing rates in the above tables are "loaded" hourly rates and include all overhead, costs, benefits per hourly unit rate.

Direct expenses which may incur in the completion of work tasks, including printing, binding, courier services, etc., and as approved in any individual Task Authorization, shall be reimbursed at actual cost.

**AMENDMENT # 1
TO THE AGREEMENT BETWEEN
OSCEOLA COUNTY AND DURRANCE & ASSOCIATES, P.A.**

THIS AMENDMENT is made and entered between OSCEOLA COUNTY, a political subdivision of the State of Florida, 1 Courthouse Square, Kissimmee, Florida 34741, hereinafter referred to as the "COUNTY," and Durrance & Associates, P.A., 300 South Hyde Park Avenue, Suite 201, Tampa, Florida 36606, hereinafter referred to as the "CONSULTANT"; and

WITNESSETH:

WHEREAS, the COUNTY and the CONSULTANT entered into a Professional Services Agreement in connection with PS-20-11573-RJ for appraisal services, executed by the County Manager on July 29, 2020; and

WHEREAS, pursuant to Section 24.00 Modification, the covenants, terms and provisions of the Agreement may be modified by way of a written instrument, mutually accepted by both parties to this Agreement; and

WHEREAS, the purpose of this Amendment is to add subconsultants to the Agreement, as defined and attached hereto as Exhibit "D".

NOW, THEREFORE, in consideration of the mutual covenants, terms, and provisions contained herein, the parties agree as follows:

1. These changes shall be effective only upon the execution of the Amendment by the Osceola County Manager or designee.
2. Exhibit "D" List of Sub-consultants shall be deleted in its entirety and replaced with the Revised Exhibit "D" List of Subconsultants attached to this Amendment.
3. All Attachments hereto are made a part of this Amendment in their entirety. Where there is a conflict between this Amendment and the original Agreement, this Amendment shall prevail.
4. These changes shall be effective upon this Amendment being executed by both parties.
5. The terms and conditions of the original Agreement and any subsequent Amendment(s) shall remain in full force and effect. To the extent of any conflict between this Amendment and the original Agreement or any prior Amendment(s) thereto, the terms and conditions of this Amendment shall prevail.

SIGNATURE PAGE TO FOLLOW

PS-20-11573-RJ

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Amendment effective the later of the dates that each party signed this Amendment.

**BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA**

By: Don Kim
County Manager/Designee

Date: 1/27/2021

DURRANCE & ASSOCIATES, P.A.

By: [Signature]

Title: President

Date: 1/15/2021

STATE OF Florida
COUNTY OF Hillsborough

The foregoing instrument was executed before me this 15 day of January, 2021, by Chad Durrance, as president of Durrance & Associates, P.A., who personally swore or affirmed that he is authorized to execute this Amendment and thereby bind the Corporation, and who is personally known to me OR has produced Florida Driver License identification.

Commission Expires:
10/02/2023

[Signature]
NOTARY PUBLIC, State of Florida

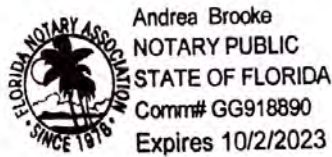


Exhibit "D"
Revised List of Subconsultants

Durrance and Associates
List of Sub-consultants

Land Planning

Planning Consultant, Inc.
315 Ivanhoe Boulevard NW
Orlando, FL 32804

Mesimer and Associates
4738 Central Avenue
St. Petersburg, FL 33711

Engineers

Landon, Moree & Associates
31622 US Highway 19 North
Palm Harbor, FL 34684

Kelly, Collins & Gentry, Inc.
1700 North Orange Avenue, Suite 400
Orlando, FL 32804

Tipton Associates
760 Maguire Boulevard
Orlando, FL 32803

Building Contractors

Speer Construction
Post Office Box 568588
Orlando, FL 32856

Liner Construction
15941 North Florida Avenue
Lutz, FL 33549

Furniture, Fixtures, and Equipment (FF&E)

Fred B. La Due & Associates
4920 Lena Road, Suite 110/111
Bradenton, FL 34211

CONSENT AGENDA ITEM

#18

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 20, 2021

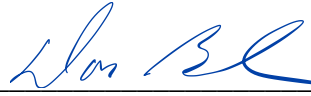
SUBJECT: Approval of Supplemental Agreement No. 6 with Traffic Engineering and Management, LLC d/b/a Control Specialists for Traffic Signal Maintenance Services Contract No. 001322


Board approval is requested for Supplemental Agreement No. 6 of the referenced contract with Control Specialists in a not-to-exceed amount of \$150,000.00. The original contract was for three years with two one-year renewals.

The work to be performed includes replacement of single mast arm at Valencia College Lane and William C. Coleman Drive.

Original Contract	\$ 500,000.00
Supplemental Agreement No. 1	\$ 0.00
Supplemental Agreement No. 2	\$ 0.00
Supplemental Agreement No. 3	\$ 38,242.00
First Renewal	\$ 200,000.00
Supplemental Agreement No. 4	\$ 45,000.00
Supplemental Agreement No. 5	\$ 90,000.00
Second Renewal	\$ 200,000.00
Supplemental Agreement No. 6	\$ 150,000.00
Total	\$ 1,223,242.00

This contract is included in the OM&A Budget.

Reviewed by: 
Don Budnovich, PE
Director of Maintenance


Glenn Pressimone, PE

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 6

Contract Name: Traffic Signal Maintenance Services
Contract No. 001322
Supplemental Agreement No. 6

This Supplemental Agreement No. 6 entered into this 12th day of August 2021, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”), and TRAFFIC ENGINEERING AND MANAGEMENT, LLC, d/b/a CONTROL SPECIALISTS (the “CONTRACTOR”), registered and authorized to conduct business in the State of Florida, whose principal place of business is 707 Nicolet Avenue, Suite 100A, Winter Park, Florida 32789, the same being supplementary to Contract No. 001322, dated August 1, 2017, as previously supplemented by Supplemental Agreements No. 1, 2, 3, 4 and 5 for traffic signal maintenance services (hereinafter “the Contract”).

RECITALS

WHEREAS, CFX wishes to expand the scope and supplement the contract by \$150,000.00 to replace the mast arm structure, which includes its foundation, all of the signals and other electronics located at Valencia College Lane and Williams C. Coleman Drive. The project will be done in two phases, and

NOW, THEREFORE, the parties agree to expanding the scope and supplementing the Contract for signal mast arm replacement at Valencia College Lane and William C. Coleman Drive.

CONTRACTOR will continue to perform all its duties, responsibilities, and obligations under the Contract as supplemented. All the remaining provisions of the Contract, as previously supplemented, shall remain in full force and effect.

This space has been left intentionally blank

SUPPLEMENTAL AGREEMENT NO. 6

Contract Name: Traffic Signal Maintenance Services

Contract No. 001322

Amount of Changes to this document: \$150,000.00

IN WITNESS WHEREOF, the authorized signatures named below have executed this Supplement Agreement No. 6 on behalf of the parties on the date below.

APPROVED BY:

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

By: _____

Print Name: _____

Title: _____

Attest: _____ (Seal)

Date: _____

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____
Aneth Williams, Director of Procurement

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

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 2 AGREEMENT
CONTRACT NO. 001322**

THIS CONTRACT RENEWAL NO. 2 AGREEMENT ("Renewal Agreement"), is made and entered into this 13th day of May 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called "CFX", and Traffic Engineering and Management, LLC, d/b/a Control Specialists, a Florida limited company, register and authorized to do business in the State of Florida, hereinafter called the ("Contractor"). CFX and Contractor are referred to herein sometimes as a "Party" or the "Parties".

WITNESSETH

WHEREAS, on August 1, 2017, CFX and the Contractor entered into a Contract Agreement (the "Original Agreement"), with a Notice to Proceed date of August 1, 2017, whereby CFX retained the Contractor to provide traffic signal maintenance 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. **Renewal Term**. CFX and Contractor agree to exercise the second 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. **Compensation for Renewal Term**. The Contractor shall be compensated for any and all services performed during the Renewal Term under this Renewal Agreement in accordance with the attached Exhibit "B" in an amount up to \$200,000.00 ("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. Any capitalized terms not defined herein shall have the meaning ascribed to them in the Original Agreement.
5. **Counterpart and Electronic Signatures**. 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.

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

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

By: [Signature]

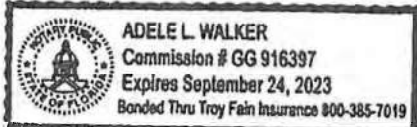
By: Aneth Williams Digitally signed by Aneth Williams
Date: 2021.05.19 13:14:47 -04'00'
Aneth Williams, Director of Procurement

Print Name: Allen LaShier

Title: Director of Maintenance

ATTEST: [Signature] (SEAL)

Secretary or Notary



If Individual, furnish two witnesses:

By: [Signature]
Print Name: Terence Turbin

By: [Signature]
Print Name: Peter Bussan

Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this 18th day of May, 2021 for its exclusive use and reliance.

By: [Signature]
Diego "Woody" Rodriguez, General Counsel

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 5**

**Contract Name: Traffic Signal Maintenance Services
Contract No. 001322
Supplemental Agreement No. 5**

This Supplemental Agreement No. 4 entered into this 13th day of August 2020, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”), and TRAFFIC ENGINEERING AND MANAGEMENT, LLC, d/b/a CONTROL SPECIALISTS (the “CONTRACTOR”), registered and authorized to conduct business in the State of Florida, whose principal place of business is 707 Nicolet Avenue, Suite 100A, Winter Park, Florida 32789, the same being supplementary to Contract No. 001322, dated August 1, 2017, as previously supplemented by Supplemental Agreements No. 1, 2, 3 and 4 for traffic signal maintenance services (hereinafter “the Contract”).

RECITALS

WHEREAS, CFX wishes to expand the scope and supplement the contract by \$90,000.00 which includes \$6,745.00 contingency funds, for Phase II of the temporary signals at Boggy Creek Road and

NOW, THEREFORE, the parties agree to expanding the scope and supplementing the Contract for Phase II of the temporary signals at Boggy Creek Road as outlined in the attached quote dated June 18, 2020.

CONTRACTOR will continue to perform all its duties, responsibilities, and obligations under the Contract as supplemented. All the remaining provisions of the Contract, as previously supplemented, shall remain in full force and effect.

SUPPLEMENTAL AGREEMENT NO. 5

Contract Name: Traffic Signal Maintenance Services

Contract No. 001322

Amount of Changes to this document: \$90,000.00

IN WITNESS WHEREOF, the authorized signatures named below have executed this Supplement Agreement No. 5 on behalf of the parties on the date below.

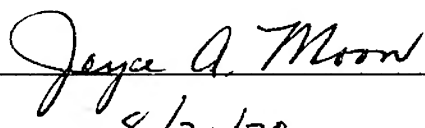
APPROVED BY:

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

By: 

Print Name: W. Bruce O'Donoghue

Title: CEO

Attest:  (Seal)

Date: 8/20/20

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.08.31 14:23:31 -0400
Director of Procurement

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

By: Diego "Woody" Rodriguez Digitally signed by Diego "Woody"
Rodriguez
Date: 2020.08.31 12:55:53 -04'00'
Diego "Woody" Rodriguez, General Counsel

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 4

Contract Name: Traffic Signal Maintenance Services
Contract No. 001322
Supplemental Agreement No. 4

This Supplemental Agreement No. 4 entered into this 19th day of June, 2020, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”), and TRAFFIC ENGINEERING AND MANAGEMENT, LLC, d/b/a CONTROL SPECIALISTS (the “CONTRACTOR”), registered and authorized to conduct business in the State of Florida, whose principal place of business is 707 Nicolet Avenue, Suite 100A, Winter Park, Florida 32789, the same being supplementary to Contract No. 001322, dated August 1, 2017, as previously supplemented by Supplemental Agreements No. 1, 2 and 3 for traffic signal maintenance services (hereinafter “the Contract”).

RECITALS

WHEREAS, CFX wishes to supplement the contract by \$45,000.00 for Phase I of the emergency signal repair at SR 417 / Boggy Creek Road, and other repair items and

NOW, THEREFORE, the parties agree to supplement the Contract by adding the additional funding for Phase I of the emergency signal repair at SR 417 / Boggy Creek Road, and other repair items.

CONTRACTOR will continue to perform all its duties, responsibilities, and obligations under the Contract as supplemented. All the remaining provisions of the Contract, as previously supplemented, shall remain in full force and effect.

SUPPLEMENTAL AGREEMENT NO. 4

Contract Name: Traffic Signal Maintenance Services

Contract No. 001322

Amount of Changes to this document: \$45,000.00

IN WITNESS WHEREOF, the authorized signatures named below have executed this Supplement Agreement No. 4 on behalf of the parties on the date below.

APPROVED BY:

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

By: 

Print Name: W. Bruce D'Donoghue

Title: CEO

Attest:  (Seal)

Date: 06/22/2020

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.07.01 16:33:52 -04'00'
Director of Procurement

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

Diego "Woody" Digitally signed by Diego
"Woody" Rodriguez
Date: 2020.07.01 08:04:17
-04'00'
Rodriguez

General Counsel for CFX

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 1 AGREEMENT
CONTRACT NO. 001322**

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 14th day of May 2020, by and between Central Florida Expressway Authority, hereinafter called "CFX" and Traffic Engineering and Management, LLC dba Control Specialists, herein after called the "Contractor."

WITNESSETH

WHEREAS, CFX and the Contractor entered into a Contract Agreement (the "Original Agreement") dated August 1, 2017, whereby CFX retained the Contractor to provide traffic signal maintenance services and

WHEREAS, pursuant to Article 2 of the Original Agreement, CFX and Contractor wish to renew the Original Agreement for a period of one (1) year;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, CFX and Contractor agree to the first renewal of said Original Agreement beginning the 1st day of August 2020 and ending the 31st day of July 2021 at the cost of \$200,000.00, which increases the total amount of the Original Agreement.

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.

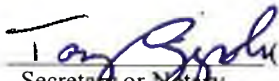
IN WITNESS WHEREOF, the parties have executed this Renewal Agreement by their duly authorized officers on the day, month and year set forth above.

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

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

BY: 
Authorized Signature
Title: CEO

BY: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.07.24 09:02:21 -04'00'
Director of Procurement

ATTEST:  (SEAL)
Asst. Secretary or Notary

If Individual, furnish two witness:

Witness (1) _____

Witness (2) _____

Legal Approval as to Form
Diego "Woody" Rodriguez Digitally signed by Diego
"Woody" Rodriguez
Date: 2020.07.24 08:42:27
-04'00'
General Counsel for CFX

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 3**

Contract Name: Traffic Signal Maintenance Services
Contract No. 001322
Supplemental Agreement No. 3

19 JUN 11 AM 10:36

This Supplemental Agreement No. 3 entered into this 22nd day of May, 2019, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and TRAFFIC ENGINEERING AND MANAGEMENT, LLC, d/b/a CONTROL SPECIALISTS (the "CONTRACTOR"), registered and authorized to conduct business in the State of Florida, whose principal place of business is 707 Nicolet Avenue, Suite 100A, Winter Park, Florida 32789, the same being supplementary to Contract No. 001322, dated August 1, 2017, as previously supplemented by Supplemental Agreements No. 1 and 2, for traffic signal maintenance services (hereinafter "the Contract").

RECITALS

WHEREAS, CFX wishes to increase the scope of work to add spare traffic signal controllers/accessories in the amount of \$15,722.00 and Remove and replace overhead signal at NB SR 417 at Narcoossee Road in the amount of \$22,470.00 as per Contractor's quotes (attached hereto and made part of this supplemental) and

WHEREAS, the Contract requires CONTRACTOR to provide and maintain the specified policies of insurance and to name CFX as an additional insured pursuant to paragraph 14 of the Contract; and

WHEREAS, Orange County, Florida, has requested that it be added as an additional named insured; and

WHEREAS, it is in the mutual best interests of CFX and CONTRACTOR to supplement this Agreement to add Orange County, Florida, as an additional insured.

NOW, THEREFORE, the parties agree to supplement the Contract by adding the following requirement:

1. Add Spare traffic signal controllers/accessories and remove and replace overhead signal at NB SR 417 at Narcoossee Road.
2. Orange County, Florida, shall be named as an additional insured under any and all public liability policies.
3. CONTRACTOR will continue to perform all of its duties, responsibilities, and obligations under the Contract as supplemented. All the remaining provisions of the Contract, as previously supplemented, shall remain in full force and effect.

SUPPLEMENTAL AGREEMENT NO. 3

Contract Name: Traffic Signal Maintenance Services

Contract No. 001322

19 JUN 11 10:36

Amount of Changes to this document: \$38,242.00

IN WITNESS WHEREOF, the authorized signatures named below have executed this Supplement Agreement No. 3 on behalf of the parties on the date below.

APPROVED BY:

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

By: 

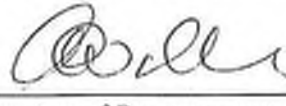
Print Name: W. Bruce O'Donoghue

Title: CEO


Attest:  (Seal)

Date: May 28, 2019

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement

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


General Counsel for CFX

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 2**

Contract Name: Traffic Signal Maintenance Services
Contract No. 001322
Supplemental Agreement No. 2

2017 SEP 7 AM 10:04

This Supplemental Agreement No. 2 entered into this 1st day of September, 2017, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and TRAFFIC ENGINEERING AND MANAGEMENT, LLC, d/b/a CONTROL SPECIALISTS (the "Contractor"), the same being supplementary to the Contract between the aforesaid, dated August 1, 2017, for traffic signal maintenance services.

1. CFX wishes to replace the existing Traffic Signal Maintenance Cost Schedule (identified as Exhibit "B" in the Contract) with the revised Schedule attached to this Supplemental Agreement and identified as Attachment 1 with an effective date of September 1, 2017.
2. The Contractor hereby agrees to the replacement of the existing Schedule with the attached revised Schedule.
3. CFX and Contractor agree that this Supplemental Agreement No. 2 shall not alter or change in any manner the force and effect of the Contract including any previous amendments thereto, except insofar as the same is altered and amended by this Supplemental Agreement No. 2; that acceptance of this Supplemental Agreement No. 2 signifies the Contractor's complete and total claim for the terms and conditions of the same and that the Contractor waives all future right for additional compensation which is not already defined herein.

SUPPLEMENTAL AGREEMENT NO. 2

Contract Name: Traffic Signal Maintenance Services

Contract No. 001322

Supplemental Agreement No. 2

Amount of Changes to this document: \$0.00

This Supplemental Agreement No. 2 entered into as of the day and year first written above.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement

Date: 9/13/17

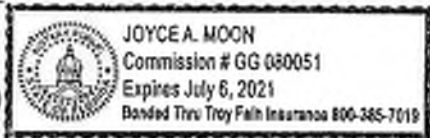
**TRAFFIC ENGINEERING AND MANAGEMENT, LLC d/b/a
CONTROL SPECIALISTS**

By: 

Title: Business Manager

Attest:  (Seal)

Date: 8/31/17



W. Bruce O'Donoghue, to me known personally.

Approved as to form and execution, only:


General Counsel for CFX

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 1

2017 SEP 7 AM 10:03

Contract Name: Traffic Signal Maintenance Services
Contract No. 001322
Supplemental Agreement No. 1

This Supplemental Agreement No. 1 entered into this 31st day of August, 2017, by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and TRAFFIC ENGINEERING AND MANAGEMENT, LLC, d/b/a CONTROL SPECIALISTS (the "Contractor"), the same being supplementary to the Contract between the aforesaid, dated August 1, 2017, for traffic signal maintenance services.

1. CFX wishes to amend the language in Agreement as follows:

Delete the second paragraph of Article B. 2. Term, in its entirety and insert the following new language in its place:

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

2. The Contractor hereby agrees to the amended language with no increase in the Contract amount or Contract term.
3. CFX and Contractor agree that this Supplemental Agreement No. 1 shall not alter or change in any manner the force and effect of the Contract including any previous amendments thereto, except insofar as the same is altered and amended by this Supplemental Agreement No. 1; that acceptance of this Supplemental Agreement No. 1 signifies the Contractor's complete and total claim for the terms and conditions of the same and that the Contractor waives all future right for additional compensation which is not already defined herein.

SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Traffic Signal Maintenance Services

Contract No. 001322

Supplemental Agreement No.1

Amount of Changes to this document: \$0.00

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: *Bill*
Director of Procurement

Date: 9/13/17

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

By: *W. Bruce O'Donoghue*
Title: Business Manager

Attest: *Joyce A. Moon* (Seal)
Date: 8/31/17



W. Bruce O'Donoghue, to me known personally.

Approved as to form and execution, only:

Joseph Hassiotre
General Counsel for CFX

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

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

WITNESSETH:

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

WHEREAS, CFX has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it (by state law);" and

WHEREAS, CFX has determined that it is necessary and convenient in the conduct of its business to retain the services of a contractor to provide traffic signal maintenance services; and

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

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

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

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

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

- A. **RECITALS.** The recitals are true and incorporated as terms.
- B. **ADOPTION OF TERMS IN THE CITY CONTRACT.** The parties adopt the terms and conditions in the Contract with the City of Winter Garden as amended (“City Contract”), a copy of which is attached hereto, subject to the substitutions or revisions reflected below. For ease of reference, the terms of the City Contract have been reiterated below with the additions and deletions highlighted by underlines and strikeouts, respectively. Paragraphs 1 through 5 are from the Amendment to the Contract and the paragraphs that follow are from the original City Contract. The paragraph numbers from the Amendment and the original City Contract have been modified to allow for sequential numbers.
 - 1. **SCOPE OF WORK.** The CONTRACTOR shall be available on the request of the Owner to provide emergency repair, planned maintenance, new installations of traffic lights, caution lights, school flashers and roadway safety lighting. Please refer to **Exhibit “A”: Traffic Signal Intersections Maintained and Operated for CFX (attached).**
 - 2. **TERM.** This Agreement shall be for an initial term of three (3) years from the date of the Agreement; however, the Owner shall have the right to cancel and terminate this Agreement, in its sole discretion, during the term thereof, upon giving written notice to the CONTRACTOR at least ninety (90) days prior to the intended date of termination. In the event of termination the CONTRACTOR shall be entitled to receive payment for services and work performed and materials and/or equipment furnished under the terms of this Agreement as directed by the Owner up to the date of termination provided it is acknowledged that the CONTRACTOR shall not be entitled to any damage liquidated or otherwise caused as a result of such termination.

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

- 3. **WHEN EFFECTIVE.** This Agreement shall have no effect unless and until it is approved by the CFX and executed by the parties, whichever occurs last, at which time its initial term shall begin.
- 4. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties hereto with respect to its subject matter. This Agreement supersedes any

and all prior agreements, discussions, negotiations, arrangements, or understandings, whether written, oral or implied, with respect to the subject matter of this Agreement.

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

is compatible with the information technology systems of Owner. This Paragraph Six (6) survives expiration and termination of the Agreement.

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

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

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

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

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

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

6. EXECUTION OF WORK. The CONTRACTOR shall execute the work under this Agreement in the following manner:

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

school flasher and highway safety equipment when purchased by the CONTRACTOR.

7. JOB NUMBERS:

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

8. COMPENSATION: The Owner shall pay the CONTRACTOR for work performed as outlined in **Exhibit "B"**.

9. EXTRA WORK: It is understood and agreed under this Agreement that the CONTRACTOR shall hold itself ready at all times to perform emergency planned maintenance for the Owner on traffic lights, caution lights, school flashers and roadway safety lighting. In addition, the Owner shall have the CONTRACTOR perform the installation and construction of new equipment for the Owner under this Agreement. This includes major repairs or major changes in any system. The new construction or major repairs shall be performed only after receiving written notice from the Owner. If the CONTRACTOR desires to perform any work or project involving new installations or major repairs, the CONTRACTOR shall furnish the Owner with a firm price for all the work necessary to perform such major repair or to complete such new construction.

10. TIME AND CHARGES: If it becomes necessary to install a temporary controller due to damage to a traffic signal which changes the timing or sequence, or any other special feature of a traffic signal, the Director shall be notified in writing giving the reason for the change, the nature of the change and the approximate date the traffic signal shall be returned to normal service. The Director shall also be notified in writing within a reasonable time when the original equipment has been repaired and replaced. The Director must authorize any and all timing changes on Owner's traffic signals. Whenever the Director determines a condition that warrants the modification of timing or dial settings on traffic control systems, the Director shall advise the CONTRACTOR of such changes and the CONTRACTOR shall keep timing and dial

setting in accordance with the Director's instructions at all times. If the Director is unavailable in the event of an emergency the CONTRACTOR shall make such time changes as are necessary.

11. **CONTRACTOR'S RECORDS:** The CONTRACTOR shall maintain records in accordance with generally accepted accounting practices to document its costs and expenditures under this Agreement. The CONTRACTOR hereby grants the Owner and its duly authorized representative's permission to audit and review any and all of the CONTRACTOR's records pertaining to the Agreement. The CONTRACTOR shall furnish the Owner all invoices and statements for which it requests reimbursement.
12. **METHOD OF PAYMENT:** Upon completion of all work under a Purchase Order and/or Job Number, the CONTRACTOR shall submit an Invoice to the Director for approval. The Invoice shall reference the Purchase Order and/or Job Number, the date, time, location, reporting agencies, repairs made and the itemized costs.
13. **PERFORMANCE BOND AND LABOR/MATERIAL BOND:** The CONTRACTOR shall post a labor and material bond in the amount of \$10,000.00 which shall guarantee payment by the CONTRACTOR of all sums of money due for any labor and materials furnished under this Agreement. The CONTRACTOR shall also furnish a performance bond in the sum of \$10,000.00 which shall guarantee performance of any and all duties under this Agreement. For new construction or other major projects, the Owner may require a bond of a greater amount.
14. **INSURANCE:** The CONTRACTOR shall provide and maintain at all times during this Agreement, without cost or expense to the Owner, policies of insurance generally known as liability policies, insuring the CONTRACTOR against any and all claims, demands and causes of action whatsoever for injuries received and damage to property in connection with this Agreement. Said policies shall insure the CONTRACTOR in the amount of not less than \$1,000,000.00 per person, in the amount of not less than \$1,000,000.00 to cover any and all claims arising in connection with any particular accident or occurrence and property damage insurance in the amount of \$1,000,000.00. The CONTRACTOR shall provide and maintain Worker's Compensation insurance as required by Florida State Statute 440. The Owner shall be entitled to thirty (30) days' notice of any change or cancellation in said policies. The Owner shall be named as additional insured under any and all public liability policies.
 - a. All insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, as defined by A.M. Best and Company's Key Rating Guide and must be approved by CFX. CONTRACTOR shall carry and keep in force the

following insurance coverage, and provide CFX with correct certificates of insurance (ACORD forms) upon contract execution:

- i. **Commercial General Liability** Insurance having a minimum coverage of One Million Dollars (\$1,000,000.00) per occurrence of bodily injury or property damage and a minimum of Two Million Dollars (\$2,000,000.00) annual aggregate for both General and Products and Completed Operations. Liability insurance shall be current ISO simplified form including products and completed operations coverage. The contractual liability insurance coverage shall include coverage for responsibilities and liabilities assumed by CONTRACTOR under this Agreement.
 - ii. **Business Automobile Liability** (for bodily injury, death and property damage) having a minimum coverage of One Million Dollars (\$1,000,000.00) for each accident;
- b. Such insurance policies shall be without co-insurance, and shall (a) include CFX, and such other applicable parties CFX shall designate, as additional insureds for commercial general liability and business automobile liability, (b) be primary insurance, (c) include contractual liability for commercial general liability, (d) provide that the policy may not be canceled or materially changed without at least thirty (30) days prior written notice to CFX from the company providing such insurance, and (e) provide that the insurer waives any right of subrogation against CFX, to the extent allowed by law and to the extent the same would not void primary coverage for applicable insurance policies. CONTRACTOR shall be responsible for any deductible it may carry. At least fifteen (15) days prior to the expiration of any such policy of insurance required to be carried by CONTRACTOR hereunder, CONTRACTOR shall deliver insurance certificates to CFX evidencing a renewal or new policy to take the place of the one expiring. Procurement of insurance shall not be construed to limit CONTRACTOR's obligations or liabilities under the Contract. The requirement of insurance shall not be deemed a waiver of sovereign immunity by CFX. Any insurance carried by CFX in addition to CONTRACTOR's policies shall be excess insurance, not contributory.
- c. Compliance with these insurance requirements shall not relieve or limit the CONTRACTOR's liabilities and obligations under this Agreement. Failure of CFX to demand such certificate or evidence of full compliance with these insurance requirements or failure of CFX to identify a deficiency from evidence provided will not be construed as a waiver of the CONTRACTOR's obligation to maintain such insurance. The acceptance of delivery by CFX of any certificate of insurance evidencing the required coverage and limits does not constitute approval or agreement by CFX that the insurance requirements have been met or the insurance policies shown in the certificates of insurance are in compliance with the requirements.

d. If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide CFX with certificates of same, CFX may obtain such policies and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments. Alternately, CFX may declare CONTRACTOR in default for cause.

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

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

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

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

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

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

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

C. CFX'S ADDITIONAL STANDARD PROVISIONS

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

List of Subcontractors

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

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

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

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

22. **INSPECTOR GENERAL:** CONTRACTOR agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. CONTRACTOR agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5).
23. **PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT:** Pursuant to Section 287.133(2)(a), Florida Statutes, “a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.” Pursuant to Section 287.134(2)(a), Florida Statutes, “an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”
24. **PRESS RELEASES:** CONTRACTOR shall make no statements, press releases or publicity releases concerning the Agreement or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished under the Agreement, or any particulars thereof, without first notifying AUTHORITY and securing its consent in writing.
25. **PERMITS, LICENSES, ETC.:** Throughout the term of the Agreement, CONTRACTOR shall procure and maintain, at its sole expense, all permits and licenses that may be required in connection with the performance of Services by CONTRACTOR; shall pay all charges, fees, royalties, and taxes; and shall give all notices necessary and incidental to the due and lawful prosecution of the Services. Copies of required permits and licenses shall be furnished to CFX upon request.
26. **CONFLICT OF INTEREST AND STANDARDS OF CONDUCT:** CONTRACTOR acknowledges that CFX officials and employees are subject to the Statutory Code of Ethics codified in Chapter 112, Part III, and CFX’s Ethics Policy. CONTRACTOR acknowledges that it has read, and to the extent applicable, that it will comply with the aforesaid Ethics Policy in connection with performance of the Agreement.

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

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Agreement, which standards will by reference be made a part of this Agreement as though set forth in full.

27. RELATIONSHIPS: CONTRACTOR acknowledges that no employment relationship exists between CFX and CONTRACTOR or CONTRACTOR's employees. CONTRACTOR shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. CONTRACTOR shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax and income tax withholding, unemployment compensation, workers compensation, and employment benefits.

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

28. SURVIVAL OF EXPIRATION OR TERMINATION: Any clause, sentence, paragraph, or section providing for, discussing, or relating to any of the following shall survive the expiration or earlier termination of the Agreement:

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

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

30. LAWS OF FLORIDA; VENUE: This Agreement is accepted and entered into in Florida and any question regarding its validity, construction, enforcement, or performance shall be governed by Florida law. The parties consent to the *exclusive* jurisdiction of the courts located in Orange County, Florida.

31. UNAUTHORIZED ALIENS: CFX shall consider the employment of unauthorized aliens a violation of Section 274A(e) of the Immigration and

Nationality Act. If the CONTRACTOR knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the Agreement.

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

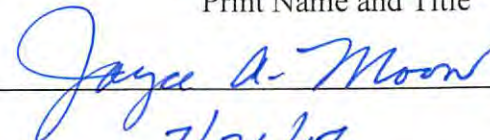
IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties on the date below. This Contract was awarded by CFX's Board of Directors at its meeting on July 13, 2017.

APPROVED BY:

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

By: 

W. Bruce O'Donoghue Business Manager
Print Name and Title

Attest:  (Seal)

Date: 7/26/17

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement

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



General Counsel for CFX

EXHIBIT "C"
TRAFFIC SIGNAL MAINTENANCE INSPECTION LIST

Circle One

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

EXHIBIT "D"

**AGREEMENT FOR RENEWAL OF
TRAFFIC SIGNAL MAINTENANCE AGREEMENT**

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

RECITALS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF WINTER GARDEN

Michael Bollhoefer
Michael Bollhoefer, City Manager

Aug. 27, 2015
Date

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

Kathy Golden

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

W. Bruce O'Donoghue
Signature

W. Bruce O'Donoghue
Print Name

Business Manager
Position

08-25-2015
Date

Schedule "A"

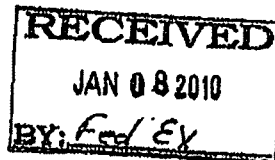
CITY OF WINTER GARDEN TRAFFIC SIGNAL MAINTENANCE AGREEMENT

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

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

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

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



**CONSENT AGENDA ITEM
#19**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 20, 2021


SUBJECT: Approval of First Contract Renewal with Aero Groundtek, LLC
for Landscape Maintenance Services for SR 408, SR 417 and CFX's
Headquarters
Contract No. 001680

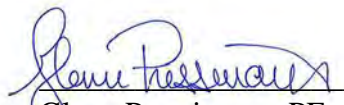
Board approval is requested for the first renewal of the referenced contract with Aero Groundtek, LLC in the amount of \$1,750,000.00 for a one year period beginning November 15, 2021 and ending November 14, 2022. The original contract was for three years with two one-year renewals.

The work to be performed includes landscaping services.

Original Contract	\$5,219,612.38
Supplemental Agreement No. 1	\$ 234,505.00
First Renewal	<u>\$1,750,000.00</u>
Total	\$7,204,117.38

This contract is included in the OM&A Budget.

Reviewed by: 
Don Budnovich, PE
Director of Maintenance


Glenn Pressimone, PE

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 1 AGREEMENT
CONTRACT NO. 001680**

THIS CONTRACT RENEWAL NO. 1 AGREEMENT (“Renewal Agreement”), is made and entered into this 12th day of August 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and Aero Groundtek, LLC. hereinafter called the (“Contractor”). CFX and Contractor are referred to herein sometimes as a “Party” or the “Parties”.

WITNESSETH

WHEREAS, on September 13, 2018, CFX and the Contractor entered into a Contract Agreement (the “Original Agreement”), whereby CFX retained the Contractor to perform landscape maintenance services on SR 408, 417 and CFX’s headquarters building.

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. **Renewal Term**. CFX and Contractor agree to exercise the first renewal of said Initial CFX Contract, which renewal shall begin on November 15, 2021 and end on November 14, 2022 (“Renewal Term”), unless otherwise extended as provided in the Original Contract.
3. **Compensation for Renewal Term**. The Contractor 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 \$1,750,000.00 (“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. **Counterpart and Electronic Signatures**. 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.

**AERO GROUNDTEK LLC, a Delaware
Limited liability company**

**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: _____
Print Name: _____

By: _____
Diego "Woody" Rodriguez, General Counsel

By: _____
Print Name: _____

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Landscape Maintenance Services
SR 408, SR 417 and CFX's Headquarters Bldg.

Contract No. 001680

Supplemental Agreement No. 1

This Supplemental Agreement No. 1 entered into this 10th day of December 2020, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and **AERO GROUNDTEK LLC**, a Delaware limited liability company, (the "Contractor"), the same being supplementary to the Contract between the aforesaid, dated September 13, 2018, with a Notice to Proceed date of November 15, 2018, for landscape maintenance services pertaining to S.R. 408, S.R. 417 and CFX's Headquarters Building.

1. CFX desires to increase the work order allowance for additional trash patrol on SR 408 and other work needs through the remainder of the contract term which expires November 14, 2021. The work allowance is adjusted upward by \$234,505.00.
2. The Contractor hereby agrees to increase work allowance through the remainder of the contract term with an increase in the Contract amount of \$234,505.00 and no increase in the Contract time.
3. CFX and Contractor agree that this Supplemental Agreement No. 1 shall not alter or change in any manner the force and effect of the Contract including any previous amendments thereto, except insofar as the same is altered and amended by this Supplemental Agreement No. 1; that acceptance of this Supplemental Agreement No. 1 signifies the Contractor's complete and total claim for the terms and conditions of the same and that the Contractor waives all future right for additional compensation which is not already defined herein.

SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Landscape Maintenance Services
SR 408, SR 417 and CFX's Headquarters Bldg.

Contract No. 001680

Amount of Changes to this document: \$234,505.00

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement

Date: 1/20/2021

**AERO GROUNDTEK LLC a Delaware
limited liability company**


By: 

Title: Director Of Operations

Attest: _____ (Seal)

Date: 1/15/2021

Approved as to form and legality by legal counsel to the Central Florida Expressway Authority on this 20th day of JANUARY, 2020 for its exclusive use and reliance.

By: 
Diego "Woody" Rodriguez,
General Counsel

ASSIGNMENT AND ASSUMPTION OF CONTRACT

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACT ("Assignment") is made and entered into as of the Effective Date (hereinafter defined), by and between **GROUNDTEK OF CENTRAL FLORIDA, LLC**, a Florida limited liability company, whose mailing address is 858 Maguire Road, Ocoee, Florida 34761 ("Consultant"), **AERO GROUNDTEK, LLC**, a Delaware limited liability company registered to do business in the State of Florida, whose mailing address is 165 Cantiague Rock Road, Westbury, New York 11590 ("Assignee"), and **CENTRAL FLORIDA EXPRESSWAY AUTHORITY**, a body corporate and agency of the State of Florida, whose mailing address is 4974 ORL Tower Road, Orlando, Florida 32807 ("CFX"). Consultant, Assignee and CFX shall be individually referred to herein as "Party" or collectively referred to herein as the "Parties".

WHEREAS, on September 13, 2018, Consultant and CFX entered into that certain Contract No. 001411 and the Contract Documents as defined therein, as may be amended from time to time (collectively, the "Contract"), whereby Consultant agreed to perform landscape maintenance services on State Road ("SR") 408, SR 417 and CFX's headquarters building, as more particularly delineated in the Contract; and

WHEREAS, on or about April 3, 2020 ("Assignment Date"), Assignee acquired the ownership interest in and to the Consultant; and

WHEREAS, as part of the sale of the ownership interest of the Consultant to the Assignor, the Consultant agreed to transfer and assign, and Assignee agreed to accept and assume, any and all rights, duties, privileges, responsibilities, liabilities, and obligations of Consultant under the Contract; and

WHEREAS, as part of the sale, Assignee entered into employment agreements with Gregory Bori and Geoffrey Bori, the key management personnel of the Consultant (collectively, "Key Personnel"), for a term of no less than three (3) years, to ensure the continuity and consistency in the level of services provided to CFX under the Contract; and

WHEREAS, CFX hereby consents to the assignment and assumption of the Contract, and amendment thereto, in accordance with the terms and conditions hereof.

NOW, THEREFORE, for and in consideration of the premises and mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Recitals; Definitions.** The above recitals are true and correct and are incorporated herein by reference and made a part hereof. Capitalized terms used herein not otherwise defined herein shall have the meanings ascribed to those terms in the Contract.
2. **Assignment.** Effective as of the Assignment Date, Consultant does hereby convey, transfer, assign and set over to Assignee all of the rights, duties, privileges, responsibilities, liabilities, and obligations of Consultant under the Contract.
3. **Acceptance and Assumption.** Effective as of the Assignment Date, Assignee does hereby accept this Assignment and agrees to assume any and all of Consultant's duties, responsibilities, liabilities and obligations under the Contract, which arise or accrue on or after the Assignment Date and agrees to perform all obligations of Consultant with respect to the Contract which are to be performed or which become due on or after the Assignment Date.

4. **Consent to Assignment and Assumption.** CFX hereby consents to the assignment of the Contract from Consultant to Assignee based on the representations of Consultant and Assignee that the Key Personnel will remain employees of the Assignee for no less than three (3) years, unless otherwise agreed upon in writing by CFX. In the event CFX determines the representations of Consultant or Assignee are incorrect or untrue with regard to the Key Personnel, CFX reserves the right to immediately terminate the Contract and shall have no further obligations thereunder. Consultant and Assignee agree to indemnify and hold CFX harmless from and against all liability, loss, and costs (including reasonable attorneys' fees) arising, directly or indirectly, out of the failure or refusal by Assignee to perform and discharge the obligations and liabilities assumed by Assignee as specified in this Assignment.

5. **Assignment Date and Effective Date.** The Parties hereby agree and acknowledge that this Assignment is being executed after the Assignment Date and as such, this Assignment shall be effective retroactively as of the Assignment Date. The Parties agree and acknowledge that Assignee shall be responsible for, and assume, any and all duties, responsibilities, liabilities and obligations under the Contract, which arise or accrue between the Assignment Date and Effective Date. Consultant and Assignee agree to indemnify and hold CFX harmless from and against all liability, loss, and costs (including reasonable attorneys' fees) arising, directly or indirectly, out of the failure or refusal by Assignee to perform and discharge the obligations and liabilities assumed by Assignee as specified in this Assignment between the Assignment Date and Effective Date.

6. **Contract Terms.** As of the Assignment Date, any and all references to the Consultant in the Contract shall refer to the Assignee.

7. **Authority.** Consultant hereby covenants that Consultant has good and lawful authority to assign and convey Consultant's rights, duties and obligations in, to and under the Contract. Assignee hereby covenants that Assignee has good and lawful authority to accept the assignment and assume all of Consultant's rights, duties and obligations in, to and under the Contract.

8. **Further Assurances.** Assignor agrees that it will execute and deliver, upon request, any and all such additional documentation as may be required by CFX to effectuate the terms of this Assignment.

9. **Governing Law.** This Assignment shall be interpreted and construed in accordance with the laws of the State of Florida.

10. **Specific Performance.** CFX, the Consultant and Assignee shall all have the right to enforce the terms and conditions of this Assignment by an action for specific performance.

11. **Modification, Amendment or Termination.** This Assignment may be not changed, modified, amended or terminated except as expressly set forth in a separate writing signed by the Parties.

12. **Severability.** If any of the terms, provisions, covenants or conditions set forth in this Assignment or the application thereof to any particular circumstance shall be held by any court having jurisdiction to be illegal, invalid or unenforceable under applicable law, the remainder of this Assignment shall not be affected thereby and each provision of this Assignment shall be valid and enforceable to the fullest extent otherwise permitted by law.

13. **Counterparts.** This Assignment may be executed in any number of counterparts, including by electronic, digital or facsimile signature in accordance with Chapter 668, Florida Statutes, all of which taken together shall constitute one and the same agreement.

14. **Effective Date.** The effective date of this Assignment shall be the date the last of the Parties hereto signs this Assignment ("Effective Date").

IN WITNESS WHEREEOF, the Parties caused these presents to be executed by their duly authorized officer as of the dates set forth below.

(Seal)

ATTEST:

CONSULTANT:

GROUNDTEK OF CENTRAL FLORIDA, LLC, a Florida limited liability company

By: *George L. Borri*
Print Name: George L. Borri
Title: President
Date: 6/10/2020

(Seal)

ATTEST:

ASSIGNEE:

AERO GROUNDTEK LLC, a Delaware limited liability company

By: *Salvatore A. Sacco*
Print Name: Salvatore A. Sacco
Title: CFO
Date: 6-15-2020

[ADDITIONAL SIGNATURE PAGE TO FOLLOW]

"CFX"

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.06.22 14:36:59 -04'00'
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 _____, 2020 for its
exclusive use and reliance.

By: Diego "Woody" Rodriguez Digitally signed by Diego "Woody"
Rodriguez
Date: 2020.06.22 14:31:16 -04'00'
Diego "Woody" Rodriguez
General Counsel

CONTRACT

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AND
GROUNDTEK OF CENTRAL FLORIDA, LLC**

**LANDSCAPE MAINTENANCE SERVICES
SR 408, SR 417, AND CFX'S HEADQUARTERS BUILDING**

CONTRACT NO. 001411

**CONTRACT DATE: SEPTEMBER 13, 2018
CONTRACT AMOUNT: \$5,219,612.38**

**CONTRACT, SCOPE OF SERVICES, METHOD OF
COMPENSATION, ADDENDA, PRICE PROPOSAL,
PERFORMANCE AND PAYMENT BOND, AND FORMS**

**CONTRACT, SCOPE OF SERVICES, METHOD OF COMPENSATION,
ADDENDA, PRICE PROPOSAL, PERFORMANCE AND PAYMENT BOND,
AND FORMS**

**LANDSCAPE MAINTENANCE SERVICES
SR 408, SR 417, AND CFX'S HEADQUARTERS BUILDING**

CONTRACT NO. 001411

SEPTEMBER 2018

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

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TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
C	CONTRACT	C-1 to C-2
	Addendum No. 1	
	Addendum No. 2	
	Addendum No. 3	
SS	SCOPE OF SERVICES	SS-1 to SS-77
	ATTACHMENT NO. 1	
	ATTACHMENT NO. 2	
	ATTACHMENT NO. 3	
MC	METHOD OF COMPENSATION	B-1 to B-2
PP	PRICE PROPOSAL	PP-1 to PP-7
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2
PPB	PERFORMANCE AND PAYMENT BOND	PPB-1 to PPB-5

CONTRACT

This Contract No. 001411 (the "Contract"), made this 13th day of September 2018, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and Groundtek of Central Florida LLC., of 858 Maguire Road, Ocoee, Florida 34761, hereinafter the CONTRACTOR:

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

The work to be done under this Contract includes landscape maintenance services on SR 408, SR 417 and the CFX's Headquarters Building, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be three (3) years from the date of the Notice to Proceed from CFX with two (2) one-year renewals. The Contract Amount is \$5,219,612.38. This Contract was awarded by the Governing Board of CFX at its meeting on September 13, 2018.

In order of Precedence, the Contract Documents consist of:

1. The Contract,
2. The Addenda (if any), modifying the Scope of Services, Method of Compensation, Exhibits or other Contract Documents,
3. The Scope of Services and Attachments,
4. The Method of Compensation, and
5. The Price Proposal.

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

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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement

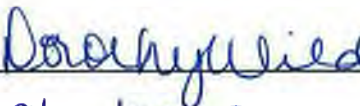
DATE: 10/31/18

GROUNDTEK OF CENTRAL FLORIDA LLC

By: 
Signature

Gregory Bori
Print Name

Vice President
Title

ATTEST: 

DATE: 9/20/2018



18 SEP 27 AM 10:01

Approved as to form and execution, only.

General Counsel for CFX



18 OCT 19 PM 1:00

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

Table of Contents

1.0	PROJECT SCOPE	1
2.0	GENERAL CONDITIONS AND REQUIREMENTS	2
2.1	CFX Landscape Architect	2
2.2	Coordination of Contract Documents	2
2.3	Contractor's Personnel, Subcontractors and Sub-consultants	2
2.4	Traffic Control	5
2.5	Other Work	6
2.6	Governing Law and Venue	7
2.7	Permits, Notifications and Fees	7
2.8	Hazardous or Toxic Waste, Pollutants	8
2.9	Responsibility for Damages	8
2.10	Hold Harmless and Indemnification, Sovereign Immunity	8
2.11	Insurance	9
2.12	Safety	13
2.13	Contractor's Responsibility for Work	14
2.15	Audit and Examination of Records	14
2.16	Escrow of Price Proposal Records	15
2.17	Performance and Payment Bond Required	16
2.18	Suspension of Work	16
2.19	Default and Termination	17
2.20	Prevailing Party Attorney's Fees	18
2.21	Binding Arbitration	20
2.22	Certified Payrolls	21
2.23	Documented Aliens	22
2.24	E-Verify Clause	22
2.25	Inspector General	22
2.26	Companies Pursuant to Florida Statute Section 287.135	22
2.27	Public Records	23
2.28	Convicted Vendor List	24
2.29	Discriminatory Vendor List	24
2.30	Availability of Funds	25
2.31	Assignment	25
2.32	Severability	25
2.33	Integration	25
3.0	GENERAL MAINTENANCE OVERVIEW	25
3.1	Overview	25
3.2	Annual Landscape Maintenance Schedule	26
4.0	MAINTENANCE OPERATIONS AND PROCEDURES	27
4.1	Operation Procedures	27
4.2	Safety Program	29
4.3	Document Control and Information Maintenance	32
5.0	CHEMICAL APPLICATIONS	33
6.0	TURF CARE	35
6.1	Description	35
6.2	Mowing	36
6.3	Edging	38
6.4	Trimming	39
6.5	Litter Removal and Clipping Clean-up	39

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

6.6	Weed Control	40
6.7	Fertilization.....	41
6.8	Insect and Disease Control.....	43
7.0	SHRUBS/VINES/GROUND COVER CARE	44
7.1	Description	44
7.2	Pruning	45
7.3	Weed Control	49
7.4	Litter and Debris Removal	51
7.5	Mulching.....	52
7.6	Fertilization.....	53
7.7	Insect and Disease Control.....	55
7.8	Hand Watering	59
8.0	TREE CARE.....	60
8.1	Description	60
8.2	Pruning	61
8.3	Weed Control	64
8.4	Litter and Debris Removal	64
8.5	Mulching.....	64
8.6	Fertilization.....	65
8.7	Insect and Disease Control.....	65
8.8	Hand Watering	67
8.9	Staking	67
8.10	Tree Removal.....	68
9.0	NO-MOW AREAS	69
10.0	IRRIGATION SYSTEMS	70
10.1	General Requirements	70
10.2	Monitoring/Adjustments	71
10.3	Valve/Valve Boxes.....	72
11.0	PLANT REPLACEMENT	72
12.0	ADDITIONS TO PROJECT SCOPE	74
13.0	ROADWAY CONSTRUCTION PROJECTS.....	75
14.0	EMERGENCY RESPONSE.....	75
14.1	General.....	75
14.2	Emergency Response Plan.....	75
15.0	WORK ORDER / NEW CONSTRUCTION ALLOWANCE	76
16.0	CONTRACT TERM AND BEGINNING WORK.....	77
17.0	ATTACHMENTS.....	77
17.1	Attachment #1 – Annual Maintenance Schedule	77
17.2	Attachment #2 - Turf Management Area Reference Maps (Mowing Areas)	77
17.3	Attachment #3 - “No-Mow” Area Reference Maps.....	77

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

1.0 PROJECT SCOPE

The work consists of providing all labor, materials, equipment and incidentals necessary to perform landscape maintenance (ornamental trees, shrubs, vines, groundcovers, and mulched areas) including but not limited to: groundcover, shrub, and tree pruning, fertilizer application, insect/disease control, grassy and broadleaf weed control, tree staking, watering, mulching, shrub and tree removal, and site clean-up including litter and debris removal at all CFX toll facilities and right of way locations (excluding, temporarily, the areas listed below) along S.R. 408 from Clark Rd and Old Winter Garden Rd overpass to 1,400 ft. north of SR 50 at Challenger Pkwy; S.R. 417 from International Dr. to the Seminole County Line, as well as the CFX Administration and Operations Center and turf maintenance including but not limited to: mowing, edging, and trimming, fertilizer application, insect/disease control, grassy and broadleaf weed control, irrigation system maintenance and site clean-up including litter and debris removal and turf clippings removal from turf areas and adjacent paving areas, at all CFX main toll plazas located within the Contract scope, the CFX Administration and Operations Center, and right of way locations identified in Attachment #2 – Turf Management Area Reference Maps.

The landscape improvements that are part of the following listed landscape construction project will not be maintained at Contract start up. These areas will be added to the Contract scope upon completion of the planting installation and establishment / warranty maintenance phases. Pricing for these and future scope additions shall be based on Contract bid unit costs and shall be paid for out of the Work Order / New Construction Allowance:

Landscape Construction Project

Project No. 417-301D S.R. 417 / Boggy Creek Road – Interchange Landscape

Existing landscape improvements located within the limits of current roadway construction projects listed below will not be maintained at Contract start up and are not included in the Contract bid totals. These areas will be added to the Contract scope upon completion of each roadway construction project. Pricing for scope additions shall be based on Contract bid unit costs and shall be paid for out of the Work Order / New Construction Allowance:

Roadway Construction Projects

- S.R. 408 Roadway Construction Zone – Tampa Ave to Interstate 4
- S.R. 408 Roadway Construction Zone – S.R. 417 to Woodbury Rd
(excluding mowing and landscape maintenance at the Dean Main Toll Plaza)
- S.R. 417 Roadway Construction Zone – Little Econ Tributary to the Seminole Co. Line
(excluding mowing and landscape maintenance at the University Main Toll Plaza)
- S.R. 417 and S.R. 408 Interchange Construction Zone

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

Adjustments to Contract amounts for the maintenance of existing landscape improvements impacted by future roadway construction projects shall be based on Contract bid unit costs.

The work under the Contract also consists of providing all labor, equipment, materials and incidentals necessary to perform repairs and restoration of existing landscape plantings as directed by CFX. Planting and establishment watering costs shall be paid for out of the Work Order / New Construction Allowance.

Supplemental watering of existing plant material during periods of severe drought shall also performed as directed by CFX. Supplemental watering costs shall be paid for out of the Work Order / New Construction Allowance.

The work under the Contract shall commence after issuance of the written Notice to Proceed from the CFX Landscape Architect.

2.0 GENERAL CONDITIONS AND REQUIREMENTS

2.1 CFX Landscape Architect

References to the CFX Landscape Architect shall be taken to mean his designated representative(s) as well. All work shall be subject to review and acceptance by the CFX Landscape Architect who will evaluate the Contractor's work for compliance with the Contract Documents. The CFX Landscape Architect has no duty to supervise or direct the performance of the work, nor any responsibility or liability for the acts or omissions of the Contractor or any subcontractor or supplier

2.2 Coordination of Contract Documents

The Scope of Services and all supplementary documents are integral parts of the Contract and a requirement occurring in one document is as binding as though occurring in all documents. In a circumstance of inconsistency or discrepancy between documents, the priority order of the documents shall be as follows:

1. Contract
2. Addenda (if any)
3. Scope of Services

2.3 Contractor's Personnel, Subcontractors and Sub-consultants

The Contractor shall be certified by the Florida Nursery, Growers and Landscape Association (FNGLA) as a Landscape Contractor and shall remain certified during the term of the Contract. The certified individual shall be a fulltime employee on the Contractor's payroll.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

Except under extraordinary circumstances, the Contractor shall not replace the individual representing the Contractor as the Landscape Contractor certified by FNGLA without written notice to and approval of the CFX. The CFX's acceptance of any replacement 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 personnel shall constitute a waiver of any right of CFX to reject defective Work.

A significant factor in the decision of the CFX to award the Contract to the Contractor is the level of expertise, knowledge and experience possessed by employees of Contractor, the Contractor's proposed subcontractors and sub-consultants (if any) and the Contractor's covenant to use employees, subcontractors and sub-consultants possessing such expertise, knowledge and experience available at all times to assist in the providing the required maintenance services. Throughout the term of the Contract, the Contractor shall employ individuals, subcontractors and sub-consultants having significant training, expertise and experience in the maintenance areas or disciplines described herein and in the maintenance specifications, together with such other areas of expertise or experience as may be designated from time to time during the term of the Contract by the CFX. When the CFX 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, subcontractors or sub-consultants possessing such experience or expertise.

The CFX considers the Contractor's Project Manager to be a key person with respect to the performance of the maintenance services. The identity of the individual initially assigned as the Project Manager by the Contractor shall be submitted to CFX in advance for approval or disapproval by CFX, and any changes in the individual shall also be subject to written approval by CFX. Similarly, the Contractor shall submit the names and qualifications of the Contractor's Project Spray Manager, the names and qualifications of the Contractor's Irrigation Manager and all first and second tier subcontractors/sub-consultants to CFX for approval prior to their beginning work on the project. The Project Spray Manager, Irrigation Manager, and all first and second tier subcontractors/sub-consultants shall have the skills and experience necessary to properly perform the work assigned and as required by this scope. CFX's approval with respect to the Project Manager, Spray Manager, Irrigation Manager, and subcontractors/sub-consultants may be granted or denied in CFX's sole and absolute discretion.

Promptly upon request of the CFX, the Contractor shall remove from activities associated with or related to the performance of the Contract any employee, subcontractor or sub-consultant whom the CFX considers (for any reason whatsoever, in CFX's sole discretion) unsuitable for such work. Such employee, subcontractor or sub-consultant shall not be reassigned to perform any work relating to the Contract except with the express written consent of the CFX. If the Contractor fails to immediately remove such employee,

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

subcontractor or sub-consultant, the CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the work until the employee, subcontractor or sub-consultant is removed. The Contractor shall protect, defend, indemnify, and hold harmless the CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of an employee, subcontractor or sub-consultant based on the direction of the CFX. All subcontracts shall expressly include an acknowledgment of the CFX's right to remove any subcontractor or sub-consultant in accordance with this paragraph. No compensation in any form shall be paid to the Contractor by the CFX in consideration for the right of removal described in this paragraph or in consideration of the exercise thereof.

The Contractor shall provide sufficient qualified manpower as necessary to perform all specified or directed maintenance tasks accurately and on schedule. In order to adhere to the maintenance schedule, additional work may be performed on weekends, provided that the Contractor has received prior authorization from the CFX's Landscape Architect and that maintenance personnel are supervised at all times. Crews working extended hours during weekdays to provide additional labor shall be kept aware of roadside safety regulations. Any increase in manpower required by the Contractor for the accurate execution of the Contract shall be provided at no additional cost to the CFX.

The Contractor shall provide the minimum manpower and equipment according to the following configurations/requirements:

<u>Crew Designation</u>	<u>Min.#of Personnel</u>
(2) 3-week Maintenance Crews - 6 person crew/roadway	12
(2) Hot Spot Crews - 6 person crew	12
(1) Mow Crew - 4 person crew	4
(4) Spray Crews - 2 person crew	8
(1) Project Manager	1
(1) Spray Manager	1
(1) Irrigation Manager	1
(1) Irrigation Tech	1
Total (minimum)	40

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

Equipment Requirements (minimum)

- 2 - Spray Trucks with sufficient capacity
- 4 - Spray Gators
- 2 - Small Production Mowers
- 2 - Walk Behind Mowers - CFX Admin. & Ops Center
- 1 - Irrigation Equipment Truck
- 1 - 2,000 Gallon / Tank Water Truck
- 4 - Maintenance/Mow Crew Trucks and Trailers
- 2 - Trucks for Management Team

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

The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without written consent of CFX. With CFX's written consent, the Contractor will be permitted to sublet a portion of the work but shall perform, with its own organization, work amounting to not less than 50% of the total Contract amount. The granting or denying of consent under this provision is at the CFX's sole discretion.

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/sub-consultant to indemnify and hold harmless CFX on the same terms as contained herein 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.

A subcontractor/sub-consultant will be recognized only in the capacity of an employee or agent of the Contractor.

2.4 Traffic Control

FHWA's MUTCD, latest edition, Part 6, is the minimum standard for Traffic Control for Highway Construction, Maintenance, and Utility Operations.

For operations requiring closure of travel lane(s), 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

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

Services Association under its Worksite Traffic Supervisor Certification Program, or an equal approved by CFX. Approved alternate Worksite Traffic Supervisors may be used when necessary.

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 when lane closures are in effect, be involved in all changes to traffic control and have access to all equipment and materials needed to maintain traffic control and handle traffic related situations.

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

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

The Contractor shall comply with the FDOT Design Standards Drawing No. 600, which is hereby incorporated by reference as if fully set forth herein.

For all lane closures, the Contractor shall have prior written approval from the CFX's Landscape Architect and shall provide uniformed off-duty Florida Highway Patrol (FHP) officer(s), including marked FHP vehicle(s), to assist in controlling and directing traffic in the work zone.

The Contractor shall not permit equipment to unreasonably interfere with traffic while the equipment is on or traversing a road or street.

See Section 4.2.2 – Operational Requirements, for additional traffic control procedural standards.

2.5 Other Work

If activities by the CFX or other parties occur near or within the work locations, the Contractor shall coordinate its operations and cooperate with others and shall not be entitled to extra compensation or adjustments in Contract price because of delay due to the activities of others.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

2.6 Governing Law and Venue

The Contract 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 2.6, Governing Law and Venue, shall survive the expiration or termination of the Contract and continue in full force and effect.

2.7 Permits, Notifications and Fees

2.7.1 Unless otherwise specified, Contractor shall secure and pay for all permits necessary to conduct the maintenance or other work in accordance with required regulations and to notify all applicable utilities or parties affected by the Contractor's operations.

2.7.2 The Contractor shall be responsible for all fees associated with the performance of the Contract. This includes payment of toll charges for all vehicles and equipment at the standard rate applicable to the general public. All toll payments made by the Contractor will be presumed to have been included in the Contract price.

2.7.3 No work shall be performed under the provisions of the Contract on any properties outside the limits of the CFX-maintained right-of-way without the express written permission of the affected landowner. Any such permission shall be secured by the Contractor and shall identify the provisions under which such work is to be performed. Permissions obtained shall not constitute assumption of liability by CFX nor relieve the Contractor of its liabilities. The Contractor shall notify the CFX Landscape Architect in writing prior to the execution of such work and shall submit two (2) copies of the written permission from the affected landowner.

2.7.4 The Contractor shall provide a notarized affidavit to CFX that all motor vehicles operated by or caused to be operated by the Contractor in Florida are registered in compliance with Chapter 320, Florida Statutes. The affidavit shall be filed with CFX at the time of Contract execution.

2.7.5 The Contractor shall complete and return with the executed Contract, Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

2.8 Hazardous or Toxic Waste, Pollutants

- 2.8.1 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 CFX Landscape Architect 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.
- 2.8.2 Contractor shall 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 CFX Landscape Architect.
- 2.8.3 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.

2.9 Responsibility for Damages

The Contractor shall protect from damage all property associated with, or which is in the vicinity of, or is in any way affected by, the Contractor's maintenance or other work performed pursuant to the Contract. Any damages occurring to such properties caused by the acts or omissions of Contractor, and/or due to negligence by the Contractor (or its employees, agents or invitees) shall be immediately repaired at the expense of the Contractor to a condition similar or equal to that existing before such damage occurred. This includes turf areas, shrubs, groundcovers and trees damaged or lost due to the Contractor's non-compliance with the maintenance procedures or non-performance of the chemical applications or maintenance tasks specified herein or as directed by the CFX Landscape Architect and approved in writing by CFX. All repairs to plant material required by the Contractor shall be performed as specified in Section 11.0 Plant Replacement.

2.10 Hold Harmless and Indemnification, Sovereign Immunity

The Contractor shall indemnify, defend and hold harmless CFX, State of Florida, the Florida Department of Transportation, and all of their respective officers, agents or employees from all suits, actions, claims, demands, costs, expenses, judgments and liabilities of any nature

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

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 act or 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 CFX or any of its officers, agents or employees. The parties agree that one percent (1%) of the total compensation to the Contractor for performance of the Contract is the specific consideration from CFX to the Contractor for the Contractor's indemnity and the parties further agree that the one percent (1%) is included in the Contract Amount.

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

2.11 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 sub articles 2.11.1 through 2.11.6 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

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

and correct Contract number, as well as the full and complete name of each insurance company, including city and state of domicile, as listed by A.M. Best Company. All insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, as defined by A.M. Best and Company's Key Rating Guide and must be approved by CFX. Such Certificates shall provide that in the event of cancellation, non-renewal or material reduction in coverage (including any material reduction of limits of Liability), the insurer will provide thirty (30) days prior notice of such cancellation, non-renewal or material reduction by certified mail to CFX. In addition, certified true copies of all policies shall be provided to CFX upon specific written request. Renewal Certificates of Insurance for all policies shall be submitted by the Contractor so that they are received by CFX no later than thirty (30) calendar days prior to the expiration of existing insurance coverage. Failure by the Contractor to meet this required timeframe will result in suspension of partial payments on monthly estimates until the certificates are received and accepted by CFX.

All insurance coverage required of the Contractor shall be primary and noncontributory over any insurance or self-insurance program carried by CFX.

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.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide CFX with certificates of same, CFX may obtain such policies and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments. Alternately, CFX may declare CONTRACTOR in default for cause.

2.11.1 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

2.11.2 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 sub article 2.11.1.

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.

2.11.3 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 2.11.1.

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.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

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, State of Florida, the Florida Department of Transportation, and all of their respective officers, agents, employees, 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.

- 2.11.4 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 sub article 2.11.1.

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, State of Florida, the Florida Department of Transportation, and all of their respective officers, agents, employees, and successors shall be named as Additional Insured under this policy.

- 2.11.5 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 sub article 2.11.1

The Umbrella/Excess Liability Insurance policy or Excess policy shall afford coverage equivalent to the required coverage as set forth in this Article 2.11. Policy inception date must also be concurrent with the inception dates of the underlying General Liability and Automobile Liability policies.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

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, State of Florida, the Florida Department of Transportation, and all of their respective officers, agents, employees, and successors shall be named as Additional Insured under this policy.

2.11.6 Railroad Insurance: When the Contractor performs Work on, 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, State of Florida, the Florida Department of Transportation, and all of their respective officers, agents, employees, and successors shall be named as Additional Insured under this policy.

2.12 Safety

2.12.1 With respect to the activities contemplated to occur pursuant to the Contract, and to the extent reasonably applicable, the Florida Department of Transportation Accident Prevention Procedures Handbook (current issue at time of Proposal submittal) is incorporated by reference and made a part of the Contract and shall be made a condition of each subcontract (if any) entered into pursuant to the Contract. In circumstances of conflict with the Federal Safety and Health Standards, the more restrictive requirements will apply.

2.12.2 The Contractor (and any subcontractor) shall not require any person employed in performance of the Contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to health or safety, as determined under the construction 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).

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

2.12.3 Contractor and subcontractor personnel shall wear reflectorized high visibility orange safety vests compliant with current FDOT standards within 15 feet of the roadway. Protective safety helmets shall be worn at all work sites containing overhead hazards.

2.13 Contractor's Responsibility for Work

Until acceptance by CFX, the results of the maintenance or other work shall be under the charge and custody of the Contractor who shall take every necessary precaution against injury or damage to the work results by the action of the elements or from any other cause whatsoever. The Contractor shall rebuild, repair and restore, without additional compensation, all injury or damage to any portion of the work occasioned by any of the above causes before its completion and acceptance; except, in the case of extensive or catastrophic damage the CFX may, at its discretion, reimburse the Contractor for the repair of such damage due to unforeseeable causes beyond the control of and without the fault or negligence of the Contractor, including but not restricted to Acts of God, of the public enemy or of governmental authorities (See Section 11.0, Plant Replacement).

2.15 Audit and Examination of Records

2.15.1 The 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 Price Proposal Records (as herein defined) of the Contractor or any subcontractor. The Contractor or any subcontractor submits to and agree to comply with the provisions of this section.

2.15.2 If the CFX requests access to or review of any Contract Documents or Price Proposal Records and the Contractor refuses such access or review, the Contractor shall be in default under its Contract with the CFX, and such refusal shall, without any other or additional actions, constitute grounds for suspension or disqualification of the Contractor. This provision shall not be limited in any manner by the existence of any Contractor claims or pending litigation relating to the Contract.

2.15.3 All individuals, corporations, companies, partnerships, joint venturers or any other business entities who submit a bid to the CFX shall preserve all Price Proposal Records used in determining and submitting the price for a period of one month after the CFX awards the Contract. The Contractor shall preserve all Price 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 the CFX, or (ii) until all claims (if any) regarding the Contract are resolved.

2.15.4 Contract Records shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

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 CFX for any purpose. Price 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 a bidder in determining labor, unit price, or any other component of a bid submitted to the CFX. Price Proposal Records shall also include, but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subcontractors, truckers or material suppliers, profit contingencies and any manuals standard in the industry that may be used by a proposer in determining a bid.

2.15.5 The obligations in Section 2.15, Audit and Examination of Records, shall survive the expiration or termination of the Contract and continue in full force and effect.

2.16 Escrow of Price Proposal Records

With the execution of the Contract, the Contractor shall submit to the CFX, in sealed container(s), a legible copy of the Price Proposal Records used by the Contractor to prepare its bid. The container(s) shall be clearly marked "Price Proposal Records" and shall show on the face of the container(s) the Contractor's name, address, date of submittal and Project number. The CFX will maintain the container(s) in a sealed condition.

In addition to the Price Proposal Records, the Contractor shall execute and submit an affidavit, signed under oath by the Contractor, listing each Price Proposal Record submitted by author, date, nature and subject matter. By executing this affidavit, the Contractor waives the right to use, directly or indirectly, any Price Proposal Record, other than the Price Proposal 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 the CFX to nullify the award of the Contract to the Contractor.

Following execution of the Contract, the CFX will hold the sealed container(s) and the original affidavit until the Contractor seeks an adjustment in time or money and files a claim or initiates arbitration against the CFX. Such acts by the Contractor shall be sufficient grounds for the CFX to open the sealed container(s). The CFX reserves the right to reveal the contents of the sealed container(s) to consultants, experts and legal counsel retained by the CFX to assist with claims evaluation and arbitration preparation. Confidentiality of the

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

bid documents included in the sealed container(s) will be protected by the CFX insofar as such protection does not conflict with the requirements of the Florida Public Records Act and Florida Sunshine laws.

When the Contractor executes a binding release of all claims and potential causes of action related to the Contract, the CFX will release the sealed container(s) to the Contractor. The Contractor shall sign a receipt acknowledging that the sealed container(s) has/have been returned to the Contractor unopened.

2.17 Performance and Payment Bond Required

2.17.1 General Requirements of the Bond: The Contractor shall furnish to the CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to 20% of the amount of the Contract amount to be renewed annually. Such bond shall be executed on the form furnished by the CFX. The surety shall meet all requirements of the laws of Florida, and shall be approved, and at all times acceptable to, the CFX. The surety agent's name, address, and telephone number shall be clearly stated on the face of the bond.

2.17.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to the 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 the CFX's initial approval of the company, then the 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 the CFX. In such event, all costs of the premium for the new bond, after deducting any amounts which might be returned to the Contractor from his payment of premium on the defaulting bond, will be borne by the CFX.

2.18 Suspension of Work

The CFX will have the right (exercised from time to time) to suspend the maintenance activities and work covered by the Contract, wholly or in part, for such period as may be deemed necessary. The periods of suspension may include extreme adverse weather conditions (such as flooding due to catastrophic occurrences) or heavy traffic congestion due to special events that may cause hazardous conditions for the motorists. Such suspension if ordered will be in writing, giving detailed reasons for the suspension.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

2.19 Default and Termination

- 2.19.1 The CFX reserves the right to terminate or suspend the Contract in whole or in part at any time the interest of the CFX requires such termination or suspension. In such circumstances, the CFX shall notify the Contractor (in writing) of such action with instructions as to the effective date of termination or suspension.
- 2.19.2 If the 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 workmen and equipment, including, but not limited to the minimum required manpower and equipment quantities listed in Section 2.3, or with sufficient materials to assure the prompt performance of the work and maintenance items covered by the Contract; (iv) performs the work unsuitably; (v) fails to comply with Contract, minimum wage payments or Equal Employment Opportunity requirements, or (vi) performs unsatisfactorily in the opinion of the CFX reasonably exercised, the 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 or the CFX may penalize the Contractor by withholding payment.
- 2.19.3 If the Contractor (within the curative period described in the notice of default) does not correct the default, the CFX will have full power and authority to remove the work from the Contractor and to declare the Contract in default and terminated.
- 2.19.4 If the Contract is declared in default, the 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, the CFX may take over the work covered by the Contract.
- 2.19.5 Upon declaration of default and termination of the Contract, the 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 the CFX Landscape Architect are required for Contract completion. All costs and charges incurred by the 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 the CFX the amount of the excess.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 2.19.6 If, after the default notice curative period has expired, but prior to any action by the CFX to complete the work under the Contract, the Contractor demonstrates an intent to cure the default in accordance with the CFX's requirements, the CFX may, but is not required to, permit the Contractor to resume work under the Contract. In such circumstances, any costs of the CFX incurred by the delay (or from any reason attributable to the delay) will be deducted from any monies due or which may become due Contractor under the Contract.
- 2.19.7 If, after notice of default to the Contractor under the provisions of this subarticle, it is determined for any reason the Contractor was not in default under the provisions of this subarticle, or that the default was excusable under the provisions of this subarticle, the rights and obligations of the parties shall be the same as if the notice of default had been issued as a notice of termination pursuant to the following paragraphs below which allow the CFX to terminate the Contractor for convenience.
- 2.19.8 Termination for Convenience: The CFX may, upon seven days written notice to the Contractor, without cause and without prejudice to any other right or remedy of the CFX, elect to terminate the Contract. In such case, the Contractor shall 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, including fair and reasonable sums for overhead and profit on such work;
 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 fair and reasonable sums for overhead and profit on such expenses.

The Contractor will not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

2.20 Prevailing Party Attorney's Fees

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

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 2.20.2 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 the CFX, failing which the CFX will be deemed the prevailing party in such litigation.
- 2.20.3 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 the CFX (exclusive of interest, costs or expenses) on claims asserted by the CFX against the Contractor in connection with the Contract, and (ii) any amount offered in settlement prior to initiation of Contractor litigation (exclusive of interest, cost or expense).
- 2.20.4 The term “contested claim” or “claims” shall mean the initial written claim(s) submitted to the CFX by the Contractor (disputed by the CFX) which have not otherwise been resolved through ordinary close-out procedures of the Contract prior to the initiation of litigation. Contractor claims or portions thereof which the CFX agreed to pay or offered to pay prior to initiation of litigation 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).
- 2.20.5 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 to the CFX through and including trial, appeal and collection. In the circumstance where an original claim is subsequently modified, amended or a substituted claim is filed therefor, 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.
- 2.20.6 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 term “litigation” shall include arbitration or mediation proceedings.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

2.20.7 As a condition precedent to litigation, the Contractor shall have first submitted its claim (together with supporting documentation) to the CFX, and the CFX shall have had sixty (60) days thereafter within which to respond thereto.

2.20.8 The purpose of this provision is to discourage frivolous or overstated claims and, as a result thereof, the 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 are being served by this provision.

2.20.9 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.

2.21 Binding Arbitration

All claims, disputes and controversies between the CFX and the Contractor arising out of or related to the Contract shall be decided and resolved by binding arbitration. 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.

2.21.1 Procedure

Notice of the demand for arbitration will be filed in writing with the other party to the Contract and with the American Arbitration Association.

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 Article. 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

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 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 or any of its consultants that does not otherwise exist.

In connection with the arbitration proceeding, all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

2.22 Certified Payrolls

Based on historical data and its experience with previous landscape maintenance contracts, the CFX has determined that, in order to provide the required maintenance services at the level necessary to assure compliance with the specifications, a minimum workforce of forty (40) individuals (with appropriate support equipment/vehicles) must be involved in various maintenance activities on the system on any given day. To assist CFX in verifying the Contractor's compliance with this commitment, the Contractor shall submit certified payroll records for all employees working on the project (up to and including the Project Manager and the Spray Manager) to CFX Landscape Architect at the end of each month along with the monthly invoice. Records shall be submitted for work performed from the date of the Notice to Proceed until the end of the Contract term. The payroll records shall include each worker's name, address, telephone number, classification, number of hours worked each day, starting and ending times of work each day and total hours worked each week.

The submittals shall be on a form acceptable to CFX Landscape Architect. When there has been no activity during a work week, a payroll record shall still be submitted with the appropriate notation ("No Work", "Suspended", or "Complete") indicated on the form. The falsification of, or failure to submit, any certified payroll will be grounds for immediate termination of the Contract.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

2.23 Documented Aliens

The 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 the CFX harmless for any violations of the same. Furthermore, if the CFX determines that Contractor has knowingly employed any unauthorized alien in the performance of this contract, the CFX may immediately and unilaterally terminate this contract for cause.

The obligations in Section 2.23, Documented Aliens, shall survive the expiration or termination of this Contract and continue in full force and effect.

2.24 E-Verify Clause

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

2.25 Inspector General

The Contractor agrees to comply with Section 20.055(5), Florida Statutes, and agrees to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section. Contractor agree to incorporate in all subcontracts the obligation to comply with Section 20.055(5). The obligations in this paragraph shall survive the expiration or termination of this Agreement and continue in full force and effect.

The obligations in Section 2.25, Inspector General, shall survive the expiration or termination of this Contract and continue in full force and effect.

2.26 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.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

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.

2.27 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.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

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.

2.28 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.

2.29 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.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

2.30 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 Contract may be terminated, which shall be effective upon CFX giving notice to the CONSULTANT to that effect.

2.31 Assignment

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

2.32 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.

2.33 Integration

The contract documents as defined in the Contract 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.

3.0 GENERAL MAINTENANCE OVERVIEW

3.1 Overview

The landscape maintenance work shall consist of providing all labor, materials, equipment and incidentals necessary to perform:

A. Turf Maintenance

1. Main Toll Plazas, CFX Administration & Operations Center, Limited ROW Mowing
2. Mechanical or Chemical Edging and Trimming
3. Litter / Debris Removal and Clipping Clean-up

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

4. Weed Control
 5. Insect and Disease Control
 6. Fertilization
 7. "No-Mow" Buffer Weed Removal
- B. Shrub, Vine, Groundcover, Tree and Palm Maintenance
1. Pruning
 2. Mechanical or Chemical Weed Control
 3. Litter and Debris Clean-up and Removal
 4. Mulching
 5. Fertilization
 6. Insect and Disease Control
 7. Hand Watering
 8. Tree Staking
 9. Tree Removal
- C. Automatic Irrigation System Maintenance and Manual Irrigation

The areas to be maintained include, but are not limited to:

- A. Toll Facilities (including Parking and Pedestrian Areas)
- B. Medians, Roadsides, and Slopes
- C. Right of Way Locations (other than Roadsides)
- D. Fence Lines
- E. Roadside Paving, Walls, and Guardrails
- F. CFX Administration and Operations Center

Landscape material to be maintained in these areas include all turf areas and ornamental trees, shrubs, vines, groundcover plantings, and mulched areas located on CFX property as described in Section 1.0 Project Scope.

3.2 Annual Landscape Maintenance Schedule

- 3.2.1 Attachment #1 - Annual Landscape Maintenance Schedule outlines all landscape and turf maintenance tasks to be performed during the Contract year in accordance with the specifications. The document is divided into Turf Care tasks, Shrub, Vine, and Groundcover Care tasks, and Tree Care tasks. The Monthly and Weekly Maintenance Schedules prepared by the Contractor shall be based on the Annual Landscape Maintenance Schedule.

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

4.0 MAINTENANCE OPERATIONS AND PROCEDURES

4.1 Operation Procedures

- 4.1.1 Hours of Operation - The Contractor shall perform the maintenance services outlined within this Scope of Services between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday excluding CFX holidays (Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Labor Day; the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Thanksgiving Day; the Friday, Saturday and Sunday immediately following Thanksgiving Day; and December 24 through January 2, inclusive) and unless specified otherwise or directed by the CFX Landscape Architect.
- 4.1.2 Additional Operation Time - Should the Contractor require additional operation time during a Saturday or Sunday to perform the maintenance services on schedule, the Contractor shall first notify the CFX Landscape Architect of its intentions prior to the date of the intended work. The Contractor shall also provide the CFX Landscape Architect with a description of the location and nature of the work, and the estimated duration that the personnel will be on the system. The Contractor shall also provide the CFX Landscape Architect with the name(s) and contact cell phone number(s) of the individual(s) who will be supervising the work if the Contractor's Project Manager does not intend to be on-site. Maintenance personnel found working on CFX property without supervision or without prior notification given to the CFX Landscape Architect shall be directed to leave the CFX property.
- 4.1.3 Proposed Monthly Maintenance Activities Schedule - Prior to the first day of each month, the Contractor shall submit to the CFX Landscape Architect, via email, a Proposed Maintenance Activities Schedule, for the upcoming month. The schedule shall list all chemical applications (fertilizer and pesticide), mowing activities, three- week maintenance cycle locations, periodic maintenance tasks, and any other additional maintenance activities proposed to be performed during the month. All proposed task and applications and their performance locations are to be listed in a calendar format. The schedule is understood to be tentative, with modifications due to adverse weather conditions, task performance, etc., during the month to be expected.
- 4.1.4 Two Week Maintenance Activities Schedule – The Contractor shall submit to the CFX Landscape Architect, via email, a detailed Two Week Maintenance Activities Schedule, based on the monthly schedule, outlining the maintenance tasks and applications to be performed in the upcoming two week period. These schedules shall be updated and forwarded each week. The schedule shall include 3-week cycle crew

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

locations on each roadway, mowing operations locations, chemical applications with anticipated daily application locations, periodic contract specified tasks and locations, and any additional maintenance tasks and applications with locations as required by the Contract or requested by the to the CFX Landscape Architect. The proposed sequence of work locations shall be listed for chemical applications to be performed in 1-2 days. The schedule shall be forwarded to the CFX Landscape Architect no later than the Friday afternoon prior to the week scheduled. The Contractor shall contact the CFX Landscape Architect via email or by cell phone, no later than 8:30a.m., to notify him of any changes to the schedule for the upcoming day. No chemical applications shall be performed without prior notification given to the CFX Landscape Architect.

- 4.1.5 Maintenance Activity Documentation - All landscape maintenance activities performed on the CFX system by the Contractor shall be documented daily via an emailed outline of daily work completed. The email shall be forwarded to the CFX Landscape Architect on the next work day following the date of work completion. Required email report format will be forwarded to the Contractor at project start. Pesticide Application Records and Daily Application Inspection Reports documenting all chemical applications performed under this Contract during the previous week shall be submitted to the CFX Landscape Architect on a weekly basis.
- 4.1.6 Action Item Lists - The CFX Landscape Architect will perform periodic inspections of the Contractor's work and of the condition of plant material on the Expressway system. Required maintenance activities, as determined by the CFX Landscape Architect, will be forwarded to the Contractor as an Action Item List. The list may include incomplete or unperformed specified maintenance tasks or applications, treatments for identified plant problems, requested Work Order/New Construction Allowance projects, or general procedural requirements. The Contractor shall schedule and perform all of the items listed in a timely manner. Activities identified as required to be performed within a specified time frame (i.e., incomplete 3-week maintenance task to be complete by the end of the month) must be completed as noted in order for the Contractor to receive full compensation for the work. Any questions, clarifications, requested price proposals, or scheduling conflicts shall be identified by the Contractor and immediately brought to the attention of the CFX Landscape Architect so as not to delay the performance of the listed activities. The CFX Landscape Architect will forward a list identifying any activities required to be performed by the end of the month at least one week prior.
- 4.1.7 The Contractor shall meet with the CFX Landscape Architect every two (2) weeks (at minimum) to review the completion of previous work and the proposed schedule of the upcoming maintenance activities. Additional meetings may be scheduled by the

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

CFX that the Contractor shall attend. The meetings shall serve as a forum for the exchange of information, identification of pertinent and critical issues, determination of an action plan and schedule for resolving issues, review of schedule and budget status, and discussion of other landscape, irrigation and maintenance related issues deemed appropriate by the CFX Landscape Architect or the Contractor. Additional on-site meetings may also be scheduled. The CFX Landscape Architect will prepare and distribute agendas for the meetings as well as minutes of the meetings.

- 4.1.8 The personnel performing the maintenance services outlined within this Scope of Services shall be under the sole responsibility of the Contractor and shall be competent, experienced and skilled in all aspects of required maintenance. Personnel shall be supervised at all times, including Saturdays and Sundays. Personnel shall wear professional standard company uniforms (pants and shirts).
- 4.1.9 All Contractor and subcontractor vehicles shall have clear identification of the company they represent. A list of all contractor and subcontractor employees shall be provided to the CFX prior to beginning work under the Contract. An updated list shall be forwarded to the CFX whenever there is a change in the Contractor's personnel working on the CFX system.
- 4.1.10 The Contractor shall designate a Project Manager who will be responsible for overall supervision of the Contractor's work force on the project and shall act as a single point of contact, on a daily basis, between the CFX Landscape Architect and the contractor. This individual shall maintain at all times a means of being contacted by the CFX Landscape Architect (cell phone) and shall respond to such calls within 2 hours of contact. This individual shall be responsible for maintaining the Contractor's schedule of activities and notifying the CFX Landscape Architect of the daily schedule, for quality control of the Contractor's services, and for arranging and supervising unscheduled service requests by the CFX Landscape Architect.

4.2 Safety Program

4.2.1 Safety Program Plan

The Contractor shall develop, implement, and maintain a Safety Program Plan for its operations on the site. The plan shall include, at a minimum, a safety policy, safety rules and procedures, safety training, procedures for reinforcing and monitoring safety programs, procedures for accident investigations, providing and maintaining equipment safety features, and safety record keeping.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

The plan shall also include the Contractor's maintenance of traffic plan showing the proposed methods of ensuring safety and minimum interference with the normal flow of traffic on the CFX travel lanes. Approval of the Contractor's plan shall not relieve the Contractor of responsibility or liability for injury to persons or damage to property caused by the operation of Contractor's equipment and/or personnel.

The plan shall comply with all State of Florida, federal and local regulations, rules and orders, as they pertain to occupational safety and health, the safe operation and security of the facilities.

Four (4) copies of a draft of the plan shall be submitted to the CFX Landscape Architect within 30 days after the date of the Notice to Proceed. The CFX Landscape Architect will review the plan and meet with the Contractor to resolve any concerns and to finalize the plan. A final plan, including all corrections/changes required by the CFX Landscape Architect shall be submitted by the Contractor within 60 days after the Notice to Proceed.

The Contractor shall provide, at the Contractor's expense, all safety equipment and materials necessary for and related to the work performed by its employees. Such equipment will include, but is not limited to, items necessary to protect its employees and the general public including safety vests that meet current FDOT standards, and, if applicable, gloves, safety goggles, and respirators.

4.2.2 Operational Requirements

All vehicles and equipment shall remain clear of all travel lanes at all times when stationary or traveling below posted minimum speeds.

All vehicles and equipment (including trailers, mowers, and "gators") operating on the road shoulders and medians shall be equipped with an amber flashing light that is on and visible from behind at all times while stationary or moving below the minimum speed limit.

Contractor and subcontractor personnel shall place in configuration as delineated on FDOT Design Standards Drawing No. 600 or 611 where any vehicle, equipment, workers or their activities encroach the area closer than 15' but not closer than 2' to the edge of pavement on any CFX road / ramp shoulders and medians.

Signage for vehicles operating on roadside shoulder - placement of temporary Maintenance of Traffic (M.O.T.) devices (warning signage and safety cones) shall comply with the FDOT Design Standards Drawing No. 600 series as a minimum

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

requirement where any vehicle, equipment, workers or their activities encroach the area closer than 15' but not closer than 2' to the edge of pavement on any CFX road shoulders and medians. Any stationary work activity occurring on the expressway highways or ramps shall require the placement of a temporary M.O.T. sign at a minimum of 500' behind the vehicle and a maximum of 1,500' behind the vehicle. Signs must be moved forward as vehicle moves. Cones must be placed at a taper behind vehicles and kept off of edge of lane striping.

Maintenance vehicles and equipment working along CFX road shoulders and medians shall be located out of the 'clear zone' (36' from roadway edge) whenever possible, or behind guardrails or overpass structures. No equipment (trucks, trailers, spray "gators", mowers, etc.) shall be parked in the median. Vehicles are allowed in medians only as necessary to pick up trash, debris, equipment, and personnel.

Contractor and subcontractor personnel shall not perform any U- turns in the median or at toll plazas but shall use interchanges for such purposes. This includes the paved median crossings designated for "Emergency Vehicles Only".

Maintenance vehicles and equipment are prohibited from operating on CFX roadside shoulders or medians during peak traffic hours (prior to 9:15 a.m. and after 3:30 p.m.). The Contractor shall ensure that its personnel schedule and perform daily activities such as roadside shoulders or median litter and debris pick-up and roadside shoulders or median chemical applications within the allowed time frame.

Any equipment left on the CFX right-of-way overnight shall be parked out of the 'clear zone' (36' from roadway edge) and as close as possible to the right-of-way line farthest from the travel-way. Service and supply operations shall be conducted as close to the right-of-way line farthest from the travel-way as possible. No equipment shall be parked in the median overnight regardless of the width of the median.

Maintenance personnel found working on CFX property in violation of the above listed safety requirements, shall be directed to immediately leave CFX property.

Mulch trailers may be located within the CFX right-of-way to supply materials for mulching operations with the following restrictions:

- The Contractor receives approval from the CFX Landscape Architect for the trailer's location prior to its placement.
- Trailers shall be placed outside of the 'clear zone' (36' from roadway edge).
- Trailers shall not be located in the roadway median.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- Trailers shall be clearly marked with signage displaying the Contractor's company name and contact telephone number (3' x 4' minimum) that is visible from the highway.
- Trailers shall be promptly removed from the CFX right-of-way when empty (within ten (10) days).

Mulch trailers located within the CFX right-of-way which do not adhere to the above listed restrictions will be immediately towed without notice. The CFX will not be responsible for any towing or impound fees incurred.

4.3 Document Control and Information Maintenance

4.3.1 Information Dispersal

Should the Contractor distribute information related to the Contract to others, the Contractor shall document the distribution by completing a letter of transmittal. All distribution of information shall be accompanied by a letter of transmittal with a copy provided to the CFX Landscape Architect identifying:

- Party to whom the information is being transferred
- Origination of the request for transfer
- Name of information being transferred
- Type(s) of information being transferred
- Date of transfer
- Purpose of transfer, or use of information
- Further action necessary

The Contractor shall propose a format for, and keep a log of, all information transfers for updates to the CFX Landscape Architect.

4.3.2 Verification of Information

All information provided to the Contractor shall be examined for consistency with its records and work efforts. Any obvious inconsistency shall be reported to the CFX Landscape Architect verbally and in writing, upon discovery.

4.3.3 Ownership of Information

It is to be understood that all information provided to the Contractor, either by the CFX or third parties, are the sole property of the CFX. The Contractor shall have

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

temporary charge of the information while performing contracted services for the project. All information shall be returned to the CFX at the conclusion of the Contract, after which no copies of the information may be kept by the Contractor without the expressed written permission of the CFX.

The CFX shall retain the right to require that the Contractor transfer all Project information to the CFX immediately upon fourteen days written notice, for any reason. The same procedures shall apply should it become necessary for the Contractor to voluntarily return all Project information to the CFX.

5.0 CHEMICAL APPLICATIONS

- 5.1 The Contractor shall provide a Spray Manager who will be a fulltime employee, other than the Project Manager, to directly supervise all chemical applications. The Spray Manager shall possess the Florida Department of Agriculture's Commercial Pesticide Applicators License with the Right of Way (#6) and Aquatic (#5A) categories. The Contractor shall perform all chemical applications (pesticide and fertilizer) in accordance with the following standards and specifications. The Contractor shall read the product labels carefully for complete compliance and follow all safety and precautionary measures as described therein. Applications performed which do not meet the following standards and specifications (as determined by the CFX Landscape Architect) shall be promptly re-performed correctly at no additional cost to the CFX. The CFX may elect to withhold payment for applications performed incorrectly other than having the Contractor re-perform the application.
- 5.2 All pesticides shall be of commercial quality complying with the pesticide laws of the State of Florida. Prior to the first use of a product on the CFX system, the Contractor shall submit to the CFX Landscape Architect for approval, the manufacturer's Material Safety Data Sheets, product label, and a written statement of proposed mixing and application rates for all pesticides intended for use. All pesticide applicator personnel shall have the product information listed above of the material they are working with in their work vehicle at all times. All pesticide applicator personnel shall also have all of the equipment required to correctly mix and apply all pesticides intended for use (measurement devices, personal safety equipment, and application devices).
- 5.3 The Contractor shall use equipment specifically designed for commercial application of herbicides and as specified for each application as listed in the Contract. Keep equipment in good repair and operating condition at all times and meet all safety requirements established for this type of work. Equipment is subject to inspection and acceptance by the CFX Landscape Architect.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 5.4 Properly use and dispose of all chemicals and herbicides in strict accordance with applicable local, state, and federal environmental regulations and indemnify the CFX for any liabilities arising out of the Contractor's handling, use of, and disposal of said chemicals and herbicides.
- 5.5 The Contractor shall complete a daily Pesticide Application Record (provided by the CFX Landscape Architect) for each location where chemical applications are being performed. The Records must be thoroughly and accurately filled out and signed by the Spray Manager prior to submittal. The Contractor shall submit completed Records to the CFX Landscape Architect on a weekly basis. Records may be forwarded via email.
- 5.6 Each spray crew shall be under the direct supervision of the Spray Manager. Direct supervision shall consist of, at a minimum, a daily on-site inspection conducted by the Spray Manager of each spray crew's operation during an application. The Spray Manager shall verify that the proper materials are in use, the correct target plant material is being treated, the correct mixing and application rates are being followed, the proper application techniques are being employed, and that the required personal safety equipment is in use. The Spray Manager shall prepare, sign, and submit a Daily Application Inspection Report which shall list the date, time, and location of the application inspection. The Inspection Report shall also include the applicator's name, chemical applied, target pests, plants treated, mix and application rates, and verification of possession of product label and MSDS. The Reports, signed by the Spray Manager, shall be submitted weekly with the Pesticide Application Records.
- 5.7 The CFX reserves the right to withhold payment for applications performed without the performance of a daily on-site inspection by the Spray Manager and the submittal of the required documentation.
- 5.8 The Contractor shall notify the CFX Landscape Architect of any scheduled treatment prior to the execution of any chemical application. No applications are to be performed without prior notification to the CFX Landscape Architect. The Contractor may be required to re-perform any application performed without prior notification to the CFX Landscape Architect. The CFX may withhold payment for any application performed without prior notification to the CFX Landscape Architect.
- 5.9 The Contractor shall perform the pesticide treatments as specified and as directed by the CFX Landscape Architect as a drench application or foliar application as specified. Drench applications shall be made to the soil in sufficient volume to wet the root zone of individual plants. Foliar applications shall be directed to above ground plant parts to the point of runoff.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 5.10 The CFX reserves the right at its sole option to take samples of application spray mixtures from spray crews in the field and have the samples tested to determine if the correct material and mixing rates are being used in accordance with the specifications. The samples will be taken in accordance with industry standards, the containers sealed and labeled on-site, and the samples documented and signed by both the CFX Landscape Architect and the spray applicator. Lab results shall be forwarded to Contractor as well as the CFX. If the spray mixtures are determined to not meet the application specifications, the CFX may require the Contractor to repeat the entire application, to repeat the portion of the application performed on the day during which the sample was taken, or elect to withhold payment for the application

6.0 TURF CARE

6.1 Description

- 6.1.1 Work to be done consists of mowing, edging and trimming of turf, litter and debris removal, clipping clean-up, grassy and broadleaf weed control, insect and disease control, and fertilizer application at all turf management areas located within the limits of work at the nine (9) CFX Mainline Toll Plazas within the scope of the Contract, the CFX Administration and Operations Center, and right of way locations as delineated in the Turf Management Area Reference Maps (Attachment #2). Weed control and litter and debris removal shall also be performed along right-of-way fence lines directly adjacent to Turf Management Areas and in "No-Mow" buffers as delineated in the No-Mow Area Reference Maps (Attachment #3). See section 9.0 for maintenance requirements for all 'No-Mow' areas.
- 6.1.2 Turf areas are defined as grassed or vegetated areas consisting of all grass; part grass and part succulent weed growth; or all succulent weed growth within the area to be maintained.
- 6.1.3 Turf maintenance activities are to be performed as described herein and as noted in the Annual Landscape Maintenance Schedule (Attachment #1). The Schedule lists the frequency and intervals of all specified turf care tasks and applications and shall be exactly followed in the performance of these tasks unless directed otherwise by the CFX Landscape Architect.
- 6.1.4 Any additional fungicide, insecticide, or selective herbicide applications to turf management areas maintained under this Contract shall be performed by the Contractor as directed by the CFX Landscape Architect and shall be paid for out of the Work Order Allowance.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 6.1.5 Re-performance of any turf care task, or re-application of any pesticide or fertilizer required, due to the Contractor's negligence or improper application (as determined by the CFX Landscape Architect), shall be provided at the Contractor's expense. Re-performance or re-application shall be initiated within one week of written notification unless directed otherwise by the CFX Landscape Architect.
- 6.1.6 Any turf or ornamental plant material damaged by mowing activities or the use of herbicides or any other chemicals (as determined by the CFX Landscape Architect) shall be replaced by the Contractor, at no cost to the CFX.

6.2 Mowing

- 6.2.1 The Contractor shall perform mowing cycles in the turf areas at CFX Mainline Toll Plazas, the CFX Administration and Operations Center, and right of way locations located within the limits of mowing delineated on the Turf Management Area Reference maps (Attachment #2).
- 6.2.2 The quantity and frequency of area mowing cycles are to be performed as listed in the Annual Landscape Maintenance Schedule (Attachment #1). Turf areas at the CFX Administration and Operations Center shall be mowed forty (40) times per year. Turf areas at all Mainline Toll Plazas and the right of way locations on S.R. 408 shall be mowed thirty-six (36) times per year. Turf areas at S.R. 417 at the International Dr. area shall be mowed eighteen (18) times per year. Each mowing cycle in each location shall be completed in its entirety prior to beginning another cycle. This includes edging, trimming and clipping clean up (described below). Missed cycles or cycles performed at greater intervals than listed cannot be made up at a later date.
- 6.2.3 The Contractor shall submit a Proposed Monthly Maintenance Schedule (based on the Annual Landscape Maintenance Schedule) to the CFX Landscape Architect on the first day of each month, indicating the location and frequency of each mowing cycle. The schedule shall be updated weekly if any changes are necessary due to poor weather or other restrictive circumstances.
- 6.2.4 Turf areas at the CFX Administration and Operations Center shall be mowed on the Saturday of each week listed in the Annual Landscape Maintenance Schedule (Attachment #1) in order to avoid conflicts with CFX employee parking. Contractor shall provide required supervisory personnel during the mowing operations.
- 6.2.5 All turf areas are to be mowed to a maximum height of 4" during each cycle, except the Zoysia turf at the CFX Administration and Operations Center, which shall be mowed to a maximum height of 2.5". Various mowing patterns shall be employed to

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

prevent ruts in the turf caused by mowers. Turf areas adjacent to retention ponds, ditches, or canals shall be mowed or trimmed to the water's edge each mowing cycle.

- 6.2.6 When work by CFX forces, Florida Department of Transportation forces, by other contractors, or weather conditions of a temporary nature, prevent the Contractor from mowing any areas, and such conditions are eliminated during the period designated for that mowing cycle, the CFX Landscape Architect may require the Contractor to mow these areas as part of the cycle without penalty for exceeding the time allowed.
- 6.2.7 Grassed areas that are normally mowed which are saturated with standing water to the point where, in the opinion of the CFX Landscape Architect, equipment may not be used without excessive damage to the turf, shall not be mowed when such conditions exist. These areas may be required to be string trimmed by the CFX Landscape Architect.
- 6.2.8 The equipment used by the Contractor shall be of a type and quantity to perform the work satisfactorily, be in good repair and shall be maintained so as to produce a clean, sharp cut and uniform distribution of the clippings at all times.
- 6.2.9 Contractor's equipment shall be outfitted with an overhead amber flashing light, which shall be on and visible from all directions when equipment is being operated in the course of the work. All required safety devices shall be properly maintained at all times the equipment is in use.
- 6.2.10 Equipment which damages the pavement, decorative retaining walls, or turf in any way will not be allowed. The Contractor shall be responsible for the prompt repair or replacement of any pavement, wall, or turf damaged by the Contractor's personnel/equipment.
- 6.2.13 All equipment shall be subject to inspection and approval by the CFX Landscape Architect. If the CFX Landscape Architect determines the equipment is deficient in safety devices, the Contractor shall be notified immediately. The Contractor shall immediately remove the equipment from service until the deficiency is corrected to the satisfaction of the CFX Landscape Architect.
- 6.2.14 Inspection and approval of the Contractor's equipment by the CFX Landscape Architect shall not relieve the Contractor of responsibility or liability for injury to persons or damage to property caused by the operation of the equipment.
- 6.2.15 The Contractor shall perform an annual equipment safety check of all equipment used on CFX property and submit a report to the CFX Landscape Architect for review and

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

approval prior to continuation of operation of the equipment on CFX property. The report shall be submitted no later than the 1st of February each year.

6.2.16 The acceptable performance of the mowing cycle quantities, at the intervals as noted in the CFX Annual Landscape Maintenance Schedule, are the basis for compensation from CFX. Monthly payment for turf care anticipates completion of all listed cycles. Payment for missed cycles shall be deducted from the current month's invoice; the amount being determined using area square footage and pricing from the submitted Price Proposal.

6.3 Edging

6.3.1 Hard surface and soft surface edging shall be performed along all turf area edges within the limits delineated in the Turf Management Area Reference Maps. Hard surface edging is defined as outlining and/or removing turf from along all sidewalks, driveways (asphalt or concrete) curbs, reinforced earth walls and barrier walls. Soft surface edging is defined as outlining and/or removing turf from all trees rings and planting beds, etc., by the use of a mechanical edger. Roadway edging along highway and ramp paving is not required due to safety concerns.

6.3.2 All hard surface edging shall be performed to maintain straight and sharp edges between paving/curbs/sidewalks and turf areas. All hard surface edging shall be completed with each area mowing cycle.

6.3.3 All soft surface edging shall be performed neatly to maintain the shape and configuration of all planting areas to the curves as originally designed, in a clean manner, free of imperfections. All soft surface edging may be completed with each area mowing cycle or at the same frequency as the detailing of plant beds (once every three-week cycle) if chemical edging is performed.

6.3.4 All edging equipment shall be equipped with manufacturer's guard to deflect hazardous debris away from roadways and sidewalks.

6.3.5 When edging is performed, the proper safety equipment shall be used (i.e., safety glasses, reflective vest, signage, warning light, etc.).

6.3.6 Soft surface chemical edging of turf, using a pre-approved herbicide, will be permitted along ornamental planting beds and around tree rings if care is taken to not damage adjacent plantings. Any plant damaged by the use of herbicides, (as determined by the CFX's Landscape Architect), shall be replaced by the Contractor at no cost to the CFX.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

6.3.7 Products containing 'Diquat', 'Imazapyr' or "2-4D" shall not be used anywhere on the CFX system in the performance of this Contract.

6.4 Trimming

6.4.1 All turf areas located within the limits delineated in the Turf Management Area Reference Maps that are inaccessible to mowers such as around guardrails, reinforced earth walls and barrier walls, and/or otherwise unable to be mowed due to obstructions such as trees or other plant material, light poles, fences, signs, rocks, culverts, miscellaneous hardscape items etc., shall be trimmed to the same height as adjacent mowed areas. All trimming shall be completed during each area mowing cycle.

6.4.2 Trimming shall be performed with the use of a string or line trimmer or other suitable mechanical means.

6.4.3 Care shall be taken when using a string trimmer so as not to damage adjacent plant material or decorative retaining walls. Any plant damaged by the use of a string trimmer (as determined by the CFX Landscape Architect) shall be promptly replaced by the Contractor, at no cost to the CFX. Any damage to decorative retaining walls by the use of a string trimmer shall be promptly repaired by the Contractor at no cost to the CFX.

6.5 Litter Removal and Clipping Clean-up

6.5.1 The Contractor shall pickup and remove all non-hazardous items and obstacles (litter) within the designated turf management areas, such as wood, vegetation debris, tires, glass, cans, plastic products, paper products and other miscellaneous debris, etc. shall be collected and removed weekly – fifty two (52) times per year. The Contractor shall remove all litter located in ditches, swales, and within reach with a rake from the shoreline in any water body occurring within or directly adjacent to designated turf management areas weekly – fifty two (52) times per year. It shall also be the Contractor's responsibility to remove trash and items such as newspapers, magazines, boxes, paper cups, etc. that would be torn, shredded and further subdivided by the mower prior to each cycle. The turf management areas include 9 CFX Mainline Toll Plazas, the CFX Administration and Operations Center (HQ), and all locations shown as "Limit of Turf Care" in the Turf Management Area Reference Maps (Attachment 2). All costs of pickup and removal of litter and debris shall be included in the Contract amount.

6.5.2 All collected litter shall be removed daily. No collected litter shall be left on the property overnight.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 6.5.3 All sidewalks, roadways, parking lots, shoulders, fence lines, concrete swales or other structures located within the limits of mowing delineated on the Turf Management Area Reference maps (Attachment #2) shall be immediately swept, blown, or vacuumed to remove any grass clippings and to maintain a clean, well-groomed appearance.
- 6.5.4 All grass clippings shall be kept out of ornamental beds and aquatic ponds. Mowing patterns should be performed which prevent the distribution of clippings in these areas. Contractor must immediately remove any clippings from adjacent ornamental beds in order for the mowing cycle to be considered complete. If clippings cannot be removed successfully to the satisfaction of the CFX Landscape Architect, the Contractor shall install additional pine bark mulch or pine straw mulch as directed, at no expense to the CFX. Where the distribution of grass clippings into adjacent planting beds with pine straw mulch cannot be avoided due to the close proximity of adjacent roadways, the Contractor shall blow clippings off of plant material during each cycle.
- 6.5.5 If excessive quantities of grass clippings (as determined by the CFX Landscape Architect) remain on turf areas directly adjacent to the CFX Administration and Operations Center or any Mainline Toll Plaza buildings, parking lots islands, or entryways following a mowing cycle, the Contractor shall collect and remove the clippings to keep the turf areas clean.

6.6 Weed Control

- 6.6.1 Contractor shall eliminate/kill/remove undesirable weed and brush growth in all paving joints in asphalt and concrete, sidewalks, parking lots, along all guardrails, around roadside structures, along shoulders, edge of pavement, curb and gutter, signs, culvert ends located within or directly adjacent to Turf Management Areas during each mowing cycle. Also eliminate/kill/remove undesirable weed and brush growth inside walled enclosures at the CFX Administration and Operations Center. Treat weed and brush growth by applying a 2.0% solution of Glyphos Pro – 2.0 gallons of Glyphos Pro in 100 gallons of water, (or approved equal). Dead material is to be removed. It is the intent of this activity to make the areas noted above weed free at all times.
- 6.6.2 Zoysia turf at the CFX Administration and Operations Center – Perform spot applications monthly of the herbicide ‘Celsius’ as necessary to control broadleaf and grassy weeds in the turf. Contractor to inspect, identify and treat weeds as necessary to maintain weed free turf.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 6.6.3 Zoysia turf at the CFX Administration and Operations Center – Perform spot applications monthly of the herbicide ‘Certainty’ as necessary to control sedge weeds in the turf. Contractor to inspect, identify and treat weeds as necessary to maintain sedge free turf.
- 6.6.4 Read the product labels carefully for complete compliance and follow all safety and precautionary measures as described therein (5.0 - Chemical Applications).

6.7 Fertilization

- 6.7.1 The turf fertilizer 16-0-8 and the turf fertilizer 28-0-10 (manufactured by Harrell’s) shall be applied as described below. All turf fertilizer shall be applied (full coverage) according to manufacturer’s instructions at the rates described herein. Fertilizer shall be applied when the turf is dry and not over an early morning dew. Fertilized areas shall be watered following application on the same day, in irrigated areas only. Apply turf fertilizer with rotary broadcast spreaders (approved by the CFX Landscape Architect) and overlap consistently for uniform coverage. Turf fertilizer shall not be applied by hand broadcasting. Application equipment shall be accurately calibrated to ensure that the specified application rate is followed.
- 6.7.2 The Contractor shall comply with and adhere to all aspects of the Orange County Fertilizer Management Ordinance, Chapter 15, Article XVII of the Orange County Code, Section 15-801 through 15-812 in the performance of the specified turf fertilizer applications. Any perceived conflicts with the specifications of the fertilizer applications and the Ordinance requirements shall be brought to the attention of the CFX Landscape Architect prior to performance of the work.
- 6.7.3 The Contractor shall provide the turf fertilizer, 16-0-8, containing the following:
- 16 % total nitrogen consisting of 0.75% nitrate nitrogen, 11.25% ammonium nitrogen, and 4.00% water soluble nitrogen derived from poly sulfur coated urea, ammonium nitrate, and ammonium sulfate.
 - 0% phosphorus (P₂O₅).
 - 8% soluble potash (K₂O) derived from muriate of potash and sulfate potash of magnesia.

The fertilizer shall include the following minimum percentages of micronutrients:

- 1.06 % Water soluble magnesium (Mg)

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 0.05 % Manganese (Mn)
- 0.05 % Copper (Cu) derived from copper sulfate
- 3.00 % Iron (Fe)
- 0.02 % Boron (B) derived from sodium borate
- 1.45 % Sulfur (f)
- 9.0 % Calcium

Apply 16-0-8 fertilizer to Bahia / St. Augustine turf at all Main Toll Plazas, roadside areas at SR 408 - Conway Road on and off ramps, Lake Underhill Drive raised planters, and at SR 417 – International Drive as delineated in the Turf Management Area Reference Maps (Attachment #2) one (1) time per year (February) at a rate of 6.5 pounds per 1,000 square feet of turf area or 283 pounds per acre of turf area, unless otherwise directed by the CFX Landscape Architect.

6.7.4 The Contractor shall provide the turf fertilizer, 28-0-10 Polyon Fertilizer 9 month turf blend - produced by Harrell's, containing the following:

- 28 % total urea nitrogen and 22.4% slow release nitrogen derived from polymer coated urea
- 0% available phosphorus (P2O5).
- 10% soluble potash (K2O)

The fertilizer shall include the following minimum percentages of micronutrients:

- 0.477 % Water soluble magnesium (Mg)
- 1.935 % Iron (Fe)
- 0.557 % Manganese (Mn)

Derived from: muriate of potash, polymer coated urea, sulfate of potash-magnesia, iron sulfate, manganese sulfate.

Apply fertilizer to Zoysia and Bahia turf at the CFX Administration and Operations Center two (2) times per year (February, September) at a rate of 10.7 pounds per 1,000 square feet of turf area, unless otherwise directed by the CFX Landscape Architect.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

- 6.7.5 The CFX reserves the right to make reasonable adjustments to the specifications, timing, rate of application and elementary composition according to actual horticultural conditions at the time.
- 6.7.6 Prior to the beginning of each application cycle, the Contractor shall submit an actual certified fertilizer label, legible with the guaranteed analysis for approval to the CFX Landscape Architect.
- 6.7.7 All fertilizers shall be kept out of all water bodies and be removed immediately from all sidewalks, parking lots, and toll plaza driveways.
- 6.7.8 If fertilizer is delivered in bulk, provide documentation of chemical composition and weight at time of application. If bags of fertilizer are used, provide a sample individual bag tag, as well as product purchase and delivery receipts to CFX Landscape Architect to verify weight and content. A listing of bag usage applied per area shall be documented using the daily Pesticide Application Record. The Record along with the Spray Manager's Inspection Report shall be forwarded to the CFX Landscape Architect.
- 6.7.9 Fertilizer shall be stored in a dry location to avoid any moisture absorption; lumpy or wet fertilizer will not be acceptable for application.

6.8 Insect and Disease Control

- 6.8.1 All turf areas located within the limits delineated in the Turf Management Area Reference Maps shall be continuously monitored for infestations of insects (including fire ants, mole crickets, and nematodes) and shall be treated immediately as specified or as directed by the CFX Landscape Architect for proper control. Contractor shall note all treatment applications on daily Pesticide Application Record forms submitted to the CFX Landscape Architect on a weekly basis.
- 6.8.2 All fire ant mounds located in turf and paved areas within the turf management areas are to be spot - treated with 'Orthene' insecticide whenever mounds are observed. Applications shall be performed during each 3-week maintenance cycle. 'Live' mounds should be treated and avoided during the mowing cycle immediately following the treatment. Previously treated, non-active mounds shall be knocked down and the soil either blown off paving or evenly distributed in turf areas during the following mowing cycle.
- 6.8.3 Zoysia turf at the CFX Administration and Operations Center – Perform two (2) blanket applications (March and August) of 'Topchoice' granular insecticide to

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

control fire ants, mole crickets, etc. Apply 'Topchoice' at a rate of 2 lbs. / 1,000 square feet of turf. Remove any excess product from adjacent paved areas. Water in application upon completion.

- 6.8.4 Zoysia turf at the CFX Administration and Operations Center – Perform three (3) blanket applications (March, November, or as directed by the CFX Landscape Architect) alternating between Cleary's 3336 (2x – March at 14 day interval) and Heritage (1x –November) fungicides. Apply Cleary's 3336 at 4.0 oz / 1,000 square feet of turf and apply Heritage at 0.4 oz / 1,000 square feet of turf.
- 6.8.5 Nematode and other insect infestations shall be immediately reported to the CFX Landscape Architect who will give specific direction as to the proper treatment. The Contractor shall perform the specified treatment within the time frame directed by the CFX Landscape Architect. Payment for 'as directed' treatments will be from the Work Order/New Construction Allowance.

7.0 SHRUBS/VINES/GROUND COVER CARE

7.1 Description

- 7.1.1 The work consists of providing all labor, materials, equipment and incidentals necessary to perform the landscape maintenance of ornamental shrubs, vines, groundcovers, and mulched areas at nine (9) CFX toll facilities included within the scope of the Contract, the CFX Administration and Operations Center, and right of way locations as described in Section 1.0 Project Scope. Detailing of all planted and mulched areas located within the project limits on the CFX system shall be performed once every three (3) weeks, with seventeen (17) 3-week maintenance cycles being performed per year. Three-week detailing cycles include pruning, grassy and broadleaf weed control, removal of damaged / diseased / dead plant material, litter and debris removal, supplemental watering, mulching, raised planter wall gutter cleaning and sign clearing. Chemical applications for insect, disease, and weed control, and fertilizer applications shall be performed periodically as described below and as directed by the CFX Landscape Architect.
- 7.1.2 Shrub, vines, and ground cover maintenance activities shall be performed as described herein and as noted in the Annual Landscape Maintenance Schedule (Attachment #1). The schedule lists the frequency and intervals of all specified maintenance tasks and shall be exactly followed in the performance of these tasks unless directed otherwise by the CFX Landscape Architect.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 7.1.3 The Contractor shall apply various fungicides, insecticides, selective herbicides, and fertilizers to plant material located at the mainline toll plazas, the CFX Administration and Operations Center, and along all roadways within the project limits as described herein and as noted in the Annual Landscape Maintenance Schedule (Attachment #1) unless directed otherwise by the CFX Landscape Architect. Additional 'as directed' applications shall be performed as described herein when directed by the CFX Landscape Architect.
- 7.1.4 Re-performance of any shrub and ground cover maintenance task, or re-application of any pesticide or fertilizer required, due to the Contractor's negligence or improper application (as determined by the CFX Landscape Architect), shall be provided at the Contractor's expense. Re-performance or re-application shall be initiated within one week of written notification unless directed otherwise by the CFX Landscape Architect.
- 7.1.5 Any turf or ornamental plant material damaged due to improper maintenance activities or the improper use of herbicide, insecticides, or fungicides or incomplete or non-performance of specified herbicide, insecticide, or fungicide applications (as determined by the CFX Landscape Architect) shall be replaced and established to the CFX satisfaction by the Contractor, at no cost to the CFX. Replacement plant material shall match the size of the existing plant at the time that the damage occurred (see section 11.0 Plant Replacement).

7.2 Pruning

- 7.2.1 The Contractor shall perform maintenance pruning of all ornamental shrubs and ground covers during each 3-week detailing cycle, as necessary, to remove dead material (including dead seed heads and leaf blades in African iris plantings and dead sections of dune sunflower plantings); to maintain separation between different plant types when unsightly overgrowth is occurring; and to keep vegetation confined within the planting beds and not encroaching on turf areas, roadways, pedestrian walkways, and adjacent structures (guardrails, signage, fences, buildings, walls, drainage ways when flow of water is obstructed, etc.). Maintenance pruning of all ornamental shrubs shall also be performed during each 3-week detailing cycle, as necessary to eliminate sight distance blockage interfering with various site elements, traffic control/information signs, pedestrian crossings, ramp interchanges, etc. Maintenance pruning of ornamental plantings shall be performed with hand shears to allow for proper shaping and clean cuts of pruned branches. The use of gas-powered shears shall be limited to the annual pruning cycle and allowed "hedge shearing" as described below.

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 7.2.2 Shrubs and groundcovers located along the system roadsides shall not be pruned into formal shapes, referred to as “hedge shearing” unless directed by the CFX Landscape Architect. Hedge shearing shall be performed at Mainline Toll Plazas, limited areas at ramp toll booths, and the CFX Administration and Operations Center as directed by the CFX Landscape Architect. Hedge shearing of shrubs at Main Toll Plazas and the CFX Administration and Operations Center such as Viburnum sp., Indian Hawthorn, Confederate and Asiatic Jasmine, and Loropetalum shall be performed during each 3-week cycle to maintain a neat appearance, create separation between plants, and to provide a clear view of the toll lanes from inside the toll plaza building. Hedge shearing shall be performed during each 3-week cycle to Confederate Jasmine plantings not located at Main Toll Plazas to maintain a neat appearance, keep the plant height to 18” maximum, and to keep vegetation off of adjacent walls, curbs, gutters, fences and adjacent plant material. Desirable Confederate Jasmine growth on some Right of Way fence lines, as determined by the CFX Landscape Architect, shall only have dead material and weed growth removed.
- 7.2.3 Sand Cord Grass, Vetiver Grass, and Fakahatchee Grass shall be severely pruned once a year to a uniform height of 18”, beginning in December and to be completed by the end of January in the first year of the Contract. The pruning of the listed ornamental grasses shall be performed beginning in November and to be completed by the end of December in all subsequent years of the Contract. Dwarf Fakahatchee grass and Gulf Muhly grass shall not be pruned. Pampas Grass plantings shall not receive a severe annual pruning but shall have dead leaf blades and bloom stalks carefully removed as directed by the CFX Landscape Architect. Where pine straw mulch is present in the planting bed, approximately 25% of the clippings from the pruned Cord Grass (not Fakahatchee Grass) shall be spread evenly throughout the bed. The remaining 75% of the Cord Grass clippings shall be removed from the planting beds and properly disposed of off-site unless directed otherwise by the CFX Landscape Architect. All clippings from pruned Fakahatchee Grass and Vetiver Grass shall be removed from the planting beds and properly disposed of off-site. Cord Grass clippings shall not be dispersed in areas with pine bark mulch.
- 7.2.4 Ornamental grasses located at S.R. 417 - International Drive landscape improvements (i.e., Dwarf Reed Grass, Becca Grass, Tasred Flax Lily, Breeze Grass, Nafray Fountain Grass, Bamboo Grass) shall be pruned beginning in December and to be completed by the end of January in the first year of the Contract. The pruning of the listed ornamental grasses shall be performed beginning in November and to be completed by the end of December in all subsequent years of the Contract. Pruning heights for the various grass species vary between 18” and 24” and shall be as directed by the CFX Landscape Architect.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 7.2.5 All oleander plantings shall be severely pruned once every year, beginning in January and to be completed by the end of February. Oleanders shall be pruned to approximately 36"-48" height (2"-3" above the previous year's pruning height if possible) at roadside locations and to 6'-0" height at right of way edge locations, unless otherwise directed by the CFX Landscape Architect. Dwarf oleander plantings shall not be pruned unless otherwise directed by the CFX Landscape Architect. Contractor shall have initial pruning heights approved by the CFX Landscape Architect prior to proceeding with entire pruning effort. Areas pruned to incorrect heights prior to approval shall be re-pruned at no additional cost to the CFX.
- 7.2.6 All eleagnus plantings shall be severely pruned once every year in March to approximately 48" height at roadside locations and only the vertical face of plantings shall be pruned at right of way fence line locations to contain the plantings within the bed area. Eleagnus plantings located directly adjacent to right of way fence lines shall be pruned as necessary to maintain 24" of clear zone between the plant material and the fence fabric.
- 7.2.7 All Plumbago, Dune Sunflower, Firecracker Plant, and Lantana plantings shall be severely pruned once every year to approximately 12" height or as directed by the CFX Landscape Architect, beginning in March and to be completed by the end of April.
- 7.2.8 During each three week maintenance cycle, all Dune Sunflower plantings shall have all dead material carefully pruned out of the beds taking care not to disturb the remaining root material.
- 7.2.9 All Confederate Jasmine and Asiatic Jasmine plantings shall be tipped pruned / hedge sheered to approximately 12" - 18" height or as directed by the CFX Landscape Architect, during each three week maintenance cycle. Pruning shall also be performed to keep vegetation off of adjacent walls, signs, structures, fences, and adjacent plant material.
- 7.2.10 All Fire Bush, Texas Sage, Primrose Jasmine, and Bauhinia plantings shall be severely pruned to 30" height or as directed by the CFX Landscape Architect, once every year during April.
- 7.2.11 All Bougainvillea plantings shall be severely pruned to approximately 24" height or as directed by the CFX Landscape Architect, two times a year in May and September.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 7.2.12 All Perennial Peanut shall be pruned / mowed to approximately 6" height or as directed by the CFX Landscape Architect, four times a year in March, June, August, and November.
- 7.2.13 Juniper groundcovers and hedge material shall have dead / damaged material carefully pruned out in February prior to the March fungicide application to control Phomopsis Blight. Contractor shall continue to monitor and prune out dead material when found and as directed by CFX Landscape Architect. Prune 3" below damaged shoots and ensure that pruning equipment / clippers are sterilized after each cut by dipping the equipment in a pre-approved solution (alcohol, 1 part bleach / 3 parts water mix, or a commercial product). Solution and pruning technique must be pre-approved by the CFX Landscape Architect. The pruning and equipment sterilization procedure are to be followed every time dead material is removed from any juniper planting on the system.
- 7.2.14 All plant material located directly adjacent to Right of Way fence lines shall be pruned as necessary to maintain 24" of clear zone between the plant material and the fence fabric.
- 7.2.15 All plant material located within the raised median planter on S.R. 408 shall be pruned during each 3-week detailing cycle, as specified herein, and as directed by the CFX Landscape Architect to keep vegetation contained within the planter walls and not extending into the adjacent median shoulder "clear zone". Agave and Yucca plantings shall have "leaves" that extend over planter wall pruned at plant base only, not "tip pruned". Agave and Yucca bloom stalks shall be removed as directed by CFX Landscape Architect. Declining Agave and Yucca plants shall be removed following bloom as directed by the CFX Landscape Architect. Agave and Yucca "pups" shall be thinned, removed, or remain as directed by the CFX Landscape Architect following bloom.
- 7.2.16 The Contractor shall ensure that no clippings or debris generated from annual pruning operations are left along the roadways or behind guardrails overnight. Pruning efforts are to be coordinated so that all pruned material is collected daily and disposed of offsite.
- 7.2.17 During each 3-week detailing cycle, and/or as directed by the CFX Landscape Architect, pruning shall be performed as necessary to remove branches and vegetation damaged by storms, traffic accidents, etc., as part of the Contract. Repair of damaged areas such as re-grading and replanting shall be paid for from the Work Order Allowance. Cleanup activities following named storms shall be performed as part of the Contract, while any additional dump fees required shall be paid for out of

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

the Work Order Allowance (submit receipts with invoice). Allowance shall be made for the postponement of scheduled maintenance tasks in order to complete the clean-up activities.

7.2.18 During each 3-week detailing cycle and/or as directed by the CFX Landscape Architect, pruning shall also be performed, as necessary, to eliminate sight distance blockage at ramp interchanges, interfering with various site elements, traffic control/information signs, mileage markers, Wrong Way warning signs, etc., as well as to keep vegetation from extending over guardrails and sound walls. Contractor shall continuously monitor and maintain 500 feet of clear visibility distance (from outside "slow" lane) to all roadside signage.

7.3 Weed Control

7.3.1 The Contractor shall continuously maintain all mulched areas free of weeds by hand pulling or by chemical means, as environmental, horticultural, and weather conditions permit. Weed control in planting beds and tree rings by mechanical means such as string trimmers / weed eaters is strictly prohibited. Thorough weeding of all planting beds, mulched areas, and tree rings in each designated roadway landscape maintenance area shall be performed during each 3-week detailing cycle. All planting beds, mulched areas, and tree rings, from fence to fence, within each maintenance area shall be free of weeds prior to the maintenance personnel moving on to the next area. The generated debris collected shall be removed from the site before leaving the site for the day.

7.3.2 The Contractor shall also continuously maintain all roadway and sidewalk paving areas directly adjacent to any mulched areas free of weeds by hand pulling or by chemical means. This includes roadside paving areas in front of guardrails that are adjacent to planted and/or mulched areas maintained under this Contract. Weeds shall be controlled to the edge of asphalt paving along roadways. The work shall be performed in conjunction with and as specified above in specification 7.3.1

7.3.3 2.0% solution of Glyphos Pro (2.0 gallons of Glyphos Pro in 100 gallons of water) (or approved equal) may be spot sprayed as a post-emergence herbicide. Exercise caution to prevent over-spray onto desirable plants. The application mixture shall also include 'Brace' anti-drift material, or an approved equal, and an approved indicator dye. Follow label rates for the drift retardant and indicator dye. Use sufficient indicator dye so that the application progress may be monitored. Remaining visible weed growth, killed by herbicide application, shall be removed and disposed of off-site.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 7.3.4 During each 3-week maintenance cycle the Contractor shall control weeds with a 2.0% solution of Glyphos Pro (or approved equal) along all fence lines, including right-of-way fence lines, located within turf management areas and located adjacent to any ornamental planting bed maintained under this Contract. Apply the solution on a non-windy day and use anti-drift material to reduce droplet size. Dead vegetative material shall be entirely removed from the vertical surface of the fence fabric during subsequent cycles Fence lines that are separated from adjacent planting beds by turf areas maintained by others are not required to be treated.
- 7.3.5 During each 3-week maintenance cycle the Contractor shall control all weeds with a 2.0% solution of Glyphos Pro (or approved equal) located within the asphalt or concrete paving adjacent to any roadside ornamental planting bed or turf management areas maintained under this Contract. This includes any paving, wall, or guardrail locations where planting beds / mulched areas are directly next to these structures and not separated by any turf area maintained by others. All dead weed material shall be removed during the following maintenance cycle.
- 7.3.6 The post-emergence herbicides "Fusilade II" or "Certainty" may be sprayed "over the top" of non-grassy ornamentals for the selective control of actively growing grassy weeds. "Fusilade II" or "Certainty" shall not be used on Sand Cord Grass, Gulf Muhly Grass, Fakahatchee Grass, or other ornamental grass plantings. Follow label rates and instructions for the use of selective herbicide applications. Any plant material damaged by the application of selective herbicides shall be replaced by the Contractor as directed by the CFX Landscape Architect at no additional cost to the CFX. The Contractor perform two (2) blanket applications of a combination of Gallery 75DF and Pennant Magnum pre-emergence herbicides twice (2x) a year; mid-January to mid-February and May to control weed seed germination in all planting beds, mulched areas, and tree rings. Apply Gallery 75DF at a mixing rate of 16 ounces / 100 gallons of water and Cleary's Pennant Magnum at a mixing rate of 32 fluid ounces / 100 gallons of water. The application shall be performed at a rate of 2.3 gallons of mixture / 1,000 sf of planting area (100 gallons of mixture / acre). The application mixture shall also include 'Brace' anti-drift material, or an approved equal, and an approved indicator dye. Follow label rates for the drift retardant and indicator dye. Use sufficient indicator dye so that the application progress may be monitored. Avoid contact of the pre-emergence herbicide spray mixture with concrete paving, stone, wood or other porous surfaces to avoid staining.
- 7.3.7 Contractor shall submit a daily Pesticide Application Record (provided by the CFX Landscape Architect) reporting the herbicide application activities to the CFX Landscape Architect. Reports to be submitted via email on a weekly basis. (See section 5.0 - Chemical Applications).

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

7.4 Litter and Debris Removal

- 7.4.1 The Contractor shall be responsible for the pickup and removal of all non-hazardous items and continuously maintain all planting and mulched areas, No-Mow Areas , adjacent pond or ditch edges, and limited paving and other 'hardscape' areas free of litter and debris. Litter and debris includes, but is not limited to, all plastic and paper products, cans, glass, wood, rocks, bricks, pieces of concrete, tires, dead animals, palm fronds, palm boots, branches or limbs smaller than 10' long and 4" diameter. Limited paving areas include sidewalks, parking areas and driveways at all Main Toll Plazas within the scope of the Contract, the CFX Administration and Operations Center, and along guardrails, curb/gutter areas, and concrete swales directly adjacent to planting beds and turf areas maintained under this Contract.
- 7.4.2 Thorough removal of all litter and debris from all planting and mulched areas (and limited paving areas) shall be performed during each 3-week detailing cycle (with additional cycles performed as directed in sections 7.4.3 – 7.4.5). All planting beds and tree rings, from right of way fence to right of way fence, within the project limits shall be free of all litter and debris. The generated material shall be collected and removed from the site prior to the maintenance personnel moving on to the next area or leaving the site for the day. Mulch, fronds, boots, and other plant debris on paving areas and roadside shoulders adjacent to planting areas shall also be collected and removed.
- 7.4.3 Removal of litter and debris shall be performed once (1) a week at all S.R. 408 roadside planting beds inside of the sound walls and at all ramp locations down to surface streets from Interstate 4 to South Chickasaw Trail.
- 7.4.4 Removal of litter and debris shall be performed once (1) a week within limits of the CFX Administration and Operations Center property as listed in the Annual Landscape Maintenance Schedule (Attachment #1). The Contractor shall be responsible for blowing of all paved areas, raking of turf areas, and providing manual labor as necessary to collect, pickup and remove all litter, magnolia leaves, fronds, displaced bark mulch, and debris. The work is to be performed and completed in the early morning (prior to 8:00 am). Building entry areas shall be treated first to minimize disruptions to CFX employees arriving to work. Magnolia leaves shall be collected and removed from Asiatic jasmine beds during each cycle. Weekly cycles shall be scheduled so that they are performed on the morning of each of the monthly CFX Board Meetings. An annual schedule of the meeting dates shall be provided by the CFX Landscape Architect.
- 7.4.5 Removal of litter and debris shall be performed once (1) a week at all Main Toll Plazas within the scope of the Contract

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

7.4.6 All collected litter shall be removed daily. No collected litter shall be left on the project property overnight.

7.5 Mulching

7.5.1 The Contractor shall furnish and apply pine bark nuggets and pine straw mulch at ornamental planting beds, tree rings, and base of raised planter walls each year beginning in May and completing the application by the end of July, or as directed by the CFX Landscape Architect. "No-mow" buffer plantings shall not be mulched. The pine bark mulch shall be pine bark medium nuggets, 2" in size with no impurities such as foreign matter, large pieces of un-decomposed or shredded bark, or weed seeds. The pine bark mulch shall be clean, rustic in color, and shall smell fresh with no objectionable odor. The pine straw mulch shall be dry pine needles, free of noxious weeds.

7.5.2 The Contractor shall furnish and apply pine straw mulch for a second annual "limited" application at ornamental planting beds, tree rings, and base of the raised planter walls along S.R. 408 "Urban Corridor" - along Anderson Ave. and South St. from Delaney Ave. to Lake Underhill Rd. and along Lake Underhill Rd. from Conway Rd. to Goldenrod Rd. to be performed during the month of November, or as directed by the CFX Landscape Architect.

7.5.3 The pine bark mulch shall be distributed uniformly to a total settled depth of 3" throughout all of the ornamental planting areas and individual tree rings at all Mainline Toll Plazas and ramp toll booths within the scope of the Contract, the CFX Administration and Operations Center, and the S.R. 408 raised median planter each year beginning in May and completing in July. The limits of bark mulch applications at main toll plazas and toll booths shall match previous applications. At toll booth locations where previous applications are not evident, limit the bark mulch to 150' along the ramp in both directions from the toll booth structure, or apply as directed by the CFX Landscape Architect. If existing bark mulch depth is sufficient in some areas, only a top dressing is required. The Contractor shall submit a representative sample of the bark mulch to the CFX Landscape Architect for approval prior to performing the work.

7.5.4 The pine straw mulch shall be distributed uniformly to a total settled depth of 3" throughout all of the remaining ornamental planting areas, non-planted mulch areas, and individual tree rings located within the Contract limits (excluding No-Mow area plantings) that did not receive pine bark mulch and as directed by the CFX Landscape Architect.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 7.5.5 Clippings left in place from the annual pruning of cord grass shall be dispersed throughout adjacent beds prior to installing pine straw mulch. Pine straw mulch shall cover all clippings. Measured 3" settled depth to include clippings.
- 7.5.6 The Contractor shall remove all mulch that has been displaced onto adjacent roadways, shoulders, drainage structures, turf areas, etc. during each 3-week detailing cycle.
- 7.5.7 The Contractor shall submit a request for approval to the CFX Landscape Architect prior to placing mulch supply trailers on CFX property. See Section 4.2.2 - Operational Requirements for additional restrictions regarding mulch trailer usage.
- 7.5.8 Pine bark mulch and pine straw mulch shall comply with all applicable State of Florida mulch and compost laws and regulations. If mulch is delivered in bulk, provide documentation of content, quantity and weight at the time of application.

7.6 Fertilization

- 7.6.1 The ornamental shrub and groundcover fertilizer shall be granular 13-0-13 and shall be applied as described below. The Contractor shall provide the shrub and groundcover fertilizer, 13-0-13, containing the following:
- 13 % total nitrogen (containing 4.98 units of slow release nitrogen) derived from poly sulfur coated urea, ammonium sulfate, activated sewage sludge.
 - 0% phosphorus.
 - 13% potash (K₂O) derived from muriate of potash and sulfate potash of magnesia.

The fertilizer shall include the following minimum percentages of micronutrients:

- 2.00 % Water soluble magnesium (Mg)
- 0.19 % Manganese (Mn)
- 0.06 % Copper (Cu)
- 3.00 % Iron (Fe)
- 0.06 % Zinc (Zn)
- 0.02 % Boron (B)
- 7.44 % Sulfur (f)

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 0.0005 % Molybdenum (Mo)
 - 4.0 % Calcium (Ca)
- 7.6.2 Fertilizer shall be applied to all planting areas and tree rings (including all trees in No-Mow areas - except pines) three (3) times per year (March, June and September) at a rate of 7.5 pounds per 1,000 square feet of ornamental planting bed / tree ring or 327 lbs/acre, unless directed otherwise by the CFX Landscape Architect. Fertilizer may be applied by hand or by a mechanical spreader (approved by the CFX Landscape Architect) insuring uniform coverage. Application by hand shall be accurately performed or equipment shall be accurately calibrated to ensure that the specified application rate is followed. Fertilizer shall be applied to soil surface around each plant and not on plant crown. Fertilizer shall be applied when the shrub and groundcover material is dry and not over an early morning dew. Contractor to ensure that fertilizer is not left on foliage causing leaf burn.
- 7.6.3 Prior to the beginning of each application cycle, the Contractor shall first submit a copy of a state inspection of analysis of a random sample of the delivered fertilizer to be applied along with an actual certified fertilizer label for approval. If the fertilizer analysis does not meet or exceed the guaranteed analysis as stated on the product label (as determined by the CFX Landscape Architect), the entire shipment may be rejected. The Contractor may request that a different random sample of the delivered fertilizer be re-analyzed for approval prior to replacing the entire shipment. The Contractor shall submit an actual certified fertilizer label, legible and otherwise suitable condition to the CFX Landscape Architect for filing.
- 7.6.4 Fertilizer shall be stored in a dry location to avoid any moisture absorption; lumpy or wet fertilizer shall not be acceptable for application.
- 7.6.5 All fertilizer shall be kept out of water bodies and be removed immediately from all paved surfaces, concrete swales, walks, parking lots, and roadways.
- 7.6.6 If fertilizer is delivered in bulk, submit to the CFX Landscape Architect documentation of chemical content and weight at time of application. If bags of fertilizer are used, provide a sample bag tag and all product purchase and delivery receipts to CFX Landscape Architect to verify weight and content.
- 7.6.7 Daily Pesticide Application Records listing the fertilizer applied, rate of application, amount of fertilizer applied, and location of application shall be submitted to the CFX Landscape Architect on a weekly basis.

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

7.7 Insect and Disease Control

- 7.7.1 All landscape areas shall be continuously monitored (scouted) for infestations of insects, (aphids, mites, thrips, caterpillars, borers, scale, fire ants, etc.), and plant diseases. Contractor shall immediately notify the CFX Landscape Architect of discovered infestations/diseases and request directions for proper treatment. The CFX Landscape Architect shall also make periodic inspections of landscape areas to identify any infestations of insects or diseases and shall give directions to the Contractor for proper treatment. Once given application directions from the CFX Landscape Architect the Contractor shall perform the treatment for proper control within one week of notification or shall inform the CFX Landscape Architect within three days of notification of a proposed later application date. The CFX Landscape Architect shall determine if the application should take precedence over the performance of other scheduled tasks. Any treatments requiring multiple applications shall be performed at the intervals specified.
- 7.7.2 Applications required to control identified infestations of insects and plant diseases which threaten the health and vigor of existing plant material (other than the preventative applications listed in subsection 7.7.7) shall be performed as directed by the CFX Landscape Architect as part of this Contract. Payment for applications will be made from the Work Order/New Construction Allowance.
- 7.7.3 The Contractor shall follow all requirements as specified in section 5.0, Chemical Applications, for the performance of all pesticide and fungicide applications.
- 7.7.4 The Contractor shall notify the CFX Landscape Architect of any scheduled treatment prior to the execution of any chemical application. No applications shall be performed without prior notification to the CFX Landscape Architect. The Contractor may be required to re-perform any application performed without prior notification to the CFX Landscape Architect.
- 7.7.5 All over spray shall be prevented and contact with the public, their property or pets shall be strictly avoided.
- 7.7.6 All fire ant mounds located in planting areas or on paving areas directly adjacent to planting areas are to be spot- treated with 'Orthene' insecticide whenever mounds are observed. Applications shall be performed, at minimum, during each three (3) week maintenance cycle (17 cycles / year). Previously treated, non-active mounds shall be knocked down during the next detailing cycle and the soil dispersed and then covered with mulch. Re-treat mounds as necessary to kill ant colony.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

7.7.7 When the spreader sticker A-S Complex is specified in a listed application, the minimum mixing rate of 16 fluid ounces / 100 gallons of water (12 fl oz / 75 gal) shall be followed.

7.7.8 The following insecticide and fungicide applications shall be performed by the Contractor as noted herein and as listed in the Annual Maintenance Schedule (Attachment #1):

- Cord grass, Fakahatchee grass, Dwarf Fakahatchee grass, Vetiver grass, Gulf Muhly grass – Perform one (1) drench spray application (January) (following the completion of the annual Cordgrass, Fakahatchee, Vetiver grass pruning) with Prescription Treatment Ultra-Fine Oil to control scale. Apply at a mixing rate of 2.0 gallons / 100 gallons of water and provide constant mixture agitation during application. Apply directly into pruned plant crown (drench) to thoroughly coat all leaf blade surfaces. Applications may be made to sections of pruned grasses as the pruning proceeds in order to expedite the work.
- Nerium Oleander and Dwarf Oleander - Perform one (1) foliar / stem drench application with 'Prescription Treatment Ultra-Fine Oil' (March) to control Snow Scale. Apply 'Prescription Treatment Ultra-Fine Oil' at a mixing rate of 2.0 gallons / 100 gallons of water and provide constant mixture agitation during application. Apply to thoroughly coat all stem surfaces. Perform application immediately following annual pruning.
- Junipers (including Southern Red Cedars and Torulosa Junipers) (not located at Main Toll Plazas) - Perform two (2) foliar applications (June – repeat at 7 day interval) with 'Ardent' - or as directed by the CFX Landscape Architect, to control mites. Apply 'Ardent' at the mixing rate of 6.0 fluid ounces / 100 gallons of water. Apply to thoroughly coat all plant leaf (upper and lower) surfaces and stem surfaces. Prune dead / damaged material prior to application as directed.
- Coontie Palms (including at Main Toll Plazas and the S.R. 408 raised median planter) - Perform four (4) foliar applications with Prescription Treatment Ultra-Fine Oil (2x) (March – repeat at 7 day interval) and (2x) (as directed – repeat at 7 day interval) to control scale. Apply at a mixing rate of 2.0 gallons / 100 gallons of water and provide constant mixture agitation during application. Apply to thoroughly coat all plant leaf (upper and lower) surfaces and stem surfaces. Follow up 2nd oil applications at a (2) week interval with pressure washing of plant material (April and July) to remove sooty mold.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- All Plant Material (except ornamental grasses and coontie palms) at Main Toll Plazas, the CFX Administration and Operations Center, and the S.R. 408 raised median planter (except Yucca, Agaves, and other succulents) - Perform four (4) drench applications alternating with 'Banrot 40WP' (2x) (March, July) and 'Subdue MAXX' (2x) (May, September) Fungicides for Root Rot. Apply 'Banrot 40WP' at a mixing rate of 10 oz / 100 gallons of water and apply at 100 gallons / 400 square feet of bed area. Apply 'Subdue MAXX' at a mixing rate of 2.0 fl oz / 100 gallons of water and apply at 100 gallons / 400 square feet of bed area.
- All Plant Material (except ornamental grasses and coontie palms) at Main Toll Plazas, the CFX Administration and Operations Center, and the S.R. 408 raised median planter (except Yucca, Agaves, and other succulents) - Perform six (6) foliar applications alternating with a tank mixture of 'Cleary's 3336' and 'Flowable Mancozeb' (2x) (March - repeat at 14 day interval) alternating with 'Heritage' (2x) (May – repeat at 28 day interval - June) and followed by another tank mixture of 'Cleary's 3336' and 'Flowable Mancozeb' (2x) August - repeat at 14 day interval) Foliar Apps for Leaf Spot, etc. Apply 'Cleary's 3336' at a mixing rate of 12 fl oz and 'Flowable Mancozeb' at a mixing rate of 32 fl oz / 100 gallons of water. Apply 'Heritage' at a mixing rate of 3 fl oz / 100gallons of water. Spray foliage to cover upper and lower surfaces of leaves.
- All Plant Material at Main Toll Plazas, the CFX Administration and Operations Center, and the S.R. 408 raised median planter (except Yucca, Agaves, and other succulents) and all Oleander, Fakahatchee, Coontie, and Plumbago Plantings – Perform two (2) drench applications with 'Merit 2F' insecticide (1x) – April following annual pruning of Plumbago and (1x) as directed by the CFX Landscape Architect for Thrips, Aphids, Scale, and Caterpillars. Apply 'Merit 2F' at a mixing rate of 1.5 oz / 100 gallons of water and apply at 10 gallons of mixture / 1,000 square feet of bed area. **DO NOT APPLY TO FIREBUSH.**
- All Plant Material at Main Toll Plazas and the CFX Administration and Operations Center (except ornamental grasses, and coontie palms), and all Oleander, Fakahatchee, and Plumbago Plantings – Perform two (2) foliar applications with 'Conserve SC' (2x) (June-repeat at 7 day interval) or as directed by the CFX Landscape Architect, to control Thrips. Limits of application locations based on scouting. Apply 'Conserve SC' at a mixing rate of 11.0 fl oz / 100 gallons of water. Provide complete and uniform coverage to all plant leaf (upper and lower) surfaces and stem surfaces.
- All Plant Material at Main Toll Plazas and the CFX Administration and Operations Center (except ornamental grasses, and coontie palms), and all

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

Oleander, Fakahatchee, and Plumbago Plantings – Perform two (2) foliar applications alternating with 'Ardent' (1x) followed at a 14 day interval by 'Tristar' (1x) combined with 'Lure' (1x) insecticide (September) as directed by the CFX Landscape Architect to control Thrips. Limits of application locations based on scouting. Apply 'Ardent' at a mixing rate of 8.0 ounces / 100 gallons of water. Apply 'Tristar' at a mixing rate of 5 oz / 100 gallons of water. Tristar spray mixture to include Lure at a mixing rate of 32 oz / 100 gallons of water and A-S Complex spreader sticker. Apply to thoroughly coat all plant leaf (upper and lower) surfaces and stem surfaces. Localized applications may be directed to control limited pest pressure.

- All Plant Material at Main Toll Plazas, the CFX Administration and Operations Center, and the S.R. 408 raised median planter (except Yucca, Agaves, and other succulents), Dune Sunflower, and Junipers (including Southern Red Cedars and Torulosa Junipers) (not located at Main Toll Plazas) - Perform four (4) drench applications alternating with 'Banrot 40WP' (2x) (March, July) and 'Subdue MAXX' (2x) (May, September) Fungicides for Root Rot. Apply 'Banrot 40WP' at a mixing rate of 10 oz / 100 gallons of water and apply at 100 gallons / 400 square feet of bed area. Apply 'Subdue MAXX' at a mixing rate of 2.0 fl oz / 100 gallons of water and apply at 100 gallons / 400 square feet of bed area.
- All Plant Material at Main Toll Plazas, the CFX Administration and Operations Center, and the S.R. 408 raised median planter (except Yucca, Agaves, and other succulents), Dune Sunflower, and Junipers (including Southern Red Cedars and Torulosa Junipers) - not located at Main Toll Plazas - Perform six (6) foliar applications alternating with a tank mixture of 'Cleary's 3336' and 'Flowable Mancozeb' (2x-March - repeat at 14 day interval and 2x-August-repeat at 14 day interval) alternating with 'Heritage' (2x-May to June – repeat at 28 day interval) Foliar Apps for Leaf Spot, Powdery Mildew, and Phomopsis Blight.. Apply 'Cleary's 3336' at a mixing rate of 12 fl oz and 'Flowable Mancozeb' at a mixing rate of 32 fl oz / 100 gallons of water. Apply 'Heritage' at a mixing rate of 3 fl oz / 100gallons of water. Spray foliage to cover upper and lower surfaces of leaves.
- Fakahatchee grass, Vetiver grass - Perform two (2) spray / drench applications with 'Ardent' (2x at 7 day interval) following 2nd late season pruning to control identified Scale and Mite damage. Grasses in entire planting bed (not just damaged plantings) (or as directed by the CFX Landscape Architect) are to first be pruned to 18" height. Apply 'Ardent' at the mixing rate of 6.0 fluid ounces / 100 gallons of water. Apply directly into pruned plant crown to thoroughly coat all leaf blade surfaces. Apply Ardent to dwarf Fakahatchee grass, as well (do not prune dwarf Fakahatchee grass).

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- Oleanders and Fire Bush – Perform two (2) foliar applications with 'Bifen IT' as directed by the CFX Landscape Architect to control caterpillars and aphids. Apply 'Bifen IT' at the mixing rate of 21.7 ounces / 100 gallons of water. Localized applications may be directed based on scouting to control limited pest pressure.
- 7.7.8 All specified applications shall be performed on schedule as listed in the Annual Landscape Maintenance Schedule (Attachment #1). CFX reserves the right to cancel any application that is not performed on schedule and to deduct the cost of the application (based on the submitted Bid Form) from the Contractor's monthly compensation. Prior to the scheduled performance of an application, the Contractor may request a postponement or adjustment of its execution date for consideration by the CFX Landscape Architect. A postponement request does not relieve the Contractor of its obligation to perform the application on schedule as specified.
- 7.7.9 The Contractor shall perform all specified or directed applications at the specified intervals, with the specified mixing and application rates, using the correct application technique, and including all specified additives as listed above or as directed by CFX Landscape Architect.
- 7.7.10 Any re-application of pesticides or fungicides required due to Contractor negligence or improper application (as determined by the CFX Landscape Architect) shall be provided at the Contractor's expense. Re-application shall be initiated within one week of written notification unless directed otherwise by the CFX Landscape Architect. The cost of any application (based on the submitted Bid Form) not re-performed as directed may be deducted from the Contractor's monthly compensation.
- 7.8 Hand Watering
- 7.8.1 If determined necessary for the survival of existing plant material during periods of severe drought or to establish replacement plant material, the Contractor shall promptly provide hand watering, as directed by the CFX Landscape Architect, for all plant material not fully covered by irrigation. Hand watering shall be paid for out of the Work Order/New Construction Allowance at an agreed unit price per 2,000 gallons.
- 7.8.2 Water source for all hand watering shall be provided by the Contractor. All watering equipment shall be provided by and be the responsibility of the Contractor.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 7.8.3 Water trucks shall be provided by the Contractor as directed by the CFX Landscape Architect. Water trucks shall be equipped with a rear mounted arrow board that adheres to current MUTCD standards while operating on roadsides. A safety vehicle shall be provided by the Contractor and shall follow the water truck as it enters and leaves the shoulder locations, as well as during the water application within the shoulder locations. All operational procedures are subject to review and approval of the CFX Landscape Architect.
- 7.8.4 At the first sign of drought stressed condition of plant material, the Contractor shall promptly notify the CFX Landscape Architect and request approval to begin hand watering. The Contractor shall perform hand watering of plant material as directed by the CFX Landscape Architect.

8.0 TREE CARE

8.1 Description

- 8.1.1 Work to be done consists of pruning, weeding, litter and debris removal, mulching, staking, fertilizer application, insect and disease control, and tree removal at all existing ornamental (non- natural area) trees (including No-Mow areas) located at all CFX toll facilities, the CFX Administration and Operations Center, and right of way locations as described in Section 1.0 Project Scope. Detailing of all planted and mulched areas (including No-Mow areas) located on the CFX system within the project scope shall be performed once every three (3) weeks, with seventeen (17) 3-week maintenance cycles being performed per year. Tree care activities (pruning, weeding, litter and debris removal, staking, and removal of dead small caliper trees) shall be performed as necessary every three (3) weeks in conjunction with the ornamental planting areas detailing cycles. Chemical applications for insect and disease control and fertilizer applications shall be performed periodically as described below.
- 8.1.2 Tree care maintenance activities are to be performed as described herein and as noted in the Annual Landscape Maintenance Schedule (Attachment #1). The Schedule lists the frequency and intervals of all specified tree care tasks and shall be exactly followed in the performance of these tasks unless directed otherwise by the CFX Landscape Architect.
- 8.1.3 Re-performance of any tree care maintenance task, or re-application of any pesticide or fertilizer required, due to the Contractor's negligence or improper application (as determined by the CFX Landscape Architect) shall be provided at the Contractor's expense. Re-application shall be initiated within one week of written notification

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

unless directed otherwise by the CFX Landscape Architect. The cost of any application (based on the submitted Bid Form) not re-performed as directed may be deducted from the Contractor's monthly compensation.

- 8.1.4 Any turf or ornamental plant material damaged due to improper tree care maintenance activities shall be replaced by the Contractor, at no additional cost to CFX.

8.2 Pruning

- 8.2.1 Pruning in general shall consist of the removal of dead, broken, fungus-infected, insect-infected, superfluous, and intertwining branches, vines and the removal of dead or decaying stumps and all other superfluous growth within the project limits. The Contractor shall perform Class I and Class II pruning to all trees within the project limits as necessary to promote the safety and security of the CFX employees and customers by removing obstructions of roadway signage, ITS devices, roadway and toll plaza lighting; to provide clear views at pedestrian crossings and ramp interchanges; to provide clearance for mowing activities; to remove all dead/diseased/damaged wood and promote intended growth patterns and maximize aesthetics. Class I pruning shall mean pruning of all limbs and branches up to 1" in diameter and shall be performed throughout the year during the three-week detailing cycles. Class II pruning shall be performed once a year as directed by the CFX Landscape Architect. Class II pruning shall mean pruning of all limbs and branches between 1 ½" and 2" in diameter. Required pruning activities do not include canopy thinning. Only Class II pruning as directed by the CFX Landscape Architect for aesthetic reasons shall be paid for out of the Work Order/New Construction Allowance.
- 8.2.2 Equipment that will damage the bark and cambium layer shall not be used on or in the tree. For example, the use of climbing spurs (hooks, irons) is not acceptable work practice for pruning operations on live trees. Sharp tools shall be used so that clean cuts will be made at all times.
- 8.2.3 The Contractor shall remove all sucker growth from the base of all ornamental trees (including "No-Mow" buffers) during each 3-week maintenance cycle.
- 8.2.4 During each 3-week cycle and / or as directed by the CFX Landscape Architect, pruning shall be performed as necessary to remove branches, palm fronds, and vegetation overhanging and / or coming in contact with the building and roadway structures (i.e. main toll plazas, toll booths, roadway signage structures, ITS devices, bridges, sound walls, guardrails, etc.).

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 8.2.5 The Contractor shall immediately remove any limbs, which, in the opinion of the CFX Landscape Architect pose a threat to public safety (i.e., blocking vehicular sight distances, overhanging roadsides, overhanging pedestrian walkways, etc.). The Contractor shall provide equipment as necessary at no additional cost to the CFX.
- 8.2.6 During each 3-week detailing cycle and/or as directed by the CFX Landscape Architect, pruning shall be performed as necessary to remove branches and vegetation damaged / downed by storms, traffic accidents, etc.
- 8.2.7 During each 3-week detailing cycle and/or as directed by the CFX Landscape Architect, pruning shall also be performed, as necessary, to eliminate sight distance blockage interfering with various site elements, traffic control/information signs, pedestrian crossings, ramp interchanges, etc. Contractor shall continuously monitor and maintain 500' clear visibility distance (from outside "slow" lane) to all roadside signage.
- 8.2.8 The Contractor shall discuss pruning technique and methodology with and receive authorization from the CFX Landscape Architect prior to proceeding with pruning of following items:
- Oaks - Generally prune trees to maintain the desired uniform natural appearance by thinning or tipping. A prominent central leader should be visible. No topping shall be performed on oak trees. Branches are encouraged to hang over walks with adequate pedestrian clearance. The canopy of Oak trees shall not be lifted more than 8' from the ground at main toll plazas, ramps, and the CFX Administration and Operations Center parking / paved areas and in all turf areas to facilitate mowing operation underneath the tree canopy. All sucker growth shall be removed during each three-week maintenance cycle.
 - Crape Myrtle – All crape myrtle trees shall be pruned in February, as directed by the CFX Landscape Architect, to maintain a round head. Initial pruning each year shall be directly supervised by the CFX Landscape Architect to ensure proper techniques are used throughout the system. All annual Crape Myrtle pruning is to be completed by the end of February as directed by the CFX Landscape Architect. Severe topping shall not be performed. All sucker growth shall be removed during each three-week maintenance cycle.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- Ligustrum – All ligustrum trees shall be hand clipped as necessary to maintain an 18” clearance from adjacent structures, to maintain a 7’-0” vertical clearance over pedestrian walkways, and to maintain a mushroom shaped form as directed by the CFX Landscape Architect. Hand clipping also shall be performed to remove sucker growth during each three-week maintenance cycle.
- Magnolias - Prune only sucker growth and to maintain an attractive, pyramidal appearance. Lower foliage shall be retained unless additional removal is directed by the CFX Landscape Architect. Do not lift more than 2’ above finish grade unless necessary to create separation between lower foliage and exiting shrubs.
- Sabal Palms - The Contractor shall remove seed heads, dead fronds, and any fronds below the midpoint of the tree crown from all sabal palms located at all Main Toll Plazas, the CFX Administration and Operations Center, and the S.R. 408 raised median planter two (2x) times per year in January and July. Dead fronds on palms located in other areas shall remain on the trees and be removed offsite, along with boots and debris, when they fall from the tree. Initial pruning each cycle shall be as approved by the CFX Landscape Architect. Pruning cycles shall not be performed without prior approval by the CFX Landscape Architect.
- Pindo Palms - The Contractor shall remove seed heads, dead fronds, and any fronds below the midpoint of the tree crown two (2x) times per year in January and July from of all Pindo palms as directed by the CFX Landscape Architect. Initial pruning each cycle shall be as approved by the CFX Landscape Architect. Pruning cycles shall not be performed without prior approval by the CFX Landscape Architect.
- Washingtonia Palms - The Contractor shall remove seed heads, dead fronds, and any fronds below the midpoint of the tree crown from all Washingtonia palms located at the CFX Administration and Operations Center and the S.R. 408 raised median planter four (4) times per year in January, April, July, and October. Initial pruning each cycle shall be as approved by the CFX Landscape Architect. Pruning cycles shall not be performed without prior approval by the CFX Landscape Architect.
- Medjool Palms - The Contractor shall remove seed heads and dead fronds once per year in May from of all Medjool palms located at the CFX Administration and Operations Center, as directed by the CFX Landscape

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

Architect. The work shall be performed using a hydraulic lift and hand saw. Hand saw to be carefully cleaned and washed with a bleach solution or approved equal upon completion of one tree pruning and before beginning the pruning of another palm in order to prevent the spread of disease. Care shall be taken not to injure the head or trunk of the palm with equipment or falling debris. Pruning cycles shall not be performed without prior approval by the CFX Landscape Architect. Refer to Chemical Application section 8.7.3 for required fungicide application immediately after pruning

- Cypress, Maples, Sycamores, Bay Trees, Drake Elms – Prune only as directed by the CFX Landscape Architect. All sucker growth is to be removed during each three-week maintenance cycle.

8.2.9 Contractor shall prune all ornamental trees not listed above once (1) yearly during late winter/early spring (late February - March) or as directed by the CFX Landscape Architect.

8.3 Weed Control

Contractor shall perform weed removal from all tree rings within the project limits (excluding No-Mow area plantings) during each three-week cycle as described in section 7.3 above.

8.4 Litter and Debris Removal

Contractor shall perform litter and debris removal from all tree rings within the project limits (including No-Mow area plantings) during each three-week cycle as described in section 7.4 above.

8.5 Mulching

Contractor shall maintain 60" minimum diameter mulched tree rings at all trees located in turf areas within the project limits (excluding No-Mow area plantings) or as directed by the CFX Landscape Architect. See section 7.5 above for specifications regarding mulch type, depth, and installation/maintenance requirements.

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

8.6 Fertilization

8.6.1 Contractor shall fertilize all ornamental trees located within the project limits (including No-Mow area plantings), except pines, with 13-0-13 as per the specifications listed in section 7.6 above.

8.7 Insect and Disease Control

8.7.1 All landscape areas within the project limits shall be continuously monitored for infestations of insects, (caterpillars, mites, borers, scale, fire ants, etc.), and plant diseases. Contractor shall immediately notify CFX Landscape Architect of discovered infestations/diseases and request directions for proper treatment. Once given application directions from the CFX Landscape Architect, the Contractor shall immediately perform the treatment for proper control. Contractor shall submit a daily Pesticide Application Record (provided by the CFX Landscape Architect) reporting the application activities report to the CFX Landscape Architect on a weekly basis.

8.7.2 When the spreader sticker A-S Complex is specified in a listed application, the minimum mixing rate of 16 fluid ounces / 100 gallons of water (12 fl oz / 75 gal) shall be followed.

8.7.3 The following insecticide and fungicide applications shall be performed by the Contractor as noted herein and as listed in the Annual Maintenance Schedule (Attachment #1):

- Crape Myrtles – Perform four (4) drench applications alternating with 'Banrot 40WP' (2x) (March, July) and 'Subdue MAXX' (2x) (May, September) Fungicides for Root Rot. Apply 'Banrot 40WP' at a mixing rate of 10 oz / 100 gallons of water and apply at 100 gallons / 400 square feet of root ball area. Apply 'Subdue MAXX' at a mixing rate of 2.0 fl oz / 100 gallons of water and apply at 100 gallons / 400 square feet of root ball area.
- Crape Myrtles – Perform four (4) foliar applications alternating with 'Heritage' (2x) (May - June at 28 day interval) with a tank mixture of 'Cleary's 3336' and 'Flowable Mancozeb' (2x) (August at 14 day interval) or as directed by the CFX Landscape Architect, to control powdery mildew. Apply 'Heritage' at a mixing rate of 2.0 fluid oz / 100 gallons of water. Apply 'Cleary's 3336' at a mixing rate of 12 fl oz and 'Flowable Mancozeb' at a mixing rate of 32 fl oz / 100 gallons of water. Spray mixtures to include A-S Complex spreader sticker.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- Crape Myrtles –Perform two (2) drench applications with 'Merit 2F' (2x) (April, July) insecticide, or as directed by the CFX Landscape Architect, for Aphids. Apply 'Merit 2F' at a mixing rate of 1.5 oz / 100 gallons of water and apply at 20 gallons of mixture / 1,000 square feet of root ball area.
- Crape Myrtles –Perform two (2) foliar applications with 'Tristar' insecticide as directed by the CFX Landscape Architect to control aphids. Apply Tristar' at a mixing rate of 5 oz / 100 gallons of water. Tristar spray mixture to include A-S Complex spreader sticker. Apply to thoroughly coat all plant leaf (upper and lower) surfaces and stem surfaces.
- Magnolias – Perform three (3) foliar applications of a combination of 'Prescription Treatment Ultra-Fine Oil' insecticide and 'Cleary's 3336' fungicide (March, June, and September) or as directed by the CFX Landscape Architect to control scale and sooty mold. Apply Prescription Treatment Ultra-Fine Oil at the label rate of two (2) gallons / 100 gallons of water and Cleary's 3336 at a mixing rate of 14 fluid ounces / 100 gallons of water. Provide constant mixture agitation during application.
- Palm Trees - Monitor for signs of Ganoderma Zonatum 'Butt Rot' (fungal brackets on trunk, mushrooms at base, or softness of trunk). When identified by either the Contractor or the CFX Landscape Architect, the infected tree shall be immediately removed including the stump and entire root mass to an offsite location and destroyed. The cost of the removal will be paid for from the Work Order/New Construction Allowance.
- Pindo Palms, Medjool Palms – Perform four (4) bud drench applications of 'Aliette WDG' fungicide (March, May, July, and September) or as directed by the CFX Landscape Architect. Apply Aliette WDG at a mixing rate of 2.5 pounds / 100 gallons of water. Use proper equipment and sufficient quantity of material to thoroughly soak palm bud.
- Pindo Palms, Medjool Palms – Perform four (4) root drench applications of 'Banrot 40WP' fungicide (March, May, July, and September) or as directed by the CFX Landscape Architect to control root rot. Apply at a mixing rate of 8.0 ounces / 100 gallons of water per 400 square feet (equivalent to 1 quart / sf) of bed area.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- Pindo Palms, Medjool Palms - Perform two (2) bud drench applications of 'Merit 2F' insecticide (March and July) or as directed by the CFX Landscape Architect to control weevils. Apply 'Merit 2F' at a mixing rate of 1.5 oz / 100 gallons of water.
- Medjool Palms – Perform two (2) bud and trunk drench applications of 'Cleary's 3336' Fungicide (July - 2X at 14 day interval) bud and trunk drench - immediately after annual pruning. Apply 'Cleary's 3336' at a mixing rate of 16 fl oz / 100 gallons of water. Use proper equipment and sufficient quantity of material to thoroughly soak palm bud and trunk.

8.7.4 Any re-application of pesticides or fungicides required due to Contractor negligence or improper application (as determined by the CFX Landscape Architect) shall be provided at the Contractor's expense.

8.8 Hand Watering

Contractor shall perform hand watering at any trees located within the project limits as directed by the CFX Landscape Architect and as per the specifications in section 7.8 above.

8.9 Staking

8.9.1 The Contractor shall ensure all newly installed and existing trees are maintained in a straight and plumb position (including No-Mow area plantings), Tree staking inspection and correction shall occur during each three-week maintenance cycle.

8.9.2 Contractor shall provide, install and maintain staking / guying material as necessary to secure trees in straight and plumb position.

8.9.3 The Contractor shall use only staking and guying material shall be approved by the CFX Landscape Architect prior to use. The Contractor shall install all staking / guying material in a manner that does not damage the tree.

8.9.4 Remove staking / guying material only as directed by the CFX Landscape Architect.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

8.10 Tree Removal

- 8.10.1 Contractor shall be required to remove any tree, as directed by the CFX Landscape Architect within the project limits. Payment from tree removal and disposal for trees larger than 3" caliper will be made from the Work Order/New Construction Allowance. Smaller caliper trees, 3" or less, which can be cut at ground level, shall be removed (as directed by the CFX Landscape Architect) at no additional cost to the CFX.
- 8.10.2 The removal of trees shall be performed so as not to damage adjacent healthy trees and shall be accomplished by removing and lowering to the ground suitable sized sections of limbs or trunk starting at the top and working progressively downward to the ground. The main trunk shall be sawed at or below the ground surface.
- 8.10.3 Before making any cuts, suitable ropes, slings, guide lines, and block and tackle shall be securely fastened to the section to be removed in a manner that will prevent free, rapid, uncontrolled descent of that section. All safety precautions must be observed to avoid injury.
- 8.10.4 No limb or section of a tree shall be left in place after the first cut has been made for its removal.
- 8.10.5 Stumps shall not be left on-site. Contractor shall grind large hardwood stumps to level of finish grade as directed by CFX Landscape Architect. Stump grinding and removal shall be paid for from the Work Order/New Construction Allowance.
- 8.10.6 Palm trees determined to be infected with Ganoderma Zonatum 'Butt Rot' shall be entirely removed, including stump and root mass, and shall be immediately and properly disposed of off-site. Stump grinding of palms with Ganoderma Zonatum is strictly prohibited.
- 8.10.7 All underbrush, shrubs, and trees removed shall be immediately and properly disposed of off-site.
- 8.10.8 Contractor shall provide, install, and compact to level grade a sufficient quantity of accepted fill soil as necessary to re-establish original grade.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

9.0 NO-MOW AREAS

- 9.1 No-Mow Areas are described as specific locations on the CFX system within the project limits where trees (pines, oaks, maples, and cypress) and large shrubs (wax myrtles, Viburnum obovatum, fire bush, saw palmetto, etc.) are planted closely together creating visual barriers (buffers) to on-site and off-site views. The existing bahia turf between the trees is left un-mowed, creating a naturalistic appearance. No-Mow area limits-of-work extend 36" into adjacent turf areas from the outermost tree trunk or understory shrub edge in the planting. All No-Mow areas to be maintained under this Contract are delineated in the No-Mow Area Reference Maps (Attachment #3).
- 9.2 All No-Mow areas shall be maintained during each three week detailing cycle in terms of litter and debris removal and pruning and removal of dead plant material as described in Section 7.0 Shrubs/Vines/ Groundcover Care and in terms of tree pruning and staking in Section 8.0 Tree Care. Weed removal "cleaning" shall occur three (3) times a year as described below.
- 9.3 The Contractor shall be responsible for the complete removal of all noxious weeds (e.g., dog fennel, ragweed, Spanish needle, guinea grass, primrose willow, etc.) and all climbing vines three (3) times a year (April, July, and October) from each No-Mow area location within the project limits. Each "cleaning" cycle shall be completed in its entirety at all No-Mow areas within sixty (60) days.
- 9.4 The removal of all weeds shall be performed in a manner that will not be detrimental to any surrounding desirable vegetation (Bahia turf, Slash Pines, Oaks, saw palmetto, etc.) Hand pulling and removal of weed growth is recommended. The use of pre- or post-emergence herbicides is prohibited within the No-Mow area limits. String trimming is prohibited within the No-Mow area limits.
- 9.5 Mulching of No-Mow areas is permitted where turf growth is sparse. Mulch coverage shall be maintained during each 3-week cycle. Slope stabilization shall not be compromised due to loss of turf removed or shaded out by excessive mulch coverage. Slope failure caused by intentional turf removal or turf lost due to Contractor negligence shall be repaired by the Contractor at no additional cost to the CFX.
- 9.6 All debris generated from the cleaning of each No-Mow area shall be collected and removed from the site. Debris shall be allowed to be left onsite for no more than two days before it shall be collected and removed. No collected debris shall be left on the project property over the weekend.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

9.7 Any re-performance of weed removal, (or other specified maintenance task) required due to Contractor negligence or incomplete performance (as determined by the CFX Landscape Architect) shall be provided at the Contractor's expense. Any turf or plant material damaged due to improper maintenance activities (as determined by the CFX Landscape Architect) shall be replaced by the Contractor, at no additional cost to the CFX.

10.0 IRRIGATION SYSTEMS

10.1 General Requirements

10.1.1 The Contractor shall be responsible for the monitoring, adjustment, maintenance, and repair of the irrigation systems at all Mainline Toll Plazas within the project scope, CFX Administration and Operations Center, and the S.R. 417 / International Drive within the project limits to ensure that all plant material watered by each system receive sufficient moisture to maintain plant health and vigor. Mainline Toll Plazas with irrigation systems to be maintained under this contract include the Hiawassee MTP, Pine Hills MTP, Conway West MTP, Conway East MTP, and Dean MTP on S.R. 408; and the John Young MTP, Boggy Creek MTP, Curry Ford MTP, and the University MTP on S.R. 417.

10.1.2 The Contractor shall assign a specific individual to be the project Irrigation Manager, as stated in section 2.3 - Contractor's Personnel, Subcontractors and Sub-consultants. The Irrigation Manager will be the CFX Landscape Architect's point of contact regarding all CFX irrigation system issues. The Irrigation Manager shall perform / review all inspections and schedule and over-see all necessary repairs, upgrades, adjustments, etc. to all CFX irrigation systems as necessary or as directed by the CFX Landscape Architect.

10.1.3 The Contractor shall promptly perform system repairs as necessary to ensure continual, full operation of all system parts with limited disruption of the irrigation program. The cost of the repair/replacement of pumps, timers, and control valves shall be paid for from the Work Order/New Construction Allowance. The cost of all other system repairs/replacements shall be included as part of this Contract.

10.1.4 Each automatic irrigation system shall be programmed, as necessary, to provide watering frequency sufficient to replace soil moisture at the plant material root zone.

10.1.5 All irrigation systems shall run between 12:00 a.m. and 6:00 a.m. at all Mainline Toll Plazas and S.R. 417 / International Drive and between 7:00 p.m. and 6:00 a.m. at the CFX Administration and Operations Center and in accordance with water usage restrictions in effect through the St. Johns River Water Management District. Any digression from this schedule requires the approval of the CFX Landscape Architect.

SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- 10.1.6 Any modifications to the irrigation systems shall be submitted to the CFX Landscape Architect in writing for approval. If the original request is not satisfactory to the CFX Landscape Architect an alternate plan may be requested. The Contractor shall submit detailed "as-built" record drawings to the CFX Landscape Architect within thirty (30) days after work is completed.
- 10.1.7 The Contractor shall provide qualified, certified and capable subcontractors and suppliers to supply services and parts that are equal to or better than the services and parts that were previously used or found in use and with 100% compatibility with existing equipment. All parts are subject to approval by the CFX Landscape Architect prior to installation.
- 10.1.8 The Contractor shall prepare an estimate of cost for parts/tests and labor and receive a work order from the CFX Landscape Architect prior to proceeding with any repair and/or replacement of equipment. The work order will indicate the work to be performed and the agreed compensation.
- 10.1.9 The Contractor shall guarantee for the entire length of the Contract term, (5) years, the workmanship of a repair. In the event the repair fails within the guarantee period and such failure is the result of the parts provided by the Contractor or the workmanship of the Contractor, the corrections shall be made by the Contractor at no additional cost to the CFX.
- 10.2 Monitoring/Adjustments
- 10.2.1 The Contractor shall inspect the entire operation of each system all Mainline Toll Plazas within the project scope and the S.R. 417 / International Drive and perform any maintenance required to keep system fully operational no less than once each month. The Contractor shall also inspect the irrigation system at CFX Administration and Operations Center no less than once each week throughout the year and perform any maintenance required to keep system fully operational and perform any adjustments to the system or timer to ensure optimum turf health in response to weather conditions. A written Monthly Inspection Report shall be forwarded to the CFX Landscape Architect once each month. Contractor shall submit report format to the CFX Landscape Architect for approval. During each inspection, the Contractor shall perform the following:
- Activate each zone of the existing system.
 - Visually inspect the operation of all spray heads and check for, report, and immediately repair any damaged heads or ones needing repair.
 - Immediately adjust any heads as necessary to ensure that overspray is not occurring on buildings, walkways, roadways or any other structures.
 - Ensure the proper operation of all spray heads and that coverage to target planting areas is sufficient for proper healthy landscape growing conditions.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- Spot check the proper function of drip irrigation lines in each zone by excavating varying sections of the line. Re-bury exposed sections following inspection.
- The flush valve on the end of drip irrigation lines in each zone shall be opened and the line flushed for a minimum of one minute or longer as necessary until the water flows clear from the valve.
- Adjust the zone run times and number of watering days as necessary in response to current weather conditions to ensure optimal moisture is provided for proper healthy landscape growing conditions.

10.2.2 The Contractor is responsible for making any adjustments required to the controllers to ensure the desired moisture level is being provided for all plantings as they relate to seasonal changes, weather conditions, and soil conditions.

10.2.3 Spray patterns for all irrigation heads shall be adjusted, if required for proper coverage, when detected by the Contractor or as directed by the CFX Landscape Architect.

10.2.4 Any adjustments to the spray nozzles, spray patterns, controllers, etc., required to provide optimum growth of the landscape shall be performed by the Contractor.

10.3 Valve/Valve Boxes

10.3.1 The Contractor shall provide miscellaneous cleaning of valves for proper functioning once annually in February and on an as needed basis. Valve cleaning activities shall be described in submitted Monthly Irrigation Reports.

10.3.2 The Contractor shall ensure that all valve boxes remain flush and level with grade. The valve boxes shall be kept free of any overgrowth of plant material or sod. The interior of each box shall be kept clean and lined with pea gravel, as needed, per the original construction details.

11.0 PLANT REPLACEMENT

11.1 During the Contract term, any plant material under the care of the Contractor that dies or is severely damaged due to the negligence of the Contractor (as determined by the CFX Landscape Architect) shall be replaced at no cost to the CFX. The CFX Landscape Architect shall determine the extent of the lost / damaged material to be replaced and shall prepare a Plant Replacement List and Plant Replacement Map(s) to be forwarded to the Contractor. Upon receipt of the Plant List and Plant Replacement Map(s), the Contractor shall submit tentative installation schedule for review and approval. The Contractor shall begin the replacement effort within (30) days of receipt of the Plant List and Plant Replacement Map(s). The plant replacement installation work, once begun, shall proceed uninterrupted

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

until completion and acceptance by the CFX Landscape Architect. In the event that a required plant replacement effort is not performed as directed or is not performed within the time frame listed above, the CFX reserves the right to withhold the amount for the replacement material (based on average current industry costs) from the Contractor's monthly compensation until the work is completed to the CFX's satisfaction.

- 11.2 Upon completion of installation and acceptance by the CFX Landscape Architect, the establishment period (365) days for shrubs, vines, and groundcovers; and a (730) days for trees and palms; shall begin during which the Contractor shall provide establishment watering and maintenance as necessary to promote optimal plant health.
- 11.3 Upon installation, the replacement material shall be included in the ongoing Contract scheduled and as directed maintenance tasks and applications (including pest / disease control, fertilization, etc.). Any additional mulching as necessary following planting shall be performed as directed by the CFX Landscape Architect.
- 11.4 Payment for all Contract specified maintenance tasks and applications (including additional mulching) performed in the care of the replacement material shall be from the Work Order / New Construction Allowance and shall be based upon the current Contract Price Proposal unit costs.
- 11.5 During the establishment period, any plant material that shows indication of non-survival or lack of health and vigor, or which fails at any time to qualify for the minimum grade as originally specified, will be rejected by the CFX Landscape Architect and shall be replaced, at no additional cost to the CFX, within (21) days of notification of rejection, The new material shall begin a one-year or two-year establishment period from the new date of installation.
- 11.6 All plant material provided by the Contractor shall be Florida #1 or better as outlined in the 'Florida Grades and Standards for Nursery Plant Material'. All plant material is subject to review and approval by the CFX Landscape Architect.
- 11.7 The Contractor shall provide additional manpower and equipment as necessary to complete the plant replacement projects within the time frame of the approved installation schedule. The manpower and equipment provided shall be in addition to the minimum required (as stated in section 2.3) for the accurate performance of the Contract specified and directed maintenance tasks and applications.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

- 11.8 All operations and procedures stated in section 4.0 shall be strictly adhered to in the performance of any plant replacement projects, particularly the safety requirements for roadside operations. Watering trucks shall have an arrow board that adheres to current MUTCD standards while operating on roadsides. All operational procedures are subject to review and approval of the CFX Landscape Architect.
- 11.9 Any lane closures required for the installation of material shall be performed as per CFX and MUTCD standards.

12.0 ADDITIONS TO PROJECT SCOPE

- 12.1 During the five (5) year Contract term and possible (5) one year extensions, it is anticipated that numerous landscape improvement projects on the CFX system will be designed, completed, and added to the Contract scope. The New Construction / Work Order Allowance amount included in the Contract will be utilized to fund the addition of these projects to the Contract Scope. Following completion of installation and establishment of the landscape improvement project, and prior to project turn over, the CFX Landscape Architect shall prepare a price proposal for the addition of the landscape improvements into the current Contract scope, based on the unit costs listed in the initial Contract pricing. The Contractor may submit, for review by the CFX Landscape Architect, any requested changes to the price proposal based on the lowest unit costs from the initial Contract pricing or current pricing in effect based on CPI index changes incorporated for renewal years 6 thru 10.
- 12.2 The Contractor shall inspect the newly installed material under each project and notify the CFX Landscape Architect as to any problems or concerns that should be addressed prior to accepting the improvements for maintenance. Upon acceptance of the project for maintenance, the Contractor assumes full responsibility for the continued health of the plant material. Any material lost or damaged after acceptance due to negligence on the part of the Contractor (as determined by the CFX Landscape Architect) shall be replaced by the Contractor at no cost to the CFX. The Contractor will not be responsible for plant material lost due to uncontrollable circumstances (i.e., traffic accidents, incurable plant diseases - Ganoderma Zonatum, damage by others, etc.).
- 12.3 Upon receipt of written acceptance by the Contractor of the landscape improvements, the Contractor shall begin performance of all maintenance tasks pertaining to the newly added material as per the Contract specifications and the Annual Landscape Maintenance Schedule. The Contractor is responsible for the performance of all scheduled tasks from the start date noted by the CFX Landscape Architect.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411
S.R. 408, S.R. 417 and the CFX Administrative and Operations Center**

13.0 ROADWAY CONSTRUCTION PROJECTS

During the Contract term, sections of the CFX system may be removed from the Contract scope due to ongoing roadway improvement construction projects. When landscape improvements currently maintained under the Contract are removed from the project scope, the cost to CFX for the maintenance tasks to be performed in those areas shall be deducted from the monthly invoices submitted by the Contractor. The amount of the construction deduction shall be calculated based on pricing from the Price Proposal, required maintenance tasks listed in the Annual Maintenance Schedule, and plant material and right of way area quantities determined from site maps and field inventories. The CFX Landscape Architect will forward to the Contractor a spread sheet identifying the information used to determine each monthly deduction and a listing of the deduction totals. The information shall be sent via email no later than one week prior to the end of each month.

14.0 EMERGENCY RESPONSE

14.1 General

The Contractor shall, on a timely and efficient basis, respond to any and all requests, and perform all repairs, inspections, and observations, etc., stipulated in this Scope of Services. The Contractor shall provide supervisory, operating and maintenance personnel as required who shall be available on call 24 hours per day, 7 days per week to respond to and correct any problems with any of the elements covered by the Contract.

Response time, unless otherwise directed by the CFX Landscape Architect, required by the Contractor for various maintenance activities is as follows (none posing a public safety hazard):

- Irrigation adjustments (controller, valves, spray heads) - 24 hours
- Removal of litter / debris generated by landscape maintenance activities - 24 hours
- Standard repairs - one week
- Plant material replacement – one month

Should the Contractor fail to respond to a request for any services addressed herein within the required allotted time, the CFX will, at the Contractor's sole expense, provide the requested services.

14.2 Emergency Response Plan

The Contractor shall develop, prepare and implement an Emergency Response Plan (ERP) to address emergency situations including, but not necessarily limited to:

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

- Irrigation line breaks
- Irrigation equipment failures
- Downed trees

Additionally, the ERP shall address the following:

- Responsible parties to be notified.
- Personnel, equipment, and emergency repair contractors on call and who will respond to each type of emergency.
- Procedures for notifying the CFX Landscape Architect, utility companies and others affected by the listed emergency.

Four (4) copies of a draft of the plan shall be submitted to the CFX Landscape Architect within 30 days after the date of the Notice to Proceed. The CFX Landscape Architect will review the plan and meet with the Contractor to resolve any concerns and to finalize the plan. A final plan, including all corrections/changes required by the CFX Landscape Architect shall be submitted by the Contractor within 60 days after the Notice to Proceed.

15.0 WORK ORDER / NEW CONSTRUCTION ALLOWANCE

15.1 The CFX has established a Work Order / New Construction Allowance pay item which is included in the Contract Price. The intent of this allowance is to cover the cost of work not otherwise anticipated, work that may be anticipated but cannot be accurately quantified, and work anticipated as new landscape construction projects or repair and renovation areas added to the Contract scope.

15.2 Unless necessitated due to Contractor negligence or failure to perform, payment will be made to the Contractor from the Work Order / New Construction Allowance for the following work activities authorized and accepted by the CFX's Landscape Architect:

1. Tree removal and disposal (solid trunk with 3"+ caliper).
2. CFX Landscape Architect directed cycles/frequencies of mowing, weed/disease/insect control, fertilizer/fungicide applications, plant/tree trimming, pruning and shaping exceeding the cycles/frequencies specified herein.
3. Irrigation system repairs (Repair/replacement of pumps, timers, and control valves only) and modifications / additions to systems as directed by the CFX Landscape Architect.
4. CFX directed plant replacement (repair and renovation projects). (Not due to Contractor negligence)
5. Work performed as directed by CFX Landscape Architect in areas removed from the project scope due to roadway construction.
6. Work performed for the CFX, as directed by CFX Landscape Architect, that is not included in the project scope.

**SCOPE OF SERVICES
LANDSCAPE MAINTENANCE SERVICES
CONTRACT NO. 001411**

S.R. 408, S.R. 417 and the CFX Administrative and Operations Center

7. Addition of completed landscape construction project improvements into Contract scope.
8. The performance of supplemental watering as necessary to help maintain the health of existing material during periods of severe drought.

15.3 Any amount remaining in the Work Order / New Construction Allowance upon completion and acceptance of the project remains the property of the CFX.

16.0 CONTRACT TERM AND BEGINNING WORK

16.1 Following execution of the Contract, the CFX will issue to the Contractor a written Notice to Proceed for the project.

16.2 The Contract term will be three (3) years with an option to extend the Contract for 2 one-year renewal periods. Exercise of the options will be made at the sole discretion and election of CFX. CFX will provide written notice of its exercise to the Contractor at least 120 days prior to the expiration of the initial three year Contract Term. If the Contractor can reasonably demonstrate that its costs of Contract performance have materially increased such that CFX's unilateral exercise of the option would be inequitable, the Contractor may refuse CFX's exercise of the option. Such refusal must be communicated to CFX in writing within 30 days from the date the Contractor receives CFX's notice of intent to exercise the option. The Contractor shall provide to CFX within that same 30 day period documentation supporting its claim that its costs of Contract performance have materially increased. As an alternate to refusal, the Contractor may propose revisions to the terms and conditions of the Contract, including the need, if any, for financial adjustments. In the event that revisions proposed by the Contractor are agreed to by CFX, such revisions will be incorporated in a Supplemental Agreement to the Contract. If CFX does not agree to the Contractor's proposed revisions, CFX will not exercise the option to extend the Contract.

17.0 ATTACHMENTS

- 17.1 Attachment #1 – Annual Maintenance Schedule
- 17.2 Attachment #2 – Turf Management Area Reference Maps (Mowing Areas)
- 17.3 Attachment #3 – “No-Mow” Area Reference Maps


END OF SCOPE OF SERVICES

**CONSENT AGENDA ITEM
#20**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 19, 2021

SUBJECT: Approval of Contract Award to Arazoza Brothers Corporation
for SR 408 Landscaping from SR 417 to Alafaya Trail
Project No. 408-830, Contract No. 001804

An Invitation to Bid for the above referenced project was advertised on June 13, 2021. Three (3) responses were received by the July 13, 2021 deadline.

Bid results were as follows:

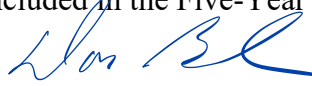
<u>Bidder</u>	<u>Bid Amount</u>
1. Arazoza Brothers Corporation	\$1,998,647.90
2. Aero Groundtek, LLC	\$2,487,458.18
3. LaFleur Nurseries and Garden Center, LLC	\$3,395,699.60

The engineer's estimate for this project is \$2,061,724.05. Included in the Five-Year Work Plan is \$2,072,000.00.


The work to be performed includes providing all labor, materials, equipment and incidentals necessary for landscape improvements with a two-year establishment period along SR 408 from SR 417 to Alafaya Trail.

Board award of the contract to Arazoza Brothers Corporation in the amount of \$1,998,647.90 is requested.

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

Reviewed by: 

Don Budnovich, PE
Director of Maintenance



Glenn Pressimone, PE

CONTRACT



AND

ARAZOZA BROTHERS CORPORATION

**SR 408 LANDSCAPING FROM SR 417
TO ALAFAYA TRAIL**

PROJECT NO. 408-830, CONTRACT NO. 001804

**CONTRACT DATE: AUGUST 12, 2021
CONTRACT AMOUNT: \$1,998,647.90**

**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 LANDSCAPING FROM SR 417 TO ALAFAYA TRAIL
PROJECT NO. 408-830, CONTRACT NO. 001804**

AUGUST 2021

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
C	CONTRACT	C-1 to C-2
	Memorandum of Agreement	1 to 5
GS	GENERAL SPECIFICATIONS	1 – 129
	Attachment A	ATT-1 to ATT-9
	(See General Specifications Table of Contents for listing of individual specifications sections.)	
TS	TECHNICAL SPECIFICATIONS	TS-1 to TS-2
	(See Technical Specifications Table of Contents for listing of individual specifications sections.)	
SP	SPECIAL PROVISIONS	SP-1 to SP-2
	(See Special Provisions Table of Contents for listing of each special provision.)	
	Addendum No. 1	Addendum No. 2
P	PROPOSAL	P-1 to P-13
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2
PCB	PUBLIC CONSTRUCTION BOND	PCB-1 to PCB-4
Plans		

CONTRACT

This Contract No. 001804 (the “Contract”), made this 12th day of August 2021, between CENTRAL FLORIDA EXPRESSWAY AUTHORITY, hereinafter called CFX and ARAZOZA BROTHERS CORPORATION, of 7027 Southwest 87 Court, Miami, FL 33173, 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. 408-830, SR 408 Landscaping from SR 417 to Alafaya Trail, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 820 calendar days. The Contract Amount is \$1,998,647.90. This Contract was awarded by the Governing Board of CFX at its meeting on August 12, 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: _____
Director of Procurement

Print Name

DATE: _____

ARAZOZA BROTHERS CORPORATION

By: _____
Signature

Print Name

Title

ATTEST: _____ (Seal)

DATE: _____

Approved as to form and execution, only.

General Counsel for CFX

Print Name

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 1 - Abbreviations and Definitions	1
1.1 General	1
1.2 Abbreviations	1
1.3 Definitions	2
Section 2 - 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

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 3 - Control of Work	33
3.1 Plans and Working Drawings	33
3.1.1 Plans and Contract Documents	
3.1.2 CFX Plans	
3.1.3 Alterations in the Plans	
3.1.4 Shop Drawings	
3.2 Coordination of Plans and Specifications	36
3.3 Conformity of Work with Plans	37
3.3.1 Record Drawings	
3.4 Pre-Award Meeting	38
3.5 Orders and Instructions	39
3.5.1 Observation of the Work	
3.5.2 Examination of the Work	
3.5.3 Communications	
3.6 Engineering and Layout	41
3.6.1 Control Points Furnished by CFX	
3.6.2 Furnishing of Stake Material	
3.6.3 Layout of Work	
3.6.4 Specific Staking Requirements	
3.6.5 Personnel, Equipment, and Record Requirements	
3.6.6 Global Navigation Satellite Systems (GNSS) Work Plan	
3.6.7 Payment	
3.7 Contractor's Supervision	44
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 General Inspection Requirements	45
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 Inspection and Acceptance	47
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 Audit and Examination of Contract Records and Bid Records	48

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
3.11 Escrow of Bid Records	50
3.12 Prevailing Party Attorney's Fees	51
Section 4 - Control of Materials	53
4.1 Acceptance Criteria	53
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)	54
4.3 Source of Supply and Quality Requirements	54
4.3.1 Only Approved Materials to be Used	
4.3.2 Notification of Placing Order	
4.3.3 Approval of Source of Supply	
4.4 Inspection and Tests at Source of Supply	55
4.4.1 General	
4.4.2 Cooperation by Contractor	
4.4.3 Retest of Materials	
4.5 Storage of Materials and Samples	56
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	56
Section 5 - Legal Requirements and Responsibility to the Public	58
5.1 Laws to be Observed	58
5.1.1 General	
5.1.2 Plant Quarantine Regulations	
5.1.3 Introduction or Release of Prohibited Aquatic Plants, Plant Pests or Noxious Weeds	
5.1.4 Compliance with Federal Endangered Species Act	
5.1.5 Occupational Safety and Health Requirements	
5.1.6 Discovery of Unmarked Human Burial Site	
5.1.7 Insecticides and Herbicides	
5.2 Permits and Licenses	60
5.3 Patented Devices, Materials and Processes	60

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.4 Right of Way Furnished by CFX	61
5.5 Sanitary Provisions	61
5.6 Control of the Contractor's Equipment	61
5.6.1 Traffic Interference	
5.6.2 Overloaded Equipment	
5.6.3 Crossings	
5.6.4 Protection from Damage by Tractor-Type Equipment	
5.6.5 Contractor's Equipment on Bridge Structures	
5.6.6 Posting of the Legal Gross Vehicular Weight	
5.7 Structures Over Navigable Waters	63
5.7.1 Compliance with Jurisdictional Regulations	
5.8 Use of Explosives	63
5.9 Preservation of Property	63
5.9.1 General	
5.9.2 Failure to Restore Damaged Property	
5.9.3 Contractor's Use of Streets and Roads	
5.9.4 Traffic Signs, Signal Equipment, Highway Lighting and Guardrail	
5.9.5 Operations Within Railroad Right of Way	
5.9.6 Utilities	
5.10 Responsibility for Damages, Claims, etc.	68
5.10.1 Contractor to Provide Defense Against Claims and Suits	
5.10.2 Guaranty of Payment for Claims	
5.11 Insurance	70
5.11.1 Schedule of Required Limits for Workers' Compensation, General Liability and Automobile Liability	
5.11.2 Workers' Compensation and Employer's Liability Insurance	
5.11.3 Comprehensive General Liability Insurance	
5.11.4 Comprehensive Automobile Liability Insurance	
5.11.5 Umbrella/Excess Liability Insurance	
5.11.6 Builder's Risk	
5.11.7 Railroad Insurance	
5.11.8 Pollution Legal Liability	
5.11.9 Professional Liability	
5.12 Contract Bond (Public Construction Bond) Required	76
5.12.1 General Requirements of the Bond	
5.12.2 Continued Acceptability of Surety	
5.13 Contractor's Responsibility for Work	76
5.14 Opening Section of Highway to Traffic	77
5.15 Scales for Weighing Materials	77

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.15.1 Applicable Regulations	
5.15.2 Base for Scales	
5.15.3 Protection and Maintenance	
5.16 Source of Forest Products	77
5.17 Regulations of Air Pollution	77
5.17.1 General	
5.17.2 Dust Control	
5.17.3 Asphalt Material	
5.17.4 Asphalt Plants	
5.18 Dredging and Filling	78
5.19 Erosion Control	78
5.20 Contractor's Motor Vehicle Registration	78
5.21 Internal Revenue Service Form W-9	78
5.22 Tolls and Access	79
5.23 Requests for References or Performance Evaluations	79
5.24 Unauthorized Aliens	79
5.25 Public Records	80
5.26 Inspector General	81
5.27 Convicted Vendor List	81
5.28 Discriminatory Vendor List	81
5.29 Severability	81
5.30 Companies Pursuant to Florida Statute Sections 287.135 and 215.473	82
 Section 6 - Prosecution and Progress of the Work	 83
6.1 Subletting or Assigning of Contract	83
6.2 Work Performed by Equipment Rental Agreement	85
6.3 Prosecution of Work	85
6.3.1 Sufficient Labor, Materials and Equipment	
6.3.2 Impacts by Adjacent Projects	
6.3.3 Submission of Preliminary, Baseline, Updated Baseline, and Two-Week Look-Ahead Schedules	
6.3.4 Beginning Work	
6.3.5 Provisions for Convenience of the Public	
6.3.6 Pre-Construction Conference	
6.4 Limitations of Operations	86
6.4.1 Night Work	
6.4.2 Sequence of Operations	
6.4.3 Interference with Traffic	
6.4.4 Coordination with Other Contractors	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
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 Qualifications of Contractor's Personnel	90
6.6 Temporary Suspension of Contractor's Operations	90
6.6.1 CFX to Suspend Contractor's Operations	
6.6.2 Prolonged Suspensions	
6.6.3 Permission to Suspend Operations	
6.6.4 Suspension of Contractor's Operations – Holidays	
6.7 Contract Time	91
6.7.1 General	
6.7.2 Date of Beginning of Contract Time	
6.7.3 Adjusting Contract Time	
6.8 Failure of Contractor to Maintain Satisfactory Progress	93
6.8.1 General	
6.9 Default and Termination of Contract	94
6.9.1 Determination of Default	
6.9.2 Public Interest Termination of Contract	
6.9.3 Completion of Work by CFX	
6.10 Liquidated Damages for Failure to Complete the Work	97
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 Release of Contractor's Responsibility	97
6.12 Recovery of Damages Suffered by Third Parties	97
6.13 Express Warranty	98
Section 7 - Measurement and Payment	99
7.1 Measurement of Quantities	99
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
7.1.5 Truck Requirements	
7.1.6 Ladders and Instrument Stands for Bridge Construction	
7.2 Scope of Payments	100
7.2.1 Items Included in Payment	
7.2.2 Non-Duplication of Payment	
7.3 Compensation for Altered Quantities	100
7.3.1 General	
7.3.2 Payment Based on Plan Quantity	
7.3.3 Lump Sum Quantities	
7.3.4 Deviation from Plan Dimensions	
7.4 Force Account Work	103
7.4.1 Method of Payment	
7.4.2 Records	
7.4.3 Preliminary Order-of-Magnitude Estimate	
7.5 Deleted Work	106
7.6 Partial Payments	106
7.6.1 General	
7.6.2 Unsatisfactory Payment Record	
7.6.3 Withholding Payment for Defective Work	
7.6.4 Partial Payments for Delivery of Certain Materials	
7.6.5 Certification of Payment to Subcontractors	
7.6.6 Reduction of Payment for Unsatisfactory Services or Products	
7.7 Record of Construction Materials	110
7.7.1 General	
7.7.2 Non-Commercial Materials	
7.8 Disputed Amounts Due Contractor	110
7.9 Acceptance and Final Payment	110
7.10 Offsetting Payments	112
Section 8 – Disadvantaged/Minority/Women Business Enterprise (D/M/WBE) Participation	113
8.1 General	113
8.2 Disadvantaged/Minority and Women Owned Businesses – Participation Objectives	114
8.2.1 General	
8.2.2 Definitions	
8.2.3 Specific Requirements	
8.2.4 Qualified Participation	
8.2.5 Records and Reports	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
8.3 Subletting of Contracts - Participation Objectives	119
Section 9 - Binding Arbitration	120
Section 10 – Partnering and Disputes Resolution	122
10.1 Disputes Resolution	122
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	

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 multi-span 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.

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Payment for burden shall be limited solely to the following:

Table 2.3.2.1

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

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

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

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

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

- (b) **Materials and Supplies:** For materials accepted by the CEI and used on the project, the Contractor will receive the actual cost of such materials incorporated into the work, including Contractor paid transportation charges

(exclusive of equipment as hereinafter set forth). For supplies reasonably needed for performing the work, the Contractor will receive the actual cost of such supplies.

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

Allowable Equipment Rates will be established as set out below:

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

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

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

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

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

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

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

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

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

(i) Bond: The Contractor will receive compensation for any premium for acquiring a bond for such additional or unforeseen work 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 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,
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.
- 4) Where utilities cross pipe trenches transversely within the excavation area but not within positions from which relocation or removal is necessary, the utility owner will be responsible for providing and effecting all reasonable measures for their support and protection during construction operations. The Contractor shall cooperate with the utility owner in the owner's effecting such support and protective measures. The Contractor shall be responsible for any damage to the utility that is caused by neglect or failure on the Contractor's part to cooperate and to use proper precaution in performing the Work.

In the event that a temporary relocation of a utility or a particular sequence of timing in the relocation of a utility is necessary, such relocation shall be done only as directed by CFX. CFX will not be responsible for utility adjustments or temporary relocation work or for the conditions resulting therefrom, where such adjustments are: not necessitated by the construction of the Project; or done solely for the benefit or convenience of the utility owner or its contractor (or the Contractor where Contractor's construction procedures are considered by CFX to be other than normal); or not shown on the approved Plans for the utilities relocation or the

construction.

5.9.6.2 Cooperation with Utility Owners: The Contractor shall cooperate with the utility owners in the removal and/or rearrangement of utilities. If utility service is interrupted due to construction operations, the Contractor shall immediately notify the owner of the utility and the CEI and cooperate in the prompt restoration of service. If water service is interrupted, the Contractor's repair work shall be continuous until the service is restored. No Work shall be undertaken around fire hydrants until the local fire authority has approved provisions for continued service.

5.9.6.3 Utility Adjustments: Utility adjustments and reconstruction Work may be underway during the Work. The Contractor shall effectively cooperate, coordinate, and schedule utility adjustments with utility construction crews in maintaining utility service. The Contractor shall use caution when working adjacent to utilities that have been relocated. The Contractor shall repair, at Contractor's expense, damages to relocated utilities resulting from Contractor's operations.

5.9.6.4 Weekly Meetings: Contractor shall conduct weekly meetings on the job site with all the affected utility companies and the CEI in attendance to coordinate Project construction and utility relocation, and shall submit a list of all attendees one week in advance to the CEI for approval.

Provide the approved Work Progress Schedule and Work Plan for the project to document the schedule and plan for road construction and utility adjustments.

When utility relocations no longer affect construction activities, the Contractor may discontinue the meetings with the CEI's approval.

5.10 Responsibility for Damages, Claims, etc.

5.10.1 Contractor to Provide Defense Against Claims and Suits: To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless CFX (its officers, agents and employees) from and against claims, damages, losses and expenses (including but not limited to attorneys' fees), arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom. However, the indemnification herein provided is only to the extent caused in whole or in part by any act, omission or default of the Contractor, subcontractor, sub-subcontractor, materialman, agents of any tier, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described herein. The monetary limit on the indemnification provided

herein to CFX or its officers, agents and employees shall be the total amount of the Agreement in aggregate or the insurance policy amount as required in article 5.11 herein, whichever is greater. The total amount of the Agreement in aggregate will be determined by the date the notice of claim was received by CFX.

In claims against any person or entity indemnified under this subarticle by an employee of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this subarticle shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

The obligations of the Contractor under this subarticle shall not extend to the liability of the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, designs or specification, or (2) the giving of or the failure to give direction or instructions by the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

The Contractor's obligation to indemnify and pay for the defense or, at CFX's option, to participate and associate with CFX in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within seven (7) days of receipt by the Contractor of the CFX notice of claim for indemnification to the Contractor. The notice of claim for indemnification will be served by certified mail.

The Contractor's obligation to indemnify within seven (7) days of receipt of such notice will not be excused because of the Contractor's inability to evaluate liability or because the Contractor evaluates liability and determines the Contractor is not liable or determines CFX is solely negligent. The Contractor will pay all costs and fees related to this obligation and its enforcement by CFX.

This Contract shall not create in the public or any member thereof, a third party beneficiary hereunder or to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Contract.

- 5.10.2 Guaranty of Payment for Claims: The Contractor guarantees the payment of all just claims for Materials, Equipment, supplies, tools or labor and other just claims against the Contractor or any subcontractor in connection with the Contract. Final acceptance and payment by CFX will not release the Contractor's bond until all such claims are paid or released.

5.11 Insurance

Anything contained herein to the contrary notwithstanding, during the term of the Contract and for such additional time as may be further required, the Contractor shall provide, pay for and maintain in full force and effect insurance outlined in subarticles 5.11.1 through 5.11.9 below for coverage at not less than the prescribed minimum limits of liability, covering the Contractor's activities and those of any and all subcontractors (including officers, directors, employees or agents of each and their successors). All insurance shall be provided through companies authorized to do business in the State of Florida and considered acceptable by CFX.

Upon execution of the Contract, the Contractor shall furnish to CFX, Certificates of Insurance bearing an original manual signature of the authorized representative of the insurance company. No Work shall commence under the Contract unless and until the required Certificates of Insurance described herein are in effect and have been approved by CFX. The Certificate of Insurance shall be issued to CFX and shall reference the complete and correct Project number, as well as the full and complete name of each insurance company, including city and state of domicile, as listed by A.M. Best Company. All insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, or as approved by CFX, as defined by A.M. Best and Company's Key Rating Guide. Such Certificates shall provide that in the event of cancellation, non-renewal or material reduction in coverage (including any material reduction of limits of Liability), the insurer will provide thirty (30) days prior notice of such cancellation, non-renewal or material reduction by certified mail to CFX. In addition, certified true copies of all policies shall be provided to CFX upon specific written request. Renewal Certificates of Insurance for all policies shall be submitted by the Contractor so that they are received by CFX no later than thirty (30) calendar days prior to the expiration of existing insurance coverage. Failure by the Contractor to meet this required timeframe will result in suspension of partial payments on monthly estimates until the certificates are received and accepted by CFX.

All insurance coverage required of the Contractor shall be primary and noncontributory over any insurance or self-insurance program carried by CFX.

Excluding Professional and Pollution liability insurance, no liability insurance required herein shall be written under a "claims made" form.

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

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

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

Neither approval by CFX of insurance supplied by the Contractor nor disapproval of that insurance, shall release the Contractor of full responsibility for liability, damages and accidents as otherwise provided by the Contract. The requirement of insurance will not be deemed a waiver of sovereign immunity by CFX.

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide CFX with certificates of same, CFX may obtain such policies and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments. Alternately, CFX may declare CONTRACTOR in default for cause.

5.11.1 Schedule of Required Limits for Workers' Compensation, General Liability and Automobile Liability:

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

5.12 Contract Bond (Public Construction Bond) Required

5.12.1 General Requirements of the Bond: The Contractor shall furnish to CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by CFX. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to CFX. The name, address and telephone number of the surety agent shall be clearly stated on the face of the Public Construction Bond.

5.12.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after CFX's initial approval of the company, then CFX may require that the Contractor immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to CFX. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the Contractor from its payment of premium on the defaulting bond, will be borne by CFX.

5.13 Contractor's Responsibility for Work

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

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

The Contractor will not be held responsible for damage to any landscape items caused by an officially declared hurricane that occurs after the final acceptance of the entire Work but during any remaining portion of the 90-day establishment period.

5.14 Opening Section of Highway to Traffic

When any bridge or section of roadway is, in the opinion of CFX, acceptable for travel, CFX may direct that the bridge or roadway be opened to traffic. Such opening shall not be considered, in any way, to be an acceptance of the bridge or roadway or any part thereof or as a waiver of any provision of the Contract. The Contractor shall make all repairs or renewals due to defective Work or Materials (or for any cause other than ordinary wear and tear) on such opened sections without additional compensation.

5.15 Scales for Weighing Materials

5.15.1 Applicable Regulations: Prior to the use of any scales, the Contractor shall submit to the CEI a copy of a certificate of accuracy for the scales that is not more than 1 year old. All scales which are used for the determination of the weight of Materials upon which compensation will be made by CFX shall conform to the requirements of Chapter 531, Florida Statutes, pertaining to specifications, tolerances and regulations as administered by the Bureau of Weights and Measures of the Florida Department of Agriculture. CFX reserves the right to perform scale checks/inspections at its sole discretion.

5.15.2 Base for Scales: Such scales shall be placed on a substantial horizontal base that will assure proper support, rigidity and maintenance of level of the scales.

5.15.3 Protection and Maintenance: All scale parts shall be in proper condition as to level and vertical alignment and shall be fully protected against contamination by dust, dirt and other matter which might affect operation of the parts.

5.16 Source of Forest Products

As required by Section 255.20, Florida Statutes, all timber, timber piling or other forest products which are used in the construction of the Project shall be produced and manufactured in the State of Florida, price and quality being equal and provided such Materials produced and manufactured in Florida are available.

5.17 Regulations of Air Pollution

5.17.1 General: All Work shall be done in accordance with all Federal, State and local laws and regulations regarding air pollution and burning.

5.17.2 Dust Control: The Contractor shall ensure that excessive dust is not transported beyond the limits of construction in populated areas. Dust control for embankment or other cleared or unsurfaced areas may be by application of water or calcium

chloride, as directed by CFX. Any use of calcium chloride shall be in accordance with Section 102 of the Technical Specifications. When included in the Plans, mulch, seed, sod or temporary paving shall be installed as early as practical. Dust control for storage and handling of dusty materials may be made by wetting, covering or other means as approved by the CEI.

5.17.3 Asphalt Material: Any asphalt used shall be emulsified asphalt unless otherwise stated in the Plans and allowed by Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. Asphalt materials and components shall be stored and handled to minimize unnecessary release of hydrocarbon vapors.

5.17.4 Asphalt Plants: The operation and maintenance of asphalt plants shall be in accordance with Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. A valid permit as required under Chapter 17-2 shall be available at the plant site prior to the start of Work.

5.18 Dredging and Filling

If required by the Work, the Contractor shall comply with Section 370.033, Florida Statutes, regarding obtaining a certificate of registration from the Florida Department of Environmental Protection and keeping accurate records and logs of all dredge and fill activities.

5.19 Erosion Control

This Project will be constructed on properties that may be subject to environmental permits and regulation promulgated by city, county, state, federal, and regional authorities. Requirements for erosion control are included in the Technical Specifications.

5.20 Contractor's Motor Vehicle Registration

The Contractor shall provide proof to CFX that all motor vehicles operated or caused to be operated by the Contractor are registered in compliance with Chapter 320, Florida Statutes. Such proof of registration shall be submitted in the form of a notarized affidavit to CFX. No payment will be made to the Contractor until the required proof of registration is on file with CFX.

5.21 Internal Revenue Service Form W-9

The Contractor shall complete and return with the executed Contract, Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.

5.22 Tolls and Access

The Contractor shall pay all tolls incurred from using CFX's Expressway System to transport personnel, equipment, or materials to and from the site of Work. Any costs incurred by the Contractor in payment of tolls shall be considered incidental and included in associated items. The term "equipment" in this context includes loaders, graders and similar self-propelled equipment, operating under their own power, passing through a toll plaza.

Contractor shall access the Project by existing expressway ramps. No access will be allowed through the right-of-way fence.

5.23 Requests for References or Performance Evaluations

In the event CFX at any time receives any direct or third party inquiry or request concerning the Contractor, its employees or sub-contractors, or the performance of the Contractor, its employees or sub-contractors under this Contract, CFX, at any time and in all cases, may, but shall not be obligated to respond to any such inquiry or request, with or without notice to the Contractor, its employees, or subcontractors, as the case may be, but, in all cases, such response shall be limited to: (1) acknowledging that the Contractor has, or in the past has had, a contract with CFX; (2) the date, term and type of such contract; (3) whether a specified employee or subcontractor worked on the Contract, and if so, in what capacity; (4) whether such contract was terminated early for any reason other than the convenience of CFX; (5) whether such contract was eligible for renewal or extension; and, (6) if such contract was eligible for renewal or extension, whether in fact such contract was renewed or extended. Should the Contractor, its employees, its agents or subcontractors request that any further information be provided in response to such an inquiry or request, such additional information may be provided by CFX, in its sole discretion. Contractor for itself, its employees, its agents and sub-contractors, hereby expressly waives any and all claims of whatever kind or nature that the Contractor, its employees, its agents or sub-contractors may have, or may hereafter acquire, against CFX relating to, or arising out of CFX's response to any and all requests or inquiries concerning the Contractor, its employees or subcontractors under this Contract, or the performance of the Contractor, its employees or subcontractors under this Contract.

5.24 Unauthorized Aliens

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

immediately and unilaterally terminate the Contract for cause.

5.25 Public Records

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

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

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

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

5.27 Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

5.28 Discriminatory Vendor List

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

5.29 Severability

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

will be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

END OF SECTION 5

SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without consent of CFX. The Contractor will be permitted to sublet a portion of the Work but shall perform, with its own organization, Work amounting to not less than 50% of the total Contract amount less the total amount for those Contract items specifically designated as "Specialty Work" below or as otherwise designated as Specialty Work by CFX. The granting or denying of consent under this provision is at CFX's sole discretion. The Certification of Sublet Work request will be deemed acceptable by CFX, for purposes of CFX's consent, unless the Engineer notifies the Contractor within 5 business days of receipt of the Certification of Sublet Work that CFX is not consenting to the requested subletting. If, at any time, a subcontractor is determined to be discriminatory, debarred or suspended by the FHWA, CFX or FDOT, the determination will be considered grounds for removal from the project.

The total Contract amount shall include the cost of Materials, manufactured component products and their transportation to the Project site. Off-site commercial production of Materials and manufactured component products purchased by the Contractor and their transportation to the Project will not be considered subcontracted Work.

If a part of a Contract item is sublet, only its proportional cost will be used in determining the percentage of subcontracted normal Work.

All subcontracts entered into by the Contractor shall be in writing and shall contain all pertinent provisions and applicable requirements of the Contract. All subcontracts shall require subcontractor to indemnify and hold harmless CFX on the same terms as contained in the General Specifications and the Contract. The Contractor shall furnish CFX with a copy of any subcontract requested by CFX. Subletting of Work shall not relieve the Contractor or surety of their respective liabilities.

The Contractor shall ensure that all Subcontractors are competent, careful and reliable. The Contractor shall submit the names and qualifications of all first and second tier subcontractors to CFX for approval prior to their beginning Work on the Project. All first and second tier subcontractors shall have the skills and experience necessary to properly perform the Work assigned and as required by the plans and specifications.

If, in the opinion of CFX, any Subcontractor employed by the Contractor is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such first or second tier subcontractor shall be immediately removed from the Project by the Contractor upon written direction

from CFX. Such subcontractor shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such subcontractor, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the subcontractor is removed. The Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Subcontractor based on the direction of CFX. All subcontracts shall expressly include an acknowledgment of CFX's right to remove any Subcontractor in accordance with this paragraph.

A Subcontractor shall be recognized only in the capacity of an employee or agent of the Contractor.

If the aggregate total of the dollar amount of Work performed by a subcontractor, including equipment rental agreements, equals or exceeds \$20,000, a formal subcontract agreement shall be entered into between the Contractor and the Subcontractor.

6.1.2 Specialty Work: The following Work is designated as Specialty Work:

- Auxiliary Power Unit
- Cleaning, Coating, Injection, Grouting, Grinding, Grooving or Sealing Concrete Surfaces
- Deep Well Installation
- Electrical Work
- Fencing
- Highway Lighting
- Installing Pipe or Pipe Liner by Jacking and Boring
- Installing Structural Plate Pipe Structure
- Landscaping
- Painting
- Plugging Water Wells
- Pressure Grouting
- Pumping Equipment
- Roadway Signing and Pavement Marking
- Riprap
- Removal of Buildings
- Rumble Strips
- Sealing Wells by Injection
- Septic Tank and Disposal System
- Signalization
- Utility Works
- Vehicular Impact Attenuator
- Water and Sewage Treatment Systems

6.2 Work Performed by Equipment Rental Agreement

The limitations set forth in 6.1, regarding the amount of Work that may be subcontracted, do not apply to Work performed by Equipment rental agreements. The Contractor shall notify CFX, in writing, if the Contractor intends to perform any Work through an Equipment rental agreement. The notification shall be submitted to CFX before any rental Equipment is used on the Project. The notification shall include a list of the Equipment being rented, the Work to be performed by the Equipment and whether the rental includes an Equipment operator. Notification to CFX will not be required for Equipment being rented (without operators) from an Equipment dealer or from a firm whose principle business is renting or leasing Equipment.

6.3 Prosecution of Work

6.3.1 Sufficient Labor, Materials and Equipment: The Contractor shall provide sufficient labor, Materials and Equipment to ensure the completion of the Work no later than the Contract completion date.

6.3.2 Impacts by Adjacent Projects: When there is a potential impact between two or more projects due to close proximity or due to logistics in moving labor, Materials, and Equipment between projects, all authorized representatives of the parties performing the projects have a responsibility to communicate and coordinate their work so that impacts to either party are eliminated or mitigated and do not endanger, delay, or create additional work or costs to either party. The Contractor shall not be compensated for any additional costs or delays so incurred by either party.

6.3.3 Submission of Working Schedule: Within 21 calendar days after award of the 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

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;
 - b. fails to perform the Work with sufficient workmen and Equipment or with sufficient Materials to assure the prompt completion of the Contract as related to the schedule or;
 - c. performs the Work unsuitably or neglects or refuses to remove Materials or;
 - d. to perform anew such Work as may be rejected as unacceptable and unsuitable or;
 - e. discontinues the prosecution of the Work or;
 - f. fails to resume Work which has been discontinued within a reasonable time after notice to do so or;
 - g. fails to pay timely its subcontractors, suppliers or laborers or;
 - h. submits a false or fraudulent Certificate of Disbursement of Previous Payments form or;
 - i. becomes insolvent or is declared bankrupt or;
 - j. files for reorganization under the bankruptcy code or;
 - k. commits any act of bankruptcy or insolvency, either voluntarily or involuntarily or;
 - l. allows any final judgment to stand against it unsatisfied for a period of ten calendar days or;
 - m. makes an assignment for the benefit of creditors or;

- n. for any other cause whatsoever, fails to carry on the Work in an acceptable manner or;
- o. if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of CFX.
- p. Failure to ensure that D/M/WBE firms have the maximum opportunity to participate in performance of the Contract shall constitute failing to prosecute the Work in an acceptable manner.

If the Contractor, within a period of 10 calendar days after the notice described above, does not proceed to correct the default, CFX may give notice of default in writing to the Contractor and the surety stating the nature of the default and providing the amount of time which will be allowed to correct the default.

If the Contractor (within the curative period described in the notice of default) does not correct the default, CFX will have full power and authority to remove the Work from the Contractor and to declare the Contract in default and terminated.

If the Contract is declared in default, CFX may require the Contractor's surety to take over and complete the Contract performance. Upon the failure or refusal of the surety to assume the Contract within the time demanded, CFX may take over the Work covered by the Contract.

CFX shall have no liability for profits related to unfinished Work on a Contract terminated for default.

- 6.9.2 Public Interest Termination of Contract: CFX may, by written notice, terminate the Contract or a portion thereof after determining that, for reasons beyond either CFX or Contractor control, the Contractor is prevented from proceeding with or completing the Work as originally contracted for, and that termination would therefore be in the public interest. Such reasons for termination may include but need not be necessarily limited to, executive orders of the President relating to prosecution of war or national defense, national emergency which creates a serious shortage of Materials, orders from duly constituted authorities relating to energy conservation and restraining order or injunctions obtained by third-party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor.

When the Contract or any portion thereof, is terminated (as aforesaid) before completion of all items of Work in the Contract, payment will be made for the actual number of units or items of Work completed, at the Contract unit price or as mutually agreed for items of Work partially completed. No claims for loss of anticipated profits will be considered.

Reimbursement for mobilization expenses (when not otherwise included in the Contract), including moving Equipment to the job, will be considered where the

volume of Work completed is too small to compensate the Contractor for these expenses under the Contract unit prices; the intent being that an equitable settlement will be made with the Contractor.

Acceptable Materials procured by the Contractor for the Work, that have been inspected, tested, and approved by CFX and that are not incorporated in the Work, may be purchased from the Contractor at actual cost, as shown by receipted bills and actual cost records, at such points of delivery as may be designated by CFX.

Termination of the Contract or a portion thereof, under the provisions of this subarticle, shall not relieve the Contractor of Contractor's responsibilities for the completed portion nor shall it relieve Contractor's surety of its obligation for, and concerning any just claims arising out of, the Work performed.

CFX may also, upon seven days written notice to the Contractor, without cause and without prejudice to any other right or remedy of CFX, elect to terminate the Contract. In such case, the Contractor will be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, in accordance with existing pay items;
2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, Materials or Equipment as required by the Contract Documents in connection with uncompleted Work, plus mutually agreeable sums for overhead and profit on such expenses.

The Contractor shall not be paid because loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

- 6.9.3 Completion of Work by CFX: Upon declaration of default and termination of the Contract, CFX will have the right to appropriate or use any or all Materials and Equipment on the sites where Work is or was occurring which are suitable and acceptable and may enter into agreements with others for the completion of the Work under the Contract or may use other methods which in the opinion of CFX are required for Contract completion. All costs and charges incurred by CFX because of or related to the Contractor's default (including the costs of completing Contract performance) shall be charged against the Contractor. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the Contractor and the surety shall be jointly and severally liable and shall pay CFX the amount of the excess.

6.10 Liquidated Damages for Failure to Complete the Work

- 6.10.1 Liquidated Damages for Failure to Complete the Work: The Contractor shall pay to CFX liquidated damages in the amount specified in the Special Provisions per calendar day for failure of the Contractor to complete the Work within the Contract time stipulated or within such additional time as may have been granted by CFX.
- 6.10.2 Determination of Number of Days of Default: Default days shall be counted in calendar days.
- 6.10.3 Conditions Under Which Liquidated Damages are Imposed: If the Contractor (or in circumstance of the Contractor default, the surety) fails to complete the Work within the Contract time stipulated or within such extra time as may have been granted by CFX, the Contractor (or the surety) shall pay to CFX, not as a penalty but as liquidated damages, the amount due.
- 6.10.4 Right of Collection: CFX reserves the right, at its sole option, to apply as payment on liquidated damages due any money which is due the Contractor by CFX.
- 6.10.5 Allowing the Contractor to Finish Work: Allowing the Contractor to continue and to finish the Work or any part of it, after the expiration of the Contract time allowed, including time extensions, shall in no way act as a waiver on the part of CFX of the liquidated damages due under the Contract.
- 6.10.6 Liability for Liquidated Damages: In the event of default of the Contract and the completion of the Work by CFX, the Contractor and the Contractor's surety shall be liable for the liquidated damages under the Contract. No liquidated damages shall be chargeable for any delay in the final completion of the Work due to any unreasonable action or delay on the part of CFX.

6.11 Release of Contractor's Responsibility

The Contract will be considered completed when all Work has been finally accepted, in writing, by CFX. The Contractor will then be released from further obligation except as set forth in the Public Construction Bond and as provided in subarticle 3.9.5, Recovery Rights Subsequent to Final Payment.

6.12 Recovery of Damages Suffered by Third Parties

In addition to liquidated damages, CFX may recover from the Contractor amounts paid by CFX for damages suffered by third parties unless the failure to timely complete the Work was caused by CFX acts or omissions.

6.13 Express Warranty

The Contractor warrants and guarantees the Work to the full extent provided for in and required by the Contract Documents. Without limiting the foregoing or any other liability or obligation with respect to the Work, the Contractor shall, at its expense and by reason of its express warranty, make good any faulty, defective, or improper parts of the Work discovered within one (1) year from the date of final acceptance of the Project, expressed in writing, by CFX. The Contractor also warrants that all materials furnished hereunder meet the requirements of the Contract Documents and expressly warrants that they are both merchantable and fit for the purpose for which they are to be used under the Contract Documents.

Should any subcontractor or material supplier of Contractor provide an express warranty for its work or materials to the Contractor which is thereafter assigned to CFX or provide a warranty for its work or materials directly to CFX, such warranty shall not preclude CFX from the exercise of any alternative means of relief against Contractor, whether contractual, extra-contractual, statutory, legal or equitable.

END OF SECTION 6

SECTION 7 - MEASUREMENT AND PAYMENT

7.1 Measurement of Quantities

7.1.1 Measurement Standards: Unless otherwise stipulated, all Work completed under the Contract shall be measured by CFX according to United States Standard Measures.

7.1.2 Method of Measurements: All measurements shall be taken horizontally or vertically unless otherwise stipulated. 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 RRBBOCE ownership cost plus 100% of the RRBB and/or RRBBOCE operating costs.
- 2.) Reimbursement for Equipment directed to standby and remain on the project site shall be at 50% of the lesser of the actual rental rate or RRBB and/or RRBBOCE ownership cost only. No more than 8 hours of standby will be paid in a single day.
- 3.) Costs shall be provided on an hourly basis. Hourly rates, for Equipment being operated or on standby, shall be established by dividing the lesser of actual monthly rental rate or the RRBB and/or RRBBOCE monthly rates by 176. The columns, itemizing rates, labeled “Weekly”, “Daily” and “Hourly” shall not be used.
- 4.) No additional overhead will be allowed on Equipment costs.

Allowable Hourly Equipment Rate = Monthly Rate/176 x Adjustment Factors x 100%

Allowable Hourly Operating Cost = Hourly Operating Cost x 100%

Allowable Rate Per Hour = Allowable Hourly Equipment Rate + Allowable Hourly Operating Cost

Standby Rate = Allowable Hourly Equipment Rate x 50%

The Monthly Rate is the Basic Machine Rate plus any Attachments. Standby rates will apply when machinery or Equipment is not in operation and is directed by CFX to stand by at the Project site when needed again to complete work and the cost of moving the Equipment will exceed the accumulated standby cost. Standby rates will not apply to any day the

Equipment operates for eight or more hours. Standby payment will be limited to only the number of hours which, when added to the operating time for that day, equals eight hours. Standby payment will not be made on days that are not normally considered workdays on the project.

Transportation to and from the location at which the Equipment will be used will be allowed. If the Equipment requires assembly or disassembly for transport, the time for this will be paid at the rate for standby Equipment.

The markups in 1) through 4) above include all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

(d) Subcontractor Work

The Contractor will be allowed a markup of 10% on the first \$50,000 and a markup of 5% on any amount over \$50,000 on any subcontract directly related to the alteration, change, additional or unforeseen Work. A subcontractor mark-up will be allowed only by the prime Contractor and a first tier subcontractor.

(e) Insurance, Bond and Taxes:

A markup of 1.5% will be allowed on the overall total cost of the alteration, change, additional or unforeseen Work for insurance and bond on the prime Contractor's bond. The markup includes all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

Subcontractors who actually perform the alterations, changes, additional or unforeseen Work will be allowed all markups specified herein.

- 7.4.2 Records: The compensation as herein provided shall be accepted by the Contractor as payment in full for extra Work done on a force account basis. The Contractor and CFX shall compare records of extra Work done on a force account basis at the end of each day. Copies of these records shall be duplicated by CFX and signed by both CFX and the Contractor.

All claims for extra Work done on a force account basis shall be submitted by the Contractor upon certified statements, to which shall be attached original receipted bills covering the costs of the transportation charges on all Materials used in such Work. However, if Materials used on the force account Work are not specifically purchased for such Work but are taken from the Contractor's stock, then in lieu of

the invoices, the Contractor shall furnish an affidavit certifying that such Materials were taken from Contractor's stock, that the quantity claimed was actually used and that the price and transportation claimed represent actual cost to the Contractor.

7.4.3 Preliminary Order-of-Magnitude Estimate: As a condition precedent to beginning work designated as Force Account, the CEI in coordination with the Contractor will prepare a Preliminary Order-of-Magnitude Estimate of the contemplated work. The purpose of this Preliminary Order-of-Magnitude Estimate is to establish the scope of work, the approach, applicable rates, the estimated duration, and the required documentation necessary to monitor the work for final payment.

7.5 Deleted Work

CFX shall have the right to cancel the portions of the Contract relating to the construction of any acceptable item therein by payment to the Contractor of a fair and equitable amount covering all items of cost incurred prior to the date of cancellation or suspension of the Work by CFX.

7.6 Partial Payments

7.6.1 General: The Contractor will receive partial payments on monthly estimates, based on the amount of Work done or completed (including delivery of certain Materials as specified below) and reflected in the Application for Payment. The monthly payments shall be approximate only and all partial estimates and payments will be subject to correction in the subsequent estimates and the final estimate and payment.

The amount of such payments shall be the total value of the Work done to the date of the estimate based on the quantities and the Contract unit prices less an amount retained and less payments previously made. In addition to other retainage held as may be described elsewhere, the amount retained shall be determined in accordance with the following schedule:

<u>% Contract Amount Completed</u>	<u>Amount Retained</u>
0 to 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 paving or base construction operations begin except when a construction sequence designated by the CEI requires suspension of paving and base construction after the initial paving operations, partial payments will be reinstated until the paving and base construction resumes.

7.6.4.3 Off Site Storage: If the conditions of subarticle 7.6.4.1 are satisfied, partial payments will be allowed for materials stockpiled in approved in-state locations. Additionally, partial payments for materials stockpiled in approved out-of-state locations will be allowed if the conditions of subarticle 7.6.4.1 and the following conditions are met:

- 1) Furnish CFX a Materials Bond stating the supplier guarantees to furnish the material described in the Contract to the Contractor and CFX. Under this bond, the Obligor shall be the material supplier and the Obligees shall be the Contractor and the Central Florida Expressway Authority. The bond shall be in the full dollar amount of the bid price for the materials described in the Contract Documents.
- 2) The following clauses shall be added to the contract between the Contractor and the supplier of the stockpiled materials:

“Notwithstanding anything to the contrary, <supplier> will be liable to the Contractor and the Central Florida Expressway Authority should <supplier> default in the performance of this agreement.”

“Notwithstanding anything to the contrary, this agreement, and the performance bond issued pursuant to this agreement, does not alter, modify, or otherwise change the Contractor’s obligation to furnish the materials described in this agreement to the Central Florida Expressway Authority.”

3) The agreement between the Contractor and the supplier of the stockpiled materials shall include provisions that the supplier will store the materials and that such materials are the property of the Contractor.

7.6.5 Certification of Payment to Subcontractors: Prior to receipt of any progress (partial) payment, the Contractor shall certify that all subcontractors having an interest in the Contract have received their pro rata share of previous progress payments from the Contractor for all work completed and Materials furnished the previous period. This certification shall be in the form designated by CFX. The term “subcontractor”, as used herein, shall also include persons or firms furnishing Materials or Equipment incorporated into the Work or stockpiled in the vicinity of the Project for which partial payment has been made by CFX and Work done under Equipment-rental agreements.

On initial payment, the Contractor shall assure that all subcontractors and Materials suppliers having an interest in the Contract receive their share of the payments due. CFX will not make any progress payments after the initial partial payment until the Contractor certifies pro rata shares of the payment out of previous progress payments received by the Contractor have been disbursed to all subcontractors and suppliers having an interest in the Contract, unless the Contractor demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both CFX and the affected subcontractors and suppliers. Contractor shall execute and submit a Certification of Disbursement of Previous Payments form, supplied by CFX, with each payment request after the initial request. Submitting a false or fraudulent certification will result in a determination of default by the Contractor in accordance with Article 6.9.1 of these General Specifications.

7.6.6 Reduction of Payment for Unsatisfactory Services or Products

If any defined action, duty or service, part or product required by the Contract is not performed by the Contractor, the value of such action, duty or service or part thereof will be determined by CFX and deducted from any invoice or monthly billing period claiming such items for payment.

If the action, duty or service, part or product thereof has been completed and is determined to be unsatisfactory by CFX, the Contractor will be notified and given the opportunity to correct any deficiencies within a time certain. Payment (for the unsatisfactory Work) will be withheld by CFX from any invoice or monthly billing period until the Work is determined to be acceptable.

7.7 Record of Construction Materials

7.7.1 General: For all construction Materials used in the construction of the Project (except Materials exempted by Subarticle 7.7.2), the Contractor shall preserve for inspection by CFX all invoices and records of the Materials for a period of 3 years from the date of completion of the Project. This requirement shall also apply to Materials purchased by subcontractors. The Contractor shall obtain the invoices and other Materials records from the subcontractors.

Not later than 30 days after the date of final completion of the Project, the Contractor shall furnish to CFX a certification of construction Materials procured for the Project by the Contractor and all subcontractors. The certification shall consist of an affidavit completed on a form furnished by CFX.

7.7.2 Non-Commercial Materials: The requirement to preserve invoices and records of Materials shall not apply to Materials generally classed as non-commercial such as fill Materials local sand, sand-clay or local Materials used as stabilizer.

7.8 Disputed Amounts Due Contractor

CFX reserves the right to withhold from the final estimate any disputed amounts between the Contractor and CFX. Release of all other amounts due shall be made as provided in Article 7.9.

7.9 Acceptance and Final Payment

When the Work of the Contract has been completed by the Contractor and the final inspection and final acceptance have been given by CFX, a tentative final estimate showing the value of the Work will be prepared by CFX as soon as the necessary measurements and computations can be made, usually within 30 days of final acceptance. All prior estimates and payments will be subject to correction in the final estimate and payment. The Contractor and CFX will have 30 days from the date of the tentative final estimate to resolve any outstanding issues. At the end of the 30 days, CFX will make a written Offer of Final Payment. Provided that the requirements of A) through J) of this Article have been met, the amount of the Offer of Final Payment, less any sums that may have been deducted or retained under the provisions of the Contract will be paid to the Contractor as soon as practicable.

A) The Contractor has submitted written acceptance of the balance due, as determined by CFX, as full settlement of the Contractor's account under the Contract and of all claims in connection therewith.

Or, the Contractor shall accept the balance due with the stipulation that acceptance of such payment will not constitute any bar, admission or estoppel or have any effect as to those payments in dispute or the subject of a pending claim between the Contractor and CFX. The Contractor shall define the dispute or pending claim in writing in the form of a qualified acceptance letter with full particulars of all items/issues in dispute including itemized amounts claimed. Failure by the Contractor to provide either a written acceptance letter or qualified acceptance letter within 60 calendar days of the Offer of Final Payment shall constitute full acceptance of the balance due without qualification.

If the Contractor provides a qualified acceptance letter, then the Contractor agrees that a complete claim package in accordance with Article 2.4 of the General Specifications, and limited to the particulars in the qualified acceptance letter, will be provided within 120 calendar days of the Offer of Final Payment. Additionally, the Contractor agrees that any pending or future arbitration must be limited to the particulars in the qualified acceptance letter and must begin within 210 calendar days from the date of the Offer of Final Payment.

- B) The Contractor has properly maintained the Project as specified hereinbefore.
- C) The Contractor has furnished a sworn affidavit to the effect that all bills are paid and no suits are pending (other than those exceptions listed if any) in connection with the Work of the Contract and that the Contractor has not offered or made any gift or gratuity to or made any financial transaction of any nature with, any employee of CFX. Tort liability exceptions, if any, shall be accompanied by evidence of adequate insurance as required in Article 5.11 of these General Specifications.
- D) The surety on the Public Construction Bond has consented (by completion of its portion of the affidavit and surety release) to final payment to the Contractor and agrees that the making of such payment shall not relieve the surety of any of its obligations under the bond.
- E) The Contractor has submitted all mill tests and analysis reports to CFX.
- F) The Contractor has submitted insurance certificates for extended coverage as required by Article 5.11 of these General Specifications.
- G) The Contractor has previously submitted As-built Drawings as required by

Article 3.3.1 of these General Specifications.

- H) The Contractor has submitted the completed density log book as required by Article 120-10.4.2 of the Technical Specifications.
- I) The Contractor has submitted the final material testing certification as required by Article 105-6 of the Technical Specifications.
- J) The Contractor has submitted all warranties and operation and maintenance manuals required by various Articles and Subarticles of Specifications.

If the Contractor fails to furnish all required Contract Documents listed in B) through J) of this Article within 90 calendar days of the Offer of Final Payment, CFX may deduct from the retainage due the Contractor, \$1,000 for each calendar day beyond the 90 calendar days that the Contractor fails to provide the required Contract Documents.

7.10 Offsetting Payments

If payment of any amount due CFX after settlement or arbitration is not made by the Contractor within 60 days, CFX may, at its sole discretion, offset such amount from payments due the Contractor for Work performed under any other contract with CFX, excluding amounts owed to subcontractors, suppliers and laborers. Offsetting any amount in this manner shall not be considered a breach of the Contract by CFX.

END OF SECTION 7

SECTION 8 – DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE
(D/M/WBE) PARTICIPATION

- 8.1 General: The Contractor is encouraged to continue to meet or demonstrate the participation objectives could not be met. At any time, CFX's Executive Director may grant a partial or complete waiver of the D/M/WBE objective for the Project due to consideration of property, public safety, and health, including financial impact to CFX.

CFX has provided an exception for the Contractor's failure to meet the participation objective established for this project. The exception requires that the Contractor provide CFX with documentation supporting the Contractor's Good Faith Effort to meet the stated objective. CFX will have the sole and final determination of whether the support documentation provided by the Contractor does, in fact, meet CFX's standard for a Good Faith Effort as detailed in this Section 8. The Contractor shall demonstrate, through documentation, that every reasonable effort has been made to achieve CFX's participation objective. The Contractor shall be responsible for securing proof of the D/M/WBE certification(s) for the proposed subcontractors/suppliers and be able to provide copies of the certification(s) to the CFX's Supplier Diversity Office.

The Contractor shall meet or exceed the commitment stated in the Contractor's D/M/WBE Utilization Summary (page P-6 of the Proposal). Should the Contractor's D/M/WBE participation fall below the approved level for any reason whatsoever, or should the Contractor substitute or self-perform work identified for a D/M/WBE subcontractor/supplier without prior written approval of CFX, the Contractor will be considered by CFX to be in material breach of the Contract. If found in breach of the Contract, the Contractor may be suspended from bidding on and/or participating in any further CFX projects for up to one (1) year as provided in Section 15 of CFX's Supplier Diversity Policy.

Any change in the D/M/WBE Utilization Summary will require prior approval by the CFX Director of Supplier Diversity. Should the Contractor determine that a subcontractor/supplier named in the Utilization Summary is unavailable or cannot perform the work, the Contractor shall request approval of a revised D/M/WBE Utilization Summary. The revised summary shall be submitted, in writing, to the CFX Supplier Diversity Office at 4974 ORL Tower Road, Orlando, Florida 32807, or by facsimile to (407) 690-5011.

The Contractor will not be allowed to perform Work with its forces that has been identified on the Utilization Form to be performed by D/M/WBE firms. If a D/M/WBE subcontractor is unable to successfully perform the Work, the Contractor shall make a Good Faith Effort to replace that firm with another D/M/WBE firm. In evaluating a Contractor's Good Faith Efforts, CFX will consider:

- (1) Whether the Contractor, provided written notice to certified D/M/WBEs performing the type of Work that the Contractor intends to subcontract, advising

the D/M/WBEs (a) of the specific Work the Contractor intends to subcontract; and (b) that their interest in the Contract is being solicited;

- (2) Whether the Contractor provided interested D/M/WBEs assistance in reviewing the Contract Plans and Specifications;
- (3) Whether the Contractor assisted interested D/M/WBEs in obtaining any required bonding, lines of credit, or insurance;
- (4) Whether the Contractor's efforts were merely pro forma and given all relevant circumstances, could not reasonably be expected to produce sufficient D/M/WBE participation to meet the objective.

The above list is not intended to be exclusive or exhaustive and CFX will look not only at the different kinds of efforts that the Contractor has made but also the quality, quantity and intensity of these efforts.

8.2 Disadvantaged, Minority and Women Owned Businesses - Participation Objective

8.2.1 General: The Contractor shall ensure that D/M/WBE as defined herein will have the maximum opportunity to participate in the performance of subcontracts. In this regard, the Contractor shall take all necessary and reasonable steps to accomplish that result.

8.2.2 Definitions: The following words and phrases shall have the respective meanings set forth below unless a different meaning is plainly required by the context:

- (1) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States or lawfully admitted permanent residents and who are women, Black Americans, Hispanic American, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Individuals in the following groups are presumed to be socially and economically disadvantaged:
 - (a) "Black Americans", which includes persons having origins in any of the black racial groups of Africa;
 - (b) "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;
 - (c) "Asian-Pacific Americans", which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the

Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas;

- (d) “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- (e) “Asian-Indian Americans”, which includes persons whose origins are from India, Pakistan, and Bangladesh; and
- (f) “Women”.

(2) “Joint Venture” means an association of two or more firms to carry out a single business enterprise for which purpose the firms combined their property, money, effects, skills or knowledge.

(3) “Certified” means a finding by Orange County, Florida, the City of Orlando, Florida, and Florida Department of Transportation that the business is a bona fide Minority, Women or Disadvantaged owned and operated business.

(4) “Independently Owned and Operated” means a business that is not affiliated or associated with the general contractor or prime contractor providing work or services on CFX project(s) or procurement in which the D/M/WBE seeks to participate. Affiliated status may be determined through common ownership, management, employees, facilities, inventory or any other factors, which would prevent or inhibit independent status

(5) “Women Business Enterprise” comprises all women. All women business owners will be classified as a Women Business Enterprise.

8.2.3 Specific Requirements: The Contractor shall, among other things, implement techniques to facilitate D/M/WBE participation in contracting activities including, but not limited to:

1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations;
2. Providing assistance to D/M/WBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance;
3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate;

4. Contacting Minority Contractor Associations, city, and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible D/M/WBE contractors to apply for certification.
 5. Meeting with appropriate officials of CFX, including its Supplier Diversity Office, to assist with the Contractor's efforts to locate D/M/WBEs and assist with developing joint ventures, partnering, and mentorship.
- 8.2.4 Qualified Participation: CFX will count D/M/WBE participation toward meeting D/M/WBE objective as follows:
1. The total dollar value of the contract to be awarded to the certified D/M/WBE will not be counted toward the applicable D/M/WBE objective unless approved by CFX.
 2. A portion of the total dollar value of a contract, with an eligible joint venture, equal to the percentage of the ownership and control of the D/M/WBE partner in the joint venture may be counted toward the D/M/WBE objective.
 3. Only expenditures to D/M/WBEs that perform a commercially useful function may be counted toward the D/M/WBE objective. A D/M/WBE is considered to perform a commercially useful function when it actually performs and manages at least 51 percent of the work subcontracted to it. To determine whether a D/M/WBE is performing a commercially useful function, CFX will evaluate all relevant factors such as the amount of Work subcontracted and industry practices.
 4. Consistent with normal industry practices, a D/M/WBE may enter into subcontracts. If a D/M/WBE subcontracts 50 percent or more of the Work assigned to it, the D/M/WBE shall be presumed not to be performing a commercially useful function.
 5. Expenditures for materials and supplies obtained from D/M/WBE suppliers and manufacturers may be counted toward the D/M/WBE objective, provided that the D/M/WBEs assume the actual and contractual responsibility for the provision of the materials and supplies. The percentage allowed toward the D/M/WBE objective is as follows:
 - (a) All expenditures to a D/M/WBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale) may be counted toward the D/M/WBE objective.

- (b)
 - 1. A Contractor may count toward its D/M/WBE objective 60 percent of its expenditures for materials and supplies required under a contract and obtained from a D/M/WBE regular dealer, and 100 percent of such expenditures to a D/M/WBE manufacturer.
 - 2. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.
 - 3. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this Section.

- (c) A Contractor may count toward the D/M/WBE objective for the following expenditures to D/M/WBE firm(s) that are not manufacturers or regular dealers:
 - 1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials of supplies required for performance of the Contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - 2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.

3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
4. Those sums that, subsequent to the receipt of bids, CFX elects, under the provisions of the Direct Materials Purchase Option, to purchase materials originally proposed by the Contractor to CFX to have been an element of the Work of a certified D/M/WBE contractor/subcontractor/vendor.

8.2.5 Records and Reports: The Contractor shall develop a record keeping system to monitor its D/M/WBE participation and shall maintain the following records:

1. the procedures adopted to comply with these special provisions;
2. The number of subordinated contracts on CFX projects awarded to D/M/WBEs;
3. the dollar value of the contracts awarded to D/M/WBEs;
4. the percentage of the dollar value of all subordinate contracts awarded to D/M/WBEs as a percentage of the total contract amount;
5. a description of the general categories of contracts awarded to D/M/WBEs;
6. the specific efforts employed to identify and award contracts to D/M/WBEs;
7. maintenance of records of payments and monthly reports to CFX;
8. Subcontract Agreement between Contractor and D/M/WBE subcontractors;
and
9. any other records required by CFX's Project Manager or Executive Director.

The records maintained by the Contractor in accordance with this Section shall be provided to CFX for review within 48 hours of the CFX request. The Contractor shall submit a properly executed D/M/WBE Payment Certification monthly during the life of the D/M/WBE subcontract whether payment is made or not.

8.3 Subletting of Contracts - Participation Objective

No request to sublet Work will be approved unless it is in compliance with the Contractor's approved D/M/WBE Utilization Form "Certification of Subcontract Amount to D/M/WBE Contractor", shall be completed and submitted with the Request for Authorization to Sublet Work. One copy of the certification will be attached to each copy of the Request for Authorization to Sublet Work.

END OF SECTION 8

SECTION 9 - BINDING ARBITRATION

9.1 CFX and the Contractor shall submit any and all unsettled claims, counterclaims, and disputes to the Disputes Review Board (DRB) prior to initiating a demand for arbitration pursuant to this Section.

9.2 No demand for arbitration of any claim, dispute or other matter referred to the DRB initially for decision will be made until after final acceptance, per Article 3.9, of all Contract Work by CFX. The filing party shall pay all applicable fees associated with requested arbitration proceedings.

The failure to demand arbitration within thirty (30) days after final acceptance will result in the DRB's decision being final and binding upon CFX and Contractor.

9.3 Notice of the demand for arbitration is satisfied when it is filed in writing with the other party to the Contract and with the American Arbitration Association (including required fees). A copy will be sent to the Board for information.

9.4 The arbitration shall occur in Orlando, Florida and shall be conducted by a three (3) member panel pursuant to and under the auspices of the Construction Industry Arbitration Rules of the American Arbitration Association.

9.5 Procedure for Binding Arbitration

Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations of this Section. The agreement to arbitrate (and any other agreement or consent to arbitrate entered into in accordance herewith) will be specifically enforceable under the laws of Florida.

Arbitration shall include by consolidation, joinder or in any other manner any person or entity who is not a party to the Contract in circumstances where:

- the inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration, and
- such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings, and
- the written consent of the other person or entity sought to be included and of CFX and Contractor has been obtained for such inclusion, which consent shall make specific reference to this paragraph.

In order to assure complete resolution of any claim or controversy, the Contractor shall provide and require (in the agreements with subcontractors and material suppliers) for joinder in such arbitration proceedings. Therefore, if a claim, dispute or other matter in question between CFX and Contractor involves the work of a Subcontractor, either CFX or Contractor may join such subcontractor as a party to the arbitration. Nothing in this paragraph or in the provision of such subcontract consenting to joinder shall create any claim, right or cause of action in favor of subcontractor or supplier, and against CFX, CEI, or any of their consultants that does not otherwise exist.

In connection with the arbitration proceedings all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

END OF SECTION 9

SECTION 10 - DISPUTES RESOLUTION

10.1 Disputes Resolution

10.1.1 Disputes Review Board

A Disputes Review Board (“Board”) will be established to assist in the resolution of disputes arising out of the Work on the Project. This document describes the purpose, procedure, function and features of the Board.

The Board will provide special expertise to assist and facilitate the timely and equitable resolution of disputes and controversies between CFX and the Contractor in an effort to avoid construction delays and future claims.

It is not intended for CFX or the Contractor to avoid the normal responsibility to cooperatively and fairly settle differences by indiscriminately requesting dispute resolution by the Board. It is intended the Board encourage CFX and the Contractor to first try resolving potential disputes without resorting to the procedure set forth herein.

The Board will be used only when the claims procedure detailed in the Contract has been followed and has been unsuccessful. It is a condition of the Contract that the parties use the Board. Adherence to the Contract claims procedure is a condition precedent to the submission of a dispute to the Board, and the submission of an unresolved dispute to the Board is, in turn, a condition precedent to arbitration of such issue.

The Board will fairly and impartially consider disputes referred to it. The Board will receive testimony and other relevant evidence regarding such disputes, will analyze the facts within the parameters of the Contract, and will then provide written recommendations (to CFX and Contractor) to assist in the resolution of the disputes. The recommendations of the Board will not be binding on either CFX or the Contractor; however, the Board’s recommendations and findings shall be admissible for all purposes in any subsequent arbitration proceedings or the judicial enforcement thereof.

10.1.2 Continuance of Work During Dispute

During the dispute resolution process the Contractor shall conform to the CEI’s decision or order and continue with the Work as directed by the CEI in a diligent manner and without delay. Such Work will be governed by all applicable provisions of the Contract. With respect to any protested Work, the Contractor will keep complete records of extra costs and time incurred. Except for sealed Bid Records, the Contractor will permit CEI and the Board access to any records needed for evaluating the dispute, without any claim of privilege or confidentiality.

10.1.3 Disputes Review Board Membership

The Board will consist of three Members, one Member selected by CFX and approved by the Contractor, and one Member selected by the Contractor and approved by CFX. The first two Members will mutually select and agree on the third Member, which third Member shall not be subject to approval by either the Contractor or CFX. Normally, the third Member will act as Chairman for all Board activities. If the third Member declines to act as Chairman, the Members shall select an alternative Chairman. Neither the Contractor nor CFX shall seek to influence the Chairman selection decision.

The Contractor and CFX shall each submit the name and credentials of their proposed Member to the other within ten (10) days of the Contract award. The two Members, upon acceptance, shall meet promptly and mutually agree on the third Member. A Notice to Proceed shall not be issued until the Board Members have been selected and have signed the Three-Party Agreement. All three Members shall attend the Pre-Construction Meeting.

All Board Members shall be experienced with major road and bridge construction and the associated construction methods involved in the Project, in the interpretation of contract documents and in contract dispute resolution. The goal in selecting the third Member is to complement the construction experience of the first two Members and to provide leadership of the Board's activities.

It is imperative that Board Members show no partiality to either the Contractor or CFX, or have any conflict of interest.

The criteria and limitations for membership will be as follows:

- a. The person selected will not have any direct or indirect ownership or financial interest in (i) the Contractor, (ii) CEI or the CFX General Engineering Consultant ("GEC"), (iii) any subcontractor or supplier of the Project, or (iv) the employer of other Board Members.
- b. Except for services as a Board Member on CFX projects, no Member shall have been an employee, contractor or consultant to the Contractor or CFX, CEI, the GEC or any subcontractor or supplier for the Project within a period of ten (10) years prior to the Contract award.
- c. No Member will have had a close personal, professional or business relationship with CFX or the Contractor (or an employee or officer of CFX or the Contractor).
- d. No Member will have had any prior involvement in the Project (other than as a dispute board member) of a nature which could be construed to compromise an ability to impartially resolve disputes.

- e. No Member will be employed by the Contractor, the CEI, the GEC or any subcontractor or supplier of the Project during the term of the Contract, except as a Board Member pursuant to the Three Party Agreement.
- f. During the term of the Contract no discussion or agreement will be made between a Board Member and CFX or Contractor regarding employment after the Contract is completed.
- g. During the term of the Contract, ex-parte communications between a Board Member and a party to the Three Party Agreement is prohibited.

Before appointments are final, the first two prospective Members will submit complete disclosure statements for the approval of both CFX and the Contractor. Each statement (in the form prepared by CFX) will include a statement of experience and a declaration describing all past, present and anticipated or planned future relationships to the Project and with the parties to the Contract. Disclosure of professional or personal relationships with parties to the Contract will be included. The third Board Member will supply a similar statement to the first two Board Members (and to CFX and the Contractor) before the third Member appointment is finalized.

CFX and the Contractor will each select a Member, execute the Three Party Agreement (described below) and assure the Members execute the Three-Party Agreement within the first three (3) weeks after Contract award. CFX and the Contractor will immediately notify the selected Members to begin selection of the third Member. The first two Members will ensure the third Member meets all of the criteria listed above. The third Member will be selected within two (2) weeks after the first two Members are notified to proceed with the selection of the third Member. If there is an impasse in the selection of the third Member, the third Member will be selected by CFX and the Contractor, with the first consideration to the nominees reviewed by the first two Members.

In the event of death, disability or resignation of a Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for whatever other reason a Member fails or is unable to serve, the Chairman (or failing the action of the Chairman, then either of the other Members) shall inform the parties and such non-serving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within fifteen (15) days after the event giving rise to the vacancy on the Board, failing which the replacement shall be made by the two remaining Members of the Board. Replacement shall be considered completed when the new Member executes the Dispute Review Board Three Party Agreement.

10.1.4 Board Operations

The Board will formulate procedures of operation that shall be flexible with respect to the functioning of the Board. The Board may formulate new or revised procedures respecting its operation from time to time to accommodate the needs of the Board and the circumstances.

Each Board Member shall be provided a complete set of the Contract Documents. CFX and the Contractor shall keep the Board informed of construction activity and progress by submitting written progress reports and other relevant data at least monthly. The Board will visit the Project at regular intervals and/or at times of critical construction events and meet with CEI and the Contractor. In circumstances of unresolved disputes, the Board will meet at least monthly until the unresolved disputes are concluded. The frequency of visits will be agreed upon by CFX, the Contractor and the Board, depending upon the progress of the Work.

Regular meetings will be held at the job site. Each meeting will consist of an informal discussion and a field inspection of the Work. The informal discussion will be attended by selected personnel from CFX, the CEI and the Contractor. Agenda for regular meetings of the Board will generally include the following:

- a. Meeting opened by the Chairman of the Board.
- b. Remarks by the CEI.
- c. A description by the CEI and the Contractor of Work accomplished since the last meeting, current status of the Work schedule, schedule for the future, potential problems and proposed solutions to anticipated problems.
- d. Discussion by the CEI of Work schedule, potential new disputes or claims, status of past disputes and claims and other issues.
- e. Set a date for next meeting.

The CEI will prepare minutes of all Board meetings and circulate them for comments, revisions and/or approval by all concerned.

The field inspection will cover all active segments of the Work. The Board will be accompanied by representatives of both the CEI and the Contractor. Soliciting any Board Member's advice or consultation regarding the Work or the Contract is expressly prohibited.

10.1.5 Procedure for Disputes Resolution

Disputes will be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Steps may be omitted as agreed by both parties and the time periods stated below may be shortened in order to hasten resolution.

- a. If either CFX or Contractor object to any decision of the CEI with respect to claims, change order requests, or other actions or orders of the CEI, the objecting party may file a written protest with the CEI within fifteen (15) days after the CEI's disputed decision, action or order. The written protest must clearly state in detail the basis for the objection.
- b. The CEI will consider the written protest to its decision or directive, and make a final decision on the basis of the pertinent Contract provisions, together with the facts and circumstances involved in the protest. The decision will be furnished to CFX and Contractor in writing within fifteen (15) days after receipt of the written protest.
- c. The CEI's decision with respect to the protest will be final, unless a written exception is filed by CFX or Contractor with the CEI within fifteen (15) days after receiving the protest decision. If either rejects the CEI's final decision, the disputed matter may be referred to the Board by either CFX or the Contractor.
- d. Upon receipt by the Board of a written dispute, the Board will first decide when to conduct the hearing. If the matter is not urgent, it may be heard at the next regularly scheduled Board meeting. For an urgent matter, the Board will meet at its earliest convenience.
- e. Either party furnishing written evidence or documentation to the Board will furnish copies of such information to the other party a minimum of fifteen (15) days prior to the date the Board sets to hear the dispute. If the Board requests additional documentation or evidence prior to, during or after the hearing, CFX and/or the Contractor will provide the requested information to the Board and to the other party. Because each side needs a reasonable opportunity to understand and rebut the opposing side's point of view, failure of either party to timely provide written documentation in accordance with this provision shall result in such written documentation being excluded from the hearing before the Board unless the other party consents to its admission or consents to a delay in the hearing.

- f. The Contractor and CFX will each be afforded an opportunity to be heard by the Board and to offer evidence. The Board will consider all relevant evidence presented and analyze the same solely within the parameters of the Contract. Hearsay evidence shall be admissible but shall not be the sole basis for any recommendation of the Board.
- g. The Board's recommendations for resolution of the dispute will be given in writing within fifteen (15) days of completion of the hearing(s). In cases of extreme complexity, both parties may agree to allow additional time for the Board to formulate its recommendations. Generally, the Board will initially focus its attention (in the written report) only to matters of entitlement, and allow the parties to thereafter determine the monetary relief. If both parties request, and sufficient documentation is available, the Board may also make a recommendation of monetary relief, but only after formulation of the entitlement recommendation and only after the parties have attempted to agree upon the monetary relief amount.
- h. If the Board's recommendation for resolution is not unanimous, the dissenting member shall prepare a separate written opinion.
- i. Within fifteen (15) days of receiving the Board's recommendations, both CFX and the Contractor will respond to the other and to the Board in writing, signifying either acceptance or rejection of the Board's recommendations. The failure of a party to respond within the fifteen (15) day period will be deemed an acceptance by such party of the Board's recommendations. If CFX and the Contractor are able to resolve the dispute (with or without the aid of the Board's recommendations), CFX will promptly process any required Contract changes.
- j. If the dispute remains unresolved because of a bona fide lack of clear understanding of the recommendation, either party may request the Board clarify specific portions of its recommendations. Further, if new evidence becomes available, either party may request the Board reconsider its prior recommendation. Only evidence which did not exist at the time of the hearing, or which existed but which could not be discovered with reasonable and normal diligence shall be considered new evidence.
- k. If the Board's recommendation is rejected, either party may thereafter initiate resolution of the dispute by binding arbitration conducted pursuant to the Contract.

Both CFX and the Contractor should carefully consider the Board's recommendations, as the recommendations are binding unless written notice is provided to the other party within 30 days of the recommendations stating the party's intent to bring the disputed issue to arbitration. However, if the Board's recommendations do not resolve the dispute, all records and written recommendations, including any minority reports, will be admissible for informational purposes in any subsequent dispute resolution procedures. Such informational purposes shall include but not be limited to establishing that the Board considered the dispute, the qualifications of the Board Members, and the Board's recommendation that resulted from the dispute resolution process.

10.1.6 Conduct of Disputes Hearings

Each party shall file three copies of its written arguments with the Board no less than seven days prior to the scheduled hearing and shall simultaneously deliver a copy of such written arguments to the opposing party. Each party shall also submit to the Board along with its written arguments copies of its written evidence and documentation which has been previously provided to the opposing party as provided above.

Normally, the hearing will be conducted at the job site. However, any location more convenient and which provides all required facilities and access to necessary documentation is satisfactory.

While the Board will keep a record of its sessions during consideration of a dispute, the Board will not be required to keep its record in any particular form. The nature and completeness of the record will depend upon the nature and magnitude of the dispute and the desires of the parties. If possible, the hearings shall be kept informal. Formal records of the Board meetings may be taken and transcribed by a court reporter if requested by a party (at the requesting party's cost). Audio and/or video recording of the meeting is discouraged and shall only be made with the prior agreement of all parties and a majority of the Board.

CFX and the Contractor will have representatives at all dispute resolution hearings. The party requesting Board review will first discuss the dispute, followed by the other party. Each party will then be allowed successive rebuttals until all aspects are fully covered to the Board's satisfaction. The Members and the parties may ask questions, request clarification or ask for additional data. In large or complex cases, additional hearings may be necessary in order to consider and fully understand all evidence presented by both parties.

During the hearings, no Member will express any opinion concerning the merit of any facet of the dispute.

After the hearings are concluded, the Board will meet in private to formulate recommendations supported by two or more Members. All Board deliberations will be conducted in private, with individual views kept strictly confidential. No minutes shall be

prepared of the Board's private meetings. The Board's recommendations and discussions of its reasoning will be submitted as a written report to both parties. The recommendations will be based on the pertinent Contract provisions and the facts and circumstances involved in the dispute.

The Board will make every effort to reach a unanimous decision. If a unanimous decision is not possible, the dissenting Member may (but is not required to) prepare a minority report.

10.1.7 Compensation

The Contractor shall pay the fees of all three Board Members for services rendered under the Three Party Agreement. An allowance pay item has been established in the Contract for the reimbursing the Contractor. Funds remaining in the pay item, if any, at the completion of the Project will belong to CFX. CFX and the Contractor shall agree on the procedures and method of processing payments made against the allowance. CFX or the CEI will mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services. If the Board desires special services, such as legal consultation, accounting, data research, etc., both parties must agree and the costs will be paid from the allowance.

10.1.8 Three Party Agreement

The Contractor, CFX and the Members of the Board will execute the Dispute Review Board Three Party Agreement within four (4) weeks of the final selection of the third Member.

END OF SECTION 10

ATTACHMENT A

**DISPUTES REVIEW BOARD
THREE PARTY AGREEMENT**

THIS THREE PARTY AGREEMENT (“Agreement”) made and entered into this _____ day of _____, 20__, between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”)**, _____ (**“Contractor”**) and the **DISPUTES REVIEW BOARD (“Board”)**, consisting of three members: _____, _____ and _____ (**“Members”**).

WHEREAS, CFX is now engaged in the construction of the _____, and

WHEREAS, the _____ contract (“Contract”) provides for the establishment and operation of the Board to assist in resolving disputes and claims.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein (or attached, incorporated and made a part hereof), the parties agree as set forth herein.

**I
DESCRIPTION OF PURPOSE**

To facilitate resolution of disputes between the Contractor and CFX, CFX has provided (in the Contract) for the establishment of the Board. The function of the Board is to fairly and impartially consider Contract disputes placed before it and provide written recommendations for resolution to both CFX and the Contractor. The Members of the Board shall perform the services designated in Section II, Scope of Work.

**II
SCOPE OF WORK**

The Scope of Work includes, but is not limited to, the following items:

A. Third Board Member Selection. The first duty of CFX and the Contractor selected Members of the Board is to select the third Member. The third Member shall not have any current financial or employment ties with either the Contractor or CFX. The selection goal is to obtain a third Board Member who will complement the first two by furnishing expertise, leadership and experience to facilitate the Board’s operations. The first two Board Members selected shall proceed with the selection of the third Board Member upon receiving their appointment. If the first two Members are unable to select a third

Member within four (4) weeks, CFX and the Contractor will select the third Member.

B. Procedures. After selecting the third Board Member and prior to considering a dispute, the Board shall establish procedures to govern the conduct of its business and reporting procedures based on the Guidelines, attached as an Appendix to this Agreement. The Board recommendations (resulting from a consideration of a dispute) shall be furnished in writing to CFX and the Contractor. The recommendations shall be based solely on the pertinent Contract provisions and the facts as reasonably determined by the Board. The Board shall have no authority to disregard or unilaterally modify pertinent Contract provisions including, but not necessarily limited to, those provisions pertaining to notices and claims procedures.

C. Furnishing Documents. CFX shall, at the time of each Board Member's appointment, furnish such Member a copy of the Contract. Both CFX and the Contractor shall, no later than seven (7) days prior to the scheduled Board hearing, submit to the Board three copies of all written documents and arguments that such party wishes the Board to consider. Each party shall provide its written documentation to the other side no later than fifteen (15) days prior to the scheduled Board hearing and shall provide a copy of its written argument to the other side no later than seven (7) days before the hearing in order to afford the other side the opportunity to review such documents and prepare any necessary rebuttal for the hearing.

D. Site Visits. The Board shall visit the project site to: (i) keep abreast of construction activities, and (ii) develop a familiarity of the work in progress. The frequency, exact time and duration of visits shall be in accordance with the attached Guidelines or as mutually agreed between CFX, the Contractor and the Board.

In the circumstance of an alleged differing site condition (or specific construction problem), it will be advantageous for the Board to view any relevant conditions. If viewing by the Board would cause delay to the project, photographs and descriptions of conditions collected by either (or both) party will suffice.

E. Board Consideration of Disputes or Claims. Upon receipt by the Board of a written appeal of a dispute (from either the Contractor or CFX) the Board shall convene to review and consider the dispute. CFX, the Contractor and the Board shall determine the time and location of Board meetings. Both CFX and the Contractor shall be given the opportunity to present evidence and argument at such meetings. Absent good cause to the contrary, written evidence shall be limited to that evidence which was previously supplied to both the Board and the other party in accordance with the previous paragraph. Mere negligence in providing such written evidence shall not be considered good cause for its admission. Hearsay evidence shall be permitted but shall not be the sole basis for any recommendation by the Board. Additionally, Board Members may rely on their personal knowledge based on

prior site visits, ongoing document reviews, and general project familiarity. Each party may, but is not required to, submit its proposed recommendations for resolving the dispute to the Board for its consideration.

Board Members are to act impartially and independently in weighing the evidence and in considering the respective positions of the parties within the confines and literal interpretation of the Contract terms. The recommendations concerning any such dispute are advisory and not binding on either party. The Board shall make every effort to reach a unanimous recommendation. If a unanimous recommendation is not possible, the dissenting Member shall prepare a minority report.

The Board's recommendations, together with explanations of its reasoning, shall be submitted as a written report to both parties. The recommendation shall be based solely on the pertinent provisions of the Contract, applicable laws and regulations, and the relevant facts as determined by the Board based upon the evidence presented. It is important for the Board to express, clearly and completely, the logic and reasoning leading to the recommendation so that both parties fully understand the recommendation.

Either CFX or the Contractor may request the Board to reconsider its recommendation. However, reconsideration will only be allowed when there is new evidence to present, or a clarification is required.

F. Miscellaneous Board Responsibilities. In addition to the matters set forth above:

1. The Board Member shall become familiar with the Contract Documents, review periodic reports, and maintain a current file of the project.
2. Except for providing the services required in this Agreement, the Board and its individual Members shall refrain from giving any advice to either party concerning conduct of the work or the resolution of problems. Ex-parte communications between a party and a Board Member are prohibited.
3. The Board shall perform services not specifically listed herein to the extent necessary to achieve the purposes of this Agreement.

G. Board Member Replacement. If the need occurs to appoint a replacement Board Member, the replacement Board Member shall be appointed in the same manner as

the original Board Members were appointed. The selection of a replacement Board Member shall begin promptly upon notification of the necessity for a replacement. The Agreement will be supplemented to indicate change in Board membership.

III CONTRACTOR RESPONSIBILITY

A party shall furnish to each Board Member one copy of all pertinent documents that are or may become necessary for the Board to perform its function. Pertinent documents are any drawings or sketches, calculations, procedures, schedules, estimates or other documents that are used in the performance of the work or in justifying or substantiating the party's position. A copy of such pertinent documents must also be furnished to the other party.

IV CFX RESPONSIBILITIES

CFX shall furnish the following services and items:

A. Contract Related Documents. CFX shall furnish the Board copies of all Contract Documents, Supplemental Agreements, written instructions issued by the CEI or CFX to the Contractor, or other documents pertinent to the performance of the Contract and necessary for the Board to perform its function.

B. Coordination and Services. CFX (in cooperation with the Contractor) will coordinate the operations of the Board. CFX, through the CEI, will arrange or provide conference facilities at or near the site and provide secretarial and copying services.

V TIME FOR BEGINNING AND COMPLETION

The Board shall be in operation throughout the term of the Contract and, if needed, for a reasonable post-construction period.

The Board Members shall not begin any work under the terms of this Agreement until authorized by CFX in writing.

VI PAYMENT

The fees and expenses of all three Board Members for services rendered under this Agreement will be an expense to the Contractor with reimbursement under the pay item allowance as provided below. Payment for services of the CFX-appointed, Contractor-appointed, and the third Board Members will be full compensation for work performed or services rendered, and for all expenses, such as food, lodging, travel, telephone, postage etc.

A. Payment.

Each Board Member will be paid One Thousand 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. Inspection of Costs Records. The Board Members shall keep available the cost records and accounts pertaining to this Agreement for inspection by representatives of CFX for a period of three (3) years after final payment. If any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records is completed.

VII ASSIGNMENT OF TASKS OF WORK

Neither the Board nor the Board Members may assign or delegate any of the work of this Agreement.

VIII TERMINATION OF AGREEMENT

With the mutual consent of CFX and the Contractor, this Agreement may be terminated at any time. However, individual Board Members may be terminated with or without cause, but only by their original appointer, i.e., CFX may terminate the CFX appointed Member, the Contractor may terminate the Contractor's appointed Member, and the first two Members must agree to terminate the third Member.

**IX
LEGAL RELATIONS**

A. Each Board Member in the performance of duties on the Board is acting in the capacity of an independent agent and not as an employee of either CFX or the Contractor.

B. CFX and the Contractor expressly acknowledge that each Board Member is acting in a capacity intended to facilitate resolution of disputes. Accordingly, to the fullest extent permitted by law, each Board Member shall be accorded quasi-judicial immunity for any actions or decisions associated with the consideration, hearing and recommendation of resolution for disputes referred to the Board.

C. Except for the negligent acts or omissions of a Board Member, or for activities outside of the scope of this Agreement, each Board Member shall be held harmless for any personal or professional liability arising from or related to Board activities. To the fullest extent permitted by law, CFX and the Contractor shall defend and indemnify all Board Members against claims, losses, demands, costs and damages (including reasonable attorney's fees) for bodily injury, property damage or economic loss arising out of or related to Board Members carrying out Board functions. The foregoing indemnity is a joint and several obligations of the Contractor and CFX.

**X
ARBITRATION, VENUE, APPLICABLE LAW**

Any dispute, claim or controversy between the parties hereto arising out of or related to this Agreement shall be resolved by arbitration. The American Arbitration Association pursuant to its Construction Industry Arbitration Rules shall conduct such arbitration, and the arbitration proceeding shall occur in Orange County, Florida. All questions and issues respecting this Agreement and the arbitration shall be resolved by application of Florida law and the judgment of the arbitration panel shall be enforceable in accordance with the provisions of the Florida Arbitration Code.

**XI
NO BONUS**

The Contractor and CFX shall not pay and the Members shall not receive any additional commission, percentage, bonus or consideration of any nature (other than the payment provided for in Section VI above) for performance and services under this Agreement.

**XII
NO CONFLICT**

The Members of the Board agree individually they do not now and during the term of this Agreement will not have any direct or indirect ownership or financial interest in the Contractor, the

Engineer of Record for the project, the CEI or any subcontractor or supplier of the project. The Members of the Board affirm they have not for a period of ten (10) years prior to this Agreement been an employee, Contractor or consultant to the Contractor, the Engineer of Record for this project, the CEI or any subcontractor or supplier of the project, and that during the term of this Agreement they shall not become so employed. During the term of the Agreement no discussion or Agreement will be made between any Board Member and any party to this Agreement for employment after the Contract is completed.

By executing this Agreement the parties mutually agree that the Members of the Board identified herein are qualified and desirable and that the criteria and limitations detailed in subarticles 10.2.3 b and 10.2.3 c of the project General Specifications are satisfied or are hereby waived.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CFX:

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____
Print Name: _____
Title: _____

BOARD:

DISPUTES REVIEW BOARD

By: _____
Print Name: _____

By: _____
Print Name: _____

By: _____
Print Name: _____

CONTRACTOR:

By: _____
Print Name: _____
Title: _____

APPENDIX

PROCEDURE GUIDELINES

1. GENERAL MEETINGS

General Meetings are defined as those meetings required for the Board to develop a familiarity of the work in progress and keep abreast of construction activities such as progress, status and nature of items in the earlier stages of escalation, changes to personnel, etc. General Meetings shall occur 60days after Notice to Proceed for the Project and every 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
#21**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: August 2, 2021

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

Board approval is requested for the second renewal of the referenced contract with QCA in the amount of \$875,721.48 for one year beginning November 9, 2021 and ending November 8, 2022. The original contract was for three years with two one-year renewals.

The work to be performed includes providing public information support for projects in the Five-Year Work Plan.

Original Contract	\$1,305,752.36
Supplemental Agreement No. 1	\$ 677,592.00
First Renewal	\$ 494,337.39
Second Renewal	<u>\$ 875,721.48</u>
Total	\$3,353,403.23

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

Reviewed by: Angela Melton
Angela Melton
Director of Public Outreach &
Communications


Michelle Maikisch (Aug 2, 2021 16:08 EDT)
Michelle Maikisch

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 2 AGREEMENT
CONTRACT NO. 001298**

THIS CONTRACT RENEWAL NO. 2 AGREEMENT (“Renewal Agreement”), is made and entered into this 12th day of August 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and Quest Corporation of America, Inc., a Florida corporation, registered and authorized to do business in the State of Florida, hereinafter called the (“Contractor”). CFX and Contractor are referred to herein sometimes as a “Party” or the “Parties”.

WITNESSETH

WHEREAS, on November 9, 2017, CFX and the Contractor entered into a Contract Agreement (the “Original Agreement”), whereby CFX retained the Contractor to perform public information services and related tasks as may be assigned to the Contractor by CFX; and

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. **Renewal Term.** CFX and Contractor agree to exercise the second renewal of said Initial CFX Contract, which renewal shall begin on November 9, 2021 and end on November 8, 2022 (“Renewal Term”), unless otherwise extended as provided in the Original Contract.
3. **Compensation for Renewal Term.** The Contractor 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 \$875,721.48 (“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. **Counterpart and Electronic Signatures.** 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.

QUEST CORPORATION OF AMERICA, 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: _____
Print Name: _____

By: _____
Diego "Woody" Rodriguez, General Counsel

By: _____
Print Name: _____

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 1 AGREEMENT
CONTRACT NO. 001298**

THIS CONTRACT RENEWAL NO. 1 AGREEMENT (“Renewal Agreement”), is made and entered into this 13th day of August 2020, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and QUEST CORPORATION OF AMERICA, INC., a Florida corporation, hereinafter called the (“Consultant”). CFX and Consultant are referred to herein sometimes as a “Party” or the “Parties”.

WITNESSETH

WHEREAS, CFX and the Consultant entered into that certain Contract Agreement dated November 9, 2017, (collectively, the “Original Agreement”), with a Notice to Proceed date of November 9, 2017, whereby CFX retained the Consultant to perform public information services; and

WHEREAS, pursuant to Article 2 of the Original Agreement, CFX and Consultant wish to renew the Original Agreement for a period of one (1) year in accordance with the terms and conditions hereof.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises set forth in this Renewal Contract, the Parties agree as follows:

1. **Recitals.** The above recitals are true and correct and are hereby incorporated by reference as if fully set forth herein.
2. **Renewal Term.** CFX and Consultant agree to exercise the first renewal of said Initial CFX Contract, which renewal shall begin on November 9, 2020 and end on November 8, 2021 (“Renewal Term”), unless otherwise extended as provided in the Original Contract.
3. **Compensation for Renewal Term.** The Consultant shall be compensated for any and all services performed during the Renewal Term under this Renewal Agreement in accordance with **Exhibit “B”** of the Original Agreement, in an amount up to \$494,337.39 (“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. **Counterpart and Electronic Signatures.** 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.

QUEST CORPORATION OF AMERICA, INC.

CENTRAL FLORIDA EXPRESSWAY
AUTHORITY

By: *Diane Hackney*
Print Name: Diane Hackney
Title: Assistant Vice President

By: Aneth Williams Digitally signed by Aneth Williams
Date: 2020.08.31 20:12:13 -04'00'
Aneth Williams, Director of Procurement

ATTEST: *Jessica Francis* (SEAL)
Jessica Francis

Secretary or Notary
If Individual, furnish two witnesses:

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

By: *Elisa DiGrazia*
Print Name: Elisa DiGrazia

By: Diego "Woody" Rodriguez Digitally signed by Diego
"Woody" Rodriguez
Date: 2020.08.31 13:48:21 -04'00'
Diego "Woody" Rodriguez, General Counsel

By: *Kimberly Licari*
Print Name: KIMBERLY LICARI



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

This Supplemental Agreement No. 1 ("Supplemental Agreement") is entered into this 13th day of June 2019, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and QUEST CORPORATION OF AMERICA, INC. (the "Contractor").

WITNESSETH:

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

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

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

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

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


'19 JUN 17 AM 10:15

IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the day and year first written above. This Supplemental Agreement No. 1 was approved by CFX Board of Directors on June 13, 2019.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement

QUEST CORPORATION OF AMERICA, INC.

By: 
Diane Hackney
Print Name


Title: Assistant Vice President

Witness: 

Date: 6/14/19

'19 JUN 17 AM 10:15

Approved as to form and execution, only.


General Counsel for CFX

CONTRACT

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

PUBLIC INFORMATION SERVICES

CONTRACT NO. 001298

**CONTRACT DATE: NOVEMBER 9, 2017
CONTRACT AMOUNT: \$1,305,752.36**

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

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

PUBLIC INFORMATION SERVICES

CONTRACT NO. 001298

NOVEMBER 2017

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
C	CONTRACT	1 to 19
	Exhibit "A" SCOPE OF SERVICES	A-1 to A-6
	Exhibit "B" PRICING SHEET	B-1
	Exhibit "C" METHOD OF COMPENSATION	C-1 to C-3
	Exhibit "D" POTENTIAL CONFLICT DISCLOSURE FORM	D-1 to D-6

CONTRACT

This Contract is made this 9TH day of November 2017, between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, created by Chapter 2014-171, Laws of Florida, which is codified in Chapter 348, Part III of the Florida Statutes, hereinafter "CFX," and Quest Corporation of America, Inc., a Florida corporation, registered and authorized to do business in the State of Florida, whose principal address is 17220 Camelot Ct., Land O' Lakes, FL. 34638, hereinafter "the CONTRACTOR."

WITNESSETH:

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

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

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

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

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

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

1. SERVICES TO BE PROVIDED

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

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

2. TERM AND NOTICE

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

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

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

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

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

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

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

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

3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES

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

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

4. **AUDIT AND EXAMINATION OF RECORDS**

4.1 Definition of Records:

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

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

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

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

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

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

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

5. PUBLIC RECORDS

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

Notwithstanding the section on "Press Releases," CONTRACTOR acknowledges that CFX is a body politic and corporate, an agency of the State of Florida, and is subject to the Public Records Act codified in Chapter 119, Florida Statutes. To the extent that the CONTRACTOR is in the possession of documents that fall within the definition of public records subject to the Public Records Act, which public records have not yet been delivered to CFX, CONTRACTOR agrees to comply with Section 119.0701, Florida Statutes, and to:

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

records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the contract, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation Contract Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act and CONTRACTOR must provide the records to CFX or allow the records to be inspected or copied within a reasonable time. Failure by CONTRACTOR to grant such public access shall be grounds for immediate unilateral termination of this Contract by CFX for cause. Failure to provide the public records to CFX within a reasonable time may subject the CONTRACTOR to penalties under Section 119.10, Florida Statutes.

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

6. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT

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

CONTRACTOR acknowledges that CFX officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with CFX in accordance with CFX's Code of Ethics. CONTRACTOR acknowledges that it has read the CFX's Code of Ethics and, to the extent applicable, CONTRACTOR will comply with the aforesaid CFX's Code of Ethics in connection with performance of the Contract.

As required by Section 348.753, Florida Statutes, and CFX's Code of Ethics, CONTRACTOR agrees to complete CFX's Potential Conflict Disclosure Form prior to the execution of the Contract, upon the occurrence of an event that requires disclosure, and annually, not later than July 1st. The Potential Conflict Disclosure Form is attached as **Exhibit "D."**

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

CONTRACTOR covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Section 112.313, Florida Statutes, as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

CONTRACTOR hereby certifies that no officer, agent or employee of CFX has any "material interest" (as defined in Section 112.312(15), Florida Statutes) either directly or indirectly, in the business of CONTRACTOR, and that no such person shall have any such interest at any time during the term of this Agreement.

7. DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISES

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

8. CONTRACTOR INSURANCE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide CFX with certificates of same, CFX may obtain such policies and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments. Alternately, CFX may declare CONTRACTOR in default for cause.

9. CONTRACTOR RESPONSIBILITY

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

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

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

10. INDEMNITY

CONTRACTOR shall indemnify and hold harmless CFX, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of CONTRACTOR and other persons employed or utilized by CONTRACTOR in the performance of the contract.

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

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

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

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

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

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

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

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

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

11. PRESS RELEASES

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

12. PERMITS, LICENSES, ETC.

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

13. NONDISCRIMINATION

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

14. ASSIGNMENT AND REMOVAL OF KEY PERSONNEL

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

Name and Title of Key Personnel

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

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

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

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

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

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

15. NOTIFICATION OF CONVICTION OF CRIMES

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

16. COMPLIANCE WITH LAWS; EQUAL OPPORTUNITY EMPLOYMENT

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

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

17. SUBLETTING AND ASSIGNMENT

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

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

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

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

18. DISPUTES

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

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

19. OTHER SEVERABILITY

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

20. INTEGRATION

It is understood and agreed that the entire agreement of the parties is contained in this Contract herein and that this Contract supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. No waiver, amendment, or modification of these terms hereof will be valid unless in writing, signed by all parties and only to the extent therein set forth.

21. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT

CONTRACTOR hereby acknowledges that pursuant to Section 287.133(2)(a), Florida Statutes, "a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list."

CONTRACTOR further acknowledges that pursuant to Section 287.134(2)(a), Florida Statutes, "an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real

property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”

22. APPLICABLE LAW; VENUE

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

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

23. RELATIONSHIPS

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

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

24. INTERPRETATION

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

25. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

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

26. SURVIVAL OF EXPIRATION OR TERMINATION

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

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

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

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

26.4 Obligations upon expiration or termination of the Contract; and

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

27. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT

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

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

28. INSPECTOR GENERAL

CONTRACTOR understands and shall comply with subsection 20.055(5), Florida Statutes, and to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing pursuant to this section. The undersigned further agrees that any subconsultants and subcontractors to the undersigned participating in the performance of this Contract shall also be bound contractually to this and all applicable Florida statutory requirements.

28. ASSIGNMENT

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

29. E-VERIFY

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

30. APPROPRIATION OF FUNDS

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

31. NOTICE TO THE PARTIES

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

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

Contract No. 001298

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

32. EXHIBITS

This Contract references the exhibits listed below.

Exhibit "A" Scope of Services

Exhibit "B" Pricing Sheet

Exhibit "C" Method of Compensation

Exhibit "D" Potential Conflict Disclosure Form

[SIGNATURES TO FOLLOW]

Contract No. 001298

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

ACCEPTED AND AGREED TO BY:

QUEST CORPORATION OF AMERICA, INC.

By: *Jim Calabrese*
Vice President
Title

ATTEST: *Diane Heckney* (Seal)

DATE: *11/16/17*



CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: *Bill*
Director of Procurement

2017 NOV 20 AM 9:39

Print Name: *Aneth Williams*

Date: *12/13/17*

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

Joseph J. Lassiter
General Counsel for CFX

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

1.0 GENERAL

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

2.0 CONTRACTOR SERVICES

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

2.1 Public Involvement

Overview

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.2 **Public Hearings**

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

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

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

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

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

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

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

2.3 Public Information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.3.14 The Contractor shall attend project progress meetings.

2.3.15 The Contractor shall take meeting notes as necessary.

2.4 **Quality Control**

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

3.0 **ADDITIONAL SERVICES**

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


END OF SCOPE OF SERVICES

**CONSENT AGENDA ITEM
#22**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Son Nguyen
Risk Manager 

DATE: August 03, 2021

SUBJECT: Approval of Insurance Policy with Florida Municipal Insurance Trust (FMIT)

In order to obtain insurance on its assets, CFX utilizes an independent insurance broker, HUB Florida Public Risk, Inc. (HUB) for advice and the solicitation and evaluation of proposals for insurance coverage. CFX's current insurance policy is with FMIT and is administered by the Florida League of Cities. The policy which includes Workers Compensation/Employer's Liability, General Liability & Public Officials Liability, Property & Crime, and Automobile expires on October 1, 2021.

HUB marketed CFX's insurance package to FMIT, PGIT, Zurich, Markel, AIG, Travelers, Philadelphia, Liberty Mutual, One Beacon, Chubb, and Glatfelter. Three carriers were only willing to provide partial coverage, while six carriers declined to provide a quote as it did not fit within their various underwriting requirements and guidelines. The policy premium quote from FMIT is \$233,652.

Board approval to accept HUB's recommendations for the insurance policy with FMIT for coverage period October 1, 2021 to October 1, 2022 at a total premium not to exceed \$235,000 (which will allow for possible slight increases or additions for property) is requested.

This contract is included in the OM&A Budget.

Reviewed by:


Lisa Lumbar

Chief Financial Officer

Executive Summary

Central Florida Expressway Authority

Presented: August 4, 2021

Effective: October 1, 2021



Submitted by:

Jim Duncan, CPCU

HUB Public Risk
1560 Orange Ave., Suite 750
Winter Park, FL

850-205-0265
jim.duncan@hubinternational.com



Executive Summary

HUB Public Risk offers the following Executive Summary and Marketing Results for your consideration.

2021 Insurance Marketplace for Public Entities

Property Programs continue to experience rate increases in the double digits, including changes in policy conditions such as higher deductibles, and limitations on wind, hail, flood, and earthquake. Due to catastrophic exposure, Florida has the additional problems of limited capacity and a reduced number of carriers offering coverage in the state.

Other concerns that insurers express are:

- Verifying insurance valuations are up to date
- Aging infrastructure
- Verifying maintenance and repair programs are in place that include regular inspections.

Liability Programs have been disrupted by the COVID-19 pandemic, civil unrest and scrutiny of policing practices. Sexual Abuse and Molestation claims are an increasing issue, and some state jurisdictions are looking to lengthen the statute of limitations on reporting. These are leading to less carriers in the public entity space.

Umbrella Programs have been the hardest hit. Verdicts over \$1,000,000 have tripled since 2011. Capacity has been dramatically decreasing across the board coupled with more restrictive terms. Premium increases of 20% to 50% are the norm.

Automobile Liability Programs are much in line with Umbrellas, however, loss results for Public Entity auto liability is less severe than auto for private commercial accounts. CPI shows that automobile rates increased and average 16.9% this year.

Workers Compensation rates are determined by the State of Florida. Florida approved a 6.6% overall rate decrease for 2021.

The following chart shows changes to the Authority's exposures between 2020 and 2021.

Exposure	2020	2021	% Change
Insured Property Values	\$35,510,138	\$36,626,905	3.1%
Workers Comp Payrolls	\$7,947,669	\$8,445,298	6.1%
Workers Comp Exp Mod	.70	.71	1.4%
General Liability Exp Mod	.661	.761	15.1%
Vehicle Count	18	17	-5.5%

Summary of Large Liability losses over the past 5 years.

Line of Coverage	Date of Loss	Total Incurred
Automobile	11/26/2018	\$122,654
Errors and Omissions	8/8/2019	\$50,000
General Liability	7/14/2019	\$125,000
General Liability	9/29/2018	\$300,000
Errors and Omissions	4/1/2017	\$55,691

2021 Renewal Results –

FMIT continues to be the best option for CFX. Although the insurance program was marketed to eleven different carriers, FMIT was the only one that returned with a competitive proposal.

The FMIT renewal proposal does pose a 17% overall increase. This is due to increases in exposure, CFX's loss experience and a broader deterioration in the insurance marketplace. For example, the losses used in the 5-year CFX experience rating increased from \$289,605 to \$493,048. This means that CFX is paying \$100,928 in liability premium this year and averaging \$98,610 in losses.

Additionally, FMIT had a 12.5% rate increase on Property coverage, which is in line with the current market.


Line of Coverage	2020 Premium	2021 Premium	% Difference
Property	\$74,531	\$91,077	22%
General Liability	\$75,753	\$90,174	19%
Automobile	\$10,166	\$10,754	5.8%
Workers Comp	\$38,985	\$41,647	6.8%
TOTAL	\$199,435	\$233,652	17.1%

**CONSENT AGENDA ITEM
#23**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 20, 2021

SUBJECT: Approval of First Agreement Renewal with Law Enforcement Systems, LLC
for Out of State Division of Motor Vehicles (DMV) Lookups
Contract No. 001410

Board approval is requested for the first renewal of the referenced agreement with Law Enforcement Systems, LLC in the amount of \$400,000.00 for a one year period beginning November 1, 2021 and ending October 31, 2022. The original agreement was for three years with renewal options.

The work to be performed includes DMV lookups for unpaid toll transactions incurred by customers with out of state license plates.

Original Contract	\$1,500,000.00
First Renewal	<u>\$ 400,000.00</u>
Total	\$1,900,000.00

This contract is included in the OM&A Budget.

Reviewed by: David Wynne
David Wynne
Director of Toll Operations

Jim Greer
Jim Greer

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL NO. 1 AGREEMENT
CONTRACT NO. 001410**

THIS CONTRACT RENEWAL NO. 1 AGREEMENT (“Renewal Agreement”), is made and entered into this 12th day of August 2021, by and between Central Florida Expressway Authority, a corporate body and agency of the State of Florida, hereinafter called “CFX”, and Law Enforcement Systems (LES), LLC hereinafter called the (“Consultant”). CFX and Consultant are referred to herein sometimes as a “Party” or the “Parties”.

WITNESSETH

WHEREAS, on November 1, 2018, CFX and the Consultant entered into a Contract Agreement (the “Original Agreement”), whereby CFX retained the Consultant to provide registered owner information lookup for unpaid toll transactions incurred by customers with out-of-state license plates

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. **Renewal Term**. CFX and Consultant agree to exercise the first renewal of said Initial CFX Agreement, which renewal shall begin on November 1, 2021 and end on October 31, 2022 (“Renewal Term”), unless otherwise extended as provided in the Original Contract.
3. **Compensation for Renewal Term**. 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 \$400,000.00 (“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. **Counterpart and Electronic Signatures**. 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.

LAW ENFORCEMENT SYSTEMS, LLC

**CENTRAL FLORIDA EXPRESSWAY
AUTHORITY**

By: _____
Print Name: _____
Title: _____

By: _____
Aneth Williams, Director of Procurement

ATTEST: _____ (SEAL)

Secretary or Notary
If Individual, furnish two witnesses:

Approved as to form and legality by legal counsel
to the Central Florida Expressway Authority on
this ___ day of _____, 2021 for its exclusive
use and reliance.

By: _____
Print Name: _____

By: _____
Diego "Woody" Rodriguez, General Counsel

By: _____
Print Name: _____

**Registration Information Subscriber Agreement**

This REGISTRATION INFORMATION SUBSCRIBER AGREEMENT ("Agreement") is effective as of the last date set forth below, by and between Law Enforcement Systems, LLC ("LES") with its principal address at 633 West Wisconsin Avenue, Suite 1600, Milwaukee, WI 53203 and Central Florida Expressway Authority (CFX) ("Subscriber") with its principal address at 4974 Orl Tower Rd, Orlando, FL 32807. For purposes of this Agreement, the term "Subscriber" shall include the above named entity's employees, directors, agents, representatives, affiliates, customers, and any additional Authorized Users granted access to the Services and Information by Subscriber; and all references to LES shall include LES's directors, officers, employees, agents, affiliates and assigns. LES and Subscriber may each be referred to individually as Party or together as Parties.

1. SERVICES AND INFORMATION. The services provided by LES include online services, gateway access, filing and processing assistance, consulting and customer service, cost saving strategies, document and form assistance, and other services related to accessing motor vehicle registration and other information by or with the assistance of LES, hereinafter collectively referred to as "Services". All information accessed or retrieved through or related to the Services, including, without limitation, all data, personal information, motor vehicle registration information, search results, reports and files, is hereinafter collectively referred to as "Information". The Information, which primarily consists of motor vehicle registration information, is compiled and maintained by various departments of motor vehicles or similar entities, and in many cases is then compiled and accessed through national databases or similar mediums, operated primarily by private entities, that help facilitate the regulated and controlled exchange of the Information (these DMVs, databases, and other entities are not affiliated with LES and are hereinafter collectively referred to as "DMV data sources"). For the avoidance of doubt, LES is providing Services. All Information is created, maintained, owned and provided entirely by DMV data sources. LES is not responsible for the acts or omissions of DMV data sources or for the Information they provide.

2. ELIGIBILITY. LES does not provide Services to the general public, and Subscriber will only be granted access to Services and Information conditioned upon and subject to the Subscriber certifying that it is permitted to access the Information under the Federal Drivers Privacy Protection Act ("DPPA") and other applicable laws by properly completing the Intended Use Certification ("Certification"), which is incorporated and included herein as Attachment A. Access to the Information is at all times conditioned upon and subject to any requirements of the DMV data sources or applicable local, state, and federal rules and regulations.

3. FEES. For the Services, Subscriber shall pay LES the applicable rates described at Attachment B - the "LES Price List", which is incorporated by reference herein. LES shall invoice Subscriber for all fees and charges incurred and such invoices are due and payable upon receipt.

LES reserves the right to modify its rates and the LES Price List upon thirty (30) days' advance written notice. This ability to modify rates is essential since LES is charged fees by DMV data sources, and their fees can be changed without notice to LES. Notwithstanding the section on Termination below, in the event of a rate increase Subscriber may terminate this Agreement on thirty (30) days' advance written notice.

4. RESTRICTIONS ON USE. Subscriber shall not sell, copy, reproduce, disclose, or transfer, copy in bulk or resell the Information or include the Information in uncontrolled or unsecure documents or communications. Information

Registration Information Subscriber Agreement

can only be used for its original intended purpose. Information must be kept strictly confidential and must be kept private and secure, in compliance with commercially reasonable standards as well as all applicable privacy and security laws and regulations. Subscriber shall not use the Information for credit granting, credit monitoring, account review, insurance underwriting, employment or any other purpose prohibited by the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681, et seq., ("FCRA"), and other applicable regulations and statutes. Subscriber shall not provide access to the Services or Information to any unauthorized party. Subscriber shall comply with all applicable federal, state and local laws and regulations, including, without limitation, the Driver's Privacy Protection Act ("DPPA") and the FCRA. Breach of this provision will cause termination of Subscriber's access to the Services and Information. LES reserves the right to injunctive and any other relief available at law to protect the Information. Notwithstanding any other provision of this Agreement, LES expressly acknowledges and agrees no provision in this Agreement shall impair Subscriber's right to re-disclose as allowed by 18 U.S.C. § 2721 or Subscriber complying with its obligations under the Florida Public Records Act.

5. USER IDENTIFICATION AND ACCESS. Subscriber shall maintain the confidentiality of its assigned password and user identification allowing access ("Access") to the Services and Information and is responsible for all charges incurred under such Access. Each of Subscriber's Authorized Users shall be assigned a unique user identification name or number ("ID"). The name of each user associated with each ID shall be provided to LES. Subscriber shall ensure that no ID assigned to Subscriber's account is used by more than one individual and that users do not otherwise share IDs. Unless Subscriber is a duly constituted law enforcement or government agency, LES, at its sole discretion, reserves the right to maintain and review records containing inquiry details and other activities performed by Subscriber.

6. CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY. Subscriber acknowledges that it may have access to certain trade secrets and other information of a confidential and proprietary nature, including documents, information, business plans, cost saving strategies, processes and procedures, client and supplier information, and other information or materials, in any form or medium, pertaining to LES and the Services ("Confidential Information"). LES retains all respective intellectual property and ownership rights of, and related to, the Services and the Confidential Information. Such Confidential Information shall be kept strictly confidential by Subscriber using commercially reasonable standards, and shall not be used or disseminated by Subscriber except as narrowly permitted by this Agreement for the purposes contemplated herein. Confidential Information shall not include (i) publicly available information, (ii) information independently discovered or developed by Subscriber without the use of any Confidential Information, and (iii) information rightfully in Subscriber's possession free from any confidentiality obligations or restrictions. It shall not be a violation of this provision to narrowly disclose Confidential Information as required by law or pursuant to a valid court order, subject to cooperating with and providing advance notice to LES so that LES may seek a protective order. LES reserves the right to seek injunctive and any other relief available at law to protect its Confidential Information.

7. LIMITATION OF LIABILITY. Subscriber acknowledges and understands that LES relies on third parties, including state and local governments, compilers and reporters of public records, and others in providing the Services and Information, including but not limited to DMV data sources. THE SERVICES AND INFORMATION ARE PROVIDED 'AS IS' AND 'AS AVAILABLE' WITHOUT WARRANTY, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Neither LES nor any third party shall be liable to Subscriber, or to any other party, for any damages, costs, expenses, or losses arising from or caused in whole or in part by (i) errors or omissions in the Services or Information; (ii) any Interruption in the Services or

Registration Information Subscriber Agreement

access to the Information; (iii) LES's or any third party's acts or omissions in procuring, compiling, interpreting, reporting or delivering the Information; or (iv) otherwise providing the Services. Notwithstanding this paragraph, in the event that LES or any third party is found liable by a court of competent jurisdiction for any damages for any reason that in any way relating to Subscriber's use of the Services or the Information, such damages shall be limited to the amount actually paid by Subscriber for the Services and the Information.

IN NO EVENT SHALL LES BE LIABLE TO SUBSCRIBER OR ANY OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, COSTS, EXPENSES, FEES, LOST PROFITS OR OTHER LOSSES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH.

8. TERM AND TERMINATION. The term of this Agreement shall be three (3) calendar years from the date of execution by LES. After the expiration of the initial three (3) calendar year term, this Agreement shall automatically renew for additional one (1) year terms unless non-renewed by either Party upon sixty (60) days advance written notice. This Agreement may be terminated at any time by either Party upon thirty (30) days prior written notice to the other Party. LES reserves the right to suspend access, or immediately terminate this Agreement, if Subscriber breaches any material provision of this Agreement.

In the event of termination of this Agreement, all payments due by Subscriber, whether or not invoiced at the time of termination, shall become payable immediately and shall only include payment for services received and expenses incurred as of the date of termination. Upon any such termination, Subscriber shall cease using the Services and Information and shall promptly return or delete all software, manuals, materials and documentation provided which relate to the Services.

9. ENTIRE AGREEMENT. This Agreement together with the attachments and/or addendums, if applicable, is the exclusive agreement of the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations and statements whether written or oral. Subscriber acknowledges and agrees that no terms and conditions set forth in any purchase order or other document of Subscriber apply. Except for any changes to the LES Price List, this Agreement may be amended only upon the written consent of both Parties.

10. AUDIT. To ensure compliance with this Agreement and applicable laws, LES reserves the right to perform an audit of the Subscriber no more than once during any 12 month period. The Subscriber shall provide LES with reasonably requested information, which may include information, documents and data about (i) the end user, (ii) reason the data was requested, (iii) information and copies of violations or citations, and (iv) information or statements affirming that all data provided by LES has been used consistent with the terms of this Agreement. The Subscriber shall promptly comply with the audit and promptly provide reasonably requested information, generally in less than ten (10) business days. Failure to do so may be cause for immediate termination of this

Agreement and all Services. Upon LES' review of all audit materials provided by the Subscriber, a breach of this Agreement will be grounds for an immediate suspension of Services and possible termination of this Agreement until such time as LES reasonably determines compliance can be or has been restored by the Subscriber. LES reserves the right to injunctive and any other relief available at law to protect the Information. LES will notify the Subscriber of the results of any audit.

11. RELATIONSHIP AND ADVERTISING. This Agreement does not create any relationship of agency, partnership or joint venture between any of the Parties. Nothing in this Agreement gives the Subscriber the right to use LES' (or


Registration Information Subscriber Agreement

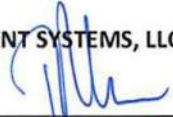
any affiliated companies, parent organizations, or clients) logos, trademarks, trade names, or other corporate names or marks without the written consent of LES. No information about, or provided by, LES may be used by the Subscriber in any advertising or marketing, client list, reference, study, or in any other work or product without the prior written consent of LES.

12. MISCELLANEOUS. (a) Except for any changes to the LES Price List or as otherwise provided herein, any notice required or permitted to be sent under this Agreement shall be in writing and sent by prepaid regular first-class certified mail return receipt requested, or by overnight courier to the addresses specified above, or such address either party may specify in writing. (b) Subscriber may not assign this Agreement or any rights hereunder, without the prior written consent of LES. (c) Should any term or condition of this Agreement be declared illegal or unenforceable, such illegality or unenforceability shall not affect any other term or condition hereof. (d) The provisions of Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13(c & e) shall survive the termination of this Agreement, for any reason. (e) This Agreement is governed and construed in accordance with the laws of the State of Florida, without reference to any conflicts of laws principles. Venue for any cause of action arising out of or related to this Agreement shall be mandatory in Orange County, Florida.

EXECUTION OF THIS AGREEMENT DOES NOT CONSTITUTE AN OFFER TO PROVIDE SERVICES BY LES AND IS NOT BINDING UNTIL SUBSCRIBER HAS BEEN APPROVED BY LES FOLLOWING THE SUBSCRIBER QUALIFICATION PROCESS AND HAS BEEN ISSUED A USER IDENTIFICATION NUMBER AND PASSWORD BY LES.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date last written below:

CENTRAL FLORIDA EXPRESSWAY AUTHORITY:
Signature: 
Printed Name: Aneth Williams
Title: Dir. of Procurement
Date: 3/16/18

LAW ENFORCEMENT SYSTEMS, LLC
Signature: 
Printed Name: Tim Wendler
Title: CEO
Date: 3-12-18

REVIEWED AND APPROVED
BY LEGAL Linda Blanton 3/15/18

Registration Information Subscriber Agreement

Attachment A - Subscriber Intended Use Certification ("Certification")

Subscriber represents and warrants that Subscriber is either a (i) a duly constituted law enforcement or other governmental agency; (ii) a company with a genuine and legitimate business need for the Services and the Information for the uses identified in this Certification; (iii) a licensed professional in good standing, and (iv) that Subscriber access and use of the information will at all times comply with the DPPA and all other applicable laws and regulations. Subscriber shall provide proof of licensure upon request of LES, and shall promptly notify LES of any change affecting this Certification or Subscriber's eligibility to use the Services or access the Information as described in the Agreement.

Regulations require that you certify your intended use of the Services and Information being made available to you and that your use of such is in compliance with the DPPA and all other applicable federal, state and local laws governing dissemination of public records. Please specify your intended use(s) for the Services and Information (check all that apply).

Law Enforcement

Federal, State or local government purposes

For use by a government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State or local agency in carrying out its functions

In connection with any civil, criminal, administrative, or arbitration proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court

Private toll transportation facility

Other use(s) not defined above (must describe in detail) _____

SUBSCRIBER AGREES TO USE THE SERVICES AND INFORMATION ONLY FOR THE PURPOSE(S) SPECIFIED ABOVE AND ONLY FOR THE SUBSCRIBER'S EXCLUSIVE USE IN THE ORDINARY COURSE OF BUSINESS AND NOT FOR RESALE OR OTHER DISSEMINATION, UNLESS IDENTIFIED IN THE SECTION BELOW TITLED "AUTHORIZED USER ACKNOWLEDGEMENT". EXECUTION OF THIS CERTIFICATION DOES NOT CONSTITUTE AN OFFER TO PROVIDE SERVICES BY LES.

Registration Information Subscriber Agreement

Authorized User Acknowledgement (if applicable)

Check here if you plan to allow Authorized Users access to the Services and Information and identify any and all Authorized Users below.

Subscriber shall be solely responsible for the Authorized Users' compliance with the intended uses identified in this Certification, consistent with the terms of the Agreement including the section on Indemnification.

By signing this Certification, Subscriber confirms that it has a written agreement in place with each Authorized User identified below which requires the Authorized User to agree to only use the Services and Information for the lawful purpose(s) identified in this Certification.

If an Authorized User is added or becomes inactive during the term of the Agreement, Subscriber agrees to notify LES within ten (10) business days of the change and must complete an Addendum which will then become a part of the entire Agreement.

Authorized Users:

1. Name: _____
Title: _____

3. Name: _____
Title: _____

2. Name: _____
Title: _____

4. Name: _____
Title: _____

I certify that I am authorized to execute this Certification on behalf of the Subscriber listed below. I certify that the above statements are true and correct.

SUBSCRIBER: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Registration Information Subscriber Agreement

Attachment B - DMV Lookup Services - LES Price List

LES will supply registered owner information as supplied by DMV data sources, at the price of **\$1.00 per "hit"** or return of data (unless otherwise noted for select states in the table below). Multiple requests for the same plate in one request batch will be considered one request. Other information regarding this service:

- Data will be exchanged using LES' secure FTP site.
- LES will provide data format.
- For states that require additional formal agreements (noted with * on the list below) LES will supply the necessary state forms required to be completed and executed by the requesting entity, and assist with the documentation flow.
- LES will supply forms for Nlets ORI/S-ORI access (National Law Enforcement Telecommunication System, Originating Agency Identifier) with either full or restricted access, indicated by an "S". The Nlets database provides integrated access to multiple state DMVs. Full or restricted access is granted by the Nlets organization based on the requesting agency's law enforcement authority level.
- Connecticut requires that all notices sent to citizens be reviewed by the DMV prior to access approval.
- Turnaround times below are approximate and are not guaranteed, based on state agency responsiveness.


DMV Registered Owner Information			
Approximate Turnaround Times by State			
	1- 10 Day Retrieval	Available With Nlets S-ORI	Available With Nlets Full ORI
Alabama	Missouri	Utah	Hawaii
Alaska	Montana		New Hampshire
Arkansas	Nebraska		Pennsylvania
Arizona	Nevada		
California*	New Jersey		<u>Canadian:</u>
Colorado	New Mexico		Alberta
Connecticut*	New York*		British Columbia
Delaware	North Carolina		Manitoba
Florida	North Dakota		Nova Scotia
Georgia	Ohio		Ontario
Idaho	Oklahoma		Prince Edward Island
Iowa*	Oregon*		Saskatchewan
Illinois	Pennsylvania		
Indiana	Rhode Island		
Kansas	South Carolina		
Kentucky	South Dakota		
Louisiana	Tennessee		
Maine	Utah		
Maryland	Vermont		
Massachusetts	Virginia*		
Michigan*	Washington		
Minnesota	West Virginia		
Mississippi	Wisconsin		
	Washington, DC		
*Requires state forms to be completed			

**CONSENT AGENDA ITEM
#24**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: July 19, 2021

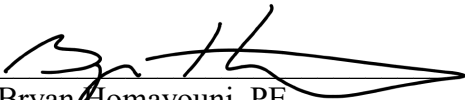
SUBJECT: Approval of the Third Extension of the Inter-local Agreement between Central Florida Expressway Authority (CFX) and University of Central Florida (UCF) for the Wrong Way Driving (WWD) Phase 3 Study: Allocating and Evaluating Countermeasures on CFX Roadway Network
Contract No. 001143

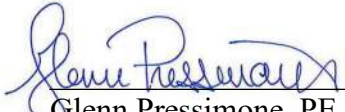
Board approval is requested for the third extension of the referenced Inter-local Agreement between CFX and UCF in the amount of \$115,000.00. The extension will be from January 2, 2022 to January 1, 2023.

The work to be performed includes the evaluation of alternate technologies for use in the WWD deployments on CFX's system and additional research that will help with further development of the CFX WWD Program.

Original Contract	\$200,000.00
First Extension	\$225,000.00
Second Extension	\$230,000.00
Third Extension	<u>\$115,000.00</u>
Total	\$770,000.00

This contract is included in the OM&A Budget.

Reviewed by: 
Bryan Homayouni, PE
Manager of Traffic Operations


Glenn Pressimone, PE

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
THIRD EXTENSION
TO
INTER-LOCAL AGREEMENT BETWEEN CFX AND UCF
FOR
WRONG WAY DRIVING PHASE 3 STUDY
CONTRACT NO. 001143

This Third Extension entered into this 12th day of August 2021, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”), and UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES, (“UNIVERSITY”), the same being supplementary to the Contract between the aforesaid, dated August 13, 2015, for performing a study entitled “Wrong-Way Driving Study Phase III: Allocating and Evaluating Countermeasures on CFX Roadway Network.

1. CFX has determined it necessary to extend the term of the Original Agreement to January 1, 2023, for continuation of all current scope items along with addition of new scope items in the attached extension proposal of research project contract version 2.0.
2. UNIVERSITY hereby agrees to the extension of the Original Agreement at an increase cost of \$115,000.00 to the contract, and
3. CFX and UNIVERSITY agree that this Second Extension shall not alter or change in any manner the force and effect of the Agreement except insofar as the same is altered and amended by this Third Extension; that acceptance of this Third Extension signifies the UNIVERSITY’s waiver of all future rights for additional compensation which is not already defined herein or in the fee proposal.
4. This Third Extension is necessary to extend the term of the Original Agreement term and cost.

Contract Name: Wrong Way Driving Phase 3 Study: Allocating and Evaluating Countermeasures on

CFX Roadway Network Contract No.: 001143

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____
Aneth Williams, Director of Procurement

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

Diego "Woody" Rodriguez, General Counsel

UNIVERSITY OF FLORIDA BOARD OF TRUSTEES

By: _____
Authorized Signature

Print Name

Title: _____

Date: _____

Legal Content Approved for the University:

Name

Date

FINAL VERSION
PROPOSAL FOR EXTENSION OF RESEARCH PROJECT
CONTRACT
Version 2.0

Submitted to

Central Florida Expressway Authority
(CFX)

**EXTENSION TO PROJECT “CONTINUATION OF WRONG-WAY
DRIVING PHASE-3 STUDY: ALLOCATING AND EVALUATING
COUNTERMEASURES ON CFX ROADWAY NETWORK”**

Project Extension Duration	12 months
Project Extension Period	01/02/2022-01/01/2023
Continuation Budget Amount	\$115,000

Proposal Submitted By

Haitham Al-Deek, Ph.D., P.E.
(Principal Investigator)

Professor of Civil, Environmental, and Construction Engineering,
Department of Civil, Environmental, and Construction Engineering
University of Central Florida
Orlando, FL 32816-2450
Phone: **Cell (321) 695-7664**, (407) 823-2988, Fax: (407) 823-3315
E-mail: Haitham.Al-Deek@ucf.edu

And

His Research Team

Administrative Contact: Krystal Yidi
Proposal Specialist
E-mail: Krystal.Yidi@ucf.edu
Phone: (407) 823-2240

Extension Proposal Originally Submitted in May 2021
Revised Version Submitted in May 2021

EXTENSION TO PROJECT TITLED “CONTINUATION OF WRONG-WAY DRIVING PHASE-3 STUDY: ALLOCATING AND EVALUATING COUNTERMEASURES ON CFX ROADWAY NETWORK”

Principal Investigator:

Haitham Al-Deek, Ph.D., P.E., Professor of Engineering, CECE Department, UCF, Orlando, FL 32816-2450, **Cell: (321) 695-7664**; Fax (407) 823-3315; email Haitham.Al-Deek@ucf.edu

1. RESEARCH GOAL AND OBJECTIVES

Research Main Goal

The main goal of this proposed extension to the Phase-3 project is to collect sufficient data to evaluate wrong-way driving (WWD) signs equipped with light-emitting diodes (LEDs) and internally illuminated signs equipped with rectangular flashing beacon (RFB) countermeasures deployed on the CFX system, study the sites with high RFB and LED detection rates to determine potential reasons for their high WWD rates and ways to reduce these rates, collect and analyze data from the mainline WWD detection locations, and develop a manual tailored to CFX that will allow CFX to update the developed WWD crash risk (WWCR) model and optimization algorithm in the future.

Research Objectives

To achieve the main goal of this research, the following objectives need to be achieved:

- 1) Continue collecting WWD detection data so that a sufficient sample can be obtained for the CFX system to evaluate their implemented WWD countermeasures. These data include detection data from WWD signs equipped with RFBs and LEDs, as well as internally illuminated signs equipped with RFBs. WWD 911 call and citation data from exits with and without these countermeasures will also be collected for comparison

studies. Data for any WWD crashes that occur on the CFX system during this extension period will also be collected and analyzed.

- 2) Conduct various evaluations (before-after analyses, benefit-cost evaluations, etc.) to determine the impacts of the advanced WWD countermeasures deployed on the CFX system. These benefit-cost evaluations will consider crash and injury savings due to the countermeasures, as well as reductions in law enforcement response time and the number of law enforcement dispatches, to provide a comprehensive picture of the benefits provided by the RFB devices.
- 3) **New Objective for This Extension:** Perform microscopic analyses of sites with high WWD detection rates to determine potential reasons for these high rates and possible ways to reduce them. These analyses will include looking at from which direction wrong-way vehicles typically enter the exit ramp, as well as how far they tend to go up the ramp before turning around.
- 4) **New Objective for This Extension:** Collect CFX traffic data after the COVID-19 pandemic to see how the pandemic affected WWD behavior and compare these data to data from before and during the pandemic.
- 5) **New Objective for This Extension:** Develop a user manual that CFX can use to update the developed WWCR model and optimization algorithm and conduct countermeasure evaluations. This manual will discuss all aspects of the modeling, optimization, and evaluation processes, including (but not limited to): data collection and preparation, roadway segmentation, WWCR modeling, preparation of optimization parameters and constraints, application of optimization algorithm, and use of benefit-cost evaluations to evaluate existing and potential future deployments. With this manual, CFX will be able

to update the developed WWCR model and obtain updated optimization results in the future.

- 6) **New Objective for This Extension:** Begin to track major construction activities within the CFX system which are in the vicinity of the deployed WWD countermeasure systems. A method will be developed to evaluate the effectiveness of the RFBs and LEDs in active construction zones and compare them with RFB and LED performance in passive or non-construction zones. The findings will be investigated to provide recommendations regarding the use of these countermeasures in construction zones as appropriate.
- 7) Continue to analyze WWD detection data collected from sites equipped with RFB signs, LED signs, and internally illuminated signs with RFBs, and produce monthly detection and false alerts reports verified with SunGuide reports and submit these to CFX. The trends of WWD acts and false alerts will be examined to understand how the RFB devices are working and how wrong-way drivers are reacting to them. The WWD detections and false alerts will also be compared across radar, laser, and thermal sites (as well as any other detection technologies deployed on the CFX network, such as lidar) to report the performance of different WWD detection and deterrence technologies.
- 8) Collect and analyze WWD detection data from the mainline thermal WWD detectors deployed on the CFX system and provide recommendations for additional mainline deployment locations.
- 9) Continue studying the potential of connected and automated vehicle technologies in reducing WWD, including the analysis of any connected vehicle roadside units deployed on the CFX system.

2. EXECUTIVE SUMMARY

One of the main goals of the current CFX WWD Phase-3 continuation project is to compare and evaluate different types of WWD countermeasures implemented on the CFX system. As of April 2021, CFX has “Wrong Way” signs with RFBs deployed at 30 exit ramps and “Wrong Way” signs with LEDs deployed at 8 exit ramps, with plans to deploy LED signs at two additional ramps and internally illuminated “Wrong Way” signs with RFBs at multiple exit ramps. Thermal WWD detectors have also been deployed at nine mainline locations on the CFX system, with another mainline location planned for the near future. Since the LED sites and mainline locations have been active for less than one year and the internally illuminated signs with RFBs have not been deployed yet, it is unlikely that a sufficient quantity of data from these sites will be collected before the end of the current Phase-3 continuation period (January 1, 2022). Extending this period by 12 months beyond January 1, 2022, will provide additional time for collection of an adequate amount of data to evaluate these technologies and compare them to RFB signs. With these comparisons, CFX can determine the most effective countermeasures and detection technologies for future deployments.

This 12-month extension will also allow the UCF research team to develop a user manual for CFX. This user manual will detail all of the data, procedures, and methodologies of the WWCR segment model and optimization algorithm developed and improved on during the Phase-3 project and its continuation. The manual will also showcase how to apply the model and optimization to identify priority deployment locations and estimate benefits and costs at existing and future deployment sites. It will be tailored specifically to the CFX system, allowing CFX to determine the most effective countermeasure deployment strategy for the future and update this

strategy as new data becomes available. This significant effort will ensure that CFX continues to combat WWD in the most cost-effective manner.

During this extension period, sites with high WWD detection rates will also be examined at a microscopic level to identify any potential treatments to reduce WWD. Images and videos collected from these sites will be reviewed to identify common behaviors of wrong-way drivers, such as how they start going wrong way and where they typically turn around. Based on these examinations, recommendations will be made on ways to potentially reduce the WWD frequency at these sites. These could include changes to ramp geometric design elements, signage, and/or lighting. With these changes, CFX can reduce the frequency of vehicles turning wrong way onto these exit ramps and apply these changes to similar ramps without advanced countermeasure and detection technologies. The potential impacts of construction activities on RFB and LED effectiveness will also be studied. WWD activity at sites in active construction zones will be compared to WWD activity at sites in passive or non-construction zones to determine any potential differences due to construction. Based on these comparisons, recommendations will be made on ways to potentially reduce WWD activity and/or improve countermeasure effectiveness.

In addition to these new tasks, the UCF research team will continue collecting and reporting WWD detection data from the existing RFB sites and collecting WWD citation and 911 call data for the entire CFX system. Any WWD crashes that occur on the CFX system during this extension will be reviewed and the important details will be documented. Multiple evaluations, including comparison analyses and benefit-cost analyses, will be conducted on the sites equipped with RFBs, LEDs, and internally illuminated signs with RFBs. The performance of the various detection technologies used on the CFX system (radar, laser, and thermal), along with any other

new detection technologies deployed by CFX (such as lidar) will be evaluated. The use of connected and automated vehicle technologies to reduce WWD will also continue to be explored.

This Phase-3 project extension is a fixed lump sum 12 months with requested total budget for the extension only of \$115,000. This will be billed in 2 equal invoices, \$57,500 each, every 6 months during the 12 months extension period (the last invoice will be billed at the end of the last month of the continuation of the project). Details of the budget are provided on the last page of this proposal.

3. UNDERSTANDING OF THE PROBLEM

CFX has been proactive in deploying technologies to detect and deter wrong-way drivers. Since 2015, multiple types of advanced WWD countermeasures and detection technologies have been implemented. To compare these technologies and determine the most effective ones for any potential future deployments, a sufficient quantity of data is needed. This extension project will provide additional time to collect WWD detection and false alert data at the CFX exit ramps equipped with RFB signs, LED signs, and internally illuminated RFB signs (as well as at mainline detection locations), allowing for more accurate evaluations of and comparisons between these technologies. Even with these advanced technologies, some sites still experience high rates of WWD activity. These sites will be thoroughly examined in detail to identify typical behaviors of WWD vehicles, possible reasons for WWD behavior, and potential solutions to reduce this behavior. Construction activities could impact the frequency of WWD behavior and effectiveness of the deployed countermeasures; this potential impact will be investigated and applicable recommendations made. The potential use of connected and automated vehicle technologies to detect and prevent wrong-way drivers from entering the mainline will also

continue to be investigated and data from any deployments of connected vehicle technologies will be collected and analyzed.

The deployed WWD countermeasures have been very successful in reducing WWD. Therefore, it could be beneficial to deploy them at additional exit ramps in the future. UCF developed a WWCR model and optimization algorithm to identify exits with high WWCR that would be the optimal locations for deployment and applied these to the CFX system. In this extension, a user manual will be prepared that will allow CFX to update the WWCR model and optimization algorithm in the future. This significant effort will provide CFX with all the procedures and methodologies needed to effectively collect and prepare data, segment and model roadways, prepare and apply the optimization algorithm, and evaluate existing and future WWD countermeasure sites. With this manual, CFX will be able to update its list of priority locations for deployment and estimate the benefits of the various countermeasures, allowing for the most cost-effective deployments in the future.

4. BENEFITS TO CFX

The main benefits of this extension project to CFX are:

- Saving lives of CFX customers from the danger they could face if wrong-way drivers continue to the mainline without being detected in time, self-correcting, and/or being stopped.
- Demonstrating that CFX is using their budget carefully and wisely by installing RFBs and other effective countermeasures where they are most needed.

- Evaluating the effects of RFBs and other WWD countermeasures to understand which countermeasures are effective in which locations and which locations could require additional measures to reduce WWD.
- Contributing to the development of potential innovative technologies to better detect and prevent wrong-way drivers from entering the mainline.
- Enabling CFX to evaluate mainline detection technologies to detect wrong-way drivers who reach the mainline so they can be stopped before they cause a crash.
- Demonstrating to CFX's customers that their safety is priority.
- Helping CFX understand the possible reasons why drivers go wrong way at exit ramps with high WWD activity.
- Comparing the effectiveness of RFBs and other WWD countermeasures that are approved by MUTCD in reducing WWD on the CFX road network.
- Evaluating the performance of FLIR thermal detection to understand how this technology works in detecting and notifying wrong-way drivers.
- Ensuring that CFX remains at the cutting edge of WWD research by continuing to investigate new potential WWD countermeasures and detection technologies, including connected and automated vehicle technologies.
- **New Extension Benefit:** Collecting a sufficient quantity of WWD detection data to allow for statistically significant comparisons between various WWD countermeasures.

- **New Extension Benefit:** Developing a user manual that CFX can use to update the developed WWCRC model and optimization algorithm in the future and ensure cost-effective deployment of WWD countermeasures.
- **New Extension Benefit:** Helping CFX understand the impacts of COVID-19 on WWD behavior.
- **New Extension Benefit:** Allowing CFX to understand the impacts of construction activity on WWD behavior and identify ways to improve the performance of WWD countermeasures in construction zones.

5. PLAN FOR IMPLEMENTATION OF RESULTS

The results of this extension of the Phase-3 study will allow CFX to accurately compare between different WWD countermeasures and understand how they affect WWD behavior. These findings can be used to ensure that the most cost-effective countermeasures are deployed in the future. Analysis of various WWD detection technologies and mainline WWD detection locations can help improve detection capabilities. Detailed examinations of exit ramps with high WWD detection rates will help CFX understand possible reasons for WWD and appropriate treatments to reduce this behavior. Investigating WWD countermeasure performance in construction zones will help CFX understand the impacts of construction activity and make appropriate changes to their countermeasure deployments. The developed user manual will allow CFX to determine priority locations for future WWD countermeasure deployment and evaluate existing and future deployments for years to come.

6. PROPOSED RESEARCH APPROACH

Tasks

To achieve the stated goal and objectives of this proposed extension, the University of Central Florida's (UCF) research team members under the guidance of Professor Haitham Al-Deek, Ph.D., P.E., (UCF Principal Investigator, PI), will perform the proposed project tasks listed in this section. With these tasks, the UCF research team will help CFX compare and evaluate the various WWD countermeasures deployed at CFX exit ramps, understand reasons why drivers go wrong way at RFB sites and potential treatments, determine the frequency of WWD at the mainline WWD detection locations, and develop a user manual that details the necessary procedures to update the WWCR model and optimization algorithm with new data and showcases how to conduct various evaluations of WWD countermeasures. Professor Al-Deek will be assisted by several members of his research team. His current research team includes Adrian Sandt, Ph.D., a postdoctoral researcher; John McCombs, a UCF Ph.D. student; Adam Khalil, a UCF Ph.D. student; and outstanding undergraduate engineering students Eric Ginsberg and Angel Lopez Sanchez. Other graduate and/or undergraduate students may join this project throughout the continuation period as needed. Additionally, Dr. Grady Carrick of Enforcement Engineering Inc., who is a former Chief of FHP in Jacksonville area (for a period of 30 + years) with very important hands-on experience in first response to WWD incidents, will also be subcontracted by UCF as a consultant to assist in critical data collection (WWD 911 calls and citations) that will assist in evaluating the performance of WWD countermeasures (formal commitment will be provided by the consultant when funding is established).

Some tasks from the original UCF-CFX WWD Phase-3 contract have already been completed or are expected to be completed by the end of the current Phase-3 continuation January 1, 2022; these tasks are not listed in this section. These completed tasks are Tasks #1, #2, #4, #5, #6, #7,

#8, and #9 of the original project proposal, as well as Task #13 of the Phase-3 continuation. The tasks which will be performed by the UCF research team as part of the extension period are the following:

3. *Collection and Analysis of WWD Data.* In this extension, WWD event (911 calls, citations, and crashes) and detection data will continue to be collected, monitored, and reported for the existing RFB, LED, and internally illuminated RFB sites on the CFX system, as well as for any new sites equipped with RFBs or other types of WWD countermeasures during the extension period. Data will also be collected at comparison sites without treatments to better understand how ramp WWD countermeasures are affecting WWD behavior. This task will help achieve Objectives 1, 2, 3, 6, and 7.

6. *Review of Technologies to Stop Intentional Wrong-Way Drivers.* The use of connected and automated vehicle technologies to stop wrong-way vehicles from entering the mainline will continue to be investigated. Data that CFX will send to UCF from any deployments of connected vehicle roadside units will be analyzed to see how these technologies perform. This task will help achieve Objective 9.

10. *Evaluation of Advanced WWD Countermeasure Deployment Sites.* Using the data collected as part of Task #3, the performance of the various advanced WWD countermeasures on the CFX system (RFBs, LEDs, and internally illuminated RFBs) will be analyzed and compared once sufficient data are collected in this extension. Detection data will be analyzed to determine which sites have high WWD detection and false alert rates. Deployment sites will be evaluated

using before-after analyses to determine how the countermeasures have reduced WWD behavior. Benefit-cost evaluations will also be conducted on these countermeasures to quantify the benefits provided by these devices (injury and fatality reductions and associated savings, reduction in law enforcement dispatches and response times, etc.). Estimated benefits and costs of future deployments will also be determined to help CFX decide possible locations for future deployments. This task will help achieve Objectives 1, 2, and 7.

11. *Analysis of CFX Network for Mainline WWD Detection Deployment.* CFX has deployed WWD detectors at select mainline locations on their system. Detection data from these sites will be collected and analyzed in this extension. Recommendations will then be made on potential ways to improve mainline detection and additional sites where mainline detectors could be installed. This task will help achieve Objective 8.

12. *Determination of Significant Reasons and Factors for Wrong-Way Driving Behavior.* As part of Task #10, countermeasure sites with high WWD detection rates will be identified. These sites will be examined in microscopic detail in this extension Task #12 to understand potential reasons for increased WWD behavior and possible additional treatments to reduce this behavior. Images and videos from the high WWD detection sites will be studied to see how wrong-way vehicles typically enter the ramp and how far they typically travel on the ramp before turning around. Recommendations will then be made regarding potential ways to reduce WWD at these sites. These recommendations could include changes to medians at the ramp terminal, additional or relocated signs or pavement markings, and/or improvements to nighttime visibility. Additionally, the impacts of COVID-19 on WWD behavior will be studied by examining WWD

and traffic volume data after the pandemic and comparing these data to data from before and during the pandemic. This analysis will help identify any changes in WWD due to the impacts of COVID-19. This task will help achieve Objectives 3 and 4.

13. *Development of a WWD Crash Checklist.* In this extension, the UCF research team will update the developed WWD crash checklist with data from any new WWD crashes on the CFX system. These updates can help improve the efficiency of WWD crash response and effectiveness of WWD countermeasures. This task will help achieve Objective 1.

14. *Examination of Improved WWD Detection Technologies.* CFX currently has multiple types of WWD detection present on their exit ramps (radar, laser, and thermal). Additionally, CFX will be testing lidar detection. In this extension, detection data (WWD acts and false alerts) for these different technologies (as well as any other technologies deployed during this extension) will continue to be collected and used to compare the technologies. Recommendations will be made regarding the best detection technology for different ramp configurations. This task will help achieve Objectives 6 and 7.

15. **New Extension Task:** *Investigation of Construction Impact on WWD Behavior and Countermeasure Performance.* The presence of construction activities on exit ramps can impact traffic operations, but it is unknown how these activities affect WWD behavior and the performance of deployed RFB and LED countermeasures. In this new extension task, the UCF team will compare WWD detection and turnaround data at RFB and LED sites in active construction zones and compare them to data from RFB and LED sites in passive or non-

construction zones. These comparisons can show the potential impacts of construction on WWD frequency, turnaround rate, and false alert rate. Based on the results of these comparisons, recommendations will be made on ways to improve the performance of these countermeasures during future construction activities. This task will help achieve Objective 6.

16. New Extension Task: *Development of CFX User Manual on WWCR Modeling, Optimization, and Countermeasure Evaluation.* As part of the current Phase-3 continuation, the UCF team is updating and improving the WWCR modeling methodology and optimization algorithm that CFX can use to identify priority locations for WWD countermeasure deployment. In this extension, the UCF team will develop a user manual tailored specifically to CFX that they can use to update the developed WWCR model and optimization algorithm and conduct countermeasure evaluations. Details and procedures for all aspects of the modeling, optimization, and evaluation processes will be discussed in this manual. With this manual, CFX will be able to collect and prepare the necessary WWD event and roadway data, segment their network in the most effective manner for modeling, develop WWCR models, obtain the required parameters and develop appropriate constraints for the optimization algorithm, apply the algorithm to obtain updated lists of locations for possible WWD countermeasure deployment, determine benefits and costs of existing and potential future WWD countermeasure deployments. This manual can be used to update the developed WWCR model and optimization algorithm in years to come to ensure that CFX is making deployment decisions using the most accurate and current data. This manual will be its own deliverable separate from the project final report. This task will help achieve Objective 5.

17. *Recommendations for CFX.* This is Task #15 in the current Phase-3 continuation project. The UCF research team will make recommendations based on the results of the tasks conducted in this extension. The most cost-effective countermeasures and locations will be identified and recommended for future deployments (Task #10). Additional mainline detection locations and improvements to these detectors will be identified (Task #11). Recommendations on potential ways to reduce WWD at sites with high WWD detection rates will be made (Task #12). Recommendations on the most effective WWD detection technology for different exit ramp configurations will also be made (Task #14). Any changes to countermeasure deployments in active construction zones which could improve countermeasure effectiveness will also be made (Task #15). These recommendations will help CFX detect and reduce WWD on their system in the most cost-effective manner.

18. *Final Report and Presentation of Results to CFX.* This is Task #16 in the current Phase-3 continuation project. At the end of the extension period, a final report will be submitted in electronic format and a final presentation will be made to CFX. This final report and final presentation will replace the final report and final presentation in the current continuation project (which ends on January 1, 2022) and therefore constitute the only final report and final presentation deliverables for the entire continuation and extension periods of this project. The final report and presentation in the current continuation project will be replaced by a progress presentation.

19. *Progress Presentations.* This is Task #17 in the current Phase-3 continuation project. A progress presentation will be made to CFX approximately once every six months during the

extension period of the project. These progress presentations are deliverables by themselves. The current contract final presentation deliverable will be substituted by a regular progress presentation deliverable due by the ending date of the current contract (January 1, 2022).

7. QUALIFICATIONS OF THE UCF PI AND HIS RESEARCH TEAM AS EVIDENCED BY PAST EXPERIENCE IN THE FIELD

Professor Haitham Al-Deek, Ph.D., P.E., is the Principal Investigator (PI) of this proposed continuation of CFX WWD phase-3 study. He is the PI for the original CFX WWD Phase-3 and its continuation, Phase-2, and Phase-1 studies. He has more than **thirty-four years** of experience in transportation engineering, planning, and operations. He is **nationally recognized in his field and received as many as 8 best paper awards on developing wrong way driving risk models and WWD hotspot and optimization methodology for Florida limited access highway network granted to him and his research team by the Freeway Operations Committee of the National Research Council-Transportation Research Board (TRB) in 2020, 2019, 2018, 2017, and 2015.** His postdoctoral associate, Dr. Adrian Sandt, won the **2019 and 2017 Best Freeway Operations Student Paper Awards, in addition to the Best Freeway Operations Paper Award in 2020.** Professor Al-Deek's former PhD student, Imrul Kayes, has won the **Best Freeway Operations Student Paper Award in 2019.** Professor Al-Deek also received **four Chairman Awards** from TRB for his significant contributions to the fields of *Freeway Operations*, and *Regional Transportation Systems Management and Operations* in January 2018 and 2012. In addition, he received the best TRB freeway operations paper award in 2010, which was about the impact of Dynamic Message Signs on CFX drivers, and another best paper award by the TRB Freeway Operations Committee on travel time prediction on I-4 in 2003. He also received the best

TRB paper award in Regional Transportation Systems Management and Operations in 2019, 2017, 2016, and 2014. In 2015, he won a competitive national research project in collaboration with Texas A&M Transportation Institute (TTI) on wrong way driving countermeasures (NCHRP 03-117). He had numerous media interviews on wrong-way driving such as Channel 9 News and FOX 19 NOW News in 2016, and Channel 9 News in 2015 and 2014 featuring the innovative wrong-way driving countermeasure he and his research team came up with, which was later implemented for the first time in Central Florida. Professor Al-Deek has three US patents related to WWD, one US trademark, one US registered mark related to WWD, and eight software copyrights. Professor Al-Deek was invited as keynote speaker to talk about innovative research methodology and countermeasures for combating wrong way driving at the 7th and 8th Traffic Safety conferences in Amman, Jordan in May 2015 and December 2017, respectively. He was featured as a distinguished researcher by the UCF College of Engineering and Computer Science in 2003. He received the Research Incentive Award in 2018 and 2001 and the UCF Researcher of the Year 1999 Award (this is a very prestigious award given to the best professor researcher of the year out of the entire UCF's 1500+ faculty). He received the Excellence in Research at Full Professor Level in UCF College of Engineering Award in 2018. He earned his Ph.D. and MS degrees from the University of California at Berkeley in 1991 and 1987, respectively. Professor Al-Deek was the principal (or co-principal) investigator of more than **75** applied research projects at UCF and elsewhere, and a large number of them were on toll roads. Since joining UCF in 1992, the total budget of applied research projects he attracted to UCF exceeded \$8 million. He has published more than 400 papers and technical reports in peer-reviewed journals and conferences, and more than half of these publications are related to traffic operations and **toll roads**. He chaired 15 Ph.D. dissertations and 28 MS theses to completion.

Presently, and for the past 22 years, he has been the Chair of TRB's paper review for all papers submitted to two key TRB committees: *Freeway Operations* and *Regional Transportation Systems Management and Operations*. These two committees review nearly all papers submitted to TRB's annual meeting on freeway and toll operations and management every year. Professor Al-Deek has been an associate editor of the Journal of Intelligent Transportation Systems (J-ITS) since 2007. Recently, he became an active Emeritus member of the TRB Freeway Operations Committee and was recognized as such at the January 2020 Annual TRB Meeting in the presence of the US Secretary of Transportation.

Professor Al-Deek teaches undergraduate and graduate courses at UCF. He developed *new* courses such as Intelligent Transportation Systems (ITS), Highway Capacity, Traffic Operations, Mass Transit, Transportation Engineering Systems, and Highway Engineering. He also teaches Transportation Engineering courses on a regular basis. Professor Al-Deek has been an active registered Professional Engineer in Florida since 1998. Professor Al-Deek has completed four federally mandated training courses required for all principal investigators and key personnel working on projects dealing with human subjects in surveys and/or interviews.

Adrian Sandt, Ph.D., is currently a postdoctoral researcher at UCF working with Professor Al-Deek. He obtained his B.S. and Ph.D. in Civil Engineering from UCF in May 2014 and December 2018, respectively. Dr. Sandt was a recipient of the UCF Trustees Fellowship for his Ph.D. studies. He won the University Transportation Center (UTC) Student of the Year Award representing the Southeastern Transportation Center (STC) competing with students from ten universities that are members of the STC consortium including UCF. This award was presented

to him by the Consortium for University Transportation Centers (CUTC) on January 7, 2017 at the 96th TRB annual meeting in Washington, D.C. Dr. Sandt is extremely proficient in technical writing and he has been involved with CFX's Phase-1, Phase-2, and Phase-3 WWD studies since 2012.

John McCombs, Ph.D. Student, is a Graduate Research Assistant at UCF working under the supervision of Professor Al-Deek as his adviser. Graduating with university honors, he received his B.S. in Civil Engineering from UCF in May 2020 and joined the Ph.D. program in August 2020. He is the president of the UCF student chapter of the Institute of Transportation Engineers (ITE). Having worked with Professor Al-Deek since May 2018, Mr. McCombs has been involved with the CFX WWD study for over two years and has experience in analyzing data and writing reports.

Adam Khalil, Ph. D. Student, will be joining Professor Al-Deek's team as a graduate research assistant in Summer 2021. He got his B.Sc degree in Civil Engineering in Sep. 2018 from the University of Jordan in Amman, Jordan, ranking as the top student among his graduation class. After graduating, Mr. Khalil worked in a consulting firm as a Traffic Engineer. His responsibilities included macroanalysis for multiscale projects and utilizing demand and network models.

Eric Ginsberg, B.S. Student, is currently an undergraduate researcher at UCF working with Professor Al-Deek. He is on track to graduate with a B.S. in Mechanical Engineering and a minor in Hospitality Management with a focus in theme parks by Spring 2023. Mr. Ginsberg is a member of the Burnett Honors College at UCF. He has been involved with the CFX Phase-3

WWD study and has experience using the Microsoft Suite.

Angel Lopez Sanchez, B.S. Student, is currently an undergraduate researcher at UCF working with Professor Al-Deek. He is slated to graduate with a B.S. in Civil Engineering in Fall 2023. He currently has a leadership position with the 2022 steel bridge competition and has an outstanding GPA. He has been involved with data analysis during the current CFX Phase-3 continuation project.

Grady Carrick, Ph.D., is a thirty year plus veteran of the Florida Highway Patrol, who retired at the rank of Chief in 2012. Dr. Carrick has spent his career building bridges between the law enforcement and transportation professions. He has a national reputation as an advocate for traffic safety and traffic incident management. His leadership in the Florida Strategic Highway Safety Plan, the Florida Bicycle and Pedestrian Advisory Board, and numerous Community Traffic Safety Teams are a few accomplishments. Carrick has participated in several traffic safety initiatives as a member of The International Association of Chiefs of Police (IACP). In his current position as principal for the firm Enforcement Engineering Inc., he seeks to improve transportation safety through the integration of transportation engineering, research, and enforcement operations. He has extensive experience in traffic safety analysis and the development of law enforcement countermeasures. In addition to his professional accomplishments, Dr. Carrick holds a Ph.D. in Transportation Engineering from the University of Florida. He has published and presented at numerous state, national, and international conferences on traffic safety and operations.

Roles and Responsibilities of Project Team

The roles and responsibilities of the project team are listed below. Additional information on the team can be found in the qualifications of the UCF research team section in this proposal.

Professor Haitham Al-Deek, Ph.D., P.E., *UCF Principal Investigator.* He will be responsible for the entire project management and coordination with CFX, budget control, quality control, reviewing and submitting the final report, conducting progress and final presentations to CFX, and attending project meetings with CFX.

Adrian Sandt, Ph.D., *Postdoctoral Associate.* He will be responsible for editing of reports, presentations, and other products submitted to CFX during this study, including the user manual. Dr. Sandt will also help with data analysis and countermeasure evaluations. He will also attend the project meetings with CFX and will assist Professor Al-Deek in quality control of all project reports and presentations.

John McCombs, *UCF Graduate Student Researcher.* He will assist with collection and analysis of WWD data, development of the user manual, countermeasure evaluations, and analysis of COVID-19 impacts of WWD. He will also assist in editing reports and presentations and will attend project meetings with CFX.

Adam Khalil, *UCF Graduate Student Researcher.* He will assist with data collection and analysis, statistical comparisons of WWD countermeasures, and development of the user manual. He will also assist in editing reports and presentations and will attend project meetings with CFX.

Eric Ginsberg *UCF Undergraduate Student Researcher.* He will assist with data collection and analysis, countermeasure comparisons and evaluations, and development of the user manual. He will also assist in editing reports and presentations and will attend project meetings with CFX.

Angel Lopez Sanchez, *UCF Undergraduate Student Researcher.* He will assist with data collection and analysis, development of the user manual, and countermeasure evaluations. He will also assist in editing reports and presentations and will attend project meetings with CFX.

Grady Carrick, Ph.D., *Enforcement Engineering Inc.* He will provide the research team with vital WWD CAD/911 call and citation data in a timely fashion to evaluate the implemented WWD countermeasures (RFBs, LEDs, and internally illuminated RFBs) and meet the project deadlines on time. (Formal commitment will be provided by the consultant when funding is established).

8. PROJECT EXTENSION DELIVERABLES

- a. Progress Presentations.** A progress presentation will be made to CFX approximately **once every six months** during the extension period of the project. These progress presentations are deliverables by themselves and could be conducted virtually or in person at CFX Headquarters (HQ), depending on COVID-19 restrictions.
- b. CFX User Manual on WWCR Modeling, Optimization, and Countermeasure Evaluation.** A user manual detailing the WWCR modeling, optimization, and

countermeasure evaluation procedures will be submitted to CFX in electronic format by the end of the extension period.

- c. Final Report.** A final report will be submitted to CFX in MS Word or PDF format. The final report will be provided in electronic format only. Only one final report will be delivered for the entire continuation project and its extension at the end of the extension period.
- d. Project Final Presentation to CFX.** The UCF research team will make a final presentation (either virtually or in person at CFX’s HQ) with conclusions and recommendations from this project. The final presentation represents the last progress presentation in this project. Only one final presentation will be delivered for the entire continuation project and its extension by the end of the extension period. The original contract final presentation will be substituted by a regular progress presentation due on the last day of the current contract ending date (January 1, 2022).

9. TRAVEL

Travel during the extension period will include at most **2 meetings once every 6 months, including the final presentation** with CFX, the project sponsor, in their Orlando HQ office. These presentations could be virtual or in-person, depending on COVID-19 restrictions. Travel will not be needed if these meetings are conducted virtually but may still be needed if UCF team will visit the field for data collection and or testing of detection technologies. An estimate of local travel cost is based on travel history to CFX HQ (and previous field trips/field visits) and is included in the budget where only mileage and tolls will be charged.

10. PROJECT SCHEDULE

Central Florida Expressway Authority (CFX) PROJECT SCHEDULE

Project Title: EXTENSION TO "CONTINUATION OF WRONG-WAY DRIVING PHASE-3 STUDY: ALLOCATING COUNTERMEASURES ON CFX ROADWAY NETWORK"

Start - Finish: January 2, 2022, to January 1, 2023

Research Agency: University of Central Florida

Principal Investigator: Professor Haitham Al-Deek, Ph.D., P.E., University of Central Florida

RESEARCH EXTENSION TASK	1	2	3	4	5	6	7	8	9	10	11	12
3. Collection and Analysis of WWD Data												
6. Review of Technologies to Stop Intentional Wrong-Way Drivers												
10. Evaluation of Advanced WWD Countermeasure Deployment Sites												
11. Analysis of CFX Network for Mainline WWD Detection Deployment												
12. Determination of Significant Reasons and Factors for Wrong-Way Driving												
13. Development of a WWD Crash Checklist												
14. Examination of Improved WWD Detection Technologies												
15. New Extension Task: Investigation of Construction Impact on WWD Behavior and Countermeasure Performance												
16. New Extension Task: Development of CFX User Manual												
17. Recommendations for CFX												
18. Final Report and Presentation												
19. Progress Presentations												

== CENTRAL FLORIDA EXPRESSWAY AUTHORITY ==

December 20, 2019

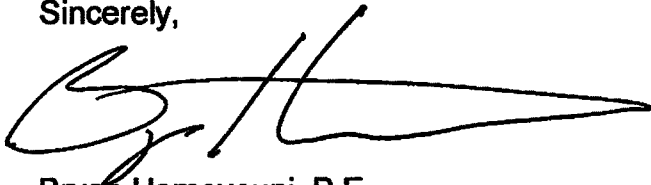
Mr. Haitham Al-Deek, Ph.D., P.E.
University of Central Florida
Orlando, FL 32816

RE: Wrong Way Driving Phase 3
Second Extension (Supplemental Agreement No. 2)
Contract No. 001143

Dear Dr. Al-Deek:

This letter will serve as your Notice to Proceed with the services of the referenced Contract Extension effective January 2, 2020. The term of the Contract is two (2) years beginning January 2, 2020.

Sincerely,



Bryan Homayouni, P.E.
Manager of Traffic Operations

cc: Saul Rivas CFX
Scott Zornek, HNTB

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SECOND EXTENSION
TO
INTER-LOCAL AGREEMENT BETWEEN CFX AND UCF
FOR
WRONG WAY DRIVING PHASE 3 STUDY
CONTRACT NO. 001143

This Second Extension entered into this 13th day of June, 2019, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”), and UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES, (“UNIVERSITY”), the same being supplementary to the Contract between the aforesaid, dated August 13, 2015, for performing a study entitled “Wrong-Way Driving Study Phase III: Allocating and Evaluating Countermeasures on CFX Roadway Network.

1. CFX has determined it necessary to extend the term of the Original Agreement to August 12, 2021, for continuation of all current scope items along with addition of new scope items in the attached extension proposal of research project contract version 3.0.
2. UNIVERSITY hereby agrees to the extension of the Original Agreement at an increase cost of \$230,000.00 to the contract, and
3. CFX and UNIVERSITY agree that this Second Extension 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 Second Extension; that acceptance of this Second Extension signifies the UNIVERSITY’s waiver of all future rights for additional compensation which is not already defined herein or in the fee proposal.
4. This Second Extension is necessary to extend the term of the Original Agreement term and cost.

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Contract Name: Wrong Way Driving Phase 3 Study: Allocating and Evaluating Countermeasures on CFX Roadway Network

Contract No.: 001143

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

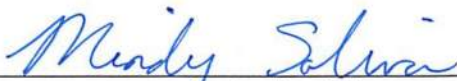
By: 
Director of Procurement

Approved as to form and execution, only.

General Counsel for CFX



UNIVERSITY OF FLORIDA BOARD OF TRUSTEES

By: 
Authorized Signature
Mindy Solivan
Print Name

Title: Ass. stat Director

Date: 6/24/19

Legal Content Approved for the University:

Robert Wilson
Name
6/20/19
Date

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DRAFT VERSION
PROPOSAL FOR CONTINUATION OF RESEARCH PROJECT
CONTRACT
Version 3.0

Submitted to

Central Florida Expressway Authority
(CFX)

CONTINUATION OF PROJECT “WRONG-WAY DRIVING PHASE-3
STUDY: ALLOCATING AND EVALUATING COUNTERMEASURES ON
CFX ROADWAY NETWORK”

Project Continuation Duration	24 months
Project Continuation Period	08/13/2019-08/12/2021
Continuation Budget Amount	\$230,000

Proposal Submitted By

Haitham Al-Deek, Ph.D., P.E.
(Principal Investigator)

Professor of Civil, Environmental, and Construction Engineering,
Department of Civil, Environmental, and Construction Engineering
University of Central Florida
Orlando, FL 32816-2450
Phone: Cell (321) 695-7664, (407) 823-2988, Fax: (407) 823-3315
E-mail: Haitham.Al-Deek@ucf.edu

And

His Research Team

Administrative Contact: Joel Kennedy, Contract Manager
E-mail: Joel.Kennedy@ucf.edu
Phone: (407) 823-4676

Continuation Proposal Originally Submitted in March 2019
Revised Version Submitted in April 2019

**CONTINUATION OF PROJECT TITLED “WRONG-WAY DRIVING
PHASE-3 STUDY: ALLOCATING AND EVALUATING
COUNTERMEASURES ON CFX ROADWAY NETWORK”**

Principal Investigator:

Haitham Al-Deek, Ph.D., P.E., Professor of Engineering, CECE Department, UCF, Orlando, FL 32816-2450, Cell: (321) 695-7664; Fax (407) 823-3315; email Haitham.Al-Deek@ucf.edu

1. RESEARCH GOAL AND OBJECTIVES

Research Main Goal

The main goal of this proposed continuation to the Phase-3 project is to help CFX better understand possible reasons for wrong-way driving (WWD) and the effects of Rectangular Flashing Beacon (RFB) WWD countermeasure by comparing the performance of RFBs with other WWD countermeasures suggested by the Manual of Uniform Traffic Control Devices (MUTCD) [such as Wrong Way signs equipped with light-emitting diodes (LEDs)], evaluating the impacts of improved signage and pavement markings at exit ramps equipped with RFBs, surveying wrong-way drivers to identify potential reasons why they drove wrong way and what caused them to correct their behavior if they self-corrected before being pulled over by law enforcement or crashing, analyzing the socio-demographic characteristics of wrong-way drivers and the geometric and traffic characteristics of CFX toll road exit ramp terminals to determine how these characteristics affect the likelihood of WWD behavior, updating and improving the developed WWD crash risk (WWCR) model and optimization algorithm with new certified crash data and updated input data (WWD citations, 911 calls, traffic volumes, interchange designs), and continuing to study the potential use of connected vehicle technologies to reduce WWD (including the evaluation of pilot sites with connected vehicle WWD detection and notification technologies).

Research Objectives

To achieve the main goal of this research, the following objectives need to be achieved:

- 1) **New Objective as Part of Continuation of Phase 3 Project:** Develop and conduct a survey for a random and anonymous sample of wrong-way drivers on the CFX system and other high-speed limited access facilities in Florida and beyond to identify possible reasons the drivers went wrong-way. Drivers who self-corrected before causing a crash or being pulled over by law enforcement will be asked what caused them to correct their behavior (basic signs, RFBs or other advanced countermeasures, opposing traffic, etc.). UCF will develop the survey and have a third party vendor program the survey, distribute it, and store results on their servers. The survey questions will be approved by CFX and the UCF Institutional Review Board (IRB) and tested by CFX and the UCF research team before the survey is implemented. The results of this survey can help CFX understand the main reasons behind these WWD activities and identify potential solutions to further reduce WWD (improved signage, better lighting, etc.). These results could also reveal the true reasons drivers self-correct to show the effectiveness of different types of WWD countermeasures.

- 2) **New Objective as Part of Continuation of Phase 3 Project:** Analyze and model the socio-demographic, roadway, traffic, land-use, and built environment factors on CFX roads and characteristics of exit ramp terminals to identify potential trends or indicators of WWD activity. FHWA developed a road safety audit prompt list which includes most of the important factors for WWD issues. Figure 1 below shows all the factors that are included in this prompt list. All these factors will be collected and analyzed for the CFX system and modeled to determine the most significant factors. By understanding how these characteristics affect WWD, CFX can make modifications at exit ramp terminals

and identify locations with high potential for WWD based on the analysis results. Some identified significant factors could also be included in the updated WWCRC model.

Scope of Project, Function, Traffic Mix, and Road Users	Design	Signs and Markings	Time of Day Conditions	Seasonal and Temporary Conditions
Proximity of freeway access and intersections	Alignment	Positioning (conspicuity)	Lighting	Weather
	Spacing	Visibility (day and night)	Visibility	Construction
Older, unfamiliar, intoxicated drivers	Visibility	Clutter	Peak vs. off-peak traffic conditions	
Changes in traffic volume and mix	Sight lines	Confusion		
	Lane configuration	Supplementary signs and pavement markings		

Figure 1: Wrong-Way Driving Road Safety Audit Prompt List.

(Source: FHWA Wrong Way Driving Road Safety Prompt List, September 2013. https://safety.fhwa.dot.gov/intersection/other_topics/wwd/wwdrsa/fhwasa13032.pdf)

- 3) **New Objective as Part of Continuation of Phase 3 Project:** Examine potential improvements to WWD detection technologies. These improvements could include examining the potential of using video analytics and/or license plate recognition to confirm whether detected wrong-way vehicles self-correct or continue wrong way onto the mainline. The UCF research team can also help CFX determine potential locations to deploy any new detection technologies and collect and analyze data from these deployment locations.
- 4) **New Objective as Part of Continuation of Phase 3 Project:** Investigate all WWD crashes that occurred on the CFX system since the first RFB WWD countermeasures were installed in February 2015. The crash reports for all the WWD crashes will be thoroughly reviewed to identify such details as origin point, time of day, weather condition, driver intoxication, and other pertinent information. SunGuide reports for these crashes will also be reviewed to determine the details of the response processes to

these crashes and how these processes could be improved in the future. The California Department of Transportation (Caltrans), in consultation with the California Highway Patrol (CHP) developed a checklist for wrong-way entries. The UCF research team will develop a similar checklist for the WWD crashes that occurred at CFX roadway network. This checklist will include details such as the nearest exit and entrance ramps geometry and location, time of day, lighting and weather condition, condition and presence of signs and pavement markings, presence of bars or nightclubs, and other potential information that can help CFX better understand and reduce WWD crashes.

- 5) Continue collecting data so that a sufficient sample of WWD data can be obtained for the CFX system to evaluate their implemented WWD countermeasures. Examples of this WWD data include crashes, Computer Aided Dispatch (CAD) privileged data (also known as 911 calls and events data), citations, traffic management center (TMC) logs, SunGuide reports, and detections (existing CFX system logs and video recordings, mainline detections, and future technologies implemented on the CFX system during the course of extending this project over the next two years, etc.), as well as geometric designs of interchange types that are known to have higher than normal frequency of WWD events as reported in the literature and FDOT design documents (examples of this include full or partial diamond interchanges).

Continuation Objective #5:

The above WWD data will be continuously collected and monitored every month to evaluate the safety performance of RFBs. The frequency of WWD events at the RFB sites will be statistically compared to the frequency of WWD events at sites with other types of WWD countermeasures (basic signs and pavement markings, enhanced signs

and pavement markings and/or Wrong Way signs with LEDs). To compare the RFB devices to LED signs, the UCF research team will assist CFX in identifying the best quantity of Wrong Way LED signs to install on the CFX system, as well as the best locations to install these signs. These LED signs are approved by the MUTCD to use as WWD countermeasures. The UCF research team will then collect WWD data from all implemented CFX LED sites to compare the effectiveness of RFBs and LEDs installed on CFX transportation network in reducing WWD activities. Depending on the amount of data collected at the LED sites, it might not be possible to obtain statistically significant comparisons between the RFB and LED sites until the last few months of the 24-month continuation period. Additionally, the combined effects of RFBs and improved signage and pavement markings will be studied at the 25 CFX ramps where these WWD countermeasures are present (as well as at any additional ramps that receive these countermeasures during the proposed continuation period). The complexity of having both RFBs and improved signage and pavement markings at the same exit ramps could require extensive and novel analysis to separate the benefits of each countermeasure and determine the accumulated benefits of using both countermeasures. The impacts of interchange type will also be considered in these comparisons to see if countermeasure effectiveness varies depending on the geometric design of the interchange.

- 6) Develop a scoring methodology to identify locations where deployment of RFBs would be beneficial. This methodology will consider many factors, including WWD history (crashes, CAD data/911 calls, citations, etc.), interchange design (full diamond, partial diamond, extended left turn lanes, etc.), and other factors driven by CFX (e.g.,

infrastructure readiness in terms of ITS equipment at these sites and budget considerations).

Continuation Objective #6:

The developed WWCRC modeling and optimization methodology will be updated to include 2016 WWD data (with additional updates during the continuation period as more data becomes available) and improved to remove possible correlation due to overlap between the modeled roadway segments. These improvements and updates, along with potential updates to the optimization algorithm, could cause changes in the recommended RFB deployment locations. Different scenarios and sensitivity analyses of the optimization model will be conducted, additional constraints could be introduced, and other factors could be considered to determine the impact of various types of WWD countermeasures (including low-cost improvements and advanced warning devices). With these improvements, the optimization algorithm can be used to identify the best combinations of WWD countermeasures for future deployments.

- 7) Study the effects of WWD countermeasures implemented at medians. The types of median countermeasures to be studied will be determined based on the results of literature review.

Continuation Objective #7:

Additional data will be collected and analyzed for the median opening on SR 429 which was equipped with additional signage to reduce the number of vehicles making illegal U-turns (as well as for any other median openings equipped with improved signage or other countermeasures during the continuation period). These data could include median crossover citations and WWD 911 calls near the studied median opening(s). Also, data

will be collected and analyzed at comparison sites with no signage improvements to better understand the performance of these improvements. As additional data are collected during the continuation period, before/after analyses will be conducted to determine if a statistically significant sample becomes available.

- 8) Evaluate technologies that can prevent wrong-way vehicles from entering the mainline to see if these technologies are feasible and effective.

Continuation Objective #8:

Continue to evaluate the potential application of connected and automated vehicle technologies to alert and prevent wrong-way drivers from entering the mainline. Follow up on the UCF-CFX patent which is still ongoing. CFX plans to test a connected vehicle WWD notification system in May 2019. Members of the UCF research team will attend this test and record and document the details and results of this test and any additional future field tests. CFX has three roadside units to implement which will be able to provide in-vehicle notifications to wrong-way vehicles with the appropriate on-board technology. These units will be used in conjunction with FLIR thermal detection technologies. Once these units have been installed at CFX exit ramps, the UCF research team will collect and analyze data from these locations and document the successes of this technology.

- 9) Analyze the WWD detection data collected from the RFBs installed at the CFX locations to understand how drivers react to these devices (correct themselves or keep driving the wrong way).

Continuation Objective #9:

Continue to analyze WWD detection data collected from RFBs and produce monthly detection and false alerts reports verified with SunGuide reports and submit these to CFX. The effects of interchange type will be considered in these monthly reports, as well as for all other reports and comparisons in this continuation period. These reports will also include information for the 15 new RFB sites CFX plans to implement once the RFBs have been installed at these locations (total of 50 RFB sites on the CFX system). The trends of WWD acts and false alerts will be examined to understand how the RFB devices are working and how wrong-way drivers are reacting to them. The WWD detections and false alerts will also be compared across radar and laser sites on the CFX network to report the performance of different WWD detection and deterrence technologies. Locations with high frequencies of WWD acts even with the RFB devices will be examined to see what other additional measures could be implemented to reduce the occurrence of WWD at these locations. The UCF research team will also continue producing FHWA progress reports every 6 months during the two-year continuation. This will include addressing any comments from FHWA regarding the comparison of RFB performance with MUTCD-approved LED devices and basic signage and pavement markings. Additional benefit-cost analyses, such as the reduction in law enforcement response time and number of law enforcement dispatches, will also be conducted to provide a more comprehensive understanding of the benefits provided by the RFB devices.

- 10) Assist CFX in developing a methodology for deploying WWD mainline detection systems to detect wrong-way drivers that enter the mainline. This will include

determining the placement of these systems, evaluating any potential signage to use in conjunction with these systems, and collecting and analyzing the data from any potential pilot deployment of these systems.

Continuation Objective #10:

UCF will continue assisting CFX in determining mainline locations for potential deployment of WWD detection devices and/or countermeasures and will collect and analyze data for any mainline deployment systems. These mainline WWD countermeasures could include red reflective raised pavement markers, overhead-mounted DO NOT ENTER and WRONG WAY signs, and red reflective tape on the back of freeway signs. Mainline signage practices from other states will also be reviewed to ensure that the appropriate quantity and types of countermeasures are used and to help determine the optimal placement of these countermeasures. The aesthetics of signage implementation will also be considered to ensure that the implemented mainline signage is not excessive and does not impact the travel experience for right-way drivers. Any deployed mainline WWD countermeasures will be evaluated to determine how they are performing and whether any improvements could be made to improve their effectiveness.

2. EXECUTIVE SUMMARY

CFX has successfully implemented RFB WWD countermeasures at 35 exit ramps on their system. While these devices have been effectively causing wrong-way drivers to turn around, it is important to better understand the benefits of these devices, especially compared to other WWD countermeasures. Continuing this project for another 24 months will allow the UCF research team to keep collecting WWD data on the CFX system to further analyze WWD on the

CFX network and evaluate the effectiveness of RFBs and other WWD countermeasures suggested by MUTCD. These analyses will include studying the effects of improved wrong-way signage and pavement markings at ramps with RFBs to identify how these two countermeasures interact and affect each other. The UCF research team will also help CFX identify locations for potential deployment of MUTCD-compliant LED Wrong Way signs so these signs can be compared with the RFBs. Results of these analyses and comparisons can be incorporated into the WWD countermeasures optimization algorithm to identify the best combination of countermeasures to deploy in the future. Installing multiple types of WWD countermeasures at a certain location could reduce the WWD activities more than using a single type of countermeasure.

Additionally, the UCF research team will also develop a survey for wrong-way drivers, analyze socio-demographic, roadway, traffic, land use, and built environment factors on CFX roads and exit ramp terminals to identify possible reasons for WWD and factors which influence WWD behavior. This continuation of this current project will provide the UCF research team enough time to develop the survey and analyze its results so CFX can understand the reasons why these drivers went the wrong way, as well as what caused them to turn around. The survey responses could also help identify additional ways to prevent drivers from going wrong-way on exit ramps and provide more insight on the effectiveness of the installed Wrong Way RFB signs. Analyzing socio-demographic factors of wrong-way drivers, as well as roadway, traffic, land use, and built environment characteristics of CFX roadways and exit ramp terminals, can also help CFX identify locations with high potential for WWD. The UCF research team will also develop a WWD crash checklist to help CFX better record all important information for WWD crashes on

their network during the continuation of this project. This information can help CFX to take proactive steps to reduce WWD crashes and improve response to these crashes when they occur.

In addition to these new tasks, the UCF research team will continue collecting WWD data from the RFB devices and creating monthly reports during this 24-month continuation. FHWA progress reports will also be developed every six months. These reports will include comparisons between the RFB sites and control sites without RFBs, as well as comparisons between RFB and LED sites once LED signs have been deployed on the CFX system. The WWCR model and optimization algorithm previously developed during this project will also be updated and improved to include 2016 WWD data, make them more robust and accurate, and better consider the benefits and costs of various WWD countermeasures. Additional benefit-cost analyses will also be conducted on the existing RFBs to illustrate additional benefits these devices provide to law enforcement. Data will also continue to be collected for the median opening at SR 429 where improved signage was implemented (and any other additional sites that may be implemented during the 24 months continuation period) to understand how this signage reduces the frequency of illegal U-turns. New potential WWD detection technologies and countermeasures, such as video analytics, license plate recognition, and the use of automated and connected vehicle technologies, will also be researched to ensure CFX remains a leader in WWD detection and prevention.

The Phase-3 project continuation is a fixed lump sum 24 months with requested total budget for the continuation only of \$230,000. This will be billed in 4 equal invoices, \$57,500 each, every 6 months during the 24 months continuation period (the last invoice will be billed at the end of the last month of the continuation of the project). Details of the budget are provided on the last page of this proposal.

3. UNDERSTANDING OF THE PROBLEM

While agencies throughout the United States are currently using various types of WWD countermeasures, such as Wrong Way signs with LEDs or RFBs, enhanced signage or pavement markings, and traditional signs and pavement markings, studies have not been done comparing these countermeasures or combinations of these countermeasures with each other. CFX has installed enhanced WWD signs and pavement markings at some locations that also have RFB WWD countermeasures, allowing for comparison between RFB ramps with these improvements and ones without these improvements. Additionally, installing LED Wrong Way signs on some CFX exit ramps could allow for comparison between these MUTCD-compliant LED signs and the currently installed RFBs. In order for these comparisons to be statistically significant, extensive data will need to be collected at these locations. Additionally, previous studies have shown that some serious and habitual traffic violations are linked to socio-demographic characteristics of the violators. These studies have not focused on wrong-way drivers, but it is hypothesized that there will be similar results for wrong-way drivers. This hypothesis will be verified with data analysis and modeling. Roadway, traffic, and other characteristics of CFX roadways and exit ramp terminals can also affect the number of WWD incidents. These factors will be collected and analyzed for CFX toll roads and exit ramp terminals to identify significant factors which increase the chance of drivers going the wrong-way. Surveying drivers who went wrong-way on CFX roadways or other toll roads and interstates throughout Florida can provide further insight into the WWD problem and how to effectively reduce it. These findings could help CFX identify potential improvements to signage, lighting, or other conditions at the exit ramps which could reduce the chance of drivers going the wrong way. This survey could also show the main reasons wrong-way drivers self-correct (traditional signage, enhanced signage, RFBs or LEDs, opposing traffic, etc.) and provide a clearer picture of the thought processes of

wrong-way drivers. When a WWD crash occurs, it is important to understand the details of these crashes and responses to them. The checklist that the UCF research team will develop can help ensure that all the necessary information about a WWD crash is collected.

Even with advanced WWD countermeasures at exit ramps, some wrong-way drivers could still continue onto the mainline. Therefore, it can be beneficial to have WWD detection devices and/or countermeasures at mainline locations. CFX is planning to deploy WWD detection devices at multiple mainline locations, along with potential signage. The UCF research team will help CFX determine the best deployment locations and collect and analyze data to evaluate these deployments. Based on these evaluations, recommendations will be made on the best configurations of mainline WWD detection devices and countermeasures.

4. BENEFITS TO CFX

The main benefits of this Phase-3 study and its continuation to CFX are:

- Saving lives of CFX customers from the danger they could face if wrong-way drivers continue to the mainline without being detected in time, self-correcting, and/or being stopped.
- Demonstrating that CFX is using their budget carefully and wisely by installing RFBs and other effective countermeasures where they are most needed.
- Evaluating the effects of RFBs and other WWD countermeasures to understand which countermeasures are effective in which locations and which locations could require additional measures to reduce WWD.
- Contributing to the development of potential innovative technologies to better detect and prevent wrong-way drivers from entering the mainline.

-
- Ensuring that CFX remains at the cutting edge of WWD research by investigating new potential WWD countermeasures and detection technologies, including connected and automated vehicle technologies.
 - Enabling CFX to evaluate mainline detection and deterrence technologies to detect and deter wrong-way drivers who reach the mainline so they can be stopped before they cause a crash.
 - Demonstrating to CFX's customers that their safety is priority.
 - **Additional Project Continuation Benefits:**
 - Helping CFX understand the reasons (socio-demographic, roadway, traffic, land use, and built environment factors) that potentially caused drivers to go wrong way at exit ramps.
 - Providing CFX with a checklist to collect important information on WWD crashes and better understand the characteristics of and response to these crashes.
 - Comparing the effectiveness of RFBs and other WWD countermeasures that are approved by MUTCD in reducing WWD on the CFX road network.
 - Responding to FHWA comments by extensively analyzing the performance of RFBs and comparing them to other countermeasures and control sites.

-
- Evaluating the performance of implemented connected vehicle roadside units and FLIR thermal detection to understand how these technologies work in detecting and notifying wrong-way drivers.

5. PLAN FOR IMPLEMENTATION OF RESULTS

The results of this continuation of the Phase-3 study will help CFX understand how various WWD countermeasures and combinations of these countermeasures affect WWD. Evaluating and comparing the performance of multiple WWD countermeasures can help CFX understand the benefits of each countermeasure and install the most effective countermeasures on their road networks in the future. The wrong-way driver survey results will help CFX understand the main reasons drivers went wrong-way at exit ramps, as well as the main reasons they corrected their behavior. These findings can provide further insights into the effectiveness of the installed RFB devices, as well as other WWD countermeasures. In addition to this survey, the analysis of socio-demographic characteristics of wrong-way drivers who crashed or were cited by law enforcement and other potential contributing factors will help CFX understand the significance of these factors and identify locations with high potential for WWD. The analysis of geometric design and traffic characteristics on CFX roadways and at exit ramp terminals will also help CFX identify influencing factors, determine locations with a high number of actual and potential WWD entries, and take necessary and appropriate steps to combat this WWD problem. The developed WWD crash checklist will help CFX collect important information about WWD crashes and make improvements to WWD countermeasures and response procedures. Updating and improving the WWCR model and optimization algorithm to include more recent data and be more robust will ensure that locations with high WWD crash risk are selected for priority

implementation of RFBs or other WWD countermeasures in the best manner. With this knowledge, CFX can effectively decide on what types of WWD countermeasures to implement to cost-effectively reduce WWD crashes on their system.

6. PROPOSED RESEARCH APPROACH

Tasks

To achieve the stated goal and objectives of this proposed project, the University of Central Florida's (UCF) research team members under the guidance of Professor Haitham Al-Deek, Ph.D., P.E., (UCF Principal Investigator, PI), will perform the proposed project tasks listed in this section. Their aim will be to assist CFX in optimally implementing various WWD countermeasures at ramps and mainline locations and assessing their performance, understanding the potential applications of automated and connected vehicle technologies for WWD prevention and notification, and identifying the major reasons and factors that cause people to drive wrong-way. Professor Al-Deek will be assisted by several members of his research team. His current research team includes: Adrian Sandt, Ph.D., a postdoctoral researcher; Md. Imrul Kayes, a UCF Ph.D. candidate; Ghalia Gamaleldin, a UCF Ph.D. student; and outstanding undergraduate engineering students Valentina Gamero, Patrick Blue, Kameron Taylor, and John McCombs. Also, other graduate and/or undergraduate students may join this project throughout the continuation period as needed. Additionally, Dr. Grady Carrick of Enforcement Engineering Inc., who is a former Chief of FHP in Jacksonville area (for a period of 30 + years) with very important hands-on experience in first response to WWD incidents, will also be subcontracted by UCF as consultant to assist in critical data collection on the performance

of WWD countermeasures (Formal commitment will be provided by the consultant when funding is established).

Some tasks from the original UCF-CFX WWD Phase-3 contract have already been completed; these tasks are not listed in this section. These completed tasks are Tasks #4, 5, and 7 of the original project proposal. The tasks which will be performed by the UCF research team as part of the continuation period are the following:

1. *Phase-3 Continuation Kick-Off Meeting between UCF Research Team and CFX.* This meeting will be conducted within the first month of the project continuation period.

2. *Methodology Development.* A methodology will be developed to identify locations at the highest risk for WWD activity. This methodology may use some or all of the following: historic WWD data, including crashes, CAD/911 calls and events, citations, TMC reports, and detection data, as well as design characteristics (interchange type and presence of potentially confusing features) to estimate the WWD risk of the selected ramps and other potential ramps that were not selected.

Continuation of Task #2:

The developed WWCR model will be updated to include 2016 WWD data (with additional updates during the continuation period as more data becomes available). The WWCR model will also be improved to remove possible correlation due to overlap between the modeled roadway segments. These improvements and updates will make the model more accurate and robust. The incorporation of WWD crash costs and the ability to consider multiple types of WWD countermeasures will also be considered, allowing the model to more accurately show the

estimated costs of WWD on various roadway segments and the expected benefits due to RFBs and other WWD countermeasures. This task will help achieve Objectives 2 and 6.

3. Collection and Analysis of WWD Data. Accurate and reliable data is crucial for this project. A variety of WWD data will be collected and analyzed for the entire CFX system. Examples of this data include WWD crash data, CAD/911 call and event data, citation data, TMC logs, and SunGuide reports. Additionally, WWD detection data obtained from the installed RFBs will also be analyzed. Data will also be collected from the median WWD countermeasures that were implemented based on the results of Task #7 (same task number in the original Phase-3 proposal and this continuation proposal). It is highly recommended to collect as much data as possible after implementation for each site to accurately evaluate the countermeasures. The minimum period of data collection cannot be determined accurately until data is collected for several months from each location. The minimum sample size needed varies by location and will depend on the WWD activity at each location.

Continuation of Task #3:

WWD event and detection data will continue to be collected, monitored, and reported for the existing RFB sites on the CFX system, as well as for any new sites equipped with RFBs or other types of WWD countermeasures during the continuation period (including the 15 new RFB sites CFX plans to implement). Data will also be collected for the median crossover on SR 429 (and any other additional CFX roads) where enhanced signage has been (or will be) implemented during the course of the continuation project to see if the number of illegal U-turn citations have been reduced. Data will also be collected at comparison sites without treatments to better

understand how ramp and median WWD countermeasures are affecting WWD behavior. This task will help achieve Objectives 5, 7, and 9.

6. Review of Technologies to Stop Intentional Wrong-Way Drivers. Since intentional wrong-way drivers, such as suicidal drivers, will not correct themselves when they encounter WWD countermeasures, additional technologies could be necessary to prevent these drivers from entering (or continuing on) the mainline. A literature review will be conducted on potential technologies that can physically prevent wrong-way drivers from entering the mainline to see if these technologies are feasible or would be effective for CFX to implement. Other innovative technologies that have not previously been used as WWD countermeasures will also be evaluated to see if they would be appropriate. If feasible technologies are found, testing plans and appropriate documentation for the MUTCD's Request to Experiment (RTE) will be developed.

Continuation of Task #6:

The use of connected and automated vehicle technologies to stop wrong-way vehicles from entering the mainline will continue to be investigated. The results of CFX's testing of a connected vehicle WWD notification system will be documented. The UCF research team will also collect and analyze data from ramps equipped with connected vehicle roadside units and FLIR thermal detection to see how these technologies perform. This task will help achieve Objective 8.

8. Progress Reports for FHWA RTE. Every six months, a progress report will be written for the FHWA RTE of all RFBs installed on the CFX system at the time of each report. These progress

reports will indicate the progress of this experiment, including any important observations and issues that occurred or were resolved.

Continuation of Task #8:

The UCF research team will continue developing these FHWA progress reports every six months for the duration of this continuation period. Any comments from FHWA regarding comparisons between RFBs and control sites and/or comparisons between RFBs and LEDs or other MUTCD approved devices in combating WWD will be addressed. The UCF research team will also assist CFX in determining where to deploy LED Wrong Way signs in order to conduct these comparisons. The impacts of interchange type on WWD behavior will also be documented in these reports. This task will help achieve Objective 9.

9. *WWD Countermeasure Optimization Model for CFX Network.* In addition to the WWD hotspots identification model that was developed as part of Task #2 (same task number in the original Phase-3 proposal and this continuation proposal), an optimization model will also be developed. This model will consider the use of various WWD countermeasures, including low-cost improvements (enhanced signage, increased pavement markings, etc.) and advanced technologies (RFBs or other new potential technologies). With this model, CFX can determine the best WWD countermeasures to implement and where to implement them to provide the best reduction in WWD for the lowest cost.

Continuation of Task #9:

The developed optimization approach will be updated using 2016 WWD data and the improved model as discussed in Task #2. With these improvements, the optimization algorithm will be more accurate and be able to consider different types and combinations of WWD

countermeasures. Using estimated costs of WWD crashes will help identify the optimal quantity and locations for deployment of various countermeasures to achieve the maximum WWD reduction for the lowest cost. Sensitivity analyses can also be conducted to see how variations in costs and effectiveness affect the results. This task will help achieve Objective 6.

10. *Evaluation of Current RFB Deployment Sites.* Using the data collected as part of Task #3 (same task number in the original Phase-3 proposal and this continuation proposal), the ramps equipped with RFBs will be analyzed to see which ramps have higher frequencies of WWD acts and events. For any identified high-frequency ramps, potential mitigating measures to reduce the occurrence of WWD will be examined and recommended. These measures could include additional signs or markings, improved lighting, or geometric changes.

Continuation of Task #10:

The UCF research team will continue to evaluate the current RFB sites (as well the 15 RFB sites CFX plans for implementation, as well as any additional sites where RFBs are implemented during the continuation period) to determine how the RFBs have reduced WWD behavior and which sites have high WWD detection and false alert rates. Similar evaluations will be conducted for any sites equipped with LED signs or other WWD countermeasures. The effects of the improved signage and pavement markings implemented at 25 of the RFB sites will be analyzed to see how these improvements supplement the RFBs by comparing these sites to RFB sites without these improvements and control sites without these countermeasures. The impacts of interchange type will also be considered. Additional benefit-cost analyses will be conducted on the RFBs (as well as on implemented LEDs or other WWD countermeasures) to help CFX

comprehensively understand the benefits provided by these devices. This task will help achieve Objectives 5 and 9.

11. *Analysis of CFX Network for Mainline WWD Detection Deployment.* The UCF research team will assist CFX in analyzing the potential of deploying mainline WWD detection systems throughout the CFX network. First, WWD event data will be analyzed to determine mainline locations where WWD seems to occur most frequently. Then, the best type of detection systems and supplementary signage or other devices will be determined for each potential deployment location. Using this information, CFX can decide where to deploy these detection systems for a pilot test. The UCF research team will collect and analyze any data from this pilot test deployment and document the results to understand whether these systems help reduce WWD crashes and help CFX more accurately track wrong-way drivers on the mainline.

Continuation of Task #11:

The UCF research team will continue to assist CFX in determining potential mainline locations for deployment of WWD detection and/or countermeasure devices and will collect and analyze data from any mainline deployments to evaluate their performance. The UCF research team will also review studies by other states concerning WWD mainline signage to determine the best quantity, types, and locations of these signs. Any potential signage concepts will be reviewed to ensure that they do not negatively impact the aesthetics of the roadway or provide any potential confusion for right-way drivers. This task will help achieve Objective 10.

12. **New Project Continuation Task:** *Determination of Significant Reasons and Factors for Wrong-Way Driving Behavior.* To understand the main reasons and factors that cause drivers to

go the wrong way and self-correct (or not self-correct), a wrong-way driver survey, analysis and modeling of wrong-way driver socio-demographic factors, and examination and modeling of other roadway and traffic characteristics on CFX roadways and at exit ramp terminals will be conducted. Each of these are described in the subtasks below.

12a. *Survey of Wrong-Way Drivers.* A wrong-way driver survey will be developed by the UCF research team to understand the behavior of wrong-way drivers and the main reasons they went the wrong way. Drivers who turned around before entering the mainline will be asked what caused them to turn around to help determine the effectiveness of RFBs and other types of WWD countermeasures on wrong-way drivers. The survey will be conducted on an anonymous, random sample of people who drove wrong-way on the exit ramps or mainlines of limited access facilities in the last five years. In order to obtain a large enough sample, it may be necessary that this survey will have to include drivers from all over Florida, not just on CFX roadways, plus possibly drivers from other states. The survey will be designed by the UCF research team and approved by CFX and UCF's IRB before implementation. A third-party vendor will then program and distribute the survey to potential respondents. The UCF research team will then analyze the results of the survey to identify common reasons for WWD behavior, potential improvements that could be implemented at certain exit ramps to reduce WWD, and the effectiveness of various WWD countermeasures in causing wrong-way drivers to turn around. This task will help achieve Objective 1.

12b. *Analysis and Modeling of Wrong-Way Driver Socio-Demographic Factors.* The UCF research team will collect, analyze, and model socio-demographic characteristics of wrong-way drivers who caused a crash or were cited by law enforcement on CFX roadways and other limited access facilities in Florida. These analyses and models will help identify potential trends

and significant influencing factors of WWD behavior. Multiple socio-demographic factors, such as age, gender, ethnicity, and area of residence, will be analyzed and modeled to determine any potential influencing factors. These models can be used to identify locations that are more susceptible to WWD so efforts can be made to reduce WWD in these areas. This task will help achieve Objectives 2 and 6.

12c. *Examination and Modeling of Roadway and Traffic Characteristics on CFX Roadways and at Exit Ramp Terminals.* The UCF research team will collect and model roadway, traffic, land use, and built environment factors for roadways and exit ramp terminals on CFX toll roads and other limited access facilities in Florida. These factors will be selected based on the WWD road safety audit prompt list developed by the FHWA and other previous research on WWD, as well as any other factors that CFX would like to examine. These models can be used to identify locations that are more susceptible to WWD based on these factors and identify modifications that could be made to reduce WWD. The WWD ramp checklist developed as part of the CFX WWD Phase-2 project will also be used to check that the CFX exit ramps have adequate WWD signage and pavement markings. This task will help achieve Objectives 2 and 6.

13. New Project Continuation Task: *Development of a WWD Crash Checklist.* The UCF research team will develop a WWD crash checklist to assist CFX in better understanding the details of WWD crashes that have occurred on their system. This checklist will include (but is not limited to) information on roadway characteristics, time of day, weather and lighting, driver demographics and intoxication, type and severity of crash, and estimated distance traveled. It will contain information on response to the WWD crash, including responding agency, duration from when the wrong-way vehicle was first reported to when the crash occurred, and time to get

to the scene of the crash. Crash reports and SunGuide reports for all WWD crashes that have occurred on the CFX system since the first RFB countermeasures were installed in February 2015 will be thoroughly reviewed to obtain this information. Based on this investigation, recommendations will be made on ways to improve crash response and make RFBs or other WWD countermeasures more effective. This task will help achieve Objective 4.

14. New Project Continuation Task: Examination of Improved WWD Detection Technologies. Since fast and accurate detection of WWD events is important to help CFX reduce WWD crashes, the UCF research team will help CFX identify potential new WWD detection technologies. Examples of such technologies could include video analytics to quickly confirm whether a detected wrong-way vehicle turns around or not. If any new detection technologies are deployed at exit ramps or on mainlines, the UCF research team will help collect and analyze data from these deployments. This task will help achieve Objective 3.

15. Recommendations for CFX. Based on the results of the previous tasks, recommendations will be provided to CFX.

Continuation of Task #15: The UCF research team will make recommendations on the best locations for implementation of LED signs to compare with the already installed RFBs. Based on the results of the wrong-way driver survey and modeling of wrong-way driver socio-demographic and exit ramp terminal characteristics (Task #12 in this continuation proposal), UCF will make recommendations to CFX regarding potential improvements at ramps to prevent WWD, as well as populations or areas that might be more susceptible to WWD. Recommendations on priority locations for future deployment of RFBs and other WWD

countermeasures will also be made based on the updated WWD hotspots model (Task #2 in this continuation proposal) and optimization approach (Task #9 in this continuation proposal). The UCF research team will also make recommendations to CFX regarding the application of connected and automated vehicle technologies (Task #6 in this continuation proposal) and improved WWD detection technologies (Task #14 in this continuation proposal). Recommendations on the future use of mainline WWD detection systems will also be made based on the results of any pilot deployment of these systems (Task #11 in this continuation proposal). Additional recommendations could also be made regarding WWD crash response procedures based on the investigation of CFX WWD crashes conducted as part of Task #13 in this continuation proposal.

16. *Final Report and Presentation of Results to CFX.* At the end of the continuation period, a final report will be submitted in electronic format and a final presentation will be made to CFX. This final report and final presentation will constitute the only final report and final presentation deliverables for the entire original, extension, and continuation periods of this project. The final report and presentation in the current contract will be replaced by a progress presentation.

17. *Progress Presentations.* A progress presentation will be made to CFX approximately once every six months during the continuation period of the project. These progress presentations are deliverables by themselves. The current contract final presentation deliverable will be substituted by a regular progress presentation deliverable due on the ending date of the current contract (August 12, 2019).

7. QUALIFICATIONS OF THE UCF PI AND HIS RESEARCH TEAM AS EVIDENCED BY PAST EXPERIENCE IN THE FIELD

Professor Haitham Al-Deek, Ph.D., P.E., is the Principal Investigator (PI) of this proposed continuation of CFX WWD phase-3 study. He is the PI for the original CFX WWD Phase-3, Phase-2, and Phase-1 studies. He has more than **thirty-two years** of experience in transportation engineering, planning, and operations. He is **nationally recognized in his field** and received **many best paper awards on developing wrong way driving risk models and WWD hotspot methodology for Florida limited access highway network** granted to him and his research team by the Freeway Operations Committee of the National Research Council-Transportation Research Board (TRB) in 2019, 2018, 2017, and 2015. His postdoctoral associate, Dr. Adrian Sandt, has won the 2019 and 2017 Best Freeway Operations Student Paper Awards. His PhD student, Imrul Kayes, has won the Best Freeway Operations Student Paper Awards in 2019. Professor Al-Deek also received **four Chairman Awards** from TRB for his significant contributions to the fields of *Freeway Operations*, and *Regional Transportation Systems Management and Operations* in January 2018 and 2012. In addition, he received the best TRB freeway operations paper award in 2010, which was about the impact of Dynamic Message Signs on CFX drivers, and another best paper award by the TRB Freeway Operations Committee on travel time prediction on I-4 in 2003. He also received the best TRB paper award in *Regional Transportation Systems Management and Operations* in 2019, 2017, 2016, and 2014. In 2015, he won a competitive national research project in collaboration with Texas A&M Transportation Institute (TTI) on wrong way driving countermeasures (NCHRP 03-117). He had numerous media interviews on wrong-way driving such as Channel 9 News and FOX 19 NOW News in 2016, and Channel 9 News in 2015 and 2014 featuring the innovative wrong-way driving countermeasure he and his

research team came up with, which was later implemented for the first time in Central Florida. Professor Al-Deek has three US patents related to WWD, two US trademarks one of them is related to WWD, and eight software copyrights. Professor Al-Deek was invited as keynote speaker to talk about innovative research methodology and countermeasures for combating wrong way driving at the 7th and 8th Traffic Safety conferences in Amman, Jordan in May 2015 and December 2017 respectively. He was featured as a distinguished researcher by the UCF College of Engineering and Computer Science in 2003. He received the Research Incentive Award in 2018 and 2001 and the UCF Researcher of the Year 1999 Award (this is a very prestigious award given to the best professor researcher of the year out of the entire UCF's 1500+ faculty). He received the Excellence in Research at Full Professor Level in UCF College of Engineering Award in 2018. He earned his Ph.D. and MS degrees from the University of California at Berkeley in 1991 and 1987 respectively. Professor Al-Deek was the principal (or co-principal) investigator of more than 75 applied research projects at UCF and elsewhere, and a large number of them were on toll roads. Since joining UCF in 1992, the total budget of applied research projects he attracted to UCF exceeded \$8 million. He has published more than 400 papers and technical reports in peer-reviewed journals and conferences, and more than half of these publications are related to traffic operations and toll roads. He chaired 13 Ph.D. dissertations and 28 MS theses to completion. Presently, and for the past 20 years, he has been the Chair of TRB's paper review for all papers submitted to two key TRB committees: *Freeway Operations* and *Regional Transportation Systems Management and Operations*. These two committees review nearly all papers submitted to TRB's annual meeting on freeway and toll operations and management every year. Professor Al-Deek has been an associate editor of the *Journal of Intelligent Transportation Systems (J-ITS)* since 2007.

Professor Al-Deek teaches undergraduate and graduate courses at UCF. He developed *new* courses such as Intelligent Transportation Systems (ITS), Highway Capacity, Traffic Operations, Mass Transit, Transportation Engineering Systems, and Highway Engineering. He also teaches Transportation Engineering courses on a regular basis. Professor Al-Deek has been an active registered Professional Engineer in Florida since 1998. Professor Al-Deek has completed four federally mandated training courses required for all principal investigators and key personnel working on projects dealing with human subjects in surveys and/or interviews.

Adrian Sandt, Ph.D., is currently a postdoctoral researcher at UCF working with Professor Al-Deek. He obtained his B.S. and Ph.D. in Civil Engineering from UCF in May 2014 and December 2018, respectively. Dr. Sandt was a recipient of the UCF Trustees Fellowship for his Ph.D. studies. He won the University Transportation Center (UTC) Student of the Year Award representing the Southeastern Transportation Center (STC) competing with students from ten universities that are members of the STC consortium including UCF. This award was presented to him by the Consortium for University Transportation Centers (CUTC) on January 7, 2017 at the 96th TRB annual meeting in Washington, D.C. Dr. Sandt is extremely proficient in technical writing and he has been involved with CFX's Phase-1, Phase-2, and Phase-3 WWD studies.

Md Imrul Kayes, Ph.D. Candidate, is a graduate research assistant at the University of Central Florida under the supervision of Professor Al-Deek. He obtained his B.Sc. in Civil Engineering in July 2014 from Bangladesh University of Engineering and Technology (BUET), the top university in Bangladesh, and was admitted to the Civil Engineering Ph.D. program at UCF in

Fall 2015. He received a SAS data mining certificate in August 2017 and completed his MS in December 2018 from UCF. Mr. Kayes has been involved with the CFX WWD Phase-3 study since its beginning.

Ghalia Gamaleldin, Ph.D. Student, is a graduate research assistant working under the supervision of Professor Al-Deek and the UCF-ITE student chapter treasurer. Ms. Gamaleldin was the recipient of the Office of Research Doctoral Fellowship in Fall 2017. She obtained her B.S. in Civil Engineering in May 2015 from American University in Dubai (AUD) and was admitted to the PhD program in UCF in August 2017. She received the WTS Graduate Student award in September 2018. Ms. Gamaleldin has been assisting with the CFX WWD Phase-3 study since she joined Professor Al-Deek's research team.

Valentina Gamero, Undergraduate student researcher, is currently pursuing her B.S. in Civil Engineering (with Honors) at UCF and is set to graduate in May of 2021. Ms. Gamero has served as president of the UCF-ITE student chapter. She has been involved with the CFX WWD Phase-3 study, including research of connected vehicle technologies. She is skilled in data collection and analysis, technical writing, and literature review.

Patrick Blue, Undergraduate student researcher, is an undergraduate student at UCF with a focus on transportation systems. He has worked as a research assistant for Professor Al-Deek since November 2017. He is expected to complete his B.S. in Civil Engineering in the Summer of 2019 and plans on continuing to acquire his master's degree at UCF thereafter. He is proficient in technical writing and data collection, and has been involved with the CFX WWD

Phase-3 study.

Kameron Taylor, Undergraduate student researcher, is currently an undergraduate student at UCF working under the supervision of Professor Al-Deek. He plans to obtain his B.S. in Civil Engineering in May of 2020. At UCF, Mr. Taylor is involved with the UCF chapters of ITE and ABC. While working with Professor Al-Deek, Mr. Taylor has gained proficiency in technical writing and literature review as well as use of ArcGIS.

John McCombs, Undergraduate student researcher, is currently an undergraduate student at UCF working with Professor Al-Deek. He is slated to graduate with a B.S. in Civil Engineering in Spring 2020 and plans to pursue his Ph.D. in Civil Engineering with Professor Al-Deek. He currently serves as the president of the UCF ITE chapter and is a member of the Burnett Honors College at UCF. He has been involved with the CFX Phase-3 WWD study and has experience in developing surveys.

Grady Carrick, Ph.D., is a thirty year plus veteran of the Florida Highway Patrol, who retired at the rank of Chief in 2012. Dr. Carrick has spent his career building bridges between the law enforcement and transportation professions. He has a national reputation as an advocate for traffic safety and traffic incident management. His leadership in the Florida Strategic Highway Safety Plan, the Florida Bicycle and Pedestrian Advisory Board, and numerous Community Traffic Safety Teams are a few accomplishments. Carrick has participated in several traffic safety initiatives as a member of The International Association of Chiefs of Police (IACP). In his current position as principal for the firm Enforcement Engineering Inc., he seeks to improve

transportation safety through the integration of transportation engineering, research and enforcement operations. He has extensive experience in traffic safety analysis and the development of law enforcement countermeasures. In addition to his professional accomplishments, Dr. Carrick holds a Ph.D. in Transportation Engineering from the University of Florida. He has published and presented at numerous state, national, and international conferences on traffic safety and operations.

Roles and Responsibilities of Project Team

The roles and responsibilities of the project team are listed below. Additional information on the team can be found in the qualifications of the UCF research team section in this proposal.

Professor Haitham Al-Deek, Ph.D., P.E., *UCF Principal Investigator.* He will be responsible for the entire project management and coordination with CFX, budget control, quality control, reviewing and submitting the final report, conducting progress and final presentations to CFX, and attending project meetings with CFX.

Adrian Sandt, Ph.D., *Postdoctoral Associate.* He will be responsible for editing of reports, presentations, as well as other products submitted to CFX during the course of this study. He will also help with methodology development and data analysis, including updating the optimization model, as well as work on the survey, socio-demographic analysis, evaluation of RFB ramps and mainline detection locations, final report, final presentation, and progress presentations. He will also attend the project meetings with CFX and will assist Professor Al-Deek in quality control of all project reports and presentations.

Md. Imrul Kayes, *Graduate Research Assistant and UCF Ph.D. Candidate*. He will be responsible for collecting and analyzing WWD events, including WWD crashes, 911 calls, citations, and all the WWD acts and false activations/false alerts generated by the RFB devices. He will also help with the FHWA progress reports, monthly detection and false alerts reports, identifying potential locations for LED deployment, final report, final presentation, and progress presentations and will attend the project meetings with CFX.

Ghalia Gamaleldin, *Graduate Research Assistant and UCF Ph.D. Student*. She will assist with data collection and reporting, statistical analyses, socio-demographic analyses, and will attend project meetings with CFX.

Valentina Gamero, *UCF Undergraduate Student Researcher*. She will assist with examining improvements to WWD detection technologies, contributing to the development of the wrong-way driver survey, editing reports and presentations, and will attend project meetings with CFX.

Patrick Blue, *UCF Undergraduate Student Researcher*. He will assist with analyses of RFBs, data collection and reporting, socio-demographic analyses, editing reports and presentations, and will attend project meetings with CFX.

Kameron Taylor, *UCF Undergraduate Student Researcher*. He will assist with data collection and reporting, examining improvements to WWD detection technologies, studying the use of

connected and automated vehicle technologies to reduce WWD, and will attend project meetings with CFX.

John McCombs, *UCF Undergraduate Student Researcher*. He will assist with the wrong-way driver survey development and analysis of results, studying the use of connected and automated vehicle technologies to reduce WWD, editing reports and presentations, and will attend project meetings with CFX.

Grady Carrick, Ph.D., *Enforcement Engineering Inc.* He will provide the research team with vital WWD CAD/911 call and citation data in a timely fashion to evaluate the implemented WWD countermeasures (RFBs, LEDs, enhanced signage and pavement markings, and median treatments) and meet the project deadlines on time. He will also provide the perspective of law enforcement and input on the median treatments and the feasibility of innovative technologies to stop intentional wrong-way drivers, and provide data that will assist in obtaining socio-demographic information for wrong-way drivers on the CFX system and other Florida limited access facilities. (Formal commitment will be provided by the consultant when funding is established).

8. PROJECT CONTINUATION DELIVERABLES

- a. Progress Presentations.** A progress presentation will be made to CFX approximately **once every six months** during the continuation period of the project. These progress presentations are deliverables by themselves.
- b. Final Report.** A final report will be submitted to CFX in MS Word or PDF format. The final report will be provided in electronic format only. As agreed with CFX, only one final

report will be delivered for the entire project (including the original contract, its approved extension, and this proposed continuation of the project).

- c. **Project Final Presentation to CFX.** The UCF research team will make a final presentation at CFX's Headquarters (HQ) with conclusions and recommendations. The final presentation represents the last progress presentation in this project. As agreed with CFX, only one final presentation will be delivered for the entire project (including the original contract, its approved extension, and this proposed continuation of the project). The original contract final presentation will be substituted by a regular progress presentation due on the last day of the current contract ending date (August 12, 2019).

9. TRAVEL

Travel during the continuation period includes **4 meetings once every 6 months (2 per year) including the final presentation** with CFX, the project sponsor, in their Orlando HQ office. This also includes a potential of 6 field (and/or CFX HQ) visits. Estimate of local travel cost is based on travel history to CFX HQ (and previous field trips/field visits) and is included in the budget where only mileage and tolls will be charged.

10. PROJECT SCHEDULE

Central Florida Expressway Authority (CFX) PROJECT SCHEDULE

Project Title

CONTINUATION OF "WRONG-WAY DRIVING PHASE-3 STUDY: ALLOCATING COUNTERMEASURES ON CFX ROADWAY NETWORK"

Start - Finish

August 13, 2019 to August 12, 2021

Research Agency

University of Central Florida

Principal Investigator

Professor Haitham Al-Deek, Ph.D., P.E., University of Central Florida

RESEARCH II	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	
CONTINUATION TASK																									
1. Phase-3 Continuation Kick-Off Meeting	■																								
2. Updates and Improvements to Developed Methodology	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
3. Collection and Analysis of WWD Data	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
6. Review of Connected and Automated Vehicle Technologies to Reduce WWD	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
8. Progress Reports for FHWA RTE			■						■													■			
9. Updates and Improvements to WWD Countermeasure Optimization Model for CFX Network	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
10. Evaluation of RFB (and Other WWD Countermeasures) Deployment Sites	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
11. Analysis of CFX Network for Mainline WWD Detection Deployment	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
12. New Continuation Task: Determination of Significant Reasons and Factors for Wrong-Way Driving	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
12a. Survey of Wrong-Way Drivers	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
12b. Analysis and Modeling of Wrong-Way Driver Socio-Demographic Factors	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
12c. Examination and Modeling of Roadway and Traffic Characteristics at Exit Ramp Terminals	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
13. New Continuation Task: Development of a WWD Crash Checklist	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
14. New Continuation Task: Examination of Improved WWD Detection Technologies	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
15. Recommendations for CFX												■						■							■
16. Final Report and Presentation																							■	■	■
17. Progress Presentations						■						■						■							

April 22, 2019

Mr. Bryan Homayouni
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807

Rc: UCF Proposal: Continuation of Project "Wrong-Way Driving Phase-3 Study: Allocating and Evaluating Countermeasures on CFX Roadway Network"

Dear Mr. Homayouni:

On behalf of Dr. Haitham Al-Deek, The University of Central Florida Board of Trustees and the Department of Civil, Environmental, and Construction Engineering are pleased to submit the enclosed proposal to the Central Florida Expressway Authority.

Title: Continuation of Project "Wrong-Way Driving Phase-3 Study: Allocating and Evaluating Countermeasures on CFX Roadway Network"
UCF Principal Investigator: Dr. Haitham Al-Deek
Period of Performance: 08/13/2019 to 08/12/2021
Amount Requested: \$230,000 (Total Costs)

UCF expressly reserves the right to negotiate applicable terms and conditions at the time of award and/or to decline the award. In no case will UCF be bound by any terms or conditions that are in violation of applicable laws or regulations.

Hours and hourly rates are included in this budget for estimating purposes only. Faculty and Administrative and Professional personnel of the University of Central Florida are salaried employees that do not complete time cards. Invoicing for services rendered will be based on percentage of total professional effort, in amounts not to exceed the total budgeted salary.

For any technical questions, please contact Dr. Al-Deek at 407-823-2988 or via e-mail at Haitham.Al-Deek@ucf.edu. For budgetary and administrative questions, please contact Stephanie Rodriguez-Makhlouf via email at Stephanie.R.Makhlouf@ucf.edu. Contractual questions and award documents should be addressed to OSP@ucf.edu.

Sincerely,



Matthew Cronan
Sr. Proposal Manager
Authorized Organizational Representative
Phone: (407) 823-3031
Email: Matthew.Cronan@ucf.edu

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 1
TO
INTER-LOCAL AGREEMENT BETWEEN CFX AND UCF
FOR
WRONG WAY DRIVING PHASE-3 STUDY
CONTRACT NO. 001143**

This Supplemental Agreement No. 1 entered into this 13th day of April, 2017, by and between CENTRAL FLORIDA EXPRESSWAY AUTHORITY ("CFX"), and UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES, ("UNIVERSITY"), the same being supplementary to the Contract between the aforesaid, dated August 13, 2015, for performing a study entitled "Wrong-Way Driving Study Phase III: Allocating and Evaluating Countermeasures on CFX Roadway Network.

1. CFX has determined it necessary to extend the term of the Original Agreement to August 12, 2019, for continuation of all current scope items along with addition of new scope items in the attached amended extension proposal of research project contract version 5.0.
2. UNIVERSITY hereby agrees to the extension of the term of the Original Agreement at an increase cost of \$225,000.00 to the contract, and
3. CFX and UNIVERSITY 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 UNIVERSITY's waiver of all future rights for additional compensation which is not already defined herein or in the fee proposal.
4. This Supplemental Agreement No. 1 is necessary to extend the term of the Original Agreement term and cost.

SUPPLEMENTAL AGREEMENT NO. 1

Contract Name: Wrong Way Driving Phase 3

Contract No.: 001143

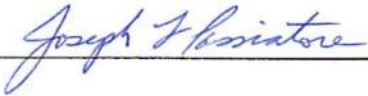
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CENTRAL FLORIDA EXPRESSWAY AUTHORITY


By: 
Director of Procurement

Approved as to form and execution, only.

General Counsel for CFX




UNIVERSITY OF FLORIDA BOARD OF TRUSTEES

By: 
Authorized Signature
Arlisia Potter
Print Name

Title: Team Manager

Date: 5/3/17

Legal Content Approved for the University:


Name

4-27-17
Date

FINAL VERSION
EXTENSION PROPOSAL OF RESEARCH PROJECT CONTRACT
Version 5.0

Submitted to

Central Florida Expressway Authority
(CFX)

**EXTENSION TO PROJECT "WRONG-WAY DRIVING PHASE-3 STUDY:
ALLOCATING AND EVALUATING COUNTERMEASURES ON CFX
ROADWAY NETWORK"**

Project Extension Period	24 months
Project Extension Duration	08/13/2017-08/12/2019
Extension Budget Amount	\$225,000

Proposal Submitted By

Haitham Al-Deek, Ph.D., P.E.

(Principal Investigator)

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And

His students

Administrative Contact: Arlisia Potter, Team Manager

E-mail: apotter@ucf.edu

Phone: (407) 882-2018

Extension Proposal Originally Submitted in February 2017
Revised in March 2017

EXTENSION TO PROJECT TITLED “WRONG-WAY DRIVING PHASE-3 STUDY: ALLOCATING AND EVALUATING COUNTERMEASURES ON CFX ROADWAY NETWORK”

Principal Investigator:

Haitham Al-Deek, Ph.D., P.E., Professor of Engineering, CECE Department, UCF, Orlando, FL
32816-2450, Cell: (321) 695-7664; Fax (407) 823-3315; email Haitham.Al-Deek@ucf.edu

1. RESEARCH GOAL AND OBJECTIVES

Research Main Goal

The main goal of the extension to the originally proposed study is to continue evaluating wrong-way driving (WWD) advanced countermeasures that have been deployed (and additional countermeasures that will be deployed) at ramps and medians throughout the CFX toll road network, help CFX determine the best way to warn right-way drivers of intentional wrong-way drivers that do not correct their behavior before entering the mainline, and study potential technologies that can prevent these wrong-way drivers from entering the mainline in the first place. An additional goal is to explore placing of WWD detection devices on the mainline.

Research Objectives

To achieve the main goal of this research, the following objectives need to be achieved:

- 1) Continue collecting data so that a sufficient sample of WWD data can be reached for the entire CFX system to evaluate their implemented WWD countermeasures. Examples of this WWD data include crashes, Computer Aided Dispatch (CAD) privileged data also known as 911 calls and events data, citations, traffic management center (TMC) logs, SunGuide reports, and detections (TAPCO logs and video recordings, mainline detections, etc.), as well as geometric design of interchange types that are known to have

higher than normal frequency of WWD events as reported in the literature and FDOT design documents (examples of this include full or partial diamond interchanges).

Extension to Objective #1:

The above WWD data will be continuously monitored every month and the trends of WWD acts and false alerts will be examined to understand how the RRFB devices are working and how wrong-way drivers are reacting to them. The WWD detections and false alerts will also be compared across radar and laser sites on CFX network to report performance of different WWD detection and deterrence technologies.

- 2) Develop a scoring methodology to identify locations where deployment of Rapid Rectangular Flashing Beacons (RRFBs) would be beneficial. This methodology will consider many factors, including WWD history (crashes, CAD data/911 calls, citations, etc.), interchange design (full diamond, partial diamond, extended left turn lanes, etc.), and other factors driven by CFX (e.g., infrastructure readiness in terms of ITS equipment at these sites and budget considerations).

Extension to Objective #2:

The above scoring methodology proposed in the original contract will be evaluated again using additional data that was not available when the methodology was initially developed to see if there are any changes in potential deployment locations. Additionally, an optimization model will be developed to determine the next locations where WWD countermeasures should be deployed. This optimization model will expand on the scoring methodology and consider WWD event data, budgetary constraints, and other factors to determine where various types of WWD countermeasures (including low-

cost improvements and advanced warning devices) should be implemented. This extension to Objective#2 is a major undertaking.

- 3) Study the effects of WWD countermeasures implemented at medians. The types of median countermeasures to be studied will be determined based on the results of literature review.

Extension to Objective #3:

As additional data is becoming available during the extension period, the initial model developed to meet the above objective (which had small data sample) will be revisited to include larger data sample.

- 4) Study various methods of warning right-way drivers about WWD events to determine the most appropriate methods for the CFX roadway network.

Extension to Objective #4:

The UCF research team will continuously monitor the introduction of new technologies that have potential for right-way driver notification about WWD events and discuss these with CFX.

- 5) Evaluate technologies that can physically prevent wrong-way vehicles from entering the mainline (e.g., nets or barriers) to see if these technologies are feasible and effective.

Extension to Objective #5:

The potential application of connected and automated vehicle technologies to alert and prevent wrong-way drivers from entering the mainline will be examined.

- 6) Analyze the WWD detection data collected from the RRFBs installed at the CFX pilot test locations to understand how drivers react to these devices (correct themselves or keep driving the wrong way).

Extension to Objective #6:

Continue to analyze WWD detection data collected from RRFBs and produce monthly detection and false alerts reports verified with SunGuide reports and report these to CFX. Locations that still have high frequencies of WWD acts even with the RRFB devices will be examined to see what other measures could be implemented to reduce the occurrence of WWD at these locations. Also, continue producing FHWA progress reports every 6 months during the two-year extension of the original project.

- 7) **New Objective as Part of Extension:** Assist CFX in developing a methodology for deploying WWD mainline detection systems to detect wrong-way drivers that enter the mainline. This will include determining the placement of these systems, evaluating any potential signage to use in conjunction with these systems, and collecting and analyzing the data from any potential pilot deployment of these systems.

2. EXECUTIVE SUMMARY

CFX has been proactively involved in understanding and combatting wrong-way driving (WWD) since they contracted with the University of Central Florida (UCF) in 2012 to explore the extent of WWD problem on its toll road network as part of a Phase-1 study. The results of this study, *“Wrong-Way Driving Incidents on OOCEA Toll Road Network, Phase-1 Study: What is the Extent of this Problem?”* showed that WWD is a significant problem in Central Florida and has been growing in recent years.

To reduce WWD, and based on recommendations from UCF in Phase I final report, CFX decided to test the use of Rapid Rectangular Flashing Beacons (RRFBs) as WWD

countermeasures in a Phase-2 study. This technology had previously been used for pedestrian crossings; it had never been used as a WWD countermeasure before UCF recommendation was made in Phase-1. During the Phase-2 study, "*Wrong-Way Driving Incidents on CFX Toll Road Network, Phase-2 Study: Developing Countermeasures*," the RRFB technology was successfully tested, first in the CFX headquarters parking lot, then at the SR 528 and SR 520 ramp. Since the RRFBs were implemented at this location in January 2015, CFX have successfully detected several vehicles driving the wrong way on the exit ramp, as verified by the TAPCO camera and the numerous images taken of the wrong-way vehicles.

The success of this technology has convinced CFX to implement it at additional ramps along their toll road network. A methodology and extension to the methodology originally proposed in Phase 3 will be developed by the UCF research team that will estimate WWD risk values for roadway segments including interchanges throughout the CFX network. This methodology will use real-life WWD data, examples of which include WWD crash data, CAD/911 call data and events, citation data, TMC logs, SunGuide reports, TAPCO BlinkLink detection data, TAPCO video logs, and mainline detection data (if and when it becomes available). Other considerations, such as the presence of full or partial diamond interchanges, extended left turn bays, and other CFX practical constraints (e.g., budget and infrastructure ITS equipment readiness/limitations) will also be considered when developing this methodology. The methodology will include optimization techniques as described in the extension to Objective#2 above. It is believed that no methodology like this has ever been developed that focuses solely on WWD.

In addition to exit ramps, another potential source of WWD events is median crossovers. These types of events can occur on stretches of roadway where there is only a paved or grassy median or in spaces in barriers designated for emergency or law enforcement use (also known as emergency median openings). To prevent these types of WWD events, various potential median WWD countermeasures will be studied to see which would be effective for CFX. The types of median countermeasures to be studied will be determined based on the results of literature review. The best locations to implement these countermeasures will also be determined and detection data will be collected at these implementation sites to evaluate how effective these countermeasures are.

While WWD countermeasures can help prevent confused wrong-way drivers from entering the mainline, these devices may not be effective at preventing intentional wrong-way drivers, such as suicidal drivers, from entering the mainline. Additionally, extremely intoxicated drivers might not comprehend that they are driving the wrong way when they encounter the WWD countermeasures. Therefore, it is important for CFX to be able to notify right-way drivers when a wrong-way driver has entered the system. There are many possible ways to notify these drivers of WWD events, including DMS, smartphone applications, and in-vehicle notifications. These various methods will be examined to determine the most effective options for CFX based on roadway characteristics and driver preferences. To obtain driver preferences, a customer survey has been developed and implemented with the approval of CFX administration. This survey asked CFX customers how they would like to receive WWD notifications, along with other WWD related questions. During the extension project, this survey will be analyzed thoroughly to understand expectations from WWD customers about right-way driver notification methods.

An analysis of potential ways to physically prevent intentional or intoxicated drivers from entering the mainline will also be performed to see if these technologies, which can include barriers, nets, or other similar devices, are feasible and would be effective for the CFX to implement at its ramps.

Extension Period:

Extending this research by 24 months for a total timeframe of 48 months will allow for the UCF research team to continuously monitor WWD events on the CFX network during this timeframe.

The UCF research team will also develop an optimization model that CFX can use to determine the next locations for RRFB implementation, as well as where other, lower cost countermeasures could be most effectively implemented. New potential WWD countermeasures, including the use of automated and connected vehicle technologies, will also be researched to ensure CFX remains a leader in WWD detection and prevention. Additional research on WWD notification methods for right-way drivers will also be conducted to determine the best and most effective notification methods for CFX and its customers.

The UCF research team will also assist CFX in developing and deploying WWD mainline detection systems to obtain more data about wrong-way drivers who do not turn around at ramps and continue to the mainline. This assistance will include determining the most appropriate locations for these detection systems based on WWD data, evaluating any potential signage to be used with these systems to notify wrong-way and right-way drivers, and collecting and analyzing data for any pilot deployments of these systems on the CFX roadway network.

The Phase-3 project extension is a fixed lump sum 24 months with requested total budget for the extension only of \$225,000. This will be billed in 4 equal invoices, \$56,250 each, every 6 months during the 24 months extension period (the last invoice will be billed at the

end of the last month of the extension project). Details of the budget are provided on the last page of this proposal.

3. UNDERSTANDING OF THE PROBLEM

Wrong-way driving (WWD) is a rare but serious event which often occurs during late night hours and typically involves impaired drivers (intoxicated, tired, or confused). Crashes caused by WWD often result in severe injuries or fatalities, especially on toll roads or other limited access facilities due to the high travel speeds. The low frequency of WWD crashes presents a difficult challenge to researchers, so other WWD data is needed to accurately research and effectively prevent WWD events. This data includes WWD CAD/911 call data, citation data, TMC logs, and detection data (e.g., video, camera, or radar). A sufficient quantity of data collected over several years is also necessary to properly understand the effects of WWD countermeasures. WWD countermeasures can prevent confused drivers from entering the mainline while traveling the wrong direction, but they will not prevent intentional wrong-way drivers (suicidal or extremely intoxicated drivers) from entering the mainline. However, the risk of crashes due to these wrong-way drivers can be reduced by notifying right-way drivers that a wrong-way driver has been spotted or by implementing technologies, such as barriers or nets, that could physically prevent a wrong-way driver from entering the mainline. These preventative technologies require a lot of study before implementation to ensure there are no adverse effects to traffic operations, safety, or emergency response and to make sure these technologies are feasible and appropriate. Methods of notifying right-way drivers can include DMS, highway advisory radio, smartphone applications, or in-vehicle devices; these methods need to be evaluated and CFX customer preferences need to be determined to decide which methods would

be the most effective. These potential methods will be discussed and approved by the CFX administration before they can be released.

4. BENEFITS TO CFX

The main benefits of this Phase-3 study and its extension to CFX are:

- Saving lives of CFX customers from the danger they could face if wrong way drivers continue to pursue their behavior to the mainline without being detected in time and/or stopped.
- Demonstrating that CFX is using their budget carefully and wisely by installing RRFBs and other effective countermeasures where they are most needed.
- Providing notifications to right-way drivers about WWD events that can allow the right-way drivers to be aware of and potentially avoid collisions.
- Evaluating the effects of RRFBs and median WWD countermeasures to understand which countermeasures are effective in which locations and which locations could require additional measures to reduce WWD.
- Contributing to development of potential innovative technologies to prevent wrong-way drivers from entering the mainline.
- Ensuring that CFX remains at the cutting edge of WWD research by investigating new potential WWD countermeasures, as well as connected and automated vehicle technologies.

-
- Enabling CFX to evaluate mainline detection and deterrence technologies to detect and deter wrong-way drivers who reach the mainline so they can be stopped before they cause a crash.
 - Demonstrating to CFX's customers that their safety is priority.

5. PLAN FOR IMPLEMENTATION OF RESULTS

From this Phase-3 extension study, CFX will understand how the implemented WWD countermeasures at ramps and medians affect WWD. CFX will also gain valuable insight on right-way driver notification methods and potential technologies to prevent wrong-way drivers from entering the mainline. With this knowledge, CFX can effectively decide on what types of technologies to test and/or implement to reduce WWD crashes on the mainline.

Extension Plan:

The developed optimization model will allow CFX to optimally install future WWD countermeasures to provide the most benefits within a given budget. CFX will also understand how automated and connected vehicle technologies can be used for WWD prevention and notification. By evaluating the deployed mainline WWD detection systems, CFX will be able to more accurately track wrong-way drivers and evaluate the potential of stopping them before they cause a crash on the mainline.

6. PROPOSED RESEARCH APPROACH

Tasks

To achieve the stated goal and objectives of this proposed project, the University of Central Florida's (UCF) research team members under the guidance of Professor Haitham Al-Deek,

Ph.D., P.E., (UCF Principal Investigator, PI), will perform the proposed project tasks listed in this section. Their aim will be to assist CFX in optimally implementing WWD countermeasures at ramps and medians and assessing their performance, determining ways to notify right-way drivers and prevent intentional wrong-way drivers from entering the mainline, and understanding the potential applications of automated and connected vehicle technologies for WWD prevention and notification. Professor Al-Deek will be assisted by several members of his research team (e.g., students). His current research team includes: Adrian Sandt, a UCF Ph.D. student and Trustees Fellowship recipient; Md. Imrul Kayes, a UCF Ph.D. student; Omar Al-Sahili, a UCF M.S. student; Md. Omar Faruk, a UCF M.S. student; as well as additional outstanding undergraduate engineering students, including Sara Wertanen, Antony Shamma, Corin Staves, and Abigail VanLuven. Also, other graduate and/or undergraduate students may join this extension project throughout its duration as needed. Additionally, Dr. Grady Carrick of Enforcement Engineering Inc., who is a former Chief of FHP in Jacksonville area (for a period of 30 + years) with very important hands on experience in first response to WWD incidents, will also be subcontracted by UCF as consultant to assist in critical data collection on the performance of WWD countermeasures, and will provide law enforcement perspective concerning UCF innovative WWD countermeasures, right-way driver notification methods, and technologies to stop wrong-way drivers. (Formal commitment will be provided by the consultant when funding is established).

Tasks to be performed by the UCF research team include the following:

1. *Phase-3 kick-off meeting between UCF research team and CFX.*
2. *Methodology development.* A methodology will be developed to identify locations at the highest risk for WWD activity. This methodology may use some or all of the following:

historic WWD data, including crashes, CAD/911 calls and events, citations, TMC reports, and detection data, as well as design characteristics (interchange type and presence of potentially confusing features) to estimate the WWD risk of the selected ramps and other potential ramps that were not selected.

Extension to Task #2 (Methodology):

The model developed from this methodology will be updated with the most recent data to see how the high-risk locations have changed.

3. *Collection and analysis of WWD data.* Accurate and reliable data is crucial for this project. A variety of WWD data will be collected and analyzed for the entire CFX system. Examples of this data include WWD crash data, CAD/911 call and event data, citation data, TMC logs, and Sunguide reports. Additionally, WWD detection data obtained from the installed RRFBS at the pilot ramps will also be analyzed. This data includes TAPCO BlinkLink logs and video as well as other detection logs. Data will also be collected from the median WWD countermeasures that will be implemented as part of Task 7. It is highly recommended to collect as much data as possible after implementation for each site to accurately evaluate the countermeasures. The minimum period of data collection cannot be determined accurately until data is collected for several months from each location. The minimum sample size needed varies by location and will depend on the WWD activity at each location.

Extension to Task #3:

The UCF research team will continue monitoring WWD events on CFX roadway network, including the creation of monthly WWD detection and false alerts reports for the 34 sites

currently equipped with RRFBs, as well as for any additional sites where RRFBs will be implemented during the timeframe of this extension study.

4. *Literature review on median WWD countermeasures.* To determine the most effective countermeasures at preventing median crossovers, previous research will be reviewed. Many types of countermeasures ranging from signs and pavement markings to ITS technologies will be analyzed to determine which would be most effective for CFX.

Extension to Task #4:

The UCF research team will investigate other potential WWD countermeasures for use at ramps and/or medians. These can include new detection or warning technologies being used by other agencies, as well as technologies that are not currently being used for WWD prevention, but could be adapted or modified for this purpose.

5. *Examination of right-way driver notification systems.* There are many ways that CFX could potentially alert right-way drivers of WWD events. To determine the most effective notification methods, a literature review and a customer survey, with its questions being pre-approved by the CFX administration, has been conducted as part of this task.

- 5.1. *Literature review on WWD notifications.* A literature review will be conducted on ways other agencies currently warn about wrong-way drivers. Based on this review, potential notification methods for CFX will be identified.

- 5.2. *Customer survey on WWD notifications.* In addition to the literature review, a customer survey has been developed, reviewed and approved by the CFX administration, and then it was implemented to obtain the opinions of CFX's customers regarding WWD notifications and countermeasures. This survey was implemented online and customers

were asked about their preferences concerning WWD notification methods and messages, as well as about WWD countermeasures.

5.3. *Determination of notification methods.* Based on Tasks 5.1 and 5.2, the most appropriate notification methods for the CFX system will be determined. Additional research will be performed to determine the optimal deployment methods for these notification methods.

Extension to Task #5:

The literature review in Sub-Task 5.1 will be updated as needed. Further research will be conducted on notification methods, including the applications of vehicle-to-vehicle (V2V) and vehicle-to-infrastructure (V2I) communications for WWD notification.

6. *Review of technologies to stop intentional wrong-way drivers.* Since intentional wrong-way drivers, such as suicidal drivers, will not correct themselves when they encounter WWD countermeasures, additional technologies could be necessary to prevent these drivers from entering (or continuing on) the mainline. A literature review will be conducted on potential technologies that can physically prevent wrong-way drivers from entering the mainline to see if these technologies are feasible or would be effective for CFX to implement. Other innovative technologies that have not previously been used as WWD countermeasures will also be evaluated to see if they would be appropriate. If feasible technologies are found, testing plans and appropriate documentation for the MUTCD's Request to Experiment (RTE) will be developed.

Extension to Task #6:

The use of connected and automated vehicle technologies to stop wrong-way vehicles from entering the mainline will be investigated. If CFX desires to test any of these technologies,

The UCF research team will assist CFX in coordinating with vehicle manufacturers and any other necessary third parties.

7. *Determination of appropriate median crossover countermeasures.* Based on the literature review conducted in Task 4, appropriate countermeasures to prevent median crossovers will be determined. Appropriate sites for implementation of these countermeasures will be determined using a methodology customized for medians. Once the median locations have been selected and the countermeasures installed, WWD data at these sites will be collected, as described in Task 3.
8. *Progress reports for FHWA RTE.* Every six months, a progress report will be written for the FHWA RTE of all RRFBs installed on the CFX system at the time of each report. These progress reports will indicate the progress of this experiment, including any important observations and issues that occurred or were resolved.

Extension to Task #8:

The UCF research team will continue writing these FHWA progress reports every six months for the entire timeframe of this study including the 24 month extension period of the original project.

9. New Extension Task:

WWD countermeasure optimization model for CFX network. In addition to the **WWD Hotspots™** identification model that was developed as part of Task 2, an optimization model will also be developed. This model will consider the use of various WWD countermeasures, including low-cost improvements (enhanced signage, increased pavement markings, etc.) and advanced technologies (RRFBs or other potential technologies discovered as part of the extension to Task 4). With this model, CFX can determine the best WWD countermeasures

to implement and where to implement them to provide the best reduction in WWD for the lowest cost.

10. New Extension Task:

Evaluation of current RRFB deployment sites. Using the data collected as part of Task 3, the ramps equipped with RRFBs will be analyzed to see which ramps have higher frequencies of WWD acts and events. For any identified high-frequency ramps, potential mitigating measures to reduce the occurrence of WWD will be examined and recommended. These measures could include additional signs or markings, improved lighting, or geometric changes.

11. New Extension Task:

Analysis of CFX network for mainline WWD detection deployment. The UCF research team will assist CFX in analyzing the potential of deploying mainline WWD detection systems throughout the CFX network. First, WWD event data will be analyzed to determine mainline locations where WWD seems to occur most frequently. Then, the best type of detection systems and supplementary signage or other devices will be determined for each potential deployment location. Using this information, CFX can decide where to deploy these detection systems for a pilot test. The UCF research team will collect and analyze any data from this pilot test deployment and document the results to understand whether these systems help reduce WWD crashes and help CFX more accurately track wrong-way drivers on the mainline.

12. Recommendations for CFX. Based on the results of the previous tasks, recommendations will be provided to CFX. Recommendations on the use of RRFBs and the applied median countermeasures will be made based on the results of Task 3 and Task 7. Effective

methods to notify right-way drivers of WWD events will be made based on the results of Task 5 and potential preventative technologies will be recommended based on the results of Task 6. These recommendations will include the types of technologies and potential testing and/or implementation methods.

Extension of Task #12:

The UCF research team will also make recommendations to CFX regarding the application of connected and automated vehicle technologies (as studied in the extension to Task 6) and where to optimally implement future WWD countermeasures based on the results of the optimization model developed in Task 9. Recommendations on the future use of mainline WWD detection systems will also be made based on the results of any pilot deployment of these systems. Task 11 will help CFX determine the best mainline locations to deploy the appropriate type of WWD detection and deterrence technologies, and to evaluate the potential and viability of these technologies.

13. *Final report and presentation of results to CFX.* At the end of the extension project, a final report will be submitted in electronic format and a final presentation will be made to CFX. This final report and final presentation will also constitute the only final report and final presentation deliverables for the entire original and extension study. The final report and presentation in the original contract will be replaced by a progress presentation only made at the end of the original 24 months contract period (that ends before the extension period), also see Task#14 below.

14. *Progress Presentations.* A progress presentation will be made to CFX approximately once every four months during the extension period of the project. These progress presentations are deliverables by themselves. The original contract final presentation deliverable will be

substituted by a regular progress presentation deliverable due on the last day of the current contract ending date (August 12, 2017).

7. QUALIFICATIONS OF THE UCF PI AND HIS RESEARCH TEAM AS EVIDENCED BY PAST EXPERIENCE IN THE FIELD

Professor Haitham Al-Deek, Ph.D., P.E., is the Principal Investigator (PI) of this proposed extension of CFX WWD phase-3 study. He is the PI for the original CFX WWD Phase-3 study. He has more than thirty years of experience in transportation engineering, planning, and operations. He is nationally recognized in his field and received the best paper award on developing wrong way driving risk models for Florida limited access highway network granted to him and his research team by the Freeway Operations Committee of the National Research Council-Transportation Research Board (TRB) in April 2015. His Ph.D. student, Adrian Sandt, who is the lead graduate student researcher in Professor Al-Deek's WWD projects, has won the 2017 Best Freeway Operations Student Paper Award. The paper was titled "Identifying Wrong-Way Driving Hotspots by Modeling Crash Risk and Assessing Durations of Wrong-Way Driving Events." This paper was also nominated for the 2017 Cunard Award (TRB Operations Section committees including freeway operations, Regional Transportation Systems Management and Operations or Regional TSMO, safety, ITS, Traffic Flow Theory, Networks, and many others). Professor Al-Deek also received two Chairman Awards from TRB for his significant contributions to the fields of *Freeway Operations*, and *Regional Transportation Systems Management and Operations* in January 2012. In addition, he received the best TRB freeway operations paper award in

2010, which was about the impact of Dynamic Message Signs on CFX drivers, and another best paper award by the TRB Freeway Operations Committee on travel time prediction on I-4 in 2003. He also received the best TRB paper award in Regional Transportation Systems Management and Operations in January 2017, 2016, and January 2014. In 2015, he won a competitive national research project in collaboration with Texas A&M Transportation Institute (TTI) on wrong way driving countermeasures (NCHRP 03-117). He had numerous media interviews on wrong-way driving such as Channel 9 News and FOX 19 NOW News in 2016, and Channel 9 News in 2015 and 2014 featuring the innovative wrong-way driving countermeasure he and his research team came up with, which was later implemented for the first time in Central Florida. Professor Al-Deek has two US patents related to WWD, two US trademarks one of them is related to WWD, and eight software copyrights. Professor Al-Deek was invited as keynote speaker to talk about innovative research methodology and countermeasures for combating wrong way driving at the 7th Traffic Safety Conference in Amman, Jordan, May 12-13, 2015. He was featured as a distinguished researcher by the UCF College of Engineering and Computer Science in 2003. He received the Research Incentive Award in 2001 and the UCF Researcher of the Year 1999 Award (this is a very prestigious award given to the best professor researcher of the year out of the entire UCF's 1500+ faculty). He earned his Ph.D. and MS degrees from the University of California at Berkeley in 1991 and 1987 respectively. Professor Al-Deek was the principal (or co-principal) investigator of more than 70 applied research projects at UCF and elsewhere, and a large number of them were on toll roads. Since joining UCF in 1992, the total budget of applied research projects he attracted to UCF exceeded \$7.7 million. He has published more than 350 papers and technical reports in peer-reviewed journals and conferences, and more than half of these publications are related to traffic

operations and toll roads. He chaired 11 Ph.D. dissertations and 26 MS theses to completion. Presently, and for the past 17 years, he has been the Chair of TRB's paper review for all papers submitted to two key TRB committees: *Freeway Operations* and *Regional Transportation Systems Management and Operations*. These two committees review nearly all papers submitted to TRB's annual meeting on freeway and toll operations and management every year. Professor Al-Deek has been an associate editor of the Journal of Intelligent Transportation Systems (J-ITS) since 2007.

Professor Al-Deek teaches undergraduate and graduate courses at UCF. He developed *new* courses such as Intelligent Transportation Systems (ITS), Highway Capacity, Traffic Operations, Mass Transit, Transportation Engineering Systems, and Highway Engineering. He also teaches Transportation Engineering courses on a regular basis. Professor Al-Deek has been an active registered Professional Engineer in Florida since 1998. Professor Al-Deek has completed three federally mandated training courses required for all principal investigators and key personnel working on projects dealing with human subjects in surveys and/or interviews.

Adrian Sandt, Ph.D. student, is currently a graduate research assistant at the University of Central Florida under the supervision of Professor Al-Deek. He obtained his B.S. in Civil Engineering from UCF and is currently pursuing his Ph.D. with Professor Al-Deek as his major academic and research adviser. Mr. Sandt is a recipient of the UCF Trustees Fellowship. He won the University Transportation Center (UTC) Student of the Year (SOY) Award representing the Southeastern Transportation Center (STC) competing with students from ten universities that are members of the STC consortium including UCF. This award was presented to him by the

Consortium for University Transportation Centers (CUTC) on January 7, 2017 at the 96th TRB annual meeting in Washington, D.C. He is extremely proficient in technical writing, and he has been involved with CFX's Phase-1, Phase-2, and Phase-3 WWD studies.

Md Imrul Kayes, Ph.D. student, is a graduate research assistant at the University of Central Florida under the supervision of Professor Al-Deek. He obtained his B.Sc. in Civil Engineering in July 2014 from Bangladesh University of Engineering and Technology (BUET), the top university in Bangladesh, and was admitted to the Civil Engineering Ph.D. program at UCF in Fall 2015. Imrul Kayes has been involved in CFX WWD Phase-3 study.

Omar Al-Sahili, MS student, is a graduate research assistant under the supervision of Professor Al-Deek. He obtained his B.S. in Civil Engineering in December 2014 from An-Najah University (NNU) overseas. He worked in a transportation engineering professional consultancy firm for one year before being admitted to UCF in Spring 2016. He is also the current treasurer of the UCF student chapter of the Institute of Transportation Engineers (UCF-ITE). Omar Al-Sahili has been involved in CFX WWD Phase-3 study.

Md Omar Faruk, MS student, is a graduate research assistant at the University of Central Florida under the supervision of Professor Al-Deek. He obtained his B.Sc. in Civil Engineering, in September 2015 from Bangladesh University of Engineering and Technology (BUET), the top university in Bangladesh, and he worked in a consultancy service with this same university before being admitted to the Masters of Science in Transportation Engineering Systems (MSTS) program at UCF in Fall 2016. Omar Faruk has been involved in CFX WWD Phase-3 study.

Sara Wertanen, Undergraduate student researcher, is working on her Bachelor of Science Degree in Environmental Engineering with electives in transportation. She is a research assistant working under the supervision of Professor Al-Deek and is the UCF-ITE student chapter vice president. She is set to obtain her B.S. in Environmental Engineering in December 2017 and plans on starting in the UCF transportation engineering graduate program in spring 2018. Sara has been involved in CFX WWD Phase-3 study.

Antony Shamma, Undergraduate student researcher, is working on his Bachelor of Science Degree in Civil Engineering at UCF with a focus in Transportation. He is a research assistant working under the supervision of Professor Al-Deek and is the current president of the UCF student chapter of the Institute of Transportation Engineers (UCF-ITE). Antony has been involved in CFX WWD Phase-3 study

Corin Staves, Undergraduate student researcher, is working on his Bachelor of Science degree in Civil Engineering at UCF with a focus in Transportation. He is concurrently working on a Bachelor of Science degree in mathematics and a Bachelor of Music degree. He is a research assistant working under the supervision of Professor Al-Deek and a member of UCF-ITE. He plans to graduate in December 2017 and continue studying transportation engineering at the graduate level, through either an M.S. or direct to Ph.D. track.

Abigail VanLuven, Undergraduate student researcher, is working on her Bachelor of Science degree in Civil Engineering at UCF with a focus in Transportation and Structures. She is a

research assistant working under the supervision of Professor Al-Deek and plans to graduate in December 2018.

Grady Carrick, Ph.D., is a thirty year plus veteran of the Florida Highway Patrol, who retired at the rank of Chief in 2012. Dr. Carrick has spent his career building bridges between the law enforcement and transportation professions. He has a national reputation as an advocate for traffic safety and traffic incident management. His leadership in the Florida Strategic Highway Safety Plan, the Florida Bicycle and Pedestrian Advisory Board, and numerous Community Traffic Safety Teams are a few accomplishments. Carrick has participated in several traffic safety initiatives as a member of The International Association of Chiefs of Police (IACP). In his current position as principal for the firm Enforcement Engineering Inc., he seeks to improve transportation safety through the integration of transportation engineering, research and enforcement operations. He has extensive experience in traffic safety analysis and the development of law enforcement countermeasures. In addition to his professional accomplishments, Dr. Carrick holds a Ph.D. in Transportation Engineering from the University of Florida. He has published and presented at numerous state, national, and international conferences on traffic safety and operations.

Roles and Responsibilities of Project Team

The roles and responsibilities of the project team are listed below. Additional information on the team can be found in the qualifications of the UCF research team section in this proposal.

Professor Haitham Al-Deek, Ph.D., P.E., UCF Principal Investigator. He will be responsible for the entire project management and coordination with CFX, budget control, submitting the

final report, conducting progress and final presentations to CFX, and attending project meetings with CFX.

Adrian Sandt, *Graduate Research Assistant and UCF Ph.D. Student*. He will be responsible for editing of reports, presentations, as well as other products submitted to CFX during the course of this study. He will also help with methodology development and data analysis, including development of the optimization model, as well as work on the literature reviews, final report, final presentation, and progress presentations and will attend the project meetings with CFX.

Md. Imrul Kayes, *Graduate Research Assistant and UCF Ph.D. Student*. He will be responsible for collecting and analyzing WWD events, including all WWD acts and false activations/false alerts generated by the RRFB devices. He will also help with the literature reviews, FHWA progress reports, monthly detection and false alerts reports, final report, final presentation, and progress presentations and will attend the project meetings with CFX.

Omar Al-Sahili, *Graduate Research Assistant and UCF MS Student*. He will be responsible for analyzing WWD median crossover citations and determining the appropriate countermeasures to use at medians. He will also help with the editing of progress presentations and attend project meetings with CFX.

Md. Omar Faruk, *Graduate Research Assistant and UCF MS Student*. He will help with the analysis of the WWD median crossover citations, as well as the investigation of using automated

and connected vehicle technologies for WWD prevention. He will also attend project meetings with CFX.

Sara Wertanen, UCF Undergraduate Student Researcher. She will help with the examination of WWD countermeasures and notification methods, including design and analysis of the customer survey results. She will also edit progress reports, presentations, literature reviews, final report, and final presentation, and will attend project meetings with CFX. She will attend field trips and technology testing.

Antony Shamma, UCF Undergraduate Student Researcher. He will help identify potential WWD countermeasures and notification methods, including automated and connected vehicle technologies. He will attend field trips and technology testing. He will also work on literature reviews and progress presentations and attend project meetings with CFX.

Corin Staves, UCF Undergraduate Student Researcher. He will help analyze and monitor WWD events, as well as identify potential WWD countermeasures and notification methods. He will also work on progress reports and presentations and attend project meetings with CFX.

Abigail VanLuven, UCF Undergraduate Student Researcher. She will help analyze and monitor WWD events, as well as examine potential WWD countermeasures and notification methods. She will also work on progress presentations and reports and attend project meetings with CFX.

Grady Carrick, Ph.D., Enforcement Engineering Inc. He will provide the research team with vital WWD CAD/911 call and citation data in a timely fashion to evaluate the implemented WWD countermeasures (RRFBs and median treatments) and meet the project deadlines on time. He will also provide the perspective of law enforcement and input on the median treatments and the feasibility of innovative technologies to stop intentional wrong-way drivers. (Formal commitment will be provided by the consultant when funding is established).

8. PROJECT EXTENSION DELIVERABLES

- a. **Progress Presentations.** A progress presentation will be made to CFX approximately once every four months during the extension period of the project. These progress presentations are deliverables by themselves.
- b. **Final Report.** A final report will be submitted to CFX in MS Word or PDF format. The final report will be provided in electronic format only. As agreed with CFX, only one final report will be delivered for the entire project (including the original contract and this extension of the original contract).
- c. **Project Final Presentation to CFX.** The UCF research team will make a final presentation at CFX's Headquarters (HQ) with conclusions and recommendations. The final presentation represents the last progress presentation in this project. As agreed with CFX, only one final presentation will be delivered for the entire project (including the original contract and its current proposed extension). The original contract final presentation will be substituted by a regular progress presentation due on the last day of the current contract ending date (August 12, 2017).

9. TRAVEL

Travel during the extension period includes **6 meetings (3 per year) including the final presentation** with CFX, the project sponsor, in their Orlando HQ office. This also includes a potential of 4 field (and/or CFX HQ) visits. Estimate of local travel cost is based on travel history to CFX HQ (and previous field trips/field visits) and is included in the budget where only mileage and tolls will be charged.

10. PROJECT SCHEDULE

Central Florida Expressway Authority CFX PROJECT SCHEDULE	
Project Title	EXTENSION TO "WRONG-WAY DRIVING PHASE-3 STUDY: ALLOCATING COUNTERMEASURES ON CFX ROADWAY NETWORK"
Start - Finish	August 13, 2017 to August 12, 2019
Research Agency	University of Central Florida
Principal Investigator	Professor Hisham Al-Deek, Ph.D., P.E., University of Central Florida
RESEARCH TASK	25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48
1. Phase-3 kick-off meeting	
2. Methodology development and extension (expansion to 34 sites + additional sites)	
3. Collection and analysis of WWD data + Extension to Task#3	
4. Literature review on median WWD countermeasures	
4. Extension to Task #4. Investigation of new WWD countermeasures	
5. Examination of right-way driver notification systems	
5.1 Literature review on WWD notifications	
5.2 Customer survey on WWD notifications	
5.3 Determination of notification methods	
5. Extension to Task #5. Research on V2V and V2I WWD notification	
6. Literature review of technologies to stop intentional WW drivers	
6. Extension to Task #6. Investigation of automated and connected vehicle WWD prevention	
7. Determination of appropriate median crossover countermeasures	
8. Progress reports for FHWA RTE (Extension to Task#8)	
9. New Extension Task: WWD countermeasure optimization model for CFX network	
10. New Extension Task: Evaluation of current RRFB deployment sites	
11. New Extension Task: Analysis of CFX network for mainline WWD detection deployment	
12. Recommendations for CFX	
12. Extension to Task #12. Recommendations on application of connected vehicles	
13. Final report and presentation of results to CFX	
14. Progress Presentations	

**INTERLOCAL AGREEMENT BETWEEN
CENTRAL FLORIDA EXPRESSWAY AUTHORITY
AND
UNIVERSITY OF CENTRAL FLORIDA**

THIS AGREEMENT is made and entered into as of the 13th day of August, 2015 ("Effective Date"), by and between the CENTRAL FLORIDA EXPRESSWAY AUTHORITY, a body and corporate politic and agency of the State of Florida, hereinafter referred to as "AUTHORITY" and the UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES, a public body corporate of the State of Florida, hereinafter referred to as "UNIVERSITY."

WHEREAS, the UNIVERSITY is authorized by Section 1004.22, Florida Statutes, to enter into interlocal agreements providing for the performance by one governmental unit on behalf of another of any function which either agency is authorized to perform; and

WHEREAS, the AUTHORITY was created and established to acquire, hold, construct, improve, maintain and operate the Central Florida Expressway Authority System, pursuant to Part III, Chapter 348, Florida Statutes; and

WHEREAS, pursuant to Section 348.754, Florida Statutes, the AUTHORITY has been granted the power to make and enter into contracts or other transactions and to do all acts and things necessary or convenient for the conduct of its business and for carrying out the purposes of the AUTHORITY; and

WHEREAS, the AUTHORITY desires that the UNIVERSITY perform a study entitled "Wrong-Way Driving Study Phase III: Allocating and Evaluating Countermeasures on CFX Roadway Network".

NOW, THEREFORE, in consideration of the promises herein made and the benefits to accrue to the parties, and for good and valuable consideration, the parties agree as follows:

1. Term. Services to be provided by the UNIVERSITY shall begin upon the Effective Date and shall be completed no later than two (2) years from the Effective Date, unless extended by written modification and signed by the parties.
2. Services. The UNIVERSITY shall provide the services outlined in the attached **Exhibit A**. Any changes must be approved in writing by the authorized representatives of the parties.
3. Anything contained herein to the contrary notwithstanding, the AUTHORITY shall have final approval of the study product as it relates to its implementation on the AUTHORITY system.

4. Payment. The AUTHORITY shall pay the UNIVERSITY for services rendered as outlined in the budget included in **Exhibit A**, which states that payment will be billed in eight (8) equal invoices of \$25,000 each every three months. All deliverables/invoices submitted by the UNIVERSITY must be approved in writing by Authority prior to payment by the AUTHORITY to the UNIVERSITY. The payment for all work shall not exceed \$200,000.00. Invoices shall be submitted in a format acceptable to the AUTHORITY with detail sufficient for a proper pre-audit and post-audit thereof. Invoices submitted for pre-authorized travel expenses shall be paid in accordance with the rates specified in Section 112.061, Florida Statutes. Payment will be remitted to:

University of Central Florida
Contracts & Grants
PO Box 160118
Orlando, FL 32816

5. Administrative Personnel. The UNIVERSITY shall perform the activities described in **Exhibit A** and will comply with all statutory requirements and applicable regulations in the conduct of the project. The UNIVERSITY agrees that such activities will be directed by:

AUTHORITY:

Technical and Contractual:
Corey Quinn, P.E.
Central Florida Expressway Authority
4974 ORL Tower Road
Orlando, FL 32807
Phone: (407) 690-5000
Fax: (407) 690-5011
E-mail: Corey.Quinn@CFXway.com

UNIVERSITY:

Project Director/Technical:
Dr. Haitham Al-Deek, Ph.D., P.E.
University of Central Florida/CECE
4000 Central Florida Boulevard
Orlando, FL 32816-2450
Phone: (407) 823-2988
Fax: (407) 823-3315
e-mail: Haitham.Al-Deek@ucf.edu

Contractual:
Jessica Maass

University of Central Florida
Office of Research and Commercialization
12201 Research Parkway, Suite 501
Orlando, FL 32826-3252
Phone: (407) 882-1187
Fax: (407) 823-1379
e-mail: Jessica.Maass@ucf.edu

6. Records and Audit. The UNIVERSITY agrees to keep and maintain accounts for a period of at least three (3) years from the end of the contract, or longer if required by the State of Florida's retention schedules, in order to record complete and correct entries as to all costs and expenditures. No funds provided by the AUTHORITY shall be expended for expenses other than for the study. Such books and records shall be available at all reasonable times during normal business hours for examination and audit by the AUTHORITY. Incomplete or incorrect entries in such books and records will be grounds for disallowance by the AUTHORITY of any fees, expenses or costs based upon such entries.

7. Public Records Act. Both parties and any subconsultants to this Agreement shall comply with the provisions of Chapter 119, Florida Statutes, and shall permit public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement.

8. Extensions. The AUTHORITY and the UNIVERSITY agree that at future dates this Agreement may be extended or supplemented for future services, as mutually agreed to and signed by the authorized representatives of the parties.

9. Assumption of Risk. Each party assumes any and all risks of personal injury and property damage attributable to the negligent acts or omissions of that party and its officers, agents or employees while acting within the scope of their employment. Neither party, nor any of its agents or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the negligence of the other party or any of its officers, agents or employees. In no event will either party be responsible for any incidental damages, consequential damages, exemplary damages of any kind, lost goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty or term of this agreement, and regardless of whether it was advised or had reason to know of the possibility of incurring such damages in advance.

10. No Contingency Fee. The UNIVERSITY represents that it has not employed or obtained any company or person, other than bona fide employees or consultants of the UNIVERSITY to solicit or to secure this Agreement, and it has not paid or agreed to pay any company, corporation, individual or firm, other than

bona fide employees employed by the UNIVERSITY. For the breach or violation of this provision, the AUTHORITY shall have the right to terminate the Agreement at its discretion.

11. No Assignments without Written Consent. This Agreement or any interest herein shall not be assigned, transferred or otherwise encumbered under any circumstances by either party without the prior written consent of the other party. However, the Agreement shall run to the AUTHORITY and its successors.

12. Termination. This Agreement may be terminated by either party upon 30 days written notice to the other with or without cause. In the event of termination by the parties the AUTHORITY will pay the UNIVERSITY for all costs incurred and any non-cancellable obligations properly incurred through the date of termination. In the event that UNIVERSITY'S project director becomes unable or unwilling to continue the project activities hereunder, and a mutually acceptable substitute is not available, the AUTHORITY shall have the option to cancel this Agreement.

13. Publication. The parties agree that UNIVERSITY may publish the results of the work in its own form. AUTHORITY shall be furnished with copies of any proposed publication, to review for confidential information only, thirty (30) days in advance of the intended publication date. AUTHORITY will complete its review and provide UNIVERSITY with any objections within thirty (30) days of receipt. In the absence of timely objection, UNIVERSITY shall be free to proceed without restriction, subject to compliance with the exemptions and provisions set forth in the Florida Statutes and law. In the event of an objection, the parties will negotiate in good faith the removal of the confidential material.

14. Ownership. Except for ownership of Intellectual Property pursuant to Section 15, and publications pursuant to Section 13, AUTHORITY is and shall be and remain the sole owner of all deliverable documents, software, data and items developed with respect to and in connection with the performance of this Agreement. Subject to UNIVERSITY's right to publish in Section 13 above, UNIVERSITY may not use such materials in any way, other than in performance of its services under the terms of this Agreement, without the prior written consent of AUTHORITY, which may be granted or denied in the AUTHORITY's sole discretion. Deliverable information and work product generated in connection with this Agreement shall be the property of AUTHORITY. Subject to UNIVERSITY's right to publish in Section 13 above, UNIVERSITY shall not transfer, disclose or otherwise use such information or work product for any purpose other than in performance of its duties hereunder, without AUTHORITY's prior written consent, which may be withheld or granted in the sole discretion of AUTHORITY. Information and materials with respect to the AUTHORITY and this Agreement obtained by UNIVERSITY from AUTHORITY during the Term of this Agreement shall remain confidential for a period of three (3) years from the Effective Date. Notwithstanding the foregoing, both parties will be subject to the requirements of the Florida Public Records law and other law, including requirements pertaining to confidential information, and any valid court order.

15. Intellectual Property. The term “Intellectual Property” means individually and collectively all inventions, improvements and/or discoveries, patentable or unpatentable, copyrightable or uncopyrightable, including but not limited to mask works, computer software, both object and source code, data bases and works of authorship.

Intellectual Property developed solely by UNIVERSITY shall be solely and exclusively owned by UNIVERSITY. Intellectual Property developed solely by AUTHORITY shall be solely and exclusively owned by AUTHORITY. “Joint Intellectual Property” means any Intellectual Property developed jointly by the AUTHORITY and UNIVERSITY under this Agreement. Joint Intellectual Property will be owned jointly by AUTHORITY and UNIVERSITY, who agree to jointly determine proper inventorship, authorship, and ownership subject to Title 35 of the United States Code for inventions and Title 17 of the United States Code for works of authorship, and to jointly determine filing and licensing.

“Background Intellectual Property” means Intellectual Property which was in existence, prior to the Effective Date of this Agreement, or which is subsequently created or developed by a party so long as such creation or development was not in the course of this project. The parties agree that Background Intellectual Property of AUTHORITY and UNIVERSITY is their separate property, respectively, and are not affected by this Agreement. Neither party shall acquire any claims to or rights in the Background Intellectual Property of the other party.

Nothing in the Agreement shall circumvent or restrict either party’s pre-existing obligations with the U.S. government pertaining to any kind of intellectual property or any copyrightable material or other Intellectual Property, including but not limited to such pre-existing obligations contained in grants, contracts and other types of agreements or arrangements between either parties, and the U.S. government. These obligations may include granting licenses to the U.S. government for certain Intellectual Property or any copyrightable material or other intellectual property which is being developed.

Notwithstanding any provision to the contrary in the Agreement, UNIVERSITY shall retain the right to practice any invention, discovery and copyright developed hereunder for its own academic, non-commercial research and teaching purposes.

16. Dispute Resolution. The parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement promptly by negotiations between a senior executive of the UNIVERSITY who has the authority to settle the controversy and a designated representative from the AUTHORITY who has the authority to recommend a settlement to the Board.

The disputing party shall give the other party written notice of the dispute. Within twenty days after receipt of said notice or longer with the prior written approval from the disputing party, the receiving party shall submit to the other a written response. The

notice and response shall include (a) a statement of each party's position and a summary of the evidence and arguments supporting its position, and (b) the name and title of the executive who will represent that party. The executives shall meet at a mutually acceptable time and place within thirty days of the date of the disputing party's notice and thereafter as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the dispute.

In the event a dispute arising out of or related to this Agreement (on the Services performed thereunder) has not been resolved pursuant to the aforesaid mediation procedure within sixty days of the initiation of such procedures, the parties shall be free to pursue any available legal remedies.

17. Governing Law; Venue. This Agreement and the rights of the parties will be governed and construed in accordance with the laws of the State of Florida and the United States, without regard to its choice of law principles. The parties agree that jurisdiction and venue for any action arising under this Agreement shall lie exclusively within either the state courts of Florida located in Orange County, Florida or the United States District Court for the Middle District of Florida, Orlando Division. The parties specifically waive the right to any other jurisdiction and venue, and the defense based on inconvenient forum.

18. Time is of the Essence. The AUTHORITY and the UNIVERSITY recognize that time is of the essence with respect to the Agreement and UNIVERSITY shall meet the date specified in Exhibit A attached hereto.

19. Waiver. No failure or delay by a party hereto to insist on the strict performance of any term of this Agreement, or to exercise any right or remedy consequent to a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. No waiver of any breach hereunder shall affect or alter the remaining terms of this Agreement, but each and every term of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

20. Force Majeure. Neither party shall be liable in damages or have the right to terminate this Agreement for the delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to, Acts of God, government restrictions, wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

21. Export Control. Both parties are subject to United States laws and regulations controlling the export of technical data, computer software, laboratory prototypes and other commodities, and that its obligations hereunder are contingent on compliance with applicable U.S. export laws and regulations (including the Arms Export Control Act, as amended, and the Export Administration Act of 1979). The transfer of certain technical data and commodities may require a license from the cognizant agency of the United States Government and/or written assurances by the parties that they will

not re-export data or commodities to certain foreign countries without prior approval of the cognizant government agency. While UNIVERSITY agrees to cooperate in securing any license which the cognizant agency deems necessary in connection with this Agreement, UNIVERSITY cannot and does not guarantee that such licenses will be granted.

22. No Warranties. UNIVERSITY is a NON-PROFIT EDUCATIONAL INSTITUTION. UNIVERSITY MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED WITH REGARD TO THE RESEARCH AND WORK PERFORMED UNDER THIS AGREEMENT. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT ANY RESEARCH DELIVERABLES OR INTELLECTUAL PROPERTY DEVELOPED BY UNIVERSITY UNDER THIS AGREEMENT WILL NOT INFRINGE ANY THIRD PARTY PATENT, COPYRIGHT, TRADEMARK, OR OTHER THIRD PARTY RIGHTS. UNIVERSITY MAKES NO REPRESENTATION AS TO THE USEFULNESS OF RESEARCH DELIVERABLES OR INTELLECTUAL PROPERTY. IF THE AUTHORITY CHOOSES TO EXPLOIT RESEARCH DELIVERABLES OR INTELLECTUAL PROPERTY IN ANY MANNER WHATSOEVER, IT DOES SO AT ITS OWN RISK.

23. Non-Use of Name. UNIVERSITY and the AUTHORITY may not use each other's name or trademarks in any promotion, statement, advertisement, press release or communications to the general public or any third party without each other's express written consent. Any proposed public statement, advertisement, press release or communications by either party shall be submitted to the other party for its review and written approval at least thirty (30) days prior to the planned dissemination or publication. However, neither party shall be prohibited from complying with Section 1004.22(2) regarding sponsored research activities.

24. Independent Contractor. UNIVERSITY shall provide services under this Agreement as an independent contractor and as such shall maintain complete control over and be responsible for all of its operations and personnel. This Agreement shall not be deemed to create any other form of employment relationship or business organization between the parties.

25. Severability. If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of this Agreement shall not be in any way affected or impaired thereby and shall remain in full force and effect.

26. Counterparts. This Agreement may be executed in counterparts, each of which shall be considered an original, but which together shall constitute but one and the same Agreement.

27. Entire Agreement. This Agreement and its Exhibit(s) constitute the entire

agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written.

28. No Third Party Beneficiaries. This Agreement shall not be construed to inure to the benefit of or to invest rights in any third parties and shall inure only to the benefit of the parties hereto.

29. Unauthorized Aliens. The AUTHORITY shall consider the employment by the UNIVERSITY of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the UNIVERSITY knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract.

IN WITNESS WHEREOF, the parties hereto set their hands and seals the day and year set forth below. This Agreement was approved by the AUTHORITY'S Board of Directors at its meeting on August 13, 2015.

**UNIVERSITY OF CENTRAL FLORIDA
BOARD OF TRUSTEES**

**CENTRAL FLORIDA
EXPRESSWAY AUTHORITY**

BY: *Carmey Benson*
Authorized Signature

BY: *Paul Miller*
Director of Procurement

Carmey Benson
Print Name

Date: 8/19/15

Title: Contract Manager

4 AUG '15 AM 8:43

Date: 7/30/2015

Legal Content Approved for the University:

[Signature]
Name:

Date: 7-30-15

Approved as to form and execution,
only.

Linda S. B. Lanou
General Counsel, Deputy

FINAL VERSION
RESEARCH PROPOSAL
Version 8.0

Submitted to

Central Florida Expressway Authority
(CFX)

**WRONG-WAY DRIVING PHASE-3 STUDY: ALLOCATING AND
EVALUATING COUNTERMEASURES ON CFX ROADWAY NETWORK**

Proposed Contract Period	24 months
Proposed Project Duration	08/17/2015-08/17/2017
Total Contract Amount	\$200,000

Proposal Submitted By

Haitham Al-Deek, Ph.D., P.E.
(Principal Investigator)

Professor of Civil, Environmental, and Construction Engineering,
Department of Civil, Environmental, and Construction Engineering
University of Central Florida

Orlando, FL 32816-2450

Phone: **Cell (321) 695-7664**, (407) 823-2988, Fax: (407) 823-3315

E-mail: Haitham.Al-Deek@ucf.edu

Home Page: <http://www.cece.ucf.edu/people/al-deek/index.html>

And

Adrian Sandt, UCF PhD Student and Graduate Student Researcher
Ahmad Alomari, UCF PhD Student and Graduate Student Researcher
UCF Department of Civil, Environmental, and Construction Engineering

Administrative Contact: Jessica Maass, Proposal Manager

E-mail: Jessica.Maass@ucf.edu

Phone: (407) 882-1187

Originally Submitted in April 2015
Revised Version Submitted in June 2015
Final Version Submitted in July 2015

WRONG-WAY DRIVING PHASE-3 STUDY: ALLOCATING AND EVALUATING COUNTERMEASURES ON CFX ROADWAY NETWORK

Principal Investigator:

Haitham Al-Deek, Ph.D., P.E., Professor of Engineering, CECE Department, UCF, Orlando, FL 32816-2450, **Cell: (321) 695-7664**; Fax (407) 823-3315; email Haitham.Al-Deek@ucf.edu

1. RESEARCH GOAL AND OBJECTIVES

Research Main Goal

The main goal of this proposed study is to evaluate wrong-way driving (WWD) countermeasures that will be deployed at ramps and medians throughout the CFX toll road network, help CFX determine the best way to warn right-way drivers of intentional wrong-way drivers that do not correct their behavior before entering the mainline, and study potential technologies that can prevent these wrong-way drivers from entering the mainline in the first place.

Research Objectives

To achieve the main goal of this research, the following objectives need to be achieved:

- 1) Collect a sufficient sample of WWD data for the entire CFX system to evaluate their implemented WWD countermeasures. Examples of this data include WWD crashes, 911 calls, citations, traffic management center (TMC) logs, SunGuide reports, and detections (TAPCO logs and video recordings, Wavetronix or similar detections from other devices, etc.), as well as geometric design of interchange types that are known to have higher than normal frequency of WWD events as reported in the literature and FDOT design documents (examples of this include partial cloverleaf interchanges);
- 2) Develop a scoring methodology to identify locations where deployment of Rapid Rectangular Flashing Beacons (RRFBs) would be beneficial. This methodology will consider many factors, including WWD history (crashes, 911 calls, citations, etc.),

interchange design (partial cloverleaf, extended left turn lanes, etc.), and other factors driven by CFX (e.g., infrastructure readiness in terms of ITS equipment at these sites and budget considerations);

- 3) Study the effects of WWD countermeasures implemented at medians. The types of median countermeasures to be studied will be determined based on the results of literature review;
- 4) Study various methods of warning right-way drivers about WWD events to determine the most appropriate methods for the CFX roadway network;
- 5) Evaluate technologies that can physically prevent wrong-way vehicles from entering the mainline (e.g., nets or barriers) to see if these technologies are feasible and effective;
- 6) Analyze the WWD detection data collected from the RRFBs installed at the CFX pilot test locations to understand how drivers react to these devices (correct themselves or keep driving the wrong way).

2. EXECUTIVE SUMMARY

CFX has been proactively involved in understanding and combatting wrong-way driving (WWD) since they contracted with the University of Central Florida (UCF) in 2012 to explore the extent of WWD problem on its toll road network as part of a Phase-1 study. The results of this study, “*Wrong-Way Driving Incidents on OOCEA Toll Road Network, Phase-1 Study: What is the Extent of this Problem?*” showed that WWD is a significant problem in Central Florida and has been growing in recent years.

To reduce WWD, and based on suggestions from UCF in Phase 1 final report, CFX decided to test the use of Rapid Rectangular Flashing Beacons (RRFBs) as WWD countermeasures in a

Phase-2 study. This technology had previously been used for pedestrian crossings; it had never been used as a WWD countermeasure. During the Phase-2 study, “*Wrong-Way Driving Incidents on CFX Toll Road Network, Phase-2 Study: Developing Countermeasures*,” the RRFB technology was successfully tested, first in the CFX headquarters parking lot, then at the SR 528 and SR 520 ramp. Since the RRFBs were implemented at this location in January 2015, CFX have successfully detected several vehicles driving the wrong way on the exit ramp, as verified by the TAPCO camera and the numerous images taken of the wrong-way vehicles.

The success of this technology has convinced CFX to implement it at additional ramps along their toll road network. A methodology will be developed by UCF in this proposed Phase 3 that will estimate WWD risk values for roadway segments including interchanges throughout the CFX network. This methodology will use real-life WWD data, examples of which include WWD crash data, 911 call data, citation data, TMC logs, SunGuide reports, TAPCO BlinkLink detection data, TAPCO video logs, and Wavetronix (and/or similar) detection data. Other considerations, such as the presence of partial cloverleaf interchanges, extended left turn bays, and other CFX practical constraints (e.g., budget and infrastructure ITS equipment readiness/limitations) will also be considered when developing this methodology. It is believed that no methodology like this has ever been developed that focuses solely on WWD.

In addition to exit ramps, another potential source of WWD events is median crossovers. These types of events can occur on stretches of roadway where there is only a paved or grassy median or in spaces in barriers designated for emergency or law enforcement use. To prevent these types of WWD events, various potential median WWD countermeasures will be studied to see which would be effective for CFX. The types of median countermeasures to be

studied will be determined based on the results of literature review. The best locations to implement these countermeasures will also be determined and detection data will be collected at these implementation sites to evaluate how effective these countermeasures are.

While WWD countermeasures can help prevent confused wrong-way drivers from entering the mainline, these devices may not be effective at preventing intentional wrong-way drivers, such as suicidal drivers, from entering the mainline. Additionally, extremely intoxicated drivers might not comprehend that they are driving the wrong way when they encounter the WWD countermeasures. Therefore, it is important for CFX to be able to notify right-way drivers when a wrong-way driver has entered the system. There are many possible ways to notify these drivers of WWD events, including DMS, smartphone applications, and in-vehicle notifications. These various methods will be examined to determine the most effective options for CFX based on roadway characteristics and driver preferences. To obtain driver preferences, a customer survey will be developed, then reviewed and approved by the CFX's Deputy Executive Director before implementation. This survey will ask CFX customers how they would like to receive WWD notifications, along with other WWD related questions. An analysis of potential ways to physically prevent intentional or intoxicated drivers from entering the mainline will also be performed to see if these technologies, which can include barriers, nets, or other similar devices, are feasible and would be effective for the CFX to implement at its ramps.

This is a fixed lump sum 24 months Phase-3 study proposal with requested total budget of \$200,000. This will be billed in 8 equal invoices, \$25,000 each, every three months (the last invoice will be billed at the end of the 24th month). Details of the budget are provided on the last page of this proposal.

3. UNDERSTANDING OF THE PROBLEM

Wrong-way driving (WWD) is a rare but serious event which often occurs during late night hours and typically involves impaired drivers (intoxicated, tired, or confused). Crashes caused by WWD often result in severe injuries or fatalities, especially on toll roads or other limited access facilities due to the high travel speeds. The low frequency of WWD crashes presents a difficult challenge to researchers, so other WWD data is needed to accurately research and effectively prevent WWD events. This data includes WWD 911 call data, citation data, TMC logs, and detection data (e.g., video, camera, or radar). A sufficient quantity of data (at least one year or more) is also necessary to properly understand the effects of WWD countermeasures. WWD countermeasures can prevent confused drivers from entering the mainline while traveling the wrong direction, but they will not prevent intentional wrong-way drivers (suicidal or extremely intoxicated drivers) from entering the mainline. However, the risk of crashes due to these wrong-way drivers can be reduced by notifying right-way drivers that a wrong-way driver has been spotted or by implementing technologies, such as barriers or nets, that could physically prevent a wrong-way driver from entering the mainline. These preventative technologies require a lot of study before implementation to ensure there are no adverse effects to traffic operations, safety, or emergency response and to make sure these technologies are feasible and appropriate. Methods of notifying right-way drivers can include DMS, highway advisory radio, smartphone applications, or in-vehicle devices; these methods need to be evaluated and CFX customer preferences need to be determined to decide which methods would be the most effective. These potential methods will be discussed and approved by the CFX Deputy Executive Director before they can be released or included in the customer survey.

4. BENEFITS TO CFX

The main benefits of this Phase-3 study to CFX are:

- Saving lives of CFX customers from the danger they could face if wrong way drivers continue to pursue their behavior to the mainline without being detected in time and/or stopped.
- Demonstrating that CFX is using their budget carefully and wisely by installing RRFBs and other effective countermeasures where they are mostly needed.
- Providing notifications to right-way drivers about WWD events that can allow the right-way drivers to be aware of and potentially avoid collisions.
- Evaluating the effects of RRFBs and median WWD countermeasures to understand which countermeasures are effective in which locations.
- Developing potential innovative technologies to prevent wrong-way drivers from entering the mainline.
- Demonstrating to CFX's customers that their safety is priority.

5. PLAN FOR IMPLEMENTATION OF RESULTS

From this Phase-3 study, CFX will understand how the implemented WWD countermeasures at ramps and medians affect WWD. CFX will also gain valuable insight on right-way driver notification methods and potential technologies to prevent wrong-way drivers from entering the mainline. With this knowledge, CFX can effectively decide on what types of technologies to test and/or implement to reduce WWD crashes on the mainline.

6. PROPOSED RESEARCH APPROACH

Tasks

To achieve the stated goal and objectives of this proposed project, the University of Central Florida's (UCF) research team members under the guidance of Professor Haitham Al-Deek, Ph.D., P.E., (UCF Principal Investigator, PI), will perform the proposed project tasks listed in this section. Their aim will be to assist CFX in implementing WWD countermeasures at ramps and medians and assessing their performance, as well as determining ways to notify right-way drivers and prevent intentional wrong-way drivers from entering the mainline. Professor Al-Deek will be assisted by some of his students: Adrian Sandt, a UCF Ph.D. student and Trustees Fellowship recipient; and Ahmad Alomari, a UCF Ph.D. candidate with 3+ years industry experience, in addition to other outstanding engineering students not yet identified in this project. Additionally, Dr. Grady Carrick of Enforcement Engineering Inc., who is a former Chief of FHP in Jacksonville area (for a period of 30 + years) with very important hands on experience in first response to WWD incidents, will also be subcontracted by UCF to assist in critical data collection on the performance of WWD countermeasures, and will provide law enforcement perspective concerning UCF innovative WWD countermeasures, right-way driver notification methods, and technologies to stop wrong-way drivers.

Tasks to be performed by the UCF research team include the following:

1. *Phase-3 kick-off meeting between UCF research team and CFX.*
2. *Methodology development.* A methodology will be developed to identify locations at the highest risk for WWD activity. This methodology may use some or all of the following: historic WWD data, including crashes, 911 calls, citations, TMC reports, and detection data, as well as design characteristics (interchange type and presence of potentially

confusing features) to estimate the WWD risk of the selected ramps and other potential ramps that were not selected.

3. *Collection and analysis of WWD data.* Accurate and reliable data is crucial for this project. A variety of WWD data will be collected and analyzed for the entire CFX system. Examples of this data include WWD crash data, 911 call data, citation data, TMC logs, and SunGuide reports. Additionally, WWD detection data obtained from the installed RRFBs at the pilot ramps will also be analyzed. This data includes TAPCO BlinkLink logs and video as well as Wavetronix (or similar devices) detection logs. Data will also be collected from the median WWD countermeasures that will be implemented as part of Task 7. It is highly recommended to collect a minimum of one year of data after implementation for each site to accurately evaluate the countermeasures.
4. *Literature review on median WWD countermeasures.* To determine the most effective countermeasures at preventing median crossovers, previous research will be reviewed. Many types of countermeasures ranging from signs and pavement markings to ITS technologies will be analyzed to determine which would be most effective for CFX.
5. *Examination of right-way driver notification systems.* There are many ways that CFX could potentially alert right-way drivers of WWD events. To determine the most effective notification methods, a literature review and a customer survey, with its questions being pre-approved by the CFX Deputy Executive Director, will be conducted as part of this task.
 - 5.1. *Literature review on WWD notifications.* A literature review will be conducted on ways other agencies currently warn about wrong-way drivers. Based on this review, potential notification methods for CFX will be identified.

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- 5.2. *Customer survey on WWD notifications.* In addition to the literature review, a customer survey will also be developed, reviewed and pre-approved by the CFX Deputy Executive Director, then implemented to obtain the opinions of CFX's customers regarding WWD notifications and countermeasures. This survey will be implemented online and will ask customers about their preferences concerning WWD notification methods and messages, as well as about WWD countermeasures.
- 5.3. *Determination of notification methods.* Based on Tasks 5.1 and 5.2, the most appropriate notification methods for the CFX system will be determined. Additional research will be performed to determine the optimal deployment methods for these notification methods.
6. *Review of technologies to stop intentional wrong-way drivers.* Since intentional wrong-way drivers, such as suicidal drivers, will not correct themselves when they encounter WWD countermeasures, additional technologies could be necessary to prevent these drivers from entering (or continuing on) the mainline. A literature review will be conducted on potential technologies that can physically prevent wrong-way drivers from entering the mainline to see if these technologies are feasible or would be effective for CFX to implement. Other innovative technologies that have not previously been used as WWD countermeasures will also be evaluated to see if they would be appropriate. If feasible technologies are found, testing plans and appropriate documentation for the MUTCD's Request to Experiment (RTE) will be developed.
7. *Determination of appropriate median crossover countermeasures.* Based on the literature review conducted in Task 4, appropriate countermeasures to prevent median crossovers will be determined. Appropriate sites for implementation of these countermeasures will be
-

determined using a methodology similar to the methodology developed in Task 2, but customized for medians. Once the median locations have been selected and the countermeasures installed, WWD data at these sites will be collected, as described in Task 3.

8. *Progress reports for FHWA RTE.* Every six months, a progress report will be written for the FHWA RTE of all RRFBs installed on the CFX system at the time of each report. These progress reports will indicate the progress of this experiment, including any important observations and issues that occurred or were resolved.
9. *Recommendations for CFX.* Based on the results of the previous tasks, recommendations will be provided to CFX. Recommendations on the use of RRFBs and the applied median countermeasures will be made based on the results of Task 3. Effective methods to notify right-way drivers of WWD events will be made based on the results of Task 5 and potential preventative technologies will be recommended based on the results of Task 6. These recommendations will include the types of technologies and potential testing and/or implementation methods.
10. *Final report and presentation of results to CFX.* At the end of the project, a final report will be submitted in electronic format and a final presentation will be made to CFX.
11. *Progress Presentations.* A progress presentation will be made to CFX approximately once every three months. These progress presentations are deliverables by themselves. They shall occur such that their results can be incorporated into the Director of Expressway Operations' quarterly safety briefing to the CFX Board of Directors. CFX will notify UCF about the date of each of their Board of Directors' meetings six weeks before each meeting date. Then, UCF will set up a progress presentation with the CFX project manager two weeks before the Board of Directors' meeting. Each progress

presentation shall contain a summary of CFX WWD statistics for the previous quarter, previous twelve months, and pilot inception to date (i.e., January 2015). The last progress presentation is the same as the final presentation.

7. QUALIFICATIONS OF THE UCF PI AND HIS RESEARCH TEAM AS EVIDENCED BY PAST EXPERIENCE IN THE FIELD

Professor Al-Deek, Ph.D., P.E., is the Principal Investigator of Phase-1 and Phase-2 WWD studies sponsored by CFX. He has more than **twenty nine years** of experience in transportation engineering, planning, and operations. He is **nationally recognized in his field and received the best paper award on wrong way driving granted to him and his research team by the Freeway Operations Committee of the National Research Council-Transportation Research Board (TRB) in April 2015. He also received two Chairman Awards from TRB for his significant contributions to the fields of *Freeway Operations*, and *Regional Transportation Systems Management and Operations* in January 2012. In addition, he received the best TRB freeway operations paper award in 2010, which was about the impact of Dynamic Message Signs on OOCEA drivers. He also received the best paper award on smart event management by the TRB Regional Transportation Systems Management and Operations Committee in 2012, and another best paper award by the TRB Freeway Operations Committee on travel time prediction in 2003. Recently, he won a competitive national research project in collaboration with Texas Transportation Institute (TTI) on wrong way driving countermeasures (NCHRP 03-117). Professor Al-Deek was invited as keynote speaker to talk about innovative research methodology and countermeasures for combating wrong way driving at the 7th Traffic Safety Conference in Amman, Jordan, May 12-13, 2015. He was featured as a**

distinguished researcher by the UCF College of Engineering and Computer Science in 2003. He received the Research Incentive Award in 2001 and the UCF Researcher of the Year 1999 Award (this is a very prestigious award given to the best professor researcher of the year out of the entire UCF's 1300+ faculty). He graduated from the University of California at Berkeley in 1991. Professor Al-Deek was the principal (or co-principal) investigator of more than 70 applied research projects at UCF and elsewhere, and a large number of them were sponsored by CFX. Since joining UCF in 1992, the total budget of applied research projects he attracted to UCF exceeded \$7 million. He has published more than 310 papers and technical reports in peer-reviewed journals and conferences, and nearly half of these publications are related to traffic operations and **CFX toll roads**. He chaired 9 Ph.D. dissertations and 26 MS theses to completion. Presently, and for the past 15 years, he is the Chair of TRB's paper review for all papers submitted to two key Transportation Research Board committees: *Freeway Operations*, and the *Regional Transportation Systems Management and Operations*. These two committees review nearly all papers submitted to TRB's annual meeting on freeway and toll operations and management every year. Professor Al-Deek has been an associate editor of the Journal of Intelligent Transportation Systems (J-ITS) since 2007.

Professor Al-Deek teaches undergraduate and graduate courses at UCF. He developed *new* courses such as Intelligent Transportation Systems (ITS), Highway Capacity, Traffic Operations, Mass Transit, Transportation Engineering Systems, and Highway Engineering. He also teaches Urban Systems Design and Transportation Engineering courses on a regular basis. Professor Al-Deek has been an active registered professional engineer in Florida since 1998. Professor Al-Deek has completed three federally mandated training courses required for all principal investigators and key personnel working on projects dealing with human subjects in surveys

and/or interviews.

Adrian Sandt, Ph.D. student, is currently a graduate research assistant at the University of Central Florida. He obtained his B.S. in Civil Engineering from UCF and is currently pursuing his Ph.D. under supervision of Professor Al-Deek. Mr. Sandt is a recipient of the UCF Trustees Fellowship. He is extremely proficient in technical writing, and he has been involved with CFX's Phase-1 and Phase-2 WWD studies.

Ahmad Alomari, Ph.D. candidate, is a Ph.D. Candidate and a graduate research assistant at the University of Central Florida. His background includes over three years of industry experience with the private sector as a traffic engineer and transportation planner. He has experience in traffic engineering and transportation planning studies including but not limited to the following: analysis and design of intersections/interchanges, traffic impact studies, road safety audit, and development of public transportation studies. Also, he was involved in lecturing at training programs for the following topics: traffic modeling and simulation, public transportation concepts, urban transportation planning, and computer software applications in transportation engineering (e.g., VISSIM, VISUM, CORSIM, HCS+ and SIDRA). Mr. Alomari has M.S. degree in transportation engineering from Jordan University of Science and Technology. His thesis topic focused on evaluation of strategies for traffic management using simulation. Presently, Mr. Alomari is pursuing his Ph.D. dissertation at UCF under supervision of Professor Al-Deek.

Grady Carrick, Ph.D., is a thirty year plus veteran of the Florida Highway Patrol, who retired at the rank of Chief in 2012. Dr. Carrick has spent his career building bridges between the law enforcement and transportation professions. He has a national reputation as an advocate for traffic safety and traffic incident management. His leadership in the Florida Strategic Highway Safety Plan, the Florida Bicycle and Pedestrian Advisory Board, and numerous Community Traffic Safety Teams are a few accomplishments. Carrick has participated in several traffic safety initiatives as a member of The International Association of Chiefs of Police (IACP). In his current position as principal for the firm Enforcement Engineering Inc., he seeks to improve transportation safety through the integration of transportation engineering, research and enforcement operations. He has extensive experience in traffic safety analysis and the development of law enforcement countermeasures. In addition to his professional accomplishments, Dr. Carrick holds a Ph.D. in Transportation Engineering from the University of Florida. He has published and presented at numerous state, national, and international conferences on traffic safety and operations.

Roles and Responsibilities of Project Team

The roles and responsibilities of the project team are listed below. Additional information on the team can be found in the qualifications of the UCF research team section in this proposal.

Professor Haitham Al-Deek, Ph.D., P.E., *UCF Principal Investigator*. He will be responsible for the entire project management and coordination with CFX, budget control, submitting the final report, conducting progress and final presentations to CFX, and attending project meetings with CFX.

Adrian Sandt, *Graduate Research Assistant and UCF Ph.D. Student*. He will be responsible for editing of reports, presentations, as well as other products submitted to CFX during the course of this study. He will also help with methodology development and data analysis, as well as work on the literature reviews, final report and progress presentations and will attend some of the project meetings with CFX.

Ahmad Alomari, *Graduate Research Assistant and UCF Ph.D. Candidate*. He will help with literature reviews and data analysis, as well as the methodology development.

Grady Carrick, Ph.D., *Enforcement Engineering Inc.* He will provide the research team with vital WWD 911 call and citation data in a timely fashion to evaluate the implemented WWD countermeasures (RRFBs and median treatments) and meet the project deadlines on time. He will also provide the perspective of law enforcement and input on the median treatments and the feasibility of innovative technologies to stop intentional wrong-way drivers.

8. DELIVERABLES

- a. **Kick Off Meeting.** A kick off meeting will be conducted with CFX's project manager and the UCF research team within the first 30 days of contract execution. The meeting will discuss the research plan.
- b. **Progress Presentations.** A progress presentation will be made to CFX approximately once every three months. These progress presentations are deliverables by themselves. They shall occur such that their results can be incorporated into the Director of Expressway Operations' quarterly safety briefing to the CFX Board of

Directors. CFX will notify UCF about the date of each of their Board of Directors' meetings six weeks before each meeting date. Then, UCF will set up a progress presentation with the CFX project manager two weeks before the Board of Directors' meeting. Each progress presentation shall contain a summary of CFX WWD statistics for the previous quarter, previous twelve months, and pilot inception to date (i.e., January 2015). The last progress presentation is the same as the final presentation.

- c. **Final Report.** A final report will be submitted to CFX in MS Word or PDF format. The final report will be provided in electronic format only.
- d. **Project Final Presentation to CFX.** The UCF research team will make a final presentation at CFX's office with their conclusions and recommendations. The final presentation represents the last progress presentation in this project.

9. TRAVEL

Travel includes **8 meetings** in addition to a **kick-off meeting** with CFX, the project sponsor, in their Orlando office. Estimate of local travel cost is included in the budget where only mileage and tolls will be charged.

10. PROJECT SCHEDULE

Central Florida Expressway Authority
CFX

PROJECT SCHEDULE

Project Title	WRONG-WAY DRIVING PHASE-3 STUDY: ALLOCATING COUNTERMEASURES ON CFX ROADWAY NETWORK
Start - Finish	August 17, 2015 to August 17, 2017
Research Agency	University of Central Florida
Principal Investigator	Professor Haitham Al-Deek, Ph.D., P.E., University of Central Florida


RESEARCH TASK	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
1. Phase-3 kick-off meeting	■																							
2. Methodology development and extension to all 32 sites	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
3. Collection and Analysis of WWD Data	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
4. Literature review on median WWD countermeasures	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
5. Examination of right-way driver notification systems	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
5.1 Literature review on WWD notifications	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
5.2 Customer survey on WWD notifications							■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
5.3 Determination of notification methods							■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
6. Literature review of technologies to stop intentional wrong-way drivers	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
7. Determination of appropriate median crossover countermeasures													■	■	■	■	■	■	■	■	■	■	■	■
8. Progress reports for FHWA RTE							■					■					■						■	
9. Recommendations for CFX																							■	■
10. Final report and presentation of results to CFX																							■	■
11. Progress Presentations		■			■				■			■			■			■				■		

**CONSENT AGENDA ITEM
#25**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM


TO: CFX Board Members

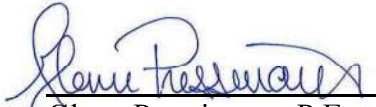
FROM: Aneth Williams 
Director of Procurement

DATE: July 19, 2021

SUBJECT: Approval of HNTB Corporation and Metric Engineering, Inc. as Subconsultants to AECOM Technical Services, Inc. for General Systems Consultant Services Contract No. 001215

Board approval of HNTB Corporation and Metric Engineering, Inc. as subconsultants to AECOM Technical Services, Inc., to provide support for Wrong Way Driving reporting and analysis and ITS network hardware services is requested. The cost is expected to exceed the \$25,000.00 threshold established by the Procurement Policy for subconsultants not disclosed by AECOM Technical Services, Inc. when its contract with CFX was originally awarded.

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


Glenn Pressimone, P.E.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: AECOM Date: 06/17/2021

CFX Contract Name: General Systems Consultant Services CFX Contract No.: 001215

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

Subconsultant Name: HNTB Corporation

Address: 610 Crescent Executive Court, Suite 400, Lake Mary FL 32746

Phone No.: 407-805-0355

Federal Employee ID No.: F43-1623092

Description of Services to Be Sublet: HNTB shall work with CFX to help support the Wrong Way Driving Reporting and Analysis

Estimated Beginning Date of Sublet Services: 06/17/2021

Estimated Completion Date of Sublet Services: 07/31/2022


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

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


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

Requested By: 
(Signature of Consultant Representative)

Vice President
Title

Recommended by: 
BRYAN MOMAYOUNT (Jun 21, 2021 08:26 EDT)
(Signature of Appropriate CFX Director/Manager)

Date: Jun 21, 2021

Approved by: 
Glenn Pressimone (Jun 21, 2021 10:50 EDT)
(Signature of Appropriate Chief)

Date: Jun 21, 2021

Attach Subconsultant's Certificate of Insurance to this Request.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: AECOM Date: 05/18/2021

CFX Contract Name: General Systems Consultant Services CFX Contract No.: 001215

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

Subconsultant Name: Metric Engineering, Inc.

Address: 525 Technology Park, Suite 153, Lake Mary, FL 32746

Phone No.: 407-644-1898

Federal Employee ID No.: 59-1685550

Description of Services to Be Sublet: Metric shall work with CFX to help support the ITS network and hardware.


Estimated Beginning Date of Sublet Services: 05/18/2021

Estimated Completion Date of Sublet Services: 07/31/2022

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

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

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

Requested By: 
(Signature of Consultant Representative)

Vice President
Title

Recommended by: 
BRYAN HOMAYOUNI (Jun 10, 2021 11:33 EDT)
(Signature of Appropriate CFX Director/Manager)

Date: Jun 10, 2021

Approved by: 
Glenn Pressimone (Jun 12, 2021 21:21 EDT)
(Signature of Appropriate Chief)

Date: Jun 12, 2021

Attach Subconsultant's Certificate of Insurance to this Request.

E.

Reports

E.1.

Chairman's Report

**THERE ARE NO
BACKUP MATERIALS
FOR THIS ITEM**

E.2.

Treasurer's Report

MEMORANDUM

TO: CFX Board Members
FROM: Michael Carlisle, Director of Accounting and Finance
DATE: July 27, 2021 *MC*
RE: June 2021 Financial Reports

Attached please find the June 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 JUNE 30, 2021 AND YEAR-TO-DATE**

	FY 21 MONTH ACTUAL	FY 21 MONTH BUDGET	FY 21 YEAR-TO-DATE ACTUAL	FY 21 YEAR-TO-DATE BUDGET	FY 21 YEAR-TO-DATE VARIANCE	FY 21 YEAR-TO-DATE % VARIANCE	FY 20 - 21 YEAR-TO-DATE COMPARISON
REVENUES							
TOLLS	\$ 48,993,075	\$ 41,100,000	\$ 501,970,766	\$ 427,900,000	\$ 74,070,766	17.3%	12.6%
FEES COLLECTED VIA UTM/UTC'S AND PBP'S	461,946	934,000	6,826,249	7,858,000	(1,031,751)	-13.1%	-42.3%
TRANSPONDER SALES	211,390	82,180	1,395,888	921,530	474,358	51.5%	76.7%
OTHER OPERATING	178,592	219,614	1,319,796	1,848,762	(528,966)	-28.6%	-29.5%
INTEREST	832,422	506,134	9,524,962	6,067,454	3,457,508	57.0%	-13.3%
MISCELLANEOUS	152,139	62,998	846,557	744,221	102,336	13.8%	14.1%
TOTAL REVENUES	\$ 50,829,564	\$ 42,904,926	\$ 521,884,218	\$ 445,339,967	\$ 76,544,251	17.2%	10.5%
O M & A EXPENSES							
OPERATIONS	\$ 8,650,250	\$ 11,637,478	\$ 61,150,200	\$ 66,129,385	\$ 4,979,185	7.5%	-3.3%
MAINTENANCE	1,297,203	4,624,858	16,174,405	19,899,098	3,724,693	18.7%	3.1%
ADMINISTRATION	684,349	1,080,798	7,946,501	8,911,699	965,198	10.8%	-0.2%
OTHER OPERATING	350,776	456,967	2,854,375	2,741,800	(112,575)	-4.1%	27.4%
TOTAL O M & A EXPENSES	\$ 10,982,578	\$ 17,800,101	\$ 88,125,481	\$ 97,681,982	\$ 9,556,501	9.8%	-1.1%
NET REVENUES BEFORE DEBT SERVICE	\$ 39,846,987	\$ 25,104,825	\$ 433,758,738	\$ 347,657,985	\$ 86,100,753	24.8%	13.2%
COMBINED NET DEBT SERVICE	\$ 17,575,238	\$ 18,233,491	\$ 217,143,080	\$ 219,054,650	\$ 1,911,570	0.9%	7.0%
NET REVENUES AFTER DEBT SERVICE	\$ 22,271,749	\$ 6,871,334	\$ 216,615,658	\$ 128,603,335	\$ 88,012,323	68.4%	20.2%

Note: All year-end accruals were not completed at the time this report was prepared, therefore, it does not reflect the final amounts that will be reported in our financial statements for the year ended June 30, 2021.

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 JUNE 30, 2021 AND YEAR-TO-DATE**

	<u>FY 2021 ACTUAL</u>	<u>FY 2021 BUDGET</u>	<u>VARIANCE</u>	<u>FY 21 YEAR-TO-DATE % VARIANCE</u>
Operations	\$ 61,150,200	\$ 66,129,385	\$ 4,979,185	7.5%
Maintenance	16,174,405	19,899,098	3,724,693	18.7%
Administration	7,946,501	8,911,699	965,198	10.8%
Other Operating	<u>2,854,375</u>	<u>2,741,800</u>	<u>(112,575)</u>	<u>-4.1%</u>
Total O M & A	\$ 88,125,481	\$ 97,681,982	\$ 9,556,501	9.8%
 Capital Expenditures				
Operations	\$ 9	\$ 50,000	\$ 49,991	100.0%
Maintenance	50,109	66,000	15,891	24.1%
Administration	<u>-</u>	<u>50,000</u>	<u>50,000</u>	<u>100.0%</u>
Total Capital Expenditures	\$ 50,118	\$ 166,000	\$ 115,882	69.8%

Note: All year-end accruals were not completed at the time this report was prepared, therefore, it does not reflect the final amounts that will be reported in our financial statements for the year ended June 30, 2021.

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**Central Florida Expressway Authority
Operations - Comparison of Actual to Budget
For the Twelve Months Ending June 30, 2021**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
Toll Operations	588,769	615,815	27,046	4.39%
Image Review	10,445,471	10,331,100	(114,371)	-1.11%
Special Projects	102,842	250,580	147,738	58.96%
Information Technology	6,387,264	5,858,094	(529,169)	-9.03%
E-PASS Service Center	20,035,639	22,309,119	2,273,480	10.19%
Business Relations	142,663	160,185	17,522	10.94%
Public Outreach/Education	2,559,492	3,017,100	457,608	15.17%
Subtotal CFX	\$40,262,141	\$42,541,993	\$2,279,853	5.36%
Plazas	20,888,069	23,637,392	2,749,323	11.63%
Subtotal Toll Facilities	\$20,888,069	\$23,637,392	\$2,749,323	11.63%
Total Operations Expenses	\$61,150,209	\$66,179,385	\$5,029,176	7.60%



**Central Florida Expressway Authority
Maintenance - Comparison of Actual to Budget
For the Twelve Months Ending June 30, 2021**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
Maintenance Administration	2,809,282	3,412,615	603,334	17.68%
Traffic Operations	4,468,166	5,212,991	744,825	14.29%
Routine Maintenance	8,947,066	11,339,492	2,392,426	21.10%
Total Maintenance Expenses	<u><u>\$16,224,514</u></u>	<u><u>\$19,965,098</u></u>	<u><u>\$3,740,584</u></u>	<u><u>18.74%</u></u>



**Central Florida Expressway Authority
Administration - Actual to Budget by Cost Center
For the Twelve Months Ending June 30, 2021**

	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>Budget Variance</u>	<u>Variance Percentage</u>
General	733,804	916,245	182,441	19.91%
Administrative Services	2,059,971	2,204,678	144,707	6.56%
Communications	707,323	815,237	107,914	13.24%
Human Resources	278,620	348,693	70,073	20.10%
Supplier Diversity	230,468	321,939	91,471	28.41%
Accounting	1,596,366	1,687,848	91,482	5.42%
Construction Administration	60,294	65,627	5,333	8.13%
Risk Management	174,595	166,461	(8,134)	-4.89%
Procurement	602,990	629,324	26,334	4.18%
Legal	650,775	724,439	73,664	10.17%
Internal Audit	400,858	564,000	163,143	28.93%
525 Magnolia	38,083	49,967	11,884	23.78%
Engineering	72,223	75,748	3,525	4.65%
Records Management	340,131	391,493	51,362	13.12%
Grand Total Expenses	<u><u>\$7,946,501</u></u>	<u><u>\$8,961,699</u></u>	<u><u>\$1,015,198</u></u>	<u><u>11.33%</u></u>

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS
PREVIOUS YEAR BUDGET TO ACTUAL COMPARISON
FOR THE MONTH ENDING JUNE 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	\$ 501,970,766	\$ 427,900,000	\$ 74,070,766	\$ 445,961,747	\$ 482,750,000	\$ (36,788,253)	\$ 110,859,019
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	6,826,249	7,858,000	(1,031,751)	11,836,188	10,815,000	1,021,188	(2,052,939)
TRANSPONDER SALES	1,395,888	921,530	474,358	789,980	748,202	41,778	432,580
OTHER OPERATING	1,319,796	1,848,762	(528,966)	1,873,070	962,088	910,982	(1,439,948)
INTEREST	9,524,962	6,067,454	3,457,508	10,989,355	5,971,846	5,017,509	(1,560,001)
MISCELLANEOUS	846,557	744,221	102,336	742,031	731,471	10,560	91,776
TOTAL REVENUES	\$ 521,884,218	\$ 445,339,967	\$ 76,544,251	\$ 472,192,371	\$ 501,978,607	\$ (29,786,236)	\$ 106,330,487
O M & A EXPENSES							
OPERATIONS	\$ 61,150,200	\$ 66,129,385	\$ 4,979,185	\$ 63,226,052	\$ 68,790,186	\$ 5,564,134	\$ (584,949)
MAINTENANCE	16,174,405	19,899,098	3,724,693	15,684,293	20,591,838	4,907,545	(1,182,852)
ADMINISTRATION	7,946,501	8,911,699	965,198	7,961,361	8,982,398	1,021,037	(55,839)
OTHER OPERATING	2,854,375	2,741,800	(112,575)	2,241,041	2,741,800	500,759	(613,334)
TOTAL O M & A EXPENSES	\$ 88,125,481	\$ 97,681,982	\$ 9,556,501	\$ 89,112,747	\$ 101,106,222	\$ 11,993,475	\$ (2,436,974)
NET REVENUES BEFORE DEBT SERVICE	\$ 433,758,738	\$ 347,657,985	\$ 86,100,753	\$ 383,079,624	\$ 400,872,385	\$ (17,792,761)	\$ 103,893,514
COMBINED NET DEBT SERVICE	\$ 217,143,080	\$ 219,054,650	\$ 1,911,570	\$ 202,897,120	\$ 203,888,613	\$ (991,493)	\$ 2,903,063
NET REVENUES AFTER DEBT SERVICE	<u>\$ 216,615,658</u>	<u>\$ 128,603,335</u>	<u>\$ 88,012,323</u>	<u>\$ 180,182,504</u>	<u>\$ 196,983,772</u>	<u>\$ (16,801,268)</u>	<u>\$ 104,813,591</u>

Note: All year-end accruals were not completed at the time this report was prepared, therefore, it does not reflect the final amounts that will be reported in our financial statements for the year ended June 30, 2021.

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**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CALCULATION OF NET REVENUES AS DEFINED BY THE BOND RESOLUTIONS
PREVIOUS YEAR COMPARISON
FOR THE MONTH ENDING JUNE 30, 2021 AND YEAR-TO-DATE**

	FY 21 MONTH ACTUAL	FY 20 MONTH ACTUAL	FY 20 - 21 SAME MONTH COMPARISON	FY 21 YEAR-TO-DATE ACTUAL	FY 20 YEAR-TO-DATE ACTUAL	FY 20 - 21 YEAR-TO-DATE COMPARISON
REVENUES						
TOLLS	\$ 48,993,075	\$ 30,528,609	\$ 18,464,466	\$ 501,970,766	\$ 445,961,747	\$ 56,009,019
FEES COLLECTED VIA UTN/UTC'S AND PBP'S	461,946	993,567	(531,621)	6,826,249	11,836,188	(5,009,939)
TRANSPONDER SALES	211,390	30,272	181,118	1,395,888	789,980	605,908
OTHER OPERATING	178,592	87,373	91,219	1,319,796	1,873,070	(553,274)
INTEREST	832,422	1,419,136	(586,714)	9,524,962	10,989,355	(1,464,393)
MISCELLANEOUS	152,139	61,964	90,175	846,557	742,031	104,526
TOTAL REVENUES	\$ 50,829,564	\$ 33,120,921	\$ 17,708,643	\$ 521,884,218	\$ 472,192,371	\$ 49,691,847
O M & A EXPENSES						
OPERATIONS	\$ 8,650,250	\$ 8,367,131	\$ 283,119	\$ 61,150,200	\$ 63,226,052	\$ (2,075,852)
MAINTENANCE	1,297,203	2,764,386	(1,467,183)	16,174,405	15,684,293	490,112
ADMINISTRATION	684,349	956,346	(271,997)	7,946,501	7,961,361	(14,860)
OTHER OPERATING	350,776	404,343	(53,567)	2,854,375	2,241,041	613,334
TOTAL O M & A EXPENSES	\$ 10,982,578	\$ 12,492,206	\$ (1,509,628)	\$ 88,125,481	\$ 89,112,747	\$ (987,266)
NET REVENUES BEFORE DEBT SERVICE	\$ 39,846,987	\$ 20,628,715	\$ 19,218,272	\$ 433,758,738	\$ 383,079,624	\$ 50,679,114
COMBINED NET DEBT SERVICE	\$ 17,575,238	\$ 18,259,749	\$ (684,511)	\$ 217,143,080	\$ 202,897,120	\$ 14,245,960
NET REVENUES AFTER DEBT SERVICE	<u>\$ 22,271,749</u>	<u>\$ 2,368,966</u>	<u>\$ 19,902,783</u>	<u>\$ 216,615,658</u>	<u>\$ 180,182,504</u>	<u>\$ 36,433,154</u>

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E.3.

Executive Director's Report

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

Executive Director Report August 2021

ACCOUNTABILITY

Bond Defeasance and Refunding Results

CFX closed on the 2021D Bond Series on July 28, 2021. This series was issued to refund the 2013A Bonds and had a true interest cost of 1.67%. This issuance, along with the defeasance of the 2013A Bonds resulted in a net present value savings of over \$60 million or 24.8% of refunded par.

Florida Transportation Commission

CFX participated in a series of meetings with the Florida Transportation Commission (FTC) to review and update toll agency key performance indicators that are reported annually to the Florida Legislature and Governor. The group focused on removing outdated indicators and updating metrics that align with current agency practices. The final recommendations will be presented to the FTC Board in October for adoption.

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 CFX and APSIRE teams continue to coordinate the details to bring this advanced research to our system.

CFX serves as Co-chair of the ASPIRE Policy Committee which is developing 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.

The committee is also meeting with policy makers and members of Congress to include language that allows the commercialization of new technologies along federal highways in the federal infrastructure bill.

Florida Automated Vehicle Summit

CFX will host the 2021 Florida Automated Vehicle Summit November 29 – December 1, 2021 at Rosen Shingle Creek. Topics will include automated, connected, electric, and shared mobility, operations, law, infrastructure, functional design, cyber security, ethics, aftermarket products, enabling technologies and public policy. Registration is now open.

DASHBOARD

Wrong Way Driving Program

CFX added wrong way driving detection systems on 15 new ramps in the month of May. CFX now has wrong way detection systems at 53 ramp locations throughout the expressway system. In June, there were 37 detections system-wide with 34 of the 37 detections resulting in documented turn arounds. Details of the remaining events are listed below:

SR 417 SB Exit 11 at US 441 (Orange Blossom Trail); Monday 6/14/2021 9:38 PM

A silver sedan was observed traveling up the ramp in the wrong direction. The Regional Traffic Management Center notified Florida Highway Patrol of the event and verified that the vehicle turnaround on the mainline. There were no citations or crash reports associated with this event.

SR 408 WB Exit 19 at Dean Road; Sunday 6/20/2021 5:53 AM

A blue SUV was observed traveling up the ramp in the wrong direction. The vehicle applied brakes as it approached the mainline and turned to travel in the correct direction. There were no citations or crash reports associated with this event.

SR 429 SB Exit 24 at Plant Street; Saturday 6/26/2021 9:43 AM

A black pickup truck was observed traveling up the ramp in the wrong direction. The Regional Traffic Management Center notified Florida Highway Patrol of the event and initiated the dynamic message sign response plan notifying right way drivers of the event. Florida Highway Patrol reported to the area and did not find the reported vehicle. There were no citations or crash reports associated with this event.

Customer Service Call Center

CFX is having difficulty attracting and retaining qualified staff within our customer call center, a common issue today for this industry and our nation. The CFX team continues to explore creative methods to staff-up and compete in this tight labor market.

On a positive note, CFX's technology investments continue to pay dividends. Capabilities such as our mobile app, virtual hold feature, improved Interactive voice response system and web services provide E-PASS customers with a variety of alternative contact tools. We see high usage across these services and as a result CFX continues to receive very high customer satisfaction survey scores.

CUSTOMER SERVICE

E-PASS Walk-in Service Center

The E-PASS Walk-in Service Center has relocated from Goldenrod Road to a more centralized location at 525 South Magnolia Avenue. The Center opened on August 2, 2021.

MEETINGS and PRESENTATIONS

June 11	Women's Executive Council of Orlando
June 14	2045 Master Plan: City of Maitland
June 15	2045 Master Plan: Brevard County Manager
June 23	Wekiva River Commission
June 23	Lake Sumpter MPO Governing Board
July 1	Brightline Phase III Bi-Weekly Coordination
July 2	BEEP Automated Transit Service
July 7	MetroPlan Orlando Board
July 7-9	Floridians for Better Transportation Summer Camp
July 9	2045 Master Plan: Central Florida MPO Alliance
July 15	Brightline Phase III Bi-Weekly Coordination
July 23	IBTTA CEO Roundtable on IT Security
July 26	I-Drive District Traffic
July 29	Transportation Authority Performance Measure Review
August 4	East Orlando Chamber of Commerce Women in Successful Endeavors
August 5	Brightline Tour
August 5	Women In Tolling Council Meeting

PERFORMANCE DASHBOARD

MAY 2021

Fiscal year runs from July 1-June 30

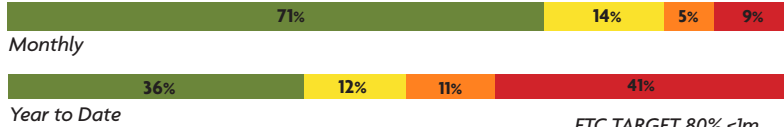
CUSTOMER SERVICE

Service Center	Activity		Monthly Avg. Wait Time	
	Actual	6 mo. Avg	Actual	Target
Service Center	4,624	3,323	5:00	<5m

SERVICE CENTER: MINUTE INTERVALS <5 5-6 6-7 7-8 8-9 9+

Call Center	Activity		Monthly Avg. Wait Time	
	Actual	6 mo. Avg	Actual	Target
Call Center	114,258	143,802	1:31	<1m

CALL CENTER: % MINUTE INTERVALS <1 1-3 3-5 5+

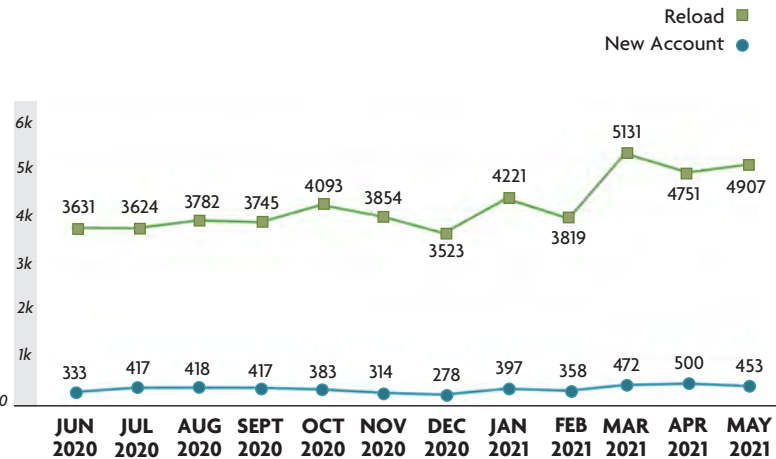


WRONG WAY DRIVING (WWD)

Month	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY*
Total Vehicles Detected	5	13	12	10	16	15	17	38
Documented Turn Arouds	4	12	11	8	14	13	16	31

* New WWD systems deployed at 15 additional ramp locations

RELOAD CUSTOMER SERVICE LANE ACTIVITY



PROGRESS OF MAJOR CONSTRUCTION PROJECTS

Project	Contract (millions)	Spent (millions)	% Time	% Spent	VAR	Contract Completion Date
SR 528 / SR 436 Interchange Improvements	\$105.7	\$71.2	31%	67%		Feb. 2023
SR 538 Widening, Ronald Reagan Pkwy to Cypress Pkwy	\$92.6	\$16.8	19%	18%		Nov. 2023
SR 417 Widening, International Dr. to John Young Pkwy	\$81.6	\$8.5	13%	10%		July 2023
SR 417 Widening, John Young Pkwy to Landstar Blvd.	\$116.8	\$990K	9%	0.85%		Oct. 2023

LEGEND: % Time - % Spent ≤ 10 11-20 ≥ 21

FINANCIALS

FINANCIALS

FY to Date	Actual	Budget	VAR
Total Revenue	\$461.4	\$402.4	15%
OM&A Expenses	\$77.1	\$79.9	4%
Net Revenue	\$184.7	\$121.7	52%

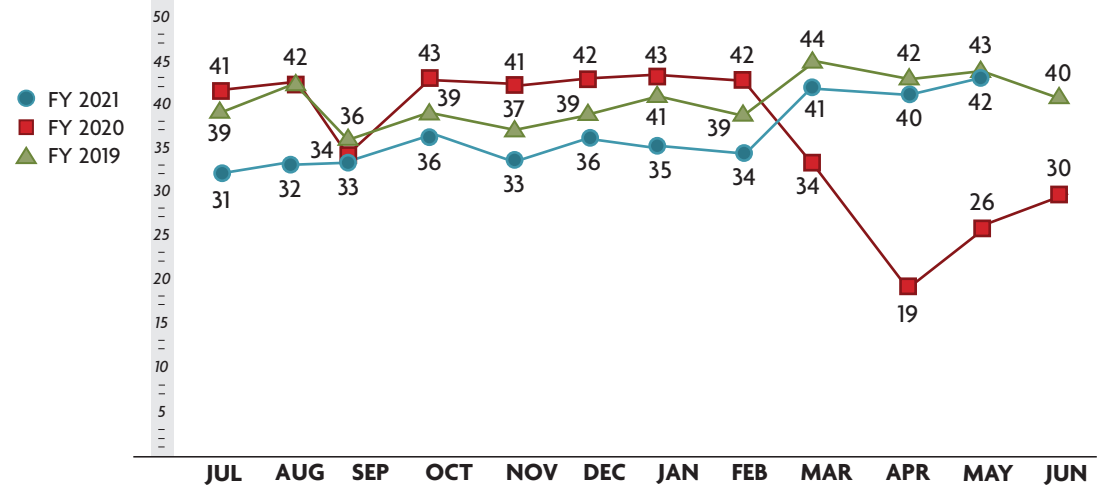
LEGEND: >/= 0 -0.1 to -10 < -10.1

DEBT SERVICE

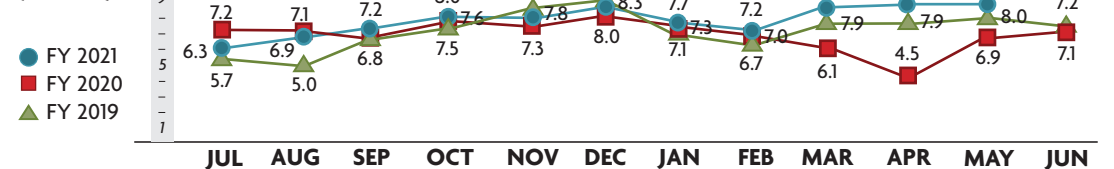
FY to Date	Actual	Budget
Senior Lien	1.97	1.68
Subordinate Lien	1.90	1.62

LEGEND: >/= 1.45 1.20 to 1.44 < 1.20

TOTAL REVENUE TRANSACTIONS ON CFX SYSTEM (millions)



UNPAID IN LANE TRANSACTIONS (millions)



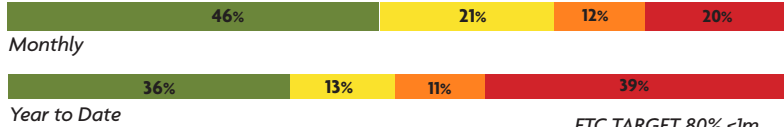
CUSTOMER SERVICE

	Activity		Monthly Avg. Wait Time	
	Actual	6 mo. Avg	Actual	Target
Service Center	4,805	3,563	4:04	<5m

SERVICE CENTER: MINUTE INTERVALS <5 5-6 6-7 7-8 8-9 9+

	Activity		Monthly Avg. Wait Time	
	Actual	6 mo. Avg	Actual	Target
Call Center	124,833	135,867	3:08	<1m

CALL CENTER: % MINUTE INTERVALS <1 1-3 3-5 5+



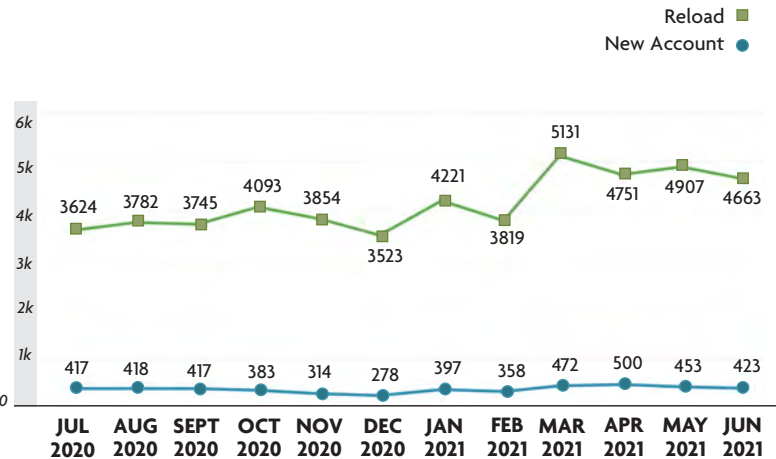
FTC TARGET 80% <1m

WRONG WAY DRIVING (WWD)

Month	NOV	DEC	JAN	FEB	MAR	APR	MAY*	JUN
Total Vehicles Detected	13	12	10	16	15	17	38	37
Documented Turn Arouds	12	11	8	14	13	16	31	34

* New WWD systems deployed at 15 additional ramp locations

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	\$105.7	\$76.8	34%	72%		Feb. 2023
SR 538 Widening, Ronald Reagan Pkwy to Cypress Pkwy	\$92.7	\$19.7	21%	21%		Nov. 2023
SR 417 Widening, International Dr. to John Young Pkwy	\$81.6	\$11.7	16%	14%		July 2023
SR 417 Widening, John Young Pkwy to Landstar Blvd.	\$116.8	\$3.3	12%	2%		Oct. 2023

LEGEND: % Time - % Spent ≤ 10 11-20 ≥ 21

FINANCIALS

FINANCIALS

FY to Date	Actual	Budget	VAR
Total Revenue	\$521.9	\$445.3	17%
OM&A Expenses	\$88.1	\$97.7	10%
Net Revenue	\$216.6	\$128.6	68%

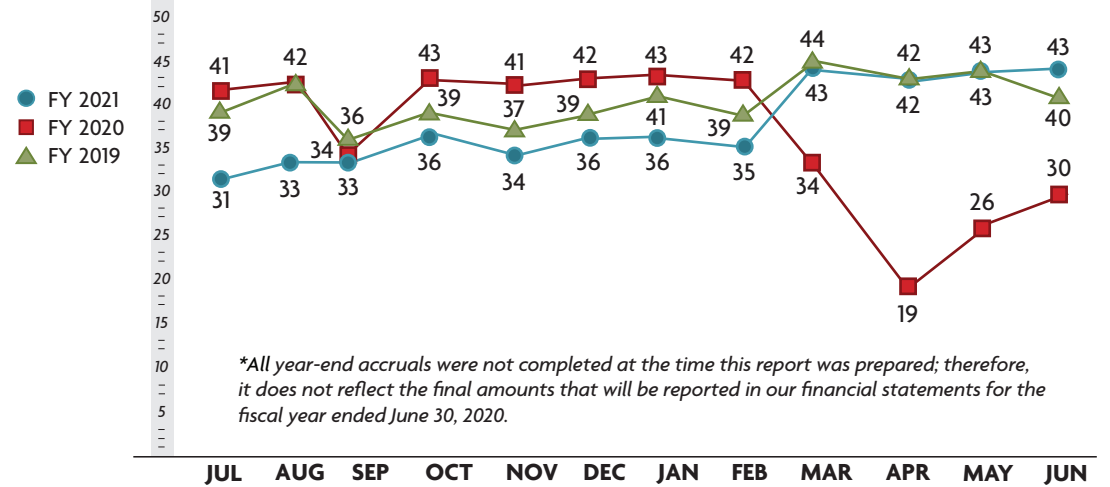
LEGEND: >= 0 -0.1 to -10 < -10.1

DEBT SERVICE

FY to Date	Actual	Budget
Senior Lien	2.11	1.68
Subordinate Lien	2.03	1.62

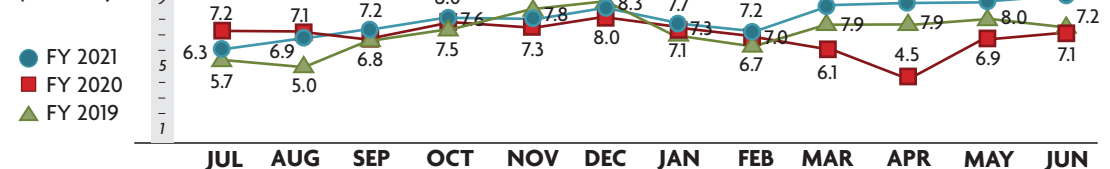
LEGEND: >= 1.45 1.20 to 1.44 < 1.20

TOTAL REVENUE TRANSACTIONS ON CFX SYSTEM (millions)



*All year-end accruals were not completed at the time this report was prepared; therefore, it does not reflect the final amounts that will be reported in our financial statements for the fiscal year ended June 30, 2020.

UNPAID IN LANE TRANSACTIONS (millions)

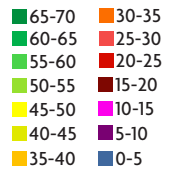


TRAFFIC CONGESTION HEAT MAPS

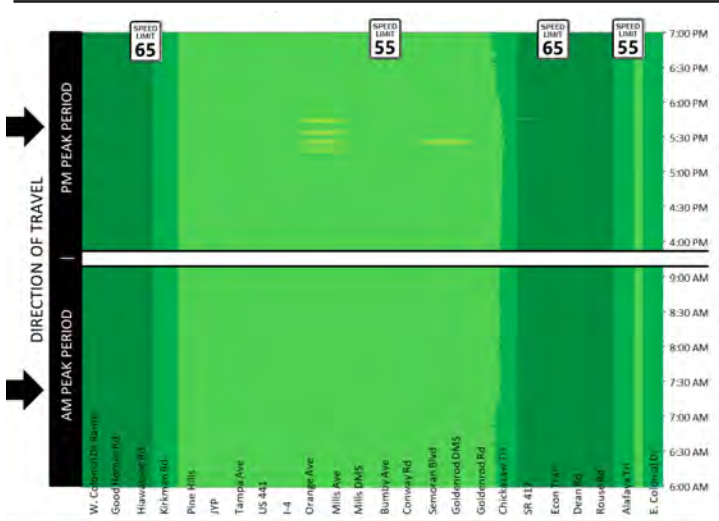
A Quarterly Update

April - June 2021

Map Scale in Miles Per Hour



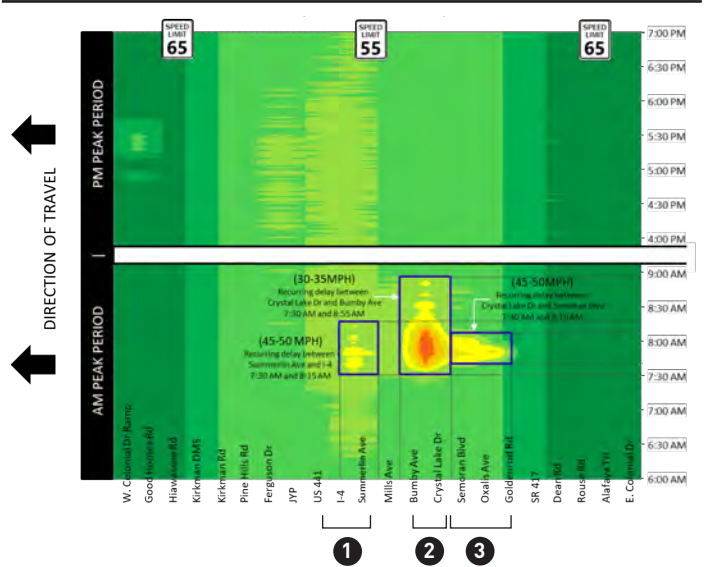
SR 408 Eastbound



Projects:

No peak hour congestion reported.

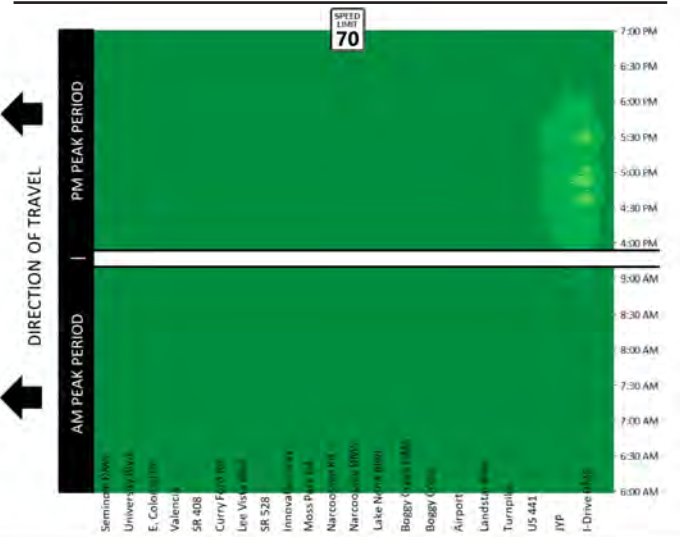
SR 408 Westbound



Projects:

1. (AM) Construction underway – widen the SR 408 mainline through the I-4 interchange part of I-4 Ultimate. Completion late 2021.
2. (AM) Monitoring monthly – friction due to westbound SR 408 transitioning from 5 lanes to 4 lanes between *Crystal Lake Drive* and *Bumby Avenue*.
3. (AM) Monitoring monthly – friction due to westbound SR 408 transitioning back to 4 lanes following lane drops of westbound entrance ramps from *Chickasaw Trail* and *Goldenrod Road*

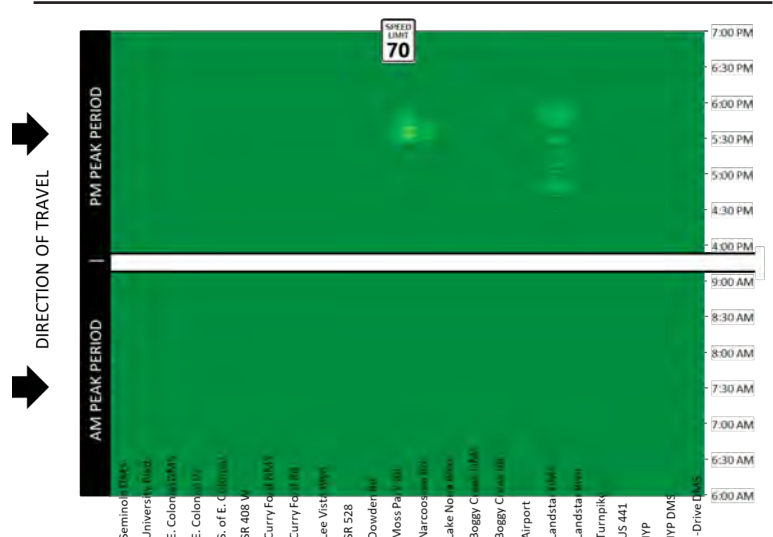
SR 417 Northbound



Projects:

No peak hour congestion reported.

SR 417 Southbound



Projects:

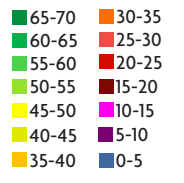
No peak hour congestion reported.

TRAFFIC CONGESTION HEAT MAPS

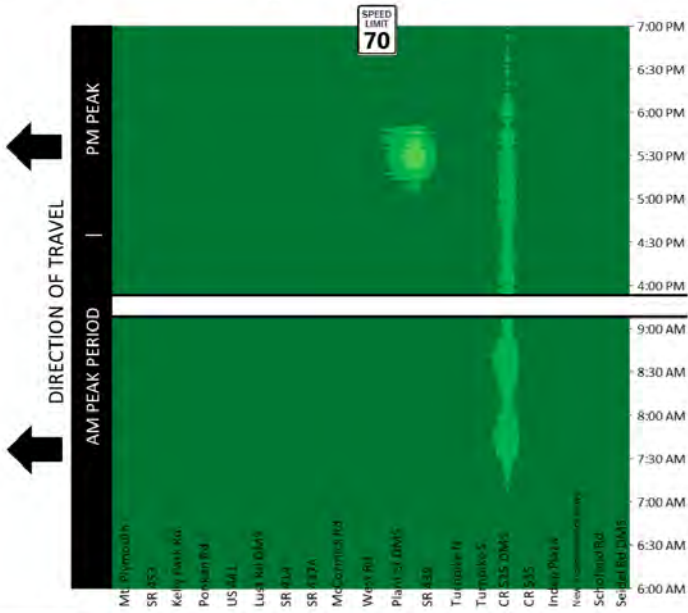
A Quarterly Update

April - June 2021

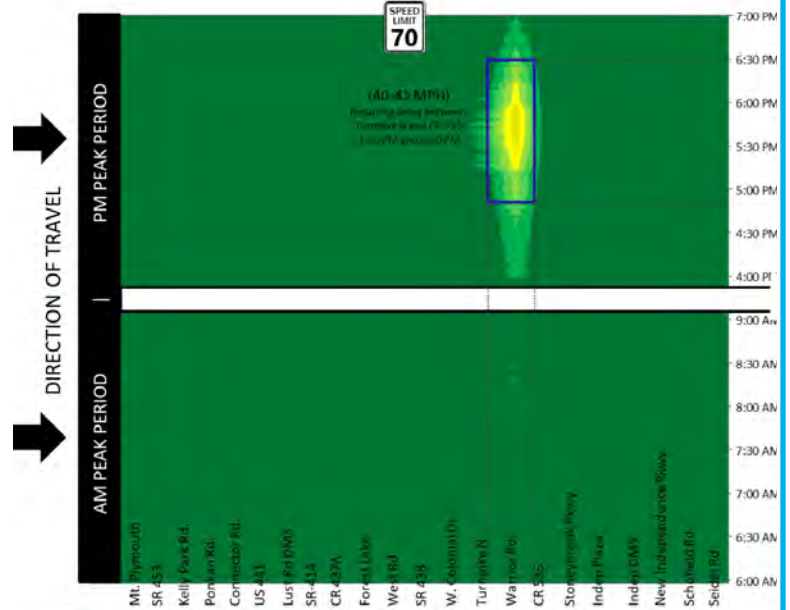
Map Scale in Miles Per Hour



TOLL 429 SR 429 Northbound



TOLL 429 SR 429 Southbound



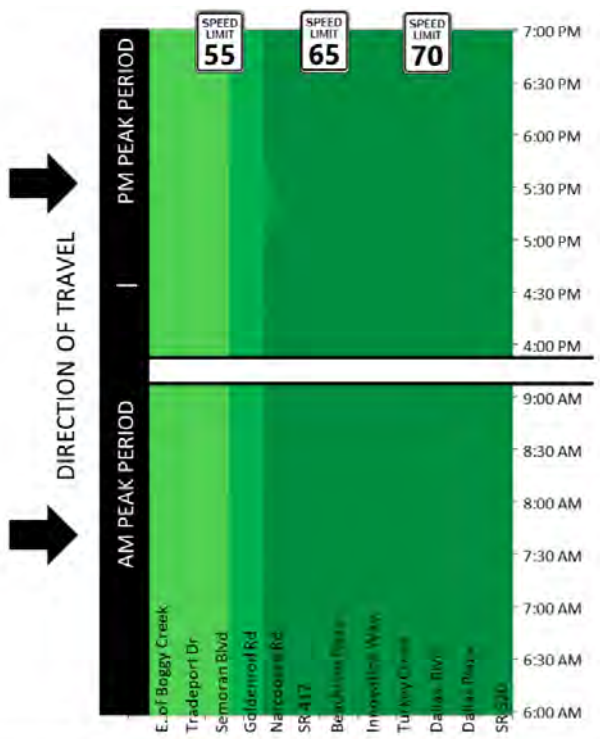
Projects:

No peak hour congestion reported.

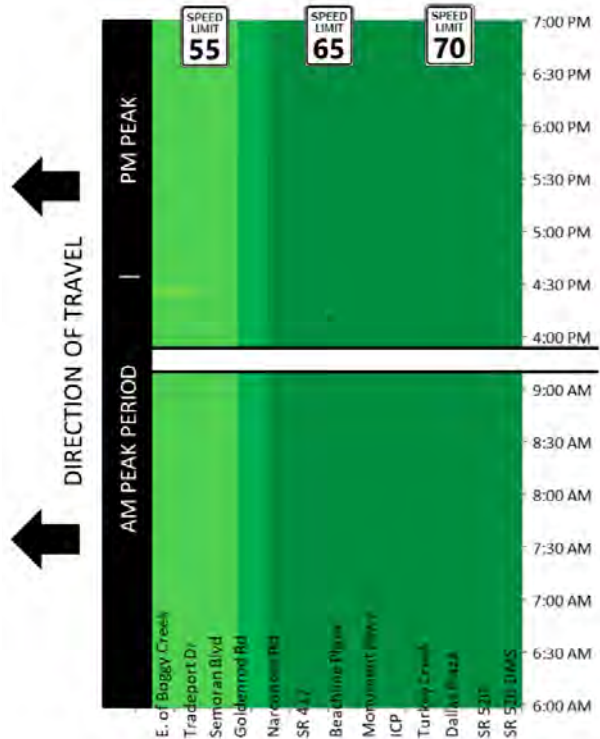
Projects:

1. (PM) Design underway - widen SR 429 from CR 535 to Florida's Turnpike. Construction completion 2024.

TOLL 528 SR 528 Eastbound



TOLL 528 SR 528 Westbound



Projects:

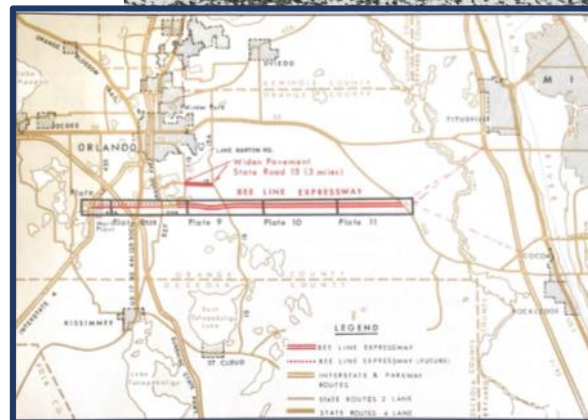
No peak hour congestion reported.

Projects:

No peak hour congestion reported.

Planning and Building a Community

- 1960s
- At the first agency board meeting, there was a discussion of a “beltline” around the Orlando metropolitan area.
- 1967: SR 528 Bee Line construction costs come in at \$6.8 million for 23 miles.
- 2005 Florida Legislature renamed: Martin B. Anderson BEACHLINE Expressway



MARTIN ANDERSEN
BEE LINE
EXPRESSWAY



ORLANDO

'Action Center of Florida'

DIRECT
TO

**CAPE KENNEDY
AREA**

Cocoa - Cocoa Beach - Titusville
Melbourne - Eau Gallie

4 LANES

**FAST
&
SAFE**

Planning and Building a Community



July 14, 1967
Dedication Ceremony

**CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY**

F.

Regular Agenda Items

F. 1.



CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY



Rules of Procedure for Board Meetings

Diego "Woody" Rodriguez, General Counsel

— August 12, 2021 —

Current Rules of Procedure for Board Meetings

- Purpose

“Provide for the smooth and orderly functioning of the business of the Board and to facilitate an open exchange of ideas among Board members and between Board members and the public.”

- Consistent with state law

- Provide guidelines

- Board membership
- Election of officers
- Creation of agendas
- Creation of standing committees
- Parliamentary procedures
- Amendments to policies and procedures
- Publication of board meeting notices
- Review of rules every two years (last occurred in September 2020)



Current Rules of Procedures for Board Meetings

- Provide the process and deadlines for submitting
 - Oral public comments, including how to sign up to speak and the amount of time allotted to each speaker
 - Written public comments as part of the record in advance of a meeting
 - Audio/visual presentation materials
 - Distribution of materials to the Board at a meeting
- Provide that citizens appearing before the Board limit their comments to items on the agenda or within the Board's authority and jurisdiction



Proposed Revisions

- Format
- Replace “Authority” with “CFX”
- Redefine newspapers of general circulation
 - Chapter 2021-17, Laws of Florida, an act relating to legal notices, adopted by the Florida Legislature during the 2021 session
- Clarify written public comments or audio/visual materials deadline
 - Received at least 48 hours prior to the start of a CFX public meeting
 - Must be received during CFX regular business hours
- Delete requirement reading of written comments into the record



Recommended Motion

Adoption of the Central Florida Expressway Authority's Rules of Procedure for Board Meetings as amended.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY RULES OF PROCEDURE FOR BOARD MEETINGS

~~Part I – General~~

~~1-1.001 – Organization~~

TABLE OF CONTENTS

<u>I. ORGANIZATION.....</u>	<u>2</u>
<u>II. PURPOSE.....</u>	<u>2</u>
<u>III. DEFINITIONS.....</u>	<u>2</u>
<u>IV. MEMBERSHIP & TERMS OF OFFICE</u>	<u>3</u>
<u>V. OFFICERS – TERM OF OFFICERS</u>	<u>3</u>
<u>VI. MEETINGS.....</u>	<u>4</u>
<u>VII. NOTICE</u>	<u>4</u>
<u>VIII. AGENDAS FOR REGULAR AND SPECIAL MEETINGS OR HEARINGS</u>	<u>7</u>
<u>IX. BOARD MEMBER MINUTES.....</u>	<u>10</u>
<u>X. QUORUM AND VOTING.....</u>	<u>10</u>
<u>XI. PUBLIC COMMENT</u>	<u>11</u>
<u>XII. COMMITTEES OF THE BOARD.....</u>	<u>13</u>
<u>XIII. MOTIONS TO BE STATED BY THE CHAIRMAN.....</u>	<u>13</u>
<u>XIV. MAIN MOTION.....</u>	<u>13</u>
<u>XV. MOTION TO AMEND</u>	<u>13</u>
<u>XVI. CALL THE QUESTION (PREVIOUS QUESTION) OR MOTION TO END DISCUSSION/DEBATE</u>	<u>15</u>
<u>XVII. MOTION TO RECONSIDER.....</u>	<u>15</u>
<u>XVIII. MOTION TO RESCIND</u>	<u>15</u>
<u>XIX. POINT OF ORDER.....</u>	<u>9</u>
<u>XX. RECESS.....</u>	<u>17</u>
<u>XXI. ROBERT’S RULES</u>	<u>17</u>
<u>XXII. AMENDMENTS AND REVISIONS</u>	<u>17</u>
<u>XXIII. REVIEW.....</u>	<u>18</u>

I. ORGANIZATION

Pursuant to Section 348.754(2)(m), Florida Statutes, ~~(F.S.)~~, these Rules of Procedure are approved by the governing Board of the Central Florida Expressway Authority ~~(the "Board")~~ and shall govern all proceedings of the Board except to the extent they may be inconsistent with Florida law in which case Florida law shall govern.

II. ~~1-1.002~~ Purpose. PURPOSE

The purpose of these Rules is to provide for the smooth and orderly functioning of the business of the Board ~~of the Central Florida Expressway Authority~~ and to facilitate an open exchange of ideas among Board members and between Board members and the public. Board members shall at all times observe and comply with the provisions of Florida's Government in the Sunshine Law, ~~s. Section~~ 286.011 ~~Florida Statutes~~ F.S.

These rules shall not grant additional grounds or standing to challenge an action of the Board or ~~Authority~~ CFX other than those grounds already existing in constitutional, statutory or case law.

~~1-1.003~~ Definitions.

III. Authority DEFINITIONS

- (1) "CFX" shall mean the Central Florida Expressway Authority ~~or "CFX"~~ as created by Florida Statutes Chapter 348 Part III, Sections 348.751 et. seq.

~~The Authority~~ CFX is legally classified as an independent special district under Chapter 189, F.S., and is listed as such by the Department of Economic Opportunity. Although ~~the Authority~~ CFX is designated as an "agency of the State" in its Enabling Act, it is not an executive branch agency. Instead, it is designated as an "agency of the State" because it shares certain powers conferred by law on other state governmental bodies.

- (2) "Board" shall mean the governing body ~~of the Authority for~~ CFX, consisting of ten (10) members in accordance with Section 348.753(3), ~~Florida Statutes 2017~~ F.S.

~~1.~~ "Chairman" shall mean the member of the Board elected by the Board to serve as Chairman. The Chairman shall be the presiding officer at all

- (3) meetings of the ~~Authority Board~~ except that in the ~~Chairman's~~~~Chairman's~~ absence, the Vice-Chairman shall preside. The Chairman shall have all rights and privileges while he/she is presiding (e.g. the right to make motions, second motions, speak and vote), without relinquishing the chair.
- (4) "Vice-Chairman" shall mean the member of the Board elected by the Board to serve as Vice-Chairman. The Vice-Chairman shall preside at all meetings when the Chairman is not present or unable to serve.
- (5) "The Treasurer" shall mean the member of the board elected by the Board to serve as Treasurer. The Treasurer shall give a report each meeting as to ~~the~~~~CFX's~~ expenditures ~~of the Authority~~.
- (6) The "Executive Director of Florida Turnpike Enterprise" is a non-voting advisor to the Board.
- (7) "Executive Assistant" shall be an employee of ~~the Authority~~~~CFX~~ to assist in the preparation and execution of documents and records.

IV. ~~1-1.004~~ Membership & Terms of Office. MEMBERSHIP & TERMS OF OFFICE

Membership and terms on the Board shall be as prescribed by Section 348.753(3)~~Florida Statutes~~, F.S.

Should the Chairman resign from Board services, become incapacitated or otherwise have his or her term expire; and the seat filled by another; the Vice-Chairman will assume the position of Chairman until a special election for Chairman is held at the first meeting following the expiration of the Chairman's term. If the Vice-Chairman, or Treasurer is elected Chairman, then an election shall be held for that position's successor.

The elected successor(s) will fill the unexpired portion of the term and be eligible for reappointment to a full term at the discretion of the Board at the regular elections in January.

V. ~~1-1.005~~ Officers - Term of Officers. OFFICERS - TERM OF OFFICERS

Officers for the position of Chairman, Vice-Chairman and Treasurer shall be elected by nomination and majority vote annually at the regular meeting held in January. If a regular meeting is not scheduled for January, officer nominations and elections shall take place in December or at the next regularly scheduled Board meeting.

~~1-1.006~~ Meetings.

VI. MEETINGS

A. Regular Meetings

The Board shall meet once each month, on the second Thursday of the month at 9:00 a.m. so long as there is business to conduct. All regular

meetings shall be held at ~~the Authority's offices~~ CFX's central office at 4974 ORL Tower Road, Orlando, Florida 32807. The date, time and place of meetings may be changed by the Board from time to time provided the notice requirements set forth below have been satisfied.

B. Special and Emergency Meetings

Special and Emergency Meetings may be called by ~~:(1) the Chairman at his/her discretion or (2) in the absence or incapacity of the Chairman by the Vice Chairman or (3) by any six (6) or more Board members during a Board meeting or (4) at the discretion of the Executive Director upon a request from a Board member.~~

(1) the Chairman at his/her discretion or

(2) in the absence or incapacity of the Chairman by the Vice Chairman or

(3) by any six (6) or more Board members during a Board meeting or

(4) at the discretion of the Executive Director upon a request from a Board member. ~~1-1.007—Notice.~~

VII. NOTICE

A. Notice Required for Regular and Special Meetings or Hearings

- (1) Written notice of regular and special meetings or hearings shall be electronically mailed to each Board member at least seven (7) days prior to the meeting date. A copy of such notice shall be prominently displayed in the ~~Authority~~ CFX offices and shall also be given by ~~the Authority~~ CFX to the appropriate persons at Orange County, Lake County, Osceola County, Seminole County, Brevard County and at the City of Orlando to be displayed in a prominent place in the various County Administration Buildings and at Orlando City Hall at least seven (7) days prior to the meeting. ~~In addition, notices shall be electronically mailed to all persons who, at least fourteen (14) days prior to such mailing, have requested advance notice of Authority proceedings.~~
- (2) In addition, pursuant to Section 189.015, ~~Florida Statutes, the Authority~~ F.S., CFX shall publish a schedule of its regular meetings which shall be filed in January of each year with Orange, Lake, Osceola, Seminole, Brevard ~~Counties~~ counties and the City of Orlando. The schedule shall be published annually in January in a newspaper ~~of general paid circulation that meets the criteria in Section 50.011, F.S.,~~ in that portion of the newspaper where legal notices and classified advertisements appear. ~~The advertisement shall appear in a newspaper that is published at least five (5)~~

~~days a week and be one of general interest and readership in the community and not one of limited subject matter.~~

B. Form of Notice for Regular and Special Meetings or Hearings

The notice for regular and special meetings or hearings shall state:

- (1) The date, time and place of the meeting.

- (2) A brief description of the purpose of the meeting and the business to be transacted.

C. Notice for Emergency Meetings or Emergency Hearings

By their very nature, Emergency Meetings and Emergency Hearings may preclude advance notice. However, reasonable efforts (electronic mail, telephone, fax and hand delivery) shall be made to notify all Board members in advance of the Emergency Meeting or Emergency Hearing. Reasonable efforts shall also be made prior to Emergency Meeting to provide notice by issuing press releases and to give notice to persons ~~who have requested advance~~required to receive notice of AuthorityCFX's meetings by electronic mail. The notice requirements in 1-1.007(1) and (2) above shall not apply to Emergency Meetings or Emergency Hearings. If practicable, notices shall be posted at AuthorityCFX's offices, the Orange, Lake, Osceola, Seminole, and Brevard County Administration Buildings and Orlando City Hall. Following an Emergency Meeting or Emergency Hearing ~~the AuthorityCFX~~ shall forward to all persons entitled to receive notice of regular, annual and special meetings a notice of the date, time and place of the Emergency Meeting or Emergency Hearing, a statement explaining why it was held and the action taken. All actions taken at an Emergency Meeting or Emergency Hearing are void unless ratified by the Board at the next regular meeting.

~~1-1.008 — Agendas for Regular and Special Meetings or Hearings.~~

VIII. AGENDAS FOR REGULAR AND SPECIAL MEETINGS OR HEARINGS

A. Advance Preparation Required

An agenda for each regular and special meeting or hearing shall be prepared by ~~the AuthorityCFX~~ sufficiently in advance of the meeting or hearing to ensure that an electronic copy of the agenda may be received seven (7) days before the meeting by all Board members and any person who has requested a copy and pays the reasonable cost thereof, if any.

B. Agenda Items

- (1) The Executive Director shall be responsible for preparing the agenda. Any Board member with an item to be placed on an agenda shall provide the item in writing, together with any backup information, to the Executive Director no later than 12:00 Noon on the eighth calendar day preceding the Board meeting. Such items shall be placed on the next upcoming meeting agenda unless the Board member agrees to a postponement or to withdraw the item. The Executive Director shall provide the Board members a reminder via electronic mail of the deadline date for the agenda items.

~~reminder via electronic mail of the deadline date for the agenda items.~~

- (2) The Executive Director or any Board member may add an item to an agenda that has been made available to Board members and the public no later than noon on the third business day prior to the meeting date. The Executive Director shall provide an amended agenda electronically to the Board members ~~and all persons who, at least fourteen (14) days prior to such mailing, have requested advance notice of Authority proceeding by close of business on that same day.~~

C. Form of Agenda

The agenda shall list the items to be resolved at the meeting, in the order in which they are to be considered. For good cause stated, items may be taken out of order with the approval of the Chairman or presiding officer. The form of agenda shall be substantially as follows, subject to change from time to time by the Board:

~~DATE, TIME AND PLACE OF MEETING LOCATION~~

- ~~(1) Call to order~~
- ~~(2) Public Comment~~
- ~~(3) Review and approval of Minutes of Preceding Meeting~~
- ~~(4) Approval of Consent Agenda~~
- ~~(5) Chairman's Report~~
- ~~(6) Treasurer's Report~~
- ~~(7) Executive Director's Report~~
- ~~(8) Regular Agenda: Separate Motion~~
- ~~(9) Board member Comment~~

~~Notice that the meeting is open to the public and that any person who~~

~~DATE, TIME AND PLACE OF MEETING LOCATION~~

- ~~(1) Call to order~~
- ~~(2) Public Comment~~
- ~~(3) Review and approval of Minutes of Preceding Meeting~~

(4) Approval of Consent Agenda

(5) Chairman's Report

(6) Treasurer's Report

(7) Executive Director's Report

(8) Regular Agenda: Separate Motion

(9) Board member Comment

Notice that the meeting is open to the public and that any person who decides to appeal any decision made at the meeting will need a record of the proceedings and that for such purpose, may need to ensure that a verbatim record of the proceedings is made which record includes testimony and evidence upon which the appeal is to be based per Florida Statutes Section 286.0105, F.S.

~~1-1.009 Authority Board Meeting Minutes.~~

IX. BOARD MEMBER MINUTES

The Executive Assistant of ~~the Authority~~CFX shall keep the official minutes of the AuthorityBoard, transcribe them into writing and have them approved at the next subsequent meeting. The minutes shall indicate who made each motion and how each Board member voted.

The minutes of each meeting of the AuthorityBoard, when approved, shall be the original and controlling record of the meeting. Before being submitted for approval, CFX staff shall provide the Board members a draft copy in advance of the next scheduled meeting.

~~1-1.010 Quorum and Voting.~~

X. QUORUM AND VOTING

A quorum at any meeting shall require the physical presence of at least six Board members. A quorum shall be required for the conducting of all official business. The vote of the majority of the members present at a meeting where a quorum exists (with at least six members casting an affirmative vote) shall be necessary for any action taken by the AuthorityBoard. Due to scheduling conflicts or illness a Board member may appear by telephone and vote on AuthorityBoard matters where a quorum is physically present not to exceed three meetings per calendar year. The participating absent Member must be able to hear all participants in the meeting and be heard by all participants.

A. Voice Votes; Roll Call Votes.

Except as provided otherwise in this Section, all votes shall be taken by an “aye” or “no” vote (voice vote) unless it is determined by the Chairman or a Board member that a roll call vote would be in order.

- (1) A Roll call vote shall be taken by alphabetical order, with the Chairman voting last.
- (2) When a roll call vote is called, after the Chairman has made clear the motion, the Executive Assistant shall be directed to call the roll; no member shall be entitled to speak on the motion, nor shall any motion be in order until such roll call is completed, and the result announced by the Chairman.

B. Proper Voting.

All voice votes shall be taken requesting those in favor to say “aye” and those opposed to say “no.” A vote requesting those in favor to say “aye” and those opposed “like sign” (meaning “aye”) shall not be used.

C. Votes Required for Affirmative Action

Regardless of the number of Board members voting, an affirmative vote of six (6) members of the Board shall be required to pass any agenda item, ~~F.S. Section 348.753(4)(a)-~~, F.S.

D. Abstentions-

Neither the Chairman nor any other Board member who is present at any meeting of the Board at which an official decision, ruling, or other official act is to be taken or adopted may abstain from voting in regard to any decision, ruling, or act, and a vote shall be recorded for each such Board member present, except when, with respect to any such member, there is or appears to be a possible conflict of interest, in which case the Board member shall comply with Section 112.3143 ~~of Florida Statutes,~~ F.S. or other applicable law.

~~1-1.011~~ — Public Comment.

XI. PUBLIC COMMENT

The right to be heard and the right to public input is hereby endorsed and adopted as follows: Any citizen has the right to appear before the Board on a non-agenda item or an agenda item for the presentation, adjustment or determination of an issue, matter or request within the Board's authority and jurisdiction, so far as the orderly conduct of public business permits. Matters shall be reasonably scheduled for the convenience of the general public, so that the public may know when a matter has been scheduled.

Each speaker shall be limited to three minutes unless otherwise modified by the Chairman. No speaker may transfer or designate his or her time to another speaker. However, an organization may designate a single speaker to speak on behalf of a group of attendees. No additional time shall be provided to the designated speaker. The provisions of this subsection, however, shall not be construed to supersede, supplement, or modify any citizen participation process established in state law for public hearings before the Board, such as the procedures for quasi-judicial hearings. Nor shall the provisions of this subsection be used to avoid, supersede or modify the Authority'sCFX's procurement rules, including, but not limited to, the "protest process" and the "black-out period."

~~The Authority'sCFX~~ staff is directed to prepare the appropriate forms for a Public Comment Request by citizens which forms shall be made available both on ~~the Authority'sCFX's~~ internet website and in the lobby area outside the Board's meeting room. Only those speakers that are present and have submitted their completed form to the Recording Secretary at least 5 minutes prior to the scheduled start of the meeting will be called to speak.

Members of the public may also submit written comments in advance of the meeting on any topic on the agenda. Comments on agenda items ~~submitted~~received during regular

| CFX business hours, at least 48 hours ~~in advance of~~ prior to the scheduled start time of the meeting, shall be included as part of the record ~~and may be read at the~~.

~~meeting if the written comments do not exceed three minutes in length when read.~~

The use of any audio or video presentation materials, such as PowerPoints, shall be submitted and received during regular CFX business hours, at least 48 hours ~~in advance~~ ~~of prior to~~ the scheduled start time of the meeting. CFX reserves the right to refuse any materials that do not meet technical specifications as specified by staff or are otherwise deemed inappropriate based on existing legal standards. All submissions become public records and may not be returned. Any member of the public seeking to distribute materials to Board Members at a public meeting shall provide the Recording Secretary with at least 13 copies of any materials at least 5 minutes prior to the scheduled start time of the meeting.

Speakers must be courteous and non-disruptive. If a person continues disruptive behavior after being asked to stop, the Chairman may take appropriate action.

~~1-1.012 — Committees of the Board.~~

XII. COMMITTEES OF THE BOARD

The Board may create standing committees for specific areas of ~~the Authority~~ CFX. The policies, procedures and appointment method shall be approved by the Board when a standing committee is created.

~~Part II – Motions~~

~~1-1.013 — Motions To Be Stated by the Chairman.~~

XIII. MOTIONS TO BE STATED BY THE CHAIRMAN

No motion or resolution shall be adopted until the motion or resolution, in substance, is stated by the Chairman.

~~1-1.014 — Main Motion.~~

XIV. MAIN MOTION

A main motion shall be a motion whose introduction brings business before the Board. A second is required.

~~1-1.015 — Motion to Amend.~~

XV. MOTION TO AMEND

If a member feels that the main motion might be more acceptable in another way, other than the way presented, the member may amend in either of the two ways presented:

A. ~~By *consent*~~ Consent of the ~~members.~~ Members

~~A.~~ The Chairman, or another member through the Chairman, may ask if certain changes may be made to the motion. ~~_____~~ If there are no objections from the members, the motion will stand as changed (amended). If there are no objections, the second shall

remain. (“No objection” implies that the person seconding the motion agrees.) The main motion shall then be as it was changed (or amended by general consent). –If there is an objection from any member, a second to the amendment shall be required and a vote taken. There may be discussion to the amendment at that time, and an affirmative vote of six members shall be required to pass the amendment.

B. Formal Amendment:

An amendment may be presented formally by moving to amend the motion in some way (e.g., insert, add words or paragraph, strike out words or paragraph, or strike out and insert words or paragraphs). If it is in the form of a formal motion to amend, a second shall be required and discussion shall follow on the amendment. If an amendment passes by an affirmative vote of six members, the main motion shall be the motion as amended. If it fails, the motion shall be the motion as it was before the amendment was presented.

~~1-1.016 — Call the Question (Previous Question) or Motion to End Discussion/Debate.~~

XVI. CALL THE QUESTION (PREVIOUS QUESTION) OR MOTION TO END DISCUSSION/DEBATE

A member of the Board may “call the question” (a motion to end debate) when it is clear that further discussion is unnecessary. A second is required, and no discussion may be allowed on this motion. An affirmative vote of six members shall be required to pass this motion.

~~1-1.017 — Motion to Reconsider.~~

XVII. MOTION TO RECONSIDER

If in the same meeting new information or changed situations make it appear that a different result might reflect the will of the Board, a member may move to reconsider the vote. A motion to reconsider may be applied to a vote that was either affirmative or negative and shall propose no specific change in a decision, but simply propose that the motion be reopened for discussion and re-vote. The motion to reconsider may be made by any member of the prevailing side of the vote. A second shall be required, and there may be discussion as to the reasons for reconsidering. An affirmative vote of six members shall be required to pass this motion.

~~1-1.018 — Motion to Rescind.~~

XVIII. MOTION TO RESCIND

If a Board member wishes to annul an action taken at a previous meeting, the motion to rescind may be used, subject to the restrictions in this rule. A request to annul an action

by a Board member is required to be noticed and placed on an agenda. The Board member making this request shall make a motion to rescind and a second is required. Discussion can go into the merits of the motion involved in rescinding. Once the previous action is rescinded by an affirmative vote of six members, the question of whether a further motion and vote is needed will depend on the circumstances.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

~~whether a further motion and vote is needed will depend on the circumstances.~~

~~1-1.019 Point of Order.~~

XIX. POINT OF ORDER

A member may call for a point of order if he/she believes that the Chairman has failed to notice a breach in the Rules. This point of order shall require the Chairman to make a ruling on the question involved. The General Counsel, or his/her designee in his/her absence, shall serve as parliamentarian and shall advise and assist the Chairman and the Board on matters of Board procedure.

~~1-1.020 Recess.~~

XX. RECESS

A recess may be taken as it appears on the agenda or at any time by the Chairman when he/she deems it advisable, or by a motion from a member. If the motion is made by a member, a second shall be required and an affirmative vote of six members is required.

~~Part III - Amendment, Review and Effective Date~~

~~1-1.021 Robert's Rules.~~

XXI. ROBERT'S RULES

The rules contained in the 11th edition of Robert's Rules of Order Newly Revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these Rules of Procedure for Board meetings, special rules of order the Board may adopt, and the laws of the State of Florida.

~~1-1.022 Amendments and Revisions.~~

XXII. AMENDMENTS AND REVISIONS

These rules may be amended or revised by an affirmative vote of six (6) or more members of the Board at a regular or special meeting.

~~1-1.023 Review.~~

XXIII. REVIEW

The Board shall institute a review of ~~the rules~~these Rules of Procedures at least every two years.

~~1-1.024 Effective Date, Repeal and Codification.~~

XXIV. EFFECTIVE DATE

These Rules of Procedure shall be effective upon adoption, and shall ~~be codified~~remain in effect unless otherwise amended or repealed.

ADOPTED this _____ day of August 2021.

Buddy Dyer
Board Chairman

ATTEST: _____
Mimi Lamaute
Board Services Coordinator

Approved as Chapter 1-1 of the
Authority's permanent rules to form and legality:

Diego "Woody" Rodriguez
General Counsel

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
RULES OF PROCEDURE FOR BOARD MEETINGS

TABLE OF CONTENTS

I. ORGANIZATION 2

II. PURPOSE..... 2

III. DEFINITIONS..... 2

IV. MEMBERSHIP & TERMS OF OFFICE 3

V. OFFICERS – TERM OF OFFICERS 3

VI. MEETINGS..... 3

VII. NOTICE 4

VIII. AGENDAS FOR REGULAR AND SPECIAL MEETINGS OR HEARINGS 4

IX. BOARD MEMBER MINUTES..... 6

X. QUORUM AND VOTING..... 6

XI. PUBLIC COMMENT 7

XII. COMMITTEES OF THE BOARD..... 8

XIII. MOTIONS TO BE STATED BY THE CHAIRMAN..... 8

XIV. MAIN MOTION 8

XV. MOTION TO AMEND 8

XVI. CALL THE QUESTION (PREVIOUS QUESTION) OR MOTION TO END
DISCUSSION/DEBATE 9

XVII. MOTION TO RECONSIDER..... 9

XVIII. MOTION TO RESCIND 9

XIX. POINT OF ORDER..... 9

XX. RECESS..... 10

XXI. ROBERT’S RULES 10

XXII. AMENDMENTS AND REVISIONS 10

XXIII. REVIEW..... 10

XXIV. EFFECTIVE DATE 10

I. ORGANIZATION

Pursuant to Section 348.754(2)(m), Florida Statutes (F.S), these Rules of Procedure are

approved by the governing Board of the Central Florida Expressway Authority and shall govern all proceedings of the Board except to the extent they may be inconsistent with Florida law in which case Florida law shall govern.

II. PURPOSE

The purpose of these Rules is to provide for the smooth and orderly functioning of the business of the Board and to facilitate an open exchange of ideas among Board members and between Board members and the public. Board members shall at all times observe and comply with the provisions of Florida's Government in the Sunshine Law, Section 286.011 F.S.

These rules shall not grant additional grounds or standing to challenge an action of the Board or CFX other than those grounds already existing in constitutional, statutory or case law.

III. DEFINITIONS

- (1) "CFX" shall mean the Central Florida Expressway Authority as created by Florida Statutes Chapter 348 Part III, Sections 348.751 et. seq.

CFX is legally classified as an independent special district under Chapter 189, F.S., and is listed as such by the Department of Economic Opportunity. Although CFX is designated as an "agency of the State" in its Enabling Act, it is not an executive branch agency. Instead, it is designated as an "agency of the State" because it shares certain powers conferred by law on other state governmental bodies.

- (2) "Board" shall mean the governing body for CFX, consisting of ten (10) members in accordance with Section 348.753(3), F.S.
- (3) "Chairman" shall mean the member of the Board elected by the Board to serve as Chairman. The Chairman shall be the presiding officer at all meetings of the Board except that in the Chairman's absence, the Vice-Chairman shall preside. The Chairman shall have all rights and privileges while he/she is presiding (e.g. the right to make motions, second motions, speak and vote), without relinquishing the chair.
- (4) "Vice-Chairman" shall mean the member of the Board elected by the Board to serve as Vice-Chairman. The Vice-Chairman shall preside at all meetings when the Chairman is not present or unable to serve.
- (5) "The Treasurer" shall mean the member of the board elected by the Board to serve as Treasurer. The Treasurer shall give a report each meeting as to CFX's expenditures.
- (6) The "Executive Director of Florida Turnpike Enterprise" is a non-voting advisor to the Board.
- (7) "Executive Assistant" shall be an employee of CFX to assist in the preparation and execution of documents and records.

IV. MEMBERSHIP & TERMS OF OFFICE

Membership and terms on the Board shall be as prescribed by Section 348.753(3), F.S.

Should the Chairman resign from Board services, become incapacitated or otherwise have his or her term expire; and the seat filled by another; the Vice-Chairman will assume the position of Chairman until a special election for Chairman is held at the first meeting following the expiration of the Chairman's term. If the Vice-Chairman, or Treasurer is elected Chairman, then an election shall be held for that position's successor.

The elected successor(s) will fill the unexpired portion of the term and be eligible for reappointment to a full term at the discretion of the Board at the regular elections in January.

V. OFFICERS – TERM OF OFFICERS

Officers for the position of Chairman, Vice-Chairman and Treasurer shall be elected by nomination and majority vote annually at the regular meeting held in January. If a regular meeting is not scheduled for January, officer nominations and elections shall take place in December or at the next regularly scheduled Board meeting.

VI. MEETINGS

A. Regular Meetings

The Board shall meet once each month, on the second Thursday of the month at 9:00 a.m. so long as there is business to conduct. All regular meetings shall be held at CFX's central office at 4974 ORL Tower Road, Orlando, Florida 32807. The date, time and place of meetings may be changed by the Board from time to time provided the notice requirements set forth below have been satisfied.

B. Special and Emergency Meetings

Special and Emergency Meetings may be called by:

- (1) the Chairman at his/her discretion or
- (2) in the absence or incapacity of the Chairman by the Vice Chairman or
- (3) by any six (6) or more Board members during a Board meeting or
- (4) at the discretion of the Executive Director upon a request from a Board member.

VII. NOTICE

A. Notice Required for Regular and Special Meetings or Hearings

- (1) Written notice of regular and special meetings or hearings shall be electronically mailed to each Board member at least seven (7) days prior to the meeting date. A copy of such notice shall be prominently displayed in the CFX offices and shall also be given by CFX to the appropriate persons at Orange County, Lake County, Osceola County, Seminole County, Brevard County and at the City of Orlando to be displayed in a prominent place in the various County Administration Buildings and at Orlando City Hall at least seven (7) days prior to the meeting.
- (2) In addition, pursuant to Section 189.015, F.S., CFX shall publish a schedule of its regular meetings which shall be filed in January of each year with Orange, Lake, Osceola, Seminole, Brevard counties and the City of Orlando. The schedule shall be published annually in January in a newspaper that meets the criteria in Section 50.011, F.S., in that portion of the newspaper where legal notices and classified advertisements appear.

B. Form of Notice for Regular and Special Meetings or Hearings

The notice for regular and special meetings or hearings shall state:

- (1) The date, time and place of the meeting.
- (2) A brief description of the purpose of the meeting and the business to be transacted.

C. Notice for Emergency Meetings or Emergency Hearings

By their very nature, Emergency Meetings and Emergency Hearings may preclude advance notice. However, reasonable efforts (electronic mail, telephone, fax and hand delivery) shall be made to notify all Board members in advance of the Emergency Meeting or Emergency Hearing. Reasonable efforts shall also be made prior to Emergency Meeting to provide notice by issuing press releases and to give notice to persons required to receive notice of CFX's meetings by electronic mail. The notice requirements in 1-1.007(1) and (2) above shall not apply to Emergency Meetings or Emergency Hearings. If practicable, notices shall be posted at CFX's offices, the Orange, Lake, Osceola, Seminole, and Brevard County Administration Buildings and Orlando City Hall. Following an Emergency Meeting or Emergency Hearing CFX shall forward to all persons entitled to receive notice of regular, annual and special meetings a notice of the date, time and place of the Emergency Meeting or Emergency Hearing, a statement explaining why it was held and the action taken. All actions taken at an Emergency Meeting or Emergency Hearing are void unless ratified by the Board at the next regular meeting.

VIII. AGENDAS FOR REGULAR AND SPECIAL MEETINGS OR HEARINGS

A. Advance Preparation Required

An agenda for each regular and special meeting or hearing shall be prepared by CFX sufficiently in advance of the meeting or hearing to ensure that an electronic copy of the agenda may be received seven (7) days before the meeting by all Board members and any person who has requested a copy and pays the reasonable cost thereof, if any.

B. Agenda Items

- (1) The Executive Director shall be responsible for preparing the agenda. Any Board member with an item to be placed on an agenda shall provide the item in writing, together with any backup information, to the Executive Director no later than 12:00 Noon on the eighth calendar day preceding the Board meeting. Such items shall be placed on the next upcoming meeting agenda unless the Board member agrees to a postponement or to withdraw the item. The Executive Director shall provide the Board members a reminder via electronic mail of the deadline date for the agenda items.
- (2) The Executive Director or any Board member may add an item to an agenda that has been made available to Board members and the public no later than noon on the third business day prior to the meeting date. The Executive Director shall provide an amended agenda electronically to the Board members.

C. Form of Agenda

The agenda shall list the items to be resolved at the meeting, in the order in which they are to be considered. For good cause stated, items may be taken out of order with the approval of the Chairman or presiding officer. The form of agenda shall be substantially as follows, subject to change from time to time by the Board:

DATE, TIME AND PLACE OF MEETING LOCATION

- (1) Call to order
- (2) Public Comment
- (3) Review and approval of Minutes of Preceding Meeting
- (4) Approval of Consent Agenda
- (5) Chairman's Report
- (6) Treasurer's Report
- (7) Executive Director's Report
- (8) Regular Agenda: Separate Motion

(9) Board member Comment

Notice that the meeting is open to the public and that any person who decides to appeal any decision made at the meeting will need a record of the proceedings and that for such purpose, may need to ensure that a verbatim record of the proceedings is made which record includes testimony and evidence upon which the appeal is to be based per Section 286.0105, F.S.

IX. BOARD MEMBER MINUTES

The Executive Assistant of CFX shall keep the official minutes of the Board, transcribe them into writing and have them approved at the next subsequent meeting. The minutes shall indicate who made each motion and how each Board member voted.

The minutes of each meeting of the Board, when approved, shall be the original and controlling record of the meeting. Before being submitted for approval, CFX staff shall provide the Board members a draft copy in advance of the next scheduled meeting.

X. QUORUM AND VOTING

A quorum at any meeting shall require the physical presence of at least six Board members. A quorum shall be required for the conducting of all official business. The vote of the majority of the members present at a meeting where a quorum exists (with at least six members casting an affirmative vote) shall be necessary for any action taken by the Board. Due to scheduling conflicts or illness a Board member may appear by telephone and vote on Board matters where a quorum is physically present not to exceed three meetings per calendar year. The participating absent Member must be able to hear all participants in the meeting and be heard by all participants.

A. Voice Votes; Roll Call Votes

Except as provided otherwise in this Section, all votes shall be taken by an “aye” or “no” vote (voice vote) unless it is determined by the Chairman or a Board member that a roll call vote would be in order.

- (1) A Roll call vote shall be taken by alphabetical order, with the Chairman voting last.
- (2) When a roll call vote is called, after the Chairman has made clear the motion, the Executive Assistant shall be directed to call the roll; no member shall be entitled to speak on the motion, nor shall any motion be in order until such roll call is completed, and the result announced by the Chairman.

B. Proper Voting

All voice votes shall be taken requesting those in favor to say “aye” and those

opposed to say “no.” A vote requesting those in favor to say “aye” and those opposed “like sign” (meaning “aye”) shall not be used.

C. Votes Required for Affirmative Action

Regardless of the number of Board members voting, an affirmative vote of six (6) members of the Board shall be required to pass any agenda item, Section 348.753(4)(a), F.S.

D. Abstentions

Neither the Chairman nor any other Board member who is present at any meeting of the Board at which an official decision, ruling, or other official act is to be taken or adopted may abstain from voting in regard to any decision, ruling, or act, and a vote shall be recorded for each such Board member present, except when, with respect to any such member, there is or appears to be a possible conflict of interest, in which case the Board member shall comply with Section 112.3143, F.S. or other applicable law.

XI. PUBLIC COMMENT

The right to be heard and the right to public input is hereby endorsed and adopted as follows: Any citizen has the right to appear before the Board on a non-agenda item or an agenda item for the presentation, adjustment or determination of an issue, matter or request within the Board’s authority and jurisdiction, so far as the orderly conduct of public business permits. Matters shall be reasonably scheduled for the convenience of the general public, so that the public may know when a matter has been scheduled.

Each speaker shall be limited to three minutes unless otherwise modified by the Chairman. No speaker may transfer or designate his or her time to another speaker. However, an organization may designate a single speaker to speak on behalf of a group of attendees. No additional time shall be provided to the designated speaker. The provisions of this subsection, however, shall not be construed to supersede, supplement, or modify any citizen participation process established in state law for public hearings before the Board, such as the procedures for quasi-judicial hearings. Nor shall the provisions of this subsection be used to avoid, supersede or modify the CFX’s procurement rules, including, but not limited to, the “protest process” and the “black-out period.”

CFX staff is directed to prepare the appropriate forms for a Public Comment Request by citizens which forms shall be made available both on CFX’s internet website and in the lobby area outside the Board’s meeting room. Only those speakers that are present and have submitted their completed form to the Recording Secretary at least 5 minutes prior to the scheduled start of the meeting will be called to speak.

Members of the public may also submit written comments in advance of the meeting on any

topic on the agenda. Comments on agenda items received during regular CFX business hours, at least 48 hours prior to the scheduled start time of the meeting, shall be included as part of the record.

The use of any audio or video presentation materials, such as PowerPoints, shall be submitted and received during regular CFX business hours, at least 48 hours prior to the scheduled start time of the meeting. CFX reserves the right to refuse any materials that do not meet technical specifications as specified by staff or are otherwise deemed inappropriate based on existing legal standards. All submissions become public records and may not be returned. Any member of the public seeking to distribute materials to Board Members at a public meeting shall provide the Recording Secretary with at least 13 copies of any materials at least 5 minutes prior to the scheduled start time of the meeting.

Speakers must be courteous and non-disruptive. If a person continues disruptive behavior after being asked to stop, the Chairman may take appropriate action.

XII. COMMITTEES OF THE BOARD

The Board may create standing committees for specific areas of CFX. The policies, procedures and appointment method shall be approved by the Board when a standing committee is created.

XIII. MOTIONS TO BE STATED BY THE CHAIRMAN

No motion or resolution shall be adopted until the motion or resolution, in substance, is stated by the Chairman.

XIV. MAIN MOTION

A main motion shall be a motion whose introduction brings business before the Board. A second is required.

XV. MOTION TO AMEND

If a member feels that the main motion might be more acceptable in another way, other than the way presented, the member may amend in either of the two ways presented:

A. By Consent of the Members

The Chairman, or another member through the Chairman, may ask if certain changes may be made to the motion. If there are no objections from the members, the motion will stand as changed (amended). If there are no objections, the second shall remain. (“No objection” implies that the person seconding the motion agrees.) The main motion shall then be as it was changed (or amended by general consent). If there is an objection from any member, a second to the amendment shall be required and a vote taken. There may be discussion to the amendment at that time, and an affirmative vote of six members shall be required to pass the amendment.

B. Formal Amendment

An amendment may be presented formally by moving to amend the motion in some way (e.g., insert, add words or paragraph, strike out words or paragraph, or strike out and insert words or paragraphs). If it is in the form of a formal motion to amend, a second shall be required and discussion shall follow on the amendment. If an amendment passes by an affirmative vote of six members, the main motion shall be the motion as amended. If it fails, the motion shall be the motion as it was before the amendment was presented.

XVI. CALL THE QUESTION (PREVIOUS QUESTION) OR MOTION TO END DISCUSSION/DEBATE

A member of the Board may “call the question” (a motion to end debate) when it is clear that further discussion is unnecessary. A second is required, and no discussion may be allowed on this motion. An affirmative vote of six members shall be required to pass this motion.

XVII. MOTION TO RECONSIDER

If in the same meeting new information or changed situations make it appear that a different result might reflect the will of the Board, a member may move to reconsider the vote. A motion to reconsider may be applied to a vote that was either affirmative or negative and shall propose no specific change in a decision, but simply propose that the motion be reopened for discussion and re-vote. The motion to reconsider may be made by any member of the prevailing side of the vote. A second shall be required, and there may be discussion as to the reasons for reconsidering. An affirmative vote of six members shall be required to pass this motion.

XVIII. MOTION TO RESCIND

If a Board member wishes to annul an action taken at a previous meeting, the motion to rescind may be used, subject to the restrictions in this rule. A request to annul an action by a Board member is required to be noticed and placed on an agenda. The Board member making this request shall make a motion to rescind and a second is required. Discussion can go into the merits of the motion involved in rescinding. Once the previous action is rescinded by an affirmative vote of six members, the question of whether a further motion and vote is needed will depend on the circumstances.

XIX. POINT OF ORDER

A member may call for a point of order if he/she believes that the Chairman has failed to notice a breach in the Rules. This point of order shall require the Chairman to make a ruling on the question involved. The General Counsel, or his/her designee in his/her absence, shall serve as parliamentarian and shall advise and assist the Chairman and the Board on matters of Board procedure.

XX. RECESS

A recess may be taken as it appears on the agenda or at any time by the Chairman when he/she deems it advisable, or by a motion from a member. If the motion is made by a member, a second shall be required and an affirmative vote of six members is required.

XXI. ROBERT'S RULES

The rules contained in the 11th edition of Robert's Rules of Order Newly Revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these Rules of Procedure for Board meetings, special rules of order the Board may adopt, and the laws of the State of Florida.

XXII. AMENDMENTS AND REVISIONS

These rules may be amended or revised by an affirmative vote of six (6) or more members of the Board at a regular or special meeting.

XXIII. REVIEW

The Board shall institute a review of these Rules of Procedures at least every two years.

XXIV. EFFECTIVE DATE

These Rules of Procedure shall be effective upon adoption and shall remain in effect unless otherwise amended or repealed.

ADOPTED this _____ day of August 2021.

Buddy Dyer
Board Chairman

ATTEST: _____
Mimi Lamaute
Board Services Coordinator

Approved as to form and legality:

Diego "Woody" Rodriguez
General Counsel

F. 2.



**CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY**



INVESTMENT POLICY

**Lisa Lombard, Chief Financial Officer and Scott Sweeten, Senior
Managing Consultant, PFM Asset Management, LLC**

— August 12, 2021 —

Purpose

- Define investment objectives and parameters for the management of public funds
- Ensure the prudent management of the funds
- Ensure availability of operating and capital funds when needed



Scope

- In accordance with Section 218.415, Florida Statutes (F.S.), this Policy applies to all cash and investments held or controlled by CFX
 - Identified as operating funds, reserve funds or bond funds
 - CFX's Master Bond Resolution permitted investments are included in the policy



Investment Objectives

- Safety of Principal
- Liquidity
- Return on Investment
 - Performance Measurements - Benchmarked against same market investors



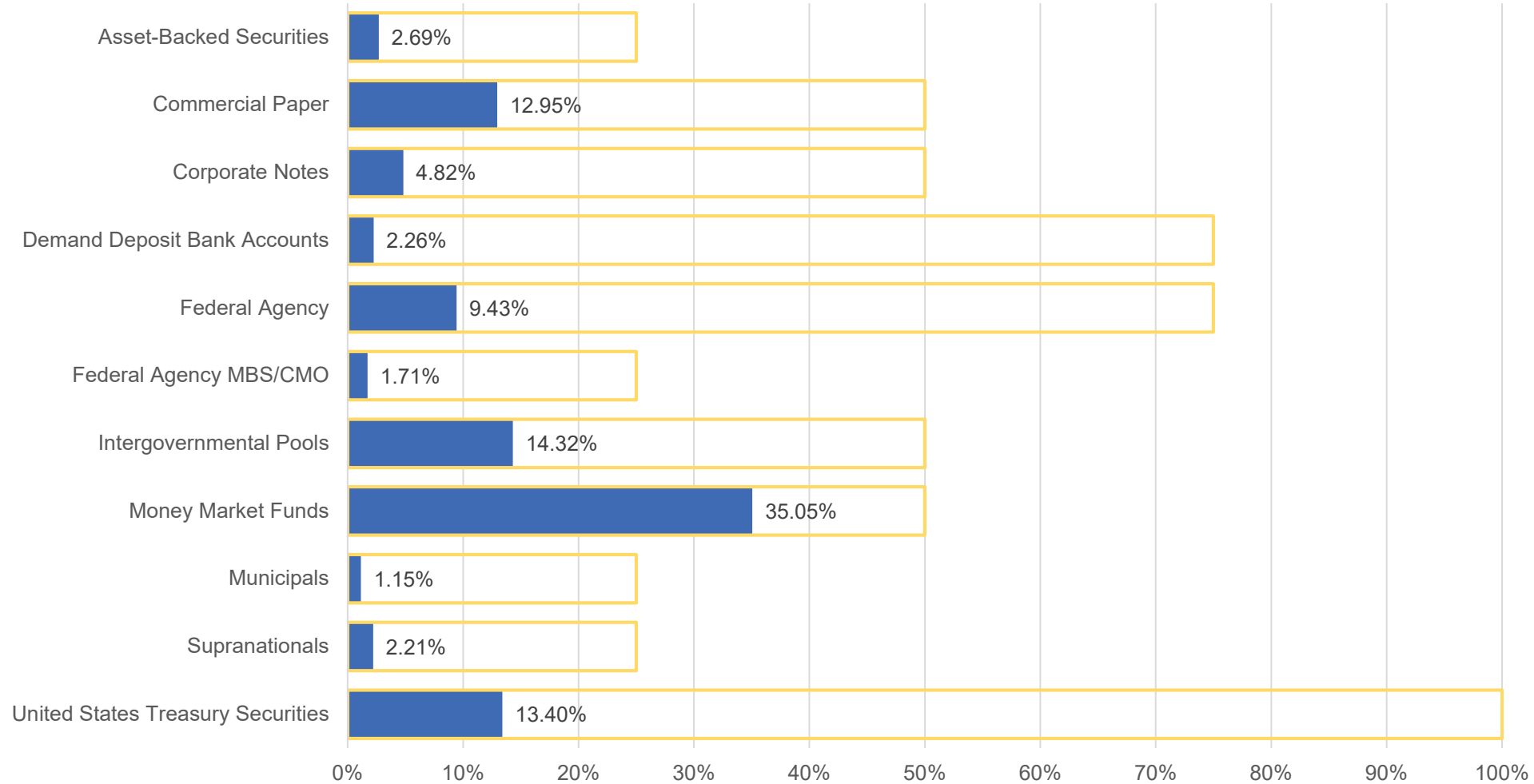
AUTHORIZED INVESTMENTS AND PORTFOLIO COMPOSITION

Sector	Sector Maximum	Per Issuer Maximum	Maximum Maturity	Master Bond Resolution Permitted Investments
U.S. Treasury	100%	100%	5.50 Years (5.50 Years avg. life for GNMA)	X
GNMA		40%		X
Other U.S. Government Guaranteed		10%		X
Federal Agency/GSE: FNMA, FHLMC, FHLB, FFCB	75%	40% ³	5.50 Years	X
Federal Agency/GSE other than those above		10%		X
Supranationals where U.S. is a shareholder and voting member	25%	10%	5.50 Years	
Corporates	50%	5%	5.50 Years	
Municipals	25%	5%	5.50 Years	X
Agency Mortgage-Backed Securities	25%	40%	5.50 Years Avg. Life	
Asset-Backed Securities	25%	5%	5.50 Years Avg. Life	

AUTHORIZED INVESTMENTS AND PORTFOLIO COMPOSITION

Sector	Sector Maximum	Per Issuer Maximum	Maximum Maturity	Master Bond Resolution Permitted Investments
Depository Accounts with Qualified Public Depositories	75%	50%	N/A	X
Non-Negotiable Collateralized Bank Deposits or Savings Accounts	50%	None, if fully collateralized	2 Years	X
Commercial Paper	50%	5%	270 Days	X
Bankers' Acceptances	10%	5%	180 Days	X
Repurchase Agreements	40%	20%	1 Year	X
Money Market Funds	50%	25%	N/A	X
Fixed-Income Mutual Funds and ETFs	25%	10%	3 Years	
Intergovernmental Pools	50%	25%	N/A	
Florida Local Government Surplus Funds Trust Funds	25%	N/A	N/A	X

CFX Asset Allocation as of June 30, 2021



Recommended Motion

Adoption of Central Florida Expressway Authority's Investment Policy as presented.

**CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY**



**CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY**



I. PURPOSE

The purpose of this Investment Policy (hereinafter "Policy") is to set forth the investment objectives and parameters for the management of public funds of the Central Florida Expressway Authority (hereinafter "CFX"). These policies are designed to ensure the prudent management of public funds by CFX, the availability of operating and capital funds when needed by CFX and an investment return for CFX competitive with comparable funds and financial market indices.

II. SCOPE

In accordance with Section 218.415, Florida Statutes (F.S.), this Policy applies to all cash and investments held or controlled by CFX and shall be identified as operating funds, reserve funds or bond funds of CFX (the "Portfolio"). In connection with the investment of proceeds of bonds issued by CFX, CFX's master bond resolution permitted investments are included in the authorized investments in Section XV of this Policy.

III. INVESTMENT OBJECTIVES

A. Safety of Principal

The foremost objective of CFX's investment program is the safety of the principal of those funds within the Portfolio. Investment transactions shall seek to be consistent with the other investment objectives, which are to keep capital losses at a minimum, whether they are from securities defaults or erosion of market value. To attain this objective, CFX will maintain a diversified portfolio so that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

B. Maintenance of Liquidity

The Portfolio shall be managed in such a manner that funds are available to meet reasonably anticipated cash flow requirements of CFX in an orderly manner. Periodic cash flow analyses will be completed in order to ensure that the Portfolio is positioned to provide sufficient liquidity.

C. Return on Investment

The Portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of least importance compared to the safety and liquidity objectives described above. However, return is attempted through active management where the Investment Manager utilizes a total return strategy (which includes both realized and unrealized gains and losses in the Portfolio). This total return strategy seeks to increase the value of the Portfolio through reinvestment of income and capital gains. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Despite this, an Investment Manager may trade to recognize a loss from time to time to achieve a perceived relative value based on its potential to enhance the total return of the Portfolio.

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IV. DELEGATION OF AUTHORITY

In accordance with CFX’s administrative policies, the responsibility for providing oversight and direction in regard to the management of the investment program and the Portfolio resides with CFX’s Finance Committee. The Executive Director and Chief Financial Officer of CFX have the ultimate authority and responsibility for the investment program and the management of the Portfolio. The management responsibility for all Authority funds in the Portfolio and investment transactions is delegated to CFX’s Chief Financial Officer and Authorized Staff members. The Chief Financial Officer shall account for all Authority funds in the Portfolio. The Chief Financial Officer shall establish written procedures for the operation of the investment portfolio and a system of internal accounting and administrative controls to regulate the activities of employees. CFX may employ an investment manager (an “Investment Manager”), to assist in managing the Portfolios. Such Investment Manager must be registered under the Investment Advisers Act of 1940. The Chief Financial Officer shall be responsible for monitoring and regulating the activities of Authorized Staff and the Investment Manager involved with the investment program. The Authorized Staff is limited to the following positions:

- Chief Financial Officer
- Director of Accounting and Finance
- Manager of Accounting and Finance

V. STANDARDS OF PRUDENCE

The standard of prudence to be used by the Authorized Staff shall be the “Prudent Person” standard and shall be applied in the context of managing the Portfolio. Authorized Staff acting in accordance with written procedures and this Policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided deviations from expectation are reported in a timely fashion to the Executive Director and Finance Committee and that the securities involved are liquidated or sold accordance with the terms of this policy. The “Prudent Person” rule states the following:

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived from the investment. Section 218.415(4) F.S.

While the standard of prudence to be used by Authorized Staff who are officers or employees is the “Prudent Person” standard, any person or firm hired or retained as an Investment Manager, or otherwise retained to invest, monitor, or advise concerning these assets shall be held to the higher standard of “Prudent Expert”. The standard shall be that in investing and reinvesting moneys and in acquiring, retaining, managing, and disposing of investments of these funds, the Investment Manager shall exercise the judgment, care, skill, prudence, and diligence under the circumstances then prevailing, which persons of prudence, discretion, and intelligence, acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like

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aims by diversifying the investments of the funds, so as to minimize the risk, considering the probable income as well as the probable safety of their capital.

VI. ETHICS AND CONFLICTS OF INTEREST

Authorized Staff involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

Also, Authorized Staff or other employees involved in the investment process shall disclose in writing to CFX and the Board any material financial interests in financial institutions that conduct business with the Board, and they shall further disclose any material personal financial/investment positions that could be related to the performance of CFX's Portfolio.

VII. INTERNAL CONTROLS AND INVESTMENT PROCEDURES

The Chief Financial Officer shall establish a system of internal controls and operational procedures to protect CFX's assets, including the Portfolio, and ensure proper accounting and reporting of the transactions related thereto. No person may engage in an investment transaction except as authorized under the terms of this Policy. Independent auditors shall conduct a review of the system of internal controls with respect to, among other things, the Portfolio and the investment thereof as a normal part of the annual financial audit of CFX. Such internal controls shall include, but not limited to, the following:

Separation of functions:

By separating the person who authorizes or performs the transaction from the person or persons who record or otherwise account for the transaction, a proper separation of duties is achieved.

Custodial safekeeping:

Securities purchased from any bank or dealer, including appropriate collateral, shall be placed into a third party bank for custodial safekeeping.

Clear delegation of authority to subordinate staff members:

Subordinate staff must have a clear understanding of their authority and responsibilities to avoid any improper actions. Clear delegation of authority also preserves the internal control structure that is built around the various staff positions and their respective responsibilities.

Written confirmation of electronically initiated transactions for investments and wire transfers:

Due to the potential for error and improprieties arising from telephone or other electronically initiated transactions, all such transactions should be supported by written communications and approved by an individual other than the individual initiating said transaction. Repetitive

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wires do not require a secondary approval; however, all non-repetitive wires shall have secondary approval.

Documentation of transactions and strategies:

All transactions and the strategies that were used to develop said transactions should be documented in writing and approved by the appropriate person.

CONTINUING EDUCATION

The Chief Financial Officer and appropriate Authorized Staff shall annually complete 8 hours of continuing education in subjects or courses of study related to investment practices and products, pursuant to Section 218.415(14) F.S.

IX. AUTHORIZED INVESTMENT INSTITUTIONS AND DEALERS

Authorized Staff shall only purchase securities from financial institutions, which are qualified as public depositories by the Treasurer, or Chief Financial Officer of the State of Florida, institutions designated as "Primary Dealers" as designated by the Federal Reserve Bank of New York, direct issuers of commercial paper and bankers' acceptances, approved non-primary dealers, or Minority/Women Disadvantaged Business Enterprise ("M/WBE") securities dealers. The Investment Manager shall utilize and maintain its own list of approved primary dealers, non-primary dealers and M/WBE securities dealers. The Investment Manager will provide a quarterly report to CFX detailing the M/WBE trading activity.

Authorized Staff and Investment Manager shall only enter into Repurchase agreements with "Primary Dealers" as designated by the Federal Reserve Bank of New York and financial institutions that are state qualified public depositories.

X. MATURITY AND LIQUIDITY REQUIREMENTS

To the extent possible, an attempt will be made to match investment maturities with known cash needs and anticipated cash flow requirements of CFX.

A. Maturity Guidelines

Investments of current operating funds shall have maturities of no longer than twenty-four (24) months. The purchase of investments for core funds with maturities longer than five and a half (5.50) years requires CFX's approval prior to purchase. However, final maximum maturity for any investment is limited to ten (10) years. The maturities of the underlying securities of a repurchase agreement will follow the requirements of the Securities Industry and Financial Markets Association (SIFMA) Master Repurchase Agreements.

B. Liquidity Requirements

Investments of bond reserves, construction funds, and other non-operating funds ("core funds") shall have a term appropriate to the need for funds and in accordance with debt covenants.

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XI. RISK AND DIVERSIFICATION

The Portfolio shall be diversified to control risks resulting from over concentration of assets in a specific maturity, issuer, instrument, dealer, or bank through which these securities are bought and sold. The Chief Financial Officer shall determine diversification strategies within the established guidelines.

XII. MASTER REPURCHASE AGREEMENT

CFX will require all approved institutions and dealers transacting repurchase agreements to execute and perform as stated in the SIFMA Master Repurchase Agreement. All repurchase agreement transactions will adhere to requirements of the SIFMA Master Repurchase Agreement.

XIII. DERIVATIVES AND REVERSE REPURCHASE AGREEMENTS

Investment in any derivative products or the use of reverse repurchase agreements is specifically prohibited by this investment policy, unless permitted in Section XV of this Policy. A “derivative” is defined as a financial instrument the value of which depends on, or is derived from, the value of one or more underlying assets or indices or asset values. However, for the purpose of a financing mechanism for funding CFX’s Five-Year Work Plan, derivatives are permitted. Please refer to CFX’s Swap Policy.

XIV. COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS

After the Investment Manager or the Chief Financial Officer has determined the approximate maturity date based on cash flow needs and market conditions and has analyzed and selected one or more optimal types of investments, a minimum of three (3) reputable, qualified, and financially sound banks and/or dealers must be contacted and asked to provide bids on securities in questions. Bids will be held in confidence until the bid deemed to best meet the investment objectives is determined and selected.

However, on an exception basis, securities may be purchased utilizing the comparison to current market price method. Acceptable current market price providers include, but are not limited to:

- A. TradeWeb,
- B. Bloomberg Information Systems,
- C. The Wall Street Journal or a comparable nationally recognized financial publication providing daily market pricing,
- D. Daily market pricing provided by CFX’s custody agents or their correspondent institutions,
- E. Such other current market price provider that the Investment Manager shall recommend to CFX as a regular provider of such information.

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Selection by comparison to a current market price, as indicated above, shall only be utilized when, in judgment of the Investment Manager, CFX, or Chief Financial Officer, competitive bidding would inhibit the selection process.

Examples of when this method may be used include:

- A. When time constraints due to unusual circumstances preclude the use of the competitive bidding process.
- B. When no active market exists for the issue being traded due to the age or depth of the issue.
- C. When a security is unique to a single dealer, for example, a private placement.
- D. When the transaction involves new issues or issues in the "when issued" market.

Overnight sweep repurchase agreements will not be bid but may be placed with the depository bank relating to the demand account for which the repurchase agreement was purchased.

XV. AUTHORIZED INVESTMENTS AND PORTFOLIO COMPOSITION

Investments should be made subject to the cash flow needs and such cash flows are subject to revisions as market conditions and CFX's needs change. However, when the invested funds are needed in whole or in part for the purpose originally intended or for more optimal investments, Authorized Staff may sell an investment at the then-prevailing market price and place the proceeds into the proper account at the Board's custodian.

The following are the guidelines for investments and limits on security types, issuers, and maturities as established by CFX. CFX or the Chief Financial Officer shall have the option to further restrict investment percentages from time to time based on market conditions, risk, and diversification investment strategies. The percentage allocations requirements for investment types and issuers are calculated based on the original cost of each investment, at the time of purchase. Investments not listed in this Policy are prohibited. The following is a summary table of the permitted investments and their respective allocation limits. The allocation limits are for non-bond proceeds.

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Permitted Investments

Sector	Sector Maximum (%)	Per Issuer Maximum (%)	Minimum Ratings Requirement ¹	Maximum Maturity	Master Bond Resolution Permitted Investments
U.S. Treasury		100%		5.50 Years	X
GNMA		40%		(5.50	X
Other U.S. Government Guaranteed (e.g. AID, GTC)	100%	10%	N/A	Years avg. life ⁴ for GNMA)	X
Federal Agency/GSE: FNMA, FHLMC, FHLB, FFCB*		40% ³			X
Federal Agency/GSE other than those above	75%	10%	N/A	5.50 Years	X
Supranationals where U.S. is a shareholder and voting member	25%	10%	Highest ST or Two Highest LT Rating Categories (A-1/P-1, AAA/Aaa, or equivalent)	5.50 Years	
Corporates	50% ²	5%	Highest ST or Three Highest LT Rating Categories (A-1/P-1, A-/A3 or equivalent)	5.50 Years	
Municipals	25%	5%	Highest ST or Three Highest LT Rating Categories (SP-1/MIG-1, A-/A3, or equivalent)	5.50 Years	X
Agency Mortgage-Backed Securities (MBS)	25%	40% ³	N/A	5.50 Years Avg. Life ⁴	
Asset-Backed Securities (ABS)	25%	5%	Highest ST or LT Rating (A-1+/P-1, AAA/Aaa, or equivalent)	5.50 Years Avg. Life ⁴	
Depository Accounts with Qualified Public Depositories	75%	50%	N/A	N/A	X
Non-Negotiable Collateralized Bank Deposits or Savings Accounts	50%	None, if fully collateralized	None, if fully collateralized.	2 Years	X

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Sector	Sector Maximum (%)	Per Issuer Maximum (%)	Minimum Ratings Requirement ¹	Maximum Maturity	Master Bond Resolution Permitted Investments
Commercial Paper (CP)	50% ²	5%	Highest ST Rating Category (A-1/P-1, or equivalent)	270-Days	X
Bankers' Acceptances (BAs)	10% ²	5%	Highest ST Rating Category (A-1/P-1, or equivalent)	180-Days	X
Repurchase Agreements (Repo or RP)	40%	20%	Counterparty (or if the counterparty is not rated by an NRSRO, then the counterparty's parent) must be rated in the Highest ST Rating Category (A-1/P-1, or equivalent) If the counterparty is a Federal Reserve Bank, no rating is required	1 Year	X
Money Market Funds (MMFs)	50%	25%	Highest Fund Rating by all NRSROs who rate the fund (AAAm/Aaa-mf, or equivalent)	N/A	X
Fixed-Income Mutual Funds and ETFs	25%	10%	N/A	3-Years	
Intergovernmental Pools (LGIPs)	50%	25%	Highest Fund Quality and Volatility Rating Categories by all NRSROs who rate the LGIP, (AAAm/AAAf, S1, or equivalent)	N/A	
Florida Local Government Surplus Funds Trust Funds ("Florida Prime")	25%	N/A	Highest Fund Rating by all NRSROs who rate the fund (AAAm/Aaa-mf, or equivalent)	N/A	X

Notes:

¹ Rating by at least one SEC-registered Nationally Recognized Statistical Rating Organization ("NRSRO"), unless otherwise noted. ST=Short-term; LT=Long-term.

² Maximum allocation to all corporate and bank credit instruments is 50% combined.

³ Maximum exposure to any one Federal agency, including the combined holdings of Agency debt and Agency MBS, is 40%.

⁴ The maturity limit for MBS and ABS is based on the expected average life at time of settlement, measured using Bloomberg or other industry standard methods.

* Federal National Mortgage Association (FNMA); Federal Home Loan Mortgage Corporation (FHLMC); Federal Home Loan Bank or its District banks (FHLB); Federal Farm Credit Bank (FFCB).

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- 1) **U.S. Treasury & Government Guaranteed** - U.S. Treasury obligations, and obligations the principal and interest of which are backed or guaranteed by the full faith and credit of the U.S. Government.
- 2) **Federal Agency/GSE** - Debt obligations, participations or other instruments issued or fully guaranteed by any U.S. Federal agency, instrumentality or government-sponsored enterprise (GSE).
- 3) **Supranationals** – U.S. dollar denominated debt obligations of a multilateral organization of governments, which are U.S. Federal Instrumentalities, where U.S. is a shareholder and voting member.
- 4) **Corporates** – U.S. dollar denominated corporate notes, bonds or other debt obligations issued or guaranteed by a domestic or foreign corporation, financial institution, non-profit, or other entity.
- 5) **Municipals** – Obligations, including both taxable and tax-exempt, issued or guaranteed by any State, territory or possession of the United States, political subdivision, public corporation, authority, agency board, instrumentality or other unit of local government of any State or territory.
- 6) **Agency Mortgage Backed Securities** - Mortgage-backed securities (MBS), backed by residential, multi-family or commercial mortgages, that are issued or fully guaranteed as to principal and interest by a U.S. Federal agency or government sponsored enterprise, including but not limited to pass-throughs, collateralized mortgage obligations (CMOs) and REMICs.
- 7) **Asset-Backed Securities** - Asset-backed securities (ABS) whose underlying collateral consists of loans, leases or receivables, including but not limited to auto loans/leases, credit card receivables, student loans, equipment loans/leases, or home-equity loans.
- 8) **Depository Accounts with Qualified Public Depositories** - Banks organized under the laws of this state and/or in national banks organized under the laws of the United States and doing business and situated in this state, provided that any such deposits are secured by the Florida Security for Public Deposits Act, Chapter 280, F.S.
- 9) **Non-Negotiable Certificate of Deposit and Savings Accounts** - Non-negotiable interest bearing time certificates of deposit, or savings accounts in banks organized under the laws of this state or in national banks organized under the laws of the United States and doing business in this state, provided that any such deposits are secured by the Florida Security for Public Deposits Act, Chapter 280, F.S.
- 10) **Commercial Paper** – U.S. dollar denominated commercial paper issued or guaranteed by a domestic or foreign corporation, company, financial institution, trust or other entity, including both unsecured debt and asset-backed programs.
- 11) **Bankers' Acceptances** - Bankers' acceptances issued, drawn on, or guaranteed by a U.S. bank or U.S. branch of a foreign bank.

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12) **Repurchase Agreements** - Repurchase agreements (Repo or RP) that meet the following requirements:

- a. Must be governed by a written SIFMA Master Repurchase Agreement which specifies securities eligible for purchase and resale, and which provides the unconditional right to liquidate the underlying securities should the Counterparty default or fail to provide full timely repayment.
- b. Counterparty must be a Federal Reserve Bank, a Primary Dealer as designated by the Federal Reserve Bank of New York, or a nationally chartered commercial bank.
- c. Securities underlying repurchase agreements must be delivered to a third party custodian under a written custodial agreement and may be of deliverable or tri-party form. Securities must be held in CFX's custodial account or in a separate account in the name of CFX.
- d. Acceptable underlying securities include only securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States, or U.S. Agency-backed mortgage related securities.
- e. Underlying securities must have an aggregate current market value of at least 102% (or 100% if the counterparty is a Federal Reserve Bank) of the purchase price plus current accrued price differential at the close of each business day.
- f. Final term of the agreement must be 1 year or less.

13) **Money Market Funds** - Shares in open-end and no-load money market mutual funds, provided such funds are registered under the Investment Company Act of 1940 and operate in accordance with Rule 2a-7.

A thorough investigation of any money market fund is required prior to investing, and on an annual basis. Attachment B is a questionnaire that contains a list of questions, to be answered prior to investing, that cover the major aspects of any investment pool/fund. A current prospectus must be obtained.

14) **Fixed-Income Mutual Funds and ETFs** - Shares in open-end and no-load mutual funds or exchange-traded funds (ETFs) whose stated offering investment strategy is to invest in investment grade fixed-income securities.

15) **Local Government Investment Pools** - State, local government or privately-sponsored investment pools that are authorized pursuant to state law.

A thorough investigation of any intergovernmental investment pool is required prior to investing, and on an annual basis. Attachment B is a questionnaire that contains a list of questions, to be answered prior to investing, that cover the major aspects of any investment pool/fund. A current prospectus must be obtained.

16) **The Florida Local Government Surplus Funds Trust Funds ("Florida Prime")** A thorough investigation of the Florida Prime is required prior to investing, and on an annual basis. Attachment B is a questionnaire that contains a list of questions, to be answered prior to

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investing, that cover the major aspects of any investment pool/fund. A current prospectus or portfolio report must be obtained.

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Investment Policy

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General Investment and Portfolio Limits

1. General investment limitations:

- a. Investments must be denominated in U.S. dollars and issued for legal sale in U.S. markets.
- b. Minimum ratings are based on the highest rating by any one Nationally Recognized Statistical Ratings Organization (“NRSRO”), unless otherwise specified.
- c. All limits and rating requirements apply at time of purchase.
- d. Should a security fall below the minimum credit rating requirement for purchase, the Investment Advisor will notify the Chief Financial Officer.
- e. The maximum maturity (or average life for MBS/ABS) of any investment is 5.50 years. Maturity and average life are measured from settlement date. The final maturity date can be based on any mandatory call, put, pre-refunding date, or other mandatory redemption date.

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2. General portfolio limitations:

- a. The maximum effective duration of the aggregate portfolio is 3 years.
- b. Maximum exposure to issuers in any non-U.S. country cannot exceed 10 percent per country.

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3. Investment in the following are permitted, provided they meet all other policy requirements:

- a. Callable, step-up callable, called, pre-refunded, puttable and extendable securities, as long as the effective final maturity meets the maturity limits for the sector
- b. Variable-rate and floating-rate securities
- c. Subordinated, secured and covered debt, if it meets the ratings requirements for the sector
- d. Zero coupon issues and strips, excluding agency mortgage-backed Interest-only structures (I/Os)
- e. Treasury TIPS

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4. The following are **NOT PERMITTED** investments, unless specifically authorized by statute and with prior approval of the governing body:

- a. Trading for speculation
- b. Derivatives (other than callables and traditional floating or variable-rate instruments)
- c. Mortgage-backed interest-only structures (I/Os)
- d. Inverse or leveraged floating-rate and variable-rate instruments
- e. Currency, equity, index and event-linked notes (e.g. range notes), or other structures that could return less than par at maturity
- f. Private placements and direct loans, except as may be legally permitted by Rule 144A or commercial paper issued under a 4(2) exemption from registration
- g. Convertible, high yield, and non-U.S. dollar denominated debt
- h. Short sales
- i. Use of leverage

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- j. Futures and options
- k. Mutual funds, other than fixed-income mutual funds and ETFs, and money market funds
- l. Equities, commodities, currencies and hard assets

XVI. PERFORMANCE MEASUREMENTS

In order to assist in the evaluation of the portfolio's performance, CFX will use performance benchmarks. The use of benchmarks will allow CFX to measure its returns against other investors in the same markets.

- A. The S&P Rated GIP Index Government 30 Day Gross Yield Index will be used as a benchmark as compared to the portfolios' net book value rate of return for current operating funds.
- B. Investment performance of funds designated as reserve funds and other non-operating funds (core funds) that have a longer-term investment horizon will be compared to the Bank of America Merrill Lynch 1-3 Year U.S. Treasury/Agency Index. This index has a duration and asset mix that is similar to the Portfolio and will be utilized as a benchmark to be compared to the Portfolio's total rate of return.

XVII. REPORTING

The Chief Financial Officer and/or Investment Manager shall provide the Executive Director and the Finance Committee with at least quarterly investment reports. Schedules in the quarterly report should include the following:

- A. A listing of individual securities held at the end of the reporting period
- B. Percentage of available funds represented by each investment type
- C. Coupon, discount or earning rate
- D. Final maturity date of all investments
- E. Book value and market value

On an annual basis, the Investment Manager shall prepare and submit to the Finance Committee a written report on all invested funds. The annual report shall provide all, but not limited to, the following: a complete list of all invested funds, name or type of security in which the funds are invested, the amount invested, the maturity date, earned income, the book value, the market value and the yield on each investment.

The annual report will show performance on both a book value and total rate of return basis when required and will compare the results to the above-stated performance benchmarks. All investments

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shall be reported at fair value per GASB standards. Investment reports shall be available to the public.

XVIII. THIRD-PARTY CUSTODIAL AGREEMENTS

All securities, with the exception of certificates of deposits, shall be held with a third-party custodian; and all securities purchased by, and all collateral obtained by; CFX should be properly designated as an asset of CFX. The securities must be held in an account separate and apart from the assets of the financial institution. A third party custodian is defined as any bank depository chartered by the Federal Government, the State of Florida, or any other state or territory of the United States which has a branch or principal place of business in the State of Florida as defined in Section 658.12, F.S., or by a national association organized and existing under the laws of the United States which is authorized to accept and execute trusts and which is doing business in the State of Florida. Certificates of deposits will be placed in the provider's safekeeping department for the term of the deposit.

CFX will execute a third-party custodial agreement(s) with its bank(s) and depository institution(s). Such agreements may include letters of authority from CFX, details as to the responsibilities of each party, method of notification of security purchases, sales and delivery procedures related to repurchase agreements and wire transfers, safekeeping and transaction costs, procedures in case of wire failure or other unforeseen mishaps and describing the liability of each party.

The custodian shall accept transaction instructions only from those persons who have been duly authorized by CFX and which authorization has been provided, in writing, to the custodian. No withdrawal of securities, in whole or in part, shall be made from safekeeping, shall be permitted unless by such a duly authorized person.

The custodian shall provide CFX with safekeeping receipts that provide detail information on the securities held by the custodian. Security transactions between a broker/dealer and the custodian involving the purchase or sale of securities by transfer of money or securities must be made on a "delivery vs. payment" basis, if applicable, to ensure that the custodian will have the security or money, as appropriate, in hand at the conclusion of the transaction. Securities held as collateral shall be held free and clear of any liens.

XIX. POLICY REVIEW

The Chief Financial Officer, Executive Director and the Finance Committee shall review the policy every two years and shall submit any proposed modifications to the Board for approval. If there are no recommended changes, the policy need not be resubmitted to the Board and remains in effect.

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XIX. INVESTMENT

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ADOPTED this _____ day of August 2021.

Buddy Dyer
Board Chairman

ATTEST:

Mimi Lamaute
Board Services Coordinator

Approved as to form and legality:

Diego "Woody" Rodriguez
General Counsel

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ATTACHMENT A - Glossary of Cash and Investment Management Terms

The following is a glossary of key investing terms, many of which appear in CFX’s Investment Policy. This glossary clarifies the meaning of investment terms generally used in cash and investment management. This glossary has been adapted from the GFOA Sample Investment Policy and the Association of Public Treasurers of the United States and Canada’s Model Investment Policy.

Accrued Interest. Interest earned but which has not yet been paid or received.

Agency. See "Federal Agency Securities."

Ask Price. Price at which a broker/dealer offers to sell a security to an investor. Also known as “offered price.”

Asset Backed Securities (ABS). A fixed-income security backed by notes or receivables against assets other than real estate. Generally issued by special purpose companies that “own” the assets and issue the ABS. Examples include securities backed by auto loans, credit card receivables, home equity loans, manufactured housing loans, farm equipment loans, and aircraft leases.

Average Life. The average length of time that an issue of serial bonds and/or term bonds with a mandatory sinking fund feature is expected to be outstanding.

Bankers' Acceptance (BA's). A draft or bill of exchange drawn upon and accepted by a bank. Frequently used to finance shipping of international goods. Used as a short-term credit instrument, bankers' acceptances are traded at a discount from face value as a money market instrument in the secondary market on the basis of the credit quality of the guaranteeing bank.

Basis Point. One hundredth of one percent, or 0.01%. Thus 1% equals 100 basis points.

Bearer Security. A security whose ownership is determined by the holder of the physical security. Typically, there is no registration on the issuer’s books. Title to bearer securities is transferred by delivery of the physical security or certificate. Also known as “physical securities.”

Benchmark Bills: In November 1999, FNMA introduced its Benchmark Bills program, a short-term debt securities issuance program to supplement its existing discount note program. The program includes a schedule of larger, weekly issues in three- and six-month maturities and biweekly issues in one-year for Benchmark Bills. Each issue is brought to market via a Dutch (single price) auction. FNMA conducts a weekly auction for each Benchmark Bill maturity and accepts both competitive and non-competitive bids through a web based auction system. This program is in addition to the variety of other discount note maturities, with rates posted on a daily basis, which FNMA offers. FNMA's Benchmark Bills are unsecured general obligations that are issued in book-entry form through the Federal Reserve Banks. There are no periodic payments of interest on Benchmark Bills, which are sold at a discount from the principal amount and payable at par at maturity. Issues under the Benchmark program constitute the same credit standing as other FNMA discount notes; they simply add organization and liquidity to the short-term Agency discount note market.

Benchmark Notes/Bonds: Benchmark Notes and Bonds are a series of FNMA “bullet” maturities (non-callable) issued according to a pre-announced calendar. Under its Benchmark Notes/Bonds program, 2, 3, 5, 10, and 30-year maturities are issued each quarter. Each Benchmark Notes new issue

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has a minimum size of \$4 billion, 30-year new issues having a minimum size of \$1 billion, with re-openings based on investor demand to further enhance liquidity. The amount of non-callable issuance has allowed FNMA to build a yield curve in Benchmark Notes and Bonds in maturities ranging from 2 to 30 years. The liquidity emanating from these large size issues has facilitated favorable financing opportunities through the development of a liquid overnight and term repo market. Issues under the Benchmark program constitute the same credit standing as other FNMA issues; they simply add organization and liquidity to the intermediate- and long-term Agency market.

Benchmark. A market index used as a comparative basis for measuring the performance of an investment portfolio. A performance benchmark should represent a close correlation to investment guidelines, risk tolerance, and duration of the actual portfolio's investments.

Bid Price. Price at which a broker/dealer offers to purchase a security from an investor.

Bond. Financial obligation for which the issuer promises to pay the bondholder (the purchaser or owner of the bond) a specified stream of future cash-flows, including periodic interest payments and a principal repayment.

Book Entry Securities. Securities that are recorded in a customer's account electronically through one of the financial markets electronic delivery and custody systems, such as the Fed Securities wire, DTC, and PTC

(as opposed to bearer or physical securities). The trend is toward a certificate-free society in order to cut down on paperwork and to diminish investors' concerns about the certificates themselves. The vast majority of securities are now book entry securities.

Book Value. The value at which a debt security is reflected on the holder's records at any point in time. Book value is also called "amortized cost" as it represents the original cost of an investment adjusted for amortization of premium or accretion of discount. Also called "carrying value." Book value can vary over time as an investment approaches maturity and differs from "market value" in that it is not affected by changes in market interest rates.

Broker/Dealer. A person or firm transacting securities business with customers. A "broker" acts as an agent between buyers and sellers, and receives a commission for these services. A "dealer" buys and sells financial assets from its own portfolio. A dealer takes risk by owning inventory of securities, whereas a broker merely matches up buyers and sellers. See also "Primary Dealer."

Bullet Notes/Bonds. Notes or bonds that have a single maturity date and are non-callable.

Call Date. Date at which a call option may be or is exercised.

Call Option. The right, but not the obligation, of an issuer of a security to redeem a security at a specified value and at a specified date or dates prior to its stated maturity date. Most fixed-income calls are a par, but can be at any previously established price. Securities issued with a call provision typically carry a higher yield than similar securities issued without a call feature. There are three primary types of call options (1) European - one-time calls, (2) Bermudan - periodically on a predetermined schedule (quarterly, semi-annual, annual), and (3) American - continuously callable at any time on or after the call date. There is usually a notice period of at least 5 business days prior to a call date.

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Callable Bonds/Notes. Securities which contain an imbedded call option giving the issuer the right to redeem the securities prior to maturity at a predetermined price and time.

Certificate of Deposit (CD). Bank obligation issued by a financial institution generally offering a fixed rate of return (coupon) for a specified period of time (maturity). Can be as long as 10 years to maturity, but most CDs purchased by public agencies are one year and under.

Collateral. Investment securities or other property that a borrower pledges to secure repayment of a loan, secure deposits of public monies, or provide security for a repurchase agreement.

Collateralization. Process by which a borrower pledges securities, property, or other deposits for securing the repayment of a loan and/or security.

Collateralized Mortgage Obligation (CMO). A security that pools together mortgages and separates them into short, medium, and long-term positions (called tranches). Tranches are set up to pay different rates of interest depending upon their maturity. Interest payments are usually paid monthly. In “plain vanilla” CMOs, principal is not paid on a tranche until all shorter tranches have been paid off. This system provides interest and principal in a more predictable manner. A single pool of mortgages can be carved up into numerous tranches each with its own payment and risk characteristics.

Commercial Paper. Short term unsecured promissory note issued by a company or financial institution. Issued at a discount and matures for par or face value. Usually a maximum maturity of 270 days and given a short-term debt rating by one or more NRSROs.

Convexity. A measure of a bond's price sensitivity to changing interest rates. A high convexity indicates greater sensitivity of a bond's price to interest rate changes.

Corporate Note. A debt instrument issued by a corporation with a maturity of greater than one year and less than ten years.

Counterparty. The other party in a two party financial transaction. "Counterparty risk" refers to the risk that the other party to a transaction will fail in its related obligations. For example, the bank or broker/dealer in a repurchase agreement.

Coupon Rate. Annual rate of interest on a debt security, expressed as a percentage of the bond's face value.

Current Yield. Annual rate of return on a bond based on its price. Calculated as (coupon rate / price), but does not accurately reflect a bond's true yield level.

Custody. Safekeeping services offered by a bank, financial institution, or trust company, referred to as the “custodian.” Service normally includes the holding and reporting of the customer's securities, the collection and disbursement of income, securities settlement, and market values.

Dealer. A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his/her own account.

Delivery Versus Payment (DVP). Settlement procedure in which securities are delivered versus payment of cash, but only after cash has been received. Most security transactions, including those

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through the Fed Securities Wire system and DTC, are done DVP as a protection for both the buyer and seller of securities.

Depository Trust Company (DTC). A firm through which members can use a computer to arrange for securities to be delivered to other members without physical delivery of certificates. A member of the Federal Reserve System and owned mostly by the New York Stock Exchange, the Depository Trust Company uses computerized debit and credit entries. Most corporate securities, commercial paper, CDs, and BAs clear through DTC.

Derivatives. (1) Financial instruments whose return profile is linked to, or derived from, the movement of one or more underlying index or security, and may include a leveraging factor, or (2) financial contracts based upon notional amounts whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities, or commodities). For hedging purposes, common derivatives are options, futures, interest rate swaps, and swaptions.

Derivative Security. Financial instrument created from, or whose value depends upon, one or more underlying assets or indexes of asset values.

Designated Bond. FFCB's regularly issued, liquid, non-callable securities that generally have a 2 or 3 year original maturity. New issues of Designated Bonds are \$1 billion or larger. Re-openings of existing Designated Bond issues are generally a minimum of \$100 million. Designated Bonds are offered through a syndicate of two to six dealers. Twice each month the Funding Corporation announces its intention to issue a new Designated Bond, reopen an existing issue, or to not issue or reopen a Designated Bond. Issues under the Designated Bond program constitute the same credit standing as other FFCB issues; they simply add organization and liquidity to the intermediate- and long-term Agency market.

Discount Notes. Unsecured general obligations issued by Federal Agencies at a discount. Discount notes mature at par and can range in maturity from overnight to one year. Very large primary (new issue) and secondary markets exist.

Discount Rate. Rate charged by the system of Federal Reserve Banks on overnight loans to member banks. Changes to this rate are administered by the Federal Reserve and closely mirror changes to the "fed funds rate."

Discount Securities. Non-interest bearing money market instruments that are issued at discount and redeemed at maturity for full face value. Examples include: U.S. Treasury Bills, Federal Agency Discount Notes, Bankers' Acceptances, and Commercial Paper.

Discount. The amount by which a bond or other financial instrument sells below its face value. See also "Premium."

Diversification. Dividing investment funds among a variety of security types, maturities, industries, and issuers offering potentially independent returns.

Dollar Price. A bond's cost expressed as a percentage of its face value. For example, a bond quoted at a dollar price of 95 ½, would have a principal cost of \$955 per \$1,000 of face value.

Duff & Phelps. One of several NRSROs that provide credit ratings on corporate and bank debt issues.

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Duration. The weighted average maturity of a security's or portfolio's cash-flows, where the present values of the cash-flows serve as the weights. The greater the duration of a security/portfolio, the greater its percentage price volatility with respect to changes in interest rates. Used as a measure of risk and a key tool for managing a portfolio versus a benchmark and for hedging risk. There are also different kinds of duration used for different purposes (e.g. MacAuley Duration, Modified Duration).

Fannie Mae. See "Federal National Mortgage Association."

Fed Money Wire. A computerized communications system that connects the Federal Reserve System with its member banks, certain U. S. Treasury offices, and the Washington D.C. office of the Commodity Credit Corporation. The Fed Money Wire is the book entry system used to transfer cash balances between banks for themselves and for customer accounts.

Fed Securities Wire. A computerized communications system that facilitates book entry transfer of securities between banks, brokers and customer accounts, used primarily for settlement of U.S. Treasury and Federal Agency securities.

Fed. See "Federal Reserve System."

Federal Agency Security. A debt instrument issued by one of the Federal Agencies. Federal Agencies are considered second in credit quality and liquidity only to U.S. Treasuries.

Federal Agency. Government sponsored/owned entity created by the U.S. Congress, generally for the purpose of acting as a financial intermediary by borrowing in the marketplace and directing proceeds to specific areas of the economy considered to otherwise have restricted access to credit markets. The largest Federal Agencies are GNMA, FNMA, FHLMC, FHLB, FFCB, SLMA, and TVA.

Federal Deposit Insurance Corporation (FDIC). Federal agency that insures deposits at commercial banks, currently to a limit of \$250,000 per depositor per bank.

Federal Farm Credit Bank (FFCB). One of the large Federal Agencies. A government sponsored enterprise (GSE) system that is a network of cooperatively-owned lending institutions that provides credit services to farmers, agricultural cooperatives and rural utilities. The FFCBs act as financial intermediaries that borrow money in the capital markets and use the proceeds to make loans and provide other assistance to farmers and farm-affiliated businesses. Consists of the consolidated operations of the Banks for Cooperatives, Federal Intermediate Credit Banks, and Federal Land Banks. Frequent issuer of discount notes, agency notes and callable agency securities. FFCB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and agricultural industry. Also issues notes under its "designated note" program.

Federal Funds (Fed Funds). Funds placed in Federal Reserve Banks by depository institutions in excess of current reserve requirements, and frequently loaned or borrowed on an overnight basis between depository institutions.

Federal Funds Rate (Fed Funds Rate). The interest rate charged by a depository institution lending Federal Funds to another depository institution. The Federal Reserve influences this rate by establishing a "target" Fed Funds rate associated with the Fed's management of monetary policy.

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Federal Home Loan Bank System (FHLB). One of the large Federal Agencies. A government sponsored enterprise (GSE) system, consisting of wholesale banks (currently twelve district banks) owned by their member banks, which provides correspondent banking services and credit to various financial institutions, financed by the issuance of securities. The principal purpose of the FHLB is to add liquidity to the mortgage markets. Although FHLB does not directly fund mortgages, it provides a stable supply of credit to thrift institutions that make new mortgage loans. FHLB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes and callable agency securities. Also issues notes under its “global note” and “TAP” programs.

Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac"). One of the large Federal Agencies. A government sponsored public corporation (GSE) that provides stability and assistance to the secondary market for home mortgages by purchasing first mortgages and participation interests financed by the sale of debt and guaranteed mortgage backed securities. FHLMC debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities, and MBS. Also issues notes under its “reference note” program.

Federal National Mortgage Association (FNMA or "Fannie Mae"). One of the large Federal Agencies. A government sponsored public corporation (GSE) that provides liquidity to the residential mortgage market by purchasing mortgage loans from lenders, financed by the issuance of debt securities and MBS (pools of mortgages packaged together as a security). FNMA debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities and MBS. Also issues notes under its “benchmark note” program.

Federal Reserve Bank. One of the 12 distinct banks of the Federal Reserve System.

Federal Reserve System (the Fed). The independent central bank system of the United States that establishes and conducts the nation's monetary policy. This is accomplished in three major ways: (1) raising or lowering bank reserve requirements, (2) raising or lowering the target Fed Funds Rate and Discount Rate, and (3) in open market operations by buying and selling government securities. The Federal Reserve System is made up of twelve Federal Reserve District Banks, their branches, and many national and state banks throughout the nation. It is headed by the seven member Board of Governors known as the “Federal Reserve Board” and headed by its Chairman.

Financial Industry Regulatory Authority, Inc. (FINRA). A private corporation that acts as a self-regulatory organization (SRO). FINRA is the successor to the National Association of Securities Dealers, Inc. (NASD). Though sometimes mistaken for a government agency, it is a non-governmental organization that performs financial regulation of member brokerage firms and exchange markets. The government also has a regulatory arm for investments, the Securities and Exchange Commission (SEC).

Fiscal Agent/Paying Agent. A bank or trust company that acts, under a trust agreement with a corporation or municipality, in the capacity of general treasurer. The agent performs such duties as making coupon payments, paying rents, redeeming bonds, and handling taxes relating to the issuance of bonds.

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Fitch Investors Service, Inc. One of several NRSROs that provide credit ratings on corporate and municipal debt issues.

Floating Rate Security (FRN or “floater”). A bond with an interest rate that is adjusted according to changes in an interest rate or index. Differs from variable-rate debt in that the changes to the rate take place immediately when the index changes, rather than on a predetermined schedule. See also “Variable Rate Security.”

Freddie Mac. See "Federal Home Loan Mortgage Corporation."

Ginnie Mae. See "Government National Mortgage Association."

Global Notes: Notes designed to qualify for immediate trading in both the domestic U.S. capital market and in foreign markets around the globe. Usually large issues that are sold to investors worldwide and therefore have excellent liquidity. Despite their global sales, global notes sold in the U.S. are typically denominated in U.S. dollars.

Government National Mortgage Association (GNMA or "Ginnie Mae"). One of the large Federal Agencies. Government-owned Federal Agency that acquires, packages, and resells mortgages and mortgage purchase commitments in the form of mortgage-backed securities. Largest issuer of mortgage pass-through securities. GNMA debt is guaranteed by the full faith and credit of the U.S. government (one of the few agencies that are actually full faith and credit of the U.S. government).

Government Securities. An obligation of the U.S. government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market. See "Treasury Bills, Notes, Bonds, and SLGS."

Government Sponsored Enterprise (GSE). Privately owned entity subject to federal regulation and supervision, created by the U.S. Congress to reduce the cost of capital for certain borrowing sectors of the economy such as students, farmers, and homeowners. GSEs carry the implicit backing of the U.S. government, but they are not direct obligations of the U.S. government. For this reason, these securities will offer a yield premium over U.S. Treasuries. Examples of GSEs include: FHLB, FHLMC, FNMA, and SLMA.

Government Sponsored Enterprise Security. A security issued by a Government Sponsored Enterprise. Considered Federal Agency Securities.

Index. A compilation of statistical data that tracks changes in the economy or in financial markets.

Interest-Only (IO) STRIP. A security based solely on the interest payments from the bond. After the principal has been repaid, interest payments stop and the value of the security falls to nothing. Therefore, IOs are considered risky investments. Usually associated with mortgage-backed securities.

Internal Controls. An internal control structure ensures that the assets of the entity are protected from loss, theft, or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that 1) the cost of a control should not exceed the benefits likely to be derived and 2) the valuation of costs and benefits requires estimates and judgments by management. Internal controls should address the following points:

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1. **Control of collusion** - Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. **Separation of transaction authority from accounting and record keeping** - A separation of duties is achieved by separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction.
3. **Custodial safekeeping** - Securities purchased from any bank or dealer including appropriate collateral (as defined by state law) shall be placed with an independent third party for custodial safekeeping.
4. **Avoidance of physical delivery securities** - Book-entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
5. **Clear delegation of authority to subordinate staff members** - Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
6. **Written confirmation of transactions for investments and wire transfers** - Due to the potential for error and improprieties arising from telephone and electronic transactions, all transactions should be supported by written communications and approved by the appropriate person. Written communications may be via fax if on letterhead and if the safekeeping institution has a list of authorized signatures.
7. **Development of a wire transfer agreement with the lead bank and third-party custodian** - The designated official should ensure that an agreement will be entered into and will address the following points: controls, security provisions, and responsibilities of each party making and receiving wire transfers.

Inverse Floater. A floating rate security structured in such a way that it reacts inversely to the direction of interest rates. Considered risky as their value moves in the opposite direction of normal fixed-income investments and whose interest rate can fall to zero.

Investment Advisor. A company that provides professional advice managing portfolios, investment recommendations, and/or research in exchange for a management fee.

Investment Adviser Act of 1940. Federal legislation that sets the standards by which investment companies, such as mutual funds, are regulated in the areas of advertising, promotion, performance reporting requirements, and securities valuations.

Investment Grade. Bonds considered suitable for preservation of invested capital, including bonds rated a minimum of Baa3 by Moody's, BBB- by Standard & Poor's, or BBB- by Fitch. Although "BBB" rated bonds are considered investment grade, most public agencies cannot invest in securities rated below "A."

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Liquidity. Relative ease of converting an asset into cash without significant loss of value. Also, a relative measure of cash and near-cash items in a portfolio of assets. Additionally, it is a term describing the marketability of a money market security correlating to the narrowness of the spread between the bid and ask prices.

Local Government Investment Pool (LGIP). An investment by local governments in which their money is pooled as a method for managing local funds, (e.g., Florida State Board of Administration's Florida Prime Fund).

Long-Term Core Investment Program. Funds that are not needed within a one-year period.

Market Value. The fair market value of a security or commodity. The price at which a willing buyer and seller would pay for a security.

Mark-to-market. Adjusting the value of an asset to its market value, reflecting in the process unrealized gains or losses.

Master Repurchase Agreement. A widely accepted standard agreement form published by the Securities Industry and Financial Markets Association (SIFMA) that is used to govern and document Repurchase Agreements and protect the interest of parties in a repo transaction.

Maturity Date. Date on which principal payment of a financial obligation is to be paid.

Medium Term Notes (MTN's). Used frequently to refer to corporate notes of medium maturity (5-years and under). Technically, any debt security issued by a corporate or depository institution with a maturity from 1 to 10 years and issued under an MTN shelf registration. Usually issued in smaller issues with varying coupons and maturities, and underwritten by a variety of broker/dealers (as opposed to large corporate deals issued and underwritten all at once in large size and with a fixed coupon and maturity).

Money Market. The market in which short-term debt instruments (bills, commercial paper, bankers' acceptance, etc.) are issued and traded.

Money Market Mutual Fund (MMF). A type of mutual fund that invests solely in money market instruments, such as: U.S. Treasury bills, commercial paper, bankers' acceptances, and repurchase agreements. Money market mutual funds are registered with the SEC under the Investment Company Act of 1940 and are subject to "rule 2a-7" which significantly limits average maturity and credit quality of holdings. MMF's are managed to maintain a stable net asset value (NAV) of \$1.00. Many MMFs carry ratings by a NRSRO.

Moody's Investors Service. One of several NRSROs that provide credit ratings on corporate and municipal debt issues.

Mortgage Backed Securities (MBS). Mortgage-backed securities represent an ownership interest in a pool of mortgage loans made by financial institutions, such as savings and loans, commercial banks, or mortgage companies, to finance the borrower's purchase of a home or other real estate. The majority of MBS are issued and/or guaranteed by GNMA, FNMA, and FHLMC. There are a variety of MBS structures with varying levels of risk and complexity. All MBS have reinvestment risk as actual principal and interest payments are dependent on the payment of the underlying mortgages which can be prepaid by mortgage holders to refinance and lower rates or simply because the underlying property was sold.

Investment Policy

Revised August 12, 2021

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Mortgage Pass-Through Securities. A pool of residential mortgage loans with the monthly interest and principal distributed to investors on a pro-rata basis. The largest issuer is GNMA.

Municipal Note/Bond. A debt instrument issued by a state or local government unit or public agency. The vast majority of municipals are exempt from state and federal income tax, although some non-qualified issues are taxable.

Mutual Fund. Portfolio of securities professionally managed by a registered investment company that issues shares to investors. Many different types of mutual funds exist (e.g., bond, equity, and money market funds); all except money market funds operate on a variable net asset value (NAV).

Negotiable Certificate of Deposit (Negotiable CD). Large denomination CDs (\$100,000 and larger) that are issued in bearer form and can be traded in the secondary market.

Net Asset Value. The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund's assets including securities, cash, and any accrued earnings, then subtracting the total assets from the fund's liabilities, and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price for each security in the fund's portfolio. (See below.)

$$\frac{[(\text{Total assets}) - (\text{Liabilities})]}{(\text{Number of shares outstanding})}$$

NRSRO. A "Nationally Recognized Statistical Rating Organization" (NRSRO) is a designated rating organization that the SEC has deemed a strong national presence in the U.S. NRSROs provide credit ratings on corporate and bank debt issues. Only ratings of a NRSRO may be used for the regulatory purposes of rating. Includes Moody's, S&P, Fitch, and Duff & Phelps.

Offered Price. See also "Ask Price."

Open Market Operations. A Federal Reserve monetary policy tactic entailing the purchase or sale of government securities in the open market by the Federal Reserve System from and to primary dealers in order to influence the money supply, credit conditions, and interest rates.

Par Value. The face value, stated value, or maturity value of a security.

Physical Delivery. Delivery of readily available underlying assets at contract maturity.

Portfolio. Collection of securities and investments held by an investor.

Premium. The amount by which a bond or other financial instrument sells above its face value. See also "Discount."

Primary Dealer. A designation given to certain government securities dealer by the Federal Reserve Bank of New York. Primary dealers can buy and sell government securities directly with the Fed. Primary dealers also submit daily reports of market activity and security positions held to the Fed and are subject to its informal oversight. Primary dealers are the largest buyers and sellers by volume in the U.S. Treasury securities market.

Prime Paper. Commercial paper of high quality. Highest rated paper is A-1+/A-1 by S&P and P-1 by Moody's.

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Principal. Face value of a financial instrument on which interest accrues. May be less than par value if some principal has been repaid or retired. For a transaction, principal is par value times price and includes any premium or discount.

Prudent Expert Rule. Standard that requires that a fiduciary manage a portfolio with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. This statement differs from the “prudent person” rule in that familiarity with such matters suggests a higher standard than simple prudence.

Prudent Investor Standard. Standard that requires that when investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. More stringent than the “prudent person” standard as it implies a level of knowledge commensurate with the responsibility at hand.

Qualified Public Depository - Per Subsection 280.02(26), F.S., “qualified public depository” means any bank, savings bank, or savings association that:

1. Is organized and exists under the laws of the United States, the laws of this state or any other state or territory of the United States.
2. Has its principal place of business in this state or has a branch office in this state which is authorized under the laws of this state or of the United States to receive deposits in this state.
3. Has deposit insurance under the provision of the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss.1811 et seq.
4. Has procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits.
5. Meets all requirements of Chapter 280, F.S.
6. Has been designated by the Chief Financial Officer as a qualified public depository.

Range Note. A type of structured note that accrues interest daily at a set coupon rate that is tied to an index. Most range notes have two coupon levels; a higher accrual rate for the period the index is within a designated range, the lower accrual rate for the period that the index falls outside the designated range. This lower rate may be zero and may result in zero earnings.

Rate of Return. Amount of income received from an investment, expressed as a percentage of the amount invested.

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Realized Gains (Losses). The difference between the sale price of an investment and its book value. Gains/losses are “realized” when the security is actually sold, as compared to “unrealized” gains/losses which are based on current market value. See “Unrealized Gains (Losses).”

Reference Bills: FHLMC’s short-term debt program created to supplement its existing discount note program by offering issues from one month through one year, auctioned on a weekly or on an alternating four-week basis (depending upon maturity) offered in sizeable volumes (\$1 billion and up) on a cycle of regular, standardized issuance. Globally sponsored and distributed, Reference Bill issues are intended to encourage active trading and market-making and facilitate the development of a term repo market. The program was designed to offer predictable supply, pricing transparency, and liquidity, thereby providing alternatives to U.S. Treasury bills. FHLMC’s Reference Bills are unsecured general corporate obligations. This program supplements the corporation’s existing discount note program. Issues under the Reference program constitute the same credit standing as other FHLMC discount notes; they simply add organization and liquidity to the short-term Agency discount note market.

Reference Notes: FHLMC’s intermediate-term debt program with issuances of 2, 3, 5, 10, and 30-year maturities. Initial issuances range from \$2 - \$6 billion with re-openings ranging \$1 - \$4 billion.

The notes are high-quality bullet structures securities that pay interest semiannually. Issues under the Reference program constitute the same credit standing as other FHLMC notes; they simply add organization and liquidity to the intermediate- and long-term Agency market.

Repurchase Agreement (Repo). A short-term investment vehicle where an investor agrees to buy securities from a counterparty and simultaneously agrees to resell the securities back to the counterparty at an agreed upon time and for an agreed upon price. The difference between the purchase price and the sale price represents interest earned on the agreement. In effect, it represents a collateralized loan to the investor, where the securities are the collateral. Can be DVP, where securities are delivered to the investor’s custodial bank, or “tri-party” where the securities are delivered to a third party intermediary. Any type of security can be used as “collateral,” but only some types provide the investor with special bankruptcy protection under the law. Repos should be undertaken only when an appropriate Securities Industry and Financial Markets Association (SIFMA) approved master repurchase agreement is in place.

Reverse Repurchase Agreement (Reverse Repo). A repo from the point of view of the original seller of securities. Used by dealers to finance their inventory of securities by essentially borrowing at short-term rates. Can also be used to leverage a portfolio and in this sense, can be considered risky if used improperly.

Safekeeping. Service offered for a fee, usually by financial institutions, for the holding of securities and other valuables. Safekeeping is a component of custody services.

Secondary Market. Markets for the purchase and sale of any previously issued financial instrument.

Securities Industry and Financial Markets Association (SIFMA). The bond market trade association representing the largest securities markets in the world. In addition to publishing a Master Repurchase Agreement, widely accepted as the industry standard document for Repurchase Agreements, the SIFMA also recommends bond market closures and early closes due to holidays.

Securities Lending. An arrangement between an investor and a custody bank that allows the custody bank to “loan” the investors investment holdings, reinvest the proceeds in permitted investments, and

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shares any profits with the investor. Should be governed by a securities lending agreement. Can increase the risk of a portfolio in that the investor takes on the default risk on the reinvestment at the discretion of the custodian.

Sinking Fund. A separate accumulation of cash or investments (including earnings on investments) in a fund in accordance with the terms of a trust agreement or indenture, funded by periodic deposits by the issuer (or other entity responsible for debt service), for the purpose of assuring timely availability of moneys for payment of debt service. Usually used in connection with term bonds.

Spread. The difference between the price of a security and similar maturity U.S. Treasury investments, expressed in percentage terms or basis points. A spread can also be the absolute difference in yield between two securities. The securities can be in different markets or within the same securities market between different credits, sectors, or other relevant factors.

Standard & Poor's. One of several NRSROs that provide credit ratings on corporate and municipal debt issues.

STRIPS (Separate Trading of Registered Interest and Principal of Securities). Acronym applied to U.S. Treasury securities that have had their coupons and principal repayments separated into individual zero-coupon Treasury securities. The same technique and "strips" description can be applied to non-Treasury securities (e.g., FNMA strips).

Structured Notes. Notes that have imbedded into their structure options such as step-up coupons or derivative-based returns.

Supranational. Supranational organizations are international financial institutions that are generally established by agreements among nations, with member nations contributing capital and participating in management. These agreements provide for limited immunity from the laws of member countries. Bonds issued by these institutions are part of the broader class of Supranational, Sovereign, and Non-U.S. Agency (SSA) sector bonds. Supranational bonds finance economic and infrastructure development and support environmental protection, poverty reduction, and renewable energy around the globe. For example, the World Bank, International Finance Corporation (IFC), and African Development Bank (AfDB) have "green bond" programs specifically designed for energy resource conservation and management. Supranational bonds, which are issued by multi-national organizations that transcend national boundaries. Examples include the World Bank, African Development Bank, and European Investment Bank.

Swap. Trading one asset for another.

TAP Notes: Federal Agency notes issued under the FHLB TAP program. Launched in 6/99 as a refinement to the FHLB bullet bond auction process. In a break from the FHLB's traditional practice of bringing numerous small issues to market with similar maturities, the TAP Issue Program uses the four most common maturities and reopens them up regularly through a competitive auction. These maturities (2, 3, 5, and 10 year) will remain open for the calendar quarter, after which they will be closed and a new series of TAP issues will be opened to replace them. This reduces the number of separate bullet bonds issued, but generates enhanced awareness and liquidity in the marketplace through increased issue size and secondary market volume.

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Tennessee Valley Authority (TVA). One of the large Federal Agencies. A wholly owned corporation of the United States government that was established in 1933 to develop the resources of the Tennessee Valley region in order to strengthen the regional and national economy and the national defense. Power operations are separated from non-power operations. TVA securities represent obligations of TVA, payable solely from TVA's net power proceeds, and are neither obligations of nor guaranteed by the United States. TVA is currently authorized to issue debt up to \$30 billion. Under this authorization, TVA may also obtain advances from the U.S. Treasury of up to \$150 million. Frequent issuer of discount notes, agency notes, and callable agency securities.

Total Return. Investment performance measured over a period of time that includes coupon interest, interest on interest, and both realized and unrealized gains or losses. Total return includes, therefore, any market value appreciation/depreciation on investments held at period end.

Treasuries. Collective term used to describe debt instruments backed by the U.S. government and issued through the U.S. Department of the Treasury. Includes Treasury bills, Treasury notes, and Treasury bonds. Also a benchmark term used as a basis by which the yields of non-Treasury securities are compared (e.g., "trading at 50 basis points over Treasuries").

Treasury Bills (T-Bills). Short-term direct obligations of the United States government issued with an original term of one year or less. Treasury bills are sold at a discount from face value and do not pay interest before maturity. The difference between the purchase price of the bill and the maturity value is the interest earned on the bill. Currently, the U.S. Treasury issues 4-week, 13-week, and 26-week T-Bills.

Treasury Bonds. Long-term interest-bearing debt securities backed by the U.S. government and issued with maturities of ten years and longer by the U.S. Department of the Treasury.

Treasury Notes. Intermediate interest-bearing debt securities backed by the U.S. government and issued with maturities ranging from one to ten years by the U.S. Department of the Treasury. The Treasury currently issues 2-year, 3-year, 5-year, and 10-year Treasury Notes.

Trustee. A bank designated by an issuer of securities as the custodian of funds and official representative of bondholders. Trustees are appointed to insure compliance with the bond documents and to represent bondholders in enforcing their contract with the issuer.

Uniform Net Capital Rule. SEC Rule 15c3-1 that outlines the minimum net capital ratio (ratio of indebtedness to net liquid capital) of member firms and non-member broker/dealers.

Unrealized Gains (Losses). The difference between the market value of an investment and its book value. Gains/losses are "realized" when the security is actually sold, as compared to "unrealized" gains/losses which are based on current market value. See also "Realized Gains (Losses)."

Variable-Rate Security. A bond that bears interest at a rate that varies over time based on a specified schedule of adjustment (e.g., daily, weekly, monthly, semi-annually, or annually). See also "Floating Rate Note."

Weighted Average Maturity (or just "Average Maturity"). The average maturity of all securities and investments of a portfolio, determined by multiplying the par or principal value of each security or

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investment by its maturity (days or years), summing the products, and dividing the sum by the total principal value of the portfolio. A simple measure of risk of a fixed-income portfolio.

Weighted Average Maturity to Call. The average maturity of all securities and investments of a portfolio, adjusted to substitute the first call date per security for maturity date for those securities with call provisions.

Yield Curve. A graphic depiction of yields on like securities in relation to remaining maturities spread over a time line. The traditional yield curve depicts yields on U.S. Treasuries, although yield curves exist for Federal Agencies and various credit quality corporates as well. Yield curves can be positively sloped (normal) where longer-term investments have higher yields, or "inverted" (uncommon) where longer-term investments have lower yields than shorter ones.

Yield to Call (YTC). Same as "Yield to Maturity," except the return is measured to the first call date rather than the maturity date. Yield to call can be significantly higher or lower than a security's yield to maturity.

Yield to Maturity (YTM). Calculated return on an investment, assuming all cash-flows from the security are reinvested at the same original yield. Can be higher or lower than the coupon rate depending on market rates and whether the security was purchased at a premium or discount. There are different conventions for calculating YTM for various types of securities.

Yield. There are numerous methods of yield determination. In this glossary, see also "Current Yield," "Yield Curve," "Yield to Call," and "Yield to Maturity."

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ATTACHMENT B - Investment Pool/Fund Questionnaire

1. A description of eligible investment securities, and a written statement of investment policy and objectives.
2. A description of interest calculations and how it is distributed, and how gains and losses are treated.
3. A description of how the securities are safeguarded (including the settlement processes), and how often the securities are priced and the program audited.
4. A description of who may invest in the program, how often, what size deposit and withdrawal are allowed.
5. A schedule for receiving statements and portfolio listings.
6. Are reserves, retained earnings, etc. utilized by the pool/fund?
7. A fee schedule, and when and how is it assessed.
8. Is the pool/fund eligible for bond proceeds and/or will it accept such proceeds?

9. Are there any liquidity gates?

10. Are there any redemption fees?

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CENTRAL FLORIDA EXPRESSWAY AUTHORITY
INVESTMENT POLICY

Table of Contents

I.	PURPOSE.....	2
II.	SCOPE	2
III.	INVESTMENT OBJECTIVES	2
IV.	DELEGATION OF AUTHORITY	3
V.	STANDARDS OF PRUDENCE	3
VI.	ETHICS AND CONFLICTS OF INTEREST.....	4
VII.	INTERNAL CONTROLS AND INVESTMENT PROCEDURES.....	4
VIII.	CONTINUING EDUCATION.....	5
IX.	AUTHORIZED INVESTMENT INSTITUTIONS AND DEALERS.....	5
X.	MATURITY AND LIQUIDITY REQUIREMENTS.....	5
XI.	RISK AND DIVERSIFICATION	6
XII.	MASTER REPURCHASE AGREEMENT.....	6
XIII.	DERIVATIVES AND REVERSE REPURCHASE AGREEMENTS	6
XIV.	COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS	6
XV.	AUTHORIZED INVESTMENTS AND PORTFOLIO COMPOSITION	7
XVI.	PERFORMANCE MEASUREMENTS.....	13
XVII.	REPORTING	13
XVIII.	THIRD-PARTY CUSTODIAL AGREEMENTS.....	14
XIX.	POLICY REVIEW	14
	ATTACHMENT A - Glossary of Cash and Investment Management Terms.....	16
	ATTACHMENT B - Investment Pool/Fund Questionnaire	31

I. PURPOSE

The purpose of this Investment Policy (hereinafter “Policy”) is to set forth the investment objectives and parameters for the management of public funds of the Central Florida Expressway Authority (hereinafter “CFX”). These policies are designed to ensure the prudent management of public funds by CFX, the availability of operating and capital funds when needed by CFX and an investment return for CFX competitive with comparable funds and financial market indices.

II. SCOPE

In accordance with Section 218.415, Florida Statutes (F.S.), this Policy applies to all cash and investments held or controlled by CFX and shall be identified as operating funds, reserve funds or bond funds of CFX (the “Portfolio”). In connection with the investment of proceeds of bonds issued by CFX, CFX’s master bond resolution permitted investments are included in the authorized investments in Section XV of this Policy.

III. INVESTMENT OBJECTIVES

A. Safety of Principal

The foremost objective of CFX’s investment program is the safety of the principal of those funds within the Portfolio. Investment transactions shall seek to be consistent with the other investment objectives, which are to keep capital losses at a minimum, whether they are from securities defaults or erosion of market value. To attain this objective, CFX will maintain a diversified portfolio so that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

B. Maintenance of Liquidity

The Portfolio shall be managed in such a manner that funds are available to meet reasonably anticipated cash flow requirements of CFX in an orderly manner. Periodic cash flow analyses will be completed in order to ensure that the Portfolio is positioned to provide sufficient liquidity.

C. Return on Investment

The Portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of least importance compared to the safety and liquidity objectives described above. However, return is attempted through active management where the Investment Manager utilizes a total return strategy (which includes both realized and unrealized gains and losses in the Portfolio). This total return strategy seeks to increase the value of the Portfolio through reinvestment of income and capital gains. The core of investments is limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Despite this, an Investment Manager may trade to recognize a loss from time to time to achieve a perceived relative value based on its potential to enhance the total return of the Portfolio.

IV. DELEGATION OF AUTHORITY

In accordance with CFX's administrative policies, the responsibility for providing oversight and direction in regard to the management of the investment program and the Portfolio resides with CFX's Finance Committee. The Executive Director and Chief Financial Officer of CFX have the ultimate authority and responsibility for the investment program and the management of the Portfolio. The management responsibility for all Authority funds in the Portfolio and investment transactions is delegated to CFX's Chief Financial Officer and Authorized Staff members. The Chief Financial Officer shall account for all Authority funds in the Portfolio. The Chief Financial Officer shall establish written procedures for the operation of the investment portfolio and a system of internal accounting and administrative controls to regulate the activities of employees. CFX may employ an investment manager (an "Investment Manager"), to assist in managing the Portfolios. Such Investment Manager must be registered under the Investment Advisers Act of 1940. The Chief Financial Officer shall be responsible for monitoring and regulating the activities of Authorized Staff and the Investment Manager involved with the investment program. The Authorized Staff is limited to the following positions:

- Chief Financial Officer
- Director of Accounting and Finance
- Manager of Accounting and Finance

V. STANDARDS OF PRUDENCE

The standard of prudence to be used by the Authorized Staff shall be the "Prudent Person" standard and shall be applied in the context of managing the Portfolio. Authorized Staff acting in accordance with written procedures and this Policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectation are reported in a timely fashion to the Executive Director and Finance Committee and that the securities involved are liquidated or sold accordance with the terms of this policy. The "Prudent Person" rule states the following:

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived from the investment. Section 218.415(4) F.S.

While the standard of prudence to be used by Authorized Staff who are officers or employees is the "Prudent Person" standard, any person or firm hired or retained as an Investment Manager, or otherwise retained to invest, monitor, or advise concerning these assets shall be held to the higher standard of "Prudent Expert". The standard shall be that in investing and reinvesting moneys and in acquiring, retaining, managing, and disposing of investments of these funds, the Investment Manager shall exercise: the judgment, care, skill, prudence, and diligence under the circumstances then prevailing, which persons of prudence, discretion, and intelligence, acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like

aims by diversifying the investments of the funds, so as to minimize the risk, considering the probable income as well as the probable safety of their capital.

VI. ETHICS AND CONFLICTS OF INTEREST

Authorized Staff involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

Also, Authorized Staff or other employees involved in the investment process shall disclose in writing to CFX and the Board any material financial interests in financial institutions that conduct business with the Board, and they shall further disclose any material personal financial/investment positions that could be related to the performance of CFX's Portfolio.

VII. INTERNAL CONTROLS AND INVESTMENT PROCEDURES

The Chief Financial Officer shall establish a system of internal controls and operational procedures to protect CFX's assets, including the Portfolio, and ensure proper accounting and reporting of the transactions related thereto. No person may engage in an investment transaction except as authorized under the terms of this Policy. Independent auditors shall conduct a review of the system of internal controls with respect to, among other things, the Portfolio and the investment thereof as a normal part of the annual financial audit of CFX. Such internal controls shall include, but not limited to, the following:

Separation of functions:

By separating the person who authorizes or performs the transaction from the person or persons who record or otherwise account for the transaction, a proper separation of duties is achieved.

Custodial safekeeping:

Securities purchased from any bank or dealer, including appropriate collateral, shall be placed into a third party bank for custodial safekeeping.

Clear delegation of authority to subordinate staff members:

Subordinate staff must have a clear understanding of their authority and responsibilities to avoid any improper actions. Clear delegation of authority also preserves the internal control structure that is built around the various staff positions and their respective responsibilities.

Written confirmation of electronically initiated transactions for investments and wire transfers:

Due to the potential for error and improprieties arising from telephone or other electronically initiated transactions, all such transactions should be supported by written communications and approved by an individual other than the individual initiating said transaction. Repetitive

wires do not require a secondary approval; however, all non-repetitive wires shall have secondary approval.

Documentation of transactions and strategies:

All transactions and the strategies that were used to develop said transactions should be documented in writing and approved by the appropriate person.

VIII. CONTINUING EDUCATION

The Chief Financial Officer and appropriate Authorized Staff shall annually complete 8 hours of continuing education in subjects or courses of study related to investment practices and products, pursuant to Section 218.415(14) F.S.

IX. AUTHORIZED INVESTMENT INSTITUTIONS AND DEALERS

Authorized Staff shall only purchase securities from financial institutions, which are qualified as public depositories by the Treasurer, or Chief Financial Officer of the State of Florida, institutions designated as “Primary Dealers” as designated by the Federal Reserve Bank of New York, direct issuers of commercial paper and bankers’ acceptances, approved non-primary dealers, or Minority/Women Disadvantaged Business Enterprise (“M/WBE”) securities dealers. The Investment Manager shall utilize and maintain its own list of approved primary dealers, non-primary dealers and M/WBE securities dealers. The Investment Manager will provide a quarterly report to CFX detailing the M/WBE trading activity.

Authorized Staff and Investment Manager shall only enter into Repurchase agreements with “Primary Dealers” as designated by the Federal Reserve Bank of New York and financial institutions that are state qualified public depositories.

X. MATURITY AND LIQUIDITY REQUIREMENTS

To the extent possible, an attempt will be made to match investment maturities with known cash needs and anticipated cash flow requirements of CFX.

A. Maturity Guidelines

Investments of current operating funds shall have maturities of no longer than twenty-four (24) months. The purchase of investments for core funds with maturities longer than five and a half (5.50) years requires CFX’s approval prior to purchase. However, final maximum maturity for any investment is limited to ten (10) years. The maturities of the underlying securities of a repurchase agreement will follow the requirements of the Securities Industry and Financial Markets Association (SIFMA) Master Repurchase Agreements.

B. Liquidity Requirements

Investments of bond reserves, construction funds, and other non-operating funds (“core funds”) shall have a term appropriate to the need for funds and in accordance with debt covenants.

XI. RISK AND DIVERSIFICATION

The Portfolio shall be diversified to control risks resulting from over concentration of assets in a specific maturity, issuer, instrument, dealer, or bank through which these securities are bought and sold. The Chief Financial Officer shall determine diversification strategies within the established guidelines.

XII. MASTER REPURCHASE AGREEMENT

CFX will require all approved institutions and dealers transacting repurchase agreements to execute and perform as stated in the SIFMA Master Repurchase Agreement. All repurchase agreement transactions will adhere to requirements of the SIFMA Master Repurchase Agreement.

XIII. DERIVATIVES AND REVERSE REPURCHASE AGREEMENTS

Investment in any derivative products or the use of reverse repurchase agreements is specifically prohibited by this investment policy, unless permitted in Section XV of this Policy. A “derivative” is defined as a financial instrument the value of which depends on, or is derived from, the value of one or more underlying assets or indices or asset values. However, for the purpose of a financing mechanism for funding CFX’s Five-Year Work Plan, derivatives are permitted. Please refer to CFX’s Swap Policy.

XIV. COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS

After the Investment Manager or the Chief Financial Officer has determined the approximate maturity date based on cash flow needs and market conditions and has analyzed and selected one or more optimal types of investments, a minimum of three (3) reputable, qualified, and financially sound banks and/or dealers must be contacted and asked to provide bids on securities in questions. Bids will be held in confidence until the bid deemed to best meet the investment objectives is determined and selected.

However, on an exception basis, securities may be purchased utilizing the comparison to current market price method. Acceptable current market price providers include, but are not limited to:

- A. TradeWeb,
- B. Bloomberg Information Systems,
- C. The Wall Street Journal or a comparable nationally recognized financial publication providing daily market pricing,
- D. Daily market pricing provided by CFX’s custody agents or their correspondent institutions,
- E. Such other current market price provider that the Investment Manager shall recommend to CFX as a regular provider of such information.

Selection by comparison to a current market price, as indicated above, shall only be utilized when, in judgment of the Investment Manager, CFX, or Chief Financial Officer, competitive bidding would inhibit the selection process.

Examples of when this method may be used include:

- A. When time constraints due to unusual circumstances preclude the use of the competitive bidding process.
- B. When no active market exists for the issue being traded due to the age or depth of the issue.
- C. When a security is unique to a single dealer, for example, a private placement.
- D. When the transaction involves new issues or issues in the “when issued” market.

Overnight sweep repurchase agreements will not be bid but may be placed with the depository bank relating to the demand account for which the repurchase agreement was purchased.

XV. AUTHORIZED INVESTMENTS AND PORTFOLIO COMPOSITION

Investments should be made subject to the cash flow needs and such cash flows are subject to revisions as market conditions and CFX’s needs change. However, when the invested funds are needed in whole or in part for the purpose originally intended or for more optimal investments, Authorized Staff may sell an investment at the then-prevailing market price and place the proceeds into the proper account at the Board’s custodian.

The following are the guidelines for investments and limits on security types, issuers, and maturities as established by CFX. CFX or the Chief Financial Officer shall have the option to further restrict investment percentages from time to time based on market conditions, risk, and diversification investment strategies. The percentage allocations requirements for investment types and issuers are calculated based on the original cost of each investment, at the time of purchase. Investments not listed in this Policy are prohibited. The following is a summary table of the permitted investments and their respective allocation limits. The allocation limits are for non-bond proceeds.

Permitted Investments

Sector	Sector Maximum (%)	Per Issuer Maximum (%)	Minimum Ratings Requirement ¹	Maximum Maturity	Master Bond Resolution Permitted Investments
U.S. Treasury	100%	100%	N/A	5.50 Years (5.50 Years avg. life ⁴ for GNMA)	X
GNMA		40%			X
Other U.S. Government Guaranteed (e.g. AID, GTC)		10%			X
Federal Agency/GSE: FNMA, FHLMC, FHLB, FFCB*	75%	40% ³	N/A	5.50 Years	X
Federal Agency/GSE other than those above		10%			X
Supranationals where U.S. is a shareholder and voting member	25%	10%	Highest ST or Two Highest LT Rating Categories (A-1/P-1, AAA/Aaa, or equivalent)	5.50 Years	
Corporates	50% ²	5%	Highest ST or Three Highest LT Rating Categories (A-1/P-1, A-/A3 or equivalent)	5.50 Years	
Municipals	25%	5%	Highest ST or Three Highest LT Rating Categories (SP-1/MIG 1, A-/A3, or equivalent)	5.50 Years	X
Agency Mortgage-Backed Securities (MBS)	25%	40% ³	N/A	5.50 Years Avg. Life ⁴	
Asset-Backed Securities (ABS)	25%	5%	Highest ST or LT Rating (A-1+/P-1, AAA/Aaa, or equivalent)	5.50 Years Avg. Life ⁴	
Depository Accounts with Qualified Public Depositories	75%	50%	N/A	N/A	X
Non-Negotiable Collateralized Bank Deposits or Savings Accounts	50%	None, if fully collateralized	None, if fully collateralized.	2 Years	X
Commercial Paper (CP)	50% ²	5%	Highest ST Rating Category (A-1/P-1, or equivalent)	270 Days	X

Sector	Sector Maximum (%)	Per Issuer Maximum (%)	Minimum Ratings Requirement ¹	Maximum Maturity	Master Bond Resolution Permitted Investments
Bankers' Acceptances (BAs)	10% ²	5%	Highest ST Rating Category (A-1/P-1, or equivalent)	180 Days	X
Repurchase Agreements (Repo or RP)	40%	20%	Counterparty (or if the counterparty is not rated by an NRSRO, then the counterparty's parent) must be rated in the Highest ST Rating Category (A-1/P-1, or equivalent) If the counterparty is a Federal Reserve Bank, no rating is required	1 Year	X
Money Market Funds (MMFs)	50%	25%	Highest Fund Rating by all NRSROs who rate the fund (AAAm/Aaa-mf, or equivalent)	N/A	X
Fixed-Income Mutual Funds and ETFs	25%	10%	N/A	3 Years	
Intergovernmental Pools (LGIPs)	50%	25%	Highest Fund Quality and Volatility Rating Categories by all NRSROs who rate the LGIP, (AAAm/AAAf, S1, or equivalent)	N/A	
Florida Local Government Surplus Funds Trust Funds ("Florida Prime")	25%	N/A	Highest Fund Rating by all NRSROs who rate the fund (AAAm/Aaa-mf, or equivalent)	N/A	X

Notes:

¹ Rating by at least one SEC-registered Nationally Recognized Statistical Rating Organization ("NRSRO"), unless otherwise noted. ST=Short-term; LT=Long-term.

² Maximum allocation to all corporate and bank credit instruments is 50% combined.

³ Maximum exposure to any one Federal agency, including the combined holdings of Agency debt and Agency MBS, is 40%.

⁴ The maturity limit for MBS and ABS is based on the expected average life at time of settlement, measured using Bloomberg or other industry standard methods.

* Federal National Mortgage Association (FNMA); Federal Home Loan Mortgage Corporation (FHLMC); Federal Home Loan Bank or its District banks (FHLB); Federal Farm Credit Bank (FFCB).

- 1) **U.S. Treasury & Government Guaranteed** - U.S. Treasury obligations, and obligations the principal and interest of which are backed or guaranteed by the full faith and credit of the U.S. Government.

- 2) **Federal Agency/GSE** - Debt obligations, participations or other instruments issued or fully guaranteed by any U.S. Federal agency, instrumentality or government-sponsored enterprise (GSE).
- 3) **Supranationals** – U.S. dollar denominated debt obligations of a multilateral organization of governments, which are U.S. Federal Instrumentalities, where U.S. is a shareholder and voting member.
- 4) **Corporates** – U.S. dollar denominated corporate notes, bonds or other debt obligations issued or guaranteed by a domestic or foreign corporation, financial institution, non-profit, or other entity.
- 5) **Municipals** – Obligations, including both taxable and tax-exempt, issued or guaranteed by any State, territory or possession of the United States, political subdivision, public corporation, authority, agency board, instrumentality or other unit of local government of any State or territory.
- 6) **Agency Mortgage Backed Securities** - Mortgage-backed securities (MBS), backed by residential, multi-family or commercial mortgages, that are issued or fully guaranteed as to principal and interest by a U.S. Federal agency or government sponsored enterprise, including but not limited to pass-throughs, collateralized mortgage obligations (CMOs) and REMICs.
- 7) **Asset-Backed Securities** - Asset-backed securities (ABS) whose underlying collateral consists of loans, leases or receivables, including but not limited to auto loans/leases, credit card receivables, student loans, equipment loans/leases, or home-equity loans.
- 8) **Depository Accounts with Qualified Public Depositories** - Banks organized under the laws of this state and/or in national banks organized under the laws of the United States and doing business and situated in this state, provided that any such deposits are secured by the Florida Security for Public Deposits Act, Chapter 280, F.S.
- 9) **Non-Negotiable Certificate of Deposit and Savings Accounts** - Non-negotiable interest bearing time certificates of deposit, or savings accounts in banks organized under the laws of this state or in national banks organized under the laws of the United States and doing business in this state, provided that any such deposits are secured by the Florida Security for Public Deposits Act, Chapter 280, F.S.
- 10) **Commercial Paper** – U.S. dollar denominated commercial paper issued or guaranteed by a domestic or foreign corporation, company, financial institution, trust or other entity, including both unsecured debt and asset-backed programs.
- 11) **Bankers' Acceptances** - Bankers' acceptances issued, drawn on, or guaranteed by a U.S. bank or U.S. branch of a foreign bank.
- 12) **Repurchase Agreements** - Repurchase agreements (Repo or RP) that meet the following requirements:
 - a. Must be governed by a written SIFMA Master Repurchase Agreement which specifies securities eligible for purchase and resale, and which provides the unconditional right to

liquidate the underlying securities should the Counterparty default or fail to provide full timely repayment.

- b. Counterparty must be a Federal Reserve Bank, a Primary Dealer as designated by the Federal Reserve Bank of New York, or a nationally chartered commercial bank.
- c. Securities underlying repurchase agreements must be delivered to a third party custodian under a written custodial agreement and may be of deliverable or tri-party form. Securities must be held in CFX's custodial account or in a separate account in the name of CFX.
- d. Acceptable underlying securities include only securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States, or U.S. Agency-backed mortgage related securities.
- e. Underlying securities must have an aggregate current market value of at least 102% (or 100% if the counterparty is a Federal Reserve Bank) of the purchase price plus current accrued price differential at the close of each business day.
- f. Final term of the agreement must be 1 year or less.

- 13) **Money Market Funds** - Shares in open-end and no-load money market mutual funds, provided such funds are registered under the Investment Company Act of 1940 and operate in accordance with Rule 2a-7.

A thorough investigation of any money market fund is required prior to investing, and on an annual basis. Attachment B is a questionnaire that contains a list of questions, to be answered prior to investing, that cover the major aspects of any investment pool/fund. A current prospectus must be obtained.

- 14) **Fixed-Income Mutual Funds and ETFs** – Shares in open-end and no-load mutual funds or exchange-traded funds (ETFs) whose stated offering investment strategy is to invest in investment grade fixed-income securities.

- 15) **Local Government Investment Pools** – State, local government or privately-sponsored investment pools that are authorized pursuant to state law.

A thorough investigation of any intergovernmental investment pool is required prior to investing, and on an annual basis. Attachment B is a questionnaire that contains a list of questions, to be answered prior to investing, that cover the major aspects of any investment pool/fund. A current prospectus must be obtained.

- 16) **The Florida Local Government Surplus Funds Trust Funds (“Florida Prime”)** A thorough investigation of the Florida Prime is required prior to investing, and on an annual basis. Attachment B is a questionnaire that contains a list of questions, to be answered prior to investing, that cover the major aspects of any investment pool/fund. A current prospectus or portfolio report must be obtained.

General Investment and Portfolio Limits

1. General investment limitations:
 - a. Investments must be denominated in U.S. dollars and issued for legal sale in U.S. markets.
 - b. Minimum ratings are based on the highest rating by any one Nationally Recognized Statistical Ratings Organization (“NRSRO”), unless otherwise specified.
 - c. All limits and rating requirements apply at time of purchase.
 - d. Should a security fall below the minimum credit rating requirement for purchase, the Investment Advisor will notify the Chief Financial Officer.
 - e. The maximum maturity (or average life for MBS/ABS) of any investment is 5.50 years. Maturity and average life are measured from settlement date. The final maturity date can be based on any mandatory call, put, pre-refunding date, or other mandatory redemption date.

2. General portfolio limitations:
 - a. The maximum effective duration of the aggregate portfolio is 3 years.
 - b. Maximum exposure to issuers in any non-U.S. country cannot exceed 10 percent per country.

3. Investment in the following are permitted, provided they meet all other policy requirements:
 - a. Callable, step-up callable, called, pre-refunded, puttable and extendable securities, as long as the effective final maturity meets the maturity limits for the sector
 - b. Variable-rate and floating-rate securities
 - c. Subordinated, secured and covered debt, if it meets the ratings requirements for the sector
 - d. Zero coupon issues and strips, excluding agency mortgage-backed Interest-only structures (I/Os)
 - e. Treasury TIPS

4. The following are **NOT PERMITTED** investments, unless specifically authorized by statute and with prior approval of the governing body:
 - a. Trading for speculation
 - b. Derivatives (other than callables and traditional floating or variable-rate instruments)
 - c. Mortgage-backed interest-only structures (I/Os)
 - d. Inverse or leveraged floating-rate and variable-rate instruments
 - e. Currency, equity, index and event-linked notes (e.g. range notes), or other structures that could return less than par at maturity
 - f. Private placements and direct loans, except as may be legally permitted by Rule 144A or commercial paper issued under a 4(2) exemption from registration
 - g. Convertible, high yield, and non-U.S. dollar denominated debt
 - h. Short sales
 - i. Use of leverage

- j. Futures and options
- k. Mutual funds, other than fixed-income mutual funds and ETFs, and money market funds
- l. Equities, commodities, currencies and hard assets

XVI. PERFORMANCE MEASUREMENTS

In order to assist in the evaluation of the portfolio's performance, CFX will use performance benchmarks. The use of benchmarks will allow CFX to measure its returns against other investors in the same markets.

- A. The S&P Rated GIP Index Government 30 Day Gross Yield Index will be used as a benchmark as compared to the portfolios' net book value rate of return for current operating funds.
- B. Investment performance of funds designated as reserve funds and other non-operating funds (core funds) that have a longer-term investment horizon will be compared to the Bank of America Merrill Lynch 1-3 Year U.S. Treasury/Agency Index. This index has a duration and asset mix that is similar to the Portfolio and will be utilized as a benchmark to be compared to the Portfolio's total rate of return.

XVII. REPORTING

The Chief Financial Officer and/or Investment Manager shall provide the Executive Director and the Finance Committee with at least quarterly investment reports. Schedules in the quarterly report should include the following:

- A. A listing of individual securities held at the end of the reporting period
- B. Percentage of available funds represented by each investment type
- C. Coupon, discount or earning rate
- D. Final maturity date of all investments
- E. Book value and market value

On an annual basis, the Investment Manager shall prepare and submit to the Finance Committee a written report on all invested funds. The annual report shall provide all, but not limited to, the following: a complete list of all invested funds, name or type of security in which the funds are invested, the amount invested, the maturity date, earned income, the book value, the market value and the yield on each investment.

The annual report will show performance on both a book value and total rate of return basis when required and will compare the results to the above-stated performance benchmarks. All investments

shall be reported at fair value per GASB standards. Investment reports shall be available to the public.

XVIII. THIRD-PARTY CUSTODIAL AGREEMENTS

All securities, with the exception of certificates of deposits, shall be held with a third-party custodian; and all securities purchased by, and all collateral obtained by; CFX should be properly designated as an asset of CFX. The securities must be held in an account separate and apart from the assets of the financial institution. A third party custodian is defined as any bank depository chartered by the Federal Government, the State of Florida, or any other state or territory of the United States which has a branch or principal place of business in the State of Florida as defined in Section 658.12, F.S., or by a national association organized and existing under the laws of the United States which is authorized to accept and execute trusts and which is doing business in the State of Florida. Certificates of deposits will be placed in the provider's safekeeping department for the term of the deposit.

CFX will execute a third-party custodial agreement(s) with its bank(s) and depository institution(s). Such agreements may include letters of authority from CFX, details as to the responsibilities of each party, method of notification of security purchases, sales and delivery procedures related to repurchase agreements and wire transfers, safekeeping and transaction costs, procedures in case of wire failure or other unforeseen mishaps and describing the liability of each party.

The custodian shall accept transaction instructions only from those persons who have been duly authorized by CFX and which authorization has been provided, in writing, to the custodian. No withdrawal of securities, in whole or in part, shall be made from safekeeping, shall be permitted unless by such a duly authorized person.

The custodian shall provide CFX with safekeeping receipts that provide detail information on the securities held by the custodian. Security transactions between a broker/dealer and the custodian involving the purchase or sale of securities by transfer of money or securities must be made on a "delivery vs. payment" basis, if applicable, to ensure that the custodian will have the security or money, as appropriate, in hand at the conclusion of the transaction. Securities held as collateral shall be held free and clear of any liens.

XIX. POLICY REVIEW

The Chief Financial Officer, Executive Director and the Finance Committee shall review the policy every two years and shall submit any proposed modifications to the Board for approval. If there are no recommended changes, the policy need not be resubmitted to the Board and remains in effect.

ADOPTED this _____ day of August 2021.

Buddy Dyer
Board Chairman

ATTEST: _____
Mimi Lamaute
Board Services Coordinator

Approved as to form and legality:

Diego "Woody" Rodriguez
General Counsel

ATTACHMENT A - Glossary of Cash and Investment Management Terms

The following is a glossary of key investing terms, many of which appear in CFX's Investment Policy. This glossary clarifies the meaning of investment terms generally used in cash and investment management. This glossary has been adapted from the GFOA Sample Investment Policy and the Association of Public Treasurers of the United States and Canada's Model Investment Policy.

Accrued Interest. Interest earned but which has not yet been paid or received.

Agency. See "Federal Agency Securities."

Ask Price. Price at which a broker/dealer offers to sell a security to an investor. Also known as "offered price."

Asset Backed Securities (ABS). A fixed-income security backed by notes or receivables against assets other than real estate. Generally issued by special purpose companies that "own" the assets and issue the ABS. Examples include securities backed by auto loans, credit card receivables, home equity loans, manufactured housing loans, farm equipment loans, and aircraft leases.

Average Life. The average length of time that an issue of serial bonds and/or term bonds with a mandatory sinking fund feature is expected to be outstanding.

Bankers' Acceptance (BA's). A draft or bill of exchange drawn upon and accepted by a bank. Frequently used to finance shipping of international goods. Used as a short-term credit instrument, bankers' acceptances are traded at a discount from face value as a money market instrument in the secondary market on the basis of the credit quality of the guaranteeing bank.

Basis Point. One hundredth of one percent, or 0.01%. Thus 1% equals 100 basis points.

Bearer Security. A security whose ownership is determined by the holder of the physical security. Typically, there is no registration on the issuer's books. Title to bearer securities is transferred by delivery of the physical security or certificate. Also known as "physical securities."

Benchmark Bills: In November 1999, FNMA introduced its Benchmark Bills program, a short-term debt securities issuance program to supplement its existing discount note program. The program includes a schedule of larger, weekly issues in three- and six-month maturities and biweekly issues in one-year for Benchmark Bills. Each issue is brought to market via a Dutch (single price) auction. FNMA conducts a weekly auction for each Benchmark Bill maturity and accepts both competitive and non-competitive bids through a web based auction system. This program is in addition to the variety of other discount note maturities, with rates posted on a daily basis, which FNMA offers. FNMA's Benchmark Bills are unsecured general obligations that are issued in book-entry form through the Federal Reserve Banks. There are no periodic payments of interest on Benchmark Bills, which are sold at a discount from the principal amount and payable at par at maturity. Issues under the Benchmark program constitute the same credit standing as other FNMA discount notes; they simply add organization and liquidity to the short-term Agency discount note market.

Benchmark Notes/Bonds: Benchmark Notes and Bonds are a series of FNMA "bullet" maturities (non-callable) issued according to a pre-announced calendar. Under its Benchmark Notes/Bonds program, 2, 3, 5, 10, and 30-year maturities are issued each quarter. Each Benchmark Notes new issue

has a minimum size of \$4 billion, 30-year new issues having a minimum size of \$1 billion, with re-openings based on investor demand to further enhance liquidity. The amount of non-callable issuance has allowed FNMA to build a yield curve in Benchmark Notes and Bonds in maturities ranging from 2 to 30 years. The liquidity emanating from these large size issues has facilitated favorable financing opportunities through the development of a liquid overnight and term repo market. Issues under the Benchmark program constitute the same credit standing as other FNMA issues; they simply add organization and liquidity to the intermediate- and long-term Agency market.

Benchmark. A market index used as a comparative basis for measuring the performance of an investment portfolio. A performance benchmark should represent a close correlation to investment guidelines, risk tolerance, and duration of the actual portfolio's investments.

Bid Price. Price at which a broker/dealer offers to purchase a security from an investor.

Bond. Financial obligation for which the issuer promises to pay the bondholder (the purchaser or owner of the bond) a specified stream of future cash-flows, including periodic interest payments and a principal repayment.

Book Entry Securities. Securities that are recorded in a customer's account electronically through one of the financial markets electronic delivery and custody systems, such as the Fed Securities wire, DTC, and PTC

(as opposed to bearer or physical securities). The trend is toward a certificate-free society in order to cut down on paperwork and to diminish investors' concerns about the certificates themselves. The vast majority of securities are now book entry securities.

Book Value. The value at which a debt security is reflected on the holder's records at any point in time. Book value is also called "amortized cost" as it represents the original cost of an investment adjusted for amortization of premium or accretion of discount. Also called "carrying value." Book value can vary over time as an investment approaches maturity and differs from "market value" in that it is not affected by changes in market interest rates.

Broker/Dealer. A person or firm transacting securities business with customers. A "broker" acts as an agent between buyers and sellers, and receives a commission for these services. A "dealer" buys and sells financial assets from its own portfolio. A dealer takes risk by owning inventory of securities, whereas a broker merely matches up buyers and sellers. See also "Primary Dealer."

Bullet Notes/Bonds. Notes or bonds that have a single maturity date and are non-callable.

Call Date. Date at which a call option may be or is exercised.

Call Option. The right, but not the obligation, of an issuer of a security to redeem a security at a specified value and at a specified date or dates prior to its stated maturity date. Most fixed-income calls are a par, but can be at any previously established price. Securities issued with a call provision typically carry a higher yield than similar securities issued without a call feature. There are three primary types of call options (1) European - one-time calls, (2) Bermudan - periodically on a predetermined schedule (quarterly, semi-annual, annual), and (3) American - continuously callable at any time on or after the call date. There is usually a notice period of at least 5 business days prior to a call date.

Callable Bonds/Notes. Securities which contain an imbedded call option giving the issuer the right to redeem the securities prior to maturity at a predetermined price and time.

Certificate of Deposit (CD). Bank obligation issued by a financial institution generally offering a fixed rate of return (coupon) for a specified period of time (maturity). Can be as long as 10 years to maturity, but most CDs purchased by public agencies are one year and under.

Collateral. Investment securities or other property that a borrower pledges to secure repayment of a loan, secure deposits of public monies, or provide security for a repurchase agreement.

Collateralization. Process by which a borrower pledges securities, property, or other deposits for securing the repayment of a loan and/or security.

Collateralized Mortgage Obligation (CMO). A security that pools together mortgages and separates them into short, medium, and long-term positions (called tranches). Tranches are set up to pay different rates of interest depending upon their maturity. Interest payments are usually paid monthly. In “plain vanilla” CMOs, principal is not paid on a tranche until all shorter tranches have been paid off. This system provides interest and principal in a more predictable manner. A single pool of mortgages can be carved up into numerous tranches each with its own payment and risk characteristics.

Commercial Paper. Short term unsecured promissory note issued by a company or financial institution. Issued at a discount and matures for par or face value. Usually a maximum maturity of 270 days and given a short-term debt rating by one or more NRSROs.

Convexity. A measure of a bond's price sensitivity to changing interest rates. A high convexity indicates greater sensitivity of a bond's price to interest rate changes.

Corporate Note. A debt instrument issued by a corporation with a maturity of greater than one year and less than ten years.

Counterparty. The other party in a two party financial transaction. "Counterparty risk" refers to the risk that the other party to a transaction will fail in its related obligations. For example, the bank or broker/dealer in a repurchase agreement.

Coupon Rate. Annual rate of interest on a debt security, expressed as a percentage of the bond's face value.

Current Yield. Annual rate of return on a bond based on its price. Calculated as (coupon rate / price), but does not accurately reflect a bond's true yield level.

Custody. Safekeeping services offered by a bank, financial institution, or trust company, referred to as the “custodian.” Service normally includes the holding and reporting of the customer's securities, the collection and disbursement of income, securities settlement, and market values.

Dealer. A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his/her own account.

Delivery Versus Payment (DVP). Settlement procedure in which securities are delivered versus payment of cash, but only after cash has been received. Most security transactions, including those

through the Fed Securities Wire system and DTC, are done DVP as a protection for both the buyer and seller of securities.

Depository Trust Company (DTC). A firm through which members can use a computer to arrange for securities to be delivered to other members without physical delivery of certificates. A member of the Federal Reserve System and owned mostly by the New York Stock Exchange, the Depository Trust Company uses computerized debit and credit entries. Most corporate securities, commercial paper, CDs, and BAs clear through DTC.

Derivatives. (1) Financial instruments whose return profile is linked to, or derived from, the movement of one or more underlying index or security, and may include a leveraging factor, or (2) financial contracts based upon notional amounts whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities, or commodities). For hedging purposes, common derivatives are options, futures, interest rate swaps, and swaptions.

Derivative Security. Financial instrument created from, or whose value depends upon, one or more underlying assets or indexes of asset values.

Designated Bond. FFCB's regularly issued, liquid, non-callable securities that generally have a 2 or 3 year original maturity. New issues of Designated Bonds are \$1 billion or larger. Re-openings of existing Designated Bond issues are generally a minimum of \$100 million. Designated Bonds are offered through a syndicate of two to six dealers. Twice each month the Funding Corporation announces its intention to issue a new Designated Bond, reopen an existing issue, or to not issue or reopen a Designated Bond. Issues under the Designated Bond program constitute the same credit standing as other FFCB issues; they simply add organization and liquidity to the intermediate- and long-term Agency market.

Discount Notes. Unsecured general obligations issued by Federal Agencies at a discount. Discount notes mature at par and can range in maturity from overnight to one year. Very large primary (new issue) and secondary markets exist.

Discount Rate. Rate charged by the system of Federal Reserve Banks on overnight loans to member banks. Changes to this rate are administered by the Federal Reserve and closely mirror changes to the "fed funds rate."

Discount Securities. Non-interest bearing money market instruments that are issued at discount and redeemed at maturity for full face value. Examples include: U.S. Treasury Bills, Federal Agency Discount Notes, Bankers' Acceptances, and Commercial Paper.

Discount. The amount by which a bond or other financial instrument sells below its face value. See also "Premium."

Diversification. Dividing investment funds among a variety of security types, maturities, industries, and issuers offering potentially independent returns.

Dollar Price. A bond's cost expressed as a percentage of its face value. For example, a bond quoted at a dollar price of 95 ½, would have a principal cost of \$955 per \$1,000 of face value.

Duff & Phelps. One of several NRSROs that provide credit ratings on corporate and bank debt issues.

Duration. The weighted average maturity of a security's or portfolio's cash-flows, where the present values of the cash-flows serve as the weights. The greater the duration of a security/portfolio, the greater its percentage price volatility with respect to changes in interest rates. Used as a measure of risk and a key tool for managing a portfolio versus a benchmark and for hedging risk. There are also different kinds of duration used for different purposes (e.g. MacAuley Duration, Modified Duration).

Fannie Mae. See "Federal National Mortgage Association."

Fed Money Wire. A computerized communications system that connects the Federal Reserve System with its member banks, certain U. S. Treasury offices, and the Washington D.C. office of the Commodity Credit Corporation. The Fed Money Wire is the book entry system used to transfer cash balances between banks for themselves and for customer accounts.

Fed Securities Wire. A computerized communications system that facilitates book entry transfer of securities between banks, brokers and customer accounts, used primarily for settlement of U.S. Treasury and Federal Agency securities.

Fed. See "Federal Reserve System."

Federal Agency Security. A debt instrument issued by one of the Federal Agencies. Federal Agencies are considered second in credit quality and liquidity only to U.S. Treasuries.

Federal Agency. Government sponsored/owned entity created by the U.S. Congress, generally for the purpose of acting as a financial intermediary by borrowing in the marketplace and directing proceeds to specific areas of the economy considered to otherwise have restricted access to credit markets. The largest Federal Agencies are GNMA, FNMA, FHLMC, FHLB, FFCB, SLMA, and TVA.

Federal Deposit Insurance Corporation (FDIC). Federal agency that insures deposits at commercial banks, currently to a limit of \$250,000 per depositor per bank.

Federal Farm Credit Bank (FFCB). One of the large Federal Agencies. A government sponsored enterprise (GSE) system that is a network of cooperatively-owned lending institutions that provides credit services to farmers, agricultural cooperatives and rural utilities. The FFCBs act as financial intermediaries that borrow money in the capital markets and use the proceeds to make loans and provide other assistance to farmers and farm-affiliated businesses. Consists of the consolidated operations of the Banks for Cooperatives, Federal Intermediate Credit Banks, and Federal Land Banks. Frequent issuer of discount notes, agency notes and callable agency securities. FFCB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and agricultural industry. Also issues notes under its "designated note" program.

Federal Funds (Fed Funds). Funds placed in Federal Reserve Banks by depository institutions in excess of current reserve requirements, and frequently loaned or borrowed on an overnight basis between depository institutions.

Federal Funds Rate (Fed Funds Rate). The interest rate charged by a depository institution lending Federal Funds to another depository institution. The Federal Reserve influences this rate by establishing a "target" Fed Funds rate associated with the Fed's management of monetary policy.

Federal Home Loan Bank System (FHLB). One of the large Federal Agencies. A government sponsored enterprise (GSE) system, consisting of wholesale banks (currently twelve district banks) owned by their member banks, which provides correspondent banking services and credit to various financial institutions, financed by the issuance of securities. The principal purpose of the FHLB is to add liquidity to the mortgage markets. Although FHLB does not directly fund mortgages, it provides a stable supply of credit to thrift institutions that make new mortgage loans. FHLB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes and callable agency securities. Also issues notes under its “global note” and “TAP” programs.

Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac"). One of the large Federal Agencies. A government sponsored public corporation (GSE) that provides stability and assistance to the secondary market for home mortgages by purchasing first mortgages and participation interests financed by the sale of debt and guaranteed mortgage backed securities. FHLMC debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities, and MBS. Also issues notes under its “reference note” program.

Federal National Mortgage Association (FNMA or "Fannie Mae"). One of the large Federal Agencies. A government sponsored public corporation (GSE) that provides liquidity to the residential mortgage market by purchasing mortgage loans from lenders, financed by the issuance of debt securities and MBS (pools of mortgages packaged together as a security). FNMA debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities and MBS. Also issues notes under its “benchmark note” program.

Federal Reserve Bank. One of the 12 distinct banks of the Federal Reserve System.

Federal Reserve System (the Fed). The independent central bank system of the United States that establishes and conducts the nation's monetary policy. This is accomplished in three major ways: (1) raising or lowering bank reserve requirements, (2) raising or lowering the target Fed Funds Rate and Discount Rate, and (3) in open market operations by buying and selling government securities. The Federal Reserve System is made up of twelve Federal Reserve District Banks, their branches, and many national and state banks throughout the nation. It is headed by the seven member Board of Governors known as the “Federal Reserve Board” and headed by its Chairman.

Financial Industry Regulatory Authority, Inc. (FINRA). A private corporation that acts as a self-regulatory organization (SRO). FINRA is the successor to the National Association of Securities Dealers, Inc. (NASD). Though sometimes mistaken for a government agency, it is a non-governmental organization that performs financial regulation of member brokerage firms and exchange markets. The government also has a regulatory arm for investments, the Securities and Exchange Commission (SEC).

Fiscal Agent/Paying Agent. A bank or trust company that acts, under a trust agreement with a corporation or municipality, in the capacity of general treasurer. The agent performs such duties as making coupon payments, paying rents, redeeming bonds, and handling taxes relating to the issuance of bonds.

Fitch Investors Service, Inc. One of several NRSROs that provide credit ratings on corporate and municipal debt issues.

Floating Rate Security (FRN or “floater”). A bond with an interest rate that is adjusted according to changes in an interest rate or index. Differs from variable-rate debt in that the changes to the rate take place immediately when the index changes, rather than on a predetermined schedule. See also “Variable Rate Security.”

Freddie Mac. See "Federal Home Loan Mortgage Corporation."

Ginnie Mae. See "Government National Mortgage Association."

Global Notes: Notes designed to qualify for immediate trading in both the domestic U.S. capital market and in foreign markets around the globe. Usually large issues that are sold to investors worldwide and therefore have excellent liquidity. Despite their global sales, global notes sold in the U.S. are typically denominated in U.S. dollars.

Government National Mortgage Association (GNMA or "Ginnie Mae"). One of the large Federal Agencies. Government-owned Federal Agency that acquires, packages, and resells mortgages and mortgage purchase commitments in the form of mortgage-backed securities. Largest issuer of mortgage pass-through securities. GNMA debt is guaranteed by the full faith and credit of the U.S. government (one of the few agencies that are actually full faith and credit of the U.S. government).

Government Securities. An obligation of the U.S. government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market. See "Treasury Bills, Notes, Bonds, and SLGS."

Government Sponsored Enterprise (GSE). Privately owned entity subject to federal regulation and supervision, created by the U.S. Congress to reduce the cost of capital for certain borrowing sectors of the economy such as students, farmers, and homeowners. GSEs carry the implicit backing of the U.S. government, but they are not direct obligations of the U.S. government. For this reason, these securities will offer a yield premium over U.S. Treasuries. Examples of GSEs include: FHLB, FHLMC, FNMA, and SLMA.

Government Sponsored Enterprise Security. A security issued by a Government Sponsored Enterprise. Considered Federal Agency Securities.

Index. A compilation of statistical data that tracks changes in the economy or in financial markets.

Interest-Only (IO) STRIP. A security based solely on the interest payments from the bond. After the principal has been repaid, interest payments stop and the value of the security falls to nothing. Therefore, IOs are considered risky investments. Usually associated with mortgage-backed securities.

Internal Controls. An internal control structure ensures that the assets of the entity are protected from loss, theft, or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that 1) the cost of a control should not exceed the benefits likely to be derived and 2) the valuation of costs and benefits requires estimates and judgments by management. Internal controls should address the following points:

1. **Control of collusion** - Collusion is a situation where two or more employees are working in conjunction to defraud their employer.
2. **Separation of transaction authority from accounting and record keeping** - A separation of duties is achieved by separating the person who authorizes or performs the transaction from the people who record or otherwise account for the transaction.
3. **Custodial safekeeping** - Securities purchased from any bank or dealer including appropriate collateral (as defined by state law) shall be placed with an independent third party for custodial safekeeping.
4. **Avoidance of physical delivery securities** - Book-entry securities are much easier to transfer and account for since actual delivery of a document never takes place. Delivered securities must be properly safeguarded against loss or destruction. The potential for fraud and loss increases with physically delivered securities.
5. **Clear delegation of authority to subordinate staff members** - Subordinate staff members must have a clear understanding of their authority and responsibilities to avoid improper actions. Clear delegation of authority also preserves the internal control structure that is contingent on the various staff positions and their respective responsibilities.
6. **Written confirmation of transactions for investments and wire transfers** - Due to the potential for error and improprieties arising from telephone and electronic transactions, all transactions should be supported by written communications and approved by the appropriate person. Written communications may be via fax if on letterhead and if the safekeeping institution has a list of authorized signatures.
7. **Development of a wire transfer agreement with the lead bank and third-party custodian** - The designated official should ensure that an agreement will be entered into and will address the following points: controls, security provisions, and responsibilities of each party making and receiving wire transfers.

Inverse Floater. A floating rate security structured in such a way that it reacts inversely to the direction of interest rates. Considered risky as their value moves in the opposite direction of normal fixed-income investments and whose interest rate can fall to zero.

Investment Advisor. A company that provides professional advice managing portfolios, investment recommendations, and/or research in exchange for a management fee.

Investment Adviser Act of 1940. Federal legislation that sets the standards by which investment companies, such as mutual funds, are regulated in the areas of advertising, promotion, performance reporting requirements, and securities valuations.

Investment Grade. Bonds considered suitable for preservation of invested capital, including bonds rated a minimum of Baa3 by Moody's, BBB- by Standard & Poor's, or BBB- by Fitch. Although "BBB" rated bonds are considered investment grade, most public agencies cannot invest in securities rated below "A."

Liquidity. Relative ease of converting an asset into cash without significant loss of value. Also, a relative measure of cash and near-cash items in a portfolio of assets. Additionally, it is a term describing the marketability of a money market security correlating to the narrowness of the spread between the bid and ask prices.

Local Government Investment Pool (LGIP). An investment by local governments in which their money is pooled as a method for managing local funds, (e.g., Florida State Board of Administration's Florida Prime Fund).

Long-Term Core Investment Program. Funds that are not needed within a one-year period.

Market Value. The fair market value of a security or commodity. The price at which a willing buyer and seller would pay for a security.

Mark-to-market. Adjusting the value of an asset to its market value, reflecting in the process unrealized gains or losses.

Master Repurchase Agreement. A widely accepted standard agreement form published by the Securities Industry and Financial Markets Association (SIFMA) that is used to govern and document Repurchase Agreements and protect the interest of parties in a repo transaction.

Maturity Date. Date on which principal payment of a financial obligation is to be paid.

Medium Term Notes (MTN's). Used frequently to refer to corporate notes of medium maturity (5-years and under). Technically, any debt security issued by a corporate or depository institution with a maturity from 1 to 10 years and issued under an MTN shelf registration. Usually issued in smaller issues with varying coupons and maturities, and underwritten by a variety of broker/dealers (as opposed to large corporate deals issued and underwritten all at once in large size and with a fixed coupon and maturity).

Money Market. The market in which short-term debt instruments (bills, commercial paper, bankers' acceptance, etc.) are issued and traded.

Money Market Mutual Fund (MMF). A type of mutual fund that invests solely in money market instruments, such as: U.S. Treasury bills, commercial paper, bankers' acceptances, and repurchase agreements. Money market mutual funds are registered with the SEC under the Investment Company Act of 1940 and are subject to "rule 2a-7" which significantly limits average maturity and credit quality of holdings. MMF's are managed to maintain a stable net asset value (NAV) of \$1.00. Many MMFs carry ratings by a NRSRO.

Moody's Investors Service. One of several NRSROs that provide credit ratings on corporate and municipal debt issues.

Mortgage Backed Securities (MBS). Mortgage-backed securities represent an ownership interest in a pool of mortgage loans made by financial institutions, such as savings and loans, commercial banks, or mortgage companies, to finance the borrower's purchase of a home or other real estate. The majority of MBS are issued and/or guaranteed by GNMA, FNMA, and FHLMC. There are a variety of MBS structures with varying levels of risk and complexity. All MBS have reinvestment risk as actual principal and interest payments are dependent on the payment of the underlying mortgages which can be prepaid by mortgage holders to refinance and lower rates or simply because the underlying property was sold.

Mortgage Pass-Through Securities. A pool of residential mortgage loans with the monthly interest and principal distributed to investors on a pro-rata basis. The largest issuer is GNMA.

Municipal Note/Bond. A debt instrument issued by a state or local government unit or public agency. The vast majority of municipals are exempt from state and federal income tax, although some non-qualified issues are taxable.

Mutual Fund. Portfolio of securities professionally managed by a registered investment company that issues shares to investors. Many different types of mutual funds exist (e.g., bond, equity, and money market funds); all except money market funds operate on a variable net asset value (NAV).

Negotiable Certificate of Deposit (Negotiable CD). Large denomination CDs (\$100,000 and larger) that are issued in bearer form and can be traded in the secondary market.

Net Asset Value. The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund's assets including securities, cash, and any accrued earnings, then subtracting the total assets from the fund's liabilities, and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price for each security in the fund's portfolio. (See below.)

$$\frac{[(\text{Total assets}) - (\text{Liabilities})]}{(\text{Number of shares outstanding})}$$

NRSRO. A “Nationally Recognized Statistical Rating Organization” (NRSRO) is a designated rating organization that the SEC has deemed a strong national presence in the U.S. NRSROs provide credit ratings on corporate and bank debt issues. Only ratings of a NRSRO may be used for the regulatory purposes of rating. Includes Moody’s, S&P, Fitch, and Duff & Phelps.

Offered Price. See also "Ask Price."

Open Market Operations. A Federal Reserve monetary policy tactic entailing the purchase or sale of government securities in the open market by the Federal Reserve System from and to primary dealers in order to influence the money supply, credit conditions, and interest rates.

Par Value. The face value, stated value, or maturity value of a security.

Physical Delivery. Delivery of readily available underlying assets at contract maturity.

Portfolio. Collection of securities and investments held by an investor.

Premium. The amount by which a bond or other financial instrument sells above its face value. See also "Discount."

Primary Dealer. A designation given to certain government securities dealer by the Federal Reserve Bank of New York. Primary dealers can buy and sell government securities directly with the Fed. Primary dealers also submit daily reports of market activity and security positions held to the Fed and are subject to its informal oversight. Primary dealers are the largest buyers and sellers by volume in the U.S. Treasury securities market.

Prime Paper. Commercial paper of high quality. Highest rated paper is A-1+/A-1 by S&P and P-1 by Moody’s.

Principal. Face value of a financial instrument on which interest accrues. May be less than par value if some principal has been repaid or retired. For a transaction, principal is par value times price and includes any premium or discount.

Prudent Expert Rule. Standard that requires that a fiduciary manage a portfolio with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. This statement differs from the “prudent person” rule in that familiarity with such matters suggests a higher standard than simple prudence.

Prudent Investor Standard. Standard that requires that when investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency. More stringent than the “prudent person” standard as it implies a level of knowledge commensurate with the responsibility at hand.

Qualified Public Depository - Per Subsection 280.02(26), F.S., “qualified public depository” means any bank, savings bank, or savings association that:

1. Is organized and exists under the laws of the United States, the laws of this state or any other state or territory of the United States.
2. Has its principal place of business in this state or has a branch office in this state which is authorized under the laws of this state or of the United States to receive deposits in this state.
3. Has deposit insurance under the provision of the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss.1811 et seq.
4. Has procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits.
5. Meets all requirements of Chapter 280, F.S.
6. Has been designated by the Chief Financial Officer as a qualified public depository.

Range Note. A type of structured note that accrues interest daily at a set coupon rate that is tied to an index. Most range notes have two coupon levels; a higher accrual rate for the period the index is within a designated range, the lower accrual rate for the period that the index falls outside the designated range. This lower rate may be zero and may result in zero earnings.

Rate of Return. Amount of income received from an investment, expressed as a percentage of the amount invested.

Realized Gains (Losses). The difference between the sale price of an investment and its book value. Gains/losses are “realized” when the security is actually sold, as compared to “unrealized” gains/losses which are based on current market value. See “Unrealized Gains (Losses).”

Reference Bills: FHLMC’s short-term debt program created to supplement its existing discount note program by offering issues from one month through one year, auctioned on a weekly or on an alternating four-week basis (depending upon maturity) offered in sizeable volumes (\$1 billion and up) on a cycle of regular, standardized issuance. Globally sponsored and distributed, Reference Bill issues are intended to encourage active trading and market-making and facilitate the development of a term repo market. The program was designed to offer predictable supply, pricing transparency, and liquidity, thereby providing alternatives to U.S. Treasury bills. FHLMC’s Reference Bills are unsecured general corporate obligations. This program supplements the corporation’s existing discount note program. Issues under the Reference program constitute the same credit standing as other FHLMC discount notes; they simply add organization and liquidity to the short-term Agency discount note market.

Reference Notes: FHLMC’s intermediate-term debt program with issuances of 2, 3, 5, 10, and 30-year maturities. Initial issuances range from \$2 - \$6 billion with re-openings ranging \$1 - \$4 billion.

The notes are high-quality bullet structures securities that pay interest semiannually. Issues under the Reference program constitute the same credit standing as other FHLMC notes; they simply add organization and liquidity to the intermediate- and long-term Agency market.

Repurchase Agreement (Repo). A short-term investment vehicle where an investor agrees to buy securities from a counterparty and simultaneously agrees to resell the securities back to the counterparty at an agreed upon time and for an agreed upon price. The difference between the purchase price and the sale price represents interest earned on the agreement. In effect, it represents a collateralized loan to the investor, where the securities are the collateral. Can be DVP, where securities are delivered to the investor’s custodial bank, or “tri-party” where the securities are delivered to a third party intermediary. Any type of security can be used as “collateral,” but only some types provide the investor with special bankruptcy protection under the law. Repos should be undertaken only when an appropriate Securities Industry and Financial Markets Association (SIFMA) approved master repurchase agreement is in place.

Reverse Repurchase Agreement (Reverse Repo). A repo from the point of view of the original seller of securities. Used by dealers to finance their inventory of securities by essentially borrowing at short-term rates. Can also be used to leverage a portfolio and in this sense, can be considered risky if used improperly.

Safekeeping. Service offered for a fee, usually by financial institutions, for the holding of securities and other valuables. Safekeeping is a component of custody services.

Secondary Market. Markets for the purchase and sale of any previously issued financial instrument.

Securities Industry and Financial Markets Association (SIFMA). The bond market trade association representing the largest securities markets in the world. In addition to publishing a Master Repurchase Agreement, widely accepted as the industry standard document for Repurchase Agreements, the SIFMA also recommends bond market closures and early closes due to holidays.

Securities Lending. An arrangement between an investor and a custody bank that allows the custody bank to “loan” the investor’s investment holdings, reinvest the proceeds in permitted investments, and

shares any profits with the investor. Should be governed by a securities lending agreement. Can increase the risk of a portfolio in that the investor takes on the default risk on the reinvestment at the discretion of the custodian.

Sinking Fund. A separate accumulation of cash or investments (including earnings on investments) in a fund in accordance with the terms of a trust agreement or indenture, funded by periodic deposits by the issuer (or other entity responsible for debt service), for the purpose of assuring timely availability of moneys for payment of debt service. Usually used in connection with term bonds.

Spread. The difference between the price of a security and similar maturity U.S. Treasury investments, expressed in percentage terms or basis points. A spread can also be the absolute difference in yield between two securities. The securities can be in different markets or within the same securities market between different credits, sectors, or other relevant factors.

Standard & Poor's. One of several NRSROs that provide credit ratings on corporate and municipal debt issues.

STRIPS (Separate Trading of Registered Interest and Principal of Securities). Acronym applied to U.S. Treasury securities that have had their coupons and principal repayments separated into individual zero-coupon Treasury securities. The same technique and "strips" description can be applied to non-Treasury securities (e.g., FNMA strips).

Structured Notes. Notes that have imbedded into their structure options such as step-up coupons or derivative-based returns.

Supranational. Supranational organizations are international financial institutions that are generally established by agreements among nations, with member nations contributing capital and participating in management. These agreements provide for limited immunity from the laws of member countries. Bonds issued by these institutions are part of the broader class of Supranational, Sovereign, and Non-U.S. Agency (SSA) sector bonds. Supranational bonds finance economic and infrastructure development and support environmental protection, poverty reduction, and renewable energy around the globe. For example, the World Bank, International Finance Corporation (IFC), and African Development Bank (AfDB) have "green bond" programs specifically designed for energy resource conservation and management. Supranational bonds, which are issued by multi-national organizations that transcend national boundaries. Examples include the World Bank, African Development Bank, and European Investment Bank.

Swap. Trading one asset for another.

TAP Notes: Federal Agency notes issued under the FHLB TAP program. Launched in 6/99 as a refinement to the FHLB bullet bond auction process. In a break from the FHLB's traditional practice of bringing numerous small issues to market with similar maturities, the TAP Issue Program uses the four most common maturities and reopens them up regularly through a competitive auction. These maturities (2, 3, 5, and 10 year) will remain open for the calendar quarter, after which they will be closed and a new series of TAP issues will be opened to replace them. This reduces the number of separate bullet bonds issued, but generates enhanced awareness and liquidity in the marketplace through increased issue size and secondary market volume.

Tennessee Valley Authority (TVA). One of the large Federal Agencies. A wholly owned corporation of the United States government that was established in 1933 to develop the resources of the Tennessee Valley region in order to strengthen the regional and national economy and the national defense. Power operations are separated from non-power operations. TVA securities represent obligations of TVA, payable solely from TVA's net power proceeds, and are neither obligations of nor guaranteed by the United States. TVA is currently authorized to issue debt up to \$30 billion. Under this authorization, TVA may also obtain advances from the U.S. Treasury of up to \$150 million. Frequent issuer of discount notes, agency notes, and callable agency securities.

Total Return. Investment performance measured over a period of time that includes coupon interest, interest on interest, and both realized and unrealized gains or losses. Total return includes, therefore, any market value appreciation/depreciation on investments held at period end.

Treasuries. Collective term used to describe debt instruments backed by the U.S. government and issued through the U.S. Department of the Treasury. Includes Treasury bills, Treasury notes, and Treasury bonds. Also a benchmark term used as a basis by which the yields of non-Treasury securities are compared (e.g., "trading at 50 basis points over Treasuries").

Treasury Bills (T-Bills). Short-term direct obligations of the United States government issued with an original term of one year or less. Treasury bills are sold at a discount from face value and do not pay interest before maturity. The difference between the purchase price of the bill and the maturity value is the interest earned on the bill. Currently, the U.S. Treasury issues 4-week, 13-week, and 26-week T-Bills.

Treasury Bonds. Long-term interest-bearing debt securities backed by the U.S. government and issued with maturities of ten years and longer by the U.S. Department of the Treasury.

Treasury Notes. Intermediate interest-bearing debt securities backed by the U.S. government and issued with maturities ranging from one to ten years by the U.S. Department of the Treasury. The Treasury currently issues 2-year, 3-year, 5-year, and 10-year Treasury Notes.

Trustee. A bank designated by an issuer of securities as the custodian of funds and official representative of bondholders. Trustees are appointed to insure compliance with the bond documents and to represent bondholders in enforcing their contract with the issuer.

Uniform Net Capital Rule. SEC Rule 15c3-1 that outlines the minimum net capital ratio (ratio of indebtedness to net liquid capital) of member firms and non-member broker/dealers.

Unrealized Gains (Losses). The difference between the market value of an investment and its book value. Gains/losses are "realized" when the security is actually sold, as compared to "unrealized" gains/losses which are based on current market value. See also "Realized Gains (Losses)."

Variable-Rate Security. A bond that bears interest at a rate that varies over time based on a specified schedule of adjustment (e.g., daily, weekly, monthly, semi-annually, or annually). See also "Floating Rate Note."

Weighted Average Maturity (or just "Average Maturity"). The average maturity of all securities and investments of a portfolio, determined by multiplying the par or principal value of each security or

investment by its maturity (days or years), summing the products, and dividing the sum by the total principal value of the portfolio. A simple measure of risk of a fixed-income portfolio.

Weighted Average Maturity to Call. The average maturity of all securities and investments of a portfolio, adjusted to substitute the first call date per security for maturity date for those securities with call provisions.

Yield Curve. A graphic depiction of yields on like securities in relation to remaining maturities spread over a time line. The traditional yield curve depicts yields on U.S. Treasuries, although yield curves exist for Federal Agencies and various credit quality corporates as well. Yield curves can be positively sloped (normal) where longer-term investments have higher yields, or “inverted” (uncommon) where longer-term investments have lower yields than shorter ones.

Yield to Call (YTC). Same as “Yield to Maturity,” except the return is measured to the first call date rather than the maturity date. Yield to call can be significantly higher or lower than a security’s yield to maturity.

Yield to Maturity (YTM). Calculated return on an investment, assuming all cash-flows from the security are reinvested at the same original yield. Can be higher or lower than the coupon rate depending on market rates and whether the security was purchased at a premium or discount. There are different conventions for calculating YTM for various types of securities.

Yield. There are numerous methods of yield determination. In this glossary, see also "Current Yield," "Yield Curve," "Yield to Call," and "Yield to Maturity."


ATTACHMENT B - Investment Pool/Fund Questionnaire

1. A description of eligible investment securities, and a written statement of investment policy and objectives.
2. A description of interest calculations and how it is distributed, and how gains and losses are treated.
3. A description of how the securities are safeguarded (including the settlement processes), and how often the securities are priced and the program audited.
4. A description of who may invest in the program, how often, what size deposit and withdrawal are allowed.
5. A schedule for receiving statements and portfolio listings.
6. Are reserves, retained earnings, etc. utilized by the pool/fund?
7. A fee schedule, and when and how is it assessed.
8. Is the pool/fund eligible for bond proceeds and/or will it accept such proceeds?
9. Are there any liquidity gates?
10. Are there any redemption fees?

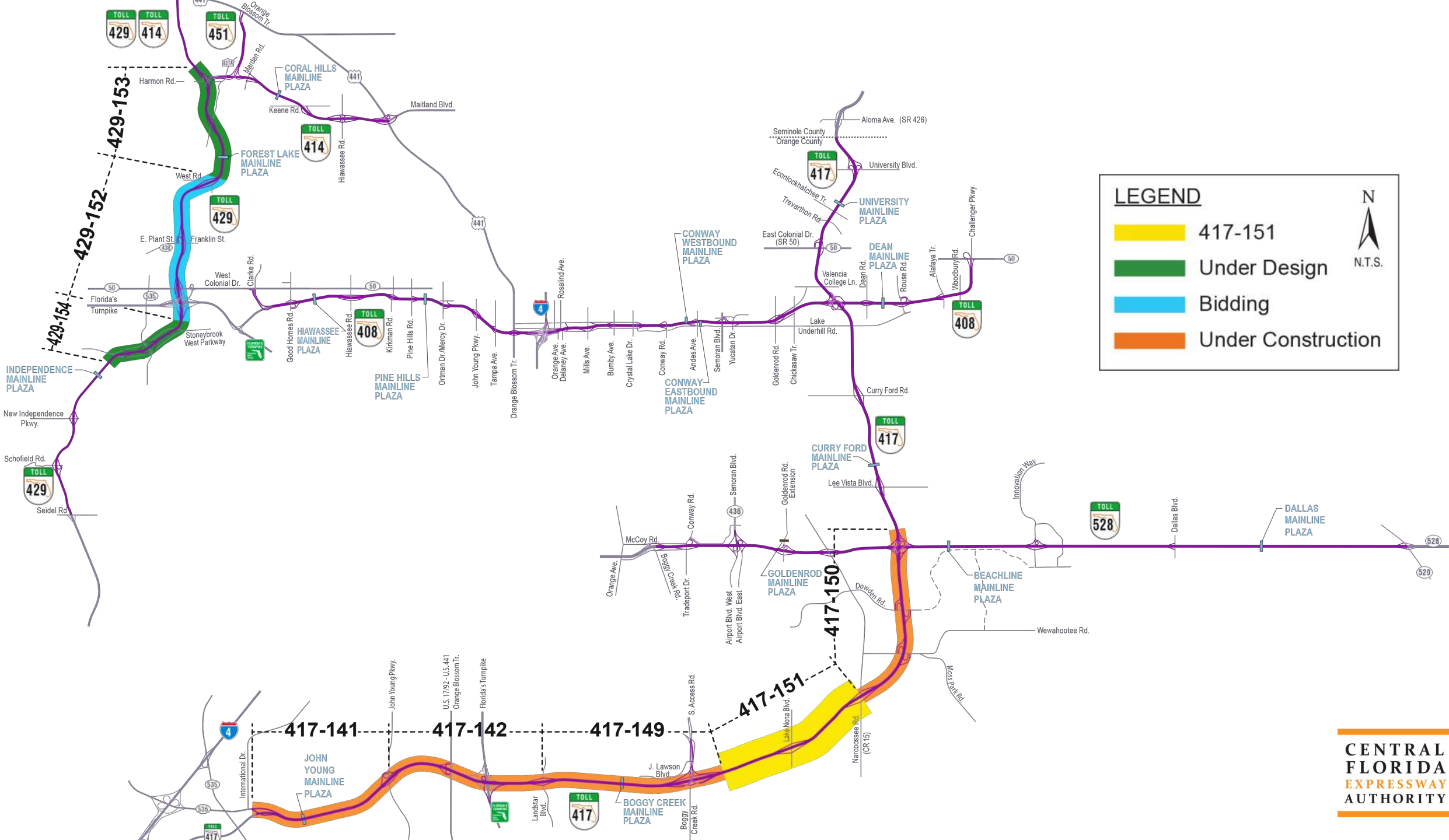
F. 3.



CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY



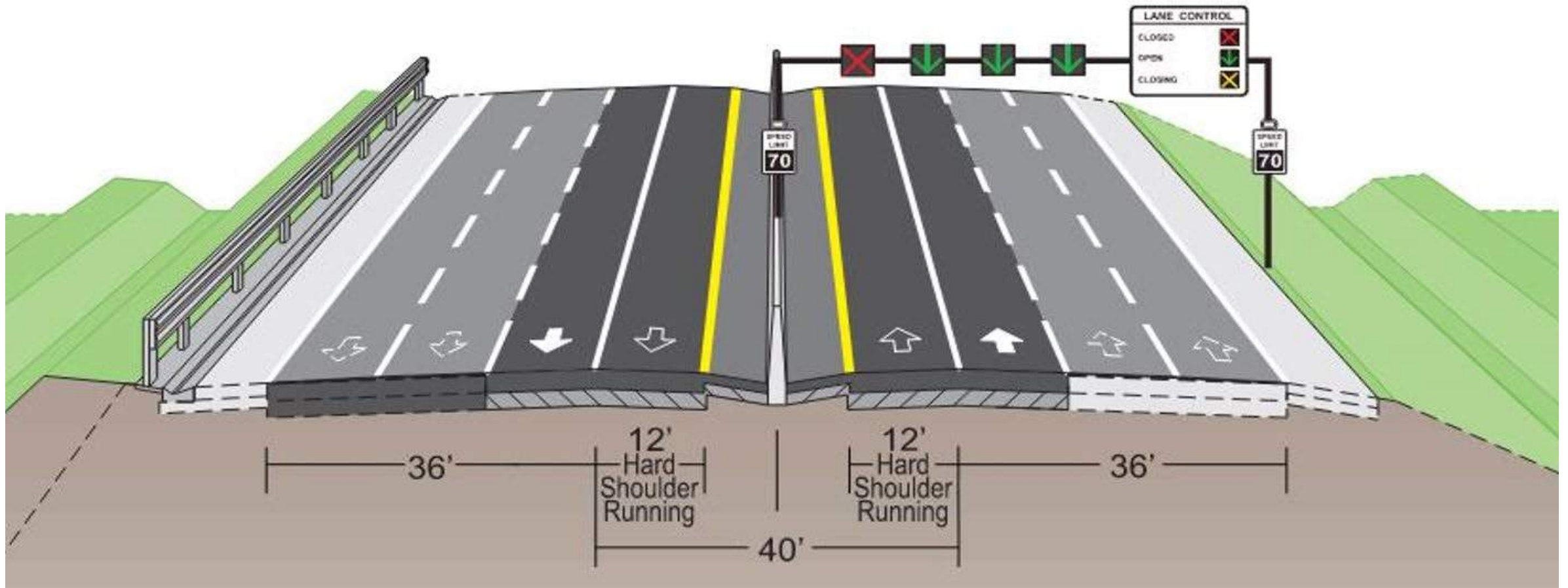
SR 417 Widening from Boggy Creek Road to Narcoossee Road
Will Hawthorne, PE, Director of Engineering
— August 12, 2021—



LEGEND

- 417-151
- Under Design
- Bidding
- Under Construction

N
N.T.S.



Project Timeline

- Anticipated Notice to Proceed – October 2021
- Projected Completion – 3rd Quarter 2023

Bids Received



Ranger Construction Industries, Inc.	\$61,810,653.72
SEMA Construction	\$63,892,946.73
Hubbard Construction Company	\$63,916,521.46
Superior Construction Co. Southeast	\$63,982,000.00
Sacyr Construccin SA, Inc.	\$65,814,118.00
Prince Contracting	\$66,332,417.00
OHL USA, Inc.	\$71,717,171.71
<i>Engineer's Estimate:</i>	<i>\$66,407,167.99</i>
<i>Work Plan Estimate:</i>	<i>\$56,760,000.00</i>

Recommended Motion

Award of the contract to Ranger Construction Industries, Inc. for the SR 417 Widening from Boggy Creek Road to Narcoossee Road in the amount of \$61,810,653.72.

CONTRACT



AND

RANGER CONSTRUCTION INDUSTRIES, INC.

**SR 417 WIDENING FROM BOGGY CREEK ROAD
TO NARCOOSSEE ROAD**

PROJECT NO. 417-151, CONTRACT NO. 001802

**CONTRACT DATE: AUGUST 12, 2021
CONTRACT AMOUNT: \$61,810,653.72**

**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 417 WIDENING FROM BOGGY CREEK ROAD
TO NARCOOSSEE ROAD**

**PROJECT NO. 417-151
CONTRACT NO. 001802**

AUGUST 2021

TABLE OF CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
C	CONTRACT	C-1 to C-2
	Memorandum of Agreement	1 to X
GS	GENERAL SPECIFICATIONS	1 – 156
	Attachment A	ATT-1 to ATT-9
	(See General Specifications Table of Contents for listing of individual specifications sections.)	
TS	TECHNICAL SPECIFICATIONS	TS-1 to TS-18
	(See Technical Specifications Table of Contents for listing of individual specifications sections.)	
SP	SPECIAL PROVISIONS	SP-1 to SP-47
	(See Special Provisions Table of Contents for listing of each special provision.)	
	Addendum No. 1	Addendum No. 2
	Addendum No. 3	
P	PROPOSAL	P-1 to P-18
VR	VEHICLE REGISTRATION FORM	VR-1 to VR-2
PCB	PUBLIC CONSTRUCTION BOND	PCB-1 to PCB-4
Plans		

CONTRACT

This Contract No. 001802 (the “Contract”), made this 12th day of August 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. 417-151, SR 417 Widening from Boggy Creek Road to Narcoossee Road, as detailed in the Contract Documents and any addenda or modifications thereto. Contract time for this project shall be 700 calendar days. The Contract Amount is \$61,810,653.72. This Contract was awarded by the Governing Board of CFX at its meeting on August 12, 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: _____
Director of Procurement

Print Name

DATE: _____

RANGER CONSTRUCTION INDUSTRIES, INC.

By: _____
Signature

Print Name

Title

ATTEST: _____ (Seal)

DATE: _____

Approved as to form and execution, only.

General Counsel for CFX

Print Name

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 1 - Abbreviations and Definitions	1
1.1 General	1
1.2 Abbreviations	1
1.3 Definitions	2
Section 2 - 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	23
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	32
2.6 Right To and Use of Materials Found at the Site of the Work	32
2.6.1 Ownership and Disposal of Existing Materials	
2.6.2 Ornamental Trees and Shrubs	
2.7 Restoration of Right of Way	32

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 3 - Control of Work	34
3.1 Plans and Working Drawings	34
3.1.1 Plans and Contract Documents	
3.1.2 CFX Plans	
3.1.3 Alterations in the Plans	
3.1.4 Shop Drawings	
3.2 Coordination of Plans and Specifications	44
3.3 Conformity of Work with Plans	44
3.3.1 Record Drawings	
3.4 Pre-Award Meeting	45
3.5 Orders and Instructions	46
3.5.1 Observation of the Work	
3.5.2 Examination of the Work	
3.5.3 Communications	
3.6 Engineering and Layout	48
3.6.1 Control Points Furnished by CFX	
3.6.2 Furnishing of Stake Material	
3.6.3 Layout of Work	
3.6.4 Specific Staking Requirements	
3.6.5 Personnel, Equipment, and Record Requirements	
3.6.6 Global Navigation Satellite Systems (GNSS) Work Plan	
3.6.7 Payment	
3.7 Contractor's Supervision	52
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 General Inspection Requirements	52
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 Inspection and Acceptance	54
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 Audit and Examination of Contract Records and Bid Records	55

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
3.11 Escrow of Bid Records	57
3.12 Prevailing Party Attorney's Fees	58
 Section 4 - Control of Materials	 60
4.1 Acceptance Criteria	60
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)	61
4.3 Source of Supply and Quality Requirements	61
4.3.1 Only Approved Materials to be Used	
4.3.2 Notification of Placing Order	
4.3.3 Approval of Source of Supply	
4.4 Inspection and Tests at Source of Supply	62
4.4.1 General	
4.4.2 Cooperation by Contractor	
4.4.3 Retest of Materials	
4.5 Storage of Materials and Samples	63
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	63
 Section 5 - Legal Requirements and Responsibility to the Public	 65
5.1 Laws to be Observed	65
5.1.1 General	
5.1.2 Plant Quarantine Regulations	
5.1.3 Introduction or Release of Prohibited Aquatic Plants, Plant Pests or Noxious Weeds	
5.1.4 Compliance with Federal Endangered Species Act	
5.1.5 Occupational Safety and Health Requirements	
5.1.6 Discovery of Unmarked Human Burial Site	
5.1.7 Insecticides and Herbicides	
5.2 Permits and Licenses	67
5.3 Patented Devices, Materials and Processes	67

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.4 Right of Way Furnished by CFX	68
5.5 Sanitary Provisions	68
5.6 Control of the Contractor's Equipment	68
5.6.1 Traffic Interference	
5.6.2 Overloaded Equipment	
5.6.3 Crossings	
5.6.4 Protection from Damage by Tractor-Type Equipment	
5.6.5 Contractor's Equipment on Bridge Structures	
5.6.6 Posting of the Legal Gross Vehicular Weight	
5.7 Structures Over Navigable Waters	70
5.7.1 Compliance with Jurisdictional Regulations	
5.8 Use of Explosives	70
5.9 Preservation of Property	70
5.9.1 General	
5.9.2 Failure to Restore Damaged Property	
5.9.3 Contractor's Use of Streets and Roads	
5.9.4 Traffic Signs, Signal Equipment, Highway Lighting and Guardrail	
5.9.5 Operations Within Railroad Right of Way	
5.9.6 Utilities	
5.10 Responsibility for Damages, Claims, etc.	75
5.10.1 Contractor to Provide Defense Against Claims and Suits	
5.10.2 Guaranty of Payment for Claims	
5.11 Insurance	76
5.11.1 Schedule of Required Limits for Workers' Compensation, General Liability and Automobile Liability	
5.11.2 Workers' Compensation and Employer's Liability Insurance	
5.11.3 Comprehensive General Liability Insurance	
5.11.4 Comprehensive Automobile Liability Insurance	
5.11.5 Umbrella/Excess Liability Insurance	
5.11.6 Builder's Risk	
5.11.7 Railroad Insurance	
5.11.8 Pollution Legal Liability	
5.11.9 Professional Liability	
5.12 Contract Bond (Public Construction Bond) Required	83
5.12.1 General Requirements of the Bond	
5.12.2 Continued Acceptability of Surety	
5.13 Contractor's Responsibility for Work	83
5.14 Opening Section of Highway to Traffic	84
5.15 Scales for Weighing Materials	84
5.15.1 Applicable Regulations	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
5.15.2 Base for Scales	
5.15.3 Protection and Maintenance	
5.16 Source of Forest Products	84
5.17 Regulations of Air Pollution	84
5.17.1 General	
5.17.2 Dust Control	
5.17.3 Asphalt Material	
5.17.4 Asphalt Plants	
5.18 Dredging and Filling	85
5.19 Erosion Control	85
5.20 Contractor's Motor Vehicle Registration	85
5.21 Internal Revenue Service Form W-9	85
5.22 Tolls and Access	86
5.23 Requests for References or Performance Evaluations	86
5.24 Unauthorized Aliens	86
5.25 Public Records	87
5.26 Inspector General	88
5.27 Convicted Vendor List	88
5.28 Discriminatory Vendor List	88
5.29 Severability	88
5.30 Companies Pursuant to Florida Statute Sections 287.135	89
Section 6 - Prosecution and Progress of the Work	90
6.1 Subletting or Assigning of Contract	91
6.2 Work Performed by Equipment Rental Agreement	92
6.3 Prosecution of Work	92
6.3.1 Sufficient Labor, Materials and Equipment	
6.3.2 Impacts by Adjacent Projects	
6.3.3 Submission of Preliminary, Baseline, Updated Baseline, and Two-Week Look-Ahead Schedules	
6.3.4 Beginning Work	
6.3.5 Provisions for Convenience of the Public	
6.3.6 Pre-Construction Conference	
6.4 Limitations of Operations	111
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	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
6.4.7 Protection of Structures	
6.4.8 Fencing	
6.4.9 Hazardous or Toxic Waste	
6.4.10 Milling	
6.5 Qualifications of Contractor's Personnel	114
6.6 Temporary Suspension of Contractor's Operations	116
6.6.1 CFX to Suspend Contractor's Operations	
6.6.2 Prolonged Suspensions	
6.6.3 Permission to Suspend Operations	
6.6.4 Suspension of Contractor's Operations – Holidays	
6.7 Contract Time	116
6.7.1 General	
6.7.2 Date of Beginning of Contract Time	
6.7.3 Adjusting Contract Time	
6.8 Failure of Contractor to Maintain Satisfactory Progress	118
6.8.1 General	
6.9 Default and Termination of Contract	119
6.9.1 Determination of Default	
6.9.2 Public Interest Termination of Contract	
6.9.3 Completion of Work by CFX	
6.10 Liquidated Damages for Failure to Complete the Work	121
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 Release of Contractor's Responsibility	122
6.12 Recovery of Damages Suffered by Third Parties	122
6.13 Express Warranty	122
Section 7 - Measurement and Payment	123
7.1 Measurement of Quantities	123
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	
7.1.5 Truck Requirements	
7.1.6 Ladders and Instrument Stands for Bridge Construction	
7.2 Scope of Payments	124

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
7.2.1 Items Included in Payment	
7.2.2 Non-Duplication of Payment	
7.3 Compensation for Altered Quantities	127
7.3.1 General	
7.3.2 Payment Based on Plan Quantity	
7.3.3 Lump Sum Quantities	
7.3.4 Deviation from Plan Dimensions	
7.4 Force Account Work	129
7.4.1 Method of Payment	
7.4.2 Records	
7.4.3 Preliminary Order-of-Magnitude Estimate	
7.5 Deleted Work	133
7.6 Partial Payments	133
7.6.1 General	
7.6.2 Unsatisfactory Payment Record	
7.6.3 Withholding Payment for Defective Work	
7.6.4 Partial Payments for Delivery of Certain Materials	
7.6.5 Certification of Payment to Subcontractors	
7.6.6 Reduction of Payment for Unsatisfactory Services or Products	
7.7 Record of Construction Materials	136
7.7.1 General	
7.7.2 Non-Commercial Materials	
7.8 Disputed Amounts Due Contractor	137
7.9 Acceptance and Final Payment	137
7.10 Offsetting Payments	139
Section 8 – Disadvantaged/Minority/Women Business Enterprise (D/M/WBE) Participation	140
8.1 General	140
8.2 Disadvantaged/Minority and Women Owned Businesses – Participation Objectives	141
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	146

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
TABLE OF CONTENTS

GENERAL SPECIFICATIONS

<u>Section Name</u>	<u>Page No.</u>
Section 9 - Binding Arbitration	147
Section 10 – Partnering and Disputes Resolution	149
10.1 Partnering	149
10.2 Disputes Resolution	149
10.2.1 Disputes Review Board	
10.2.2 Continuance of Work During Dispute	
10.2.3 Disputes Review Board Membership	
10.2.4 Board Operations	
10.2.5 Procedure for Disputes Resolution	
10.2.6 Conduct of Disputes Hearings	
10.2.7 Compensation	
10.2.8 Three Party Agreement	
Attachment A - Disputes Review Board Three Party Agreement	

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

GENERAL SPECIFICATIONS

SECTION 1 - ABBREVIATIONS AND DEFINITIONS

1.1 General

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

1.2 Abbreviations

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

AAN	American Association of Nurserymen, Inc.
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AGC	The Associated General Contractors of America, Inc.
AGMA	American Gear Manufacturers Association
AIA	American Institute of Architects
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
AREA	American Railway Engineering Association
ASCE	American Society of Civil Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWG	American Wire Gauge
AWPA	American Wood Preservers Association
AWS	American Welding Society
AWWA	American Water Works Association
CRSI	Concrete Reinforcing Steel Institute
EASA	Electrical Apparatus Service Association
EPA	Environmental Protection Agency of the United States Government
FDOT	Florida Department of Transportation
FHWA	Federal Highway Administration
FNGLA	Florida Nursery, Growers and Landscape Association
FSS	Federal Specifications and Standards
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society

IPCEA	Insulated Power Cable Engineers Association
ISO	International Organization for Standards
MASH	AASHTO Manual for Assessing Safety Hardware
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
NFPA	National Fire Protection Association
NIST	National Institute for Standards and Technology
NOAA	National Oceanic and Atmospheric Administration
OSHA	Occupational Safety and Health Administration
SAE	Society of Automotive Engineers
SI	International System of Units
SSPC	The Society for Protective Coatings
UL	Underwriters' Laboratories

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

1.3 Definitions

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

- 1.3.1 **Advertisement** - The public announcement, as required by law, inviting bids for work to be performed or materials to be furnished, usually issued as “Notice to Contractors,” or “Notice to Bidders.”
- 1.3.2 **Addendum** - A written or graphic instrument issued prior to the bid opening which modifies or interprets the proposed Contract Documents by additions, deletions, clarifications, or corrections
- 1.3.3 **Article** - The prime subdivision of a Section of the General and/or Technical Specifications.
- 1.3.4 **Bid** - The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed. All Bids will include a Bid Bond in the amount of 5% of the total bid as a surety to CFX that the Bidder will honor the Bid and enter into a Contract with CFX.
- 1.3.5 **Bidder** - An individual, firm, or corporation submitting a proposal for the proposed work.

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

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

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

Bridges with an individual span longer than 300 feet.

Structurally continuous superstructures with spans over 150 feet.

Steel box and plate girder bridges.

Steel truss bridges.

Concrete segmental and longitudinally post-tensioned continuous girder bridges.

Cable stayed or suspension bridges.

Curved girder bridges.

Arch bridges.

Tunnels.

Movable bridges (specifically electrical and mechanical components).

Rehabilitation, widening or lengthening of any of the above.

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

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

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

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

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

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

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

Lighting: poles, bracket arms, frangible bases and foundations.

Signing: Mounting brackets for bridge mounted signs, overhead cantilever structures, overhead truss structures, overhead sequential sign structures and multiple post sign supports, along with applicable foundations.

In general, shop drawings shall be required for:

(a) Bridge, Bulkhead and Retaining Wall Structures, cofferdams, Lighting and Signing Structural Items along with applicable foundations.

(b) Signing, Lighting, Drainage Structures and Attenuators and other nonstructural items.

(c) Building Structures.

(d) Contractor Originated Re-Design.

(e) Design and/or structural details furnished by the Contractor in compliance with the Contract, according to the sections of the Specifications pertaining to the Work, to the Plans or other Contract Documents.

(f) Special Erection Equipment.

(g) Falsework and Shoring.

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

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

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

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

3.1.4.4 Style, Numbering and Material of Submittals:

3.1.4.4.1 Drawings: The Contractor shall furnish such shop drawings as may be required to complete the structure in compliance with the design shown on the Plans. Each page shall be numbered consecutively for the series and the page number shall indicate the total number in the series (e.g., 1 of 12, 2 of 12, ...12 of 12). Each shop drawing shall contain the following items as a minimum requirement: the CFX Project Number, drawing title and number, a title block showing the names of the fabricator or producer and the Contractor for which the Work is being done, the initials of the person(s) responsible for the drawing, the date on which the Work was performed, the location of the item(s) within the Project, the Contractor's approval stamp and initials and when applicable, the signature and seal of the Contractor's Florida registered Specialty Engineer. The absence of any of this minimum information may be cause for a request for a re-submittal.

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

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

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

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

3.1.4.5 Submittal Paths and Copies: All submittals will be transmitted from the Contractor to the CEI. Should additional distribution be desired in order to expedite processing, contact information for additional reviewers will be provided to the Contractor. These contacts may include the Engineer of Record (EOR), General Engineering Consultant (GEC), Specialty Engineers, and/or CFX. At the preconstruction conference, CFX may notify the Contractor of any additional entities to be included in the submittal distribution.

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

3.1.4.5.2 Signing, Lighting, Drainage Structures, Attenuators and other nonstructural items.

3.1.4.5.3 Building Structures: Each series of working, shop and erection drawings.

3.1.4.5.4 Contractor Originated Design or Redesign: The Contractor shall submit to the CEI each series of shop drawings and applicable calculations. The cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer. The submittal and copies shall be transmitted in accordance with the requirements of 3.1.4.5.1 through 3.1.4.5.3, as appropriate.

3.1.4.5.5 Special Erection Equipment: For (a) Construction Affecting Public Safety and (b) Major or Unusual Structures: The Contractor shall submit to the CEI, each series of shop drawings and applicable calculations. Each cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer.

3.1.4.5.6 Falsework and Shoring: For (a) Construction Affecting Public Safety and (b) Major and Unusual Structures: The Contractor shall submit to the CEI of each series of shop drawings and applicable calculations. Each cover sheet of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer.

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

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

3.1.4.5.9 Other miscellaneous design and/or structural details furnished by the Contractor in compliance with the contract: The Contractor shall submit to the CEI each series of shop drawings and applicable calculations. Each cover sheet of each copy of applicable calculations shall be signed and sealed by the Contractor's Specialty Engineer.

3.1.4.5.10 Beam and Girder Temporary Bracing: The Contractor is solely responsible for ensuring stability of beams and girders during all handling, storage, shipping and erection. Adequately brace beams and girders to resist wind, weight of forms and other temporary loads, especially those eccentric to the vertical axis of the products, considering actual beam geometry and support conditions during all stages of erection and deck construction. Develop the required designs following the AASHTO Guide Design Specifications for Bridge Temporary Works and Construction Handbook for Bridge Temporary Works and the Contract Documents.

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

3.1.4.6 Certifications:

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

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

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

3.1.4.7 Processing of Shop Drawings:

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

All shop drawings prepared by the Contractor or its agents (subcontractor, fabricator, supplier, etc.) shall be coordinated, reviewed, dated, stamped, approved and signed by the Contractor prior to submission to the CEI for review. The Contractor's signed approval of drawings submitted shall confirm the Contractor has verified the Work requirements, field measurements, construction criteria, sequence of assembly and erection, access and clearances, catalog numbers and other similar data. Each series of drawings shall indicate the specification section and page or drawing number of the Contract plans to which the submission applies. The Contractor shall indicate on the shop drawings all deviations from the Contract drawings and shall itemize all deviations in the letter of transmittal. Likewise, whenever a submittal does not deviate from the Contract plans, the Contractor shall also clearly state so in the transmittal letter.

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

It is incumbent upon the Contractor to submit shop drawings to facilitate expeditious review. Voluminous submittals of shop drawings at one time are discouraged and may result in increased review time. The submittal/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 day and 30 day review periods shown above.

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

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

3.1.4.7.3 Special Review by CEI of Shop Drawings for Construction Affecting Public Safety: For Construction Affecting Public Safety, the CEI will make an independent review of all relevant shop drawings and similar documents in order to verify the safety of the intended construction and construction of the permanent Work shall not proceed until receipt of the CEI's approval. The requirement herein does not supercede the Contractor's duty and responsibility for all safety provisions, public and/or otherwise, for the Project.

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

3.1.4.9 Other Requirements for Shop Drawings for Bridges:

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

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

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

(1) Overall construction program for the duration of the Contract. milestone dates should be clearly shown. (For example; the need to open a structure by a certain time for traffic operations.)

(2) Overall construction sequence. The order in which individual structures are to be built, the sequence in which individual spans of girders or cantilevers are erected and the sequence in which spans are to be made continuous.

(3) The general location of any physical obstacles to construction that might impose restraints or otherwise affect the construction and an outline of how the Contractor intends to deal with such obstacles as it builds the structure(s). (For example; obstacles might include road, rail and waterway clearances, temporary diversions, transmission lines, utilities, property and the Contractor's own temporary Work such as haul roads, cofferdams, plant clearances and the like.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.2 Coordination of Plans and Specifications

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

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

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

Computed dimensions shall govern over scaled dimensions.

3.3 Conformity of Work with Plans

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

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

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

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

3.3.1 As-Built Drawings: During the entire construction operation, both the CEI and the Contractor shall maintain independent, separate records of all deviations from the plans and specifications including Requests for Information (RFI), field directives, sketches, etc. The Contractor shall submit a draft of the as-built drawings, including all deviations, to the CEI no less than once every two months for review. A minimum submittal would be a pdf with all changes in red, accurately plotted. The Contractor's as-built drawings shall be reviewed regularly throughout the course of the project by the CEI. The Contractor's final as-built drawing submittal shall also include cross-sections, prepared by a registered surveyor, of all retention ponds in the Project limits. The Contractor's final as-built drawings shall be submitted within 15 days of the Project acceptance or termination of Work. Retainage will not be released by CFX until the marked-up pdf and records have been submitted and accepted by the CEI.

3.4 Pre-Award Meeting

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

CFX will make a determination as to whether or not any adjustments to the Plans, Specifications and/or bid price are appropriate and desired and will make such corrections and interpretations as CFX deems necessary to reflect the intent of the Plans and Specifications.

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

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

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.

4) Where utilities cross pipe trenches transversely within the excavation area but not within positions from which relocation or removal is necessary, the utility owner will be responsible for providing and effecting all reasonable measures for their support and protection during construction operations. The Contractor shall cooperate with the utility owner in the owner's effecting such support and protective measures. The Contractor shall be responsible for any damage to the utility that is caused by neglect or failure on the Contractor's part to cooperate and to use proper precaution in performing the Work.

In the event that a temporary relocation of a utility or a particular sequence of timing in the relocation of a utility is necessary, such relocation shall be done only as directed by CFX. CFX will not be responsible for utility adjustments or temporary relocation work or for the conditions resulting therefrom, where such adjustments are: not necessitated by the construction of the Project; or done solely for the benefit or convenience of the utility owner or its contractor (or the Contractor where Contractor's construction procedures are considered by CFX to be other than normal); or not shown on the approved Plans for the utilities relocation or the construction.

5.9.6.2 Cooperation with Utility Owners: The Contractor shall cooperate with the utility owners in the removal and/or rearrangement of utilities. If utility service is interrupted due to construction operations, the Contractor shall immediately notify the owner of the utility and the CEI and cooperate in the prompt restoration of

service. If water service is interrupted, the Contractor's repair work shall be continuous until the service is restored. No Work shall be undertaken around fire hydrants until the local fire authority has approved provisions for continued service.

5.9.6.3 Utility Adjustments: Utility adjustments and reconstruction Work may be underway during the Work. The Contractor shall effectively cooperate, coordinate, and schedule utility adjustments with utility construction crews in maintaining utility service. The Contractor shall use caution when working adjacent to utilities that have been relocated. The Contractor shall repair, at Contractor's expense, damages to relocated utilities resulting from Contractor's operations.

5.9.6.4 Weekly Meetings: Contractor shall conduct weekly meetings on the job site with all the affected utility companies and the CEI in attendance to coordinate Project construction and utility relocation, and shall submit a list of all attendees one week in advance to the CEI for approval.

Provide the approved Work Progress Schedule and Work Plan for the project to document the schedule and plan for road construction and utility adjustments. When utility relocations no longer affect construction activities, the Contractor may discontinue the meetings with the CEI's approval.

5.10 Responsibility for Damages, Claims, etc.

5.10.1 Contractor to Provide Defense Against Claims and Suits: To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless CFX (its officers, agents and employees) from and against claims, damages, losses and expenses (including but not limited to attorneys' fees), arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom. However, the indemnification herein provided is only to the extent caused in whole or in part by any act, omission or default of the Contractor, subcontractor, sub-subcontractor, materialman, agents of any tier, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described herein. The monetary limit on the indemnification provided herein to CFX or its officers, agents and employees shall be the total amount of the Agreement in aggregate or the insurance policy amount as required in article 5.11 herein, whichever is greater. The total amount of the Agreement in aggregate will be determined by the date the notice of claim was received by CFX.

In claims against any person or entity indemnified under this subarticle by an employee of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this subarticle shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

The obligations of the Contractor under this subarticle shall not extend to the liability of the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, designs or specification, or (2) the giving of or the failure to give direction or instructions by the Engineer of Record, the Engineer of Record's consultants and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

The Contractor's obligation to indemnify and pay for the defense or, at CFX's option, to participate and associate with CFX in the defense and trial of any damage claim or suit and any related settlement negotiations, shall arise within seven (7) days of receipt by the Contractor of the CFX notice of claim for indemnification to the Contractor. The notice of claim for indemnification will be served by certified mail. The Contractor's obligation to indemnify within seven (7) days of receipt of such notice will not be excused because of the Contractor's inability to evaluate liability or because the Contractor evaluates liability and determines the Contractor is not liable or determines CFX is solely negligent. The Contractor will pay all costs and fees related to this obligation and its enforcement by CFX.

This Contract shall not create in the public or any member thereof, a third party beneficiary hereunder or to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Contract.

5.10.2 Guaranty of Payment for Claims: The Contractor guarantees the payment of all just claims for Materials, Equipment, supplies, tools or labor and other just claims against the Contractor or any subcontractor in connection with the Contract. Final acceptance and payment by CFX will not release the Contractor's bond until all such claims are paid or released.

5.11 Insurance

Anything contained herein to the contrary notwithstanding, during the term of the Contract and for such additional time as may be further required, the Contractor shall provide, pay for and maintain in full force and effect insurance outlined in subarticles 5.11.1 through 5.11.9

below for coverage at not less than the prescribed minimum limits of liability, covering the Contractor's activities and those of any and all subcontractors (including officers, directors, employees or agents of each and their successors). All insurance shall be provided through companies authorized to do business in the State of Florida and considered acceptable by CFX.

Upon execution of the Contract, the Contractor shall furnish to CFX, Certificates of Insurance bearing an original manual signature of the authorized representative of the insurance company. No Work shall commence under the Contract unless and until the required Certificates of Insurance described herein are in effect and have been approved by CFX. The Certificate of Insurance shall be issued to CFX and shall reference the complete and correct Project number, as well as the full and complete name of each insurance company, including city and state of domicile, as listed by A.M. Best Company. All insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, or as approved by CFX, as defined by A.M. Best and Company's Key Rating Guide. Such Certificates shall provide that in the event of cancellation, non-renewal or material reduction in coverage (including any material reduction of limits of Liability), the insurer will provide thirty (30) days prior notice of such cancellation, non-renewal or material reduction by certified mail to CFX. In addition, certified true copies of all policies shall be provided to CFX upon specific written request. Renewal Certificates of Insurance for all policies shall be submitted by the Contractor so that they are received by CFX no later than thirty (30) calendar days prior to the expiration of existing insurance coverage. Failure by the Contractor to meet this required timeframe will result in suspension of partial payments on monthly estimates until the certificates are received and accepted by CFX.

All insurance coverage required of the Contractor shall be primary and noncontributory over any insurance or self-insurance program carried by CFX.

Excluding Professional and Pollution liability insurance, no liability insurance required herein shall be written under a "claims made" form.

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

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

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

Neither approval by CFX of insurance supplied by the Contractor nor disapproval of that insurance, shall release the Contractor of full responsibility for liability, damages and accidents as otherwise provided by the Contract. The requirement of insurance will not be deemed a waiver of sovereign immunity by CFX.

If CONTRACTOR fails to obtain the proper insurance policies or coverages, or fails to provide CFX with certificates of same, CFX may obtain such policies and coverages at CONTRACTOR's expense and deduct such costs from CONTRACTOR payments. Alternately, CFX may declare CONTRACTOR in default for cause.

5.11.1 Schedule of Required Limits for Workers' Compensation, General Liability and Automobile Liability:

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

5.12 Contract Bond (Public Construction Bond) Required

5.12.1 General Requirements of the Bond: The Contractor shall furnish to CFX and shall maintain in effect throughout the term of the Contract, an acceptable surety bond in a sum equal to the amount of the Contract. This bond shall remain in effect until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. Such bond shall be executed on the form furnished by CFX. The surety shall meet all requirements of the laws of Florida and shall be approved and at all times acceptable to CFX. The name, address and telephone number of the surety agent shall be clearly stated on the face of the Public Construction Bond.

5.12.2 Continued Acceptability of Surety: In the event that the surety executing the bond (although acceptable to CFX at the time of execution of the Contract) subsequently becomes insolvent or bankrupt or becomes unreliable or otherwise unsatisfactory due to any cause which becomes apparent after CFX's initial approval of the company, then CFX may require that the Contractor immediately replace the surety bond with a similar bond drawn on a surety company which is reliable and acceptable to CFX. In such event, all costs of the premium for the new bond, after deducting any amounts that might be returned to the Contractor from its payment of premium on the defaulting bond, will be borne by CFX.

5.13 Contractor's Responsibility for Work

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

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

The Contractor will not be held responsible for damage to any landscape items caused by an officially declared hurricane that occurs after the final acceptance of the entire Work but during any remaining portion of the 90-day establishment period.

5.14 Opening Section of Highway to Traffic

When any bridge or section of roadway is, in the opinion of CFX, acceptable for travel, CFX may direct that the bridge or roadway be opened to traffic. Such opening shall not be considered, in any way, to be an acceptance of the bridge or roadway or any part thereof or as a waiver of any provision of the Contract. The Contractor shall make all repairs or renewals due to defective Work or Materials (or for any cause other than ordinary wear and tear) on such opened sections without additional compensation.

5.15 Scales for Weighing Materials

5.15.1 Applicable Regulations: Prior to the use of any scales, the Contractor shall submit to the CEI a copy of a certificate of accuracy for the scales that is not more than 1 year old. All scales which are used for the determination of the weight of Materials upon which compensation will be made by CFX shall conform to the requirements of Chapter 531, Florida Statutes, pertaining to specifications, tolerances and regulations as administered by the Bureau of Weights and Measures of the Florida Department of Agriculture. CFX reserves the right to perform scale checks/inspections at its sole discretion.

5.15.2 Base for Scales: Such scales shall be placed on a substantial horizontal base that will assure proper support, rigidity and maintenance of level of the scales.

5.15.3 Protection and Maintenance: All scale parts shall be in proper condition as to level and vertical alignment and shall be fully protected against contamination by dust, dirt and other matter which might affect operation of the parts.

5.16 Source of Forest Products

As required by Section 255.20, Florida Statutes, all timber, timber piling or other forest products which are used in the construction of the Project shall be produced and manufactured in the State of Florida, price and quality being equal and provided such Materials produced and manufactured in Florida are available.

5.17 Regulations of Air Pollution

5.17.1 General: All Work shall be done in accordance with all Federal, State and local laws and regulations regarding air pollution and burning.

5.17.2 Dust Control: The Contractor shall ensure that excessive dust is not transported beyond the limits of construction in populated areas. Dust control for embankment or other cleared or unsurfaced areas may be by application of water or calcium

chloride, as directed by CFX. Any use of calcium chloride shall be in accordance with Section 102 of the Technical Specifications. When included in the Plans, mulch, seed, sod or temporary paving shall be installed as early as practical. Dust control for storage and handling of dusty materials may be made by wetting, covering or other means as approved by the CEI.

5.17.3 Asphalt Material: Any asphalt used shall be emulsified asphalt unless otherwise stated in the Plans and allowed by Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. Asphalt materials and components shall be stored and handled to minimize unnecessary release of hydrocarbon vapors.

5.17.4 Asphalt Plants: The operation and maintenance of asphalt plants shall be in accordance with Chapter 17-2 of the Rules and Regulations of the Florida Department of Environmental Protection. A valid permit as required under Chapter 17-2 shall be available at the plant site prior to the start of Work.

5.18 Dredging and Filling

If required by the Work, the Contractor shall comply with Section 370.033, Florida Statutes, regarding obtaining a certificate of registration from the Florida Department of Environmental Protection and keeping accurate records and logs of all dredge and fill activities.

5.19 Erosion Control

This Project will be constructed on properties that may be subject to environmental permits and regulation promulgated by city, county, state, federal, and regional authorities. Requirements for erosion control are included in the Technical Specifications.

5.20 Contractor's Motor Vehicle Registration

The Contractor shall provide proof to CFX that all motor vehicles operated or caused to be operated by the Contractor are registered in compliance with Chapter 320, Florida Statutes. Such proof of registration shall be submitted in the form of a notarized affidavit to CFX. No payment will be made to the Contractor until the required proof of registration is on file with CFX.

5.21 Internal Revenue Service Form W-9

The Contractor shall complete and return with the executed Contract, Internal Revenue Service Form W-9, Request for Taxpayer Identification Number and Certification.

5.22 Tolls and Access

The Contractor shall pay all tolls incurred from using CFX's Expressway System to transport personnel, equipment, or materials to and from the site of Work. Any costs incurred by the Contractor in payment of tolls shall be considered incidental and included in associated items. The term "equipment" in this context includes loaders, graders and similar self-propelled equipment, operating under their own power, passing through a toll plaza.

Contractor shall access the Project by existing expressway ramps. No access will be allowed through the right-of-way fence.

5.23 Requests for References or Performance Evaluations

In the event CFX at any time receives any direct or third party inquiry or request concerning the Contractor, its employees or sub-contractors, or the performance of the Contractor, its employees or sub-contractors under this Contract, CFX, at any time and in all cases, may, but shall not be obligated to respond to any such inquiry or request, with or without notice to the Contractor, its employees, or subcontractors, as the case may be, but, in all cases, such response shall be limited to: (1) acknowledging that the Contractor has, or in the past has had, a contract with CFX; (2) the date, term and type of such contract; (3) whether a specified employee or subcontractor worked on the Contract, and if so, in what capacity; (4) whether such contract was terminated early for any reason other than the convenience of CFX; (5) whether such contract was eligible for renewal or extension; and, (6) if such contract was eligible for renewal or extension, whether in fact such contract was renewed or extended. Should the Contractor, its employees, its agents or subcontractors request that any further information be provided in response to such an inquiry or request, such additional information may be provided by CFX, in its sole discretion. Contractor for itself, its employees, its agents and sub-contractors, hereby expressly waives any and all claims of whatever kind or nature that the Contractor, its employees, its agents or sub-contractors may have, or may hereafter acquire, against CFX relating to, or arising out of CFX's response to any and all requests or inquiries concerning the Contractor, its employees or subcontractors under this Contract, or the performance of the Contractor, its employees or subcontractors under this Contract.

5.24 Unauthorized Aliens

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

5.25 Public Records

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

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

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

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONTRACTOR in conjunction with this Contract (including without limitation CONTRACTOR Records and Proposal Records, if and as applicable), CONTRACTOR shall immediately notify the CFX. In the event the CONTRACTOR has public records in its possession, CONTRACTOR shall comply with the Public Records Act.

5.26 Inspector General

It is the duty of every CONTRACTOR and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to section 20.055, Florida Statutes. The corporation, partnership, or person entering into an Agreement with the Central Florida Expressway Authority understands and will comply with subsection. 20.055(5), Florida Statutes.

5.27 Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

5.28 Discriminatory Vendor List

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

5.29 Severability

If any section of the Contract Documents that are incorporated into this Contract be judged void, unenforceable or illegal, then the illegal provision will be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original

intention, and the remaining portions of the Contract will remain in full force and effect and will be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

5.30 Companies Pursuant to Florida Statute Section 287.135

Pursuant to Section 287.135(3)(a)4, if the company is found to have submitted a false certification as provided under subsection (5); been placed on the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or been engaged in business operations in Cuba or Syria, the contract may be terminated for cause at the option of CFX.

Pursuant to Section 287.135(3)(b), if the company is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the contract may be terminated for cause at the option of CFX.

Submitting a false certification shall be deemed a material breach of contract or renewal. CFX shall provide notice, in writing, to the Contractor of CFX's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If the Contractor does not demonstrate that the CFX's determination of false certification was made in error then CFX shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes and as allowed by law.

END OF SECTION 5

SECTION 6 - PROSECUTION AND PROGRESS OF THE WORK

6.1 Subletting or Assigning of Contract

6.1.1 The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof or of Contractor's right, title or interest therein, without consent of CFX. The Contractor will be permitted to sublet a portion of the Work but shall perform, with its own organization, Work amounting to not less than 50% of the total Contract amount less the total amount for those Contract items specifically designated as "Specialty Work" below or as otherwise designated as Specialty Work by CFX. The granting or denying of consent under this provision is at CFX's sole discretion. The Certification of Sublet Work request will be deemed acceptable by CFX, for purposes of CFX's consent, unless the Engineer notifies the Contractor within 5 business days of receipt of the Certification of Sublet Work that CFX is not consenting to the requested subletting. If, at any time, a subcontractor is determined to be discriminatory, debarred or suspended by the FHWA, CFX or FDOT, the determination will be considered grounds for removal from the project.

The total Contract amount shall include the cost of Materials, manufactured component products and their transportation to the Project site. Off-site commercial production of Materials and manufactured component products purchased by the Contractor and their transportation to the Project will not be considered subcontracted Work.

If a part of a Contract item is sublet, only its proportional cost will be used in determining the percentage of subcontracted normal Work.

All subcontracts entered into by the Contractor shall be in writing and shall contain all pertinent provisions and applicable requirements of the Contract. All subcontracts shall require subcontractor to indemnify and hold harmless CFX on the same terms as contained in the General Specifications and the Contract. The Contractor shall furnish CFX with a copy of any subcontract requested by CFX. Subletting of Work shall not relieve the Contractor or surety of their respective liabilities.

The Contractor shall ensure that all Subcontractors are competent, careful and reliable. The Contractor shall submit the names and qualifications of all first and second tier subcontractors to CFX for approval prior to their beginning Work on the Project. All first and second tier subcontractors shall have the skills and experience necessary to properly perform the Work assigned and as required by the plans and specifications.

If, in the opinion of CFX, any Subcontractor employed by the Contractor is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such first or second tier subcontractor shall be immediately removed from the Project by the Contractor upon written direction

from CFX. Such subcontractor shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such subcontractor, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the subcontractor is removed. The Contractor shall indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Subcontractor based on the direction of CFX. All subcontracts shall expressly include an acknowledgment of CFX's right to remove any Subcontractor in accordance with this paragraph.

A Subcontractor shall be recognized only in the capacity of an employee or agent of the Contractor.

If the aggregate total of the dollar amount of Work performed by a subcontractor, including equipment rental agreements, equals or exceeds \$20,000, a formal subcontract agreement shall be entered into between the Contractor and the Subcontractor.

6.1.2 Specialty Work: The following Work is designated as Specialty Work:

- Auxiliary Power Unit
- Cleaning, Coating, Injection, Grouting, Grinding, Grooving or Sealing Concrete Surfaces
- Deep Well Installation
- Electrical Work
- Fencing
- Highway Lighting
- Installing Pipe or Pipe Liner by Jacking and Boring
- Installing Structural Plate Pipe Structure
- Landscaping
- Painting
- Plugging Water Wells
- Pressure Grouting
- Pumping Equipment
- Roadway Signing and Pavement Marking
- Riprap
- Removal of Buildings
- Rumble Strips
- Sealing Wells by Injection
- Septic Tank and Disposal System
- Signalization
- Utility Works
- Vehicular Impact Attenuator
- Water and Sewage Treatment Systems

6.2 Work Performed by Equipment Rental Agreement

The limitations set forth in 6.1, regarding the amount of Work that may be subcontracted, do not apply to Work performed by Equipment rental agreements. The Contractor shall notify CFX, in writing, if the Contractor intends to perform any Work through an Equipment rental agreement. The notification shall be submitted to CFX before any rental Equipment is used on the Project. The notification shall include a list of the Equipment being rented, the Work to be performed by the Equipment and whether the rental includes an Equipment operator. Notification to CFX will not be required for Equipment being rented (without operators) from an Equipment dealer or from a firm whose principle business is renting or leasing Equipment.

6.3 Prosecution of Work

6.3.1 Sufficient Labor, Materials and Equipment: The Contractor shall provide sufficient labor, Materials and Equipment to ensure the completion of the Work no later than the Contract completion date.

6.3.2 Impacts by Adjacent Projects: When there is a potential impact between two or more projects due to close proximity or due to logistics in moving labor, Materials, and Equipment between projects, all authorized representatives of the parties performing the projects have a responsibility to communicate and coordinate their work so that impacts to either party are eliminated or mitigated and do not endanger, delay, or create additional work or costs to either party. The Contractor shall not be compensated for any additional costs or delays so incurred by either party.

6.3.3 Submission of Preliminary, Baseline, Updated Baseline, and Two-Week Look-Ahead Schedules:

6.3.3.1 Scheduling Terminology

Accepted Baseline Schedule: The Accepted Baseline Schedule is the Baseline Schedule submitted by the Contractor and accepted by CFX. Review and acceptance of the schedule by CFX will be for the sole purpose of determining if the schedule is in substantial compliance with the General Specifications and does not mean that CFX agrees or disagrees, approves or disapproves of the constructability, means and methods, validity and accuracy of the submitted baseline schedule. The Contractor is solely responsible for the constructability, means and methods, validity and accuracy of the submitted baseline schedule.

Acknowledged Receipt of the Updated Baseline Schedule: The Contractor is solely responsible for the constructability, means and methods, validity and accuracy of the updated baseline schedule. CFX does not accept or reject, agree or disagree, approve or disapprove of the constructability, means and methods, validity or accuracy of the Updated Baseline Schedule. Instead, CFX will transmit a letter acknowledging receipt of the Contractor's submittal of the Updated Baseline Schedule.

Baseline Schedule: The Baseline Schedule does not contain any progressed activities. Therefore, each activity's early and late dates are planned dates, not actual dates. The Baseline Schedule contains the necessary breakdown of activities to adequately track the progress of the project. Activities in the Baseline Schedule shall include, but not be limited to, activities for all work to be performed. In addition, the baseline schedule should include milestone activities, and activities for the procurement of significant equipment and materials, including activities for submittals and approvals, orders, fabrication, request for delivery and delivery. Procurement activities should be logically tied to their respective work activities.

Contract Completion Date: Also called the Approved Contract Completion Date or the Authorized Contract Completion Date or the Last Chargeable Contract Date.

The Contract Completion Date is calculated by adding the number of calendar days stated in the contract to complete all work, to the first chargeable day of the Contract, less one day.

For time extensions granted by CFX, the Contract Completion Date is calculated by adding the number of calendar days granted to the Contract Completion Date.

If a critical activity is delayed, the Contract Completion Date(s) may also be delayed if the durations on the remaining activities on the critical path are accurate. The Contractor acknowledges and agrees that actual delays to activities which, according to the CPM schedule, do not directly affect the main project critical path, do not have any effect on the Contract Completion Date(s) and shall not be the basis for a change therein.

CPM: Critical Path Method of scheduling.

Critical Path: Defined as the Longest Path.

Early Dates: The earliest scheduled start and/or finish date assigned to a CPM scheduled activity.

Excusable Delay: As defined in subarticle 6.7.3.1.

Adjustments to Contract Time.

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

Lag: An undefined delay between two scheduled activities. For instance, a 5 day lag between activity A (the predecessor) and activity B (the successor) with a Finish to

Start (FS) relationship would mean that activity B would not start until 5 days after the finish of activity A.

Late Dates: The latest scheduled start and/or finish date assigned to a CPM scheduled activity.

Longest Path: In a Baseline Schedule, the Longest Path of the CPM schedule is a continuous series of activities starting from the first scheduled activity and ending with the last scheduled activity, that are linked in a logical sequence and where each activity in the sequence has the least value of total float in the schedule. If each of the longest path activities were assigned the same calendar, then each activity on the longest path would have the same value of total float. In an Updated Baseline Schedule (a baseline with actual progress recorded), the Longest Path will begin at the data date (also known as the cut-off date) and extend to the last activity scheduled in the Contract. The Contractor shall sequence work so that only one Longest Path is created in the Baseline or Updated Baseline schedule.

Negative Total Float: Also called Negative Float. The greatest number of days, stated as a negative number, that the Contract Completion Date is delayed. When an activity has negative total float, the activities with negative total float have early dates scheduled later than their late dates.

Planned Dates: Also called early and late dates.

P6: The scheduling software Primavera P6 Professional, produced by Oracle, Inc., which shall be used by the Contractor for all CPM scheduling tasks.

Preliminary Schedule: The Preliminary Schedule is a bar chart schedule submitted at the Pre-Construction Conference. Refer also to specification section 6.3.3.3.

Revised Baseline Schedule: The Baseline Schedule shall only be revised with the approval of CFX.

Total Float: Also called Float. The number of days an activity can be delayed without delaying the Contract completion date.

CFX and Contractor agree that float is not for the exclusive use or benefit of either the Contractor or CFX and must be used in the best interest of completing the Project on time. The Contractor agrees that: 1) float time may be used by CFX; and 2) there shall be no basis for a Project time extension as a result of any Project problem, change order or delay which only results in the loss of available positive float, or negative float that is greater than the most negative float in the CPM. The Contractor will not be permitted to alter float through such applications as extending duration estimates or changing sequence relationships, etc., to consume available positive float.

Time Impact Analysis: If the Contractor requests a time extension to any required milestone date for changes in the Work ordered by CFX, the Contractor shall furnish such justification and supporting evidence in the form of a Time Impact Analysis illustrating the influence of the change on the Contract time such that CFX can evaluate the request. This Time Impact Analysis shall include a network analysis demonstrating how the Contractor has incorporated the change in the schedule. Each such Time Impact Analysis shall demonstrate the time impact of the performance of the changed Work as the date upon which the change arose or was otherwise ordered, the status of the Work at that time based upon the CPM schedule update prevailing at that time and the duration or logic computations for all of the affected activities. The Time Impact Analysis shall be submitted within ten (10) calendar days following the commencement of the delay event. Failure to make notification in the time and manner required shall be considered a waiver of the Contractor's entitlement to any time extension resulting from such delay. No time extension will be considered unless it specifically contains at least the following detailed information:

1. Date delay began;
2. Date delay impact was resolved;
3. Detailed chronology of delay including the dates of all applicable notifications and submittals;
4. Specific critical activities affected and the dates of impact;
5. The activity durations used in the Time Impact Analysis shall be those reflected by the latest Project schedule update prevailing at the time of the initiation of the delay event.

Updated Baseline Schedule: Also called the Schedule Update, is a copy of the Baseline Schedule with activities updated for actual start and/or finish dates and percent completion.

Weather Event: As defined in 6.7.3

6.3.3.2 General Requirements for all Scheduling Tasks and Submittals:

Schedule Content: Failure to include any element of required Work in the schedule shall not relieve the Contractor from completing all Work necessary to complete the Project on time.

Scheduling Costs: All costs incurred by the Contractor to create and maintain the Preliminary and CPM schedules including, but not limited to, updates, revisions, time impact analyses, and any additional required scheduling data shall be borne by the Contractor and are part of the Contract requirements.

Utility Coordination, Permits and Licenses: Sufficient liaison shall be conducted and information obtained at the utility pre-construction conference to coordinate activities with utility owners having facilities within the Project limits. The schedule shall conform to the utility adjustments and Maintenance of Traffic sequencing included in the Contract Documents unless changed by mutual agreement of the utility company, the Contractor, and CFX. The schedule shall show any utility adjustments that start or continue after the Contract time has started. In addition, the Contractor shall show the acquisition of permits or licenses needed for the Project.

Required Labeling of all Correspondence and Associated Documents: All Schedule related correspondence, including transmittals and attachments, shall have the Schedule number and cut-off date (data date) entered in the document heading. A sample format to be used is as follows: "0303-25AUG15", where 0303 is the schedule update number and 25AUG15 is the cut-off date (data date).

6.3.3.3 Submission of the Preliminary Schedule:

The Contractor shall submit to CFX with the executed Contract the following documents:

The Preliminary Schedule shall cover the entire scope of the Contractor's responsibilities for the entire Contract time. The Preliminary Schedule is either a CPM or a NON-CPM generated bar chart schedule. The Preliminary Schedule shall present the Contractor's general approach to the Project and show adequate detail for Work, procurement, and submittal and approval activities covering the first 120 days of Work from the First Chargeable Contract day. The remainder of the Contract time shall be represented by summary activities.

Written Narrative: The written narrative shall explain the preliminary schedule's scope and approach to the Project in sufficient detail to demonstrate that the Contractor has a reasonable and workable plan to complete the Project within the Contract time allowed.

Geographical Layout of the Project: The geographical layout graphic of the project shall be suitable in size and content for presentation purposes. The Contractor shall also submit a copy of the geographical layout of the project in a legal landscape format.

Contractor's Oral Presentation: At the pre-construction conference, the Contractor shall show and refer to the geographical layout of the Project in an oral presentation of the Contractor's approach to performing the Work under the Contract. The Contractor's oral presentation shall conform to the format and content of the written narrative.

Within five (5) days after receipt of the Preliminary Schedule, CFX will either accept or reject the schedule. If the Preliminary Schedule is rejected, CFX and Contractor will meet within 3 days after notice of rejection at which time CFX will present the Contractor with a list of required changes to the Preliminary Schedule. The Contractor shall make the changes and submit a revised preliminary schedule acceptable to CFX within 3 days after receipt of the required changes.

Updating the Preliminary Schedule: The Contractor shall update each activity in the Preliminary Schedule with an actual start date, actual finish date, percent complete, and remaining duration through the data date each month until the Baseline Schedule is accepted by CFX. The cut-off date and submittal date for the Updated Preliminary Schedule shall be established by CFX and the Contractor shall submit the Updated Preliminary Schedule on that date. The Contractor shall include a written narrative with the Updated Preliminary Schedule explaining the progress made, any delays that have occurred, and work planned to be accomplished in the next month.

Retainage for Non-Submittal: If the Contractor fails to update the Preliminary Schedule and submit a written narrative, CFX may retain 10% of the Contractor's next Monthly Payment Request and 10% of each subsequent monthly payment request until the Contractor complies.

6.3.3.4 Submission of the CPM Baseline and Updated Baseline Schedules: The Contractor's CPM schedule shall be a detailed CPM schedule. The CPM schedule shall be generated by the latest version of Primavera (P6 Professional) by Oracle, Inc. The Contractor shall pay the scheduling software yearly maintenance fees and maintain scheduling software upgrades throughout the duration of the contract. The Contractor shall use all default settings in Primavera P6 Professional for all schedule submittals. This includes using the "Retained Logic" setting for all calculations, unless CFX chooses to allow the use of the "Progress Override" setting. Each Baseline and Updated Baseline schedule submittal shall include all reports and graphics listed in specification section 6.3.3.4.9. All Baseline Schedule submittals shall also include the Logic Diagram required under Item number 4.

The Contractor shall submit to CFX two CDs with exported copies of the above schedules in ".xer" format. Other methods of electronic submittal may be approved by the CEI.

Schedule Submittal Deadlines: The Contractor shall prepare and submit a detailed CPM construction schedule. The schedule shall be prepared according to the specifications and submitted no later than 45 calendar days after the Notice to Proceed date. The CEI shall have 30 calendar days from the Contractor's submittal date to review and notify the Contractor in writing of its findings. The Contractor shall have 15 calendar days from the date of the CEI's written notice to make all requested modifications to the schedule and re-submit the schedule.

Retainage for Non-Submittal: If the Contractor fails to submit a schedule that fully complies with the specifications within 90 calendar days from the Notice to Proceed date, CFX will automatically retain 10% of the Contractor's Current Period Monthly Payment Request amount in addition to other retainage.

CFX may retain an additional 10% of the Contractor's Period Monthly Payment Request amount for each successive month that the Contractor fails to submit any schedule on time in addition to other retainage. The Contractor must submit an Updated Baseline Schedule for each month of the Contract starting from the first chargeable day of the contract. The Due Date for the Updated Baseline Schedule shall be the Cut-Off Date established by CFX for submittal of the Contractor's Monthly Payment Request. The Due Date for the Updated Baseline Schedule may be changed from time to time by CFX. The Contractor's submitted schedule shall have a data date matching the cut-off date established by CFX.

Milestones: Construction and maintenance of traffic milestones, including completion of construction on roadway sections, building and removing temporary detours, bridges, traffic shifts, road closures and openings, and any contractually dictated interim milestones shall be adequately shown in the schedule.

Measurement of Progress: As the contract work progresses and the baseline schedule is updated with progress, each subsequent schedule update shall become the schedule upon which all Work progress will be measured.

6.3.3.4.1 CPM Activity Creation: Each schedule activity shall include the following detail in P6:

A.) ID Number - The format followed shall be uniform throughout the schedule. The activity number shall not exceed 6 digits.

B.) Original Duration (Working Days): No activity shall have a duration greater than 20 working days unless approved by CFX. However, activities such as long-term procurement, certain approvals and submittals may have durations greater than 20 working days or have a 7-day calendar assignment.

At the minimum, the schedule shall include, but not be limited to the following activities:

Bridge Activities:

Test Pile installation per bent per structure.

Production Pile installation per bent per structure.

Drilled shaft installation per pier per structure.

Pile caps per bent per structure.

Footings per pier per structure.

Columns per pier per structure.

Caps per pier per structure.

End bents per structure.
Beam or girder erection-span by span per structure.
Diaphragms.
Deck placement-span by span per structure.
Parapets-span by span per structure.
Roadway Activities:
Internal access and haul roads (location and duration in-place).
Utility relocation work by utility and by stationing and roadway.
Clearing and grubbing by stationing and roadway.
Excavation by stationing and roadway.
Embankment for each abutment location.
Embankment placed for each roadway by stationing and roadway.
Drainage by run with stationing and roadway.
Box Culvert or other large Pre-cast structure with stationing and roadway.
Reinforced Earth Wall leveling pad per bent per structure.
Reinforced Earth Wall per bent per structure.
Reinforced Earth Wall Coping per bent per structure.
Retaining walls by stationing and roadway.
Stabilization/Subgrade by stationing and roadway.
Limerock Base by stationing and roadway.
Asphalt Base by stationing and roadway.
Curb and Gutter by stationing and roadway.
Structural Pavement (asphalt and/or concrete) by stationing and roadway.
Bridge approach slabs per bridge and roadway.
Guardrail by stationing and roadway.
Slope pavement or riprap by stationing and roadway.
Roadway lighting by stationing and roadway.
Signing for each sign structure by stationing and roadway.
Striping by stationing and roadway.
Traffic signals by stationing and roadway.
Topsoil, sodding, seeding and mulching by stationing and roadway.
Landscaping by stationing and roadway.
Architectural Treatments.
Sound Walls.
Fiber Optic
Concrete Removal and Replacement.
Milling and Resurfacing.
Ponds.
Planter Walls.
Photovoltaic systems.
Integration of Photovoltaic and ITS systems.
Burn-In periods.
Tolls.

Building Activities:

Sitework, including, but not limited to clearing, excavation, storm and sanitary drainage, utility work, fill, grading, curb & gutter, sidewalks, asphalt and concrete paving, striping, retention pond excavation and grading, sodding.

Foundation work, including, but not limited to, piling, building pads, column, stem wall, slab work, conduit and piping.

Concrete work, including, but not limited to, stairwells, stairs, elevator shafts, tunnels.

Exterior Structures, including, but not limited to structural steel bridges, walkways, railings.

Exterior Walls, including, but not limited to, block, brick, pre-cast, poured-in-place concrete, wood and metal stud, stucco.

Roof, including, but not limited to, structural steel framing, wood framing, pre-cast, parapet walls, metal, poured-in-place, sheathing, underlayment, built-up, roof drainage, and soffits.

Exterior doors, windows, and store-front framing.

Interior Build-out, including, but not limited to, wood and metal stud, interior doors and windows, cabinetry, specialty work, drywall, insulation, sound proofing, carpet, tile, painting, furnishings, and miscellaneous finishes.

Electrical, including, but not limited to conduit, power supply, fixtures, wiring, finishes, and testing.

Plumbing, including, but not limited to, piping, sanitary sewer, water supply, fixtures, finishes, and testing.

HVAC, including, but not limited to, air handlers, compressors, duct work, finishes, and testing.

Fire Systems, including, but not limited to piping, sprinkler heads, and testing.

Security Systems, including, but not limited to, control panels, wiring, sensors, alarms, communications, and testing.

Specialty Work, including, but not limited to, elevators, escalators, toll booth facilities, electronic toll equipment, conduit, wiring, voice and data communication systems, and testing.

The Contractor agrees to submit for acceptance a CPM baseline schedule showing Work commencing on the first chargeable Contract day and finishing on the last chargeable Contract day, thereby showing zero total float.

The Contractor shall sequence work so that only one Longest Path is created in the Baseline or Updated Baseline schedule.

The Contract Completion Date as defined in section 6.3.2.1 shall be entered into the Primavera Project Details window under “Project must finish by”.

Mobilization Activities: Activities representing Contract pay item 1-101-1, Mobilization, shall be divided into 1 work activity with a duration no greater than 20 work days and 4 mobilization payment milestones that are revenue loaded according to the specification payment schedule as follows: 5% of Contract earned = 25% payment, 10% of Contract earned = 50% payment, 25% of Contract earned = 75% payment and 50% of Contract earned = 100% payment. The payment milestones should not be tied to any activities, but constrained by a “start no earlier than” constraint. The dates they are constrained to should be based on the early dates shown in the schedule cash flow tabular report by day generated by P6.

6.3.3.4.2 Activity Codes: The Contractor shall define and assign as appropriate, project-specific activity codes to allow for filtering, grouping, and sorting of activities by category to facilitate review and use of the Progress Schedule. The Contractor shall define the activity codes using the project-level option. The following are the minimum required activity codes and their values that are to be assigned to each activity in P6:

Phase: Shall have a field length of 4 characters. If the Project has more than one maintenance of traffic (M.O.T.) phase, each phase shall be identified. Each activity shall show which M.O.T. Phase it belongs to as shown in the Plans and Specifications.

Area: Shall have a field length of 6 characters. The Contractor shall create Area activity code values for each of the following areas. Each schedule activity shall have an assigned Area activity code value

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

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

6.3.3.4.3 Activity Relationships: Relationships between activities shall be identified with the following information:

- A. Activity ID - Shall not exceed 6 characters in length.
- B. Predecessor and successor activity ID.

- C. Relationship types:
 - FS -Finish to start
 - SS -Start to start
 - FF -Finish to finish
 - SF -Start to finish - This relationship is not allowed, unless authorized by CFX.
- D. Lag -Negative lag is not allowed, unless authorized by CFX.

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

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

- A. Calendar 1: shall be used for 5-day workweek activities: Monday through Friday. All holidays and non-work days shall be assigned to this calendar. This calendar shall be used for all normal Work activities. Calendar 1 shall be the default calendar.
- B. Calendar 2: shall be used for 7-day workweek activities. No non-work days shall be entered into this calendar. Activities such as friction course curing shall use this calendar.
- C. Calendar 3: shall be used for 7-day workweek activities. All holidays shall be entered into this calendar.
- D. Calendar 4: shall be used for 6-day workweek activities. All holidays and non-work days shall be assigned to this calendar.

Additional calendars: May be assigned depending upon need. However, the Contractor shall consult with CFX before other calendars are entered and/or used in the Project schedule.

6.3.3.4.5 Revenue Loading the Schedule: Each Work activity in the schedule shall be revenue loaded using all the Contract pay items amounts related to the Work activity. Revenue shall be loaded using resources with the “Material” type. The Contractor shall verify that each pay item is represented in the schedule. The total of all revenue loading shall equal the Contract amount.

If the monthly payment requests do not reasonably agree with the monthly schedule updates/budgeted revenue of Work performed, CFX may request that the Contractor revise its revenue loading in the accepted baseline schedule and the most current updated baseline schedule. In addition, CFX may request that the Contractor revise its revenue loading in the accepted baseline and updated baseline schedules to incorporate all Supplemental Agreement changes affecting the Contract amount.

6.3.3.4.6 Updating the Baseline Schedule

Monthly Schedule Update Meetings: Monthly Schedule Update meetings shall be set by CFX and shall be transmitted to the Contractor by written notice.

CFX will establish a schedule cut-off date for each month of the Contract.

The updated baseline schedule, project progress, issues, delays, claims, planned Work, Contractor’s monthly pay estimate, and baseline schedule revisions shall be among the priority items addressed in detail.

Schedule Update Process: The schedule update process shall include updating the activity actual start and finish dates, percent completion, remaining duration, and adjusting schedule logic to correct for activities being performed out of sequence, adjusting resource allocations for activities, and changing the calendar assignments to activities as needed. The Contractor must submit evidence to CFX that any revision to schedule logic, resources, or calendar assignment is a logical, reasonable, and necessary change. If CFX decides that the revision is not sufficiently supported and does not serve a useful purpose, CFX shall request that the Contractor remove the revision from the schedule update, and the Contractor shall comply. The Contractor shall not change an activity original duration for any reason.

6.3.3.4.7 Revisions to the Baseline Schedule

1. Revisions to the accepted Baseline Schedule are only to be made at the request of CFX. CFX will request in writing that the Contractor submit a proposed revision to the Accepted Baseline Schedule to incorporate a Board Approved Supplemental Agreement.
2. The Contractor shall have fifteen calendar days from receipt of CFX's request to submit a proposed revision to the Accepted Baseline Schedule.
3. The Contractor's proposed revision shall include all transmittals, reports, diagrams, and bar charts listed in specification section 6.3.2.4.9, unless CFX requests otherwise in writing.
4. The Contractor shall submit two Schedule Comparison reports. The first report shall be a comparison between the Accepted Baseline Schedule and the Revised Baseline Schedule. The second report shall be a comparison between the current updated baseline schedule and the proposed updated baseline schedule containing the proposed revision to the accepted baseline schedule.
5. In its required narrative report, the Contractor shall state whether or not the proposed changes affect the longest path of the accepted baseline schedule or the proposed updated baseline schedule, which contains progress.
6. CFX shall have 15 calendar days to review and transmit a written notice of acceptance or rejection of the Contractor's proposed revision. If CFX rejects the proposed revision, CFX shall state the reasons for rejection in the written notice. The Contractor shall have 5 calendar days to re-submit the proposed revision to CFX.
7. If the Contractor fails to submit a proposed revision that is accepted by CFX within 45 calendar days from CFX's original request date, CFX reserves the right to retain 10% of each of the Contractor's monthly payment requests until the Contractor submits a proposed revision that is accepted by CFX.
8. Upon acceptance of the proposed revision to the accepted baseline schedule, the proposed revision to the baseline schedule shall become the accepted baseline schedule. The Contractor shall incorporate the revision into the next scheduled updated baseline schedule.

6.3.3.4.8 Schedule Submittals: Each baseline, revised baseline, and updated baseline schedule submittal shall include the following documents,

unless CFX sends and the Contractor receives a written request to limit the submittal to certain documents for a specific submittal.

1. Transmittal: Shall be signed by the Contractor's Schedule Engineer or Resident Engineer. Shall contain the following information:

Submittal date.

Contractor Name.

Complete CFX Contract Number.

Project Description.

Contract Resident Engineer.

Four character P6 Project Number - Data Date

2. Schedule Update Narrative Report: The Contractor shall prepare a written narrative to accompany the required reports and graphics for the schedule update submittal. The narrative shall have the following sections:

Schedule Status: The Schedule Status shall be a written narrative explaining the progress during the month in sufficient detail and referencing specific activities including longest path activities, milestones, design issues, means and methods issues, out of sequence activities, and actual production rates for various types of Work performed by the crews loaded as resources in the schedule.

Delays: If the Contractor has experienced any delay, the Contractor shall explain what activities in the current period were affected by the delay and what caused the delay and how the Contractor intends to address the delay.

Milestone Comparisons: Current period projected milestone dates versus previous period projected milestone dates, and current period projected contract completion date versus previous period projected contract completion date.

3. Schedule Comparison Report: The Contractor shall submit to CFX a detailed report showing all changes to the Project schedule since the previous monthly update, including, but not limited to the following information:

Activities worked out of sequence.

Changes in Total Float.

Changes in Early and Late Dates.

Changes in Original and Remaining Duration.

Changes in Activity Constraints.
Changes in Activity Predecessors, Successors, Relationship Type, and Lags.
Changes in Activity Resource Assignments.
Changes in Activity Cost Loading.
Changes in Activity percent completion.
Changes in Longest Path Activities.

Longest Path Bar chart: Bar chart shall be time scaled and filtered on the Longest Path activities and sorted by early start.

Area Code Bar chart: Bar chart shall be time scaled and sorted by area code. The bar chart shall include:

- A. Each activity on a single line containing ID number, activity description, and a bar representing activity original duration, early start dates, early finish dates, late start dates, late finish dates and total float.
- B. Key to identify all components in the bar chart and CPM.
- C. Key to identify all the abbreviations used.

4. Revenue Loading Report: The Contractor shall submit to CFX a report entitled "Revenue Loading Report". The report shall include the following information:

- A. Activity ID number
- B. Description of activity
- C. List of pay items included in activity including:
 - 1. Pay item number
 - 2. Pay item description
 - 3. Quantity of pay item to be applied
 - 4. Unit measure of pay item
 - 5. Unit-price of pay item
 - 6. Total price for pay item to be applied
- D. Total revenue loading of activity (Sum of "C")

5. Revenue Flow Diagram: For any baseline Schedule, the Contractor shall submit to CFX a Revenue Flow Diagram by month. The Revenue Flow Diagram shall show the early and late curves representing the accumulated projected dollars to be earned for each month of the Contract.

6. Tabular Revenue Report: For any Baseline Schedule, the Contractor shall submit a Tabular Revenue Report by day. The tabular report shall show columns for the accumulated and incremental projected dollar amounts to be earned on the early and late curve for each Contract day.
7. P6 Schedule Backup: The Contractor shall submit to CFX two copies of each baseline, revised baseline, and updated baseline schedule exported in “.xer” format. The files shall be submitted on compact disk (cd) or via the electronic submittal process approved by the CEI. Each submission shall have a typed label showing the following information:
 - Contractor name
 - The complete CFX Project number
 - The four character P6 project number
 - Data Date in format -> “01JAN15”
 - Volume number _of_ total volume numbers (e.g., 1 of 5, 2 of 5)
8. Paper Sizes and Orientation: All printed reports shall be submitted on 8" x 11" portrait-bond paper. All printed bar charts and revenue flow diagrams shall be submitted on 8" x 11" landscape bond paper. All presentation layouts and logic diagrams shall be plotted in color with a color design jet plotter and submitted on ANSI E (34-inch x 44-inch) size coated paper.

6.3.3.4.9 Two Week Look Ahead Schedule: The Contractor shall submit a two-week look-ahead bar chart schedule produced in Microsoft Excel at the weekly project progress meeting. The bar chart shall show all major Work in progress.

The bar chart shall show at least one week behind for actual Work performed and two weeks ahead for planned Work.

The bar chart shall be date synchronized to the CEI’s Weekly Summaries.

Changes and revisions that require the approval of CFX shall be brought forward for discussion.

6.3.3.4.10 Adjustments to Contract Time:

1. The Contract Completion Date shall not be changed in any schedule unless CFX approves a Supplemental Agreement granting an extension to the Contract Time.

2. The Contractor has the right to finish the Contract early; however, the Contractor agrees that any impact to the projected early completion date does not justify a request for a time extension because it would constitute changing the Contract completion date to match the Contractor's projected early completion date. Any float available as a result of a schedule showing early completion shall be considered project float for joint use by CFX and the Contractor.

3. The Contractor acknowledges and agrees that for purposes of considering a time extension request, a schedule activity shall not be considered to have been subject to a claimed delay unless all originally and presently scheduled predecessor activities have been completed so that no other restraints to the performance of that activity exist in the CPM schedule at the time claimed for the delay impact. The Contractor agrees that a Contract time extension request shall only be considered for one of the following reasons:
 - A. The Contractor performed Extra Work that met all of the following conditions:
 1. CFX stated that the Extra Work was not to be performed concurrently with other Contract Work.
 2. The Extra Work delayed the Contract Completion Date.
 3. The Extra Work impacted one or more activities on the current CPM schedule longest path.

 - B. The Contractor experienced an Excusable Delay, as defined in subarticle 6.7.3.1, that met all of the following conditions:
 1. The Contract Completion Date was delayed due to circumstances beyond the control of the Contractor.
 2. The Contractor took every reasonable action to prevent the delay.
 3. The delay impacted one or more activities on the current CPM schedule longest path.
 4. The Contractor agrees that there shall be no basis for a Contract Time extension as a result of any Contract problem, Supplemental Agreement, or delay, which only results in the loss of available positive float, or an increase of negative float belonging to activities

that do not reside on the CPM schedule's Longest Path.

6.3.3.4.11 Supplemental Agreements: Supplemental Agreements shall include a time impact analysis from the Contractor as to the effect of the requested change on the detailed schedule. In cases where the requested change has no impact on the Project duration, the time impact analysis shall still be included. The time impact analysis shall include a listing of the activities that are affected by the requested changes and an analysis of the change on the longest path of the detailed schedule. The Contractor and the CEI shall agree upon the impact to the schedule before a Supplemental Agreement is approved.

The approved Supplemental Agreements shall be incorporated into the next monthly schedule update.

6.3.3.4.12 Adjustment to the Contract Time: Adjustments to the Contract time are detailed in subarticle 6.7.3.

6.3.3.4.13 CPM Recovery Schedule: Should any of the following conditions exist, the Contractor shall, at no extra cost to CFX, prepare a CPM Recovery Schedule, which shall be submitted in addition to a Progress-Only schedule update of the same data date:

1. Should the Contractor's monthly progress review indicate that a CPM Recovery Schedule is required;
2. Should the CPM schedule show the Contractor to be thirty (30) or more days behind schedule at any time during the construction period;
3. Should the Contractor request to make changes in the logic of the CPM schedule which, in the opinion of CFX, are of a major nature.

The same requirements and submittals for the CPM Recovery Schedule shall apply as the original baseline schedule.

6.3.4 Beginning Work: See Article 6.7 below.

6.3.5 Provisions for Convenience of the Public: The Contractor shall schedule operations to minimize any inconvenience to adjacent businesses, vehicular or pedestrian traffic or residences. CFX reserves the right to direct the Contractor as to the performance and scheduling of Work in any areas along the Project where restrictions caused by construction operations present significant hazards to the health and safety of the general public.

When working adjacent to or over travel lanes, the Contractor shall ensure that dust, mud and other debris from Contractor's operation does not interfere with normal traffic operations or adjacent properties. All debris shall be removed from the Work area and clear zone of the Project before Work ends for the day. Trash shall be picked up and removed daily from the job by the Contractor.

- 6.3.6 Pre-Construction Conference: Prior to Contractor's commencement of Work on the Project, the CEI will schedule a pre-construction conference with the Contractor, utility companies and other affected parties to review the proposed Work activities and schedule of events.

6.4 Limitations of Operations

- 6.4.1 Night Work: In all areas where Work is being performed during the hours of dusk or darkness, the Contractor shall furnish, place and maintain lighting facilities capable of providing light of sufficient intensity (5 foot-candles minimum) to permit good workmanship and proper inspection at all times. The lighting shall be arranged so as not to interfere with or impede traffic approaching the Work site(s) from either direction or produce undue glare to property owners and traveling public.

Lighting of Work site(s) may be accomplished using any combination of portable floodlights, standard Equipment lights, existing street lights, temporary street lights, etc., that will provide the proper illumination. The Contractor shall provide a light meter to demonstrate that the minimum light intensity is being maintained. The Contractor shall provide sufficient fuel, spare lamps, generator, etc., to maintain lighting of the Work site.

The Contractor's lighting plan shall provide for and show the location of all lights necessary for every aspect of Work to be done at night. The plan shall be presented on standard size roadway plan sheets (no larger than 24" x 36") and on a scale of either 100' or 50' to the inch. The Contractor's lighting plan shall be submitted to the CEI for review and approval at least 10 days prior to beginning any night Work. The CEI may require that modifications be made to the lighting setup to fit field conditions.

The Contractor shall furnish and place variable message signs to alert approaching motorists of lighted construction area(s) ahead.

The Contractor's pickups and automobiles used on the Project shall be provided with amber flashing lights or flashing white strobe lights. These lights shall be in operation at all times while in the Project limits and/or Work area.

The Contractor's Equipment shall be provided with a minimum of four square feet of reflective sheeting or flashing lights that will be visible to approaching motorists.

The Contractor shall provide its personnel with reflective safety vests. The Contractor shall ensure that all Subcontractors are also provided with reflective safety vests. Vests shall be worn at all times while workers are within the Work area.

The Contractor shall use padding, shielding or locate mechanical and electrical Equipment to minimize noise as directed by the CEI. Noise generated by portable generators shall comply with all applicable Federal, State and local environmental regulations.

The Contractor shall have a superintendent present to control all operations involved during night Work. The superintendent shall maintain contact with the CEI and ensure that all required actions are taken to correct any problem noted.

All required traffic control devices such as signs, stripes, etc., shall be in place before the Contractor commences Work for the night and before the Contractor leaves the Work site the next morning.

Work operations that result in traffic delays more than five minutes may be temporarily suspended by the CEI to minimize the impact on the traveling public.

No private vehicles shall be parked within the limited access right of way. The Contractor's Worksite Traffic Supervisor shall continually and adequately review traffic control devices to ensure proper installation and working order, including monitoring of lights.

Compensation for lighting for night Work shall be included in the Contract prices for the various items of the Contract. All lighting Equipment for night work shall remain the property of the Contractor.

- 6.4.2 Sequence of Operations: The Contractor shall not start new Work that will adversely impact Work in progress. Under such circumstances, CFX reserves the right to require the Contractor to finish a section on which Work is in progress before Work is started on any new section.
- 6.4.3 Interference with Traffic: The Contractor shall at all times conduct the Work in such a manner and such sequence as to ensure the least practicable interference with traffic. The Contractor's vehicles and other Equipment shall be operated in such a manner that they will not be a hazard or hindrance to the traveling public. Materials stored along the roadway shall be placed to minimize obstruction to the traveling public.

Where existing pavement is to be widened and stabilizing is not required, the Contractor shall schedule operations such that at the end of each workday the full thickness of the base for widening will be in place. Construction of the widening strips will not be permitted simultaneously on both sides of the road except where

separated by a distance of at least one-fourth of a mile along the road, where either the Work of excavation has not been started or the base has been completed.

- 6.4.4 Coordination with Other Contractors: The right is reserved by CFX to have other work performed by other contractors and to permit public utility companies and others to do work during the construction of and within the limits of or adjacent to the Project. The Contractor shall arrange the Work and dispose of Materials so as not to interfere with the operations of other contractors engaged upon adjacent work and shall perform the Work in the proper sequence in relation to that of other contractors and shall join with and connect to the work of others as required by the Plans and Specifications all as may be directed by the CEI.

Contractor shall be responsible for any damage done by Contractor's operations to the work performed by other contractors. Similarly, other contractors will be held responsible for damage caused their operations to the Contractor's Work. The Contractor agrees to make no claims against CFX for additional compensation due to delays or other conditions created by the operations of such other parties. Should a difference of opinion arise as to the rights of the Contractor and others working within the limits of, or adjacent to, the Project, CFX will decide as to the relative priority of all concerned.

- 6.4.5 Drainage: The Contractor shall conduct operations and maintain the Work in such condition that adequate drainage will be in effect at all times. Existing functioning storm sewers, gutters, ditches and other runoff facilities shall not be obstructed.
- 6.4.6 Fire Hydrants: Fire hydrants on or adjacent to the roadway shall be kept accessible to fire apparatus at all times and no material or obstruction shall be placed within 15 feet of any such hydrant.
- 6.4.7 Protection of Structures: Heavy Equipment shall not be operated close enough to pipe headwalls or other structures to cause their displacement.
- 6.4.8 Fencing: The Contractor shall expedite the installation of fencing at those locations where, in the opinion of the CEI, such installation is necessary for the protection, health, and safety of the public. All fencing shall be maintained by the Contractor at all times. Fence cuts shall be immediately replaced. All fence removed during any one working day shall be replaced during that same day. While the fence is down, continuous security shall be provided by the Contractor to ensure that no pedestrians or vehicles enter or exit the roadway from the temporarily unfenced area. Specific attention shall be given to prevent any persons, animals, or vehicles moving from adjacent private property onto the roadway right-of-way.
- 6.4.9 Hazardous or Toxic Waste: When the Contractor's operations encounter or expose any abnormal condition which may indicate the presence of a hazardous substance, toxic waste or pollutants such operations shall be discontinued in the vicinity of the abnormal condition and the CEI shall be notified immediately. The presence of

tanks or barrels; discolored earth, metal, wood, groundwater, etc.; visible fumes; abnormal odors; excessively hot earth; smoke; or other conditions which appear abnormal may be indicators of hazardous or toxic wastes or pollutants and shall be treated with extraordinary caution.

Every effort shall be made by the Contractor to minimize the spread of any hazardous substance, toxic waste or pollutant into uncontaminated areas.

The Contractor's operations in the affected area shall not resume until so directed by the CEI.

Disposition of the hazardous substance, toxic waste or pollutant shall be made in accordance with the laws, requirements and regulations of any local, state, or federal agency having jurisdiction. Where the Contractor performs Work necessary to dispose of hazardous substance, toxic waste or pollutant and the Contract does not include pay items for disposal, payment will be made, when approved in writing by a Supplemental Agreement, prior to the Work being performed.

6.4.10 Milling: The Contractor shall provide positive drainage of the remaining pavement after milling. This operation shall be done prior to opening to traffic.

The Contractor shall provide suitable transitions between milled areas of varying thickness in order to create a reasonably smooth longitudinal riding surface. In addition, the Contractor shall provide suitable transitions approaching all bridge ends at all times.

Wedges for Longitudinal and Transverse Joints: Asphalt Wedges for longitudinal and traverse joints shall be one foot wide or long, respectively, for each 1/4 inch of depth. The wedge must be installed prior to opening the lane to traffic.

The Contractor shall plan milling operations so that any lane milled will be repaved prior to opening to traffic.

6.5 Qualifications of Contractor's Personnel

The Contractor shall ensure that all of its employees are competent, careful, and reliable. All workers shall have the skills and experience necessary to properly perform the Work assigned and as required by the Plans and Specifications.

If, in the opinion of CFX, any person employed by the Contractor, or any Subcontractor, is not qualified to perform the Work or is insubordinate, disorderly, disrupts or is detrimental to the progress of the Work, such person shall be immediately removed from the Project by the Contractor upon written direction from CFX. Such person shall not be employed again on the Project without the written permission of CFX. If the Contractor fails to immediately remove such person, CFX may, at its sole discretion, withhold payments due or which may become due, or may suspend the Work until the person is removed. The Contractor shall

indemnify and hold harmless CFX, its agents, consultants, officials and employees from any and all claims, actions or suits arising from such removal, discharge or suspension of a Contractor employee based on the direction of CFX.

6.6 Temporary Suspension of Contractor's Operations

6.6.1 Authority to Suspend Contractor's Operations: CFX, at its sole discretion, may suspend the Contractor's operations, wholly or in part, for such period(s) as CFX deems necessary. These periods of suspension may include adverse weather conditions, catastrophic occurrences and heavy traffic congestion caused by special events. Written notice, giving the particulars of the suspension, will be transmitted to the Contractor by CFX.

6.6.2 Prolonged Suspensions: If the suspension of operations is for an indefinite period of time, the Contractor shall store all Materials in such a manner that they will not become damaged or obstruct or impede the traveling public unnecessarily. The Contractor shall take reasonable precautions to prevent damage to or deterioration of the Work performed, shall provide suitable drainage of the roadway by opening ditches, shoulder drains, etc., and shall provide all temporary structures necessary for public travel and convenience.

6.6.3 Permission to Suspend Operations: The Contractor shall not suspend operations or remove Equipment or Materials necessary for the completion of the Work without the permission of CFX. All requests for suspension of the Contract time shall be in writing to CFX and shall identify specific dates to begin and end.

6.6.4 Suspension of Contractor's Operations - Holidays: Unless the Contractor submits a written request to work on a holiday at least ten days in advance of the requested date and receives written approval from the CEI, the Contractor shall not work on the following days: Martin Luther King, Jr. Day; Memorial Day; the Saturday and Sunday immediately preceding Memorial Day; Independence Day; Labor Day; the Friday, Saturday, and Sunday immediately preceding Labor Day; Veterans Day; Thanksgiving Day; the Friday, Saturday and Sunday immediately following Thanksgiving Day; and December 24 through January 2, inclusive. Contract Time will be charged during these holiday periods regardless of whether or not the Contractor's operations have been suspended. The Contractor is not entitled to any additional compensation for suspension of operations during such holiday periods.

During such suspensions, the Contractor shall remove all Equipment and Materials from the clear zone, except those required for the safety of the traveling public and retain sufficient personnel at the job site to properly meet the requirements of Sections 102 and 104 of the Technical Specifications. The Contractor is not entitled to any additional compensation for removal of Equipment from clear zones or for compliance with Section 102 and Section 104 during such holiday periods.

Any special events known to CFX that may impact Contractor operations are shown on the Plans.

6.7 Contract Time

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

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

The effect on job progress of utility relocations and adjustments and scheduling of construction operations to maintain traffic shall also be considered by the Contractor in the scheduling of Contract time.

6.7.2 Date of Beginning of Contract Time: The date on which Contract time will begin 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;
 - b. fails to perform the Work with sufficient workmen and Equipment or with sufficient Materials to assure the prompt completion of the Contract as related to the schedule or;
 - c. performs the Work unsuitably or neglects or refuses to remove Materials or;
 - d. to perform anew such Work as may be rejected as unacceptable and unsuitable or;
 - e. discontinues the prosecution of the Work or;
 - f. fails to resume Work which has been discontinued within a reasonable time after notice to do so or;
 - g. fails to pay timely its subcontractors, suppliers or laborers or;
 - h. submits a false or fraudulent Certificate of Disbursement of Previous Payments form or;
 - i. becomes insolvent or is declared bankrupt or;
 - j. files for reorganization under the bankruptcy code or;
 - k. commits any act of bankruptcy or insolvency, either voluntarily or involuntarily or;
 - l. allows any final judgment to stand against it unsatisfied for a period of ten calendar days or;
 - m. makes an assignment for the benefit of creditors or;
 - n. for any other cause whatsoever, fails to carry on the Work in an acceptable manner or;
 - o. if the surety executing the bond, for any reasonable cause, becomes unsatisfactory in the opinion of CFX.
 - p. Failure to ensure that D/M/WBE firms have the maximum opportunity to participate in performance of the Contract shall constitute failing to prosecute the Work in an acceptable manner.

If the Contractor, within a period of 10 calendar days after the notice described above, does not proceed to correct the default, CFX may give notice of default in writing to the Contractor and the surety stating the nature of the default and providing the amount of time which will be allowed to correct the default.

If the Contractor (within the curative period described in the notice of default) does not correct the default, CFX will have full power and authority to remove the Work from the Contractor and to declare the Contract in default and terminated.

If the Contract is declared in default, CFX may require the Contractor's surety to take over and complete the Contract performance. Upon the failure or refusal of the surety to assume the Contract within the time demanded, CFX may take over the Work covered by the Contract.

CFX shall have no liability for profits related to unfinished Work on a Contract terminated for default.

- 6.9.2 Public Interest Termination of Contract: CFX may, by written notice, terminate the Contract or a portion thereof after determining that, for reasons beyond either CFX or Contractor control, the Contractor is prevented from proceeding with or completing the Work as originally contracted for, and that termination would therefore be in the public interest. Such reasons for termination may include but need not be necessarily limited to, executive orders of the President relating to prosecution of war or national defense, national emergency which creates a serious shortage of Materials, orders from duly constituted authorities relating to energy conservation and restraining order or injunctions obtained by third-party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the Contractor.

When the Contract or any portion thereof, is terminated (as aforesaid) before completion of all items of Work in the Contract, payment will be made for the actual number of units or items of Work completed, at the Contract unit price or as mutually agreed for items of Work partially completed. No claims for loss of anticipated profits will be considered.

Reimbursement for mobilization expenses (when not otherwise included in the Contract), including moving Equipment to the job, will be considered where the volume of Work completed is too small to compensate the Contractor for these expenses under the Contract unit prices; the intent being that an equitable settlement will be made with the Contractor.

Acceptable Materials procured by the Contractor for the Work, that have been inspected, tested, and approved by CFX and that are not incorporated in the Work, may be purchased from the Contractor at actual cost, as shown by receipted bills and actual cost records, at such points of delivery as may be designated by CFX.

Termination of the Contract or a portion thereof, under the provisions of this subarticle, shall not relieve the Contractor of Contractor's responsibilities for the completed portion nor shall it relieve Contractor's surety of its obligation for, and concerning any just claims arising out of, the Work performed.

CFX may also, upon seven days written notice to the Contractor, without cause and without prejudice to any other right or remedy of CFX, elect to terminate the Contract. In such case, the Contractor will be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, in accordance with existing pay items;

2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, Materials or Equipment as required by the Contract Documents in connection with uncompleted Work, plus mutually agreeable sums for overhead and profit on such expenses.

The Contractor shall not be paid because loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

- 6.9.3 Completion of Work by CFX: Upon declaration of default and termination of the Contract, CFX will have the right to appropriate or use any or all Materials and Equipment on the sites where Work is or was occurring which are suitable and acceptable and may enter into agreements with others for the completion of the Work under the Contract or may use other methods which in the opinion of CFX are required for Contract completion. All costs and charges incurred by CFX because of or related to the Contractor's default (including the costs of completing Contract performance) shall be charged against the Contractor. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the Contractor and the surety shall be jointly and severally liable and shall pay CFX the amount of the excess.

6.10 Liquidated Damages for Failure to Complete the Work

- 6.10.1 Liquidated Damages for Failure to Complete the Work: The Contractor shall pay to CFX liquidated damages in the amount specified in the Special Provisions per calendar day for failure of the Contractor to complete the Work within the Contract time stipulated or within such additional time as may have been granted by CFX.
- 6.10.2 Determination of Number of Days of Default: Default days shall be counted in calendar days.
- 6.10.3 Conditions Under Which Liquidated Damages are Imposed: If the Contractor (or in circumstance of the Contractor default, the surety) fails to complete the Work within the Contract time stipulated or within such extra time as may have been granted by CFX, the Contractor (or the surety) shall pay to CFX, not as a penalty but as liquidated damages, the amount due.
- 6.10.4 Right of Collection: CFX reserves the right, at its sole option, to apply as payment on liquidated damages due any money which is due the Contractor by CFX.
- 6.10.5 Allowing the Contractor to Finish Work: Allowing the Contractor to continue and to finish the Work or any part of it, after the expiration of the Contract time allowed, including time extensions, shall in no way act as a waiver on the part of CFX of the liquidated damages due under the Contract.

6.10.6 Liability for Liquidated Damages: In the event of default of the Contract and the completion of the Work by CFX, the Contractor and the Contractor's surety shall be liable for the liquidated damages under the Contract. No liquidated damages shall be chargeable for any delay in the final completion of the Work due to any unreasonable action or delay on the part of CFX.

6.11 Release of Contractor's Responsibility

The Contract will be considered completed when all Work has been finally accepted, in writing, by CFX. The Contractor will then be released from further obligation except as set forth in the Public Construction Bond and as provided in subarticle 3.9.5, Recovery Rights Subsequent to Final Payment.

6.12 Recovery of Damages Suffered by Third Parties

In addition to liquidated damages, CFX may recover from the Contractor amounts paid by CFX for damages suffered by third parties unless the failure to timely complete the Work was caused by CFX acts or omissions.

6.13 Express Warranty

The Contractor warrants and guarantees the Work to the full extent provided for in and required by the Contract Documents. Without limiting the foregoing or any other liability or obligation with respect to the Work, the Contractor shall, at its expense and by reason of its express warranty, make good any faulty, defective, or improper parts of the Work discovered within one (1) year from the date of final acceptance of the Project, expressed in writing, by CFX. The Contractor also warrants that all materials furnished hereunder meet the requirements of the Contract Documents and expressly warrants that they are both merchantable and fit for the purpose for which they are to be used under the Contract Documents.

Should any subcontractor or material supplier of Contractor provide an express warranty for its work or materials to the Contractor which is thereafter assigned to CFX or provide a warranty for its work or materials directly to CFX, such warranty shall not preclude CFX from the exercise of any alternative means of relief against Contractor, whether contractual, extra-contractual, statutory, legal or equitable.

END OF SECTION 6

SECTION 7 - MEASUREMENT AND PAYMENT

7.1 Measurement of Quantities

7.1.1 Measurement Standards: Unless otherwise stipulated, all Work completed under the Contract shall be measured by CFX according to United States Standard Measures.

7.1.2 Method of Measurements: All measurements shall be taken horizontally or vertically unless otherwise stipulated. Consistent with this, any corrugations, rustications, or deviations in texture will not be quantified for surface area measurement and payment.

7.1.3 Determination of Pay Areas:

7.1.3.1 Final Calculation: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is determined by calculation, the lengths and/or widths used in the calculations shall be either 1) the station to station dimensions shown on the Plans, 2) the station to station dimensions actually constructed within the limits designated by CFX or 3) the final dimensions measured along the surface of the completed Work within the neat lines shown on the Plans or designated by CFX. The method or combination of methods of measurement shall be those that reflect, with reasonable accuracy, the actual plane surface area, irrespective of surface and texture details of the finished Work as determined by CFX.

7.1.3.2 Plan Quantity: In measurement of items paid for on the basis of area of finished Work, where the pay quantity is designated to be the plan quantity, the final pay quantity shall be the plan quantity subject to the provisions of subarticle 7.3.2. In general, the plan quantity shall be calculated using lengths based on station to station dimensions and widths based on neat lines shown on the Plans.

7.1.4 Construction Outside Authorized Limits: Except where such Work is performed upon written instruction of CFX, no payment will be made for surfaces constructed over a greater area than authorized or for material moved from outside of slope stakes and lines shown on the Plans.

7.1.5 Truck Requirements:

The Contractor shall certify that all trucks used have a manufacturer's certification or permanent decal showing the truck capacity rounded to the nearest tenth of a cubic yard placed on both sides of the truck. The capacity shall include the truck body only and any side boards added shall not be included in the certified truck body capacity.

7.1.6 Ladders and Instrument Stands for Bridge Construction: To facilitate necessary measurements, the Contractor shall provide substantial ladders to the tops of piers and bents and shall place and move ladders as required by the CEI. For bridges crossing water or marshy areas, the Contractor shall provide fixed stands for instrument mounting and measurements.

7.2 Scope of Payments.

7.2.1 Items Included in Payment:

Accept the compensation as provided in the Contract as full payment for furnishing all materials and for performing all work contemplated and embraced under the Contract; also for all loss or damage arising out of the nature of the work or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its final acceptance; also for all other costs incurred under the provisions of the General Specifications.

For any item of work contained in the proposal, except as might be specifically provided otherwise in the basis of payment clause for the item, include in the Contract unit price (or lump sum price) for the pay item or items the cost of all labor, equipment, materials, tools, and incidentals required for the complete item of work, including all requirements of the Section specifying such item of work, except as specifically excluded from such payments.

7.2.1.1 Fuels: CFX will, in the Contract Documents, provide an estimated quantity for fuel requirements for gasoline and diesel to cover the work specified in the Contract. Price adjustments will be made only for the amount of gasoline and diesel fuel estimated by CFX as required to complete the Contract. The requirement of each type of fuel for each pay item is estimated by multiplying the CFX standard fuel factor for that pay item by the quantity of that pay item. Price adjustments made for fuel used after expiration of the last allowable Contract Day (including any time extensions) will be limited to the increases or decreases dictated by the index in effect on the last allowable Contract Day. On Contracts with an original Contract Time in excess of 120 calendar days, CFX will make price adjustments on each applicable progress estimate to reflect increases or decreases in the price of gasoline and diesel from those in effect during the month in which bids were received. The Contractor will not be given the option of accepting or rejecting these adjustments. Price adjustments for these fuels will be made only when the current fuel price (CFP) varies by more than 5% from the price published when bids were received (BFP), and then only on the portion that exceeds 5%. For definition purposes, should a project bid prior to the 15th of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14th of the month, the bid index will be the index for the month of the bid.

Price adjustments will be based on the monthly bulk average price for gas and diesel as derived by the FDOT. These average indexes shall be determined by averaging bulk fuel prices on the first day of each month as quoted by major oil companies that are reasonably expected to furnish fuel for projects in the State of Florida. Average price indices for gasoline and diesel will be available on the FDOT Construction Office website before the 15th of each month, at the following URL: <https://www.fdot.gov/construction/fuel-bit/fuel-bit.shtm>.

Payment will be based on the quantities shown on the progress estimate on all items for which established standard fuel factors which are included in the bid documents or, if omitted, are on a file maintained by the FDOT at the time of bid.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for gasoline and diesel in accordance with the following:

When fuel prices have decreased between month of bid and month of this progress estimate:

$A_i = F_i (P_i - .95 P_b)$ during a period of decreasing prices.

A_i = Total dollar amount - positive or negative - of the cost adjustment for each kind of fuel used by the Contractor during the month "i."

F_i = Total gallons calculated as being used during the month (units produced/month x gallons/unit).

P_i = Average price for fuel prevailing during month "i."

P_b = Average price for fuel prevailing during the month "b" when bids were received on this Contract, as defined above

When fuel prices have increased between month of bid and month of this progress estimate:

$A_i = F_i (P_i - 1.05 P_b)$ during a period of increasing prices.

A_i = Total dollar amount - positive or negative - of the cost adjustment for each kind of fuel used by the Contractor during the month "i."

F_i = Total gallons calculated as being used during the month.

P_i = Average price for fuel prevailing during month "i."

Pb = Average price for fuel prevailing during the month “b” when bids were received on this Contract, as defined above

Payment will be made on the current progress estimate to reflect the index difference at the time work was performed.

Adjustments will be paid or charged to the Contractor only. Contractors receiving an adjustment under this provision shall distribute the proper proportional part of such adjustment to subcontractors who perform applicable work.

7.2.1.2 Bituminous Material: On Contracts having an original Contract Time of more than 365 calendar days, or more than 5,000 tons of asphalt concrete, CFX will adjust the bid unit price for bituminous material, excluding cutback and emulsified asphalt to reflect increases or decreases in the Asphalt Price Index (API) of bituminous material from that in effect on the day on which bids were received. The Contractor will not be given the option of accepting or rejecting this adjustment. Bituminous adjustments will be made only when the current API (CAPI) varies by more than 5% of the API prevailing on the day on which bids were received (BAPI), and then only on the portion that exceeds 5%. For definition purposes, should a project bid prior to the 15th of any month, the bid index will be the index for the month prior to the bid. Should a project bid after the 14th of the month, the bid index will be the index for the month of the bid.

CFX will determine the API for each month by checking the FDOT Contracts Office web site which averages quotations in effect on the first day of the month at all terminals that could reasonably be expected to furnish bituminous material to projects in the State of Florida.

Payment on progress estimates will be adjusted to reflect adjustments in the prices for bituminous materials in accordance with the following:

$$\text{\$ Adjustment} = (\text{ID})(\text{Gallons})$$

Where ID = Index Difference = [CAPI - 0.95(BAPI)] when the API has decreased between the month of bid, as defined above, and month of this progress estimate.

Where ID = Index Difference = [CAPI - 1.05(BAPI)] when the API has increased between the month of bid, as defined above, and month of this progress estimate.

Payment will be made on the current progress estimate to reflect the index difference at the time work was performed.

For asphalt concrete items payable by the ton, and not containing Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 6.25% liquid asphalt weighing 8.58 lb/gal. For asphalt concrete items payable by the ton, that do contain Reclaimed Asphalt Pavement (RAP), the number of gallons will be determined assuming a mix design with 5% liquid asphalt weighing 8.58 lb/gal.

Asphalt concrete items payable by the square yard will be converted to equivalent tons assuming a weight of 100 lb/yd² per inch.

7.2.1.2 For FC-5 with granite, the number of gallons will be determined assuming a mix design with 5.5% liquid asphalt weighing 8.58 lb/gal.

7.2.2 Non-Duplication of Payment: In cases where the basis of payment clause in these Specifications relating to any unit price in the bid schedule requires that the unit price cover and be considered compensation for certain work or material essential to the item, CFX will not measure or pay for this same work or material under any other pay item that may appear elsewhere in these Specifications.

7.3 Compensation for Altered Quantities

7.3.1 General: When a change or combination of changes in the Plans results in an increase or decrease in the original Contract quantities and the Work added or deleted is of the same general character as that shown on the original Plans, the Contractor shall accept payment in full at the original Contract unit prices for the actual quantities of Work done. No allowance will be made for any loss of anticipated profits because of increase or decreases in quantities provided, however, that increased or decreased Work covered by a Supplemental Agreement will be paid for as stipulated in the Supplemental Agreement.

Compensation for alterations in Plans or quantities of Work requiring Supplemental Agreements shall be stipulated in such agreement, except when the Contractor proceeds with the Work without change of price being agreed upon. The Contractor shall be paid for such increased or decreased quantities at the Contract unit prices bid in the Proposal for the items of Work. If no Contract unit price is provided in the Contract, the Contractor agrees to do the Work in accordance with Subarticle 2.3.2 of these General Specifications.

7.3.2 Payment Based on Plan Quantity:

7.3.2.1 Error in Plan Quantity: When the pay quantity for an item is designated to be the original plan quantity, such quantity will be revised only in the event that the quantity increases or decreases by more than 5% of the original plan quantity or the

amount due for the item increases or decreases by more than \$5,000, whichever is smaller. In general, such revisions will be determined by final measurement or plan calculations (or both) as additions to or deductions from plan quantities. Changes resulting in pay quantity increase or decrease in excess of 25% will be in accordance with the criteria for significant changes as defined in subarticle 2.3.1 of these General Specifications.

If the Contractor determines that the plan quantity for any item is in error and additional or less compensation is due, the Contractor shall submit evidence of such error to CFX in the form of acceptable and verifiable measurements and calculations. Similarly, if CFX determines an error or errors exist, it will make its measurements and calculations available to the Contractor. The plan quantity will not be revised solely on the basis of the Contractor's method of construction.

For earthwork items, the claimant must note any differences in the original ground surfaces from that shown in the original plan cross-sections that would result in a substantial error to the plan quantity, and must be properly documented by appropriate verifiable level notes, acceptable to both the Contractor and CFX, and provide sufficient opportunity to verify the data prior to disturbance of the original ground surface by construction operations. The claimant shall support any claim based upon a substantial error for differences in the original ground surface by documentation as provided above.

7.3.2.2 Authorized Changes in Limits of Work: When the pay quantity for an item is designated to be the original plan quantity and a plan change is authorized resulting in an increase or decrease in the quantity of an item, the plan quantity will be revised accordingly provided that such change will increase or decrease the amount due for more than \$100. In general, such revisions will be determined by final measurement or plan calculations or both, subject to the provisions of Subarticle 2.3.2 of these General Specifications.

7.3.2.3 Specified Adjustments to Pay Quantities: The limitations detailed in Subarticles 7.3.2.1 and 7.3.2.2 do not apply when 1) the Specifications provide that the pay quantity for an item to be paid for on the basis of area of finished Work is to be adjusted according to the ratio of measured thickness to nominal thickness, 2) the Specifications provide for a deduction due to test results falling outside of the allowable specification tolerance or 3) paying for extra length fence posts as detailed in the Standard Specifications Section 550, Fencing, sub article 550-6.3, Payment Rates for Extra-Length Posts.

7.3.3 Lump Sum Quantities:

7.3.3.1 Error in Plan Quantity: When the pay quantity for an item is designated to be

a lump sum and the Plans show an estimated quantity, the lump sum compensation will be adjusted only in the event that either the Contractor submits satisfactory evidence or CFX determines and furnishes satisfactory evidence that the plan quantity shown is substantially in error as defined in 7.3.2.1.

7.3.3.2 Authorized Changes in the Work: When the pay quantity for an item is designated to be a lump sum and the Plans show an estimated plan quantity, compensation for that item will be adjusted proportionately when a plan change results in a significant increase or decrease in the quantity from the estimated plan quantity. When the Plans do not show an estimated plan quantity or the Specifications do not provide adjustments for contingencies, any authorized plan changes resulting in a significant increase or decrease in the cost of acceptably completing the item will be compensated for by establishing a new unit price through a Supplemental Agreement as provided in Subarticle 2.3.2. of these General Specifications.

7.3.4 Deviation from Plan Dimensions: If the Contractor fails to construct any item to plan or to authorized dimensions within the specified tolerances, the CEI, at his discretion will: require the Contractor to reconstruct the work to acceptable tolerances at no additional cost to CFX; accept the work and provide the Contractor no pay; or accept the work and provide the Contractor a reduced final pay quantity or reduced unit price. CFX will not make reductions to final pay quantities for those items designated to be paid on the basis of original plan quantity or a lump sum quantity under the provisions of this Article unless such reduction results in an aggregate monetary change per item of more than \$100, except that for earthwork items, the aggregate change must exceed \$5,000 or 5% of the original plan quantity, whichever is smaller. If, in the opinion of the CEI, the Contractor has made a deliberate attempt to take advantage of the construction tolerances as defined in Article 120-12.1 of the Standard Specifications to increase borrow excavation in fill sections or to decrease the required volume of roadway or lateral ditch excavation or embankment, CFX will take appropriate measurements and will apply reductions in pay quantities. CFX will not use the construction tolerance, as defined in Article 120-12.1, as a pay tolerance. The construction tolerance is not to be construed as defining a revised authorized template.

7.4 Force Account Work: Work performed in addition to that set forth in the original Contract and which is paid for on the basis of actual cost of the Materials and labor, plus a fixed percentage of such costs, and at agreed rental rates for major Equipment used.

7.4.1 Method of Payment: All Work done on a force account basis performed by such labor, tools and Equipment as necessary to accomplish the Work, and authorized by CFX, will be paid for in the following manner:

(a) Labor:

Payment for labor and burden shall be based on actual costs of alteration, change, additional or unforeseen Work, plus a markup of 25%, agreed upon in writing before starting such Work, for every hour that the labor is actually engaged in such Work. Such amount shall be considered as full compensation for general supervision and the furnishing and repairing of small tools used on the Work. Agreed wage rates shall not be in excess of the rates paid for comparable Work on the Project.

(b) Materials and Supplies:

Payment for Materials and supplies, directly related to the alteration, change, additional or unforeseen Work, accepted by CFX and used on the Project shall be based on actual costs of such Materials incorporated into the Work, including Contractor paid transportation charges (exclusive of Equipment as hereinafter set forth), plus a markup of 17.5%. Material is defined as any item used in the Work that remains a part of the Project. The cost of supplies may be the pro-rata portion caused by the alteration, change, additional or unforeseen Work.

(c) Equipment:

The use of each piece of such machinery or Equipment and rental rates must be agreed upon in writing before the force account Work is begun.

Payment for Contractor owned machinery or Equipment (other than small tools) shall be determined as described below, plus a markup of 7.5%. Payment for rented Equipment shall be based on invoice cost plus 7.5%.

The portion of the cost for machinery or Equipment shall be based on the lesser of actual cost or "Rental Rate Blue Book for Construction Equipment" (RRBB) or "Rental Rate Blue Book for Older Construction Equipment" (RRBBOCE) as published by Machinery Information Division of PRIMEDIA Information, Inc. (version current at time of bid) using all instructions and adjustments contained therein and as modified below.

On all projects, CFX will adjust the rates using regional adjustments and Rate Adjustment Tables according to the instructions in the RRBB and/or RRBBOCE. Allowable Machinery and Equipment Rates will be established as set out below:

- 1.) Reimbursement for the Equipment being operated shall be at a rate of 100% of the RRBB and/or RRBBCOE ownership cost plus 100% of the RRBB and/or RRBBCOE operating costs.
- 2.) Reimbursement for Equipment directed to standby and remain on the project site shall be at 50% of the lesser of the actual rental rate or RRBB and/or RRBBCOE ownership cost only. No more than 8 hours of standby will be paid in a single day.
- 3.) Costs shall be provided on an hourly basis. Hourly rates, for Equipment being operated or on standby, shall be established by dividing the lesser of actual monthly rental rate or the RRBB and/or RRBBCOE monthly rates by 176. The columns, itemizing rates, labeled “Weekly”, “Daily” and “Hourly” shall not be used.
- 4.) No additional overhead will be allowed on Equipment costs.

Allowable Hourly Equipment Rate = Monthly Rate/176 x Adjustment Factors x 100%

Allowable Hourly Operating Cost = Hourly Operating Cost x 100%

Allowable Rate Per Hour = Allowable Hourly Equipment Rate + Allowable Hourly Operating Cost

Standby Rate = Allowable Hourly Equipment Rate x 50%

The Monthly Rate is the Basic Machine Rate plus any Attachments. Standby rates will apply when machinery or Equipment is not in operation and is directed by CFX to stand by at the Project site when needed again to complete work and the cost of moving the Equipment will exceed the accumulated standby cost. Standby rates will not apply to any day the Equipment operates for eight or more hours. Standby payment will be limited to only the number of hours which, when added to the operating time for that day, equals eight hours. Standby payment will not be made on days that are not normally considered workdays on the project.

Transportation to and from the location at which the Equipment will be used will be allowed. If the Equipment requires assembly or disassembly for transport, the time for this will be paid at the rate for standby Equipment.

The markups in 1) through 4) above include all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

(d) Subcontractor Work

The Contractor will be allowed a markup of 10% on the first \$50,000 and a markup of 5% on any amount over \$50,000 on any subcontract directly related to the alteration, change, additional or unforeseen Work. A subcontractor mark-up will be allowed only by the prime Contractor and a first tier subcontractor.

(e) Insurance, Bond and Taxes:

A markup of 1.5% will be allowed on the overall total cost of the alteration, change, additional or unforeseen Work for insurance and bond on the prime Contractor's bond. The markup includes all direct and indirect costs, including but not limited to increased jobsite support costs, etc., and expenses of the Contractor, including but not limited to overhead of any kind and reasonable profit.

Subcontractors who actually perform the alterations, changes, additional or unforeseen Work will be allowed all markups specified herein.

- 7.4.2 Records: The compensation as herein provided shall be accepted by the Contractor as payment in full for extra Work done on a force account basis. The Contractor and CFX shall compare records of extra Work done on a force account basis at the end of each day. Copies of these records shall be duplicated by CFX and signed by both CFX and the Contractor.

All claims for extra Work done on a force account basis shall be submitted by the Contractor upon certified statements, to which shall be attached original receipted bills covering the costs of the transportation charges on all Materials used in such Work. However, if Materials used on the force account Work are not specifically purchased for such Work but are taken from the Contractor's stock, then in lieu of the invoices, the Contractor shall furnish an affidavit certifying that such Materials were taken from Contractor's stock, that the quantity claimed was actually used and that the price and transportation claimed represent actual cost to the Contractor.

- 7.4.3 Preliminary Order-of-Magnitude Estimate: As a condition precedent to beginning work designated as Force Account, the CEI in coordination with the Contractor will prepare a Preliminary Order-of-Magnitude Estimate of the contemplated work. The purpose of this Preliminary Order-of-Magnitude

Estimate is to establish the scope of work, the approach, applicable rates, the estimated duration, and the required documentation necessary to monitor the work for final payment.

7.5 Deleted Work

CFX shall have the right to cancel the portions of the Contract relating to the construction of any acceptable item therein by payment to the Contractor of a fair and equitable amount covering all items of cost incurred prior to the date of cancellation or suspension of the Work by CFX.

7.6 Partial Payments

7.6.1 General: The Contractor will receive partial payments on monthly estimates, based on the amount of Work done or completed (including delivery of certain Materials as specified below) and reflected in the Application for Payment. The monthly payments shall be approximate only and all partial estimates and payments will be subject to correction in the subsequent estimates and the final estimate and payment.

The amount of such payments shall be the total value of the Work done to the date of the estimate based on the quantities and the Contract unit prices less an amount retained and less payments previously made. In addition to other retainage held as may be described elsewhere, the amount retained shall be determined in accordance with the following schedule:

<u>% Contract Amount Completed</u>	<u>Amount Retained</u>
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 paving or base construction operations begin except when a construction sequence designated by the CEI requires suspension of paving and base construction after the initial paving operations, partial payments will be reinstated until the paving and base construction resumes.

7.6.4.3 Off Site Storage: If the conditions of subarticle 7.6.4.1 are satisfied, partial payments will be allowed for materials stockpiled in approved in-state locations. Additionally, partial payments for materials stockpiled in approved out-of-state locations will be allowed if the conditions of subarticle 7.6.4.1 and the following conditions are met:

- 1) Furnish CFX a Materials Bond stating the supplier guarantees to furnish the material described in the Contract to the Contractor and CFX. Under this bond, the Obligor shall be the material supplier and the Obligees shall be the Contractor and the Central Florida Expressway Authority. The bond shall be in the full dollar amount of the bid price for the materials described in the Contract Documents.
- 2) The following clauses shall be added to the contract between the Contractor and the supplier of the stockpiled materials:

“Notwithstanding anything to the contrary, <supplier> will be liable to the Contractor and the Central Florida Expressway Authority should <supplier> default in the performance of this agreement.”

“Notwithstanding anything to the contrary, this agreement, and the performance bond issued pursuant to this agreement, does not alter, modify, or otherwise change the Contractor’s obligation to furnish the materials described in this agreement to the Central Florida Expressway Authority.”

- 3) The agreement between the Contractor and the supplier of the stockpiled materials shall include provisions that the supplier will store the materials and that such materials are the property of the Contractor.

7.6.5 Certification of Payment to Subcontractors: Prior to receipt of any progress (partial) payment, the Contractor shall certify that all subcontractors having an interest in the Contract have received their pro rata share of previous progress payments from the Contractor for all work completed and Materials furnished the previous period. This certification shall be in the form designated by CFX. The term “subcontractor”, as used herein, shall also include persons or firms furnishing Materials or Equipment incorporated into the Work or stockpiled in the vicinity of the Project for which partial payment has been made by CFX and Work done under Equipment-rental agreements.

On initial payment, the Contractor shall assure that all subcontractors and Materials suppliers having an interest in the Contract receive their share of the payments due. CFX will not make any progress payments after the initial partial payment until the Contractor certifies pro rata shares of the payment out of previous progress payments received by the Contractor have been disbursed to all subcontractors and suppliers having an interest in the Contract, unless the Contractor demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both CFX and the affected subcontractors and suppliers. Contractor shall execute and submit a Certification of Disbursement of Previous Payments form, supplied by CFX, with each payment request after the initial request. Submitting a false or fraudulent certification will result in a determination of default by the Contractor in accordance with Article 6.9.1 of these General Specifications.

7.6.6 Reduction of Payment for Unsatisfactory Services or Products

If any defined action, duty or service, part or product required by the Contract is not performed by the Contractor, the value of such action, duty or service or part thereof will be determined by CFX and deducted from any invoice or monthly billing period claiming such items for payment.

If the action, duty or service, part or product thereof has been completed and is determined to be unsatisfactory by CFX, the Contractor will be notified and given the opportunity to correct any deficiencies within a time certain. Payment (for the unsatisfactory Work) will be withheld by CFX from any invoice or monthly billing period until the Work is determined to be acceptable.

7.7 Record of Construction Materials

7.7.1 General: For all construction Materials used in the construction of the Project (except Materials exempted by Subarticle 7.7.2), the Contractor shall preserve for inspection by CFX all invoices and records of the Materials for a period of 3 years from the date

of completion of the Project. This requirement shall also apply to Materials purchased by subcontractors. The Contractor shall obtain the invoices and other Materials records from the subcontractors.

Not later than 30 days after the date of final completion of the Project, the Contractor shall furnish to CFX a certification of construction Materials procured for the Project by the Contractor and all subcontractors. The certification shall consist of an affidavit completed on a form furnished by CFX.

7.7.2 Non-Commercial Materials: The requirement to preserve invoices and records of Materials shall not apply to Materials generally classed as non-commercial such as fill Materials local sand, sand-clay or local Materials used as stabilizer.

7.8 Disputed Amounts Due Contractor

CFX reserves the right to withhold from the final estimate any disputed amounts between the Contractor and CFX. Release of all other amounts due shall be made as provided in Article 7.9.

7.9 Acceptance and Final Payment

When the Work of the Contract has been completed by the Contractor and the final inspection and final acceptance have been given by CFX, a tentative final estimate showing the value of the Work will be prepared by CFX as soon as the necessary measurements and computations can be made, usually within 30 days of final acceptance. All prior estimates and payments will be subject to correction in the final estimate and payment. The Contractor and CFX will have 30 days from the date of the tentative final estimate to resolve any outstanding issues. At the end of the 30 days, CFX will make a written Offer of Final Payment. Provided that the requirements of A) through J) of this Article have been met, the amount of the Offer of Final Payment, less any sums that may have been deducted or retained under the provisions of the Contract will be paid to the Contractor as soon as practicable.

A) The Contractor has submitted written acceptance of the balance due, as determined by CFX, as full settlement of the Contractor's account under the Contract and of all claims in connection therewith.

Or, the Contractor shall accept the balance due with the stipulation that acceptance of such payment will not constitute any bar, admission or estoppel or have any effect as to those payments in dispute or the subject of a pending claim between the Contractor and CFX. The Contractor shall define the dispute or pending claim in writing in the form of a qualified acceptance

letter with full particulars of all items/issues in dispute including itemized amounts claimed. Failure by the Contractor to provide either a written acceptance letter or qualified acceptance letter within 60 calendar days of the Offer of Final Payment shall constitute full acceptance of the balance due without qualification.

If the Contractor provides a qualified acceptance letter, then the Contractor agrees that a complete claim package in accordance with Article 2.4 of the General Specifications, and limited to the particulars in the qualified acceptance letter, will be provided within 120 calendar days of the Offer of Final Payment. Additionally, the Contractor agrees that any pending or future arbitration must be limited to the particulars in the qualified acceptance letter and must begin within 210 calendar days from the date of the Offer of Final Payment.

- B) The Contractor has properly maintained the Project as specified hereinbefore.
- C) The Contractor has furnished a sworn affidavit to the effect that all bills are paid and no suits are pending (other than those exceptions listed if any) in connection with the Work of the Contract and that the Contractor has not offered or made any gift or gratuity to or made any financial transaction of any nature with, any employee of CFX. Tort liability exceptions, if any, shall be accompanied by evidence of adequate insurance as required in Article 5.11 of these General Specifications.
- D) The surety on the Public Construction Bond has consented (by completion of its portion of the affidavit and surety release) to final payment to the Contractor and agrees that the making of such payment shall not relieve the surety of any of its obligations under the bond.
- E) The Contractor has submitted all mill tests and analysis reports to CFX.
- F) The Contractor has submitted insurance certificates for extended coverage as required by Article 5.11 of these General Specifications.
- G) The Contractor has previously submitted As-built Drawings as required by Article 3.3.1 of these General Specifications.
- H) The Contractor has submitted the completed density log book as required by Article 120-10.4.2 of the Technical Specifications.

- I) The Contractor has submitted the final material testing certification as required by Article 105-6 of the Technical Specifications.
- J) The Contractor has submitted all warranties and operation and maintenance manuals required by various Articles and Subarticles of Specifications.

If the Contractor fails to furnish all required Contract Documents listed in B) through J) of this Article within 90 calendar days of the Offer of Final Payment, CFX may deduct from the retainage due the Contractor, \$1,000 for each calendar day beyond the 90 calendar days that the Contractor fails to provide the required Contract Documents.

7.10 Offsetting Payments

If payment of any amount due CFX after settlement or arbitration is not made by the Contractor within 60 days, CFX may, at its sole discretion, offset such amount from payments due the Contractor for Work performed under any other contract with CFX, excluding amounts owed to subcontractors, suppliers and laborers. Offsetting any amount in this manner shall not be considered a breach of the Contract by CFX.

END OF SECTION 7

SECTION 8 – DISADVANTAGED/MINORITY/WOMEN BUSINESS ENTERPRISE (D/M/WBE) PARTICIPATION

- 8.1 General: The Contractor is encouraged to continue to meet or demonstrate the participation objectives could not be met. At any time, CFX's Executive Director may grant a partial or complete waiver of the D/M/WBE objective for the Project due to consideration of property, public safety, and health, including financial impact to CFX.

CFX has provided an exception for the Contractor's failure to meet the participation objective established for this project. The exception requires that the Contractor provide CFX with documentation supporting the Contractor's Good Faith Effort to meet the stated objective. CFX will have the sole and final determination of whether the support documentation provided by the Contractor does, in fact, meet CFX's standard for a Good Faith Effort as detailed in this Section 8. The Contractor shall demonstrate, through documentation, that every reasonable effort has been made to achieve CFX's participation objective. The Contractor shall be responsible for securing proof of the D/M/WBE certification(s) for the proposed subcontractors/suppliers and be able to provide copies of the certification(s) to the CFX's Supplier Diversity Office.

The Contractor shall meet or exceed the commitment stated in the Contractor's D/M/WBE Utilization Summary (page P-6 of the Proposal). Should the Contractor's D/M/WBE participation fall below the approved level for any reason whatsoever, or should the Contractor substitute or self-perform work identified for a D/M/WBE subcontractor/supplier without prior written approval of CFX, the Contractor will be considered by CFX to be in material breach of the Contract. If found in breach of the Contract, the Contractor may be suspended from bidding on and/or participating in any further CFX projects for up to one (1) year as provided in Section 15 of CFX's Supplier Diversity Policy.

Any change in the D/M/WBE Utilization Summary will require prior approval by the CFX Director of Supplier Diversity. Should the Contractor determine that a subcontractor/supplier named in the Utilization Summary is unavailable or cannot perform the work, the Contractor shall request approval of a revised D/M/WBE Utilization Summary. The revised summary shall be submitted, in writing, to the CFX Supplier Diversity Office at 4974 ORL Tower Road, Orlando, Florida 32807, or by facsimile to (407) 690-5011.

The Contractor will not be allowed to perform Work with its forces that has been identified on the Utilization Form to be performed by D/M/WBE firms. If a D/M/WBE subcontractor is unable to successfully perform the Work, the Contractor shall make a Good Faith Effort to replace that firm with another D/M/WBE firm. In evaluating a Contractor's Good Faith Efforts, CFX will consider:

- (1) Whether the Contractor, provided written notice to certified D/M/WBEs performing the type of Work that the Contractor intends to subcontract, advising the D/M/WBEs (a) of the specific Work the Contractor intends to subcontract; and (b) that their interest in the Contract is being solicited;
- (2) Whether the Contractor provided interested D/M/WBEs assistance in reviewing the Contract Plans and Specifications;
- (3) Whether the Contractor assisted interested D/M/WBEs in obtaining any required bonding, lines of credit, or insurance;
- (4) Whether the Contractor's efforts were merely pro forma and given all relevant circumstances, could not reasonably be expected to produce sufficient D/M/WBE participation to meet the objective.

The above list is not intended to be exclusive or exhaustive and CFX will look not only at the different kinds of efforts that the Contractor has made but also the quality, quantity and intensity of these efforts.

8.2 Disadvantaged, Minority and Women Owned Businesses - Participation Objective

8.2.1 General: The Contractor shall ensure that D/M/WBE as defined herein will have the maximum opportunity to participate in the performance of subcontracts. In this regard, the Contractor shall take all necessary and reasonable steps to accomplish that result.

8.2.2 Definitions: The following words and phrases shall have the respective meanings set forth below unless a different meaning is plainly required by the context:

- (1) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States or lawfully admitted permanent residents and who are women, Black Americans, Hispanic American, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans. Individuals in the following groups are presumed to be socially and economically disadvantaged:
 - (a) "Black Americans", which includes persons having origins in any of the black racial groups of Africa;
 - (b) "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish or Portuguese culture or origin, regardless of race;

- (c) “Asian-Pacific Americans”, which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas;
 - (d) “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (e) “Asian-Indian Americans”, which includes persons whose origins are from India, Pakistan, and Bangladesh; and
 - (f) “Women”.
- (2) “Joint Venture” means an association of two or more firms to carry out a single business enterprise for which purpose the firms combined their property, money, effects, skills or knowledge.
 - (3) “Certified” means a finding by Orange County, Florida, the City of Orlando, Florida, and Florida Department of Transportation that the business is a bona fide Minority, Women or Disadvantaged owned and operated business.
 - (4) “Independently Owned and Operated” means a business that is not affiliated or associated with the general contractor or prime contractor providing work or services on CFX project(s) or procurement in which the D/M/WBE seeks to participate. Affiliated status may be determined through common ownership, management, employees, facilities, inventory or any other factors, which would prevent or inhibit independent status
 - (5) “Women Business Enterprise” comprises all women. All women business owners will be classified as a Women Business Enterprise.

8.2.3 Specific Requirements: The Contractor shall, among other things, implement techniques to facilitate D/M/WBE participation in contracting activities including, but not limited to:

- 1. Soliciting price quotations and arranging a time for the review of plans, quantities, specifications, and delivery schedules, and for the preparation and presentation of quotations;
- 2. Providing assistance to D/M/WBEs in overcoming barriers such as the inability to obtain bonding, financing, or technical assistance;

3. Carrying out information and communication programs or workshops on contracting procedures and specific contracting opportunities in a timely manner, with such programs being bilingual where appropriate;
4. Contacting Minority Contractor Associations, city, and county agencies with programs for disadvantaged individuals for assistance in recruiting and encouraging eligible D/M/WBE contractors to apply for certification.
5. Meeting with appropriate officials of CFX, including its Supplier Diversity Office, to assist with the Contractor's efforts to locate D/M/WBEs and assist with developing joint ventures, partnering, and mentorship.

8.2.4 Qualified Participation: CFX will count D/M/WBE participation toward meeting D/M/WBE objective as follows:

1. The total dollar value of the contract to be awarded to the certified D/M/WBE will not be counted toward the applicable D/M/WBE objective unless approved by CFX.
2. A portion of the total dollar value of a contract, with an eligible joint venture, equal to the percentage of the ownership and control of the D/M/WBE partner in the joint venture may be counted toward the D/M/WBE objective.
3. Only expenditures to D/M/WBEs that perform a commercially useful function may be counted toward the D/M/WBE objective. A D/M/WBE is considered to perform a commercially useful function when it actually performs and manages at least 51 percent of the work subcontracted to it. To determine whether a D/M/WBE is performing a commercially useful function, CFX will evaluate all relevant factors such as the amount of Work subcontracted and industry practices.
4. Consistent with normal industry practices, a D/M/WBE may enter into subcontracts. If a D/M/WBE subcontracts 50 percent or more of the Work assigned to it, the D/M/WBE shall be presumed not to be performing a commercially useful function.
5. Expenditures for materials and supplies obtained from D/M/WBE suppliers and manufacturers may be counted toward the D/M/WBE objective, provided that the D/M/WBEs assume the actual and contractual responsibility for the provision of the materials and supplies. The percentage allowed toward the D/M/WBE objective is as follows:

- (a) All expenditures to a D/M/WBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale) may be counted toward the D/M/WBE objective.
- (b)
 - 1. A Contractor may count toward its D/M/WBE objective 60 percent of its expenditures for materials and supplies required under a contract and obtained from a D/M/WBE regular dealer, and 100 percent of such expenditures to a D/M/WBE manufacturer.
 - 2. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.
 - 3. A regular dealer is a firm that owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this Section.
- (c) A Contractor may count toward the D/M/WBE objective for the following expenditures to D/M/WBE firm(s) that are not manufacturers or regular dealers:
 - 1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials of supplies required for performance of the Contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.
 - 2. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and

supplies, provided that the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.

3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
4. Those sums that, subsequent to the receipt of bids, CFX elects, under the provisions of the Direct Materials Purchase Option, to purchase materials originally proposed by the Contractor to CFX to have been an element of the Work of a certified D/M/WBE contractor/subcontractor/vendor.

8.2.5 Records and Reports: The Contractor shall develop a record keeping system to monitor its D/M/WBE participation and shall maintain the following records:

1. the procedures adopted to comply with these special provisions;
2. The number of subordinated contracts on CFX projects awarded to D/M/WBEs;
3. the dollar value of the contracts awarded to D/M/WBEs;
4. the percentage of the dollar value of all subordinate contracts awarded to D/M/WBEs as a percentage of the total contract amount;
5. a description of the general categories of contracts awarded to D/M/WBEs;
6. the specific efforts employed to identify and award contracts to D/M/WBEs;
7. maintenance of records of payments and monthly reports to CFX;
8. Subcontract Agreement between Contractor and D/M/WBE subcontractors;
and
9. any other records required by CFX's Project Manager or Executive Director.

The records maintained by the Contractor in accordance with this Section shall be provided to CFX for review within 48 hours of the CFX request. The Contractor shall submit a properly executed D/M/WBE Payment Certification monthly during the life of the D/M/WBE subcontract whether payment is made or not.

8.3 Subletting of Contracts - Participation Objective

No request to sublet Work will be approved unless it is in compliance with the Contractor's approved D/M/WBE Utilization Form "Certification of Subcontract Amount to D/M/WBE Contractor", shall be completed and submitted with the Request for Authorization to Sublet Work. One copy of the certification will be attached to each copy of the Request for Authorization to Sublet Work.

END OF SECTION 8

SECTION 9 - BINDING ARBITRATION

9.1 CFX and the Contractor shall submit any and all unsettled claims, counterclaims, and disputes to the Disputes Review Board (DRB) prior to initiating a demand for arbitration pursuant to this Section.

9.2 No demand for arbitration of any claim, dispute or other matter referred to the DRB initially for decision will be made until after final acceptance, per Article 3.9, of all Contract Work by CFX. The filing party shall pay all applicable fees associated with requested arbitration proceedings.

The failure to demand arbitration within thirty (30) days after final acceptance will result in the DRB's decision being final and binding upon CFX and Contractor.

9.3 Notice of the demand for arbitration is satisfied when it is filed in writing with the other party to the Contract and with the American Arbitration Association (including required fees). A copy will be sent to the Board for information.

9.4 The arbitration shall occur in Orlando, Florida and shall be conducted by a three (3) member panel pursuant to and under the auspices of the Construction Industry Arbitration Rules of the American Arbitration Association.

9.5 Procedure for Binding Arbitration

Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining, subject to the limitations of this Section. The agreement to arbitrate (and any other agreement or consent to arbitrate entered into in accordance herewith) will be specifically enforceable under the laws of Florida.

Arbitration shall include by consolidation, joinder or in any other manner any person or entity who is not a party to the Contract in circumstances where:

- the inclusion of such other person or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration, and
- such other person or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings, and
- the written consent of the other person or entity sought to be included and of CFX and Contractor has been obtained for such inclusion, which consent shall make specific reference to this paragraph.

In order to assure complete resolution of any claim or controversy, the Contractor shall provide and require (in the agreements with subcontractors and material suppliers) for joinder in such arbitration proceedings. Therefore, if a claim, dispute or other matter in question between CFX and Contractor involves the work of a Subcontractor, either CFX or Contractor may join such subcontractor as a party to the arbitration. Nothing in this paragraph or in the provision of such subcontract consenting to joinder shall create any claim, right or cause of action in favor of subcontractor or supplier, and against CFX, CEI, or any of their consultants that does not otherwise exist.

In connection with the arbitration proceedings all participants shall be afforded pre-hearing discovery in accordance with the rules of the American Arbitration Association.

END OF SECTION 9

SECTION 10 - PARTNERING AND DISPUTES RESOLUTION

10.1 Partnering

The objective of Partnering is to establish a partnership charter and action plan for the Contractor, CFX and other parties impacted by the activities covered under the Contract to identify and achieve reciprocal goals. These objectives may be met through participation in workshops held periodically throughout the duration of the Contract.

Prior to the pre-construction conference, CFX, the CEI, and the Contractor shall meet and plan an initial partnering/team building workshop. At this planning session, arrangements will be made to select a workshop facilitator, determine attendees, agenda, duration and location. Attendees should include representatives of CFX, the CEI, and other key Project personnel, the Contractor's superintendent and other key personnel as well as others mutually agreed upon by CFX and the Contractor. Additional workshops may be held periodically throughout the duration of the Contract if authorized by CFX.

CFX will arrange for and pay the cost of providing a facilitator and meeting room and for all other direct costs associated with the Partnering workshops. No separate compensation will be paid to the Contractor to attend partnering meetings

10.2 Disputes Resolution

10.2.1 Disputes Review Board

A Disputes Review Board ("Board") will be established to assist in the resolution of disputes arising out of the Work on the Project. This document describes the purpose, procedure, function and features of the Board.

The Board will provide special expertise to assist and facilitate the timely and equitable resolution of disputes and controversies between CFX and the Contractor in an effort to avoid construction delays and future claims.

It is not intended for CFX or the Contractor to avoid the normal responsibility to cooperatively and fairly settle differences by indiscriminately requesting dispute resolution by the Board. It is intended the Board encourage CFX and the Contractor to first try resolving potential disputes without resorting to the procedure set forth herein.

The Board will be used only when the claims procedure detailed in the Contract has been followed and has been unsuccessful. It is a condition of the Contract that the parties use the Board. Adherence to the Contract claims procedure is a condition precedent to the submission of a dispute to the Board, and the submission of an unresolved dispute to the Board is, in turn, a condition precedent to arbitration of such issue.

The Board will fairly and impartially consider disputes referred to it. The Board will receive testimony and other relevant evidence regarding such disputes, will analyze the facts within the parameters of the Contract, and will then provide written recommendations (to CFX and Contractor) to assist in the resolution of the disputes. The recommendations of the Board will not be binding on either CFX or the Contractor; however, the Board's recommendations and findings shall be admissible for all purposes in any subsequent arbitration proceedings or the judicial enforcement thereof.

10.2.2 Continuance of Work During Dispute

During the dispute resolution process the Contractor shall conform to the CEI's decision or order and continue with the Work as directed by the CEI in a diligent manner and without delay. Such Work will be governed by all applicable provisions of the Contract. With respect to any protested Work, the Contractor will keep complete records of extra costs and time incurred. Except for sealed Bid Records, the Contractor will permit CEI and the Board access to any records needed for evaluating the dispute, without any claim of privilege or confidentiality.

10.2.3 Disputes Review Board Membership

The Board will consist of three Members, one Member selected by CFX and approved by the Contractor, and one Member selected by the Contractor and approved by CFX. The first two Members will mutually select and agree on the third Member, which third Member shall not be subject to approval by either the Contractor or CFX. Normally, the third Member will act as Chairman for all Board activities. If the third Member declines to act as Chairman, the Members shall select an alternative Chairman. Neither the Contractor nor CFX shall seek to influence the Chairman selection decision.

The Contractor and CFX shall each submit the name and credentials of their proposed Member to the other within ten (10) days of the Contract award. The two Members, upon acceptance, shall meet promptly and mutually agree on the third Member. A Notice to Proceed shall not be issued until the Board Members have been selected and have signed the Three-Party Agreement. All three Members shall attend the Pre-Construction Meeting.

All Board Members shall be experienced with major road and bridge construction and the associated construction methods involved in the Project, in the interpretation of contract documents and in contract dispute resolution. The goal in selecting the third Member is to complement the construction experience of the first two Members and to provide leadership of the Board's activities.

It is imperative that Board Members show no partiality to either the Contractor or CFX, or have any conflict of interest.

The criteria and limitations for membership will be as follows:

- a. The person selected will not have any direct or indirect ownership or financial interest in (i) the Contractor, (ii) CEI or the CFX General Engineering Consultant (“GEC”), (iii) any subcontractor or supplier of the Project, or (iv) the employer of other Board Members.
- b. Except for services as a Board Member on CFX projects, no Member shall have been an employee, contractor or consultant to the Contractor or CFX, CEI, the GEC or any subcontractor or supplier for the Project within a period of ten (10) years prior to the Contract award.
- c. No Member will have had a close personal, professional or business relationship with CFX or the Contractor (or an employee or officer of CFX or the Contractor).
- d. No Member will have had any prior involvement in the Project (other than as a dispute board member) of a nature which could be construed to compromise an ability to impartially resolve disputes.
- e. No Member will be employed by the Contractor, the CEI, the GEC or any subcontractor or supplier of the Project during the term of the Contract, except as a Board Member pursuant to the Three Party Agreement.
- f. During the term of the Contract no discussion or agreement will be made between a Board Member and CFX or Contractor regarding employment after the Contract is completed.
- g. During the term of the Contract, ex-parte communications between a Board Member and a party to the Three Party Agreement is prohibited.

Before appointments are final, the first two prospective Members will submit complete disclosure statements for the approval of both CFX and the Contractor. Each statement (in the form prepared by CFX) will include a statement of experience and a declaration describing all past, present and anticipated or planned future relationships to the Project and with the parties to the Contract. Disclosure of professional or personal relationships with parties to the Contract will be included. The third Board Member will supply a similar statement to the first two Board Members (and to CFX and the Contractor) before the third Member appointment is finalized.

CFX and the Contractor will each select a Member, execute the Three Party Agreement (described below) and assure the Members execute the Three-Party Agreement within the first three (3) weeks after Contract award. CFX and the Contractor will immediately notify the selected Members to begin selection of the third Member. The first two Members will ensure the third Member meets all of the criteria listed above. The third Member will be selected within two (2) weeks after the first two Members are notified to proceed with the selection of the third Member. If there is an impasse in the selection of the third Member, the third Member will be selected by CFX and the Contractor, with the first consideration to the nominees reviewed by the first two Members.

In the event of death, disability or resignation of a Member, such Member shall be replaced in the same manner as the Member being replaced was selected. If for whatever other reason a Member fails or is unable to serve, the Chairman (or failing the action of the Chairman, then either of the other Members) shall inform the parties and such non-serving Member shall be replaced in the same manner as the Member being replaced was selected. Any replacement made by the parties shall be completed within fifteen (15) days after the event giving rise to the vacancy on the Board, failing which the replacement shall be made by the two remaining Members of the Board. Replacement shall be considered completed when the new Member executes the Dispute Review Board Three Party Agreement.

10.2.4 Board Operations

The Board will formulate procedures of operation that shall be flexible with respect to the functioning of the Board. The Board may formulate new or revised procedures respecting its operation from time to time to accommodate the needs of the Board and the circumstances.

Each Board Member shall be provided a complete set of the Contract Documents. CFX and the Contractor shall keep the Board informed of construction activity and progress by submitting written progress reports and other relevant data at least monthly. The Board will visit the Project at regular intervals and/or at times of critical construction events and meet with CEI and the Contractor. In circumstances of unresolved disputes, the Board will meet at least monthly until the unresolved disputes are concluded. The frequency of visits will be agreed upon by CFX, the Contractor and the Board, depending upon the progress of the Work.

Regular meetings will be held at the job site. Each meeting will consist of an informal discussion and a field inspection of the Work. The informal discussion will be attended by selected personnel from CFX, the CEI and the Contractor. Agenda for regular meetings of the Board will generally include the following:

- a. Meeting opened by the Chairman of the Board.
- b. Remarks by the CEI.

- c. A description by the CEI and the Contractor of Work accomplished since the last meeting, current status of the Work schedule, schedule for the future, potential problems and proposed solutions to anticipated problems.
- d. Discussion by the CEI of Work schedule, potential new disputes or claims, status of past disputes and claims and other issues.
- e. Set a date for next meeting.

The CEI will prepare minutes of all Board meetings and circulate them for comments, revisions and/or approval by all concerned.

The field inspection will cover all active segments of the Work. The Board will be accompanied by representatives of both the CEI and the Contractor. Soliciting any Board Member's advice or consultation regarding the Work or the Contract is expressly prohibited.

10.2.5 Procedure for Disputes Resolution

Disputes will be considered as quickly as possible, taking into consideration the particular circumstances and the time required to prepare detailed documentation. Steps may be omitted as agreed by both parties and the time periods stated below may be shortened in order to hasten resolution.

- a. If either CFX or Contractor object to any decision of the CEI with respect to claims, change order requests, or other actions or orders of the CEI, the objecting party may file a written protest with the CEI within fifteen (15) days after the CEI's disputed decision, action or order. The written protest must clearly state in detail the basis for the objection.
- b. The CEI will consider the written protest to its decision or directive, and make a final decision on the basis of the pertinent Contract provisions, together with the facts and circumstances involved in the protest. The decision will be furnished to CFX and Contractor in writing within fifteen (15) days after receipt of the written protest.
- c. The CEI's decision with respect to the protest will be final, unless a written exception is filed by CFX or Contractor with the CEI within fifteen (15) days after receiving the protest decision. If either rejects the CEI's final decision, the disputed matter may be referred to the Board by either CFX or the Contractor.

- d. Upon receipt by the Board of a written dispute, the Board will first decide when to conduct the hearing. If the matter is not urgent, it may be heard at the next regularly scheduled Board meeting. For an urgent matter, the Board will meet at its earliest convenience.
- e. Either party furnishing written evidence or documentation to the Board will furnish copies of such information to the other party a minimum of fifteen (15) days prior to the date the Board sets to hear the dispute. If the Board requests additional documentation or evidence prior to, during or after the hearing, CFX and/or the Contractor will provide the requested information to the Board and to the other party. Because each side needs a reasonable opportunity to understand and rebut the opposing side's point of view, failure of either party to timely provide written documentation in accordance with this provision shall result in such written documentation being excluded from the hearing before the Board unless the other party consents to its admission or consents to a delay in the hearing.
- f. The Contractor and CFX will each be afforded an opportunity to be heard by the Board and to offer evidence. The Board will consider all relevant evidence presented and analyze the same solely within the parameters of the Contract. Hearsay evidence shall be admissible but shall not be the sole basis for any recommendation of the Board.
- g. The Board's recommendations for resolution of the dispute will be given in writing within fifteen (15) days of completion of the hearing(s). In cases of extreme complexity, both parties may agree to allow additional time for the Board to formulate its recommendations. Generally, the Board will initially focus its attention (in the written report) only to matters of entitlement, and allow the parties to thereafter determine the monetary relief. If both parties request, and sufficient documentation is available, the Board may also make a recommendation of monetary relief, but only after formulation of the entitlement recommendation and only after the parties have attempted to agree upon the monetary relief amount.
- h. If the Board's recommendation for resolution is not unanimous, the dissenting member shall prepare a separate written opinion.
- i. Within fifteen (15) days of receiving the Board's recommendations, both CFX and the Contractor will respond to the other and to the Board in writing, signifying either acceptance or rejection of the Board's recommendations. The failure of a party to respond within the fifteen (15) day period will be deemed an acceptance by such party of the Board's recommendations. If CFX and the Contractor are able to resolve the dispute (with or without the

aid of the Board's recommendations), CFX will promptly process any required Contract changes.

- j. If the dispute remains unresolved because of a bona fide lack of clear understanding of the recommendation, either party may request the Board clarify specific portions of its recommendations. Further, if new evidence becomes available, either party may request the Board reconsider its prior recommendation. Only evidence which did not exist at the time of the hearing, or which existed but which could not be discovered with reasonable and normal diligence shall be considered new evidence.
- k. If the Board's recommendation is rejected, either party may thereafter initiate resolution of the dispute by binding arbitration conducted pursuant to the Contract.

Both CFX and the Contractor should carefully consider the Board's recommendations, as the recommendations are binding unless written notice is provided to the other party within 30 days of the recommendations stating the party's intent to bring the disputed issue to arbitration. However, if the Board's recommendations do not resolve the dispute, all records and written recommendations, including any minority reports, will be admissible for informational purposes in any subsequent dispute resolution procedures. Such informational purposes shall include but not be limited to establishing that the Board considered the dispute, the qualifications of the Board Members, and the Board's recommendation that resulted from the dispute resolution process.

10.2.6 Conduct of Disputes Hearings

Each party shall file three copies of its written arguments with the Board no less than seven days prior to the scheduled hearing and shall simultaneously deliver a copy of such written arguments to the opposing party. Each party shall also submit to the Board along with its written arguments copies of its written evidence and documentation which has been previously provided to the opposing party as provided above.

Normally, the hearing will be conducted at the job site. However, any location more convenient and which provides all required facilities and access to necessary documentation is satisfactory.

While the Board will keep a record of its sessions during consideration of a dispute, the Board will not be required to keep its record in any particular form. The nature and completeness of the record will depend upon the nature and magnitude of the dispute and the desires of the parties. If possible, the hearings shall be kept informal. Formal records of the Board meetings may be taken and transcribed by a court reporter if requested by a party (at the requesting party's cost). Audio and/or video recording of the meeting is discouraged and shall only be made with the prior agreement of all parties and a majority of the Board.

CFX and the Contractor will have representatives at all dispute resolution hearings. The party requesting Board review will first discuss the dispute, followed by the other party. Each party will then be allowed successive rebuttals until all aspects are fully covered to the Board's satisfaction. The Members and the parties may ask questions, request clarification or ask for additional data. In large or complex cases, additional hearings may be necessary in order to consider and fully understand all evidence presented by both parties.

During the hearings, no Member will express any opinion concerning the merit of any facet of the dispute.

After the hearings are concluded, the Board will meet in private to formulate recommendations supported by two or more Members. All Board deliberations will be conducted in private, with individual views kept strictly confidential. No minutes shall be prepared of the Board's private meetings. The Board's recommendations and discussions of its reasoning will be submitted as a written report to both parties. The recommendations will be based on the pertinent Contract provisions and the facts and circumstances involved in the dispute.

The Board will make every effort to reach a unanimous decision. If a unanimous decision is not possible, the dissenting Member may (but is not required to) prepare a minority report.

10.2.7 Compensation

The Contractor shall pay the fees of all three Board Members for services rendered under the Three Party Agreement. An allowance pay item has been established in the Contract for the reimbursing the Contractor. Funds remaining in the pay item, if any, at the completion of the Project will belong to CFX. CFX and the Contractor shall agree on the procedures and method of processing payments made against the allowance. CFX or the CEI will mail minutes and progress reports, will provide administrative services, such as conference facilities and secretarial services. If the Board desires special services, such as legal consultation, accounting, data research, etc., both parties must agree and the costs will be paid from the allowance.

10.2.8 Three Party Agreement

The Contractor, CFX and the Members of the Board will execute the Dispute Review Board Three Party Agreement within four (4) weeks of the final selection of the third Member.

END OF SECTION 10

ATTACHMENT A

**DISPUTES REVIEW BOARD
THREE PARTY AGREEMENT**

THIS THREE PARTY AGREEMENT (“Agreement”) made and entered into this _____ day of _____, 20__, between the **CENTRAL FLORIDA EXPRESSWAY AUTHORITY (“CFX”)**, _____ (**“Contractor”**) and the **DISPUTES REVIEW BOARD (“Board”)**, consisting of three members: _____, _____ and _____ (**“Members”**).

WHEREAS, CFX is now engaged in the construction of the _____, and

WHEREAS, the _____ contract (“Contract”) provides for the establishment and operation of the Board to assist in resolving disputes and claims.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein (or attached, incorporated and made a part hereof), the parties agree as set forth herein.

**I
DESCRIPTION OF PURPOSE**

To facilitate resolution of disputes between the Contractor and CFX, CFX has provided (in the Contract) for the establishment of the Board. The function of the Board is to fairly and impartially consider Contract disputes placed before it and provide written recommendations for resolution to both CFX and the Contractor. The Members of the Board shall perform the services designated in Section II, Scope of Work.

**II
SCOPE OF WORK**

The Scope of Work includes, but is not limited to, the following items:

A. Third Board Member Selection. The first duty of CFX and the Contractor selected Members of the Board is to select the third Member. The third Member shall not have any current financial or employment ties with either the Contractor or CFX. The selection goal is to obtain a third Board Member who will complement the first two by furnishing expertise, leadership and experience to facilitate the Board’s operations. The first two Board Members selected shall proceed with the selection of the third Board Member upon receiving their appointment. If the first two Members are unable to select a third

Member within four (4) weeks, CFX and the Contractor will select the third Member.

B. Procedures. After selecting the third Board Member and prior to considering a dispute, the Board shall establish procedures to govern the conduct of its business and reporting procedures based on the Guidelines, attached as an Appendix to this Agreement. The Board recommendations (resulting from a consideration of a dispute) shall be furnished in writing to CFX and the Contractor. The recommendations shall be based solely on the pertinent Contract provisions and the facts as reasonably determined by the Board. The Board shall have no authority to disregard or unilaterally modify pertinent Contract provisions including, but not necessarily limited to, those provisions pertaining to notices and claims procedures.

C. Furnishing Documents. CFX shall, at the time of each Board Member's appointment, furnish such Member a copy of the Contract. Both CFX and the Contractor shall, no later than seven (7) days prior to the scheduled Board hearing, submit to the Board three copies of all written documents and arguments that such party wishes the Board to consider. Each party shall provide its written documentation to the other side no later than fifteen (15) days prior to the scheduled Board hearing and shall provide a copy of its written argument to the other side no later than seven (7) days before the hearing in order to afford the other side the opportunity to review such documents and prepare any necessary rebuttal for the hearing.

D. Site Visits. The Board shall visit the project site to: (i) keep abreast of construction activities, and (ii) develop a familiarity of the work in progress. The frequency, exact time and duration of visits shall be in accordance with the attached Guidelines or as mutually agreed between CFX, the Contractor and the Board.

In the circumstance of an alleged differing site condition (or specific construction problem), it will be advantageous for the Board to view any relevant conditions. If viewing by the Board would cause delay to the project, photographs and descriptions of conditions collected by either (or both) party will suffice.

E. Board Consideration of Disputes or Claims. Upon receipt by the Board of a written appeal of a dispute (from either the Contractor or CFX) the Board shall convene to review and consider the dispute. CFX, the Contractor and the Board shall determine the time and location of Board meetings. Both CFX and the Contractor shall be given the opportunity to present evidence and argument at such meetings. Absent good cause to the contrary, written evidence shall be limited to that evidence which was previously supplied to both the Board and the other party in accordance with the previous paragraph. Mere negligence in providing such written evidence shall not be considered good cause for its admission. Hearsay evidence shall be permitted but shall not be the sole basis for any recommendation by the Board. Additionally, Board Members may rely on their personal knowledge based on

prior site visits, ongoing document reviews, and general project familiarity. Each party may, but is not required to, submit its proposed recommendations for resolving the dispute to the Board for its consideration.

Board Members are to act impartially and independently in weighing the evidence and in considering the respective positions of the parties within the confines and literal interpretation of the Contract terms. The recommendations concerning any such dispute are advisory and not binding on either party. The Board shall make every effort to reach a unanimous recommendation. If a unanimous recommendation is not possible, the dissenting Member shall prepare a minority report.

The Board's recommendations, together with explanations of its reasoning, shall be submitted as a written report to both parties. The recommendation shall be based solely on the pertinent provisions of the Contract, applicable laws and regulations, and the relevant facts as determined by the Board based upon the evidence presented. It is important for the Board to express, clearly and completely, the logic and reasoning leading to the recommendation so that both parties fully understand the recommendation.

Either CFX or the Contractor may request the Board to reconsider its recommendation. However, reconsideration will only be allowed when there is new evidence to present, or a clarification is required.

F. Miscellaneous Board Responsibilities. In addition to the matters set forth above:

1. The Board Member shall become familiar with the Contract Documents, review periodic reports, and maintain a current file of the project.
2. Except for providing the services required in this Agreement, the Board and its individual Members shall refrain from giving any advice to either party concerning conduct of the work or the resolution of problems. Ex-parte communications between a party and a Board Member are prohibited.
3. The Board shall perform services not specifically listed herein to the extent necessary to achieve the purposes of this Agreement.

G. Board Member Replacement. If the need occurs to appoint a replacement Board Member, the replacement Board Member shall be appointed in the same manner as

the original Board Members were appointed. The selection of a replacement Board Member shall begin promptly upon notification of the necessity for a replacement. The Agreement will be supplemented to indicate change in Board membership.

III CONTRACTOR RESPONSIBILITY

A party shall furnish to each Board Member one copy of all pertinent documents that are or may become necessary for the Board to perform its function. Pertinent documents are any drawings or sketches, calculations, procedures, schedules, estimates or other documents that are used in the performance of the work or in justifying or substantiating the party's position. A copy of such pertinent documents must also be furnished to the other party.

IV CFX RESPONSIBILITIES

CFX shall furnish the following services and items:

A. Contract Related Documents. CFX shall furnish the Board copies of all Contract Documents, Supplemental Agreements, written instructions issued by the CEI or CFX to the Contractor, or other documents pertinent to the performance of the Contract and necessary for the Board to perform its function.

B. Coordination and Services. CFX (in cooperation with the Contractor) will coordinate the operations of the Board. CFX, through the CEI, will arrange or provide conference facilities at or near the site and provide secretarial and copying services.

V TIME FOR BEGINNING AND COMPLETION

The Board shall be in operation throughout the term of the Contract and, if needed, for a reasonable post-construction period.

The Board Members shall not begin any work under the terms of this Agreement until authorized by CFX in writing.

VI PAYMENT

The fees and expenses of all three Board Members for services rendered under this Agreement will be an expense to the Contractor with reimbursement under the pay item allowance as provided below. Payment for services of the CFX-appointed, Contractor-appointed, and the third Board Members will be full compensation for work performed or services rendered, and for all expenses, such as food, lodging, travel, telephone, postage etc.

A. Payment.

Each Board Member will be paid One Thousand 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. Inspection of Costs Records. The Board Members shall keep available the cost records and accounts pertaining to this Agreement for inspection by representatives of CFX for a period of three (3) years after final payment. If any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated before the expiration of the three (3) year period, the cost records and accounts shall be retained until such litigation, claim or audit involving the records is completed.

VII ASSIGNMENT OF TASKS OF WORK

Neither the Board nor the Board Members may assign or delegate any of the work of this Agreement.

VIII TERMINATION OF AGREEMENT

With the mutual consent of CFX and the Contractor, this Agreement may be terminated at any time. However, individual Board Members may be terminated with or without cause, but only by their original appointer, i.e., CFX may terminate the CFX appointed Member, the Contractor may terminate the Contractor's appointed Member, and the first two Members must agree to terminate the third Member.

**IX
LEGAL RELATIONS**

A. Each Board Member in the performance of duties on the Board is acting in the capacity of an independent agent and not as an employee of either CFX or the Contractor.

B. CFX and the Contractor expressly acknowledge that each Board Member is acting in a capacity intended to facilitate resolution of disputes. Accordingly, to the fullest extent permitted by law, each Board Member shall be accorded quasi-judicial immunity for any actions or decisions associated with the consideration, hearing and recommendation of resolution for disputes referred to the Board.

C. Except for the negligent acts or omissions of a Board Member, or for activities outside of the scope of this Agreement, each Board Member shall be held harmless for any personal or professional liability arising from or related to Board activities. To the fullest extent permitted by law, CFX and the Contractor shall defend and indemnify all Board Members against claims, losses, demands, costs and damages (including reasonable attorney's fees) for bodily injury, property damage or economic loss arising out of or related to Board Members carrying out Board functions. The foregoing indemnity is a joint and several obligations of the Contractor and CFX.

**X
ARBITRATION, VENUE, APPLICABLE LAW**

Any dispute, claim or controversy between the parties hereto arising out of or related to this Agreement shall be resolved by arbitration. The American Arbitration Association pursuant to its Construction Industry Arbitration Rules shall conduct such arbitration, and the arbitration proceeding shall occur in Orange County, Florida. All questions and issues respecting this Agreement and the arbitration shall be resolved by application of Florida law and the judgment of the arbitration panel shall be enforceable in accordance with the provisions of the Florida Arbitration Code.

**XI
NO BONUS**

The Contractor and CFX shall not pay and the Members shall not receive any additional commission, percentage, bonus or consideration of any nature (other than the payment provided for in Section VI above) for performance and services under this Agreement.

**XII
NO CONFLICT**

The Members of the Board agree individually they do not now and during the term of this Agreement will not have any direct or indirect ownership or financial interest in the Contractor, the

Engineer of Record for the project, the CEI or any subcontractor or supplier of the project. The Members of the Board affirm they have not for a period of ten (10) years prior to this Agreement been an employee, Contractor or consultant to the Contractor, the Engineer of Record for this project, the CEI or any subcontractor or supplier of the project, and that during the term of this Agreement they shall not become so employed. During the term of the Agreement no discussion or Agreement will be made between any Board Member and any party to this Agreement for employment after the Contract is completed.

By executing this Agreement the parties mutually agree that the Members of the Board identified herein are qualified and desirable and that the criteria and limitations detailed in subarticles 10.2.3 b and 10.2.3 c of the project General Specifications are satisfied or are hereby waived.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CFX:

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: _____
Print Name: _____
Title: _____

BOARD:

DISPUTES REVIEW BOARD

By: _____
Print Name: _____

By: _____
Print Name: _____

By: _____
Print Name: _____

CONTRACTOR:

By: _____
Print Name: _____
Title: _____

APPENDIX

PROCEDURE GUIDELINES

1. GENERAL MEETINGS

General Meetings are defined as those meetings required for the Board to develop a familiarity of the work in progress and keep abreast of construction activities such as progress, status and nature of items in the earlier stages of escalation, changes to personnel, etc. General Meetings shall occur 60days after Notice to Proceed for the Project and every 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.

F. 4.

The logo for the Central Florida Expressway Authority is centered in the upper portion of the image. It consists of the words "CENTRAL FLORIDA EXPRESSWAY AUTHORITY" in a serif font. "CENTRAL" and "AUTHORITY" are in black, while "FLORIDA" and "EXPRESSWAY" are in orange. The text is flanked by two horizontal orange bars.

**CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY**

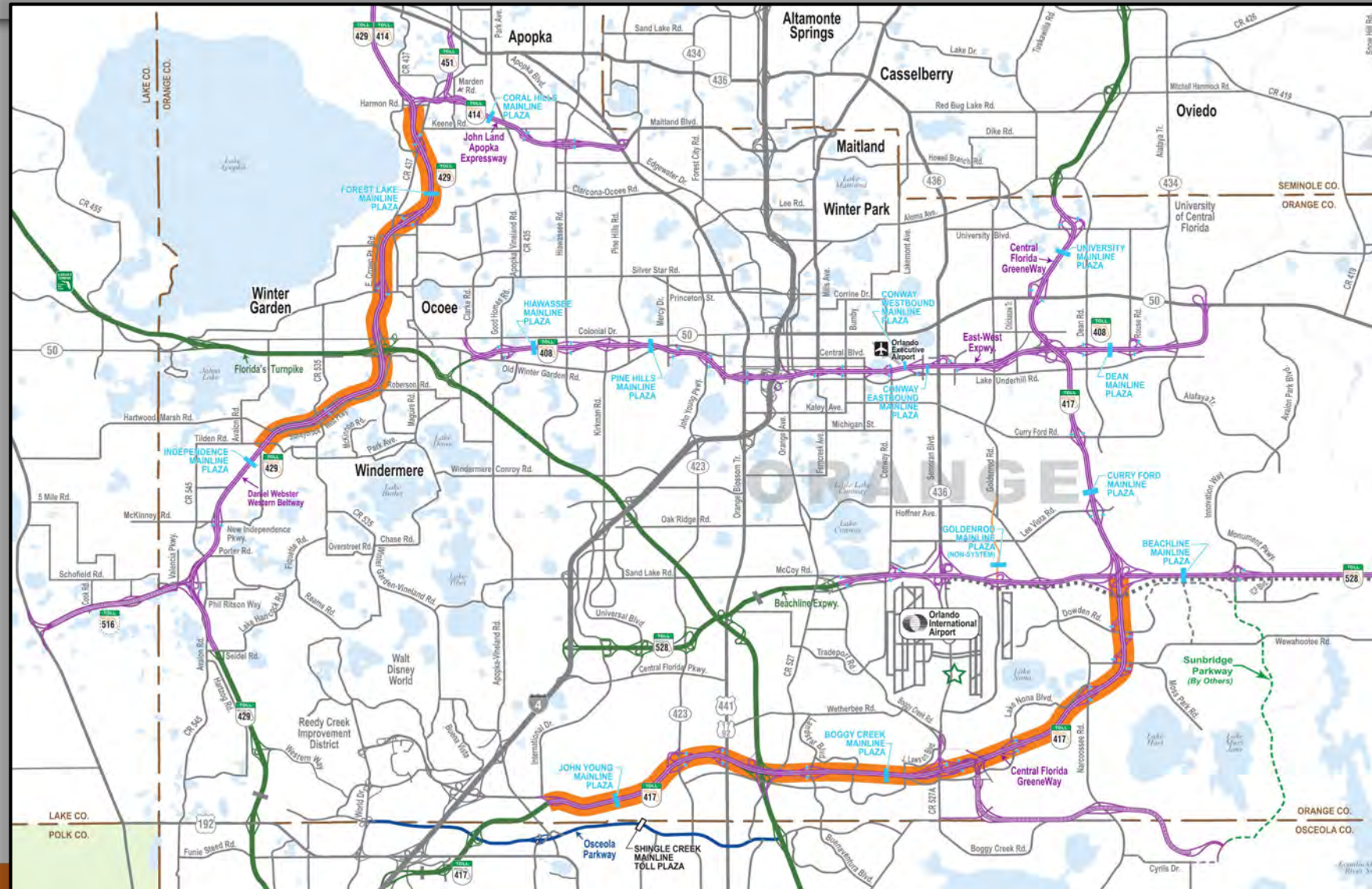
Part – Time Shoulder Use (PTSU) Projects

Will Hawthorne, Director Of Engineering & Bryan Homayouni, Manager of Traffic Operations

— August 12, 2021 —

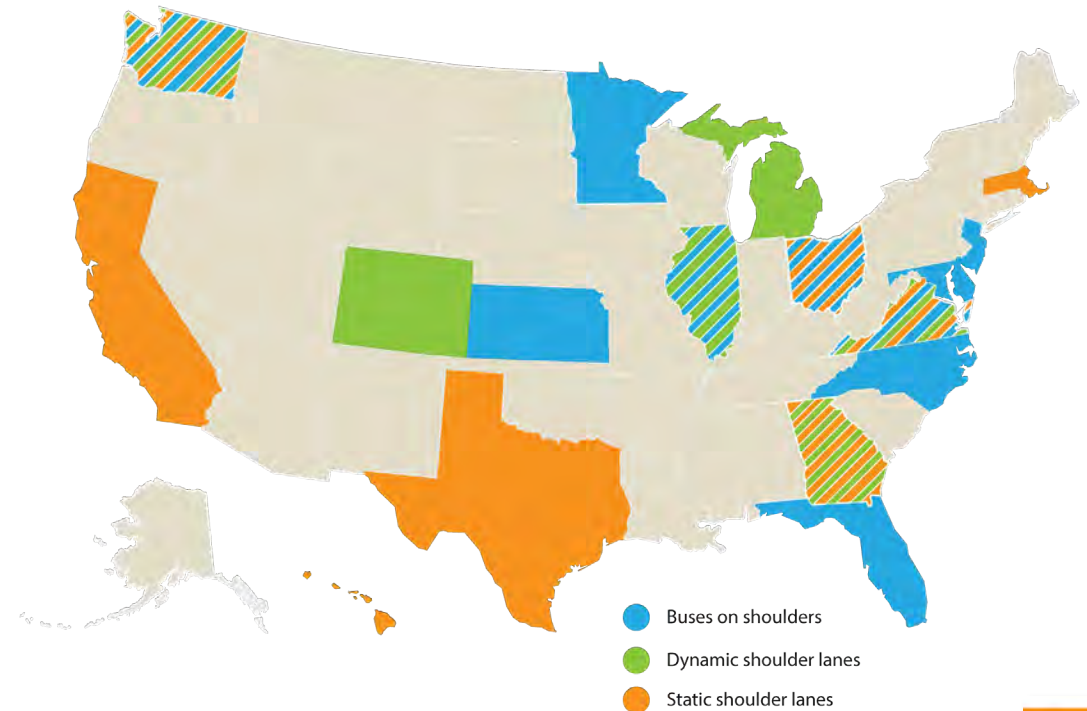
Widening of SR 417 and SR 429

- 21 miles on SR 417
 - \$430 million
- 13 miles on SR 429
 - \$340 million



Current Deployments and Standards

- 18 states have at least one form of PTSU
- Miami-Dade Transit on SR 874 and SR 878
- Federal Guidance on PTSU
 - FHWA Guide (Feb 2016)
 - Next Edition of MUTCD



Types of Part-time Shoulder Use



Source: Kittelson & Associates, Inc

Static PTSU

Open to Vehicles During
Predetermined Hours of Operation

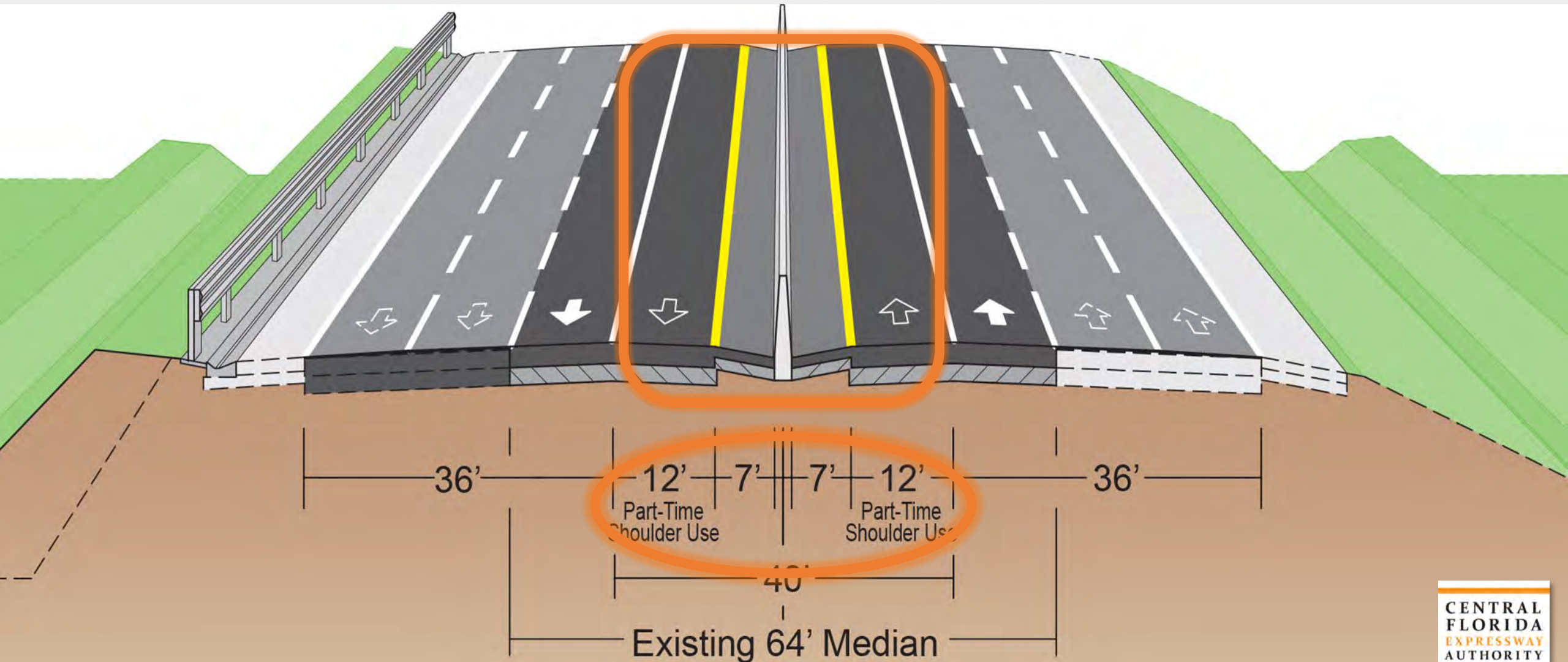


Source: Kittelson & Associates, Inc

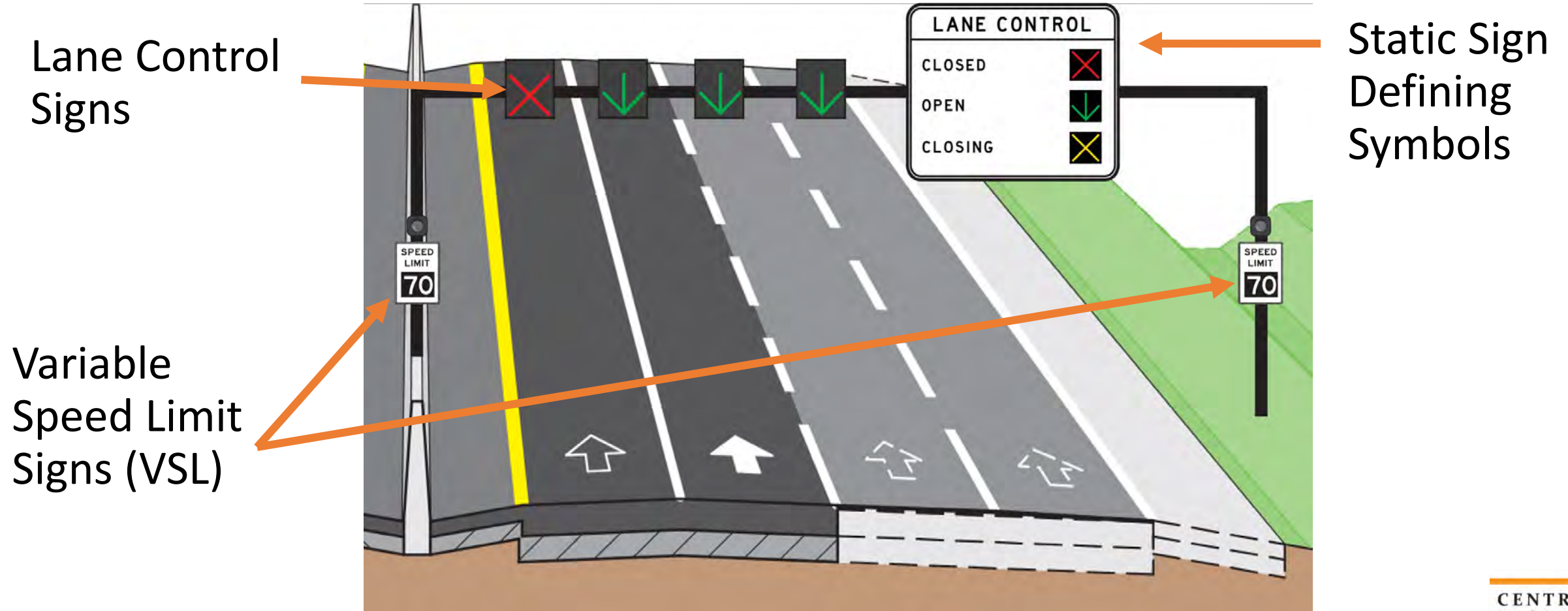
Dynamic PTSU

Open to Vehicles Based on Need and
Real-Time Conditions

Part-time Shoulder Use Design Concept



Driver Experience

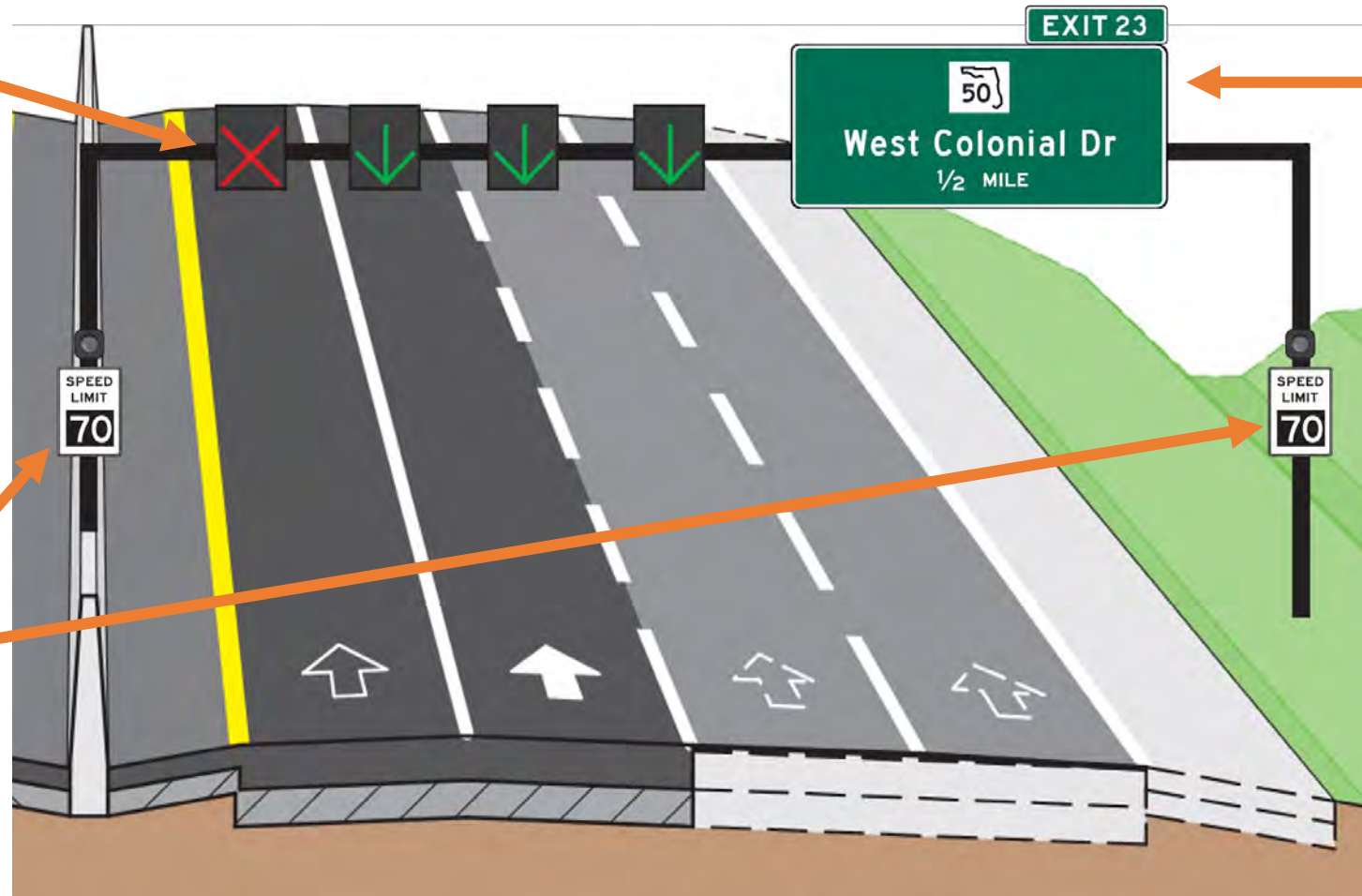


Not to Scale – Drawing Conceptual Only

Driver Experience

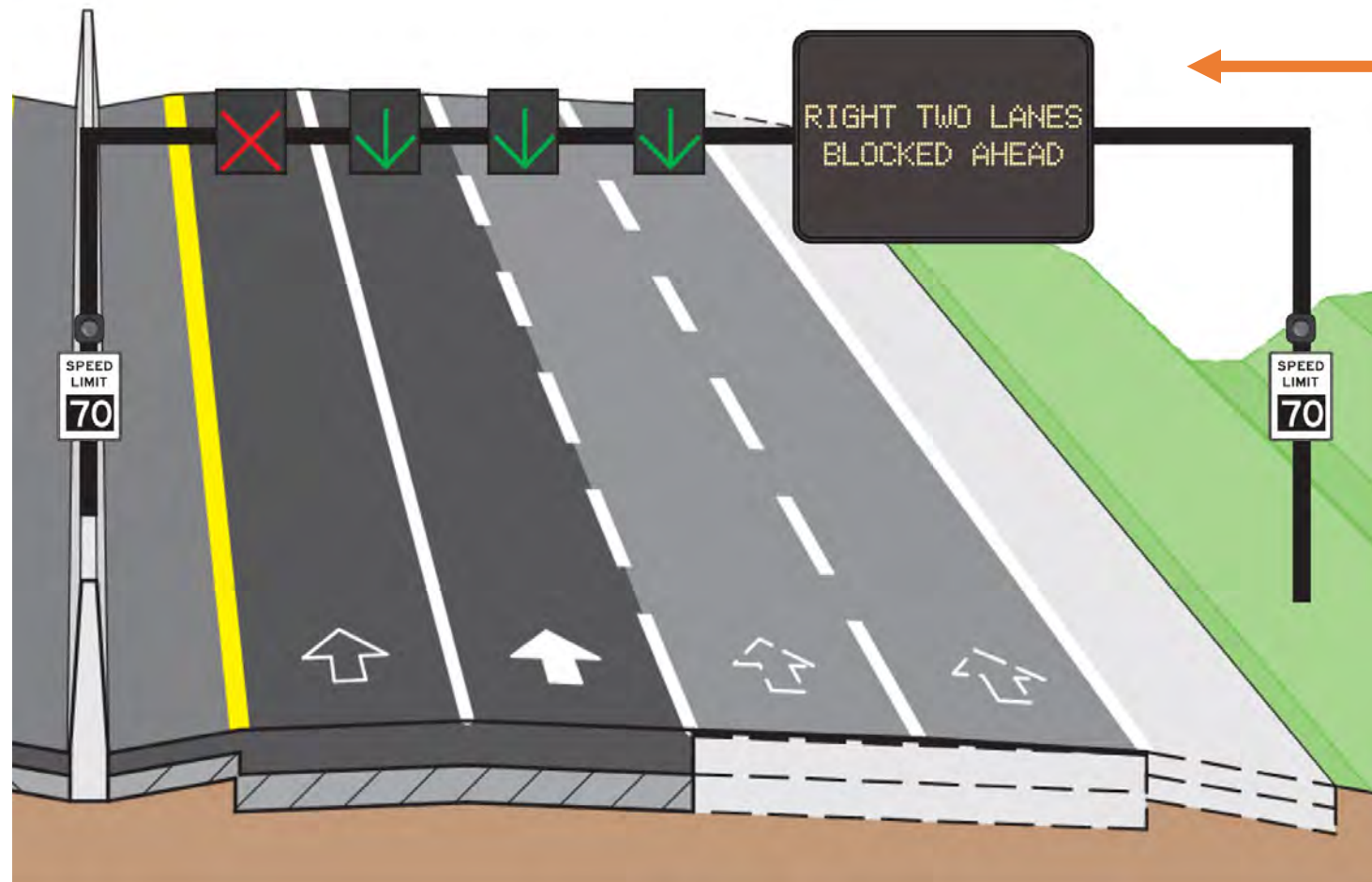
Lane Control Signals Over all Lanes

Variable Speed Limit Signs (VSL)



Not to Scale – Drawing Conceptual Only

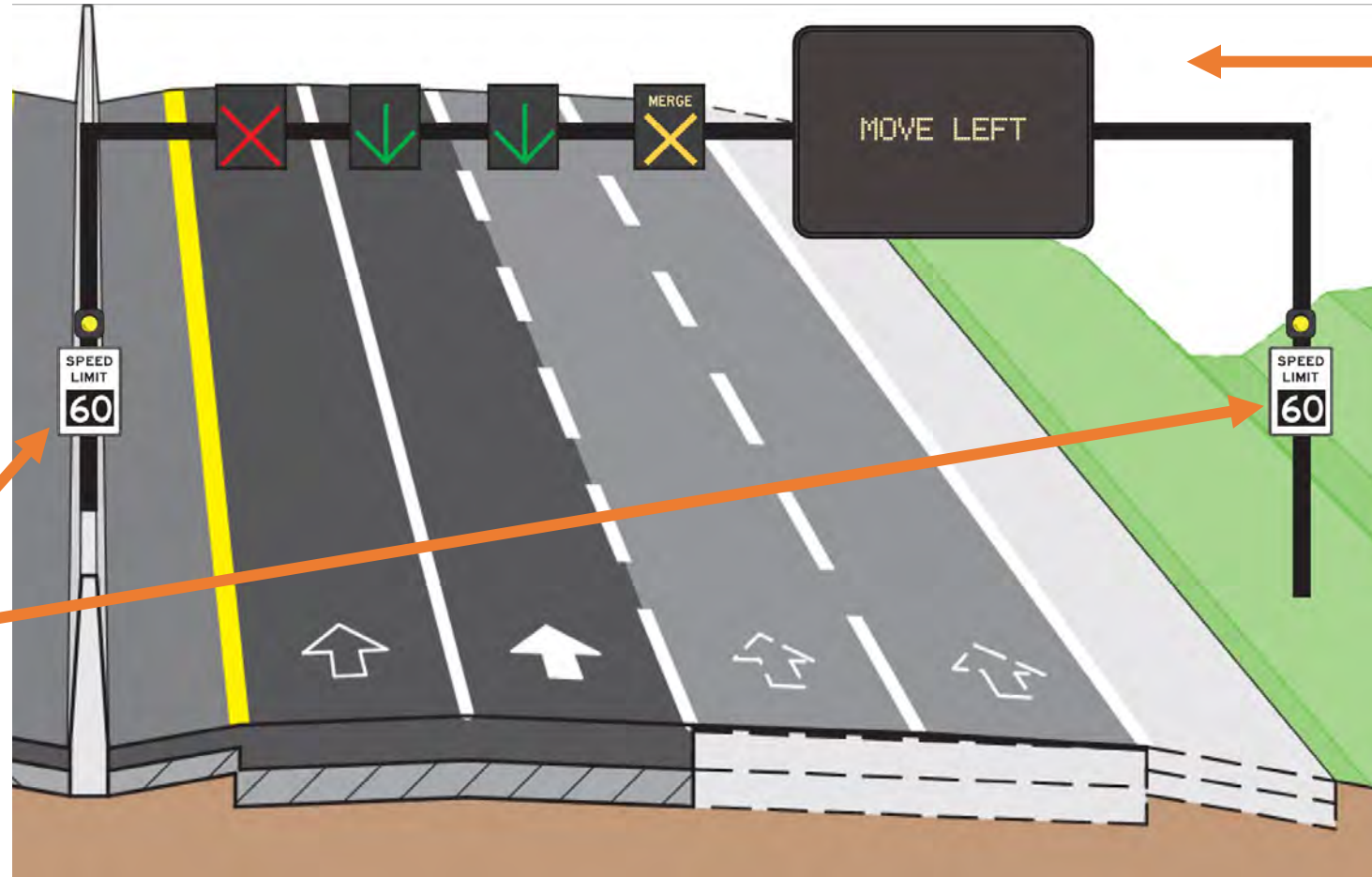
Driver Experience – Incident Management



Notification
to Drivers in
Advance of
Incident

Not to Scale – Drawing Conceptual Only

Driver Experience – Incident Management



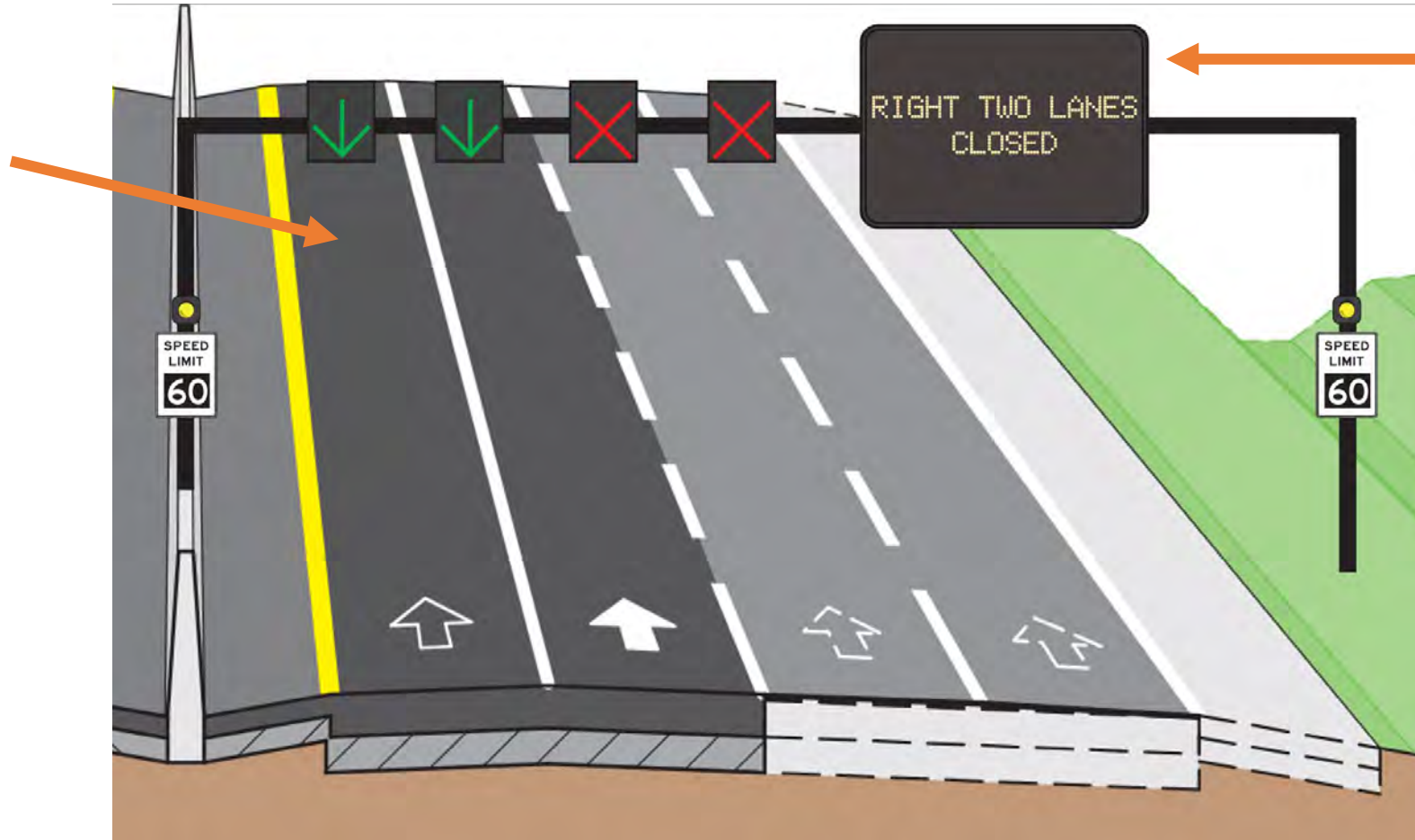
Drop Speeds
Through
VSLs

Dynamic
Messaging

Not to Scale – Drawing Conceptual Only

Driver Experience – Incident Management

Shoulder Open to Maintain Capacity



Dynamic Messaging

Not to Scale – Drawing Conceptual Only

Coordination

CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY



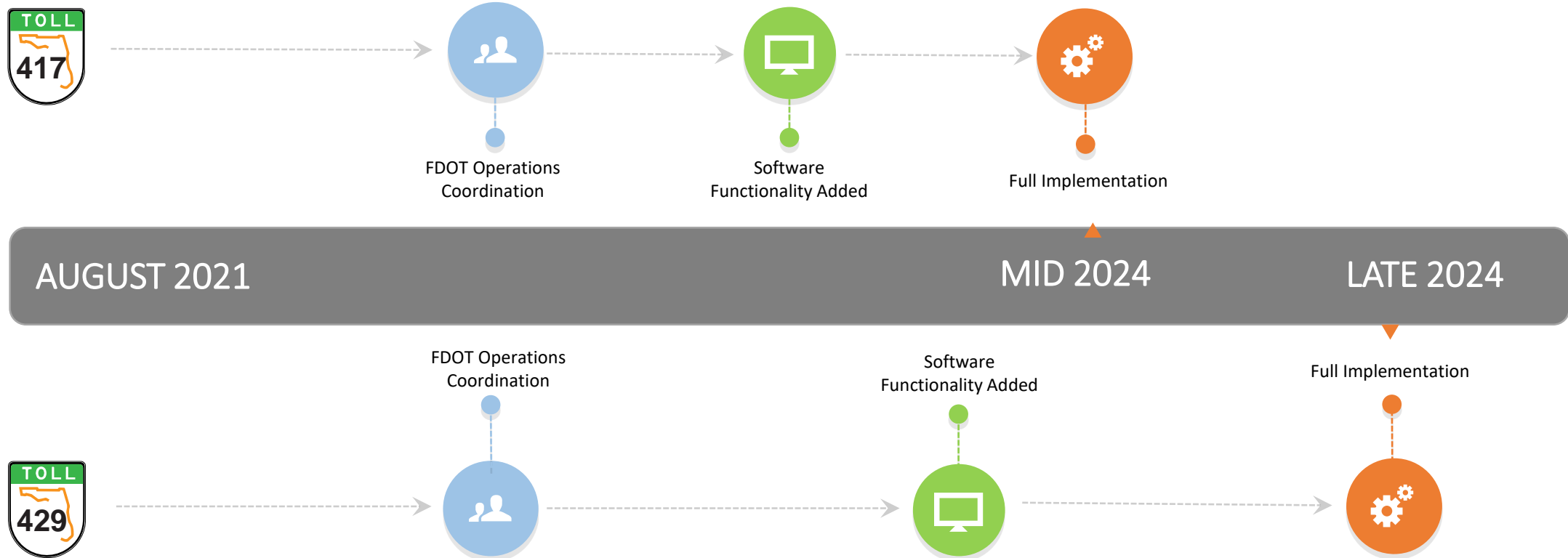
ORANGE COUNTY
SHERIFF'S OFFICE



CITY OF
ORLANDO
FIRE DEPARTMENT




Next Steps



The logo for the Central Florida Expressway Authority is centered in the upper portion of the image. It consists of the words "CENTRAL", "FLORIDA", "EXPRESSWAY", and "AUTHORITY" stacked vertically in a serif font. The word "EXPRESSWAY" is highlighted in orange, while the other words are in black. The text is contained within a white rectangular box with orange horizontal bars above and below it.

**CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY**

A black SUV is driving on a highway, positioned in the lower-left to center area of the frame. The highway is a multi-level structure with concrete pillars and overpasses. The background features a grassy embankment and a clear blue sky.

Part – Time Shoulder Use (PTSU) Projects

Thank You

F. 5.

A wide-angle photograph of a highway construction site at sunset. The sky is a mix of orange, yellow, and blue. In the foreground on the left, a large, light-colored concrete pillar stands prominently. To its right, a red crane is positioned on a dirt area. In the background, a multi-lane highway is under construction, with several concrete pillars and beams visible. A green highway sign for Goldenrod Rd is visible in the distance. On the right side of the image, another concrete pillar is surrounded by a complex network of black steel scaffolding. An orange utility vehicle is parked near the scaffolding. The overall scene depicts an active construction project during the 'golden hour' of the day.

**CENTRAL
FLORIDA
EXPRESSWAY
AUTHORITY**

Construction Update

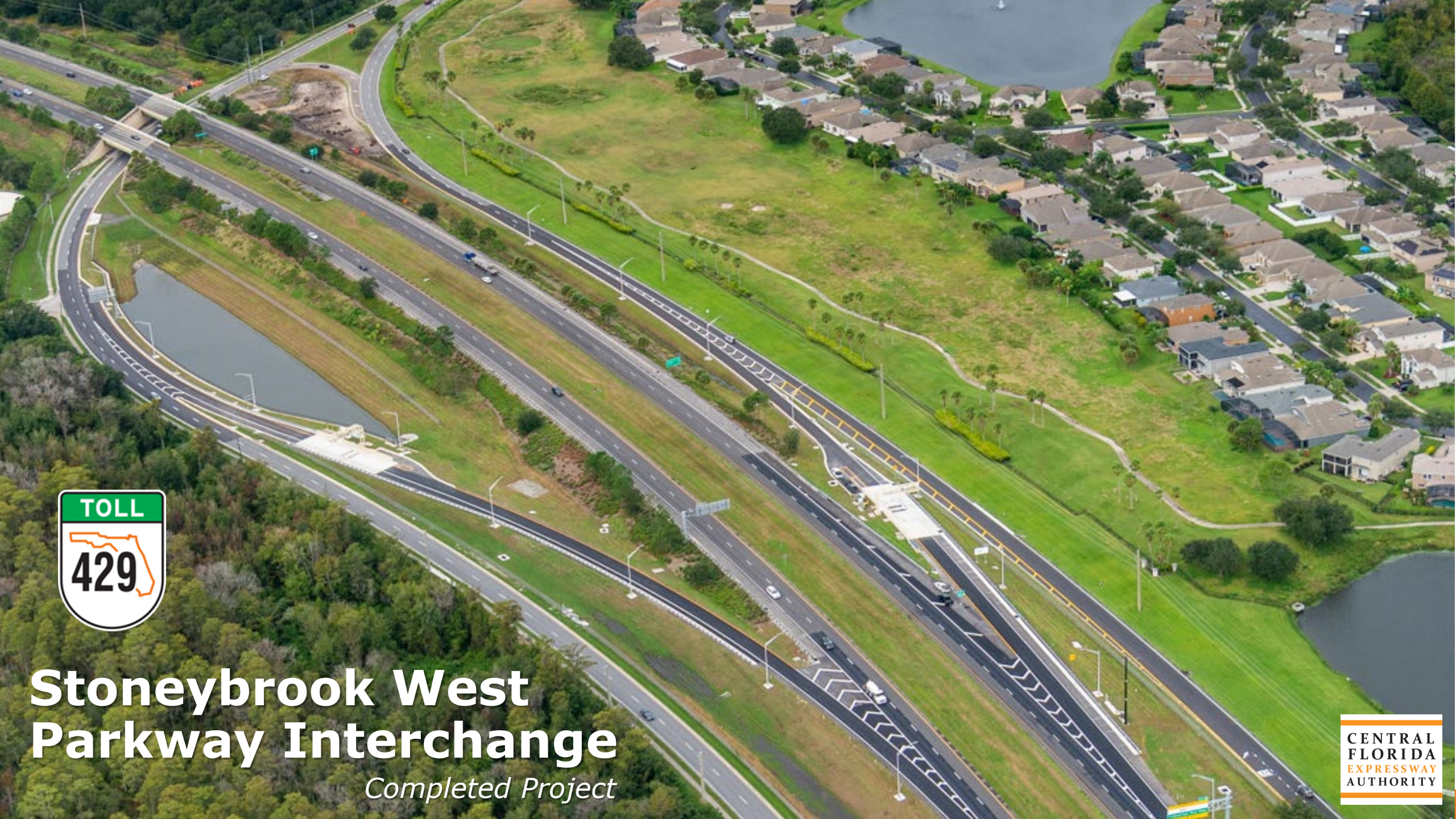
**Jack Burch, P.E., Resident Engineer/Construction Manager
- August 12, 2021 -**



Stoneybrook West Parkway Interchange

Completed Project

- **A+B Bidding**
- **Completed November 2020**
 - **Ramps opened early in October**
- **Completed under budget**
- **Improves traffic flow at Exit 19 (CR 535 - Winter Garden Vineland Rd)**



Stoneybrook West Parkway Interchange

Completed Project





Poinciana Parkway Widening

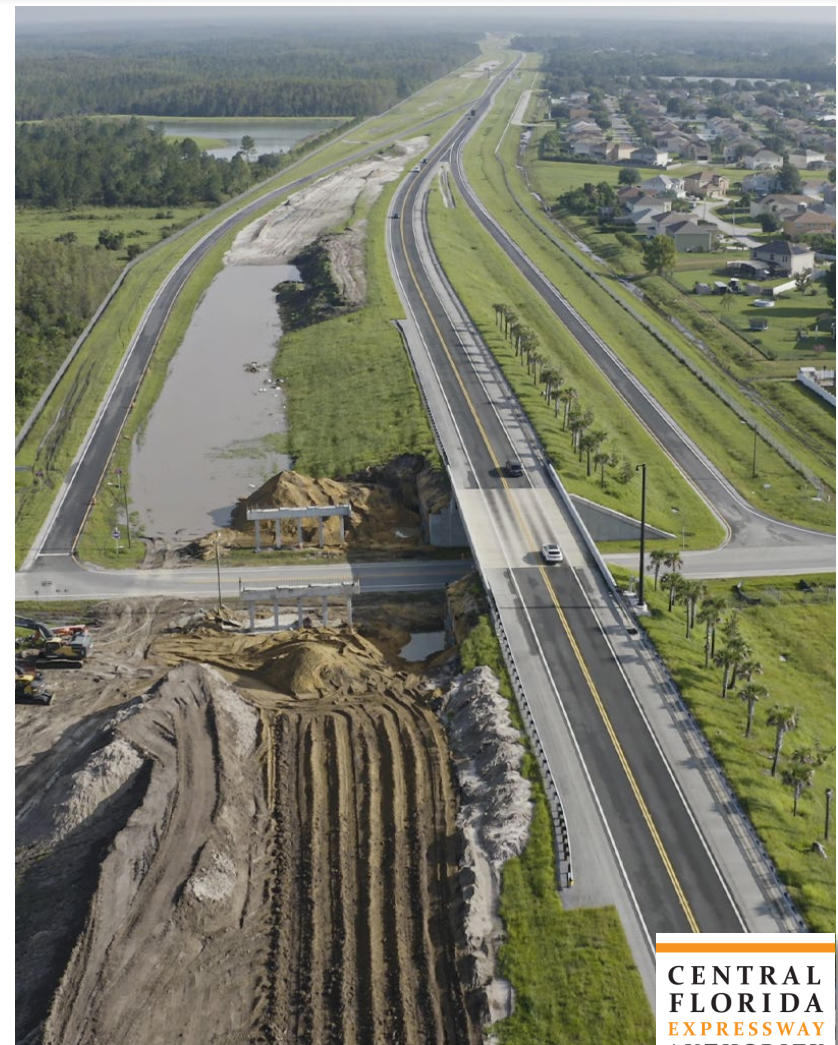
Active Construction

- **Design Build Delivery**
- **6,169' bridge through Reedy Creek Mitigation Bank**
- **7 miles of roadway**
- **2 to 4 lanes divided**



Poinciana Parkway Widening

Active Construction





Poinciana Parkway Widening

Active Construction





SR 417 Widening from I-Drive to John Young

Active Construction





SR 417 Widening from I-Drive to John Young

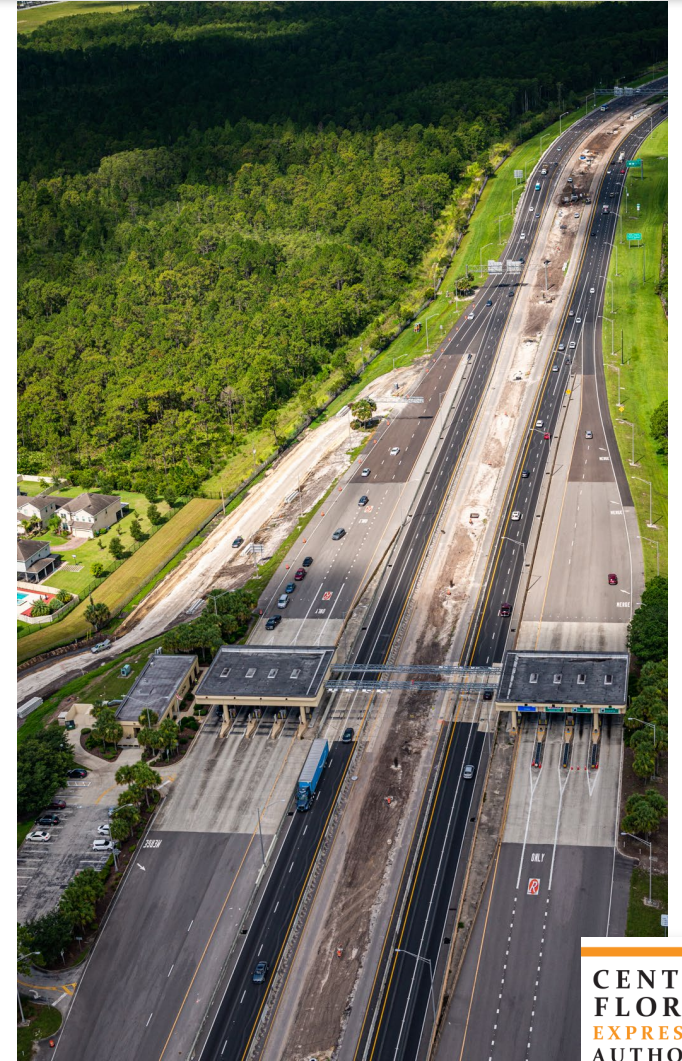
Active Construction





SR 417 Widening from I-Drive to John Young Parkway

Active Construction





SR 417 Widening from John Young to Landstar

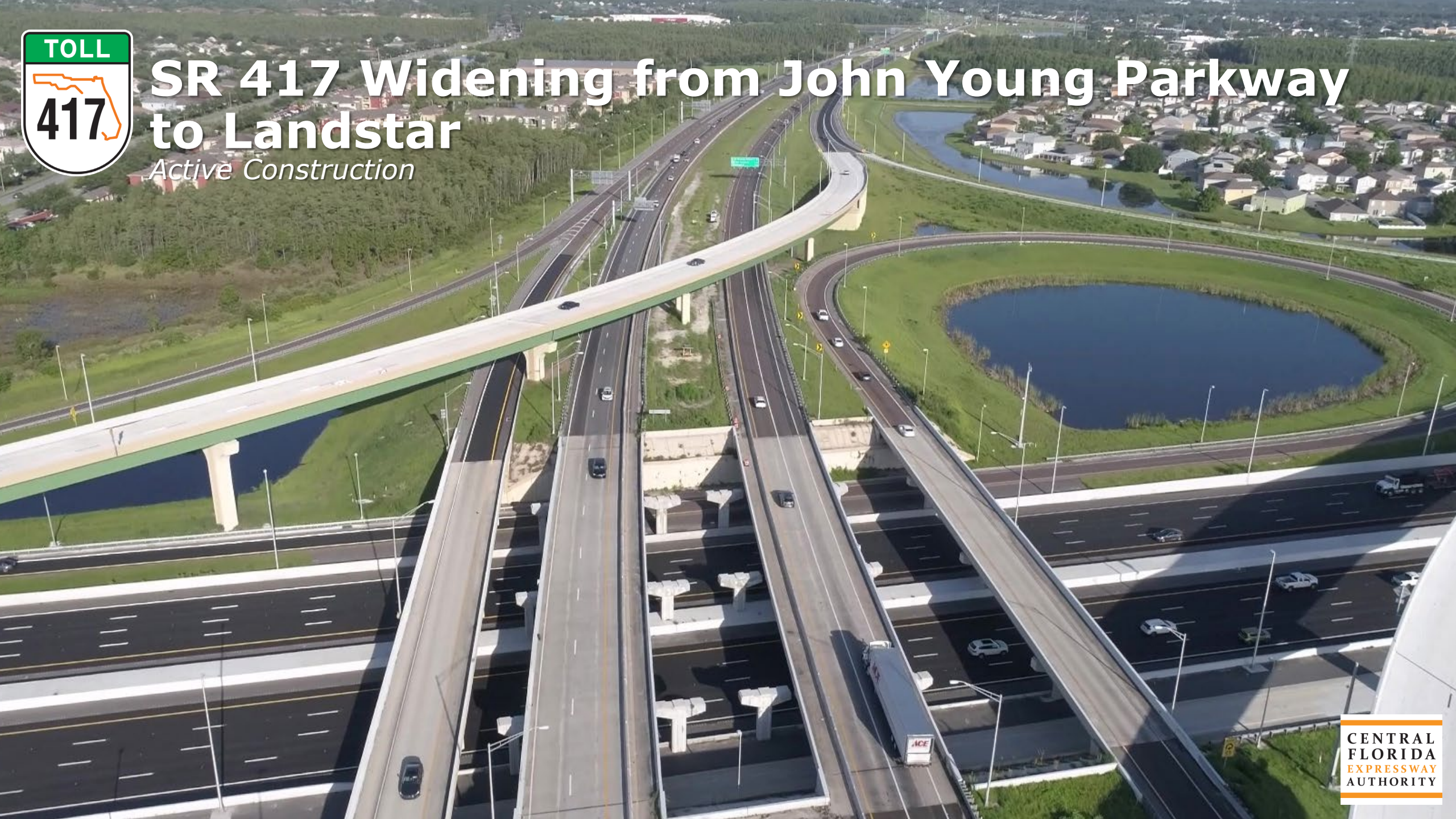
Active Construction





SR 417 Widening from John Young Parkway to Landstar

Active Construction





Widening & SR-436 Interchange Improvements

Active Construction

- Signature Project
- Anticipated Contract Completion – August 2022



Widening & SR 436 Interchange Improvements

Active Construction



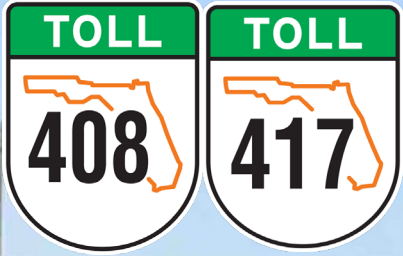


Widening & SR 436 Interchange Improvements

Active Construction



FREE
STOCK MARKET
INSPECTIONS
ARMA



Resurfacing Projects

Active

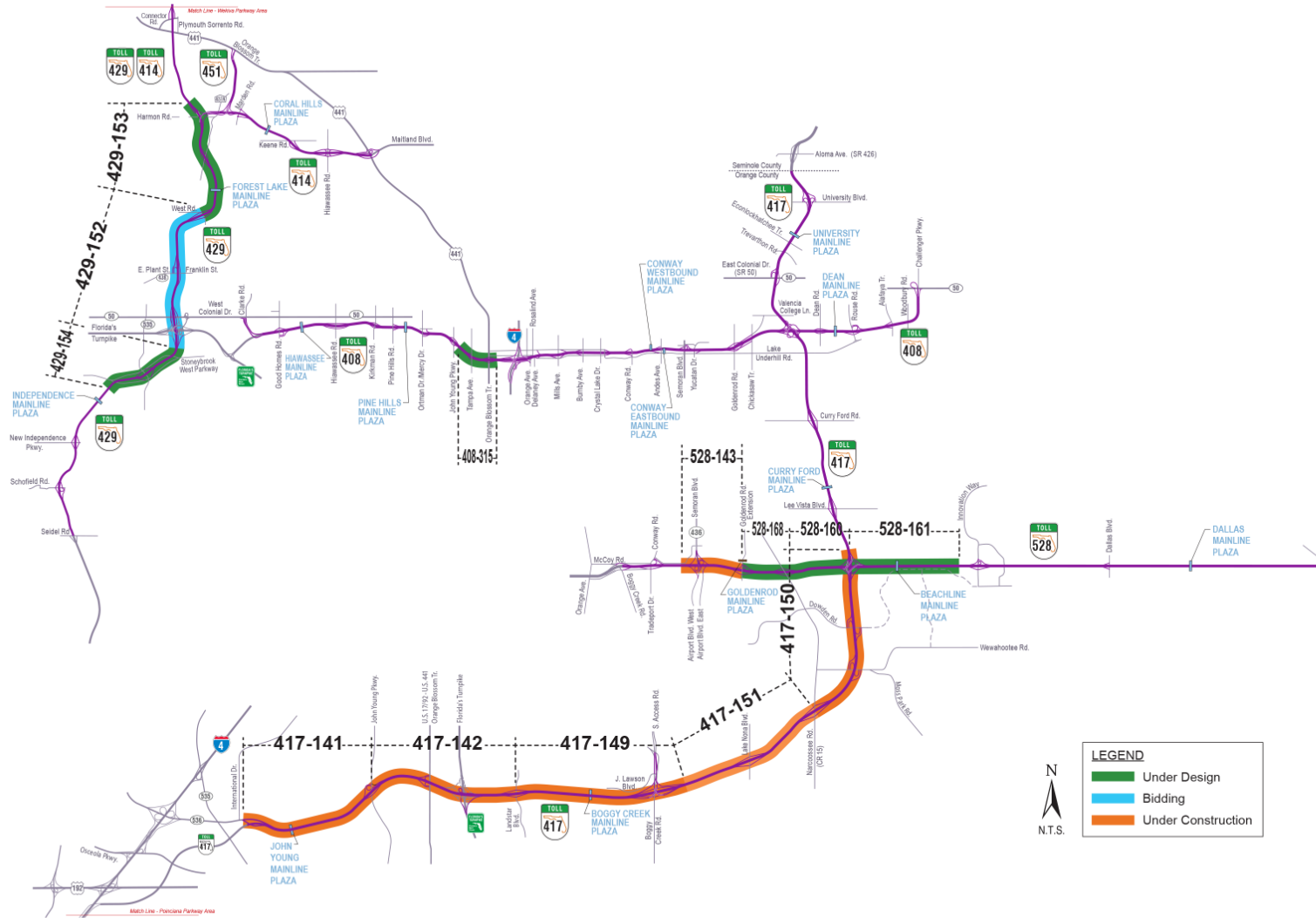
- SR 408 from Woodbury Road to North of SR 50
-

Upcoming

- SR 408 from Yucatan to West of SR 417
- SR 417 from SR 528 to Berry Dease Road
- SR 417 from SR 408 to Canal E-4 Bridge

Upcoming Widening Projects

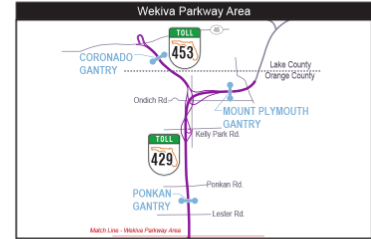
\$500 Million



LEGEND

- Under Design
- Bidding
- Under Construction

N
N.T.S.



Thank You!




**Distributed
at
Board
Meeting**

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

CC: Laura Kelley, Executive Director

FROM:  Diego "Woody" Rodriguez, General Counsel

DATE: August 12, 2021

RE: Use of Right-of-Way for High-Speed Rail

BACKGROUND

In the early 90's, the Orlando/Orange County Expressway Authority (CFX's predecessor and hereinafter referred to as "CFX") began the process of acquiring the necessary right-of-way to construct State Road 417.

In October 1992, one of the larger parcels acquired was from American Newland Associates, et al (hereinafter referred to as the "Defendants"). The acquisition was accomplished without the need for a jury trial to determine the valuation of the parcels as the parties voluntarily entered into a Joint Stipulation for Entry of Final Judgment Parcels 45-101, 45-202, 45-706 and 45-806 and Settlement Agreement for the Inverse Claim by the Defendant Arising from the Right-of-Way Reservation Map (hereinafter referred to as the "Joint Settlement Agreement"). The Joint Settlement Agreement was submitted to the circuit court and was approved on October 19, 1992. As is typical it did not resolve the issue of attorney's fees or costs incurred by the Defendants which are compensable, but it did specifically address the issue of a potential rail system in paragraph 4 of the Joint Settlement Agreement as follows:

"Should the Authority, or any successor in title thereto, at some future time permit the use of all or part of the right-of-way taken herein for non-roadway forms of transportation, such as magnetic levitation trains, high speed rail systems, or any other use not contemplated by the plans in evidence in this cause, Owner, for itself an any successors in title, reserves and shall have the right to seek additional compensation for the additional damages imposed on its remaining lands as a consequence thereof." (emphasis added)

LEGAL ANALYSIS

First, it should be noted that the Joint Settlement Agreement did not call for a prohibition of any future "non-roadway forms of transportation." Nor did it deem such uses to be illegal or forbidden. Instead, the language of the Joint Settlement Agreement provides that the Defendants (or their successors in title) reserve the right to *seek* additional compensation in the future should a rail system be implemented on the property. That additional compensation is not guaranteed and

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certainly the determination on the amount compensation and which successors are entitled to seek such compensation are most likely issues for a future court to decide.

Subsequent to the court's acceptance of the Joint Settlement Agreement, the circuit court heard testimony from both sides in order to determine the amount of attorney's fees and expert costs it was to award in the case. In determining the amount of attorney's fees, there is a statutory formula that calculates the fees based on the monetary benefits obtained for the defendants. The court, however, can also award additional attorney's fees for any "non-monetary" benefits obtained by counsel.

On January 22, 1993, the Judge entered an Order Taxing Reasonable Attorney's Fees and Costs and finding that additional "non-monetary" benefits were obtained. One of those non-monetary benefits was paraphrased by the Court in paragraph 3.B. as "The securing of a binding agreement from the Expressway Authority not to permit the operation of a high-speed rail or other non-roadway use within its right-of-way." At the July 20th CFX Board Meeting a member of the public stated that this provision should be interpreted to mean that CFX was prohibited from using any portion of the parcels acquired for high-speed rail.

However, the "binding commitment" referenced in the Court's Order for Attorneys' Fees does not supplant or replace the mutually agreed upon language contained in the Joint Settlement Agreement. That language specifically spells out that if at some future time CFX were to use the parcels as a high-speed rail, the owners reserved the right to seek additional compensation. The Joint Settlement Agreement unequivocally contemplates this as a potential use and does not otherwise include a prohibition on the use of the parcels in this manner.

CONCLUSION

After reviewing the pertinent legal documents, my legal opinion is that the CFX right-of-way acquired may be used for high-speed rail but, there may need to be compensation to the Defendants, or their successors in title. Subsequent to that July 20th Board meeting, I have also conferred with our outside counsel, Nelson Mullins, who has reviewed this matter independently and come to the same conclusion that no prohibition on the use of the CFX property for high-speed rail exists, but that compensation may subsequently be awarded.

DWR/mi